



# Council Meeting Agenda

**Monday 12 December 2022 at 7 PM**

**Council Chamber, Malvern Town Hall  
Corner Glenferrie Road & High Street Malvern**

## **Information for the Community**

The meeting will be conducted as follows:

1. partially in person and partially by electronic means; but if all Councillors attend in person then
2. wholly in person; but if no Councillor attends in person and five or more Councillors request to attend by electronic means then
3. wholly by electronic means.

## **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 Council Chamber, corner High Street and Glenferrie Road (entry via Glenferrie Road via the door closest to the Malvern Police Station). The Malvern Council Chamber 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.

## **Recording of Council Meetings**

In accordance with the Governance Rules, clause 69 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**

**Statement of Reconciliation**

The Chair will open the meeting and recite the following Statement of Reconciliation.

We acknowledge we are meeting on the Traditional Lands of the Wurundjeri Woi Wurrung and Bunurong peoples of the East Kulin Nations and pay our respects to their Elders past, present and emerging.

We extend that respect to all Aboriginal and Torres Strait Islander peoples. We acknowledge their living connection to Country, relationship with the land and all living things extending back tens of thousands of years.

**Statement of Commitment**

The Chair will recite the following 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 12 December 2022 Order of Business

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- 1 Reading of the Statement of Reconciliation
- 2 Reading of the Statement of Commitment
- 3 Introduction of Councillors & Executive Staff
- 4 Apologies
- 5 Confirmation of the Minutes of the previous meeting

5.1 Minutes of the Council Meetings held on 22 November 2022 and 28 November 2022.

#### Officer Recommendation

*That the Minutes of the Meetings of the Stonnington City Council held on 22 November 2022 and 28 November 2022 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 0321/22 - 671 Chapel Street, South Yarra

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

#### Purpose of Report

For Council to consider a planning application for the construction of a mixed use development in an Activity Centre Zone comprising retail (as-of-right use), office, community room and apartments; a reduction in the car parking requirements; and alteration of access to a road in a Transport 2 Zone at 671 Chapel Street, South Yarra.

#### Abstract

##### Proposal

The proposal seeks to construct a twenty-two (22) storey mixed use building comprising retail and commercial tenancies, a shared education/community space, and 160 apartments and ancillary amenities.

A total of 197 car parking spaces are proposed within a five-level basement with vehicle access from Chapel Street. Four of the spaces are allocated for the office use with the remaining 193 spaces allocated to the dwellings.

The proposal incorporates streetscape upgrades in front of the site and that of the adjoining site to the north, as well as a dedicated space on the first floor to be used by both Melbourne High School and the broader community. The proposal also includes a monetary contribution of \$500,000 to put towards Chapel Street precinct improvements (the Chapel Street Transformation Project or similar).

### 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 site is in a location where State and local policy encourage mixed use development incorporating commercial uses and high-density housing to meet the needs of the community, increase employment opportunities and increase housing supply and choice.
- The proposed development is considered to be of a high architectural quality with a built form outcome which is acceptable for the site and surrounding context.
- The built form of the development is generally consistent with an approved development on this site previously supported by Council.
- The building height exceedance above the preferred height is supported on the basis of the demonstrated significant community benefit which comprises a monetary contribution towards the Chapel Street Transformation Project, local streetscape upgrades, and a shared first floor space to be set aside for community and education uses.
- The building has been sensitively designed so as not to unreasonably impact upon surrounding residential amenity.
- The parking provision is acceptable given the site's proximity to public transport and traffic impacts are within reasonable limits.

### Issues

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

- Response to previous VCAT decision (refer to Built Form assessment);
- Building height (refer to Built Form assessment);
- Amenity impacts (refer to Amenity Impacts assessment);
- Internal design (refer to Internal Amenity assessment); and
- Car parking and traffic matters (refer to Car Parking & Traffic assessment).

### Officer's response

The proposal seeks to construct a true mixed-use development on the site incorporating retail, office, community and residential uses. The site is well located within a major activity centre which is well serviced by public transport, services and facilities. Applicable planning policy encourages mixed-use and high-density development in such locations to improve



employment choices and services for the local community, in addition to increasing the supply of housing and making efficient use of existing infrastructure.

The maximum building height of 71.75 metres exceeds the discretionary building height set down in Schedule 1 to the Activity Centre Zone (ACZ1) of 38 metres, although is considered to achieve the Height and Massing Requirement of the ACZ1 in that it demonstrates a significant community benefit, and it meets the broader objectives, requirements and guidelines of that policy.

The building responds to the built form context of the Forrest Hill Precinct within the activity centre, and sensitively manages its relationship to the Melbourne High School heritage building located to the west of the site. The building is well designed, and the form is supported by Council's Urban Designer.

The design responds appropriately to the layout of adjacent properties and will not result in unreasonable amenity impacts on nearby residential uses.

The development achieves a high level of internal amenity for future occupants.

The reduction in car parking sought is reasonable when considering the activity centre location in which a mode shift from private vehicle ownership is encouraged. The shortfall of commercial parking spaces will not have a significant impact on parking amenity in the area and the provision of parking will not result in unreasonable traffic impacts.

## Executive Summary

|   |  |
|---|--|
| Applicant:                                      | GFM Investment Group Limited C/- Contour Consultants |
| Ward:   | North  |
| Zone:   | Activity Centre Zone, Schedule 1                     |
| Overlay:  | Environmental Audit Overlay                          |
| Commercial Precinct:                            | Chapel Street South Yarra                            |
| Date Lodged:                                    | 16 May 2022  |
| Statutory Days:<br>(as at Council Meeting date) | 171  |
| Trigger for Referral to Council:                | Number of storeys and number of objections           |
| Number of Objections:                           | 79   |
| Consultative Meeting:                           | 3 November 2022                                      |
| 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 Bates Smart and are known as the advertised plans, Drawing No's: TP01.00, TP01.02, TP03.00-TP03.03, TP03.13, TP03.21-TP03.23, TP03.B1-TP03.B5, TP09.00-TP09.03, TP10.00, TP10.01, TP10.04, TP10.05 AND SK.001, Council date stamped 23 June 2022.

Key features of the proposal are:

- Construction of a twenty-two-storey building comprising:
- Five basement levels containing 197 car parking spaces (4 office and 193 residential) and various building services;
- Retail (measuring 272sqm) at the ground floor, along with commercial and residential lobbies, bicycle store, waste storage areas, a loading dock and services;
- Shared residential amenities at Level 1, along with a Community Space (measuring 352sqm);
- Office at Level 2 with a floor area of 1,264sqm;
- Dwellings at Levels 3-21, comprising of 121 x one and two bedroom and 39 x three-bedroom dwellings.
- A parapet height of 71.75 metres facing Chapel Street. Roof top equipment extends for a further 5.7 metres.
- The building is setback from the north boundary to provide for vehicular access and (separately) a pedestrian walkway from Chapel Street through to Melbourne High School.
- The building is setback approximately 3 metres from Chapel Street up to Level 3, which forms the top level of the podium. Above Level 3 a 6-metre street setback is adopted on the southern half of the façade. Side and rear boundary setbacks are also increased to 6 metres.
- The proposed tower adopts a rectilinear form, with two off-set blocks separated north and south by a central, inset hallway.

In terms of development contributions, the permit applicant proposes:

- Construction of streetscape works in front of the site, as well as in front of the adjoining building to the north, incorporating new street trees and paving;
- The first-floor community space at the rear of the building to be available to the public for a variety of community uses, and for use by Melbourne High School for education purposes during school hours; and
- A monetary contribution of \$500,000 to go towards future improvements to the Chapel Street precinct.

In addition to the aforementioned plans, it is noted that the applicant has provided updated material in response to various referral comments to demonstrate how issues raised may be addressed. The revised plans (Council date stamped 9 September 2022) are identified as 'discussion plans' throughout the report as they do not formally substitute the application plans. Changes indicated on the plans can be imposed via conditions of permit where relevant.

### Site and Surrounds

The subject site is located on the western side of Chapel Street, approximately 100 metres south of Alexandra Avenue, South Yarra. It has the following significant characteristics:

- A frontage to Chapel Street of 38.41 metres, a depth of approximately 53.9 metres and a total site area of 2,069sqm.

- The site is presently developed with a two-storey warehouse / shop occupied by 'Ojay' (a clothing store). The building is setback from all of the site's boundaries, including by a garden bed adjoining Chapel Street.
- Vehicular access to the site is from Chapel Street via a driveway adjoining the north boundary. There are also sealed driveways and parking areas at the rear of the building.
- The land slopes downwards towards the northwest, with a maximum fall of around 1.6 metres.

Properties nearby the site are described below.

To the immediate north of the subject site is 1 Forrest Hill, which is used and developed by Melbourne High School (MHS). The site is occupied by a large four-storey building used as a gymnasium and library. This building is setback from the Chapel Street frontage by approximately 3 metres. Separating this building from the building occupying the subject site are driveways and easements. The application material indicates that the land at 1 Forrest Hill is partially included within the development site as some minor works are proposed within the east-west pedestrian accessway connecting Chapel Street to MHS. However, Council is not the Responsible Authority for proposed works on this site. Refer to Planning Controls section of the report for more information.

Further north, at 681-709 Chapel Street, there is a 16 storey, 'L' shaped, mixed-use development known as 'The Avenue'. This development was approved by the Victorian Civil and Administrative Tribunal ('VCAT') on 1 October 2009 (Permit No. 336/07). The tower element fronting Chapel Street and Alexandra Avenue has a maximum height of 47.95 metres (to parapet) and 50.95 metres (to roof plant). The tower is setback from the Chapel Street and Alexandra Avenue frontages by approximately 3.2 metres and 4 metres respectively and it rises directly upwards (i.e. without a podium). The western (rear) component of The Avenue building has an immediate abuttal to the MHS and is six storeys in height (approximately 20 metres).

Immediately west of the site is the main MHS campus. Relevantly this includes a substantial school building constructed in 1927 which is included on the Victorian Heritage Register (H1636). This site is also subject to a local heritage overlay (HO02) and is graded as significant. The main school building is located on the top of Forrest Hill and comprises a two-storey building with pitched roofs. The central projecting wing forms the architectural centrepiece of the composition and includes a four-storey tower.

To the immediate south of the subject site is 669 Chapel Street, which was originally part of a larger allotment (known as 661 Chapel Street), for which the Minister for Planning is the Responsible Authority. Through Amendment C190 (gazetted on 13 February 2014) and the incorporated document titled 'Integrated development at 661 Chapel Street, South Yarra – January 2014', the then Minister for Planning allowed the development of a four-storey education centre at this site. The building is setback 3 metres from Chapel Street (outside of a central, upper-level projection) and features light courts to school rooms at upper levels along the majority of the common boundary with the site.

Further south, are properties now known as 661 Chapel Street and 663-667 Chapel Street, which are developed respectively with a 31 storey (94 metres) building (approved under

Amendment C190 referred to above) and a 22 storey (66 metres) mixed use building. Both buildings are also setback 3 metres from Chapel Street.

More broadly, the area has undergone a period of renewal over the past 1-2 decades and there are numerous examples of high-density, mixed-use development. This includes the Vogue Plaza building at 670 Chapel Street, which has a height of 32 storeys (124 metres); the Olsen Hotel at 637-641 Chapel Street which is 14 storeys (50 metres); the Capitol Grand building on the corner of Toorak Road, which has a height of 51 storeys (173 metres); and the Goldfields office building at 627 Chapel Street which has a height of 24 storeys (90 metres). Opposite the site in Chapel Street is a substantial parcel of land bound by Malcolm Street, River Street, Alexandra Avenue and Chapel Street, which was redeveloped with an integrated residential scheme (of between 8-16 storeys) more than two decades ago.

The subject site forms part of the Forrest Hill precinct, which is a designated area for higher density mixed-use developments. This precinct has undergone substantial changes in recent years as multi-level residential and mixed-use developments take form. This area also forms part of the Prahran/South Yarra Major Activity Centre and has excellent access to services, facilities, infrastructure and public transport.

#### Previous Planning Application/s

An earlier application, Planning Permit Application 578/15, relating to the site was previously considered and supported by Council. Council's decision was then overturned by VCAT, considering an Application for Review lodged by objectors.

The earlier application sought approval to redevelop the site with a 22 storey building (with a parapet height above Chapel Street of 68.36m), comprised of retail, food and drink premises, offices and dwellings, and a reduction in car parking requirements. This proposal featured a curved, tinted glass façade, with concave sides to the north and south.

Further commentary on the Tribunal's decision can be found within the Built Form assessment of this report.

#### The Title

The site is described on Certificate of Title 09096 Folio 474 (Lot 1 on Title Plan 616964M). No covenants affect the title. Easements extend along the site's west and north boundaries.

#### Planning Controls

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

##### *Zone*

Clause 37.08 - Activity Centre Zone, Schedule 1 (ACZ1)

Pursuant to Clause 37.08-2, land uses are detailed in the ACZ1. In this case, the proposed use of the land for 'retail' or 'food and drink premises' does not require a planning permit. However, as the respective ground floor frontages to access the office and dwellings exceed 2 metres in width, a permit is required to use the land for 'office' and 'dwellings'. A permit is also required for the community room which in this case is deemed to fall within an 'education centre' and 'place of assembly', both of which are Section 2 land uses.

Pursuant to Clause 37.08-5, a permit is required to construct a building or construct or carry out works.

It is noted that the works indicated on the plans located on the adjoining lot to the north do not technically form part of this application. The land is owned by the Department of Education and Training and forms part of a public school (MHS). The Planning Scheme is not binding on the use or development of land carried out by or on behalf of the Minister for Education.

An apartment development must meet the requirements of Clause 58.

Pursuant to Clause 37.08-6 a permit may be granted to construct buildings or works which are not in accordance with any discretionary design and development requirement specified in Schedule 1.

The site is identified in Schedule 1 as being within Precinct 1 – Forrest Hill, sub-precinct FH-2 and is designated for Main Street Uses.

The following preferred built form requirements associated with the precinct apply to the subject site:

- Maximum building height of 38 metres;
- Street setback of 3 metres from Chapel Street;
- Street wall height of 11 metres (minimum) to 12 metres (maximum);
- A setback above the street wall of 12 metres;
- A setback from the rear boundary of 6 metres (above the podium); and
- A 12 metre upper level setback between towers (above the podium).

*Overlay*

Clause 45.03 – Environmental Audit Overlay

Pursuant to Clause 45.03-1, before a sensitive use commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, either a certificate of environmental audit must be issued for the land, or an environmental auditor appointed under the Environment Protection Act 1970 must make a statement that the environmental conditions of the land are suitable for a sensitive use in accordance with the Act.

*Particular Provisions*

Clause 52.06 – Car Parking

Pursuant to Clause 52.06-2, the car parking spaces required under Clause 52.06-5 must be provided on the land prior to the commencement of a new use. A permit may be granted to reduce or waive the number of spaces specified at Clause 52.06-5.

The required and proposed parking supply is summarised in the table below:

| <b>Usage</b> | <b>Number/Area</b>               | <b>Rate</b>          | <b>Required Spaces</b> | <b>Proposed Spaces</b> |
|--------------|----------------------------------|----------------------|------------------------|------------------------|
| Residential  | 121 x 1- and 2-bedroom dwellings | 1 space per dwelling | 121                    | 193                    |

|                                  |                           |   |     |     |
|----------------------------------|---------------------------|---|-----|-----|
|                                  | 39 x 3- bedroom dwellings | 2 spaces per dwelling                                       | 78  |     |
| Office                           | 1,264m <sup>2</sup>       | 3 spaces to each 100m <sup>2</sup> of leasable floor area   | 37  | 4   |
| Retail (Food and Drink Premises) | 271m <sup>2</sup>         | 3.5 spaces to each 100m <sup>2</sup> of leasable floor area | 9   | Nil |
| <b>Total spaces required</b>     |                           |   | 245 | 197 |

The development proposes a shortfall of 6 residential, 33 office and 9 retail spaces. Therefore, a permit is sought under Clause 52.06 to reduce the car parking requirements.

For the purposes of car parking assessment, the community space is considered a place of assembly which attracts a statutory parking rate of 0.3 spaces to each patron permitted. The education component is associated with existing staff and students at the adjacent MHS, thus there will be no increased demand for car parking associated with this aspect of the use.

As the site is located within the Principal Public Transport Network area, there is no requirement for visitor car parking.

#### Clause 52.34 – Bicycle Facilities

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

| Usage               | Number/Area         | Rate  | Required Spaces |
|---------------------|---------------------|---|-----------------|
| Residential         | 160 x dwellings     | 1 space per 5 dwellings   | 32              |
| Residential Visitor | 160 x dwellings     | 1 space per 10 dwellings  | 16              |
| Office              | 1,264m <sup>2</sup> | 1 to each 300sqm of net floor area if the net floor area exceeds 1000sqm  | 4               |
| Office Visitor      | 1,264m <sup>2</sup> | 1 to each 1000sqm of net floor area if the net floor area exceeds 1000sqm | 1               |
| Retail              | 271m <sup>2</sup>   | 1 to each 300sqm of leasable floor area                                   | 1               |

|                              |                   |   |    |
|------------------------------|-------------------|---|----|
| Retail Visitor               | 271m <sup>2</sup> | 1 to each 500sqm of leasable floor area | 0  |
| <b>Total spaces required</b> |                   |   | 54 |

Due to the low number of bicycle spaces required for the commercial uses, no shower/change room facilities are required.

The proposal accords with Clause 52.34 by providing 54 bicycle spaces on site, therefore a permit is not required under this provision.

#### *General Provisions*

##### Clause 66.02 - Use and Development Referrals

Pursuant to Clause 66.02-11 (Land use and transport integration), an application to construct a building for a residential development comprising 60 or more dwellings or lots 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.

#### *Relevant Planning Policies*

The following clauses of the Stonnington Planning Scheme, in addition to those listed above, are particularly relevant to this assessment:

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 17 Economic Development
- Clause 18 Transport
- Clause 19 Infrastructure
- Clause 21.03 Vision
- Clause 21.04 Economic Development
- Clause 21.05 Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.08 Infrastructure
- Clause 22.05 Environmental Sustainable Development
- Clause 22.18 Stormwater Management (Water Sensitive Urban Design)
- Clause 65 Decision Guidelines

#### [Aboriginal Heritage Act 2006](#)

The site is located within an area of 'cultural heritage sensitivity' due to its proximity to the Yarra River. Pursuant to Section 52 of the Aboriginal Heritage Act 2006, Council must not grant a statutory authorisation for an activity of the nature proposed within an area of cultural



heritage sensitivity. However, if the land has previously been subject to significant ground disturbance, the disturbed part is no longer considered to be an area of cultural heritage sensitivity.

The applicant has submitted a cultural heritage report which includes an assessment of significant ground disturbance prepared by a qualified archaeologist from TerraCulture Heritage Consultants. The report concludes that based on the evidence the entire site has previously been subject to significant ground disturbance. Planning Officers are therefore satisfied that the site is not in an area of cultural heritage sensitivity and does not require a Cultural Heritage Management Plan to be approved for this development.

### Advertising

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

The site is located in North Ward and objections from 79 different properties have been received. The objections are summarised as follows:

- Overdevelopment
- Excessive building height
- Poor design quality, inconsistent with local character
- Too many high-rise developments locally
- Quality of building materials queried
- Community room appears to only benefit MHS
- Use, management and access of community room
- Significant community benefit not achieved to offset the height exceedance
- Poor internal amenity, particularly for one-bedroom dwellings
- Overlooking to adjacent properties
- Daylight impacts on nearby sites
- Existing wind tunnel impacts exacerbated
- Overshadowing (public and private)
- Loss of views / visual bulk
- Impacts on MHS heritage building
- Waste collection
- Excessive on-site car parking
- Increased local traffic congestion
- Impacts to on street parking
- Construction impacts
- Inadequate green spaces locally



- Building will attract poor quality tenants
- Reduced local property values
- Depth of basement may interfere with water table
- Connection to MHS via new accessway, may impact traffic in Chapel Street
- Insufficient demand for additional apartments in area

A Consultative Meeting was held on 3 November 2022. The meeting was attended by Councillors Koce, Griffin and Hely, representatives of the applicant, objectors and a Council Planning Officer. The meeting did not result in any changes to the plans.

### Referrals

The comments received from relevant external and internal departments have been summarised as follows.

#### External authority

##### *Department of Transport*

- The Head, Transport for Victoria has considered this application and does not object to the grant of a permit subject to included conditions and notes.

##### *Urban Design*

- The recent history of this site and surrounding context, together with the key findings of the previous VCAT decision and the ACZ1 controls, have all established the base parameters for any new building on the subject site.
- A pre-application meeting with Council Officers in March 2022 confirmed that the proposed height and setbacks are generally consistent with the previously established built form parameters for the site. It is, however, expected that a 'significant community benefit' commensurate with that achieved by the previous permitted development will form part of the assessment of the 'uplift' in the height of the tower.
- Subject to an acceptable agreement with Council regarding the 'significant community benefit' required by Clause 4.4 of the ACZ Schedule-1, I would support the application on the basis that the design of the building is of a high quality and provides an appropriate infill to the Chapel Street North streetscape.
- The slenderness and articulation of the tower form also provides a considered and complementary 'backdrop' to the MHS heritage building in the key public realm views from Yarra Street across the MHS oval.
- I note that the desktop Wind Assessment report identifies some potential issues and recommends that these be further investigated in detailed wind tunnel testing.
- A Façade Strategy should be provided as a condition of permit.

Planner note: A revised wind report including wind tunnel testing has subsequently been received on 9 September 2022 and is discussed further within the assessment section of this report. A permit condition is included requiring a Façade Strategy.

##### *Heritage Advisor*

- This site is not affected by a Heritage Overlay but it sits adjacent to the historic Melbourne High School. The heritage impact is largely related to the visual impact on the original Melbourne High School building.
- Chapel Street has been extensively developed in this area and there are bare glimpses of the original building from Chapel Street. The greatest impact will be from the distant views from the west and the current documentation makes an attempt to analyse this impact. However, given the existing extent of development behind the school building this will further reduce the amount of sky behind the building but not to such an extent to be a major issue.
- Heritage Victoria should be given the opportunity to comment on this proposal.

Planner note: Heritage Victoria were notified of the proposal. No comments have been received.

#### *Community Infrastructure*

- We will experience an increased demand for community spaces (for all ages, and diverse needs) over the next 5 or so years. There is also demand for a maternal and child health service in this locality.
- Our preferred model is one single point of entry to the community space, which is located and designed such that it is easily identifiable, adjacent to a main street or located with strong presentation to the street.
- Management responsibility for the hiring and day-to-day activities of the community space needs to be determined.
- Clarification is required regarding what days/hours the space will be available to the community, to ensure that availability matches current needs and future demands, which are yet to be determined.
- Many of Council services and/or programs have specific design specifications (e.g. recreation/social activities require lots of storage, access to a kitchenette, etc).

#### *Transport & Parking*

- The reduced supply of parking to the retail premises (zero) is acceptable. The site is located within the Chapel Street activity area, the proposed use is unlikely to be a destination in and of itself, and it is anticipated that customers will already be in the area undertaking multi-purpose trips.
- The reduced supply of parking to the office (four spaces) is supported as office use is most readily adaptable to other modes of transport. The proposed development is located in close proximity to bus, tram and train services, as well as car share locations and bicycle facilities. In addition, the application demonstrates that the proposed site is easily accessible for pedestrians.
- A shortfall of parking to the residential component can be supported. It is suggested that the supply of residential parking could be decreased to better align with Council's objective of reducing the reliance on private car use in the area. The applicant could consider reallocating some of the resident parking to retail staff parking.
- It is accepted that the provision of on-site visitor parking is not necessary in the Forrest Hill precinct. This is to reduce reliance on car travel to an area which is already congested and encourage other travel modes. The impact of not providing car parking

is limited as there is not any convenient unrestricted on-street parking for overflow parking demand.

- Consideration of traffic generation is the responsibility of the Department of Transport as road manager of Chapel Street north of Toorak Road.
- The dimension width of the accessway, porte cochere and circulation ramps are all supported.
- Any landscaping close to the exit lane should be limited in height to 900mm to provide sightlines to pedestrians.
- The minimum headroom clearance of 2.2 metres at the entrance and within the internal ramps is satisfactory. This is to be maintained at the carpark entrance when the roller door is in open position.
- The grade changes along the accessway to the basement and the internal ramp gradients accord with the requirements of the Planning Scheme and are satisfactory.
- The porte-cochere entry and exit lanes meet at the entrance to the basement car park. Line marking may be required to differentiate the lanes to highlight to motorists how the area is intended to operate
- The parking spaces are dimensioned to meet the requirements of the Planning Scheme and are satisfactory.
- The shared area adjacent to the accessible parking space is required to have a bollard installed.
- The plans should demonstrate the design dimensions of the support columns.
- It is recommended that the doors to the sub-station be reversed to open into the substation as the area inside is large, or a sliding door arrangement is implemented.
- Access to the ground level loading area for waste collection vehicles is acceptable.
- Although not required by the Planning Scheme, provision of an on-site loading bay is supported. The dimensions of the loading bay are sufficient however headroom clearance should be annotated on the plans.
- The dimensions of the bicycle parking and access are to be shown on the plans and should accord with the AS.

Planner note: Permit conditions have been included to address additional details to be shown on the plans as indicated above.

#### *Waste Management*

- A comprehensive Waste Management Plan (WMP) accompanied this proposal and is supported subject to the below issues being addressed.
- Organic waste generation rates do not match 'Sustainability Victoria Better Practice Guide for Waste Management and Recycling in Multi-unit Development' allocation – 35% of garbage is comprised of organics. The organic waste generation rate should be revised. Consequently, the size and number of organic waste bins required is inaccurate and needs amending in the final WMP.
- The designated bin stores need to allow space for glass recycling as per 'Recycling Victoria Guidelines', should such a service be available in the future.

- Retail organic waste generation rates do not match 'Sustainability Victoria Better Practice Guide for Waste Management and Recycling in Multi-unit Development' allocation – 73L per full time equivalent.
- The location of the hard waste collection area is to be clearly signed and communicated to residents and tenants.
- The WMP states that collection will be restricted to 7am to 8pm, Monday to Saturday. The 'VIC EPA Noise Control Guidelines' restricts collections occurring more than once a week to between 7am to 6pm Monday to Saturday for residential waste collection, and 7am to 8pm Monday to Saturday for industrial waste collection. This should be amended.

#### *Asset Management and Planning*

- Conditions of permit are recommended to address construction of decking over the rear easement, drainage design, stormwater, footpath levels and redundant vehicle crossover.

#### *Environment and Infrastructure*

- Council's arborist is to confirm street tree species.
- The planting of trees in the middle of the footpath limits pedestrian access. Trees should be planted along the edge of the kerb, consistent with other trees along Chapel Street.
- Although the pedestrian link from Chapel Street to Melbourne High School is within private land, if it is going to be used by the public, more information about how this link is lit up at night should be provided. Having a straight path would improve safety with clear sightlines.

Planner note: In response to the above the applicant provided an updated Public Realm Enhancement Works plan as part of the discussion plans received on 9 September 2022. The plan indicates an increase in the number of street trees from 6 to 9 along the frontage and the trees are located directly adjacent to the kerb. These changes represent an improved outcome and are acceptable to the Environment and Infrastructure team.

#### *Parks Department*

- General support of this proposal was provided, including the provision of Oriental Plane tree species along the street frontage to be maintained by Council.

#### *Environmental Sustainable Design*

- The application is targeting a 5 Star Green Star Rating (formal certification) under the GBCA Green Star Buildings V1 tool.
- The daylight results for the living/kitchen areas are below the 80% BESS threshold, however the submitted information indicates that the 80% target is achievable with relatively minor revisions to internal layouts within apartments and with no impact on the overall built form or external appearance of the building. This could be addressed by permit conditions.
- Ventilation within apartments could be improved with the use of internal fans to circulate air from operable windows.

- The discussion plans include horizontal shelves to north facing glazing and vertical fins to west facing glazing, however they are of insufficient depth to provide any meaningful reduction in internal heat gains, heat stress and cost savings to the end user with a reduction in mechanical cooling demand. The shading devices should also be of a light colour to reduce any impact on daylight access they may have.
- Additional details are required to be detailed on the plans to accord with the commitments of the Sustainable Management Plan.
- Based on the information on the plans/elevations it is not clear that all the proposed wind mitigation strategies detailed in the Pedestrian Wind Environment Statement prepared by RWDI Australia Pty Ltd (RWDI) have been incorporated into the proposed development design.

Planner note: The above matters are discussed further within the assessment section of this report. Conditions of permit have been recommended to address all outstanding concerns.

## Key Issues and Discussion

### Strategic Justification

The purpose of the Activity Centre Zone, amongst other things, is to encourage a mixture of uses and the intensive development of the activity centre as a focus for business, shopping, working, housing, leisure, transport and community facilities, to support sustainable urban outcomes that maximise the use of infrastructure and public transport, and to deliver a diversity of housing at higher densities to make optimum use of the facilities and services.

The site is located within a Principal Activity Centre which is an area highlighted at both State and Local policy level as a place to concentrate retail, office-based employment, community facilities and services in central locations. Strategies call for commercial facilities to be aggregated and provide net community benefit in relation to their viability, accessibility and efficient use of infrastructure, and high-density housing types are encouraged in activity centre locations that offer good access to jobs, services and transport.

The proposal seeks to provide a true mixed-use development within a major activity centre and is appropriately located to benefit from the services and infrastructure which exist in the centre. More specifically, the subject site is located within an area characterised by commercial, education and residential uses, and which is readily accessible by public transport. The proposed mix of uses are appropriate inclusions in this location, and will positively diversify the local land use mix, which is one of the key objectives for the Forrest Hill Precinct. Essentially the site is well placed to accommodate a mixed-use development which makes more efficient use of the land by improving employment choices and services for the local community, in addition to increasing the supply of housing and improving the pedestrian environment. This is consistent with the aspirations of the ACZ1, as well as planning policy objectives at Clause 11.03 (Activity Centres), Clause 16 (Housing), Clause 17 (Economic Development) and Clause 19 (Infrastructure).

At the Local policy level, Council's policies promote the Prahran/South Yarra Major Activity Centre as an area for higher density housing with a mix of compatible uses and more intensive development on larger sites. Clause 21.05-2 (Location of residential development) identifies the subject site as being within an area suitable for substantial change. Furthermore, the proposal is consistent with Clause 21.05-3 (Housing in activity centres) which promotes residential use in activity centres.

The site is located in the Forrest Hill Precinct of the activity centre, which Council envisages as a place to achieve a vibrant, higher density, true mixed-use precinct. As a result, this locality has seen substantial change and redevelopment in recent decades, predominantly with high rise residential apartments. The application proposes to redevelop the last remaining large, undeveloped site at the northern end of Chapel Street.

In light of the above, there is no dispute that the subject site has strong strategic support for a mixed-use, high-density development and in so doing, is consistent with the broad intent of housing diversity and urban consolidation policies.

In response to Local policy, the proposal seeks to contribute to and enhance the amenity of the public realm by setting back the development 3 metres from the front title boundary and undertaking streetscape improvements. These are proposed to occur not only adjacent to the site, but also along the frontage of the adjoining site to the north which currently makes a poor contribution to the public realm. These works will infill the existing streetscape which has already been enhanced both north and south of these properties. The upgrades will address pedestrian safety, accessibility and mobility, consistent with the aspirations of Clause 21.08 (Infrastructure) and the precinct objectives of the ACZ1 which seek to improve street level amenity, the streetscape and the public realm.

The site is within Sub-Precinct FH-2, which has a lower preferred maximum building height than the rest of the Forrest Hill Precinct (except Sub-Precinct FH-5). Furthermore, it sits behind the historical MHS building, which has been offered specific requirements by the Stonnington Planning Scheme to preserve its heritage value.

For the reasons discussed below, the proposal offers a design approach which is considered to strike a balance between the somewhat competing policy objectives which call for intensive redevelopment of a large, under-utilised site yet within a restrained built form. As will be discussed throughout this report, the proposal exceeds the building height recommended by the ACZ1 yet is deemed to be fitting to the surrounding context and will provide a significant community benefit to support the additional building height.

### Built form

#### *Response to VCAT decision*

As identified above, Council's decision to support the previous 22 storey mixed use development on this site (application 578/15) was overturned by VCAT. The Tribunal's order acknowledged the strong strategic support for higher density development on this site given the zoning and broader policy objectives. However, it found the key issue with the earlier scheme was that when viewed from the west (in the location identified in the ACZ1) the building would be visually imposing and overwhelm the Melbourne High School (MHS) building in the foreground. More specifically, it was critical that the building would not appear 'slender' and with its design and materiality, would visually combine with other buildings behind MHS, and fail to achieve the built form outcomes sought by the ACZ1.

In Paragraph 41 of the Tribunal's order, it states: *...the question of whether a building is 'overbearing' will necessarily have regard to the combined effect of the building elements, including materiality, articulation and the fluidity and simplicity of the form [emphasis added].* In Paragraph 46 it states: *The design before us is, however, too tall, too broad and too close to its boundary with the MHS building.*



At Paragraph 81 it finds: *We conclude that the height, breadth and materiality of the proposal before us will have an overbearing presence on MHS which would have an impact on its aesthetic significance. The proposal will thus impact upon the cultural heritage significance of MHS and is an unacceptable planning outcome.*

Separately, the Tribunal found that the previous rear setback of a minimum of 1.83 metres required 'further consideration' to ensure the equitable development of the Melbourne High School land to the west, which it saw as relatively constrained given its heritage considerations.

In response to the decision, the development has been redesigned to address the shortcomings of the previous scheme identified by the Tribunal and provide an acceptable planning outcome. This has been achieved in the current proposal with a reduced building footprint and a revised built form including articulation and materiality which offers a more sympathetic response to the heritage significance of the MHS building.

Specifically, in contrast to the previous curved, tinted glass façade, the proposed tower adopts a rectilinear form, with two slender off-set blocks separated north and south by a central inset within the west and east façades. The side setbacks of the tower have increased to 6 metres from both the north and south boundaries, compared with previous minimum setbacks of 2.29 metres and 3 metres respectively. This results in a more slender tower configuration which will sit comfortably in the background of MHS without confusing the roofline of the heritage building. Additionally, the rear setback to the tower has increased from 1.83 metres in the previous scheme, to a staggered setback of 4.8 metres to the southern block and 7.45 metres to the northern block. This increases the separation of the tower from the MHS site and provides equitable development opportunities as sought by the Tribunal.

The proposal also offers a more refined architectural expression to the previous scheme. The western elevation has been articulated to emphasise its verticality and the selected material palette draws on those of the original MHS building with softened tones of warm masonry to complement rather than compete with the historical building.

As observed by Council's Urban Designer, the slenderness and articulation of the tower form provides a considered and complementary 'backdrop' to the MHS heritage building in the key public realm views from Yarra Street across the MHS oval.

When considering the combined effect of the aforementioned changes, the result is found to strike a balance between protecting the valued heritage character of the MHS building, while responding to the context of taller developments within the Forrest Hill precinct and meeting the intense development objectives sought by the ACZ.

### *Building Height*

A determinative issue of this application is the building height. Pursuant to the ACZ1, the subject site has a preferred maximum height of 38 metres. The building reaches a height of 71.75 metres to the parapet (not including roof top services). It is therefore 33.75 metres higher than the preferred maximum.

The building is proposed to contain 22 storeys which is generally consistent with the previous application for development on this site which was supported by Council. That

building also proposed 22 storeys with a height of 68.36 metres (excluding roof top plant room).

The subject site forms part of the Forrest Hill precinct, which has undergone substantial changes in recent years. As a designated area for growth, there is clear policy direction for more intensive developments within the Forrest Hill precinct. However, it is also important to note there are different sub-precincts within the Forrest Hill precinct, which have different design objectives and preferred built form outcomes. Due to the river abuttal and interface with the Melbourne High School, the properties from 661 Chapel to 681-709 Chapel Street are included in the FH-2 sub-precinct (previously known as the Chapel Street North precinct). In order to protect the historical MHS building, the FH-2 sub-precinct has a preferred maximum height of 38 metres. The precinct guidelines for the FH-2 seek to:

- Ensure that new buildings do not confuse the Melbourne High School building roofline as viewed from Yarra Street, at a point directly perpendicular to the midpoint of the main hall.
- Avoid buildings having an overbearing presence on the Melbourne High School building.
- Setback new development along the western side of Chapel Street to provide built form consistency.

The adoption of a 38 metre preferred height indicates that the planning policies contemplate buildings higher than the roofline of the MHS in the FH-2 sub-precinct. Indeed, even before the take-off of the Forrest Hill precinct, views to the MHS building were subject to a variety of interruptions and backdrops, obscured to varying degrees by both built form and landscape. In the Panel report for Amendment C58 – Forrest Hill Structure Plan (which amongst others, introduced the DDO8 controls to the Forrest Hill precinct), the Panel found that a tall and slender building is less likely to be read in the context of the MHS building than one that only marginally exceeds the roofline height. Consequently, the Panel recommended a discretionary height limit of 50 metres for the Chapel Street North precinct. Since the approval of Amendment C58 in June 2009 and the subsequent approval of Amendment C172 in August 2017, the backdrop to the MHS (especially when viewed from the west) has evolved significantly. For instance, The Avenue, Royal Como, 661 Chapel Street and Vogue Plaza are examples of new significant additions to this backdrop. The evolving physical site context suggests a building taller than 38 metres could assimilate comfortably into the backdrop, subject to appropriate design. This, of course, does not mean the 38-metre preferred height can be disregarded. Any building that has an overbearing presence on the MHS must be avoided, so does any protrusion above the ridgeline of the MHS building that would cause an impediment to the visual perception and understanding of the building.

As the subject site sits directly behind part of the 1927 MHS building, it has the potential to impact on the legibility and significance of the building. A superior design response is warranted to ensure an acceptable outcome.

The height of the previous 22 storey proposal was found by Council to be compatible with the buildings in the immediate surrounding area and to provide a suitable transition between the taller built form further south, down to the Yarra River in the north. It was also considered the building would be clearly distinguishable from the MHS building roofline when viewed from Yarra Street at a point directly perpendicular to the midpoint of the main hall.



It is important to recognise that it was not the building height in isolation that led the Tribunal to overturn Council's decision. Rather, the Tribunal viewed the height of the previous scheme as being unacceptable when considered in conjunction with its breadth, limited setbacks, articulation and materiality. It was the combined effects of all of these elements that led to the previous scheme being considered 'overbearing' by the Tribunal.

The precinct objectives of the ACZ1 seek to provide tall, slender building forms rather than bulky, monolithic buildings to minimise visual bulk. As discussed above, the changes sought in the current proposal have satisfactorily addressed the response to MHS and result in a design outcome that is not overbearing despite the building's height.

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

Although the proposed building is higher than preferred under the ACZ1, the proposed building height is compatible with the scale of other tall buildings on Chapel Street. The submitted urban context report demonstrates that when viewed from various vantage points, in the context of the backdrop of surrounding buildings, the perception of form and scale of the proposed building will complement and achieve an acceptable 'fit' within the existing and approved developments within the Forrest Hill precinct. Furthermore, it will provide an acceptable transition in scale between the heights of buildings along Chapel Street to the north and south, many of which also exceed the preferred maximum building height for their respective sub-precinct.

#### *Significant Community Benefit*

The maximum heights specified in the ACZ1 are discretionary and the planning controls contemplate an exceedance in preferred building height in some circumstances if:

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

The permit applicants seek to rely on this provision to justify the additional building height. The application includes a number of features which are considered to benefit the community, including:

- Public realm upgrades in the form of streetscape works in front of the site and the adjoining building to the north. Based on the discussion plans, the works include nine new street trees (Oriental Plane) and bluestone paving to be consistent with the frontage of other developed sites along Chapel Street.
- A 352sqm community space located at the rear of the first floor. The space is proposed to be available for use by Melbourne High School for education purposes during school hours, and to the broader, local community free of charge for a variety of uses outside of school hours.
- A cash contribution of \$500,000 to be set aside for Council's Chapel Street Transformation project.

The proposed development also includes a 3-metre street setback to improve the pedestrian experience, a high level of activation to the frontage, and a landscaped pedestrian link extending from Chapel Street through to Melbourne High School. These works however are

not considered to be over or above what would ordinarily be required by a development site in this context. The quality of the development and on-site landscaping are also items which would reasonably have been expected of the permit applicant. Thus, these elements of the proposal do not constitute significant community benefit.

Council's support of the increased building height in the previous application was partially on the basis that the development derived significant community benefit in the form of a maternal and child health centre (MCHC). It is noted that the MCHC was 300sqm in area and located on level 1 at the rear of the building in the south-west corner, with glazing limited to the west façade. Six associated car parking spaces were provided in the basement with direct lift/stair access from the basement to the MCHC, as well as from Chapel Street via a dedicated lift/stair lobby to Level 1 at the southern end of the ground floor frontage. The location of and access to the MCHC on the first floor at the rear of the building was found to be convenient.

The term 'significant community benefit' is not defined in the Stonnington Planning Scheme. Furthermore, the Stonnington Planning Scheme does not provide a list of accepted categories of public benefits. Therefore, any proposed community benefit has to be assessed on a case-by-case basis and it requires an exercise of judgement.

The purpose of the allowance set down in the ACZ1 is to ensure that a suitable contribution is made to the local community, which ameliorates the implications associated with a higher-than-anticipated density outcome. In the application for development of the land at 627 Chapel Street ('Goldfields'), Council accepted a cash contribution equivalent to 5.68% of the site's value to be put towards the future acquisition of open space in this area. The agreed contribution amounted to \$2,556,000 in lieu of approximately 40 metres of additional building height above the preferred maximum. It is noted that as an office building, the usual 8% open space contribution was not applicable as this requirement only applies to residential buildings.

In contrast, the proposed development on the subject site includes a residential component and will be subject to an open space contribution once the building is subdivided. Therefore, the cash contribution offered is intended to be put towards future improvements to Chapel Street, as foreshadowed by Council's transformation project which is currently in the preliminary design phase.

A reasonable approach to significant community benefit for this application would be one that is consistent with the precedent established for the Goldfields development, even though the height exceedance proposed in this case is less. Using that example, a contribution of 5.68% of the subject site's value equates to approximately \$2,100,000.

The public realm improvements include a larger scope of works than that typically expected by a development in this context, as they extend beyond the street frontage of the site and incorporate the footpath of the adjoining property to the north. These works seek to address the currently poor contribution this property makes to the public realm and include hard and soft landscaping and services relocation. Therefore, the portion of the works in front of the adjoining property can be considered to contribute to a community benefit. These works have an estimated value of \$400,000.

It is also considered that the proposed community room must be apportioned some value as a shared education/community space. It is acknowledged that while an educational use

associated with a State school is generally considered a community use, in this case Melbourne High School is a 'selective entry' State school meaning that a portion of students do not reside in this locality. However, it is noted that the sharing of school facilities with other community users is not uncommon and can offer financial savings to Council by way of reduced operating and maintenance costs, while improving ties between the school and the local community. Essentially, we must consider how the space will benefit the local community as intended by the ACZ1.

The proposed community room is larger than the previously supported maternal and child health centre and is located in a similar position within the building, being to the rear of the first floor, however in this case it will benefit from excellent daylight access from both the north and west. The space will be accessed via a dedicated lift accessed from the main pedestrian entry along the northern side of the building.

Whilst a specific function is yet to be identified, it is considered that the room could be used for a variety of purposes by community groups outside of school hours, including weekday evenings, weekends and school holidays. Assuming MHS utilise the space between 8am to 4pm Monday to Friday, i.e. 40 hours per week, it is estimated that availability to the community could reasonably be provided between 4pm to 9pm Monday to Friday and between 9am to 5pm Saturday and Sunday. This equates to 41 hours of community use and does not account for additional availability during school holiday periods. Based on this scenario, 50% of the value of the space could be apportioned as a community benefit.

The applicant submitted advice prepared by a licenced valuer on the various components of the development contributions and an independent review of this information was undertaken by Council's valuer. The agreed value of the community room is \$3,400,000. Based on the above estimated usage, an apportion valued to the local community of 50% would be \$1,700,000.

In addition to the above benefits, the applicant has offered a monetary sum of \$500,000, which is considered to be a satisfactory contribution towards the future transformation of Chapel Street. This offer should be set down in the permit and required through the execution of a Section 173 Agreement.

Collectively, the abovementioned contributions comprising the streetscape upgrades, community facility and cash contribution, exceed that achieved by the Goldfields development and are considered to represent a significant community benefit to satisfactorily offset the proposed height increase sought by the application.

To ensure the use and management of the community room is to Council's satisfaction, a permit condition will require submission of an operational management plan which describes how the facility will be managed, including details such as wayfinding, hire, security, cleaning, and maintenance which is intended to be shared between MHS and the Owners Corporation of the building.

Having satisfied the first prerequisite to exceed the preferred maximum building height, it is necessary to consider whether the second prerequisite, namely, to meet the built form objectives in relation to visual impact, overshadowing and increased upper-level setbacks is met. Given the proposed form and setbacks of the building and the adjoining context, it is considered there will be no unreasonable off-site amenity impacts on the public realm or

neighbouring properties as a consequence of the additional height sought. This is discussed further below.

*Building massing and design*

The proposed building will occupy a prominent location and there is no doubt it will be highly visible due to the surrounding context. The site's interface to the west is highly unlikely to change in the foreseeable future, given the Melbourne High School heritage building is located directly to the north-west. Lower scale MHS buildings of four storeys flank the north and south boundaries of the subject site. However, beyond these properties on Chapel Street and within the local streets in its backdrop, higher scale buildings exist.

The building adopts a podium and tower arrangement with a 3-metre setback to the Chapel Street frontage, as required by the ACZ1, and a street wall height to the southern block of 12.4 metres (400mm above the ACZ1 requirement). The southern block is setback a further 3 metres from the podium above the third floor (6 metres from the street). This is a similar outcome to the previously supported development which was also setback 3 metres from the street and incorporated a sheer façade to the frontage in excess of 68 metres, with the exception of the south-east corner which provided a three-storey podium with a height of approximately 14 metres.

The proposed façade will present a slender vertical form to the street and is considered to be well-articulated with a central recess separating the two blocks and balcony recesses to the outer corners. The design is compatible with existing developments in this section of Chapel Street which have a robust built form and accommodate some variations in setbacks and podium heights compared to the outcomes sought by the ACZ1. For example, The Avenue development to the north (681-709 Chapel Street) does not incorporate a podium with the 48-metre-high tower setback 3.2 metres from the street; and to the south the development at 649 Chapel Street the 55-metre-high tower is constructed directly on the Chapel Street boundary. In this context, the development will not have a dominating impact on the streetscape.

The development provides good ground level activation with provision of a large retail frontage in the southern half and commercial and residential lobbies in the northern half, all of which provide suitable amounts of glazing to the façade to promote pedestrian interaction. Generous glazing to the upper floors also contributes to passive surveillance of the street. Street facing services are well-integrated and limited to a fire booster cabinet at the southern end of the façade and a small gas cabinet between the two lobbies. Pedestrian weather protection canopies are proposed along the frontage at an appropriate height and depth to ensure they do not impact the canopy of proposed street trees.

The entire building is setback 6 metres from the northern boundary and provides undercroft vehicle access with a porte cochere and a strong pedestrian connection from Chapel Street to the building. A further uncovered pedestrian link is located along the northern boundary and provides direct access to the MHS site via the adjoining property to the north. The podium is constructed to the southern boundary and abuts the boundary wall of the adjoining MHS building to the south, with the exception of a light court to the communal residential area and office on the first and second floors respectively.

The ACZ1 calls for preferred upper-level setbacks of 12 metres between towers above street wall height. The development complies with the north and south elevations to the tower form

each setback 6 metres from their respective boundaries. The setbacks provide approximately 24 metres separation from the southern development at 661 Chapel Street and 55 metres separation from The Avenue development at 681-709 Chapel Street. The form, scale and articulation of these elevations is compatible with other buildings in the immediate vicinity and visual bulk impacts will be appropriately limited.

To the west, the development proposes a coordinated interface and activation with the MHS site. The ground floor of the development is below the adjacent ground level at this interface and the floor level of the community room is also lowered to allow for a direct physical connection between MHS and the proposed community/education space on the first floor. The podium is proposed to be setback 1.83 metres from the rear boundary, while the tower will be setback 4.8 metres from the southern block and 7.45 metres from the northern block. The staggered rear setback to the tower is considered to provide an acceptable response to the ACZ1 preferred setback of 6 metres above the podium.

### Amenity Impacts

The applicable overshadowing requirements of the ACZ1 apply only to the public realm and state that buildings should not cast additional shadow to the south side footpath of east-west streets between 9.00am and 3.00pm at the Equinox and buildings should minimise overshadowing of existing and potential future open space, village squares, and urban plazas as shown on the Precinct Maps at the winter solstice. Due to the distance of the site from east-west streets and the open space and village square identified to the south-east on the precinct map, the development complies with these requirements.

The development provides for fair and reasonable building separation from nearby residential developments to the north, east and south to ensure that satisfactory daylight, solar access, natural ventilation and privacy can be maintained, as required by the interface setback guidelines of the ACZ1. The amenity concerns raised by a number of objectors are acknowledged. However, it is important to highlight that the subject site and the nearby apartment buildings are located in a substantial change area, thus expectations of achieving the same amenity standards as that of an established residential neighbourhood need to be tempered somewhat in consideration of this high-density context.

Intensively developed precincts such as Forrest Hill often have issues with wind gusts and tunnelling. The proposal was accompanied by a desktop wind assessment however it was determined that a more comprehensive analysis was required to ensure the proposal does not produce unacceptable wind implications. Subsequently, the applicant submitted a revised Pedestrian Wind Study (Council date stamped 9 September 2022). The report included a wind tunnel study model to assess the wind environment of pedestrian areas within and around the proposed development, including the various entrances, pedestrian footpaths and walkways around the site, public spaces and the various balconies within the building.

The report finds that the proposed development will result in a general increase in wind activity around the site. However, wind conditions at the main entrances and along the various streets would be suitable for the intended passive use for these areas throughout the year. The report notes that the existing screens, foldable canopies and dense landscaping along Chapel Street would be beneficial to reduce wind speeds. These elements were not modelled as part of the wind tunnel test and the report states it is expected these elements

would considerably reduce the overall wind activity around the site, leading to a generally calmer environment.

The wind report recommends incorporating porous screens (full-height or hanging) between the pillars along the median strip to the north of the development to mitigate the wind effects at the north-east corner of the building at ground level. Alternatively, the report suggests an awning at least 2-3 metres deep and of similar extent to the recommended screening could be incorporated along the northern aspect of the building to reduce the exposure to strong northerly winds. To mitigate wind impacts on upper-level balconies, the report recommends incorporating additional measures at level 3 along the western perimeter of the terrace and at the southwest corner, at level 21 along the northern boundary, and to various northwest corner balconies. The recommended wind mitigation measures can be addressed by permit condition.

### Internal Amenity

The commercial tenancies of the building have been well laid out to allow for good ventilation, daylight access and outlook, thereby providing good levels of on-site amenity to future employees.

The ACZ1 calls for floor to floor heights of 4 metres for the ground floor level and 3.8 metres at first and second floor levels. These clearances at lower building levels are intended to provide flexibility and adaptable internal layouts for a mix of commercial uses and easy conversion between different uses, as the needs of the community and economy change.

The proposal provides floor to floor heights of 5 metres for the lobbies and retail space on the ground level, 5.4 metres for the community space and 3.8 metres for the communal residential facilities on the first floor, and 3.6 metres for the second-floor office. Whilst the latter does not strictly accord with the preferred height clearance of 3.8 metres, on balance the arrangement is acceptable given the proposed mixed-use nature of these floors which comprise retail, community, residential and office spaces.

Clause 58 (Apartment Developments) of the Planning Scheme provides standards against which to assess the quality of new apartment developments. An assessment against the standards and objectives has been undertaken and the development is considered to achieve a high level of compliance and meets the relevant objectives. Key areas of consideration are discussed below.

In terms of the internal layout of the building and the amenity, which is provided to each of the new dwellings, the building generally performs well. The development incorporates one-, two- and three-bedroom apartments of varying sizes offering an appropriate level of dwelling diversity. All dwellings are afforded an open plan living/dining/kitchen area with direct access to sufficiently sized balconies which meet or exceed the prescribed requirements. The living spaces and bedrooms are adequately sized to be functional and meet the needs of residents.

Due to the separation between adjacent towers, all dwellings are provided with reasonable outlook and daylight. The dwellings are orientated to maximise solar access from the north, east and west where practicable, noting that there are either two or three centrally located apartments on each floor which are oriented to the south. The daylight access afforded to these apartments will likely be maintained in the long-term given the adjacent site has recently been developed with a four-storey building.



Nonetheless, Council's ESD Advisor has identified that daylight access into the centrally located south facing apartments could be improved with amendments such as minor changes to the layout and an increase in the visual light transmittance of the glazing. These suggestions have been included within recommended permit conditions. None of the habitable rooms within the building rely on borrowed light and subject to conditions of permit, Council's ESD officer is satisfied that appropriate daylight levels can be achieved throughout the development.

The plans indicate that 47% of the dwellings achieve effective cross ventilation (minimum 40% required) and all of the dwellings can be naturally ventilated with operable windows as indicated on the discussion plans. More than 76% of the dwellings are accessible to people of limited mobility (minimum 50% required).

An acoustic report was submitted with the application which confirms that appropriate noise attenuation measures have been adopted in the development to protect the amenity of all tenants and residents from external and internal noise sources.

Based on the number of dwellings proposed, the development is required to provide an outdoor communal open space area of 30sqm and an additional area of 220 square metres which may be indoors or outdoors and may consist of multiple separate areas of communal open space. The proposal provides significant communal spaces for residents on level 1 totalling 929sqm. The indoor facilities include a pool, gym, lounge and dining areas, as well as a 26sqm outdoor landscaped terrace on the south side of the building adjacent to a sitting area. The communal space is substantial, well-integrated, accessible, practical and will enhance residential amenity. Whilst the south facing outdoor terrace will not receive any direct sunlight, the majority of internal spaces including the pool area will receive excellent solar access. In combination, these facilities are considered to meet the relevant objectives.

Clearly defined, safe and convenient access is provided to the dwellings via a residential lobby facing Chapel Street as well as from the pedestrian walkway and porte cochere on the northern side of the building. The apartments are also accessible from the basement via two residential lifts and stairs. Straight common corridors on each floor extend the length of the building from east to west and have access to natural light and ventilation at each end.

The proposal provides areas for the necessary site services. Each dwelling is provided with sufficient internal and external storage facilities, and mailboxes and other site services and facilities are appropriately and conveniently located. Given the land is located within an established area, it can be readily connected to services without creating any unreasonable impacts on the existing infrastructure.

The development provides separate commercial and residential waste room facilities at ground floor level located close to the lifts. Bin chutes are located on all floors for convenience and a hard waste area is also provided within the upper-level basement. The waste and recycling facilities are considered to be appropriately located and designed and are considered acceptable, subject to an updated Waste Management Plan being provided via condition of permit.

Overall, the development is considered to provide an acceptable level of internal amenity for future occupants.

### Car Parking and Traffic

Vehicle access to the site is proposed via the existing crossover towards the northern end of the frontage. A total of 197 car parking spaces are proposed over five levels of basement, with the accessway extending along the northern boundary around to the rear/west where it descends into the basement.

The development is seeking a car parking reduction of 6 residential spaces, 33 office spaces and 9 retail spaces (a shortfall of 48 in total). Acknowledging the high provision of public transport services in the activity centre, and that Local policy encourages use of more sustainable modes of transport, Council's Traffic Engineer is supportive of the car parking reduction for each of the respective uses as indicated within the referral section of the report. The anticipated traffic generated by the development is not anticipated to have an unreasonable impact on the surrounding road network.

The car parking access and layout is also found to be generally acceptable by the Traffic Engineer, subject to some minor modifications which can be resolved by permit conditions.

The proposed access and layout of loading and waste facilities are also found to be acceptable.

Development meets the bicycle parking requirements with 54 spaces.

### Sustainable Design Assessment

The building has generally been designed with the intent of meeting the objectives of Council's ESD Policy at Clause 22.05 and Stormwater Management (WSUD) Policy at Clause 22.18, as outlined in the submitted Sustainability Management Plan (SMP). The development incorporates a number of good ESD commitments including:

- A 5 Star Green Star Rating (formal certification) under the GBCA Green Star Buildings V1 tool.
- 100% of the base building's energy will be obtained through renewables.
- Provision of 5 EV charging stations with commitment of 50% of the car parks to be 'EV ready'.
- A target recycling rate of 90% of construction and demolition waste.

Council's ESD Officer is supportive of the proposal, subject to conditions of permit which seek to ensure that the development will achieve an appropriate sustainable design outcome. These conditions are included within the recommendation.

### Governance Compliance

#### Conflicts of Interest Disclosure

No Council Officers 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. 0321/22 - 671 Chapel Street, South Yarra [8.1.1 - 24 pages]

### **Officer Recommendation**

***That Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 321/22 for the land located at 671 Chapel Street, South Yarra under the Stonnington Planning Scheme for construction of a mixed use development in an Activity Centre Zone comprising retail (as-of-right use), office, community room and apartments; a reduction in the car parking requirements; and alteration of access to a road in a Transport 2 Zone 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 application plans prepared by Bates Smart Architects, date stamped by Council on 23 June 2022, but modified to show:***
  - a) Wind mitigation measures detailed on the plans in accordance with the recommendations of the Pedestrian Wind Study report prepared by RWDI Australia dated 5 September 2022.***
  - b) Any changes to the plans to accord with the recommendations of the updated daylight modelling required by Condition 3 (Sustainable Management Plan).***
  - c) The minimum glazing Visible Light Transmittance (VLT) and surface reflectance values of materials used for the daylight modelling noted on the plans.***
  - d) Glazing to have a minimum Visual Light Transmittance (VLT) of 60%.***
  - e) The wing walls and soffits to the balconies finished in a light-coloured material with a minimum reflectance of 70%.***
  - f) External shading devices provided to north facing glazing of habitable rooms, which should ensure that the north windows/glazed doors are shaded from the spring equinox until the autumn equinox (21 September to 21 March). Where sun shading devices are being utilised a dimensioned section diagram is to be included to demonstrate their effectiveness.***
  - g) External sun shading devices provided to west facing glazing of habitable rooms, which could be in the form of operable louvres, sliding shutters or external blinds. The external shading devices are to be clearly shown/noted on the plans and elevations.***
  - h) Any fixed external shading devices to be finished in a light-coloured material with a minimum reflectance of 60%.***
  - i) The location and details of the rainwater tank, capacity, connection, associated equipment and maintenance in accordance with the SMP.***
  - j) Details of rain gardens in accordance with the SMP***
  - k) The roof plan to detail the solar PV system size and capacity, orientation and inclination angle of the panels.***

- l) Notation confirming Carbon Monoxide (CO) monitoring within the basement.*
- m) Allocation of bicycle parking spaces to residential, office, retail and visitors.*
- n) EV charging infrastructure detailed on the applicable basement plans in accordance with the SMP.*
- o) Operability of windows as indicated on the revised 'discussion plans' submitted to Council on 9 September 2022.*
- p) Landscaping within pedestrian sight triangles adjacent to the exit lane limited in height to 900mm.*
- q) Dimensioned minimum headroom clearance of 2.2m at the entrance to the carpark with the roller door is an open position.*
- r) Dimensioned headroom clearance to the loading bay.*
- s) Provision of a bollard within the shared area adjacent to the accessible parking space.*
- t) Dimensions of the support columns in the basement to demonstrate appropriate clearance to car parking spaces.*
- u) Doors to the sub-station designed to not encroach the access aisle when in the open position.*
- v) Dimensions of the bicycle parking and access in accordance with the Australian Standards.*
- w) Any changes required by Conditions 3 (SMP), 6 (Green Travel Plan), 7 (Landscape Plan), 9 (WMP), 11 (CFMP) and 13 (Façade Strategy).*

*All to the satisfaction of the Responsible Authority.*

- 2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason, without the prior written consent of the Responsible Authority.**
- 3. Prior to the endorsement of any plans pursuant to Condition 1 a Sustainable Management Plan (SMP) must be submitted to and approved by the Responsible Authority. When approved the SMP will be endorsed and will then form part of the permit. The development must incorporate the sustainable design initiatives outlined in the SMP to the satisfaction of the Responsible Authority. Amendments to the SMP must be incorporated into plan changes required under Condition 1. The SMP must be generally in accordance with the report prepared by Stantec dated 6 May 2022, but modified to include the following:**
  - a) Updated daylight modelling, inclusive of but not limited to levels 3, 7, 12, 13 and 20, demonstrating that a minimum of 80% of the living rooms and bedrooms in the development meet the BESS (Built Environment Sustainability Scorecard) Best Practice Standard for daylight.*
  - b) External shading devices to north and west facing glazing.*

- c) ***Preliminary NatHERS certificates provided for one apartment on each level assessed (apartment L12-05-2D, L19-01-3A and L21-01-3E).***
- d) ***Provision of Carbon Monoxide (CO) monitoring to the basement carpark.***
- e) ***A brief statement outlining construction measures to prevent litter, sediments and pollution entering the stormwater system. The statement should include the types of measures required to be implemented on site (such as adoption of 'Keeping our stormwater clean' guide by Melbourne Water and typical measures suggested).***
- f) ***A brief statement outlining operational and maintenance measures to check the effective operation of all stormwater systems.***
- g) ***Demonstrate how Best Practice measures from each of the 10 key Sustainable Design Categories of Stonnington Council's Sustainable Design Assessment in the Planning Process (SDAPP) have been addressed.***
- h) ***Identify relevant statutory obligations, strategic or other documented sustainability targets or performance standards.***
- i) ***Document the means by which the appropriate target or performance is to be achieved.***
- j) ***Identify responsibilities and a schedule for implementation, and ongoing management, maintenance and monitoring.***
- k) ***Demonstrate that the design elements, technologies and operational practices that comprise the SMP can be maintained over time.***

***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 the written consent of the Responsible Authority.***

- 4. ***Prior to the occupation of the development approved under this permit, a report from the author of the Sustainability Management Plan, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Sustainability Management Plan have been implemented in accordance with the approved plan.***
- 5. ***The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.***
- 6. ***Prior to the endorsement of plans, a Green Travel Plan must be submitted to and approved by the Responsible Authority. When approved, the Green Travel plan will be endorsed to form part of the permit. The Green Travel Plan must include actions and recommendations designed to reduce the use of cars and increase the use of alternative travel methods to the satisfaction of the Responsible Authority. The development must operate in accordance with the Green Travel Plan.***

7. ***Prior to the endorsement of plans, a landscape plan to be prepared by a landscape architect or suitably qualified or experienced landscape designer, must be submitted to and approved by the Responsible Authority. When approved, the landscape plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions. The landscape plan must be generally in accordance with the plan prepared by Jack Merlo Design & Landscape dated 6 May 2022, and include:***
  - a) ***Updates to the Public Realm Enhancement Works plan as indicated on the revised 'discussion plans' submitted to Council on 9 September 2022 and including details of the pavement along the Chapel Street frontage and the northern boundary of the subject land (such as material, size and pattern), and details of any street furniture and street tree planting, to the satisfaction of the Responsible Authority.***
  - b) ***Soil volume details of all planter boxes.***
  - c) ***A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant and irrigation details for all planting.***
  - d) ***The extent of any cut, fill, embankments or retaining walls associated with the landscape treatment of the site.***
  - e) ***Details of all proposed hard surface materials including pathways, patio or decked areas.***
8. ***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.***
9. ***Prior to the endorsement of plans, a Waste Management Plan must be submitted to and approved by the Responsible Authority. When approved, the Waste Management Plan will be endorsed and will then form part of the permit. The Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by One Mile Grid dated 10 May 2022 but updated to include:***
  - a) ***Organic waste generation rates revised to match 'Sustainability Victoria Better Practice Guide for Waste Management and Recycling in Multi-unit Development' allocation – 35% of garbage is comprised of organics. The size and number of organic waste bins required is to be amended accordingly.***
  - b) ***The designated bin stores to allow space for glass recycling as per 'Recycling Victoria Guidelines', should such a service be available in the future.***
  - c) ***Retail organic waste generation rates revised to match 'Sustainability Victoria Better Practice Guide for Waste Management and Recycling in Multi-unit Development' allocation – 73L per full time equivalent.***

- d) ***The location of the hard waste collection area is to be clearly signed and communicated to residents and tenants.***
- e) ***Waste collection times to match the 'VIC EPA Noise Control Guidelines' which restrict collections occurring more than once a week to between 7am to 6pm Monday to Saturday for residential waste collection, and 7am to 8pm Monday to Saturday for industrial waste collection.***

***Waste collection from the development must be in accordance with the plan, to the satisfaction of the Responsible Authority.***

- 10. *Prior to the commencement of the development, the owner of the land must enter into an agreement with the Responsible Authority under Section 173 of the Planning and Environment Act 1987 to covenant that it will:***

- a) ***Prior to the occupation of the development, make a monetary contribution to Council for the amount of \$500,000, for the purpose of Council's Chapel Street Transformation Project (or similar) in exchange for the agreed building height.***
- b) ***Further fund the streetscape and public realm works in front of the site and in front of the adjoining site to the north at 1 Forrest Hill as shown in the endorsed plans.***
- c) ***Allow public access free of charge to the Community Facility located on Level 1 of the building as shown on the endorsed plans and in accordance with the Community Facility Management Plan referenced in Condition 11.***
- d) ***Maintain access to the Community Facility as shown on the endorsed plans and to a standard that is safe and fit for public access to the satisfaction of the Responsible Authority.***
- e) ***Costs for construction, ongoing maintenance and management of the Community Facility are to be borne by the landowner.***

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

- 11. *Prior to the commencement of the use, a Community Facility Management Plan (CFMP) must be submitted to and approved by the Responsible Authority. When approved, the CFMP will be endorsed and will then form part of the permit. The CFMP must provide operational details for the Community Facility (the Facility) located on Level 1 of the building as shown on the endorsed plans including, but not limited to, the following information:***

- a) ***Responsibility for management of the Facility.***
- b) ***Detail how the Facility management will collaborate with Council to determine appropriate community uses.***

- c) The proposed hours in which the Facility will be available to the public for community use.**
- d) Maintaining records for the use and hire of the Facility which must be free of charge.**
- e) Accessibility and wayfinding signage to access the Facility from the public realm.**
- f) Measures to ensure security of the premises and safety of users.**
- g) Arrangements and responsibilities for the cleaning and maintenance of the Facility.**
- h) How noise and amenity complaints will be managed.**
- i) How users of the Community Facility will be made aware of minimising noise from the premises.**
- j) Details of public liability insurance.**

**The use of the Facility must operate in accordance with the Community Facility Management Plan to the satisfaction of the Responsible Authority.**

- 12. Prior to the occupation of the development, a report from the author of the Pedestrian Wind Study prepared by RWDI Australia dated 5 September 2022, 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 report have been implemented in accordance with the approved plans.**
- 13. Prior to the endorsement of plans pursuant to Condition 1, a Façade Strategy must be prepared to the satisfaction of the Responsible Authority and must be submitted to and approved by the Responsible Authority. Once approved, the Façade Strategy will be endorsed and will then form part of the permit. The Façade Strategy must include:**
  - a) A concise description by the architect of the building design concept and how the façade works to achieve this.**
  - b) Example prototypes and/or precedents that demonstrate the intended design outcome as indicated on plans and perspective images, to produce a high-quality built form outcome in accordance with the design concept.**
  - c) A schedule of colours, materials and finishes, including the colour, type and quality of materials showing their application and appearance and confirmation that no material will have more than 20% reflectivity or otherwise to the satisfaction of the Responsible Authority.**
  - d) Detailed elevations showing the location of the proposed materials, colours and finishes, building details, entries and doors, utilities and any special features, in accordance with plans endorsed under Condition 1 of this permit.**
  - e) Cross sections or other method of demonstrating the façade systems, including fixing details indicating junctions between panels.**



- f) Information about how the façade will be accessed, maintained and cleaned, including details of the ongoing maintenance, inspection and where necessary treatment of the façade.**

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

- 14. Upon submission of plans to be endorsed in association with condition 1, a digital 3D massing model of the development hereby approved in accordance with the specifications of Council's GIS Unit must be submitted to the satisfaction of the Responsible Authority.**
- 15. Prior to the occupation of the development, the walls on the boundary of the adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.**
- 16. Before a sensitive use (residential use, childcare centre, pre-school centre, primary school, secondary school or children's playground) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences:**
- a) A preliminary risk screen assessment statement in accordance with the Environment Protection Act 2017 must be issued stating that an environmental audit is not required for the use or the proposed use; or**
  - b) An environmental audit statement under Part 8.3 of the Environment Protection Act 2017 must be issued stating that the land is suitable for the use or proposed use.**

**Prior to the occupation of the building all the conditions of the Statement of Environmental Audit must be complied with to the satisfaction of the Responsible Authority.**

- 17. The use and development allowed by this permit must comply with the directions and conditions of any statement of environmental audit issued for the land.**
- 18. All the conditions of the Statement of Environmental Audit must be complied with to the satisfaction of the responsible authority, prior to commencement of use of the site. Written confirmation of compliance must be provided by a suitably qualified environmental professional or other suitable person acceptable to the responsible authority. In addition, sign off must be in accordance with any requirements in the Statement conditions regarding verification of works.**
- 19. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.**
- 20. The loading and unloading of vehicles and the delivery of goods to and from the premises must at all times be conducted in a manner that limits interference with other vehicular traffic to the satisfaction of the Responsible Authority.**

21. ***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.***
22. ***All buildings and structures, with the exception of the proposed decking, must be clear of the easement at the rear of the property. Prior to a building permit being issued for the decking, consent to build the decking over the easement must be obtained from Council's Building Control Unit.***
23. ***Prior to a building permit being issued, a report for the legal point of discharge must be obtained from Council and a drainage design for the development must be prepared by a suitably qualified Engineer in accordance with all 'recommendations' and requirements contained in that report. All drainage must be by means of a gravity-based system and not pumped, with the exception of runoff from any basement ramp and agricultural drains which may be pumped. The relevant building surveyor must check and approve the drainage design and ensure that protection of the building is provided from a 1 in 100 A.R.I. rainfall event as required by the Building Regulations.***
24. ***Prior to an 'Occupancy Permit' being issued, a suitably qualified Engineer must carry out a detailed inspection of the completed stormwater drainage system and associated works including all water storage tanks and detention (if applicable) to ensure that all works have been constructed in accordance with the approved design and the relevant planning permit conditions. Certification of the completed drainage from the Engineer must be provided to Council prior to a 'Statement of Compliance' being issued for subdivision.***
25. ***The existing footpath levels must not be lowered or altered in any way to facilitate access to the site.***
26. ***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.***
27. ***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.***
28. ***All redundant vehicular crossing must be removed and the footpath, and kerb reinstated at the owners cost to the satisfaction of Council.***
29. ***Prior to occupation, access for persons with disabilities must be provided in compliance with the Disability Discrimination Act 1992 and such access must be maintained at all times the building is occupied or in use.***
30. ***Noise emanating from the subject land must not exceed the prescribed limits specified in the Environment Protection Regulations under the incorporated Noise Protocol (Publication 1826.2, Environment Protection Authority, November 2020). Any works required to ensure and maintain the noise levels are in compliance with the regulations must be completed prior to the commencement of the use or occupation of the building and maintained thereafter, all to the satisfaction of the Responsible Authority.***



31. **All fixed plant and equipment (including air-conditioning units) must be screened to visually integrate into the development to the satisfaction of the Responsible Authority.**

**Department of Transport Conditions:**

32. **Prior to the occupation of the development amended plans must be submitted to and approved to the satisfaction of the Responsible Authority at no cost to Head, Transport for Victoria showing appropriate signage and linemarking to delineate the separate vehicular entry and exit points and restrict vehicular entry to left in only and restrict vehicular exit to left out only onto Chapel Street.**
33. **The permit holder must avoid disruption to tram operation along Chapel Street during the construction of the development. Any planned disruptions to tram operation during construction and mitigation measures must be communicated to and approved by the Head, Transport for Victoria and Yarra Trams a minimum of thirty-five days (35) prior.**
34. **The permit holder must ensure that all track, tram and overhead infrastructure is not damaged. Any damage to public transport infrastructure must be rectified to the satisfaction of the Head, Transport for Victoria at the full cost of the permit holder.**

**End Department of Transport Conditions**

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

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

**NOTES:**

- A. **This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.**
- B. **Separate consent and approval may be required for buildings and works undertaken within the arterial road reserve (Chapel Street) under the Road Management Act 2004.**
- C. **All disused or redundant vehicle crossovers to be removed and reinstated to kerb and channel to the satisfaction of the Responsible Authority at no cost to Head, Transport for Victoria.**
- D. **The owners and occupiers of the dwelling/s hereby approved are not eligible to receive "Resident Parking Permits".**

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

## 8.2 Planning Application 0151/22 - 385-387 Wattletree Road, Malvern East

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

### Purpose of Report

For Council to consider a planning application for the construction of a multi dwelling development in a General Residential Zone and alteration of vehicle access to a road in a Transport Zone 2 at 385-387 Wattletree Road, Malvern East (the site).

### Abstract

#### Proposal

The proposal seeks to redevelop the site with a four-storey apartment building (comprising 29 dwellings) over a two-level basement car park (with 78 car parking spaces). Vehicular access to the site is proposed from the rear laneway.

#### 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 height, massing and design of the proposal respects the neighbourhood character.
- External amenity impacts have been satisfactorily ameliorated (subject to conditions).
- The building provides for a good level of internal amenity.
- Matters regarding car parking and traffic are adequately resolved.

#### Issues

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

- Neighbourhood Character.
- External Amenity.
- Internal Amenity.
- Transport Matters.

#### Officer's response

- The building height complies with the General Residential Zone – Schedule 3.
- The required garden area is provided.
- The site coverage and side and rear setbacks comply (subject to conditions) with Clause 55, with a minor (and acceptable) encroachment into the street setback standard for part of the building.
- There are no unreasonable visual or daylight impacts from the proposal.
- Overlooking and overshadowing have been adequately managed.

- An appropriate landscape response has been achieved, including through the retention and relocation of the existing Canary Island Palm tree.
- A good level of internal amenity is provided to future residents, with functional and generous internal and external spaces.
- The design provides an acceptable response to matters pertaining to environmentally sustainable design.
- Adequate car parking is provided on site to accord with Clause 52.06 (Car Parking).
- There is adequate capacity in the street network (including the rear laneway) to accommodate the proposed traffic volumes.

### Executive Summary

|   |   |
|---|---|
| Applicant:                                      | WAT385 Developer Pty Ltd  |
| Ward:   | East  |
| Zone:   | General Residential Zone – Schedule 3   |
| Overlay:  | Nil   |
| Neighbourhood Precinct:                         | Garden Suburban 4   |
| Date Lodged:                                    | 15 March 2022   |
| Statutory Days:<br>(as at Council Meeting date) | 21  |
| Trigger for Referral to Council:                | A building of four or more storeys and objections from seven or more properties |
| VCAT Hearing Date                               | NA  |
| Cultural Heritage Plan                          | No  |
| Number of Objections:                           | 28  |
| Consultative Meeting:                           | Yes 24 November 2022  |
| Officer Recommendation                          | Notice of Decision  |

### Background

#### The Proposal

The plans that form part of the basis of Council's consideration were prepared by Ewart Leaf and have Council's date stamp of 21 November 2022. It is proposed to redevelop the site with a four-storey apartment building, over two basement levels.

Key features of the proposal are:

- The basements will be accessed by vehicles from a new crossover from the rear laneway at the eastern end of the site. It is proposed to remove the site's two existing crossovers from Wattletree Road.
- The basements provide a total of 78 vehicle parking spaces (including one for visitors), a bike store accommodating 36 bicycle parking spaces, a bin room and building services.

- Pedestrian entry to the building is via a new walkway from Wattletree Road, on the western half of the site.
- The ground floor accommodates eight apartments. There are eight dwellings provided at each of Levels 1 and 2, and five dwellings at Level 3, making a total of 29 dwellings. A summary of dwelling types is provided below:
  - 20 x three bedroom
  - 9 x two bedroom
- The building is set back a minimum of 4.5m from the rear laneway and 5.5m from Wattletree Road.
- Side setbacks are a minimum of 3m, with central recesses provided of 10m on the east and 7.4m on the west.
- The development proposes a site coverage of 58% and permeability of 21%. A garden area of 38% of the site area is provided.
- The building has a maximum height of 12.975m (plus plant and equipment, which has an additional height of 1.85m).
- The building is contemporary, with a flat roof. The primary exterior materials include grey render and metal cladding.

#### Site and Surrounds

The site is located on the north side of Wattletree Road, approximately 90m west of Burke Road, Malvern East. The site comprises two allotments (No's 385 and 387 Wattletree Road), and it has a total site area of 2,230sqm. It has the following key features:

- 387 Wattletree Road comprises the eastern portion of the site and is currently vacant. This land has vehicular access from Wattletree Road
- 385 Wattletree Road represents the balance of the land and is currently developed with a detached dwelling. This land also has individual vehicular access from Wattletree Road.
- Collectively these two lots (i.e. 'the site') has a frontage to Wattletree Road of 48.77m. The site has a rear abuttal to a laneway, which extends between Irymple Avenue to the east and Kingston Street to the west. The laneway is approximately 3m wide.
- There is some vegetation on the site, including four trees that would be categorised as 'significant' under Council's Local Law. A Port Jackson Fig (Tree 10, adjoining the west boundary), a Canary Island Palm (Tree 15, adjoining the east boundary), an Elm (Tree 12 towards the northeast corner) and a Poplar (Tree 13, also towards the northeast corner). These four trees (and others on site) are proposed for removal.
- Topographically, the site undulates, although survey evidence has been provided to confirm that a fall of at least 2.5 degree is achieved across a cross section wider than 8m.

The site's immediate neighbours are described below:

- Immediately west of the site at 383 Wattletree Road, there is a three-storey apartment building. This building was approved by way of Permit 451/14, which was issued at the direction of VCAT. The building is setback a minimum of 1.99m from the common boundary and it has a number of habitable room windows (at Ground, 1st and 2nd

level) orientated towards the site. Adjacent to the northwest boundary of the site, is an area of private and secluded open space, which is around 3.4m deep.

- Immediately east of the site there is a two-storey medical centre (Central Park Specialist Centre) located at 389 Wattletree Road. The building at this site is setback 2.5m from Wattletree Road and 6m from the common boundary with the subject site. There is an open area to the rear of the property, which is used for car parking. The building at 389 Wattletree Road is subject to Heritage Overlay – Schedule 353, which covers a group of shops (‘Central Park Village’) at the intersection of Burke Road and Wattletree Road (notwithstanding, No. 389 is located in the General Residential Zone).
- To the rear, across the laneway, there are detached dwellings with an interface to the site at 6, 8 and 10 Irymple Avenue. In each case, at least part of the interface is to an area of private and secluded open space.
- Opposite the site in Wattletree Road is Central Park.

#### Previous Planning Application/s

The site has no relevant planning history.

#### The Title

The site is formally described as follows:

- Lot 1 on Plan of Subdivision 0851335
- Lot 7 on Plan of Subdivision 004892

No covenants or easements affect the land.

#### Planning Controls

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

##### *General Residential Zone – Schedule 3 (Residential Boulevards and Corridors)*

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

Pursuant to Clause 32.08-4 a site larger than 650sqm must provide a garden area, which is a minimum of 35% of the lot area. In this case, a garden area of 38% is proposed.

Schedule 3 of the Zone includes the following requirements:

- A maximum building height of 13m applies to the site.
- Variation to Clause 55 follows:

| Standard                     | Variation   |
|------------------------------|---|
| Site Coverage (B8)           | Basements should not exceed 75% of the site area  |
| Side and Rear Setbacks (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.<br>Where no setback is specified, standard A10 or B17 applies. |
| Walls on Boundaries (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.  |

### *Particular Provisions*

#### Clause 52.06 Car Parking

Pursuant to Clause 52.06, a dwelling with three or more bedrooms is required to be provided with two car parking spaces, while a dwelling with one or two bedrooms is to be provided with one car parking space. There is no requirement to provide visitor car parking at the site.

Applying these ratios to the site equates to a requirement to provide 49 car parking spaces at the site. There are 78 car park spaces on site (including one visitor space), exceeding the requirements of this clause.

#### Clause 52.34 Bicycle Facilities

Pursuant to Clause 52.34, there is a requirement to provide 6 bicycle parking spaces for residents and 3 bicycle parking spaces for visitors at the site. The plans show 36 on-site bicycle parking spaces, which exceeds the requirements of the Planning Scheme.

### Relevant Planning Policies

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

- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.05 Housing
- Clause 21.06 Built Environment and Heritage
- Clause 22.05 Environmentally Sustainable Development Policy
- Clause 22.18 Water Sensitive Urban Design Policy
- Clause 22.23 Neighbourhood Character Policy

### Advertising

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

The site is located in East Ward and objections from 28 different properties have been received. A summary of objections is provided below:

- Excessive building height.
- Excessive visual bulk – on neighbours and the street.
- Inadequate building setbacks / inadequate garden space.
- Not in keeping with neighbourhood character.
- Unreasonable overlooking into adjacent properties.
- Unreasonable overshadowing.
- Loss of daylight to adjacent properties.
- There should be communal open space on site.
- The Canary Island Palm and Port Jackson Fig should be retained.

- Excessive traffic congestion, including in laneway and turning into Wattletree Road.
- Inadequate local parking.
- Inappropriate precedent for future development.
- Poor response to ESD.
- Impacts during construction.
- Excessive noise created by apartment density.
- Drainage issues in laneway will be exacerbated, including local flooding.
- 14-day notice period inadequate.
- Request that garden area and height calculations be carefully scrutinised.

Following advertising, the permit applicant elected to formally amend the proposal by way of Section 57A of the Planning and Environment Act 1987 to respond to some of the issues raised by objectors. The amended proposal includes the following revisions to the plans:

- Increase the south end of both basements' setback from the west boundary by 1.2m (from 5.56m to 6.5m).
- Provision of one visitor car parking space in Basement 1.
- Increase in the north (rear) setback (all levels) from a minimum of 3.47m to 4.5m (measured to balconies, with building walls further recessed).
- Increase in the south (Wattletree Road) setback along the western third (approx.) of the site (all levels). The setback has increased from 7.0m to 7.75m.
- Creation of a deeper recess in the Wattletree Road façade, above the building entry.
- Increase in the Garden area from 36% to 38%.
- Reduction in site coverage from 60% to 58%.
- Increase the number of two-bedroom apartments from seven to nine and reduce the number of three-bedroom apartments from 22 to 20. The total number of apartments remains at 29.
- Retention and relocation of the Canary Island Palm to the southeast corner of the site.

A Consultative Meeting was held on 24 November 2022. The meeting was attended by Councillor Klisaris, representatives of the applicant, objectors and a Council Planning Officer. The meeting did not result in any further changes to the plans.

## Referrals

### *Department of Transport*

The Head, Department of Transport has reviewed the application and does not object subject to the following condition:

1. Prior to the occupation of the development, all disused or redundant vehicle crossings must be removed, and the area reinstated to (kerb and channel) the satisfaction of the Responsible Authority, and at no cost to the Head, Transport for Victoria.

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



The proposed development requires reinstatement of disused crossovers to kerb and channel. Separate approval under the Road Management Act 2004 for this activity may be required from the Head, Transport for Victoria. Please contact DoT (Roads) prior to commencing any works.

*Urban Designer*

Council's Urban Designer has reviewed the amended scheme and advised: *On the basis of these revisions, I now support the proposal.*

*Infrastructure*

Council's Infrastructure Department has reviewed the proposal and requested the following conditions:

1. The owner must at their cost provide a 225mm diameter outfall drain within the rear right-of-way to connect the property to the closest Council underground drain located in Kingston Street. A design for the drain must be prepared by a suitably qualified engineer and approved by Council's Infrastructure unit. The drain must be constructed in accordance with the approved plan under the supervision and to the satisfaction of Council.
2. Prior to a building permit being issued, a report for the legal point of discharge must be obtained from Council and a drainage design for the development must be prepared by a suitably qualified engineer in accordance with all 'recommendations and requirements contained in that report. All drainage must be by means of a gravity-based system, with the exception of runoff from any basement ramp and agricultural drains, which may be pumped. The relevant building surveyor must check and approve the drainage design and ensure that protection of the building is provided from a 1 in 100 A.R.I. rainfall event as required by the Building Regulations.
3. 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.
4. The existing footpath levels must not be lowered or altered in any way at the property line (to facilitate the basement ramp or for any other reason).
5. The redundant vehicular crossing must be removed and the footpath, nature strip and kerb reinstated at the owner's cost to the satisfaction of Council.
6. 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 8,000 litres greater than those tanks required to satisfy WSUD requirements for the development. Those tanks must be connected to all toilets.

*Waste Management Coordinator*

Council's Waste Management Coordinator has viewed the submitted Waste Management Plan (WMP) (prepared by Urban Waste Environmental Solutions (dated 13 December 2021) and queried the waste calculations and collection frequency. This matter can be resolved by a permit condition. The submitted WMP also needs to be updated to reflect the reduced

bedroom numbers in the amended scheme, which can also be resolved by a permit condition.

#### *Parks Department*

As noted, there are four trees on the site, which are considered 'significant' for the purposes of Council's Local Law.

Of these trees, both the *Ulmus glabra* 'Lutescens' (Tree 12) and the *Populus nigra* 'Itolica' (Tree 13) were deemed to have structural issues, and a limited useful life expectancy, thus their removal was deemed acceptable.

Originally Council's arborists required retention of the Port Jackson Fig (Tree 10). Further investigation (and an on site meeting) however, determined that the fig had been damaged during the construction of the development to the west of the site and had the potential to increasingly displace existing (and future) buildings, given its location on the site. Council's Arborist therefore agreed that the Fig could be removed.

The fourth significant tree on the site, the Canary Island Palm (Tree 15), is being retained and relocated in the latest version of the plans.

The application was accompanied by a Landscape Plan, showing future landscaping at the site. The Plan was deemed acceptably by Council's Parks Department, although needs to be modified to reflect the current version of plans (which, with the increased setbacks will allow additional landscaping) and to reflect the retention of the palm. These matters can be resolved by permit conditions.

#### *Transport and Parking*

Council's Traffic Engineers support the supply of parking which exceeds the requirements of the Planning Scheme. They originally requested that a visitor space be provided on site (despite this not being a requirement of the Planning Scheme) and the permit applicant has provided such a space on the amended plans.

In terms of traffic generation, Council's engineers concurred with the findings of the submitted Transport Impact Assessment that the proposal will generate up to 174 vehicle trips per day, which would not overload the capacity of the local network including the laneway (where the average weekday volume is only 10 movements at present).

The design of the parking area was generally found to be satisfactory, outside of the following matters which can be resolved by permit conditions:

- The doors for multiple service/utility rooms open into the circulation aisle. It is recommended that these are amended to open inwards or slide to prevent conflict.
- The plans are to be revised to clearly show the available headroom clearance at the entry point for the garages when the door is open.
- A sight distance triangle (or if not possible, mirrors) is required to provide adequate viewing lines for exiting vehicles.
- The plans submitted do not detail the proposed parking floor gradient. The minimum gradient of the parking area shall be 1 in 200 (0.5%) to allow for adequate drainage as per AS 2890.1.
- It is proposed to use the dog/car wash area to manoeuvre within the car park, so waste collection vehicles can exit in a forward direction. It is recommended that

signage is provided to ensure that the dog / car wash area is clear during waste collection times.

*ESD Officer*

Council's ESD Officer reviewed the Sustainable Management Plan (SMP) submitted with the application and noted the following ESD Commitments:

- Achieves a BESS score of 57%, best practice
- Achieves a STORM score of 101%
- 6kW rooftop solar power system
- A 22,000L rainwater tank (RWT) with a tank water supply reliability  $\geq$  78%, collecting water from 1,081m<sup>2</sup> of roof area and connected to all toilets and irrigation
- Commitment to provide a Building Users Guide
- Water efficient fixtures include 5-star WELS basin and kitchen taps, 4 star toilets and 4-star showers, 5-star dishwashers
- Water efficient landscaping
- Achieves a minimum average NatHERS energy rating  $\geq$  6.5 stars
- All dwellings achieve an annual cooling limit  $<$  21MJ/m<sup>2</sup> (if located in NatHERS climate zone' 62 Moorabbin')
- Inverter split air-conditioning systems within 1 star rating of best available
- Lighting density to be reduced to at least 20% below NCC
- Hot water supplied by a centralised gas hot water system with either:
  - 7 Star energy rating for instantaneous units; or
  - Minimum 90% energy efficiency for a single water heater
- Carbon monoxide (CO) sensors to the basement carpark
- Daylight;
  - 90% of living floor area achieves  $>$ 90% above a daylight factor (DF) of 1%
  - 93% of bedroom floor area achieves  $>$ 90% above DF 0.5%
- 55% (16 out of 29) of apartments achieve at least 3 hours of sunlight
- Aluminium framed, Double glazing, Argon filled to all habitable spaces windows and glazed doors
- Overall, 62% (18 out of 29) of the development's apartments are naturally ventilated
- 36 bicycle parking spaces (29 residential and 7 residential visitors)
- Tap and floor waste provided to each balcony/terrace

There were only minor issues identified with the submitted SMP, as follows:

- All of the reflectance values assumed for daylight modelling needs to be noted down on the architectural plans.
- It has claimed in the SMP that two of the apartments will be mechanically ventilated but no details about the apartments, which ones will be mechanically ventilated

(names/numbers), nor the details of the mechanical ventilation have been provided. Also, it must be noted on the plans that these two apartments will be mechanical ventilation, along with details of the mechanical ventilation.

- The applicant needs to provide fixed horizontal shading to north facing habitable spaces windows, and as a rule of thumb a fixed overhang (such as an eave) width should measure 45% of the height from the window sill and the bottom of the shading device. This ensures that north windows are shaded from the spring equinox till the autumn equinox (21 September to 21 March). Note, Council will accept an overhang shading measuring less than 25% of the height from the window sill and the bottom of the shading device for bedrooms as long as the devices are 600mm of horizontal width but for living rooms it must be 45%.
- For west glazing on top floor and the floor below adjustable vertical shading devices need to be provided, whereas, for east glazing adequate adjustable vertical shading need to be provided to bedrooms of apartment 108 and 208, master bedroom of 304 and living room of 305. Adjustable vertical shading devices could be in the form of operable louvres, sliding shutters or external blinds.
- All external shading devices are to be clearly shown/noted on the plans and elevations.

These matters can be resolved by permit conditions.

### Key Issues and Discussion

The site constitutes a large, consolidated parcel of land, which is located within the General Residential Zone, just outside Central Park Village and opposite Central Park. The site faces a primary arterial road in Wattletree Road, and benefits from a rear laneway abuttal. Pursuant to Clause 21.05 (Housing) of the Planning Scheme, the site is part of a 'substantial change area' where medium and higher design housing is sought. Such development, however, needs to be tempered by the site's residential interfaces and respect the existing and preferred neighbourhood character for this area. The key factors to consider in this assessment are neighbourhood character, on and off-site amenity and traffic and parking. Assessment of these matters follows.

### Neighbourhood Character

Pursuant to Clause 22.23 (Neighbourhood Character) of the Planning Scheme, the site is located within the Garden Suburban 4 area. The preferred character for this area 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.*

The garden character of the environs therefore is an important factor to consider in this assessment.

The proposal relies upon tree removal, including three 'significant' trees and the relocation of one existing significant tree. There is also smaller scale vegetation on the site proposed to be removed, particularly on its western half.

As is evident from the comments from Council's Parks Department above, the existing vegetation is not considered to be of sufficient value to warrant modification to the scheme. In particular, existing vegetation is coming to the end of its useful life and/or is of low retention value. The removal of these trees is therefore considered to be acceptable subject to adequate replacement planting. The ability to establish new vegetation on a site is tied to a building's site coverage, and in ensuring setbacks around the building are sufficient to accommodate new canopy growth.

The application plans were modified following advertising to increase the building's setbacks and ensure adequate space is available for this purpose. Specifically, site coverage was reduced to 58% (to now exceed the minimum 60% requirement of Clause 55) and the garden area increased from 36% to 38%. The scheme also now includes a 4.5m buffer along the rear boundary of the site and a larger recess (clear of basement) in the southwest corner. These setbacks reduce the visual impression of the building from the public realm, and should allow increased space for landscaping. The increased setback areas though are currently shown to be mostly paved, rather than available for planting. It is recommended that a condition of permit be imposed which requires that the plans be further amended so that the amount of paving around the building be no greater than that shown on the advertised plans. A revised Landscape Plan should also be required as a condition of permit, to show how these additional areas will be landscaped. The plan should also show retention of the Canary Island Palm in its new location in the south-east corner of the site.

The proposed street setback at a minimum of 5.5m sits comfortably between the setback of 389 Wattletree Road (at 2.5m) and 383 Wattletree Road (at 8.8m). Specifically, the building has a three stepped street setback of 5.5m, 6.5m and 7.6m. In order to comply with Standard B6 (Street Setback) a minimum setback of 5.65m is required. The minor shortfall at the eastern third of the site is considered acceptable on the basis of the generous exceedance of the standard in the remaining two-thirds of the site. The minimum setback also sits visually further back than does the building at 389 Wattletree Road.

The building is setback from all site boundaries, with no walls on boundaries proposed. The variations to the side and rear setback standard set out in the GRZ3 are also met.

It is also noted that the building height complies with the maximum permissible under GRZ3. The permit applicant has submitted evidence that the land slopes to the defined degree to allow for the additional 1m in building height (making a 13m building rather than a 12m building). The building is massed and design to ensure the upper level is visually distinctive and recessive. The elevations are well articulated, by both material variations and physical steps in the building line. While the building will present a notable change upon the existing site conditions, the policy and physical context, together with the generous size of the site, are suitable to accommodate this change. As agreed by Council's Urban Designer, the proposal is considered to be suitable from a neighbourhood character perspective.

#### External Amenity

The site has two immediate neighbours in Wattletree Road, as well as a residential interface to the rear (north) across the laneway.

Considering first the eastern neighbour at 389 Wattletree Road, this building is not considered to be sensitive to the proposal given it is used for commercial (medical) purposes. The neighbouring building is also well setback from the common boundary insulating it from daylight (or ESD) consequences, the rear of the property is used for car parking. While the proposed building envelope slightly encroaches upon the setback specified by Standard B17 (side and rear setbacks) to the east, given the adjoining site conditions, the subject proposal will not have any unreasonable impacts.

To the west of the site, there are sensitive residential uses, located within a three-storey apartment building. Within this building, there are habitable room windows orientated towards the site, as well as areas of private and secluded open space.

The sections submitted with the application suggest that the top level of the building complies with the setback specified at Standard B17 to the west, however, a detailed analysis indicates there may be some shortfalls. For example, Apartment 3.03 is setback from the west boundary by 7.99m, although when correctly measuring the building height from the level of the adjacent area of outdoor space at 383 Wattletree Road, the setback should be 8.33m. Similarly, Apartment 3.02 should be setback 8.23m from the west boundary but is also only setback 7.99m. It is considered necessary that the building comply with Standard B17 along this sensitive interface, and a condition should be imposed to this effect.

At lower levels, the building sits comfortably inside the B17 envelope. A corridor of open space is also provided at ground level which is at least 3m wide, and will facilitate new landscape. Considering these factors, the visual implications of the proposed building for residents to the west are reasonable.

In terms of daylight access to habitable room windows, the building is adequately setback from existing east facing windows at 383 Wattletree Road to ensure compliance with Standard B19 (Daylight to Existing Windows). On this basis it is considered that the proposal will not create unreasonable impacts for daylight levels.

Detailed overshadowing diagrams were submitted with the application and indicate that the only additional shadow to open space, would be at 9.00am and would affect the ground floor terrace of the apartment located on the east side of the ground floor (it has open space in its frontage, wrapping around the eastern boundary). At 9.00am, there is currently a portion of this terrace which is in sunlight and this sunlight would be removed by the proposal. At 10.00am though, almost the entire impact will be relieved. At later hours of the day, there is also always an area which received direct solar access (albeit usually a confined area). Shadow diagrams show the impact at natural ground level, and given shadow falls at an angle, even where a space is shown as shadowed, usually a person standing or sitting would be in some sunlight towards the end of a length of shadow. While the conditions to not comply with Standard B21 (Overshadowing), on the basis of the existing failure to comply with this standard, the outcome is reasonable and it could not be said that the proposal casts 'significant' shadow (noting the related objectives of the Overshadowing Standard is: *To ensure building do not significantly overshadow existing secluded private open space*).



In terms of visual impacts to the properties to the north, the laneway provides a separation of 3m between the nearest neighbour and combined with the 4.5m minimum rear setback is considered to adequately ameliorate any potential issue.

In terms of overlooking, generally where windows or balconies are located within 9m (the maximum distance where viewing needs to be considered under Clause 55) of an adjacent area of private and secluded open space or habitable room window (i.e. to the west or north), screening to a height of 1.7m is proposed on the plans. This is usually a combination of reeded glazing and metal palisades, both which are at most 25% transparent to accord with Standard B22 (Overlooking). The following is specifically noted:

- The balconies of apartments 1.05 and 2.05 are setback 9.5m from the windows opposite within 383 Wattletree Road, which is a sufficient distance to moderate overlooking. These apartments could view into the open space within the side setback of 383 Wattletree Road (from which they are setback 7.5m) although this is not a primary outdoor space and moreover the endorsed plans for this building show it as heavily landscaped. The response is considered to adequately 'limit' views in accordance with the objective of the Overlooking Standard.
- The balcony edges at the rear of the building are setback 4.5m from the adjoining laneway, thus a total of 7.5m from the adjacent neighbours. To mitigate potential viewing, at Level 1 the balconies are edged with planter boxes (which return along the west) and finished with balustrades to 1.5m, which is sufficient to block views into the adjoining outdoor areas within 9m (refer Section A2).
- At Levels 2 and 3, there are also planter boxes along the northern edge, which together with the elevation of these floor levels, mean that views are also not possible down to adjoining ground level within 9m of the site.
- There is concern that it is possible to view from the western edges of balconies serving Apartments 1.04, 2.04, 3.02 and 3.03 into the adjacent private and secluded open spaces and windows within 383 Wattletree Road. Further evidence should be required as a condition demonstrating that unreasonable viewing is not permitted, or else balconies in this location should be screened to accord with Standard B22.

#### On Site Amenity

The 29 dwellings proposed within the development are each provided with a good level of amenity. In particular, the following is noted:

- There are 18 dwellings, which are provided with accessible bathrooms, and lift access is provided throughout the building. The building can also be entered from Wattletree Road without needing to navigate steps. The proposal is considered to adequately respond to the needs of people with limited mobility.
- The building has a clear sense of address in Wattletree Road and is internally legible to navigate. Public and private areas easily identifiable.
- All habitable rooms have immediate and compliant access to daylight (as per Standard B27 (Daylight to New Windows)).
- The dwellings at the ground floor have access to an outdoor space, which ranges in size between 50sqm and 130sqm. At upper levels all dwellings have a private balcony which is at least 13sqm (and usually much larger). The open space provision and configuration comply with Clause 55.



- There is storage in the basement levels for all dwellings. Generous built-in storage is also available in each of the dwellings.

Internal amenity is considered adequately resolved.

### Transport Matters

There are 78 car parking spaces provided in the two basement levels, which are accessed from the laneway at the rear of the site. There is a notation on the plans indicating there are 93 car parking spaces (which applied to the original proposal), and this should be corrected as a condition of permit.

The vehicular access arrangement relies on passage to and from the site via Kingston Street or Irymple Avenue and traversing of what is a 3 metre wide laneway. Arrangements such as this are becoming increasingly common in the inner city and in this case, the laneway services relatively few properties, which will provide a natural cap on future increases in its usage. The purpose of laneways such as this today is to accommodate vehicles, despite this not being their original purpose. Council's Traffic Engineers are satisfied that the laneway and the local streets can accommodate the traffic flows attributable to this proposal.

It is noted that some objectors were concerned about pedestrian safety in the laneway and while this is relevant, this is a secondary purpose of the laneway. The laneway is also a low-speed environment which will assist safety, and (subject to a condition) the access way into the basement is appropriately designed. The access arrangements are considered satisfactory.

The proposal was accompanied by a Waste Management Plan, which indicates that private waste collection vehicles will enter the basement and collect rubbish on site. This is preferred to relying on Council services, where bins are lined up weekly on the nature strip. Subject to clarification around waste generation (and in turn the collection schedule) Council's Waste Coordinator is satisfied that waste can be adequately managed.

### Objections

In response to the grounds for objection not discussed elsewhere the following is noted:

- Any construction impacts are managed during the building permit stage of the project.
- The project is a residential apartment building, which is a suitable use for a residential zone. The 29 apartments are not likely to generate unreasonable noise impacts given the site's context on a main road, nearby an Activity Centre.
- The 14-day notice period was consistent with Council's standard practice and the requirements of the Planning and Environment Act.
- The proposal is considered to provide an acceptable planning outcome, which complies with policy. It is not therefore considered to present an inappropriate precedent.
- Any construction impacts are managed during the building permit stage of the project.
- The applicant has obtained advice from the Department of Transport that advises that it would not support access/egress to the site from Wattletree Road due to increased congestion on the arterial road and potential crash risks.

### 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 and Responsibilities Act 2006.

### Attachments

1. 15122 - 385 Wattletree Road Malvern East - Council Report Attachments (amended) [8.2.1 - 31 pages]

### Officer Recommendation

***That Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 151/22 for the land located at 385-387 Wattletree Road, Malvern East under the Stonnington Planning Scheme for the construction of a multi dwelling development in a General Residential Zone and alteration of vehicle access to a road in a Transport Zone 2 subject to the following conditions:***

1. ***Before the use and development starts, one (1) electronic copy of plans drawn to scale and fully dimensioned must be submitted to and approved by the Responsible Authority for that stage. The plans must be generally in accordance with the plans prepared Ewert Leaf received by Council on 21 November 2022 but modified to show:***
  - a) ***Reduction of the paving provided at the Ground Floor so that it does not exceed the extent of paving shown on the plans advertised in July 2022, and consequential additional landscaping.***
  - b) ***Modification of the west interface to ensure compliance with Standard B17 (Side and Rear Setback) of Clause 55.***
  - c) ***Correction of the notation on the basement plans indicating the number of car parking spaces.***
  - d) ***The reflectance values assumed for daylight modelling.***
  - e) ***Any mechanically ventilated apartments.***
  - f) ***External shading devices to north facing glazing of habitable rooms, which should ensure that the north windows/glazed doors are shaded from the spring equinox until the autumn equinox (21 September to 21 March). Where sun shading devices are being utilised a dimensioned section diagram is to be included to demonstrate their effectiveness.***
  - g) ***External sun shading devices to east and west facing glazing of habitable rooms, which could be in the form of operable louvres, sliding shutters or external blinds. The external shading devices are to be clearly shown/noted on the plans and elevations.***

- h) The doors for the service / utility rooms in the basement amended so they do not open into the aisle (or provided with a latch to a wall when open).*
  - i) The available headroom clearance at the entry of the garages when the door is up.*
  - j) A sight distance triangle (or mirrors) to provide adequate viewing lines for exiting vehicles.*
  - k) A minimum gradient in the basement of 1 in 200 to allow for adequate drainage in accordance with Australian Standard 2890.1.*
  - l) A sign in the dog / car wash area alerting users to waste collection hours.*
  - m) Sightline diagrams (or other evidence) demonstrating that views from the western edges of balconies serving Apartments 1.04, 2.04, 3.02 and 3.03 are not available into the adjacent private and secluded open spaces and windows at 383 Wattletree Road. If views are available, the western sides of balconies in this location should be screened to accord with Standard B22.*
  - n) Any modifications as required by conditions 3 (Waste Management Plan), 4 (Sustainable Management Plan) and 7 (Landscape Plan).*
- 2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason without the prior written consent of the Responsible Authority.**
- 3. Prior to the endorsement of plans, a Waste Management Plan (WMP) must be submitted to and approved by the Responsible Authority. The WMP must be generally in accordance with the WMP prepared Urban Waste Environmental Consultants (advertised in July 2022) but modified to:**
- a) Reflect the current number of apartments.*
  - b) Confirm the waste generation Figures and the collection schedule.*
- When approved, the WMP will be endorsed and form part of the permit. Waste collection from the development must be in accordance with the WMP, to the satisfaction of the Responsible Authority.**
- 4. Prior to the endorsement of plans, a Sustainable Management Plan (SMP) must be submitted to and approved by the Responsible Authority. Upon approval, the SMP will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the SMP to the satisfaction of the Responsible Authority. Amendments to the SMP must be incorporated into plan changes required under Condition 1. The SMP must be in accordance with the SMP prepared by GIW Environmental Solutions and advertised in July 2022 and, unless otherwise approved by the Responsible Authority, modified to show**
- a) To reflect the plans endorsed under Condition 1.*
  - b) Solar shading as required by Condition 1.*
  - c) Details of any mechanical ventilation.*

5. ***Prior to the occupation of the building, a report from the author of the Sustainable 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 Sustainable Management Plan have been implemented in accordance with the approved plan.***
6. ***The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed plans and/or stormwater management report.***
7. ***Prior to the endorsement of plans, a landscape plan 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 and one (1) electronic copy must be provided. The landscape plan must be in accordance with the landscape plans prepared by Jack Merlo Design and Landscape (advertised in July 2022) but modified to show:***
  - a) ***Consistency with the plans endorsed under Condition 1 (including the additional landscaping required by Conditions 1(a)).***
  - b) ***Retention and relocation of the existing Palm tree.***
8. ***Prior to the commencement of the use / occupation of the building, 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.***
9. ***All plant and equipment (including air-conditioning units) must be screened and baffled and/or insulated to minimise noise and vibration to ensure compliance with noise limits determined in accordance with Part 5.3 - Noise, of the Environment Protection Regulations 2021 to the satisfaction of the Responsible Authority.***
10. ***Prior to an 'Occupancy Permit' being issued, the owner must at their cost provide a 225mm diameter outfall drain within the rear right-of-way to connect the property to the closest Council underground drain located in Kingston Street. A design for the drain must be prepared by a suitably qualified Engineer and approved by Council's Infrastructure unit. The drain must be constructed in accordance with the approved plan under the supervision and to the satisfaction of Council.***
11. ***Prior to a building permit being issued, a report for the legal point of discharge must be obtained from Council and a drainage design for the development must be prepared by a suitably qualified Engineer in accordance with all 'recommendations' and requirements contained in that report. All drainage must be by means of a gravity based system with the exception of runoff from any basement ramp and agricultural drains which may be pumped. The relevant building surveyor must check and approve the drainage design and ensure that***

**protection of the building is provided from a 1 in 100 A.R.I. rainfall event as required by the Building Regulations.**

- 12. 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.**
- 13. The existing footpath levels must not be lowered or altered in any way at the property line (to facilitate the basement ramp or for any other reason).**
- 14. The redundant vehicular crossing must be removed and the footpath, nature strip and kerb reinstated at the owner's cost to the satisfaction of Council.**
- 15. 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 8,000 litres greater than those tanks required to satisfy WSUD requirements for the development. Those tanks must be connected to all toilets.**
- 16. Prior to the occupation of the building, fixed privacy screens (not adhesive film) designed to limit overlooking as required Standard B22 of Clause 55.04-6 in accordance with the endorsed plans must be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.**

**Transport for Victoria's conditions**

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

**End of Transport for Victoria's conditions**

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

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

**NOTES:**

- A. The owners and occupiers of the dwelling/s hereby approved are not eligible to receive "Resident Parking Permits".**
- 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. 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.**

**Transport for Victoria Notes**

- D. The proposed development requires reinstatement of disused crossovers to kerb and channel. Separate approval under the Road Management Act 2004 for this activity may be required from the Head, Transport for Victoria. Please contact DoT (Roads) prior to commencing any works.**

## 8.3 Planning Application 1100//21 - 109 Mathoura Road & 420, 422, 424 & 426 Toorak Road, Toorak

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

### Purpose of Report

For Council to consider a planning application for construction of a mixed-use development in a Commercial 1 Zone and Design and Development Overlay, use of the land for dwellings, a reduction in car parking requirements, and alteration to access to a road in a Transport Zone 2 at 109 Mathoura Road & 420, 422, 424 and 426 Toorak Road, Toorak.

### Abstract

#### Proposal

The proposal seeks to construct a six-storey mixed use development above a basement car park. The development will comprise retail floor space (shop/ food and drink premises) and medical centre at ground floor with three levels of office floor space and 10 dwellings above. A total of 65 car parking spaces is provided across three levels of basement, with vehicle access from Mathoura Road.

#### Officer Recommendation Summary

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

- The proposal has strategic support by State and Local policy.
- The proposed commercial uses will increase local employment opportunities and make the activity centre more economically vibrant.
- The development is considered to be an appropriate response to the design objectives and built form outcome sought to achieve in Schedule 9 to the Design and Development Overlay (DDO9) and the Toorak Village Activity Centre Policy at Clause 22.20.
- The development will provide an appropriate level of daylight, outlook and internal amenity to the dwellings and office floor spaces.
- The proposed development will not cause unreasonable off-site amenity impacts.
- The proposal includes adequate car parking and access arrangements on site and will not have an unacceptable traffic impact on the surrounding local street network.
- The reduction in the car parking requirements of Clause 52.06 for commercial uses is considered acceptable given the proposed commercial uses are retail and office and located within the activity centre and well serviced by public transport.

#### Issues

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

- Use (refer to Strategic Context assessment);



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

#### Officer's response

The proposal seeks to construct a six-storey mixed use development on the site incorporating retail (shop/ food and drink premises), medical centre, office and residential uses. The site is located within the South Precinct of the Toorak Village Activity Centre, which is well served by public transport, services and facilities, and is designated as 'Moderate Change Area'. Applicable planning policy encourages mixed use and higher density developments in such location to provide employment opportunities, improve housing choice and make efficient use of existing infrastructure.

The proposal is considered to appropriately respond to the level of change and the design and built form objectives of Schedule 9 to the Design and Development Overlay, as well as the emerging and preferred character of the Toorak Village. The proposal is a suitable design response to the identified character, streetscape presentation and residential interface in this context. It strikes an appropriate balance with its built form responding to a number of site constraints and neighbouring sensitive interfaces whilst complementing the diverse, robust built form and the village character in this precinct. The proposed building is of high-quality architecture that will make a positive contribution to the Toorak Village and is supported by Council's Urban Designer.

The proposed development provides an adequate level of daylight, outlook and internal amenity within the dwellings and office floor spaces. The proposal achieves a satisfactory environmentally sustainable design response. It will sit comfortably within the streetscape and this Activity Centre, without unreasonably impacting the amenity of the neighbouring residential properties.

The reduction in car parking sought is reasonable when considering the activity centre location in which a mode shift from private vehicle ownership is encouraged. The shortfall of spaces will not have a significant impact on parking amenity in the area and the provision of on-site parking will not result in unreasonable traffic impacts.

In light of the above, the application is considered acceptable and is supported.

#### Executive Summary

|   |   |
|---|---|
| Applicant:                                      | Orchard Piper c/- O'Neill Consulting        |
| Ward:   | North                                       |
| Zone:   | Commerical 1 Zone                           |
| Overlay:  | Design and Development Overlay – Schedule 9 |
| Commercial Precinct:                            | Toorak Village                              |
| Date Lodged:                                    | 14 December 2021                            |
| Statutory Days:<br>(as at Council Meeting date) | 28  |

|                                  |   |
|----------------------------------|---|
| Trigger for Referral to Council: | Four storeys or above, and seven or more objections |
| Cultural Heritage Plan           | No  |
| Number of Objections:            | 23 objections from 13 properties                    |
| Consultative Meeting:            | Yes – held on 3 November 2022                       |
| Officer Recommendation           | Notice of Decision to Grant a Planning Permit       |

## Background

The original application, lodged on 14 December 2021, proposed to construct a seven-storey mixed use development at 109 Mathoura Road and 424 and 426 Toorak Road, Toorak.

After lodgement of the original application, the applicant acquired two additional properties at 420 and 422 Toorak Road, Toorak and consolidated them into the overall development site.

On 3 August 2022, the application was amended to incorporate the acquired properties and reduce the overall building height from seven storeys to six storeys, following discussions with Council Officers. The application was subsequently advertised and received 23 objections from 13 properties.

A Consultative Meeting was held on 3 November 2022. After the consultative meeting, the applicant made further changes to the plans in an effort to address the concerns expressed by the objectors and Council Officers. Details of the changes are outlined in the ‘Advertising’ section of this report.

Notably, the revised plans, which are date stamped 14 November 2022, are formally substituted under Section 57A of the *Planning and Environment Act 1987*. This report is based on these revised plans.

## The Proposal

The plans that form part of the basis of Council's consideration are prepared by Kelly Hill Architects and are known as Drawing No.s: A000 – A003 (Rev C), A0004 (Rev B), A1000 – A1011 (Rev C), A1100 (Rev B), A2000 – A2003 (Rev C), A2004 – A2005 (Rev B), A2100 (Rev B), A3000 – A3004 (Rev C), A3005 (Rev B), A3100 (Rev B), A4000 – A4002 (Rev C), A5000 (Rev A), and Council date stamped 14 November 2022.

Key features of the proposal are:

- Demolition of all existing buildings on the site (no planning permit required).
- Construction of a six-storey mixed use development over three levels of basement car parking.
- The development will provide:
  - A total of 497 square metres of retail floor space (shop/ food and drink premises/ pharmacy) on the ground floor;
  - A 200 square metre medical centre on the ground floor;
  - A total of 1,277 square metres of office floor space on Levels 1 to 3; and
  - 10 dwellings on Levels 1 to 5.
- The office lobby is accessed from Toorak Road while the apartment lobby is accessed from Mathoura Road.

- A three-level basement comprising residential and commercial car parks with 65 car parking spaces is to be accessed from Mathoura Road. The residential and commercial car parks will have separate lift access, and each contains 32 car parking spaces, store rooms, and bin store. The commercial car park will also be provided with one accessible parking bay, 12 bicycle parking spaces and end-of-trip facilities for commercial tenancies. Residential bicycle parking is located on the ground floor while visitor bicycle parking is provided in the office lobby.
- The development will have a maximum building height of 21.42 metres above natural ground level. The building will present a three to four storey street wall (up to 15.05 metres) to Toorak Road and a four-storey street wall (up to 14.95 metres) to Mathoura Road, with the upper levels set back between 6.91 metres and 11.48 metres from Toorak Road and between 3.39 metres and 5.85 metres from Mathoura Road.
- The building presents a contemporary architectural style incorporating a variety of materials and finishes, including a combination of masonry cladding in cream toned finish, concrete in light grey finish, metal cladding in bronze and grey finishes, fixed metal batten screen in bronze finish, mesh balustrade and aluminium window frame with clear glazing.
- The existing Chinese Elm tree (Tree 3) located in the southwest corner of the subject site is to be retained.

#### Site and Surrounds

The subject site is located on the south-western corner of the intersection of Toorak Road and Mathoura Road in Toorak. It comprises five properties, which are known as 420, 422, 424 and 426 Toorak Road and 109 Mathoura Road.

The site has the following significant characteristics:

- The overall site is of an inverted L-shape with a total area of approximately 1,415 square metres. It has a combined street frontage to Toorak Road of 32.29 metres and a street frontage to Mathoura Road of 49.06 metres. The site also has partial abuttal to an unnamed laneway to the west. It has a fall of approximately 820mm from Toorak Road frontage towards the south boundary.
- The subject site is currently developed with a series of one to three storey buildings, all of varied architectural styles and period of construction. These buildings are currently occupied by a range of uses, including medical centre, dental practice, pharmacy, retail and apartments.
- A laneway is located between the properties of 426 Toorak Road and 109 Mathoura Road. It is privately owned and is part of the landholding of 109 Mathoura Road. In addition to this laneway, 109 Mathoura Road also contains an on-site open car park located along the south boundary with vehicle access from Mathoura Road.

The site is located within the South Precinct of the Toorak Village, which comprises a variety of commercial uses, including retail, local professional services, and offices, with some residential uses, typically at upper levels. The Toorak Village Activity Centre is well served by public transport with tram and bus routes connecting to the broader areas in the municipality. The precinct exhibits an eclectic mixed character with commercial buildings of varied architectural styles and forms. It ranges from heritage neo-Tudor buildings and older fine grain buildings of two to three storey with narrow frontages to wider format, lower scale,

modern commercial buildings typical to traditional shopping strip. Taller and larger buildings of seven to 11 storey in height can be found on the north side of Toorak Road.

The site has immediate abuttal to the following properties:

- The adjoining property to the west at 416 and 418 Toorak Road is occupied by a pair of one to two storey terrace style commercial buildings. The buildings are currently being used as shops on the ground floor with first floor office.
- The adjoining property to the south at 107 Mathoura Road is occupied by a two-storey L-shaped building comprising four dwellings. A single storey garage building is constructed on the western end of the north boundary. To the north and east of the residential building is the communal open space area and common property driveway with vehicle access off Mathoura Road.
- To the east across Mathoura Road is developed with two two-storey buildings. The building at 428 Toorak Road is occupied by a restaurant at the ground floor with an office above while the building at 98 Mathoura Road is used as medical centre.
- Further south along Mathoura Road is a residential area, which is zoned General Residential Zone – Schedule 10 (GRZ10). It is characterised by older two-storey single dwellings and multi-dwelling developments with emergence of contemporary three to four storey apartment buildings.
- To the north on the opposite side of Toorak Road comprises a group of neo-Tudor buildings, the lower section of Trak Centre, and the 'Tok H Shopping Centre', which are generally two to three storeys in height.

#### Previous Planning Application/s

A search of Council records indicates the following relevant planning applications issued in the past 20 years:

##### *420 Toorak Road*

- Planning Permit 237/06 issued on 18 April 2006 for shopfront alterations.

##### *424 & 426 Toorak Road*

- Planning Permit 1057/05 issued on 8 March 2006 for *'buildings and works resulting in additional shop floor area, two upper-level dwellings and associated car parking dispensation'*.
- Planning Permit 626/07 issued on 3 August 2007 for 424 Toorak Road for 4 lot subdivision.
- Planning Permit 375/05 issued on 27 June 2005 for alterations and additions to existing shops and associated car parking dispensation.

There is no relevant planning history in the past 20 years for the properties at 422 Toorak Road and 109 Mathoura Road.

#### The Title

The site is made up of 21 lots, registered on Title as:

- Lot 1 on Registered Plan of Strata Subdivision 022861T in Volume 09671 Folio 558
- Lot 2 on Registered Plan of Strata Subdivision 022861T in Volume 09671 Folio 559

- Lot 3 on Registered Plan of Strata Subdivision 022861T in Volume 09671 Folio 560
- Lot 4 on Registered Plan of Strata Subdivision 022861T in Volume 09671 Folio 561
- Lot 5 on Registered Plan of Strata Subdivision 022861T in Volume 09671 Folio 562
- Lot 6 on Registered Plan of Strata Subdivision 022861T in Volume 09671 Folio 563
- Lot 7 on Registered Plan of Strata Subdivision 022861T in Volume 09671 Folio 564
- Lot 8 on Registered Plan of Strata Subdivision 022861T in Volume 09671 Folio 565
- Lot 9 on Registered Plan of Strata Subdivision 022861T in Volume 09671 Folio 566
- Lot 10 on Registered Plan of Strata Subdivision 022861T in Volume 09671 Folio 567
- Lot 11 on Registered Plan of Strata Subdivision 022861T in Volume 09671 Folio 568
- Lot 12 on Registered Plan of Strata Subdivision 022861T in Volume 09671 Folio 569
- Lot 13 on Registered Plan of Strata Subdivision 022861T in Volume 09671 Folio 570
- Lot 14 on Registered Plan of Strata Subdivision 022861T in Volume 09671 Folio 571
- Lot 15 on Registered Plan of Strata Subdivision 022861T in Volume 09671 Folio 572
- Lot 1 on Title Plan 371970D in Volume 04702 Folio 314
- Lot 1 on Title Plan 742052D in Volume 05283 Folio 423
- Lot 1 on Title Plan 402929H in Volume 08043 Folio 884
- Lot 1 on Title Plan 335498F (formerly known as part of Portion 31 Parish of Prahran) in Volume 09630 Folio 998
- Lot 1 on Title Plan 084847C (formerly known as part of Portion 31 Parish of Prahran) in Volume 10176 Folio 828
- Lot 1 on Title Plan 437043G (formerly known as part of Portion 31 Parish of Prahran) in Volume 02298 Folio 410

No covenants affect the land.

### Planning Controls

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

#### Zone

Clause 34.01 – Commercial 1 Zone (C1Z)

Pursuant to Clause 34.01-1, a permit is not required to use the land for office, medical centre (which is nested under Office), shop, and food and drink premises (which is nested under retail premises). However, as the ground floor frontage to access the dwellings exceeds 2 metres in width, a permit is required to use the land for dwelling.

Pursuant to Clause 34.01-4, a permit is required to construct a building or construct or carry out works. This Clause also states that an apartment development must meet the requirements of Clause 58.

#### Overlay

Clause 43.02 – Design and Development Overlay – Schedule 9 (DDO9)

Pursuant to Clause 43.02-2, a permit is required to construct a building or construct or carry out works.

Schedule 9 sets out the design objectives and built form requirements for the Toorak Village Activity Centre. There are three defined 'change areas' in this Activity Centre with the subject site being nominated as 'moderate change area'.

Schedule 9 also specifies preferred building height and setbacks for the subject site as follows:

- Preferred height – 3-5 storeys (maximum 16.5 metres)
- Preferred street wall height to Toorak Road and Mathoura Road – 2-3 storeys (maximum 11 metres)
- Preferred street setback above street wall to Toorak Road – 6 metres
- Preferred street setback above street wall to Mathoura Road – 3 metres
- Rear setback – Maintain amenity to existing abutting dwellings (maintain appropriate visual privacy and scale that is commensurate with the village character of the area)

Pursuant to Clause 43.02-2, a permit may be granted to construct a building or works which are not in accordance with any requirement in a schedule to the overlay.

Particular Provisions

*Clause 52.06 – Car Parking*

Pursuant to Clause 52.06-2, before a new use commences the number of car parking spaces specified under Clause 52.06-5 must be provided on the land prior to the commencement of a new use.

The site is located within the Principal Public Transport Network (PPTN) area, and therefore Column B of the car parking rate in Clause 52.06-5 applies. Pursuant to Clause 52.06-5, the development has the following car parking requirements:

| Use  | Area                     | Rate  | Required Spaces |
|--|--------------------------|---|-----------------|
| Residential  | 10 x 3+ bedroom dwelling | 2 spaces to each dwelling                         | 20              |
| Office   | 1,277 sqm                | 3 spaces to each 100 sqm of net floor area        | 38              |
| Shop (including pharmacy)/ Food and drink premises | 497 sqm                  | 3.5 spaces to each 100 sqm of leasable floor area | 17              |
| Medical centre                                     | 200 sqm                  | 3.5 spaces to each 100 sqm of leasable floor area | 7               |
| Total space required                               |                          |   | 82              |

The development provides 65 car parking spaces across three levels of basement, including 32 spaces for dwelling, 4 for medical centre, 5 for shop (including pharmacy)/ food and drink premises, 23 for office and 1 accessible parking bay.

The application therefore seeks a reduction in the car parking requirement associated with office use by 15 spaces, shop use by 12 spaces and medical centre use by 3 spaces, pursuant to Clause 52.06-3.

*Clause 52.29 – Land Adjacent to the Principal Road Network*

Pursuant to Clause 52.29, a permit is required to create or alter access to a road in a Transport Zone 2. 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 Head, Transport for Victoria under Section 55 of the *Act*. Department of Transport (formerly VicRoads) is a determining referral authority.

*Clause 52.34 – Bicycle Parking*

The following table shows the bicycle parking spaces to be provided to accord with the requirements of the Planning Scheme:

| Use                     | Area                     | Rate   | Required Spaces   |
|-------------------------|--------------------------|--|---|
| Dwelling resident       | 10 x 3+ bedroom dwelling | 1 space per 5 dwellings                              | 2   |
| Dwelling visitors       |                          | 1 space per 10 dwellings                             | 1   |
| Office employee         | 1,277 sqm                | 1 space per 300m <sup>2</sup> of net floor area      | 4   |
| Office visitor          |                          | 1 space per 1000m <sup>2</sup> of net floor area     | 1   |
| Retail employee         | 497 sqm                  | 1 space per 300m <sup>2</sup> of leasable floor area | 2   |
| Retail visitor/shopper  |                          | 1 space per 500m <sup>2</sup> of leasable floor area | 1   |
| Medical centre employee | 4 practitioners          | 1 space per 8 practitioners                          | 1   |
| Medical centre visitor  |                          | 1 space per 4 practitioners                          | 1   |
| Total space required    |                          |  | 13<br>(2 for apartment residents, 1 for apartment visitor, 7 for commercial staff and 3 for commercial visitor) |

The development provides a total of 30 bicycle spaces, including 14 residential spaces, 12 spaces in the commercial car park and 4 visitor spaces in the office lobby. This well exceeds the statutory requirements specified in Clause 52.34-5.

The Traffic Impact Assessment notes that end-of-trip facilities are not required as no individual use requires 5 or more staff bicycle spaces. However, showers are provided in individual commercial tenancy with lockers in the commercial bicycle parking store.

Overall, the requirements of Clause 52.34 are met.

*Clause 58*

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 11.01-1S – Settlement

Clause 15 – Built Environment and Heritage

Clause 16 – Housing

Clause 17 – Economic Development

Clause 18 – Transport

Clause 19 – Infrastructure

Clause 21.02 – Overview

Clause 21.03 – Vision

Clause 21.04 – Economic Development

Clause 21.05 – Housing

Clause 21.06 – Built Environment and Heritage

Clause 21.08 – Infrastructure

Clause 22.05 – Environmentally Sustainable Development Policy

Clause 22.18 – Stormwater Management (Water Sensitive Urban Design)

Clause 22.20 – Toorak Village Activity Centre Policy

Clause 53.06 – Live Music Entertainment Venues

Clause 53.18 – Stormwater Management in Urban Management

Clause 65 – Decision Guidelines

### Advertising

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987* by sending notices to the owners and occupiers of adjoining land (and by placing four (4) signs on the site). The public notification of the application has been completed satisfactorily.

The site is located in North Ward and 23 objections from 13 different properties have been received. The objections can be summarised as follows:

- Excessive height
- Scale and form out of character with the residential area in Mathoura Road and developments to the east
- Inadequate setbacks and articulation to the south
- Density of the development
- No ground floor setback and landscaped interface to the neighbouring residences to the south
- Location of plants and services interfaced with neighbouring residences
- Overshadowing
- Overlooking

- Overdevelopment
- Setting up a precedence
- Inconsistent with Council's strategic guidelines for this area
- Excessive parking and increase in traffic and congestion
- Questioning if the laneway belongs to Council
- Impact on property values
- Noise during construction

A Consultative Meeting was held on 3 November 2022. The meeting was attended by Councillors Hely and Koce, representatives of the applicant, objectors and a Council Planning Officer. The meeting has resulted in changes to the plans.

The key changes to the plans are summarised as follows:

- Reduction in the overall building height by 2.55 metres from RL51.15 to RL48.60 (from 23.97 metres to 21.42 metres).
- Reduction in the height of the street walls, from 17.19 metres to 15.05 metres to Toorak Road and from 17.02 metres to 14.95 metres to Mathoura Road.
- Retention of Tree 3 (Chinese Elm) in the southwest corner of the subject site. This tree was originally proposed to be removed.
- Reduction in the residential and commercial floor to ceiling heights to 2.7 metres on Levels 1 to 4 and 2.9 metres on Level 5.
- Reduction in the retail floor to floor height by 350mm.
- Increase in the setback from the southern boundary on Levels 1 and 2 from 4.395m to 6.135m.
- Increase in the setback from the southern boundary on Level 3 from 4.395m to 8.395m.
- Deletion of the south-facing terrace from Apartment 4.1 and provision of an increase in the setback from the southern boundary from 8.208m to 8.395m.
- Deletion of the void in the commercial floor space and reduction in the depth of central void to Toorak Road by one metre.

The revised plans were not formally readvertised as it is considered that the changes will not result in additional material detriments beyond the already advertised proposal. Despite this, the revised plans were provided to all objectors for information.

## Referrals

### *Urban Designer (comments based on the revised plans)*

- The DDO9 designates the precinct South of Toorak Road as a 'Moderate Change Area' with a Preferred Maximum Height of five storeys (16.5m). This is to differentiate the Southern precinct from the precinct North of Toorak Road, which is envisaged to accommodate higher-scale and more intensive development.
- The original proposal has undergone a number of revisions to its form, scale and sensitive interfaces to achieve a better 'fit' in this Toorak Village context.

- The revised building is six storeys with an overall height of 21.42m. The marginal height exceedance of 4.92m above the DDO Preferred Maximum Height can, in my opinion, be accepted due to the unusually large site area and the recessive nature of the upper floor level.
- The design of the ground floor, with the three tenancies, has the potential to activate the street frontages to Toorak Road and Mathoura Road. In my opinion, these tenancies should be designated for food and beverage and/or retail activities that are pedestrian friendly; rather than 'commercial' uses that typically lack street activation due to the tendency to install obscure glazing to the street edge.
- The subject site has a direct abuttal, to the South, to an existing two-storey multi-residential development. The Southern interface of the proposed building has been revised and now represents an acceptable form and scale transition to the adjoining property; subject to strengthening the landscape interface with larger canopy trees in the order of 8-10 metre mature height.
- Whilst the DDO indicates preferred street wall heights and upper-level setbacks, I do accept that some variation to the DDO9 is warranted with respect to the Toorak Road and Mathoura Road street-wall heights and upper-level setbacks. This is an important corner site within the Toorak Village centre and some latitude on these DDO measures is acceptable, in my opinion, in order to achieve a good design outcome.
- With this application, the quality of the architecture is not at issue as the design is of a high calibre from an architectural practice of international significance.
- In my opinion, the current proposal satisfactorily reflects the key objectives of the DDO9 and, from an urban design perspective, I support the current Revised Plans.

*Transport and Parking Unit (comments based on the advertised plans)*

- The overall number of car parking spaces required for the proposal is 82 (17 retail, 7 medical centre, 38 office and 20 resident). The development represents a shortfall of 15 associated with the retail, medical centre and office uses.
- Not providing visitor parking for retail (shop including pharmacy) is broadly reasonable, however the compounding effect of the other shortfalls should be noted.
- The proposal meets the resident parking requirement. However, a shortfall of 3 spaces for medical centre is not acceptable. As there is an oversupply of resident parking, it is considered that 3 extra spaces should be provided for the dental clinic, possibly for visitors.
- The shortfall in parking associated with the office use can be accepted.
- Residents of the development will be excluded from eligibility of Council's Resident Permit Parking Scheme and would not be able to access resident parking permits. As such, future residents of the development, including their visitors, would not be exempt from on-street parking restrictions. It is recommended that some of the resident supply be allocated for visitor use.
- A Traffic Impact Assessment was provided with the application.
- The provision of a single lane ramp to the basement is considered acceptable to suit the traffic generated by the proposal. The design of basement ramp, including basement ramp width and internal ramp, ramp gradients is considered satisfactory.

- The design of parking bays, accessible parking bay, and columns is acceptable.
- The design of bicycle parking is considered satisfactory.
- Sight distance is not provided to the north of the access point. The applicant has proposed a mirror to assist pedestrian sightline.
- No loading facilities are provided on site. The on-street parking in this area is highly utilised and based on experience it would be difficult to find these loading opportunities. Council would not provide future occupants dedicated areas to load and the applicant must be warned that based on the advice in the TIA Council would not provide any dedicated loading areas on-street.
- Additional details, including headroom clearance, floor gradient for drainage, corner splay on the corner of Toorak and Mathoura Roads, and crossover design to comply with Council's Vehicle Crossing Policy, are required on the plans to ensure compliance.

Planner response: The applicant proposes to install mirrors on either side of the driveway ramp to assist sightline of drivers and a flashing light to alert pedestrians of exiting vehicles. Due to the design of the site access and the need to operate the roller door, vehicles departing the development will likely be travelling at a low speed. The proposed measures will assist the sight distance of drivers and pedestrians and alleviate the concerns. Other outstanding items will be addressed by way of permit conditions.

*Waste Management Unit (comments based on the advertised plans)*

- A comprehensive Waste Management Plan (WMP) accompanied this proposal. This document responded well to the waste management challenges presented in the plans.
- The retail/commercial users of the development will be expected to exit the building and transport waste via Toorak Road / Mathoura Road footpath, commercial lobby and lift to reach the designated bins store at basement level 1. Internal access to bin store is required for these users.
- Waste collected by a private waste collector is regarded as 'commercial' and must only be collected and removed between specified hours. The WMP needs to be amended accordingly.
- A dedicated space for hard waste must be provided in the bin store room and not rely on individual dwellings storing material within their premises in between collections.
- The bin size and potential collection frequency for recycling for residential use needs to be updated to allow for 120 litres per week per tenant.

Planner response: The applicant has proposed installing additional doors in the shop/ food and drink premises and medical centre to provide direct internal access to the bin store within the building. This issue, along with other issues identified above, can be addressed by way of permit conditions.

*Infrastructure Unit*

- No objection to the proposal subject to implementation of the recommended permit conditions.

*ESD Officer (comments based on the revised plans)*

- The ESD comments raise few technical issues requiring additional annotations and documents to ensure the plans accord with the Sustainability Management Plan (SMP).

*Parks Unit (combined comments based on the advertised plans and revised plans)*

- Tree 4 (*Parrotia persica* (Persian Ironwood)) is proposed to be removed and Council's Arborist has no objection to its removal.
- Removal of Tree 6 (*Ficus hillii* (Hill's Fig)) is acceptable. All costs associated with removing the tree, planting a replacement tree and maintaining the replacement for a period of 2-3 years will need to be borne by the applicant as part of the Vehicle Crossing Application process.
- Tree 9 (*Liriodendron tulipifera* (Tulip Tree)) needs to be retained and protected during the construction of this proposal. Building works will need to be undertaken while maintaining this tree's current form.
- Additional details are required in the landscape plan, including soil volumes for planters, irrigation system, maintenance regime and size (pot size, grow bag volume) of trees noted as 'Mature' in the Plant Schedule.
- There are concerns with the use of *Acer palmatum* (Japanese Maple) along the northern and eastern frontages of the proposed building and viability of planting a *Quercus palustris* (Pin Oak) in planter box. It is recommended the proposed plantings be reviewed.
- The retention of Tree 3 (Chinese Elm) is deemed as a good outcome. A tree management plan will be required to ensure its retention.
- The proposed species of the landscape buffer is considered acceptable.

Planner response: A tree management plan and an amended landscape plan to address the identified issues will be required by way of permit conditions. Permit conditions in relation to the removal of street tree will be imposed in any permit to be issued.

*Department of Transport (comments based on the advertised plans)*

- No objection subject to permit conditions.

## Key Issues and Discussion

### Strategic Context

The subject site is located within the Commercial 1 Zone (C1Z) where the purposes of the zone seek:

- *To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.*
- *To provide for residential uses at densities complementary to the role and scale of the commercial centre.*

The overarching policies and objectives at both a State and Local level support the development and growth of activity centres that are highly accessible to the community, and encourage a broad range of land uses, such as retail, office, services, entertainment and residential.

In particular, State planning policies at Clause 11.03-1S (Activity Centres) encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community. State Policy supports residential intensification in areas well served by public transport and has a particular emphasis on encouraging higher land use densities and mixed-use developments near railway stations, major bus terminals, transport interchanges, tramways and principal bus routes.

The subject site is located in the Toorak Village Activity Centre (the Centre), which is identified in Clause 21.04-1 as a large Neighbourhood Activity Centre (NAC) with a role being predominantly retail, catering for everyday and some specialty needs. The relevant objective in the Municipal Strategic Statement (MSS) seeks to support proposals that will achieve more effective use of commercial properties. On individual sites, a balance of land use is sought with a preference for retail uses at ground level and office and/or residential uses at upper levels.

The policy specific objectives for Toorak Village are contained in the Local Planning Policy at Clause 22.20 (Toorak Village Activity Centre Policy) and Schedule 9 to the Design and Development Overlay (DDO9). The Toorak Village Activity Centre Policy and the Structure Plan divide the Centre into two precincts – ‘North’ (north of Toorak Road) and ‘South’ (south of Toorak Road). The subject site falls into the latter category and the relevant Precinct Vision Statement is as follows:

*The South Precinct will retain the traditional retail street interface to Toorak Road. Behind Toorak Road office and professional uses, with accommodation at upper floors, will be strengthened. Existing and new pedestrian links, from east to west, will be safe and attractive enabling passive surveillance from residential accommodation and service uses above. New buildings will complement the scale and design of the valued Tudor style buildings and the established surrounding residential neighbourhood.*

The relevant land use and built form objectives of Clause 22.20 seek the following, amongst other things:

- *To maintain and enhance the Activity Centre’s valued characteristics of compactness, walkability, village quality and scale and fine grain whilst also supporting moderate consolidation and redevelopment.*
- *To protect the heritage character of Toorak Village as a significant part of its urban fabric.*
- *To undertake change in a manner that responds to local needs but also contributes to the incremental refurbishment and revitalisation of the whole Activity Centre.*
- *To support the Activity Centre’s on-going role which draws strongly from the surrounding neighbourhood for basic goods and services, but also from a wider catchment for specialty items.*

Of relevance to the proposal, it is policy to:

- *Consolidate the role of Toorak Village as a destination for local convenience and weekly shopping needs with a core supermarket as well as complementary community services.*

- *Focus retail uses to land fronting both sides of Toorak Road and land between Toorak Road and Jackson Street.*
- *Encourage the development of commercial offices (mainly in air space zones including above the Tok-H Centre and on land to the east of 18-22 Jackson Street and in the side streets in the South Precinct as shown on Map 1 to this Policy).*
- *Support cafe and restaurant uses, particularly along Toorak Road.*
- *Support the development of shop-top housing.*
- *Support land uses that minimise dependence on car use and facilitate sustainable transport options within the Toorak Village Activity Centre, consistent with Council's policy to reduce car dependence.*

Further design and built form directions are provided by DDO9 (Toorak Village Activity Centre), which reinforces a moderate consolidation and redevelopment of the Centre by encouraging a preferred building height of three to five storeys (16.5 metres) on the subject site. Other interface requirements, such as street and rear setbacks, encourage new development that is suitably designed and recessed so as to complement the fine grain, Tudor style, village character of the Centre.

The proposed development is consistent with the overarching themes of the State and local policy given that the subject site is located within an activity centre where change is anticipated and encouraged. The site is located on Toorak Road, a main road connecting to broader areas in and outside the municipality. It is well served by public transport, with trams along Toorak Road and buses on Williams Road, Grange Road and the eastern section of Toorak Road, and is within reasonable walking distance to Hawksburn Railway Station.

The surrounding area is characterised by both commercial and residential uses, and essentially the site is well placed to accommodate a mixed-use development which makes efficient use of the land and contributes to housing growth to support the surrounding commercial uses. This is consistent with the aspirations of the C1Z, as well as Clause 11.03-1R (Activity Centres – Metropolitan Melbourne), Clause 16.01-1R (Housing supply – Metropolitan Melbourne), and Clause 17.02-1S (Business).

The proposal will include a pharmacy at the corner and propose a retail tenancy (shop/ food and drink premises) fronting Toorak Road (the primary street frontage) and a medical centre addressing Mathoura Road (a side street) on the ground floor. It will also provide office floor spaces and dwellings at the upper levels above, with separate building entries from Toorak Road and Mathoura Road. The office spaces are orientated to front onto Toorak Road, which will maintain the commercial presence along the main shopping strip. The residential apartments are situated in the southern section of the building fronting Mathoura Road. This relates responsively to the predominant residential use and character of Mathoura Road.

The development achieves a right balance amongst varied uses. The mixed land uses and layout as proposed are compatible with the existing uses of the site and other commercial and mixed-use developments in the vicinity. This is consistent with the land use objectives and policy sought to achieve in this Centre.

The proposed uses will provide employment opportunities in a strategic location with good access to existing infrastructure, services and public transport, complementing the existing commercial uses, contributing new retail, professional service, and office floor spaces within



this activity centre and making the centre more economically vibrant. This accords with the strategic direction of the Toorak Village Activity Centre as outlined above.

In light of the above, the proposal for a mid-rise mixed-use development on the subject site measures favourably against the above policy objectives. There is strong support both in the strategic and location context for a mixed-use development of this scale in this part of the activity centre.

As will be discussed throughout this report, the proposal exceeds the discretionary building height recommended by the DDO9 yet is deemed to be an appropriate response which will comfortably fit in the streetscape and surrounding context. Further consideration of the built form and amenity impacts are discussed below.

### Built Form

New development on this site is guided by Schedule 9 to the Design and Development Overlay (DDO9) and Toorak Village Activity Centre Policy at Clause 22.20, which implement the land use and development components of the Toorak Village Activity Centre Structure Plan (2008) and the Toorak Village Activity Centre Design Guidelines (2010). The Structure Plan seeks to:

- *Direct how the Activity Centre will develop by identifying the preferred form of future growth.*
- *Identify key development sites and areas of moderate and minimal change.*
- *Better understand current and future development demand and the need to align the resultant floorspace with appropriate infrastructure, open space, services, amenities and land use mix that will underpin the Activity Centre's long-term sustainability and vitality.*

The DDO9 sets out the future character and the design and built form expectation of new developments within this precinct, including but not limited to, building height and setbacks; building design; heritage character; public realm and movement; street frontages and interfaces. Amongst other things, the DDO9 has the following relevant built form objectives:

- *To reinforce the sense of place of the Activity Centre whilst also supporting moderate consolidation and redevelopment.*
- *To acknowledge the contribution of the existing Tudor style buildings to the village character of the Activity Centre.*
- *To ensure that new development in the Activity Centre complements the fine grain, Tudor style, village character and the quality of its built form.*
- *To facilitate a consistently high standard of architectural design in the Activity Centre.*
- *To encourage new development to reinforce the visible coherence and identity of Activity Centre.*
- *To confine larger scale development to key development sites where change is both desirable and where existing character supports increased height and density.*

The subject site does not directly abut one of the Toorak Road neo-Tudor style buildings but sits within the area identified as South Precinct and designated for 'moderate change'.

'Moderate Change Area' is identified as 'areas of moderate change that will accommodate

*additions to existing development as well as new development to a height and scale that is commensurate with the Village character of the area.* The DDO9 further states that:

- *Growth and redevelopment should reflect the degree of change identified for each change area and the preferred maximum building heights specified in the Schedule.*
- *Growth should be directed to areas that minimise impacts on the heritage character of streetscapes and established residential areas.*
- *Encouragement will be given to consolidation, redevelopment and revitalisation of key development sites and incremental change areas.*

### *Height*

Building height and setback requirements at Clause 2.2 of the DDO9 set out that *'buildings and additions should be constructed in accordance with the Preferred Heights and Setbacks shown on Map 3 to this Schedule unless site conditions (such as amalgamated sites) and site context warrant an alternative design response.'*

Schedule 9 to the DDO sets a discretionary building height of three to five storeys (maximum 16.5 metres) for the subject site and the adjacent sites directly west, east and north on the opposite side of Toorak Road. It also establishes that the front six metres of the site should incorporate a two to three storey (maximum 11 metres) street wall/ podium with any tower component setback behind.

The proposal is for a six-storey building with a maximum height of 21.42 metres above natural ground level. The design adopts a six-storey form with a three to four storey podium in the order of 11.43 and 15.05 metres in height and recessed upper levels with staggered setbacks above. The massing of the building has been vertically divided into three sections (lower, mid and top) using a different and contrasting architectural language. The proposal exceeds the discretionary height by one storey (or 4.92 metres in metrage).

Whilst DDO9 sets preferred maximum heights, it specifically acknowledges that site conditions, such as amalgamated site, and site context may warrant an alternative design. The subject site being a large, amalgamated site, has attributes and capacity to accommodate a taller building. It has comparatively larger lot size (1,415 square metres) and wider street frontages (32.29 metres to Toorak Road and 49.06 metres to Mathoura Road) than many other allotments in the South Precinct, featuring small lot size and narrow street frontage.

As envisaged by the DDO9, this part of the activity centre is anticipated to redevelop to heights of up to a discretionary five storeys. Being a prominent corner site in the middle of the Centre, it has greater capacity to accommodate additional height whilst providing gradual transition, in height and scale, to adjacent existing lower scale and future developments in the wider precinct. The proposal of a six-storey building is considered to sit comfortably in this future context.

In addition, this section of Mathoura Road has evolved in recent years with emergence of more robust and diverse built form and four-storey buildings, creating a strong, distinctive streetscape. This character change in somewhat provides a buffer between the activity centre with an expectation of higher built form and the low scale residential hinterland further south along Mathoura Road. Of this height, it will provide a gradual transition stepping down from six storeys to three to four storeys with one to two storeys in between in the residential

hinterland. Equally, it will provide gradual transition between the South and North Precincts, which already contains a number of taller buildings (such as the 11-storey Trak Centre building and the recent development of an eight-storey building at 489-505 Toorak Road) and is envisaged to accommodate higher scale and more intensive development in this activity centre.

On this basis, it is considered that the context and characteristics of the site warrant an additional height as currently proposed.

The top level (Level 5) will be visible in long range view due to its overall building height, yet still fits comfortably within the composition of the overall building. The top level is positioned centrally within the site and designed to recess from the podium below with generous setbacks from the streets (11.48 metres from Toorak Road and 5.85 metres from Mathoura Road) and the side and rear boundaries (8.76 metres and 11 metres respectively). The top level is visually recessed and utilised a simplified material palette to keep the visual focus on the lower and middle components of the buildings. It will present as a distinctive recessive element to the streets, neighbouring properties and surrounding area and will not result in an overly dominant and overbearing presence in the streetscape and the activity centre.

In consideration of taller built form, it is important to achieve a high standard of architectural design, which will enhance the streetscape and the public realm. As expressed by Council's Urban Designer, the building is of high-quality architecture, and the form and scale of the proposal is considered appropriate in the streetscape and Toorak Village context. The marginal height exceedance of one storey or 4.92 metres above the DDO9 provisions is deemed to be acceptable due to the unusual large site area and the recessive nature of the upper floor level.

On balance, the three to four storey podium with recessed upper levels has struck a right balance between the characteristics and context of the site which is capable of accommodating a taller building given its larger lot size and wider street frontages, while responding to the preferred height and emerged character of the Centre. The design response and the resulting overall height of six-storey is considered appropriate in this context primarily due to the generous street setbacks, the highly articulated built form, the building separation from adjoining residences and the high-quality architecture and external finishes.

#### *Toorak Road Interface*

The proposed development adopts a defined three to four storey base with recessed upper levels. The composition of the front building façade to Toorak Road is broken down into two well-defined forms. It exhibits a three-storey street wall (with a height of 11.43 metres) at the western end and gradually steps up to four storeys (with a height of 15.05 metres) and wraps around the corner of the building, with a central deep recess between segments.

The building then vertically divides into three sections (lower, mid and top) comprising a different and contrasting architectural language, materiality and treatments. The lower section of the building (three to four storey base) adopts a strong grid form with shaped blade frames and masonry cladding with a cream toned finish. The strong base with grid like pattern of bladed frames that are set apart creates a solid, yet fine grain form that responds to and complements the fine grain subdivision pattern, rhythm and spacing of the street, and

character of the Centre. The materiality and detailing of light toned masonry is compatible with other buildings found in this activity centre and the wider Toorak area.

The three-storey street wall will align with the existing three-storey building further west at 414 Toorak Road and is generally consistent with the preferred street wall height recommended in DDO9. While the four-storey street wall on the corner will sit higher than recommended by DDO9, it will present as a well-resolved, distinctive, high quality corner building in the streetscape. The four-storey street wall wrapped around the corner of Toorak Road and Mathoura Road creates an expressed corner volume and a distinct and legible form to the building and the Village yet maintaining a human scale. The central recess gives depth and texture and breaks up the massing of the building. A minor exceedance of the street wall height above the recommended in DDO9 is considered acceptable in this distinctive site context and will not create an incongruous streetscape and is supported by Council's Urban Designer.

Above the street walls, the building steps back from the floors below away from the Toorak Road frontage with a setback of 6.91 metres at Level 4 and 11.48 metres at Level 5. These setbacks exceed the 6-metre setback recommended by DDO9 for developments up to five storeys. The mid and top levels adopt a lightweight architectural expression with metal cladding with vertical fins in bronze finish to Levels 3 and 4 and metal cladding in dark grey finish to Level 5. This design response provides texture and contrast, clearly distinguishing the upper levels from the base below and breaking up the bulk of the building. The masonry base of the building and metal cladding to the upper levels provide depth and articulation and fit the urban character of the area. Along with appropriate street setbacks, the upper levels will present as a recessive element to the street. The scale and bulk of the proposal is deemed to be acceptable and will not overwhelm the streetscape.

The extensive use of glazing at the ground floor level ensures that the development presents an active and engaging frontage to Toorak Road and Mathoura Road. The uninterrupted canopy along both street frontages integrates into the façade design. Canopies over footpath will provide weather protection at building entries and footpath, enhancing public realm and improve pedestrian and streetscape amenity.

Clear glazing is provided to the dwelling and office facades and combined with terraces oriented to Toorak Road and Mathoura Road at upper levels, this facilitates passive surveillance of the public realm from upper levels to the streets.

Overall, the proposed building is considered of high-quality architecture that will make a positive contribution to the Toorak Village.

#### *Mathoura Road Interface*

The DDO9 specifies a preferred maximum street wall height to Mathoura Road of two to three storeys (maximum 11 metres) with a preferred minimum upper-level setback of 3 metres above the street wall.

Similar to the Toorak Road interface, the building presents a three to four storey base with recessed upper levels to Mathoura Road. The lower section of the building presents as two distinctive forms with different architectural expression to Mathoura Road. The four-storey expressed street wall wrapped around the corner extends to the northern section of the Mathoura Road façade. It then steps down to four storeys with a height of 14.76 metres to the south with a central recess incorporated in between segments to give depth, texture and

contrast as well as to break up the expanse of built form and singular building volume along Mathoura Road.

The southern section of the Mathoura Road façade utilises a same building material of masonry cladding as that of the northern section, but with more refined detailing. It adopts a finer form and slender proportion by using pillars to create window proportions and balcony arrangements that relate to the predominant residential character of Mathoura Road. While the southern section of the building presents as a four-storey form to Mathoura Road, the façade lines (external walls) at Levels 1 to 3 are essentially setback from the street frontage with deep balconies/ terraces projected into the street setback. The articulation provided by balconies, fenestration, varying materials, and planter boxes to balconies will avoid a sheer wall appearance when viewed from Mathoura Road. This design response addresses the more sensitive residential interface and enables an integrated stepping of the design down to the south and provides a sensible transition to lower scale residential developments along Mathoura Road. It provides strong punctuation and readable vertical emphasis and articulation in the building façade to reflect the vertical ordering and fine grain subdivision pattern as well as maintain the module and rhythm in the residential streetscape to the south.

Above the street walls, the building steps away from the Mathoura Road frontage with a setback of 3.39 metres at Level 4 and 5.85 metres at Level 5. These upper-level setbacks exceed the recommended 3-metre setback by DDO9. Along with the use of differentiate materials and detailing, the vertical built form articulation breaks up the mass and breadth of the built form which spans over two lots and moderate building bulk, ensuring that the building does not read as one large heavy mass within the narrow street.

On balance, the proposed street walls and upper-level setbacks result in a building that relates well to Mathoura Road and will not detract from the pedestrian scale of the current streetscape. Council's Urban Designer is also supportive of the proposed street walls.

#### *West Interface*

The DDO9 does not specify any preferred building separation from side boundaries.

The adjoining property to the west does not have any sensitive residential interface. The proposed construction to the west side boundary with provision of a light court (setback 4.35 metres from the west boundary) will allow for an equitable development opportunity on the adjoining property to the west.

The design acknowledges the prospect of any redevelopment to the side, and as such has treated the façade accordingly by providing articulation and visual interest through masonry cladding. The minimum setbacks of 4.35 metres from the west boundary will protect the amenity of the west facing apartments in this development while providing adequate separation between buildings for daylight access and outlook and mitigating visual bulk for both the subject site and the adjoining property.

#### *South Interface*

To the south, the development interfaces with a two-storey L-shaped building comprising four dwellings. The residential building is well setback from the common boundary with the subject site (at a minimum distance of 10 metres), with a number of windows and balconies orientated toward the subject site. Between the residential building and the subject site is the communal open space area and common property driveway. A single storey garage building

is constructed on the western end of the north boundary, which is partially shared with the subject site.

For this site, the DDO9 calls for the south setbacks that '*maintain amenity to existing abutting dwellings (maintain appropriate visual privacy and scale that is commensurate with the village character of the area)*'.

The proposal has adequately responded to this sensitive residential interface by setting the building off the eastern end of the southern boundary by 2 metres and incorporating a landscape buffer. Above the ground floor, the building incrementally and adequately steps away from the south boundary with setbacks of 2.29 metres at Level 1, 5.7 – 6.13 metres at Level 2, 8.2 – 8.39 metres at Levels 3 and 4, and 10.8 – 11 metres at Level 5. These setbacks provide a stepping of built form down to a two-storey scale within the site and the lower scale development of the adjoining residential area. Where the building is proposed to the boundary, it abuts the existing garage building, which is less sensitive interface. The building façade is sufficiently treated with varied materials and finishes to provide articulation and visual interest and to break up the expanse of walls presented to the south.

Coupled with the proposed setbacks, substantial distance is achieved between the proposed building and the existing habitable room windows and balconies/ terraces that directly face the subject site. With the reduction in the overall building height and greater southern setbacks as proposed, the extent of building visible from the adjoining properties to the south is less compared to the advertised proposal. The proposed building will not be visually imposing when viewed from the south.

The stepping, differentiation in materials used at the upper levels to provide a more lightweight appearance and articulation, and landscaping will provide for a sensitive transition into the adjoining residential land. Such level of visual bulk presented to the neighbouring properties to the south is considered reasonable at the interface of a Residential and Commercial Zone, where more robust built form is expected and indeed encouraged than would otherwise exist in the residential hinterland.

As confirmed by Council's Urban Designer, the southern interface of the proposed building represents an acceptable form and scale transition to the adjoining property, subject to strengthening the landscape interface with larger canopy trees in the order of 8-10 metres mature height. This issue can be readily addressed by way of permit conditions.

### Amenity Impacts

#### *Overshadowing*

Clause 58 (Apartment Developments) calls for consideration of amenity impacts with regard to adequate daylight and limiting direct views (i.e. overlooking), however there is no specific objective or standard in relation to overshadowing.

The shadow diagrams submitted illustrates that the proposed development will cast some additional shadow over part of the communal open space area and a terrace which sits at the northern end of the building at 107 Mathoura Road between 9am and 10am. By 11am, shadow will be cleared from the terrace and will still affect some communal open space area. From 12 noon and in the afternoon, the shadow casts largely fall over the common property driveway, leaving the communal open space area with ample of sunlight.



The impacts to secluded private open space area are confined to one terrace at 9am and 10am and the communal open space. These areas are located in proximity to the north boundary interfaced with the laneway and Commercial zoned land to the north, which is envisaged for growth and change with higher built form and more intensive development. Given the direct interface of Commercial zoned land where redevelopment is envisaged, the extent of shadowing impacts is not considered to be unreasonable in this context.

#### *Overlooking*

In terms of overlooking, there are no secluded private open space areas or habitable room windows within 9 metres of the proposed habitable room windows and balconies/ terraces. Importantly, the open space area on the adjoining property to the south is communal, not secluded private open space. Technically, no screening measure to any of the proposed habitable room windows and balconies/ terraces is required in accordance with Standard B22 (Overlooking objective).

Notwithstanding this, the applicant has voluntarily proposed to incorporate fixed internal privacy screens to the south facing habitable room windows at Levels 1, 2 and 3 in an effort to address the objectors' concern. The provision of fixed privacy screens internal to the windows will allow outward views by occupants, but not downward views. The screening measures will apply to mainly bedrooms and the secondary windows to the living area to Apartment 2.1. On balance, the provision of screening measures is considered acceptable in this context and will address the objectors' concerns without compromising the internal amenity of the dwellings.

#### *Internal Amenity*

The building has been well designed to achieve a high standard of energy efficiency and provide a good level of amenity for future occupants of the commercial and office tenancies as well as the apartments as determined by the apartment standards at Clause 58.

The building provides a floor-to-ceiling height of 3.58 metres to ground floor, 2.7 metres to Levels 1 to 4, and 2.9 metres to Level 5. The proposed floor-to-ceiling heights are considered adequate as they will suit the proposed residential, commercial and office uses while providing flexibility and easy conversion to alternative commercial uses, as the needs of the community and economy may change.

The office floor spaces are orientated on the northern side of the building fronting onto Toorak Road. Large expanse of unscreened windows is provided to allow for ample daylight and adequate outlook and natural ventilation. The provision of an outdoor landscaped terrace will offer additional on-site amenity for office staff.

The apartments are substantial in size with internal areas between 222 and 242 square metres for 2-bedroom plus study, between 181 and 247 square metres for 3-bedroom, and between 278 and 367 square metres for 3-bedroom plus study. All apartments have a functional layout with well-proportioned, open plan living spaces and adequately sized bedrooms, which meet or exceed the minimum dimensional requirements in Standard D25 (Functional layout objective). All apartments are dual or multiple aspects affording good level of natural light and effective cross-ventilation. All habitable rooms have external windows with adequate outlook with no reliance on borrowed light. Ample internal storage spaces are provided within the apartments along with external storage in the basement car park, of which well exceeds the requirements in Standard D21 (Storage objective).



All apartments are provided with adequate secluded private open space in the form of balcony/ terrace ranging from 31 and 244 square metres with a minimum width of 3.3 metres. This exceeds the minimum 12 square metres for 3-bedroom dwellings as required by Standard D20 (Private open space objective). All balconies/ terraces have convenient access from the open plan living area and acceptable solar access and are considered capable of meeting the reasonable recreation and service needs of residents.

A 24.5 square metre (approximate) communal open space with direct access to residential lobby is provided on the ground floor for apartment residents. The communal courtyard is partially roofed and landscaped with canopy trees. It is concealed from the public domain and designed to maximise functionality and enjoyment of the space by residents without imposing any adverse amenity impacts to neighbouring properties.

The development incorporates lift and stairs in the residential and commercial lobby to access all levels of the building and the common corridors are well laid out. The apartments have been designed to accommodate the accessibility requirements of Standard D18, with 100% of the apartments compliant (Standard requires 50% of compliance).

An acoustic report was submitted with the application which has assessed impacts from the external noise, including traffic noise on Toorak Road, noise from mechanical plant and equipment, and music noise emitted from nearby licenced venues in Trak Centre. The acoustic report has recommended a number of noise attenuation measures to be incorporated in the building construction to protect the amenity of residents from external and internal noise sources. An updated acoustic report to reflect the layout changes will be required by way of permit conditions. Subject to this, it is considered that the development has been appropriately designed to protect the amenity of residents from external and internal noise sources. This also ensures that the introduction of dwellings into this part of the activity centre will not unreasonably impact or compromise the role and function of the existing commercial activities and licenced venues. The objectives of Standard D16 (Noise Impacts objectives) and Clause 53.06 are satisfactorily achieved.

The development provides for adequate space for services to be installed and maintained effectively. A separate, dedicated bin room is provided to residential and commercial uses in the basement. The bin rooms are easily accessible from lift lobbies for convenience of apartment residents, hence achieving the objectives of Standard D24 (Waste and recycling objectives). Mailboxes/ mailroom are not shown on the plans and will be required by way of permit conditions to ensure it has convenient access.

Site and building services are well laid out and located largely internally within the common corridors and basement. The substation and service cabinets are minimised and appropriately placed and set apart in the secondary building façade of Mathoura Road, away from the primary street frontage of Toorak Road. This has maximised an activated frontage along both streets while ensuring that their locations are still easily accessible by service authorities. The substation and service cabinets are well integrated into the design, appearance and façade of the building by adopting same external features and fabric as the building, therefore are not readily distinguishable. It is noted that part of the substation and fire booster cupboard doors will slightly project outside the property boundary. It is considered acceptable given that the design response will maintain a unifying façade line at the street edge and the architectural integrity of the building, which is a more desirable outcome.

Overall, the development is considered to provide a high standard of internal and on-site amenity for occupants of both commercial, office and residential uses.

### Car Parking and Traffic

#### *Car Parking Provision*

Pursuant to Clause 52.06, the development generates a statutory car parking requirement of 82 spaces, broken down as 20 spaces for dwelling, 38 spaces for office, 7 spaces for medical centre, and 17 spaces for shop/ food and drink premises.

The development provides 65 car parking spaces across three levels of basement, including 32 spaces for dwelling, 23 for office, 4 for medical centre, 5 for shop/ food and drink premises, and 1 accessible parking bay. The application therefore seeks a reduction in the car parking requirements associated with office use by 15 spaces, shop use by 12 spaces and medical centre use by 3 spaces.

As consistently held by VCAT, car parking within activity centres and particularly those within inner city areas must be assessed in a centre-wide manner. Various uses within an activity centre are to share on-street, public and private car parking facilities, without necessarily being required to provide all of the car spaces generated as part of a proposal on the land itself.

The State and local policy seeks to reduce provision of on-site parking for developments close to public transport, to encourage reduced reliance on private vehicle, to facilitate use of sustainable transport modes and to reduce number of private motorised trips by concentrating activities in highly accessible activity centres.

The site is located within the Toorak Village Activity Centre and has good access to public transport. There is a strong strategic justification to reduce on-site car parking provision. It is broadly accepted by traffic experts that a reduction in the availability of on-site car parking encourages a shift to alternative modes of transport. Council's Traffic Engineers consistently consider that staff associated with commercial and office uses are typically the most common users to mode shift away from private vehicle usage, opting instead for alternative modes of transport.

As confirmed by Council's Transport and Parking Unit, it is considered that a parking shortfall for shop/ food and drink premises and office uses within this development in this activity centre location is a reasonable approach. However, Council's Transport and Parking Unit has considered that a shortfall for medical centre is unacceptable particularly where there is a significant surplus of residential car parking, and 3 extra spaces should be allocated to medical centre for visitor. In addressing this concern, the applicant has agreed to accept a permit condition to allocate 3 additional car parking spaces to medical centre use.

The proposed on-site car parking provision is considered adequate to provide for staff and visitor parking given the established activity centre location and the good level of public transport options servicing the site and broader area. The site is within walking distance to tram services on Toorak Road and Williams Road, bus service along Toorak Road and Grange Road to the west, and Hawksburn Railway Station to the southwest. The surrounding on-street parking is highly restricted to ensure that parking caters for short term visitors of the wider activity centre. It is expected that staff for commercial and office uses,

who do not have access to on-site parking, will utilise public transport or sustainable modes of transport, as unrestricted parking is not readily available within the surrounding streets.

#### *Traffic Impact*

Vehicle access to the basement car park will be provided from Mathoura Road. Several objectors have expressed concern with this proposed arrangement.

The application was accompanied by a Traffic Impact Assessment (TIA) prepared by OneMileGrid. This report highlights that the additional traffic generated by the proposal would be minimal and can be accommodated within Mathoura Road and the surrounding street network. The level of traffic generated by the proposal is considered reasonable and is not expected to compromise the function, operation or safety of Mathoura Road, the intersection with Toorak Road, and the surrounding street network. The Department of Transport, which is responsible for managing Toorak Road, and Council's Transport and Parking Unit have no objection to the proposal.

While some objectors prefer for vehicle access to be provided from Toorak Road, this provision is not considered appropriate from a planning and urban design perspective. Toorak Road in this activity centre historically has a unique, distinctive character of continuous presence of buildings and unifying activated street frontage, and crossovers are discouraged. It is considered that any proposals of creating crossover off Toorak Road would be contrary to the Toorak Village Activity Centre Policy and DDO9, and therefore would not be supported by Council.

The proposed crossover necessitates the removal of a small street tree within the Mathoura Road reserve. Council's Arborist has considered the street tree removal to be acceptable due to its relatively small size and required replacement tree planting to be provided at the cost of the permit holder. Council's Transport and Parking Unit has expressed no concerns with the new vehicle access location from a traffic perspective. The existing vehicle crossover is to be removed and reinstated with footpath, kerb and channel. The proposed crossover is considered acceptable.

#### *Car Parking Design*

The overall design of the car parking layout is acceptable and broadly complies with the design standards of Clause 52.06-9. Conditions will require minor additional details to be included on plans, such as headroom clearance and floor gradients. Overall, subject to permit conditions, the design of the car park is considered satisfactory.

#### *Bicycle Parking*

The number of bicycle spaces proposed well exceeds the statutory rate and end of trip facilities are provided, despite not required by Clause 52.34. This will encourage staff to use this sustainable mode of personal transport. The location of the bicycle storage at both basement and ground level is considered convenient, safe and secure for residents and occupants of the building.

#### *Environmentally Sustainable Design (ESD)*

The Sustainability Management Plan (SMP) submitted in the advertised application demonstrates that the development will achieve a BESS score of 56% and a STORM rating of 104% through a number of ESD initiatives and meet Council's best practice (minimum BESS score of 59% and STORM rating of 100%). The key ESD commitments include a 31

kW rooftop solar photovoltaic system, a 20,000 litre rainwater tank collecting water from the roof for toilet flushing and landscaping irrigation, water efficient fixtures and landscaping, double glazing to all habitable spaces of apartments, low VOC products and paints, electric vehicle charging infrastructure, bicycle parking and end-of-trip facilities.

Overall, the reports demonstrate that the building has been designed to meet the objectives of the ESD Policy at Clause 22.05 and the Stormwater Management (WSUD) Policy at Clauses 22.18 and 53.18, and Council's best practice standards in the SDAPP policy. The outstanding items identified by Council's ESD officer, including shading devices, additional notations on the plans and updated SMP to reflect layout changes, can be readily addressed by way of permit conditions on any permit issued.

### Objections

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

- *Impact on property value*

Property value is not planning related and cannot be considered in planning applications.

- *Noise during construction*

Noise impacts are managed and separately enforced under the jurisdiction of *Environment Protection Act* and regulations. Normal restrictions would apply in relation to construction times and periods in accordance with Council's Local Laws, which should limit the impact on local residents.

- *Questioning if the laneway belongs to Council*

The laneway between 426 Toorak Road and 109 Mathoura Road is private land and is part of the landholding of 109 Mathoura Road.

### 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. 1100/21 - 109 Mathoura Road & 420, 422, 424 & 426 Toorak Road, Toorak [8.3.1 - 44 pages]

### Officer Recommendation

***That Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 1100/21 for the land located at 109 Mathoura Road & 420, 422, 424 & 426 Toorak Road, Toorak under the Stonnington Planning Scheme for construction of a***

**mixed use development (comprising shop/food and drink premises, office, medical centre (as-of-right uses) and dwelling) in a Commercial 1 Zone and Design and Development Overlay; use of the land for dwellings; a reduction in car parking requirements; and alteration to access to a road in a Transport Zone 2 subject to the following conditions:**

- 1. Before the commencement of the development, 1 copy of plans drawn to scale and fully dimensioned, must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the plans, Drawing No.s: A000 – A003 (Rev C), A0004 (Rev B), A1000 – A1011 (Rev C), A1100 (Rev B), A2000 – A2003 (Rev C), A2004 – A2005 (Rev B), A2100 (Rev B), A3000 – A3004 (Rev C), A3005 (Rev B), A3100 (Rev B), A4000 – A4002 (Rev C), A5000 (Rev A) prepared by Kelly Hill Architects, Council date stamped 14 November 2022, but modified to show:**
  - a) Location of mailboxes or mail room for apartments.**
  - b) The notation of ‘retail/ commercial’ amended to ‘shop/ food and drink premises’.**
  - c) Details of fixed internal privacy screen.**
  - d) A schedule of construction materials, external finishes and colours.**
  - e) Adjustable external sun shading devices are to be provided to east and west facing glazing of habitable rooms on Levels 4 to 5, which could be in the form of operable louvres, sliding shutters or external blinds. The external shading devices are to be clearly shown/noted on the plans and elevations.**
  - f) Notation showing Visible Light Transmittance (VLT) used for the window glazing and external balustrades as part of the daylight modelling specific values.**
  - g) Notation showing the reflectance values for the building’s internal and external finishes used as part of the daylight modelling to be included on the material schedule.**
  - h) Notation confirming that the rainwater tank is to be connected to all toilets and landscape irrigation.**
  - i) Re-allocation of three (3) residential car parking spaces to medical centre use.**
  - j) Provision of mirrors on either side of the driveway ramp to assist sight lines of vehicles exiting the development.**
  - k) Provision of a flashing light to alert pedestrians of exiting vehicles.**
  - l) A minimum headroom clearance of 2.2 metres throughout the whole car park.**
  - m) A minimum gradient of the parking area to be 1 in 200 (0.5%) for covered areas to allow for adequate drainage as per AS 2890.1.**

- n) Full dimensions of corner splay on the corner of Toorak and Mathoura Roads to provide clear sightline to pedestrians.**
- o) Crossover splays in accordance with Council's Vehicle Crossing Policy unless otherwise approved by the Responsible Authority.**
- p) Additional doors to be incorporated into the shop/ food and drink premises and medical centre in order to provide internal access to the commercial bin store.**
- q) Any changes required by Condition 3 (SMP), Condition 6 (WSUD response), Condition 8 (Waste Management Plan), Condition 9 (Acoustic Report), Condition 11 (Landscape Plan), and Condition 14 (Tree Management Plan).**

**All to the satisfaction of the Responsible Authority.**

- 2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason, without the prior written consent of the Responsible Authority.**
- 3. Prior to the endorsement of any plans pursuant to Condition 1, a Sustainable Management Plan (SMP) must be submitted to and approved by the Responsible Authority. When approved the SMP will be endorsed and will then form part of the permit. The development must incorporate the sustainable design initiatives outlined in the SMP to the satisfaction of the Responsible Authority. The SMP must be generally in accordance with the SMP (Revision E) prepared by Ark Resources, Council date stamped 15 July 2022. Amendments to the SMP must be incorporated into plan changes required under Condition 1. The report must include, but is not limited to, the following:**
  - a) Reflect the design layout as shown on the amended plans required by Condition 1.**
  - b) Preliminary NatHERS (Nationwide House Energy Rating Scheme) certificates are to be provided of each thermally similar group of apartments.**
  - c) For the office spaces on Levels 1 to 3, either the Green Star Hand Calculation method, including marked-up plans and sections, is to be provided, or daylight modelling demonstrating Council's best practice standard for daylight of a 2% Daylight Factor for at least 30% of the floor area of regularly occupied primary spaces is achievable.**
  - d) Demonstrate how Best Practice measures from each of the 10 key Sustainable Design Categories of Stonnington Council's Sustainable Design Assessment in the Planning Process (SDAPP) have been addressed.**
  - e) Identify relevant statutory obligations, strategic or other documented sustainability targets or performance standards.**
  - f) Document the means by which the appropriate target or performance is to be achieved.**



- g) Identify responsibilities and a schedule for implementation, and ongoing management, maintenance and monitoring.**
- h) Demonstrate that the design elements, technologies and operational practices that comprise the SMP can be maintained over time.**

**All to the satisfaction of the Responsible Authority.**

- 4. All works must be undertaken in accordance with the endorsed Sustainability Management Plan to the satisfaction of the Responsible Authority. No alterations to the Sustainable Management Plan may occur without the written consent of the Responsible Authority.**
- 5. Prior to the occupation of the building, a report from the author of the Sustainability Management Plan approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Sustainability Management Plan have been implemented in accordance with the approved plan.**
- 6. Prior to the endorsement of 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.**
- 7. The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.**
- 8. Prior to the endorsement of plans, a Waste Management Plan must be submitted to and approved by the Responsible Authority. When approved, the Waste Management Plan will be endorsed and will then form part of the permit. The Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by OneMileGrid, Council date stamped 15 July 2022, and include the following:**
  - a) Reflect the design layout as shown on the amended plans required by Condition 1.**
  - b) Dimensions of waste areas.**
  - c) The number of bins to be provided.**
  - d) Method of waste and recyclables collection.**
  - e) Hours of waste and recyclables collection.**
  - f) Method of presentation of bins for waste collection.**
  - g) Sufficient headroom within the basement to allow the passage of waste collection vehicles.**
  - h) Sufficient turning circles for the waste collection vehicles to drive out in forward gear from within the basement.**
  - i) Strategies for how the generation of waste and recyclables from the development will be minimised.**



- j) A dedicated space for hard waste provided in the bin store room.*
- k) The recycling allocation for the residential component of the development to allow for 120 litres per week per tenant. The bin size and collection frequency must be amended accordingly to reflect the required change.*

*All to the satisfaction of the Responsible Authority.*

*Waste collection from the development must be in accordance with the Waste Management Plan, to the satisfaction of the Responsible Authority.*

- 9.** *Prior to the endorsement of plans, an Acoustic Report prepared by a suitably qualified acoustic engineer must be submitted to and approved by the Responsible Authority. When approved, the acoustic report will be endorsed and will then form part of the permit. The acoustic report must be generally in accordance with the Acoustic Report (Revision 4) prepared by Acoustic Logic, Council date stamped 15 July 2022, but modified to:*

- a) Reflect the design layout as shown on the amended plans required by Condition 1.*

*All to the satisfaction of the Responsible Authority.*

- 10.** *Prior to the occupation of the development hereby approved, all acoustic measures recommended in the acoustic report must be incorporated and undertaken to the satisfaction of the Responsible Authority.*

- 11.** *Prior to the endorsement of plans, a landscape plan to be prepared by a landscape architect or suitably qualified or experienced landscape designer, must be submitted to and approved by the Responsible Authority. When approved, the landscape plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions. The landscape plan must be in accordance with the landscape plan dated 11 November 2022 prepared by Dangar Barin Smith, but modified to show:*

- a) The row of *Elaeocarpus eumundi* (Eumundi Quondong) along the south boundary be increased to a mature height of minimum 8-10 metres.*
- b) Replacing the proposed *Quercus palustris* (Pin Oak) with a suitable species and soil volume in in-situ planter box.*
- c) Replacing the proposed *Acer palmatum* (Japanese Maple) with a suitable species that suits the site's location.*
- d) Soil volume for planter boxes. Formula used for calculating the required soil volumes for the trees proposed in this landscape plan must be shown.*
- e) Details of irrigation system.*
- f) A notation confirming the landscape irrigation system is to be connected to the rainwater tank(s).*
- g) Maintenance regime.*
- h) Size (pot size, grow bag volume) of trees noted as 'Mature' in the Plant Schedule.*

- i) A survey (including botanical names) of all existing vegetation to be retained and/or removed.*
- j) Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary.*
- k) Details of surface finishes of pathways and driveways.*
- l) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.*
- m) Landscaping and planting within all open areas of the site.*
- n) The extent of any cut, fill, embankments or retaining walls associated with the landscape treatment of the site.*
- o) Details of all proposed hard surface materials including pathways, patio or decked areas.*

*All to the satisfaction of the Responsible Authority.*

- 12. Prior to the occupation of the building, 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.*
- 13. All costs for the removal and replacement of the street tree/s are to be borne by the permit holder and paid for at the time of applying for a vehicle crossing permit. All works (removal, species selection and planting) in this regard will be undertaken by Council.*
- 14. Prior to the endorsement of development plans a Tree Management Plan prepared by a suitably qualified arborist must be submitted to and approved by the Responsible Authority. When approved, the Tree Management Plan will form part of this permit and all works must be done in accordance with the Tree Management Plan (AS 4970).*

*The Tree Management Plan must detail measures to protect and ensure the viability of Tree 3 (Chinese Elm) located on the southwest corner of the subject site, the neighbouring trees located along the south boundary on the adjoining property to the south, and street trees along the Mathoura Road frontage.*

*Among other things, the Tree Management Plan must include the following information:*

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

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

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

- 15. Prior to 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).**
- 16. Prior to the commencement of any works at the site (including demolition and excavation whether or not a planning permit is required), each Tree Protection Zone nominated within the endorsed Tree Management Plan must:**
  - a) Be fenced with temporary fencing in accordance with the attached specifications annotated in this permit to the satisfaction of the Responsible Authority.**
  - b) Include a notice on the fence to the satisfaction of the Responsible Authority advising on the purpose of the Tree Protection Zone, the need to retain and maintain the temporary fencing and that fines will be imposed for removal or damage of the fencing and trees.**

**No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Zone without the prior written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Zone.**

- 17. 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.**
- 18. 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.**
- 19. The level of the footpaths and/or laneways must not be lowered or altered in any way at the property line to facilitate access to the site.**
- 20. Prior to the commencement of the development hereby approved, the owner/developer must obtain approval from Council's Building and Local Laws Department to construct or modify any vehicle crossover/s providing access to**

***the subject site. The issue of a planning permit does not provide approval for vehicular crossovers which are outside of the title boundary.***

- 21. Prior to occupation of the building, any existing vehicular crossing made redundant by the building and works hereby permitted must be broken out and re-instated as standard footpath and kerb and channel at the owner/developer's cost to the approval and satisfaction of the Responsible Authority.***
- 22. 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.***
- 23. 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.***
- 24. Prior to the occupation of the building, access for persons with disabilities must be provided in compliance with the Disability Discrimination Act 1992 and such access must be maintained at all times the building is occupied or in use.***
- 25. Prior to the occupation of the building, fixed privacy screens (not adhesive film) designed to limit overlooking in accordance with the endorsed plans must be installed 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. All fixed plant and equipment (including air-conditioning units) must be located and screened to visually integrate into the development to the satisfaction of the Responsible Authority.***
- 28. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.***
- 29. This permit will expire if one of the following circumstances applies:***
  - a) The development is not started within two years of the date of this permit.***
  - b) The development is not completed within four years of the date of this permit.***
  - c) The use is not commenced within five years of the date of this permit.***
  - d) The use is discontinued for a period of two years or more.***

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

#### **PERMIT NOTES**

#### **DEPARTMENT OF TRANSPORT NOTE**

- A. The permit holder must avoid disruption to tram operation along Toorak Road during the construction of the development. Any planned disruptions to tram***

**operation during construction and mitigation measures must be communicated to and approved by the Head, Transport for Victoria and Yarra Trams a minimum of thirty five (35) days prior.**

**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. Unless a permit is not required under the Stonnington Planning Scheme, signs must not be constructed or displayed without a further planning permit.**
- 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's Arborists on 8290 1333 for further information.**
- E. 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.**

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



## 8.4 Planning Application 1050/21 - 19-21 Lalbert Crescent, Prahran

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

### Purpose of Report

For Council to consider a planning application for demolition of the existing residential building and construction of one dwelling on a lot in a Neighbourhood Character Overlay and construction of a front fence in a Design and Development Overlay at 19-21 Lalbert Crescent, Prahran.

### Abstract

#### Proposal

The proposal seeks to demolish the existing residential building (comprised of two dwellings) and construction of one (1) double storey dwelling (and basement) on a lot in a Neighbourhood Character Overlay. The dwelling will comprise of two (2) vehicle spaces in the basement (access via a car lift) and has four (4) bedrooms. The proposal also seeks approval to construct a front fence with a maximum height of 1.18 metres in a Design and Development Overlay.

#### Officer Recommendation Summary

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

- The proposed development is consistent with the objectives of State and Local Planning Policy.
- The development represents an appropriate contemporary design response to the preferred neighbourhood character of the area and specifically the design requirements of the Neighbourhood Character Overlay
- The proposal provides for a satisfactory landscape response in response to the design requirements of the Neighbourhood Character Overlay that will contribute positively to the landscape character of the area.
- The development will provide for a high 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 and massing (refer to Built Form assessment).
- Design response to Planning Scheme Amendment C285ston, which applied a Neighbourhood Residential Zone (NRZ5), Neighbourhood Character Overlay (NCO8) and Design and Development Overlay (DDO22) (refer to Built Form and Objection assessment).



- Neighbourhood Character – Garden Suburban 2 Precinct (refer to Neighbourhood Character assessment).
- Neighbourhood Character – Lalbert Crescent Precinct (refer to Neighbourhood Character assessment).

#### Officer's response

The proposal seeks to demolish the existing building on site, and construct one (1) double storey dwelling, with a basement, on the site.

The site is located within an area where limited to minimal density development is occurring. The proposed development provides a design response that is responsive to its immediate context (Lalbert Crescent Precinct), which includes properties that are 2-3 storeys in height.

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

The proposal satisfies all of the any modified Objectives of Clause 54 (One Dwelling on a Lot), with the support of minor variations to the modified Standards and provides a high level of internal amenity without compromising the amenity of neighbouring properties.

#### Executive Summary

|   |  |
|---|--|
| Applicant:                                      | Gilad Ritz<br>Ritz & Ghougassian   |
| Ward:   | South  |
| Zone:   | Neighbourhood Residential Zone – Schedule 5  |
| Overlay:  | Design and Development Overlay (DDO)– Schedule 22<br>Neighbourhood Character Overlay (NCO)– Schedule 8:<br>Early Modern and Post-War Significant Character Area –<br>Lalbert Crescent Precinct |
| Neighbourhood Precinct:                         | Garden Suburban 2 Precinct   |
| Date Lodged:                                    | 29 November 2021   |
| Statutory Days:<br>(as at Council Meeting date) | 58 Days  |
| Trigger for Referral to Council:                | Seven (7) or more objections   |
| Cultural Heritage Plan                          | No   |
| Number of Objections:                           | Fifteen (15) objections from twelve (12) properties  |
| Consultative Meeting:                           | Yes – held on Tuesday 15 November 2022   |
| Officer Recommendation                          | Notice of Decision to Grant a Permit   |

#### Background

##### Background

The application lodged on 29 November 2021 was seeking approval for the demolition of the existing residential building, and the construction of one dwelling, comprising of two storeys in height with a basement level with access via a ramp. This proposal advertised in May and June 2022, where it obtained twelve (12) objections.

A Section 57A Amendment was lodged with Council on 25 September 2022 which sought to make the following changes:

- The overall height of the dwelling reduced.
- The shifting of the building from being offset on the site, to be more centrally located.
- The inclusion of a stairwell.
- The basement ramp replaced with a car lift.
- An increase to the footprint of the basement to include a family room.

The application was readvertised in October 2022 and resulted in three (3) additional objections, increasing the total number of objections to fifteen (15) from twelve (12) properties.

### The Proposal

The plans that form part of the basis of Council's consideration were prepared by Ritz & Ghougassian and are known as the Amended Plans, Drawings(s) TPA01 – TPA10 (Council date stamped 21 October 2022).

Key features of the proposal are:

- Demolition of the existing building, structures, garages, and front fence on site.
- Construction of one (1) double storey dwelling, with a basement level containing carparking and other ancillary rooms. It has access to the street via a car lift.
- Pedestrian and vehicle access to the dwelling is provided along Lalbert Crescent. The existing crossover located at the north-east corner of the site is to be removed and reinstated. The existing crossover located at the north-west corner of the site will be used to provide access to and from the site.
- The dwelling includes a basement with 2 car spaces, a rumpus room, a lift and stairwell, a bathroom and a laundry room. The basement is accessible via an internal stairwell and a car lift.
- The Ground Floor of the dwelling includes kitchen, living and dining in an open plan arrangement and a secondary dining area. The ground floor also includes a laundry and powder room. Secluded Private Open Space (SPOS) is located at the west and rear of the dwelling, accessible from the living area.
- The First Floor for the dwelling includes a master bedroom with an ensuite, a walk-in robe, and a balcony facing Lalbert Crescent. There are three (3) additional bedrooms, one with ensuite and a balcony facing the rear of the site. There is also an additional bathroom on the First Floor.
- The dwelling will have a maximum building height of 8.81 metres.
- Site coverage for the overall development is 47.75%.
- The basement site coverage for the overall development is 64.60%.
- The development adopts a contemporary built form response that includes traditional building elements taken from the Character Precinct such as a pitched roof, eaves and a staggered façade. The materials include exposed brick that complements the streetscape, terracotta roof tiles, and glazed windows.

### Site and Surrounds

The site is located on the southern side of Lalbert Crescent. The site has the following significant characteristics:

- The site is regular in shape and is located on the southern side of Lalbert Crescent. The site has a 15.24 metre frontage to Lalbert Crescent (north boundary). The site has a maximum depth of 33.53 metres and an overall site area of 511 square metres.
- The site currently has a double storey building, comprising of two apartments: one on the Ground Floor and one on the First Floor. The roof structure comprises of a hipped and gabled terracotta roof form, with a projecting façade.
- The site currently includes some vegetation (not significant) throughout the site. At the rear of site is a 1.82 metre drainage easement that traverses along the entire southern boundary.
- The site includes a low-rise, brick fence along Lalbert Crescent.
- The site has a moderate slope in the land, which falls from the east to the west of 1.2 metres.
- There are two existing vehicle crossovers, both located on the northern boundary with one on the eastern end of the site, and the other on the western end of the site.

Key features of the surrounding sites are as follows:

- No. 18 Lalbert Crescent is located north of the site and is occupied by a two-storey detached house. The dwelling started construction prior to the approval date of Amendment C285, which was 12 November 2020, and was not affected by the controls of Neighbourhood Character Overlay – Schedule 8, and Design and Development Overlay – Schedule 22.
- No. 17 Lalbert Crescent is located east of the site and is occupied by a two-storey detached early modern/post-war villa, consisting of brick, hipped terracotta roof, and a projecting facade. The dwelling is affected by Neighbourhood Character Overlay - Schedule 8, and Design and Development Overlay – Schedule 22.
- No. 27 Larnook Street is located at the site's southern boundary. The land consists of a two-storey residential flat development consisting of brick, and a hipped terracotta roof. The site consists of landscaping throughout and two vehicle crossovers, which provide access to the driveway and garages at the southern boundary.
- No. 23 Lalbert Crescent is located west of the site and is occupied by a two-storey detached early modern/post-war villa, consisting of brick, hipped and gabled terracotta roof, and a projecting facade. The dwelling is affected by Neighbourhood Character Overlay – Schedule 8, and Design and Development Overlay – Schedule 22.

### Previous Planning Application/s

A search of Council records indicates that there are no relevant planning applications of relevance to the assessment of this application

### The Title

The site is described on Certificate of Title Volume 12375 Folio 449 on Plan of Consolidation 381284S. The land is affected by Covenant 1746891 is registered on title, and includes the following restriction:

*“.....or erected on the said land hereby transferred other than one residential building or one dwelling house or one pair of semi-detached dwelling houses with the usual necessary and proper outbuildings.....”*

The proposal satisfies the above covenant as the proposed development is the construction of one dwelling.

There is a drainage easement affecting the land at the southern boundary.

In addition to the covenant and easements, it should be noted that the site was initially two lots, not one.

The initial layout of the lots was as follows: Unit 1 being the Ground Floor and the eastern half of the external land on site, and Unit 2 being the First Floor and the western half of the external land on site. A Plan of Consolidation was approved and now the title is 1 lot over 500 square metres.

### Planning Controls

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

#### **Zone**

##### Clause 32.09 – Neighbourhood Residential Zone – Schedule 5

Pursuant to Clause 32.09-5 a permit is not required to construct one (1) dwelling on a lot, as the lot is greater than 500 square metres.

Pursuant to Clause 32.09-4 an application to construct or extend a dwelling or residential building on a lot with a lot size between 500 and 650 square metres must provide a minimum garden area equal to 30% of the lot size. The application includes 35.42% of garden area and therefore complies.

Pursuant to Schedule 5 of the Neighbourhood Residential Zone, a building used for a dwelling, or a residential building must not exceed 9.00 metres in height 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 10.00 metres.

The proposed development has a maximum height of 8.81 metres and therefore, meets the height requirements.

#### **Overlay**

##### Clause 43.02 – Design and Development Overlay (DDO) – Schedule 22

Pursuant to Clause 43.02-2 a permit is required to construct a fence within 3 metres of the street frontage. This does not apply if the fence does not exceed 0.8 metres in height and is constructed of brick or rendered masonry.

The application proposes a 1.18 metre front fence along Lalbert Crescent Road and therefore a planning permit is required for the front fence.

##### Clause 43.05 – Neighbourhood Character Overlay (NCO) – Schedule 8

Pursuant to Clause 43.05-2 a permit is required to construct a building or construct or carry out works.

Schedule 8 – Early Modern and Post-War Significant Character Area – Lalbert Crescent Precinct applies to the site. Pursuant to Item 4.0 of Schedule 8, the following Clause 54 variations apply:

- Street Setback (Standard A3) – Walls of buildings should be setback a minimum of 6 metres from the front street, and a minimum of 2 metres from a side street if the site is a corner site.
- Side and Rear Setbacks (Standard A10) – New walls constructed within 8 metres from the front facade of the building should have a minimum side setback of 2 metres.
- Walls on Boundary (Standard A11) – A wall may be constructed on or within 200mm of a boundary where: it is any other part of the building 8 metres or more behind the front façade of the building, or, it is a car parking structure that is at least 3 metres behind the most recessed part of the front façade of the building and located on one side boundary only.
- Design Detail (Standard A19) – The design of buildings and extensions should respect the preferred neighbourhood character of the area, specifically in relation to:
  - Scale and form.
  - Roof form, pitch and eaves.
  - Number of storeys.
  - Materials and finishes.
  - Façade articulation and detailing.
  - Window and door proportions.
  - Verandahs, eaves and parapets.
  - Building siting.
  - Siting and design of vehicle access and car parking structures.

Additionally, new buildings should interpret the detailed elements of original dwellings that contribute to the neighbourhood character significance of the area in an innovative and contemporary manner that complements, rather than replicates, period dwelling styles.

Furthermore, car parking structure should be:

- Visually unobtrusive and compatible with the development and the preferred neighbourhood character.
- A maximum width of 4 metres where visible from the street.
- Located at least 3 metres behind the front façade of the building.

Neighbourhood Character Overlay Only Applications – Ambit of Discretion

In a recent decisions of Brunswick Investment Project Pty Ltd v Moreland CC [2021] VCAT 1191 (**Brunswick Investments**) and Viva Energy Australia v Greater Geelong CC [2022] VCAT 326 (**Viva Energy**), VCAT have upheld the long standing principles established in the Supreme Court decisions of National Trust of Australia (Victoria) v Australian Temperance and General Mutual Life Assurance Society Limited [1976] VR 592 and Boroondara City Council v 1045 Burke Road Pty Ltd [2015] VSCA 27 that establish that a decision maker's

relevant considerations are limited to the relevant permit trigger controls and policies relevant to such controls.

Consequently, as the subject site is over 500 square metres Council must only consider the overlay controls that trigger the need for a planning permit. In this case, the provisions of the Neighbourhood Character Overlay and the Design and Development Overlay.

Furthermore, in the VCAT Decision of *Adams v Glen Eira CC [2016] VCAT 1353 (August 2016)* indicates that taking the view that a permit trigger under only a NCO triggers the need to consider all of the ResCode Standards seems (as a matter of 'orderly planning') to 'go against the grain' of overlay controls dealing with more confined/discrete planning issues (i.e. Heritage Overlay only applications).

This means that where the only trigger for one dwelling on a lot is the provisions of the NCO, then the modified standards of the NCO only apply to the development, and Council only considers those standards.

Where any provisions in the Neighbourhood Character Overlay vary any of the Standards of ResCode through a Schedule, the planning decision maker (where any inconsistency arises) must apply the varied position for those Standards specifically mentioned in the Schedule to the Neighbourhood Character Overlay.

Therefore, Schedule 8 to the Neighbourhood Character Overlay in question here varies the following Standards of that Schedule – A3 (street setback), A10 (side and rear setbacks), A11 (walls on boundaries), and A19 (design detail). An assessment against these Standards is provided below.

### **Particular Provisions**

#### Clause 52.06 – Car Parking

Pursuant to Table 1 at Clause 52.06-5, one (1) car parking space is required for each one or two-bedroom dwelling and two (2) car parking spaces to each three or more-bedroom dwelling.

The proposal generates a requirement for two car parking spaces. Two (2) spaces are provided on site, meeting the requirement. The design standards at Clause 52.06-9 are also applicable to the assessment of this application and will be discussed later in this report.

#### Relevant Planning Policies

Clause 11 – Settlement

Clause 15 – Built Environment and Heritage

Clause 16.01 – Residential Development

Clause 21.03 – Vision

Clause 21.05 – Housing

Clause 21.06 – Built Environment and Heritage

Clause 21.08 – Infrastructure

Clause 22.18 – Water Sensitive Urban Design Policy

Clause 22.23 – Neighbourhood Character Policy

## Advertising

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

A total of twelve (12) objections were received from ten (10) different addresses.

A Section 57A Application was lodged with Council on 25 September 2022. The Section 57A Application was re-advertised pursuant to Section 52 of the *Planning and Environment Act 1987* by sending notices to the owners and occupiers of adjoining land (and by placing one (1) sign on the site). The public notification of the application has been completed satisfactorily.

Three (3) additional objections from different residential properties were received, increasing the total number of objections to fifteen (15) from twelve (12) different addresses. Further objections were also received from existing objectors.

A summary of the key issues raised in both rounds of advertising are summarised as follow:

- Building height and massing in relation to the streetscape and the built form.
- Visually bulky and out of scale for the area.
- Does not respond to recent Planning Scheme Amendment C285 which was gazetted on 12 November 2020, and applied a Neighbourhood Residential Zone – Schedule 5, Neighbourhood Character Overlay – Schedule 8, and Design and Development Overlay – Schedule 22 to the site and surrounds.
- Does not adhere to the Neighbourhood Character – Garden Suburban 2 Precinct.
- Does not adhere to the Neighbourhood Character Overlay – Schedule 8.
- Does not recognise or provide a suitable transition to the surrounding Early Modern and Post-War dwellings.

A Consultative Meeting was held on 15 November 2022. The meeting was attended by Councillors Batagol and Sehr, representatives of the applicant, objectors, and two Council Planning Officers.

The meeting did not result in any further modifications to the proposal, however, there was discussion at the consultative meeting regarding the schedule of colours and materials. A condition has been included on the planning permit requiring an update to address these concerns.

## Referrals

### **Urban Design**

Comments from Council's Urban Designer can be summarised as follows:

- There is no statutory mechanism preventing demolition; only a requirement that the design of the replacement reflect the Neighbourhood Character Overlay – Schedule 8 objectives.
- The design of the proposed new residence broadly represents a contemporary interpretation of the prevailing form and character of the buildings in the Neighbourhood Character Overlay – Schedule 8.



- Design details throughout the development will need to be modified in order to complement the character of the precinct. They are as follows:
- The exposed metal framing elements proposed throughout the development are a design detail that goes against the Statement of Neighbourhood Character.
- The window fenestration of the façade of the dwelling should reflect the prevailing tripartite character of the precinct.
- Colours of the cladding used throughout the development must be to the satisfaction of Council.

Officer Response: The concerns raised by Council's Urban Designer have been addressed throughout the application process, and additional concerns have been appropriately referenced in the conditions of the permit.

### ***Transport & Parking***

Comments from Council's Traffic Engineer can be summarised as follows:

- The existing site accommodates two dwellings, which are proposed to be replaced with one dwelling on the site. It is anticipated that this will not significantly impact traffic movements in the local road network.
- Additional dimensions will be required to be shown on the plans, in order to provide clarity and compliance in regards to Design Standards of Clause 52.06 – Car Parking. The plans should include additional dimensions in regards to Accessway (Design Standard 1), Car Parking Spaces (Design Standard 2), and Gradients (Design Standard 3).
- Additional information in regards to the car lift need to be clarified, including the dimensions of the platform, the headroom of the car lift and the basement, operation of the car lift, as well as the manufacturing details.
- The proposal includes removal of one vehicle crossing at the east side of the site. The vehicle crossing at the west side is to be retained for access. The redundant crossing is to be reinstated as nature strip, kerb and channel to the satisfaction of Council's Liveability and Compliance Unit.

Officer Response: Dimensions (width and depth) of the car lift platform, the height clearance (headroom) within the car lift, parking bay dimensions, and basement gradients are to be shown on the relevant plans. This will provide clarity and compliance with the relevant standards.

Manufacturing specification details and documentation are also to be provided, to ensure that the development has access and is installed with the relevant specifications.

The plans must also include a notation requiring all structures or vegetation within the splays must not be more than 900mm in height. This will ensure that vehicles have clear sight of any pedestrians and vehicles.

## **Key Issues and Discussion**

### **Strategic Context**

The overarching policies and objectives at both a State and Local level encourage limited to minimal residential development in residential zones where there is a Neighbourhood Character Overlay. These strategies call for appropriate residential development in

accordance with the requirements of the Overlay, and other local policy in the Stonnington Planning Scheme.

The Municipal Strategic Statement (MSS) recognises the need for limited to minimal density increase and identified locations where specific outcomes are encouraged (Clause 21.03). 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 sought in locations for higher density development and the lower density residential hinterland. The subject site is identified as being within a "limited to minimal" change area in which density remains as is, with minimal increase. The proposal decreases the density, as there are two dwellings on site, and only one is proposed.

The proposed development will not result in a density increase. It is in line with policy expectations for this area, and the development will contribute to the mix and diversity of housing available within the neighbourhood.

The purpose of the Neighbourhood Residential Zone is to implement the Municipal Planning Strategy, the Planning Policy Framework, and the Neighbourhood Character Policy, to recognise areas of predominantly single and double storey residential development, and to manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.

The provisions of the Neighbourhood Character Overlay require that the proposal be assessed against the objectives and standards of any modified standards specified in the schedule to the overlay. A full assessment against the applicable objectives and standards has been carried out and the development achieves a high level of compliance, with the following notable matters highlighted and discussed.

Overall, the proposal responds adequately to the State and Local planning policy objectives for limited to minimal density increase and development.

The application has been assessed against the modified and relevant standards of Clause 54 (One Dwelling on a Lot) and the key areas for discussion are as follows:

#### Built Form

##### **Neighbourhood Character – Garden Suburban 2 Precinct**

Neighbourhood Character calls for a design response that is appropriate to the neighbourhood character and features of the site. Council's Neighbourhood Character Policy (Clause 22.23) sets out preferred character and design guidelines for residential development. The site is located within the 'Garden Suburban 2 Precinct' which is described as follows:

*The Garden Suburban 2 (GS2) precinct comprises leafy streetscapes with a range of Victorian, Edwardian or Interwar era and contemporary buildings set in established garden surrounds. Regular front and side setbacks provide space around buildings and allow for substantial planting or canopy trees. New buildings or additions offer innovative and contemporary design responses that sit comfortably within the streetscape reflecting the key aspects of building form and the one-three storey scale of 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.*

The proposed development appropriately responds to the preferred character and design objectives for the 'Garden Suburban 2 Precinct' for the following reasons:

- The dwelling has adopted a modest two-storey built form, which is consistent with the one to two storey height limit within the immediate area. The proposed dwelling has appropriate setbacks, articulation, and landscaping all of which, respectfully responds to the neighbourhood and character of the streetscape. The Garden Suburban 2 Precinct encourages that *new buildings should respond to the streetscape character in an innovative and contemporary manner*. The proposed dwelling is contemporary, however, incorporates some traditional building features that are consistent with the area and precinct, such as eaves and a gable roof.

The built form of the dwelling is consistent with surrounding dwellings in regard to materials and colours. However, the inclusion of exposed metal on the underside of the projecting eave within the front setback of the site is not consistent with the design details of the Precinct and will be modified to complement the dwelling and its design via permit condition.

It is considered that its contemporary design response will provide a pleasant accompaniment to the dwellings within the immediate context, particularly to properties that are affected by the Neighbourhood Character Overlay – Schedule 8: Lalbert Crescent Precinct.

- The rhythm and spacing of the dwellings throughout the precinct are consistent, with being consistently setback from the street, and setback from both side boundaries. Dwellings are generally centrally located on the site, allowing for landscaping on all sides. The built form of the proposed dwelling is responsive to the preferred character by being centrally located on the site, with sufficient space for landscaping to occur.
- The dwelling is appropriately spaced to ensure that meaningful landscaping outcomes can occur on site. This is demonstrated by the fact that the site has a relatively low site coverage of 47.75% (and 64.6% for the basement) which ensures there is ample space for landscaping to occur.
- As shown on the Landscape Plan (Council date stamp 25 September 2022), canopy tree planting is proposed along the eastern and western boundaries including two species of Eucalyptus, being Snow Gums and Little Snowman. Overall, there are a total of two (2) canopy trees and thirty (30) other trees proposed throughout the site. This is considered to be a strong landscaping response that will strengthen the garden setting of the building.
- Car parking structures are discretely located within the front setback of the site. The structure consists of a car lift platform, and no overhead structure. The site has two crossovers, due to the nature of the existing building on site, to which the easternmost crossover will be removed, and the nature strip reinstated as part of this application. The driveway avoids the use of excessive paving and is complemented by landscaping.
- A 1.18 metre fence is proposed along the northern boundary, which will be constructed out of brick masonry. The fence design is low in height and ensures that views to the garden and dwelling is maintained. The materiality of the fence complements the

contemporary design of the dwelling and is consistent with other fence designs within the area.

Overall, the proposed development is considered to be a site responsive design, which will sit comfortably within the Lalbert Crescent streetscape and reflects the preferred character of the area.

#### ***Building Height***

The height of the dwelling, being two storeys with a gable roof, is 8.81 metres in height. This height is consistent with the dwellings either side of the site, as they too are between 8.00 metres and 9.00 metres in height and are also two storeys. The proposed dwelling sits comfortably between the adjoining sites, being no higher than 17 Lalbert Crescent which is on the higher ground, and no lower than 23 Lalbert Crescent which is on the lower ground.

It is considered that the height and number of storeys is consistent in regards to the streetscape and the character precinct.

#### ***Landscaping***

Council's Municipal Strategic Statement (MSS) and various local policies emphasise the provision of high-quality landscaping. Furthermore, Clause 22.23 (Neighbourhood Character Policy) seeks *'to maintain and strengthen the garden settings of buildings and the tree canopy of the neighbourhood'*. The policy further encourages a design response to *'include canopy trees and shrubs in landscape plans. Retain established or mature trees where possible and provide for the planting of new canopy trees. Include planting around the perimeter of the site to strengthen the garden setting.'*

There are no significant trees identified on site.

The layout of the development will allow adequate opportunities for sufficient landscaping throughout the site. The landscape plan provided allows for the provision of one canopy tree and shrubbery within the front setback which is consistent with the character of the streetscape and will assist to soften the built form presentation to the street. Additional vegetation is proposed throughout the site including an additional canopy tree at the rear, with thirty trees throughout.

Given the site's favourable site coverage percentage, this ensures that the abovementioned trees have optimal space for growth. It also allows for other areas of the site to be planted with shrubs, ground covers and grass.

On balance, the proposed dwelling is considered to represent an appropriate design response to the preferred neighbourhood character outcomes for the area.

#### ***Neighbourhood Character – Lalbert Crescent Precinct***

The proposal is considered to be respectful of preferred character of Clause 43.05 – Schedule 8 (Early Modern and Post-War Significant Character Area – Lalbert Crescent Precinct).

The statement of preferred Neighbourhood Character applicable to this precinct is as follows:

*The Lalbert Street Precinct comprises Post-war and Early Modern dwellings of a grand scale, set within well-established gardens. The dwellings along Orrong Road and Kelvin Grove provide gateways to the precinct, particularly the distinctive flat-roofed*

*Early Modern building at the corner of Lalbert Crescent and Orrong Road. The precinct's significance is due to the consistency of its original dwellings which are mostly of two to three storeys and constructed of brick with terracotta tiled roofs. Architectural features of the original buildings include bulls-eye windows, curved facades, defined porch entrances, projected front rooms and decorative brickwork. Front fences are typically low brick and designed to match the dwellings.*

*The preferred neighbourhood character of the Lalbert Crescent precinct is defined by the continued presence of grand brick Post-war and Early Modern dwellings, and new dwellings that reflect the key characteristics of the streetscape including:*

- *Grand, detached buildings of two to three storey scale.*
- *Pitched hipped or gabled roofs and projecting front room.*
- *Parallel orientation of buildings to the street with consistent front and side setbacks.*
- *Established planting, including canopy trees, in the front, side and rear setbacks.*
- *Use of red clinker or orange brick, or render, with contrasting detail.*
- *Red terracotta tiled roofs.*
- *Vehicle access and car parking structures non-existent or car parking and car parking structures located behind the dwelling with side driveway access or integrated within the dwelling form.*
- *Low brick front fences, often with brick columns.*

The design of the proposed dwelling meets the above Neighbourhood Character, as discussed throughout the report through an innovative and contemporary manner that complements the period dwelling styles.

#### *Street Setback*

Schedule 8 to the Neighbourhood Character Overlay modified Standard A3 and states that Walls of buildings should be setback a minimum of 6 metres from the front street, and a minimum of 2 metres from a side street if the site is a corner site.

The development proposes a street setback of between 6.51 metres and 6.785 metres for its primary façade, and a setback of 11.71 metres for its secondary facade. The setback proposed is consistent with the prevailing setbacks on the southern side of Lalbert Crescent, which ranges from 6.00 metres to 8.00 metres on the primary façade of surrounding dwellings, and 6.80 metres and 13.3 metres for the secondary façade.

The setback proposed is compatible with the setbacks of the dwellings on the adjoining lots at 17 Lalbert Crescent and 23 Lalbert Crescent.

The dwellings to the east at 17 Lalbert Crescent has a setback of 7.8 metres for its primary façade, and a setback of 13.3 metres for its secondary façade. Whereas the dwelling to the west at 23 Lalbert Crescent has a setback of 6.1 metres for its primary façade, and a setback of 6.8 metres for its secondary façade.

Based on the above, the proposed development complies with the requirements of the modified Standard and therefore, meets the objective of Standard A3 (Street Setback).

#### *Side & Rear Setbacks*

Schedule 8 to the Neighbourhood Character Overlay modified Standard A10 and states that new walls constructed within 8 metres from the front facade of the building should have a minimum side setback of 2 metres.

Standard A10 (Side & Rear Setbacks) is used to assess the appropriateness of the remaining side and rear boundary setbacks.

Due to the design of the development, variations are proposed to modify Standard A10.

#### Secondary Interface

New walls constructed within 8 metres from the front facade of the building should have a minimum side setback of 2 metres.

The proposed façade of the secondary interface is setback 5.2 metres from the front façade of the dwelling. However, it should be noted that throughout the Precinct, there is a prevailing character that does not meet this standard. In comparison to the dwellings either side, the below table outlines the variations throughout:

|                               | <b>Primary Interface setback</b> | <b>Secondary Interface setback</b> | <b>Difference</b> |
|-------------------------------|----------------------------------|------------------------------------|-------------------|
| 17 Lalbert Crescent           | 7.80 metres                      | 13.3 metres                        | 5.5 metres        |
| <b>19-21 Lalbert Crescent</b> | <b>6.51-6.785 metres</b>         | <b>11.71 metres</b>                | <b>5.2 metres</b> |
| 23 Lalbert Crescent           | 6.1 metres                       | 6.8 metres                         | 0.7 metres        |

As this is a prevailing design feature of that within proximity to the subject site, the reduced setback of the secondary interface from the front façade of the dwelling is acceptable within this context. This reduced setback is considered to not adversely impact adjoining neighbours.

#### Eastern Boundary

After the above has been considered, Council must consider all other walls in line with all other requirements and exemptions of Standard A10. As such, the eastern wall of the stairwell structure is noted to be outside of the provisions of the Standard.

The height of the wall ranges from 5.4 metres to 5.5 metres above Natural Ground Level (front to the rear of the length of wall) and is setback 1.206 metres from the boundary. When the height and setback of the wall is considered with the requirements of the standard, it is noted that the wall should be setback an additional 334mm at the front of the wall to 364mm at the rear. Due to the open design of the stairwell, the requirements of compliance can be achieved, as the width of the stairwell is 2.40 metres, and an overall reduction of 364mm throughout the stairwell structure can be applied.

In order to comply, a condition will require stairwell structure to be setback in accordance with Standard A10.

The western walls of the dwelling comply with this requirement with regards to the setback at the Ground and First Level, as the proposed wall is setback 4.20 metres from the western boundary.

#### *Walls on Boundaries*

Schedule 8 to the Neighbourhood Character Overlay modified Standard A11 and states a wall may be constructed on or within 200mm of a boundary where:



- It is any other part of the building 8 metres or more behind the front façade of the building, or,
- It is a car parking structure that is at least 3 metres behind the most recessed part of the front façade of the building and located on one side boundary only.

The proposed dwelling has no walls on boundary.

As such, based on the above, the proposed development complies with the requirements of the modified Standard and therefore, meets the objective of Standard A11 (Walls on Boundaries).

#### *Design Detail*

Schedule 8 to the Neighbourhood Character Overlay modified Standard A19 and states that the design of buildings and extensions should respect the preferred neighbourhood character of the area, specifically in relation to:

- Scale and form

The Lalbert Crescent Precinct comprises of dwellings that are grand in scale, set within well-established gardens, and are detached from its neighbours.

The proposed dwelling has been designed to be grand in scale, setback from the boundaries with sufficient space for a new garden, with no walls on boundary being proposed. As such, the design meets the characteristics of the precinct.

- Roof form, pitch and eaves

The Lalbert Crescent Precinct has a predominate design feature of pitched hipped or gable roofs, and a projecting front room.

The proposed dwelling consists of a gable roofed design, which projects past the façade, and creates an overhang to the front and the rear of the house. Although it may appear that the dwelling does not have a projecting room, there is a secondary façade setback from the main dwelling, creating a contemporary interpretation of the design detail. As such, the design meets the characteristics of the precinct.

- Number of storeys

The Lalbert Crescent Precinct comprises of two to three storey dwellings.

The proposed dwelling is to be two storeys in height, which meets the characteristics of the precinct.

- Materials and finishes

The Lalbert Crescent Precinct's materials and finishes comprise of brick with terracotta tiled roofs.

The proposed dwelling is to be constructed out of brick, and will have a terracotta tiled roof, which meets the characteristics of the precinct.

- Façade articulation and detailing

The Lalbert Crescent Precinct dwellings are generally comprised of façade articulation, creating a primary and secondary façade, as well as additional detailing around windows and front façade features.



The proposed dwelling provides a primary and a secondary façade. The dwelling also achieves articulation throughout the front façade of the dwelling, by incorporating a balcony to the dwelling.

A design detail that needs to be considered thoroughly, is the design element of exposed metal used throughout the development, the design of the window fenestration, and the colours of the cladding used throughout. As per Council's Urban Design comments, Council finds this design detail to be considered foreign and not in keeping with the Precinct Character. Conditions will be included on the Permit to address this issue.

The dwelling also has windows stylised in a contemporary manner, to which meets the characteristics of the precinct.

- Window and door proportions

The Lalbert Crescent Precinct's window and door proportions are generally consistent between dwellings, with there being consistency between the proportion of the windows, and the proportions of the window shutters. Doors are average in size, and do not dominate the dwelling.

The proposed proportions of the windows are larger than that of other dwellings within the precinct, however their design complements that to which surrounds the site.

Doors are minimalistic in nature and are consistent with the design details throughout the site. As such, the proposal meets the characteristics of the precinct.

- Verandahs, eaves and parapets

The Lalbert Crescent Precinct's dwellings generally have verandahs, eaves and parapets throughout the dwelling.

The proposed dwelling consists of eaves that overhang the dwelling, allowing for better sun protection throughout the year. The design also has some parapet walls throughout. As the design is more contemporary in style, a verandah is not proposed, however the eaves create the illusion of a verandah within the site.

- Building siting

The Lalbert Crescent Precinct's dwellings are generally located centrally between the side boundaries and are of parallel orientation to the street with consistent front and side setbacks.

The proposed dwelling sits within the parameters above, by having a consistent setback to that of its adjoining neighbours and is oriented to meet that of its adjoining neighbours.

The dwelling is proposed to have a projecting front room, where the design of the contemporary dwelling complements the prevailing period character of the area.

- Siting and design of vehicle access and car parking structures

The proposed car parking structure is minimised, as the proposed car structure consists of a car lift within the front setback of the site. There will be no structure above ground level. As such, the proposal meets the characteristics of the precinct.

Additionally, new buildings should interpret the detailed elements of original dwellings that contribute to the neighbourhood character significance of the area in an innovative and contemporary manner that complements, rather than replicates, period dwelling styles.

As described above within the Detailed Design, the dwelling meets the characteristics of the Lalbert Crescent Precinct through an innovating and contemporary manner, whilst being able to complement the dwellings surrounding it through the additional design details outlined in the Neighbourhood Character Statement.

### Objections

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

- Introduction of a basement to the site/precinct

The 'Advertised Plans' (Council date stamped 25 September 2022) clearly show that the basement will be used for the purposes of car storage, rumpus room, a gym, and 'wet room' facilities. Having this type of arrangement in dwellings is not uncommon, with many other dwellings in the municipality adopting similar style rooms such as rumpus rooms or home theatres.

- Planning Scheme Amendment C285

18 Lalbert Crescent was in the process of being demolished and constructed at the timing of the consideration Planning Scheme Amendment C285. With the site being cleared prior to the Panel Hearing, and before the Panel Report being available to the public, its circumstances aided with the discussions of the modifications and inclusions of the planning controls.

The Panel Report, which was issued on 13 March 2020, mentions that the dwelling (18 Lalbert Crescent) is contemporary in design, however the proposed planning controls would be seeking to manage built form responses in a manner which respected the preferred character rather than inhibiting contemporary or innovative design responses.

The design of the proposed dwelling respects the preferred character through meeting the design details outlined in the varied Standard, as well as the objectives of the neighbourhood character.

### 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. 1050/21 - 19-21 Lalbert Crescent, Prahran [8.4.1 - 24 pages]

### Officer Recommendation

**That Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 1050/21 for the land located at 19-21 Lalbert Crescent, Prahran under the Stonnington Planning Scheme for demolition of the existing residential building and construction of one dwelling on a lot in a Neighbourhood Character Overlay and construction of a front fence in a Design and Development Overlay subject to the following conditions:**

- 1. Before the commencement of the development, one (1) copy of Architectural Plans drawn to scale and fully dimensioned, must be submitted to and approved by the Responsible Authority. The Architectural Plans must be generally in accordance with the 'Advertised Plans' (Council date stamp 25 September 2022) prepared by Ritz & Ghougassian but modified to show the following:**
  - a) All exposed metal framing elements to be concealed.**
  - b) The design of the window fenestration on the front façade to reflect the prevailing tri-partite character of the original building.**
  - c) An updated schedule of construction materials, external finishes and colours, including cladding materials and colours, to the satisfaction of the Responsible Authority.**
  - d) The eastern wall of the stairwell to be setback so that it complies with Standard A10 (Side and rear setbacks) to the satisfaction of the Responsible Authority. All other setbacks of the development must not be changed.**
  - e) The Basement plan to be notated to ensure that a minimum grade of 1:200 is provided within the basement to allow for drainage.**
  - f) The garage parking bays to be dimensioned on the Basement plan.**
  - g) Dimensions of the car lift platform to be shown on the Basement and Ground Floor plans.**
  - h) A notation shown on the Elevation plans stating that the headroom height of the car lift and the basement is a minimum of 2.1 metres.**
  - i) The eastern (redundant) vehicular crossing on Lalbert Crescent shown to be removed on the Demolition plans.**
  - j) The footpath, nature strip and kerb reinstatement (in the location of the redundant vehicular crossing on Lalbert Crescent) must be shown on the Development Plans.**
  - k) Submission of car lift documentation required by Condition 4 (Car Lift Specification Documentation).**
  - l) A notation on the plans detailing the relevant information as per Condition 4.**

**All to the satisfaction of the Responsible Authority.**

2. ***The layout of the site and the size, levels, design, and location of buildings and works shown on the endorsed plans must not be modified for any reason, without the prior written consent of the Responsible Authority.***
3. ***Prior to the occupation of the building, 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.***
4. ***Prior to the endorsement of plans, the car lift specification documentation must be submitted to and approved by the Responsible Authority.***
5. ***Prior to occupation, the car lift modules must be installed in accordance with the technical specifications shown on the endorsed plans, to the satisfaction of the Responsible Authority.***
6. ***The car lift must be maintained in good working order and be made permanently available for the parking of vehicles in accordance with their purpose, to the satisfaction of the Responsible Authority.***
7. ***The project must incorporate the Water Sensitive Urban Design (WSUD) initiatives detailed in the endorsed site plan and/or stormwater management report.***
8. ***The existing footpath levels must not be raised or altered in any way at the property line (to facilitate the driveway ramps).***
9. ***The redundant vehicular crossing must be removed and the footpath, nature strip and kerb reinstated at the owner's cost to the satisfaction of Council.***
10. ***Any poles, service pits or other structures/features on the footpath required to be relocated to facilitate the development must be done so at the cost of the applicant and subject to the relevant authority's consent.***
11. ***This permit will expire if one of the following circumstances applies:***
  - a) ***The development is not started within two years of the date of this permit.***
  - b) ***The development is not completed within four years of the date of this permit.***

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

#### **NOTES**

- A. ***This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.***
- B. ***Nothing in 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:***

- i. with a trunk circumference of 140 cm or greater measured at 1.4 m above its base;*
- ii. with a total circumference of all its trunks of 140 cm or greater measured at 1.4 m above its base;*
- iii. with a trunk circumference of 180 cm or greater measured at its base; or*
- iv. 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.*

- C. 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's Arborists on 8290 1333 for further information.*
- D. This permit application was not assessed in full against the provisions of Clause 54 – One Dwelling on a Lot (ResCode) of the Stonnington Planning Scheme. Consideration of only the following modified Clause 54 Standards has been undertaken:*
  - i. Standard A3 - Street setback objective.*
  - ii. Standard A10 - Side and rear setbacks*
  - iii. Standard A11 - Walls on boundaries objective.*
  - iv. Standard A19 - Design Detail.*

*As such, it is the responsibility of the applicant/owner to appoint a Registered Building Surveyor to determine compliance of the endorsed plans associated with the issue of this Planning Permit against Part 4 of the Building Regulations 2006. Noncompliance with any Regulation will require dispensation from Council's Building Control Services Department.*

- 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. 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.*

## 8.5 Planning Amendment 0979/13 - 43 Porter Street, Prahran

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

### Purpose of Report

For Council to consider a planning amendment for construction of buildings and works and use of the land for office in the Activity Centre Zone and a reduction in the car parking requirement at 43 Porter Street, Prahran.

### Abstract

#### Proposal

The proposal seeks to amend the existing planning permit which allowed for development of the land for a seven-storey building comprising office and dwellings, to provide offices to all floors, increase the height of the building to eight storeys with associated changes to the built form, layout and car parking provision.

#### Officer Recommendation Summary

That Council authorise Officers to issue an amended **Planning Permit** subject to conditions outlined in the Officer Recommendation. **The proposal is supported** for the following reasons:

- The proposal enjoys strategic support by State and Local Planning Policy.
- The proposed commercial use is a beneficial addition to the local economic diversity of the activity centre.
- The proposed amendments retain a site responsive design which will not have unreasonable impacts on the amenity of neighbouring properties.
- The proposal provides sufficient parking for the intended use given the site's proximity to public transport.

#### Issues

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

- Use of the building for offices (refer to Strategic Context assessment);
- Building height and setbacks (refer to Built Form assessment);
- Amenity impacts on adjacent properties (refer to Amenity Impacts assessment); and
- Car parking impacts (refer to Car Parking and Traffic assessment).

#### Officer's response

The subject site is located within the Chapel Street Principal Activity Centre within the Prahran Precinct. Relevant planning policy encourages office use in such locations in order to contribute to improving the local economy with increased employment opportunities to support the long-term viability of the activity centre.

Although an additional floor is proposed, the development does not exceed the preferred height limit and generally complies with all the built form requirements for the precinct.

The amended design responds appropriately to the layout of adjacent residential buildings within the activity centre and will not result in unreasonable amenity impacts on existing properties.

The reduction of car parking proposed on site is considered to be acceptable having regard to the sole use of the building as an office and the availability of alternative modes of transport in the activity centre. It is considered the shortfall of spaces on site will not have significant impact on parking amenity in the area and the modest provision of parking will not result in unreasonable traffic impacts.

### Executive Summary

|   |                                     |
|---|-------------------------------------|
| Applicant:                                      | Headland (VIC) Pty Ltd<br>c/- Urbis |
| Ward:   | South                               |
| Zone:   | Activity Centre Zone                |
| Overlay:  | N/A                                 |
| Commercial Precinct:                            | Chapel Street Prahran Precinct      |
| Date Lodged:                                    | 21 July 2022                        |
| Statutory Days:<br>(as at Council Meeting date) | 33                                  |
| Trigger for Referral to Council:                | Number of storeys                   |
| Number of Objections:                           | N/A                                 |
| Consultative Meeting:                           | N/A                                 |
| Officer Recommendation                          | Amend Planning Permit               |

### Background

#### History

Planning Permit 979/13 was issued on 25 February 2015 and allows for a mixed-use development of the land for office and dwellings in a Commercial 1 Zone, Design and Development Overlay and associated reduction in the car parking requirement.

Essentially, the existing planning permit allows construction of a seven-storey mixed use building comprising a 19 square metre office at ground floor and a total of 24 apartments on the upper floors (8 x one bedroom and 16 x two bedroom), with 18 car parking spaces (in car stackers) accessed from Porter Street. The permitted building height is 23 metres (not including roof services) with a street wall height of 10 metres. Above ground floor the building is setback 1.5 metres from the south boundary and 4.5 metres from the east boundary.

Plans were endorsed to form part of the permit on 19 June 2019. The permit has been extended and will expire if construction is not commenced by 25 February 2023.

#### The Proposal



The plans that form part of the basis of Council's consideration were prepared by Elenberg Fraser and are known as Project No. 13022, Drawing No's: A0001 – A0005, A0098 – A0101, a0105, A0107, A0108, A0900 – A0903, A0950, A0951, A1100 and A1620, Council date stamped 10 November 2022.

The application seeks approval under Section 72 of the *Planning & Environment Act 1987* for the following amendments to the permit and endorsed plans:

- Deletion of the accommodation component and replacement with office use on all floors of the building, with associated reconfiguration of the internal layout. The net floor area of the office totals 2,169 square metres.
- Reconfiguration of the car parking and access arrangements. A total of 21 car parking spaces are proposed at ground floor and within two levels of basement, accessed from Porter Street via a car lift. 48 bicycle parking spaces are proposed in the upper-level basement, with adjacent bike maintenance area and lockers. Showers and change room facilities are located within the offices.
- External alterations to the built form. The application proposes a street wall height of 17.9 metres and a maximum building height of 27 metres (not including roof services). Above ground floor, the proposed development maintains a 1.5 metre setback to the south boundary and a 4.5 metre setback to the east boundary, consistent with the existing permit.
- Provision of a 101 square metre roof top terrace located toward the front half of the building. Balconies are also proposed on floors 1 to 7 facing east (rear) and on the fifth floor facing west (street frontage).
- Reword the permit preamble to refer to development and use of the land for office in the Activity Centre Zone and associated car parking reduction.
- Modification of permit conditions as required.

### Site and Surrounds

The site is located on the eastern side of Porter Street approximately 75 metres north of Greville Street, Prahran. The site has the following significant characteristics:

- A frontage to Porter Street of 11.43 metres, a depth of 44.46 metres and a total site area of approximately 508 sqm. It is noted that the title includes around 1 metre of land which is occupied by 6 and 7 Grattan Street to the east, specifically the secluded private open space at the rear of these properties. Although within the subject site's boundary, this portion of the land is not sought to be developed under this application.
- The site is currently developed with a single storey warehouse, which is setback from Porter Street by around 12 metres. The frontage is paved and used for car parking.
- The site is served by a central crossover from Porter Street.
- One tree is located within the north-west corner of the site. The tree's removal was supported under the existing permit.
- There is a topographical fall across the site from east to west of approximately 1 metre.

The site is located within a commercial context; specifically, Porter Street represents the western edge of the Chapel Street Principal Activity Centre. Opposite the site is the railway line, west of which are residential properties.

Properties directly adjoining the site are all located within the activity centre and are described as follows:

- 42 Porter Street is located immediately south of the site and is developed with eight storey residential building. Planning Permit 996/07 limits use of this site to student accommodation (up to level 5) and serviced apartments (on levels 6 and 7 only).  
The building at 42 Porter Street has a stepped setback between 1.3 metres and 3.2 metres from the common boundary with the application site. Within the front portion of the building, which is setback 1.3 metres from the common boundary, there are no habitable room windows, however beyond this there are numerous apartments which have habitable rooms and balconies setback 3.2 metres from the common boundary.
- 44 Porter Street is located immediately north of the site and is developed in a similar way to the application site, with a single storey warehouse building setback behind a paved frontage. No existing permission exists to redevelop this property.
- Immediately to the east (rear) is 6 and 7 Grattan Street, which are both developed with single storey cottages. At the rear of both properties, and providing the immediate interface to the subject site, is an area of secluded private open space. The respective dwellings are setback around 4.6 metres from the edge of the existing building on the subject site.

#### Previous Planning Application/s

The history of Planning Permit 979/13, which this application seeks to amend, is detailed within the Background section above.

#### The Title

The site is described on Certificate of Title Volume 8440 Folio 269 as Lot 1 on Title Plan 318486K. No covenants or easements affect the land.

#### Planning Controls

Section 73(1) of the *Planning and Environment Act 1987* states that Sections 47 to 62 apply to an application to amend a permit as if the application were an application for a permit and any reference to a permit were a reference to the amendment to the permit.

Therefore, the amendments to the permit and plans are to be assessed against the relevant planning controls affecting the proposal.

Note: Only the changes to the approved proposal are considered as part of this application for amendment.

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

#### Zone

Clause 37.08 – Activity Centre Zone, Schedule 1

Pursuant to Clause 37.08-2, land uses are detailed in Schedule 1 to the ACZ (ACZ1). In this case, as the ground floor frontage to the office exceeds 2 metres in width, a permit is required to use the land for office.

Pursuant to Clause 37.08-5, a permit is required for construction of buildings and works. Pursuant to Clause 37.08-6 a permit may be granted to construct buildings or works which are not in accordance with any discretionary design and development requirement specified in Schedule 1.

The subject site is located within Sub-Precinct GV-7 in the Prahran Precinct (Precinct 3) and is designated for Side Street Uses in the ACZ1. The ACZ1 identifies the following preferred built form guidelines applicable to development in GV-7:

- Preferred maximum building height of 27 metres (8 storeys);
- 1 metre street setback to Porter Street;
- Maximum street wall height to Porter Street of 21 metres with different materials and form required above 12 metres, and a 4-metre setback to upper levels beyond street wall (Type 1 interface).

#### *Particular Provisions*

Pursuant to Clause 52.06-3 a permit is required to reduce the number of car parking spaces required for a new use under Clause 52.06-5.

Pursuant to Clause 52.06-5, an office use generates 3 spaces to each 100 square metres of net floor area. The site is located within the Principal Public Transport Network area thus there is no requirement for visitor car parking.

The amended proposal generates a total requirement of 65 car parking spaces. The development provides for 21 parking spaces on site and therefore seeks a permit to reduce the car parking requirements.

#### Clause 52.34 – Bicycle Facilities

Bicycle parking is to be provided in accordance with Clause 52.34 which results in a requirement of 9 bicycle parking spaces (7 employee and 2 visitor) and 1 shower and change room facility for staff.

The proposal exceeds the statutory requirements with 48 bicycle spaces for employees and visitors and a total of 7 shower/change rooms for staff (one on each floor above ground). Therefore, a permit is not required under this provision.

#### Relevant Planning Policies

Clause 11.03-1S - Activity Centres

Clause 15 - Built Environment and Heritage

Clause 21.03 - Vision

Clause 21.04 - Economic Development

Clause 21.06 - Built Environment and Heritage

Clause 21.08 - Infrastructure

Clause 22.05 - Environmentally Sustainable Development Policy

Clause 22.18 - Water Sensitive Urban Design Policy

#### Advertising

The application is exempt from notice and review.

Pursuant to Clause 37.08-8 (ACZ) and part 7.0 of Schedule 1, the application is exempt due to the following:

- The buildings and works are not within 30 metres of land (not a road) in a residential zone, land used for a hospital or an education centre or land in a Public Acquisition Overlay to be acquired for a hospital or an education centre.
- The buildings and works do not exceed either the preferred maximum building height or minimum setback requirement as outlined within the relevant precinct requirements.
- The proposed use of land does not include an adult sex product shop, gambling premises, bottle shop, hotel, nightclub or bar.

Pursuant to Clause 52.06-4 (Car Parking) an application to reduce the number of car parking spaces required under 52.06 is exempt from notice and review provided the application is only for a permit under 52.06-3 or the application is also for a permit under another provision of the planning scheme and is exempt from notice requirements.

Given that the application is exempt from notice and review, the application cannot be advertised.

### Referrals

Comments received from internal departments are summarised as follows:

#### *Urban Design*

- Council's Urban Designer was generally supportive of the application however noted that there was concern with the approach to the design of the office floor plates and the minimal setback of the fully glazed window wall (south elevation) from the southern site boundary. The office floors rely, to a significant extent, upon the natural light and outlook provided by this southern window wall.
- The close proximity and orientation of the eight storey glazed wall to the adjoining residential building to the south (42 Porter Street) results in an unreasonable loss of privacy to the north facing habitable rooms at 42 Porter Street.

Planner note: In response to the above concern, the applicant submitted revised plans which show screening in the form of a ceramic fritted glass to the southern façade to protect the privacy of adjacent habitable room windows and balconies. Council's Urban Designer has confirmed that this is an acceptable response to ensure the amended development does not unreasonably impact upon the amenity of the adjoining residential building. The application is now supported by the Urban Designer.

#### *Traffic & Parking*

- The proposal is to provide 21 parking spaces which represents a shortfall of 44 total parking spaces from the Planning Scheme requirements.
- Office use is most readily adaptable to other modes of transport and employees in this area are more likely to use alternative modes of transport rather than drive. The proposed development is located in very close proximity to a number of tram and train services, as well as car share locations and bicycle facilities. In addition, the proposed site is easily accessible for pedestrians.
- The on-street parking in the area is highly restricted with short term parking restrictions applying in the majority of the local area. As most of the parking is short term restricted

parking and in high demand due to the location, the desired long term on-street parking for office employees has limited availability in the area.

- The shortfall of office parking on-site is considered reasonable.
- The accessway width exceeds the requirements of the Australian Standards and is satisfactory.
- Headroom clearance height at the entrance to the garage of 2.5 metres is supported.
- The plans include a sight triangle on the north side of the car park entry and propose a convex mirror to enable visibility of the southern side. This is supported.
- The car parking dimensions are satisfactory.
- One of the car parking spaces is accessible and has been appropriately designed and dimensioned. The plans should indicate a bollard within the shared area.
- The location and dimensioned length of columns adjacent to parking spaces is supported.
- The gradient of 1:4 from the property boundary is supported.
- The dimensions of the car lift and the waiting bay are supported.
- The proposed car lift has an average service time of approximately 65 seconds which equates to a maximum capacity of 55 vehicle movements per hour. As the site is expected to generate 11 vehicle movements in the peak hour, it is expected that the car lift would be able to suitably manage the capacity for this site.
- The requirements of the Planning Scheme are for 9 bicycle spaces on site. 48 spaces are proposed within the secure bicycle store within the basement. Easy access for visitors must be assured or alternatively consider installing spaces on the ground level for visitors.
- Showers/changeroom facilities are proposed on each level of the development which exceeds the requirements of the Planning Scheme.
- The plans should include dimensions of bicycle parking in accordance with Australian Standards.
- The plans should demonstrate that 20% of on-site bicycle parking will be provided in horizontal floor mounted racks in accordance with Australian Standards.

#### *Waste Management*

- A comprehensive Waste Management Plan accompanied this proposal.
- Should a planning permit be issued for the development, a Waste Management Plan similar to that submitted should be required by condition of permit.

#### *Infrastructure*

- No issues subject to permit conditions regarding drainage design, stormwater system and removal of redundant vehicle crossover.

#### *Environmentally Sensitive Design*

- The application raises concerns in relation to daylight access to levels 1 to 3 and adequate external shading devices to the west facing windows on levels 5 to 7.

- Subject to addressing the above, the proposed development could provide an acceptable outcome from an ESD perspective provided that details in the SMP and on plans are consistent.
- It is considered that all matters can be dealt with by way of permit conditions.

### Key Issues and Discussion

As previously indicated, the amendments to the permit and plans are to be assessed against the relevant planning controls affecting the proposal. However, it must be noted that only the changes to the approved proposal are to be considered as part of this assessment.

### Strategic Context

The overarching policies and objectives at both a State and Local level support the development and growth of activity centres that are highly accessible to the community, and encourage a broad range of land uses, such as retail, office, services, entertainment and residential.

A purpose of the Activity Centre Zone is to *encourage a mixture of uses and the intensive development of the activity centre*, and to *facilitate use and development of land in accordance with the Development Framework for the activity centre*.

The proposed use of the new building solely for offices is consistent with the purpose of the zone and will contribute to improving the local economy with increased employment opportunities to complement the role of the activity centre as a focus for business. The site is not located within a retail strip therefore ground floor office use is supported, particularly noting that the approved development incorporated a small ground floor office and no retail component.

The proposal seeks to develop a currently underutilised site within the Prahran Precinct. The changes sought to the approved development provide an improved site responsive design which will activate the public realm and enhance the pedestrian environment.

Overall, the introduction of an office building at this location is deemed to be an appropriate outcome and is supported by planning policy.

### Built Form

The amended proposal is consistent with the built form objectives of the ACZ1 for the Prahran Precinct and is generally considered to provide an improved response to the permitted development.

The amended development proposes an increase of one floor (additional building height of 4 metres) resulting in a proposed building height of 27 metres (eight storeys). This aligns with the preferred height limit of 27 metres for the GV-7 sub-precinct and maximises the development potential of the site. All roof services, screening and balustrades are set in from the parapet to minimise any visual impact and the terrace is unroofed.

The preferred maximum street wall height is 21 metres with a preferred minimum setback of 4 metres above the street wall. The proposed street wall height is 17.9 metres and is compatible with the adjacent development to the south which has a five-storey street wall. Above the podium, the three upper levels are setback 4 metres from the frontage in compliance with the ACZ1. It is noted the street wall materiality and form does not alter above 12 metres; however, this is consistent with the existing approval and can be

supported. Council's Urban Designer is satisfied that the height and design of the street wall is appropriate.

The building is setback a minimum of 1 metre from the street frontage as required by the ACZ1 which seeks to provide a safer walking environment and improve pedestrian amenity. This is an improvement on the permitted development which is not setback from the street boundary.

The amended development seeks to remove light wells to the north and south elevations previously relied on for daylight to bedroom windows, yet does not seek to reduce the approved minimum side and rear setbacks. The proposed development is constructed entirely to the northern boundary and abuts an existing single storey boundary wall on the adjacent site. This is generally consistent with the existing approval (apart from deletion of light wells) and enables equitable development opportunities on the under-developed site to the north. It is likely that the north elevation of the building will be visible only for the short to medium term, until such time as the site's neighbours are developed, thus the visual impact from the proposed solid wall is considered acceptable as it is likely to be a temporary outcome.

To the south, above ground floor the development maintains a 1.5 metre setback consistent with the existing permit and to the east, a 4.5 metre setback is maintained to balconies. This is measured from the eastern wall of the existing building on the subject site, rather than the title boundary which extends into the adjacent property's back yards. Again, this is consistent with the requirements of the existing permit. Upholding these setbacks ensures that the amended proposal will not further impact on the amenity of adjacent dwellings beyond the existing approval which established the merits of the setbacks.

The amended development provides a high quality, well-articulated architectural form and utilises a subtle colour palette of materials and finishes which will complement the diverse built form found in the vicinity. The ground level façade provides good activation of the street with the office lobby and adjacent meeting room being fully glazed. Low level landscaping within planter boxes at ground, first, third and fifth floors will assist to soften the façade. Again, this is an improvement on the existing approval which did not incorporate any landscaping.

On the whole, the built form changes sought do not represent a significant departure from the approved development and the new building will sit comfortably within its surrounding context.

### Amenity Impacts

Having regard to the limited changes proposed and that the building maintains approved side and rear setbacks, the amended proposal will not significantly alter the potential amenity impacts on adjacent properties with regard to outlook and daylight. The other typical amenity considerations are overshadowing and overlooking, yet it must be acknowledged that ResCode standards do not apply to this development.

Rather, the ACZ1 calls for consideration of overshadowing on the public realm, and the increased building height of 4 metres will not significantly alter this outcome. The development complies with the relevant overshadowing guidelines.

Above the ground floor boundary wall, the south elevation of the amended development is predominantly fully glazed. Planter boxes for landscaping on a trellis network are



incorporated into clear glazing on the south elevation of the podium at levels 1 to 4, extending for 9 metres from the façade where the building is adjacent to neighbouring built form which is setback 1.3 metres from the common boundary. Beyond this portion of the development, where the proposal is adjacent to windows and balconies associated with the student accommodation/serviced apartment building, the application proposes 25% solid translucent ceramic frit panels. These have been specifically introduced to resolve potential privacy conflicts with the adjacent habitable spaces to the south. This is considered to be an acceptable response to ensure overlooking is limited and is generally consistent with the approved development which incorporated fixed external screens to south facing windows.

To the rear, the approved apartment scheme incorporated east facing balconies on all floors above ground level and, as the development proposed dwellings, 1.7-metre-high balcony screens were incorporated to limit overlooking into adjacent secluded private open space to the east. The proposed plans retain the rear balconies yet with a standard balustrade height. The potential for overlooking from the development is considered to be lessened having regard to the residential use being replaced with a wholly commercial use which is typically only occupied during business hours. It is noted there is no requirement for screening given the commercial use. Furthermore, the properties to the east of the site are located within the ACZ and are potential redevelopment sites with a preferred height of up to five storeys (18 metres). The balconies are located 5.68 metres from the eastern title boundary which ensures equitable development opportunities are maintained as sufficient separation can be provided between any future development. It is considered any overlooking impacts will not be unreasonable in this context.

Similarly, given the activity centre location and that the balconies and proposed roof terrace are associated with an office development, it is considered that the development will not result in any unreasonable noise impacts.

### Car Parking and Traffic

The amended development proposes 21 car parking spaces on site, which is 3 more than the existing approval, and is seeking a reduction in the statutory requirement of 44 spaces.

Given that the site is located within a Principal Activity Centre and is located within easy reach of Prahran Train Station and trams on Commercial Road, Chapel Street and High Street, there is strong justification to reduce the on-site parking provision. Traffic within the Prahran Precinct is becoming more difficult, and it is a broadly accepted theory that a reduction in the availability of car parking encourages a shift to alternative modes of transport.

Local policy encourages the use of more sustainable transport options to reduce traffic and parking congestion. It is also noted that the proposal includes 48 bicycle parking spaces on site, which well exceeds the statutory requirement of 9 spaces.

Council's Traffic Engineering unit does not oppose the reduction in car parking sought given the proposed use of the development as offices. They consistently hold the view that office staff are typically the most common users to mode shift away from private vehicle usage, opting instead for alternative modes of transport. The existing parking restrictions in the surrounding area typically operate during the day, making driving to the site less attractive to staff if there is no allocated car park.

The reduced car parking provision will help to minimise the impact of the development on traffic congestion in the surrounding streets. Council's Traffic Engineers have confirmed that traffic generated by the development is not expected to unreasonably impact the surrounding road network.

For these reasons, the proposed parking provision on site can be considered satisfactory.

The parking area is appropriately located at the rear of the building at ground floor and within the basement to minimise its visibility from the street. This is consistent with the approved development, with the most notable change being that the vehicle access is now proposed from the southern end of the frontage where previously it was provided from the northern end. This is acceptable and the single width accessway will not dominate the frontage.

Due to the site constraints, the basement parking is proposed to be accessed via a car lift. Council's Traffic Engineer has confirmed that, based on the average service time and the number of parking spaces proposed, the lift is capable of supporting the expected number of traffic movements in peak hour. A waiting bay is located directly in front of the lift in case it is already being utilised. Queuing of excess vehicles in Porter Street is unlikely to occur given the limited number of traffic movements anticipated in the morning peak. It is also unlikely that a car would need to reverse out of the waiting bay due to another vehicle exiting the site, as it is expected that traffic movements into and out of the site would generally be one directional, i.e. staff arrive in the morning peak and leave in the evening peak.

The layout of the access and parking areas meet the applicable design standards of the planning scheme and Australian Standards where relevant. Additional details on the plans requested in the Traffic Engineering comments will be addressed via permit conditions.

There is no requirement for a loading bay to be provided on site. The development will need to utilise the loading zone on Porter Street.

### Sustainable Design Assessment

The building has been designed with a number of ESD commitments with the intent of meeting the objectives of Council's ESD Policy at Clause 22.05 and Stormwater Management (WSUD) Policy at Clause 22.18, as outlined in the submitted Sustainability Management Plan (SMP). The SMP indicates the development will receive a BESS score of 59% and a STORM rating of 104%, thereby meeting best practice.

The SMP has been reviewed by Council's ESD Advisor who has recommended several conditions of permit to ensure that the development will achieve an appropriate sustainable design outcome in line with local policy objectives.

Specifically, external shading that is currently proposed to the western façade glazing will have minimal impact on reducing excessive heat gains during the warmer months as large areas of glazing will be exposed to the relatively low sun angles in mid-summer. Therefore, a more comprehensive external shading strategy is required to the upper levels.

Furthermore, the proposed ceramic fritted glazing to the southern facade, which only has a visual light transmittance (VLT) of 12%, will reduce daylight access which is a concern on levels 1 to 3. It is recommended to be substituted with either opaque or fluted glazing with a minimum VLT of 60% to improve daylight access to the lower levels. The plans must reflect the VLT used in daylight modelling. It is noted that the suggested change to opaque or

fluted glazing will continue to limit unreasonable overlooking of the adjoining development to the south as discussed above.

Permit conditions are included within the recommendation to address the above matters and require an updated SMP which incorporates the required changes.

## 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. 979/13 - 43 Porter Street, Prahran [8.5.1 - 27 pages]

## Officer Recommendation

***That Council AUTHORISE Officers to issue an Amended Planning Permit No: 979/13 for the land located at 43 Porter Street, Prahran under the Stonnington Planning Scheme for construction of buildings and works and use of the land for office in the Activity Centre Zone and a reduction in the car parking requirement subject to the following conditions:***

1. ***Before the commencement of the development, one 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 prepared by Elenberg Fraser, Council date stamped 10 November 2022, but modified to show:***
  - a) ***A bollard indicated within the shared area of the accessible parking bay.***
  - b) ***Dimensions of bicycle parking in accordance with Australian Standards.***
  - c) ***At least 20% of bicycle parking spaces to be provided in horizontal floor mounted racks in accordance with Australian Standards.***
  - d) ***The ceramic fritted glazing to the southern façade (VLT of 12%) substituted with either opaque or fluted glazing with a minimum VLT of 60% to improve daylight access Levels 1 to 3. The revised glazing must not exceed 25% transparency to a minimum height of 1.7 metres above finished floor level.***
  - e) ***External shading devices to west facing glazing on Levels 5, 6 and 7, which could be in the form of operable louvres, sliding shutters or external blinds. The external shading devices are to be clearly shown/noted on the plans and elevations.***

- f) ***Any changes required to accord with conditions 3 (WMP), 4 (SMP) and 6 (WSUD).***

***All to the satisfaction of the Responsible Authority.***

- 2. ***The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason, without the prior written consent of the Responsible Authority.***
- 3. ***Prior to the endorsement of plans, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by Leigh Design dated 1 July 2022 and must include:***
  - a) ***Dimensions of waste areas.***
  - b) ***The number of bins to be provided.***
  - c) ***Method of waste and recyclables collection.***
  - d) ***Hours of waste and recyclables collection.***
  - e) ***Method of presentation of bins for waste collection.***
  - f) ***Strategies for how the generation of waste and recyclables from the development will be minimised.***

***Waste collection from the development must be in accordance with the Waste Management Plan, to the satisfaction of the Responsible Authority.***

- 4. ***Prior to the endorsement of any plans pursuant to Condition 1 a Sustainable Management Plan (SMP) must be submitted to and approved by the Responsible Authority. When approved the SMP will be endorsed and will then form part of the permit. The development must incorporate the sustainable design initiatives outlined in the SMP to the satisfaction of the Responsible Authority. Amendments to the SMP must be incorporated into plan changes required under Condition 1. The SMP must be generally in accordance with the report prepared by GIW Environmental Solutions dated 29 June 2022, but modified to show:***
  - a) ***Updated daylight modelling using glazing with a minimum visual light transmittance (VLT) of 60% on Levels 1 to 3 to improve daylight access to these floors. The plans are to be annotated to accurately reflect the VLT of all glazing in accordance with daylight modelling.***
  - b) ***If BESS credit 3.1 Water Efficient Landscaping is claimed, confirmation from the project Landscape Architect that the proposed planting requires no irrigation system and does not require watering after an initial period when plants are getting established. Alternatively, a notation is to be included on the plans confirming the landscape irrigation system is connected only to a rainwater tank and no potable water (mains water supply) is used for irrigation.***
  - c) ***If BESS credit 4.1 Building System Water Use Reduction is claimed, a notation is to be included on the plans confirming the water used for fire***

*testing is to be collected onsite and details of the intended re-use is to be provided.*

- d) A preliminary NCC façade assessment used to determine the façade performance values for the JV3 energy modelling reference building is to be provided.*
- e) The provision of Carbon Monoxide (CO) monitoring to the basement carpark mechanical ventilation system, and an annotation included on the basement plans confirming this commitment.*
- f) A notation included on the plans confirming the minimum visual light transmittance (VLT) of the glazing as used for the daylight modelling.*
- g) A commitment to implement a construction waste management plan, targeting a recycling target during demolition and construction of 80%.*
- h) A water balance calculation / report to be provided to ensure that the daily water demand entered into STORM is appropriate for an office space and takes into account a reduced rate of occupancy of five days per week. Alternatively the rainwater tank is to be connected to the toilets on Level 1 and 2.*

*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 the written consent of the Responsible Authority.*

- 5. Prior to the occupation of the building, a report from the author of the Sustainability Management Plan approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Sustainability Management Plan have been implemented in accordance with the approved plan.*
- 6. Prior to the endorsement of 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.*
- 7. The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.*
- 8. Prior to the commencement of the use/occupation of the building, 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.*
- 9. 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 Registered Professional Civil Engineer (VIC) in accordance with all 'recommendations' and requirements contained in that report. All*

***drainage must be by means of a gravity-based system with the exception of runoff from any basement ramp and agricultural drains which may be pumped. The relevant building surveyor must check and approve the drainage design and ensure that protection of the building is provided from a 1 in 100 A.R.I. rainfall event as required by the Building Regulations.***

- 10. Prior to an 'Occupancy Permit' being issued, a Registered Professional Civil Engineer (VIC) 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.***
- 11. The redundant section of the vehicular crossing must be removed and the footpath and kerb reinstated at the owner's cost to the satisfaction of Council.***
- 12. Prior to the commencement of the development hereby approved, the owner/developer must obtain approval from Council's Building and Local Laws Department to construct or modify any vehicle crossover/s providing access to the subject site. The issue of a planning permit does not provide approval for vehicular crossovers which are outside of the title boundary.***
- 13. 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.***
- 14. 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.***
- 15. The level of the footpaths must not be lowered or altered in any way to facilitate access to the site.***
- 16. All loading and unloading of goods must be undertaken in accordance with Council's Local Laws.***
- 17. Prior to 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.***
- 18. This permit will expire if one of the following circumstances applies:***
  - a) The development is not started within two years of the date of issue of the amended permit.***
  - b) The development is not completed within four years of the date of issue of the amended permit.***
  - c) The use is not commenced within five years of the date of issue of the amended permit.***
  - d) The use is discontinued for a period of two years or more.***



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

**NOTES:**

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

- C. 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.**
- 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.**



## 8.6 Instrument of Appointment & Authorisation - Statutory Planning

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

### Linkage to Council Plan

**Direction 3: A people-centred and future ready city**

3.4 Fit for purpose operating model and resource management

### Purpose of Report

The purpose of this report is for the Council to consider executing an Instrument of Appointment and Authorisation under the Planning and Environment Act 1987 for Mitchell Robinson.

### Officer Recommendation

***That the Council RESOLVE, in the exercise of the powers conferred by section 224 of the Local Government Act 1989 (Vic) and the other legislation referred to in the attached Instrument of Appointment and Authorisation, that:***

- 1. The members of Council staff referred to in the Instrument of Appointment and Authorisation (Attachment 1 as annexed to the minutes) be APPOINTED and AUTHORISED as set out in the Instrument.***
- 2. The Instrument of Appointment and Authorisation COMES INTO FORCE immediately once the common seal of Council is affixed to the Instrument, and remains in force until Council determines to vary or revoke it.***
- 3. The Instrument of Appointment and Authorisation be SEALED.***

### Background

- The appointment of authorised officers enables appropriate staff within the organisation to administer and enforce various Acts, regulations or local laws in accordance with the powers granted to them under legislation or a local law.
- Instruments of Appointment and Authorisation are prepared based on advice from the Maddocks Authorisations and Delegations Service. Whilst the appointment and authorisation of authorised officers under other relevant legislation is done by the Chief Executive Officer under delegation, Maddocks recommend that officers enforcing the *Planning and Environment Act 1987 (Vic)* be authorised by Council resolution. Maddocks also recommend that Instruments of Appointment and Authorisation be refreshed on a regular basis. The instruments are reviewed regularly and updated due to:
  - appointment of new staff;
  - changes in the names of Acts;
  - the introduction, amendment or revocation of legislation;
  - changes in position titles; and
  - changes in roles.

## **Governance Compliance**

### Policy Implications

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

### Financial and Resource Implications

4. The costs to prepare the Instrument are minimal and met within the current operational budget.

### Conflicts of Interest Disclosure

5. 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

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

### Environmental Implications

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

### Community Consultation

8. There was no requirement for community consultation.

### Human Rights Consideration

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

## **Attachments**

1. S11A - Instrument of Appointment Authorisation - Mitchell Robinson [**8.6.1** - 2 pages]

## 8.7 Lime Trial Review

**Manager Transport & Parking: Ian McLauchlan**

**Acting Director Environment & Infrastructure: Simon Holloway**

### Linkage to Council Plan

**Direction 1: A thriving and unique place**

1.4 Active transport and connected city

**Direction 2: An inclusive and healthy community**

2.4 Sustainability and climate action

### Purpose of Report

To provide an evaluation of the Lime E-bikes Trial after eight months of operation and propose the next steps for Council consideration.

### Officer Recommendation

**That Council:**

- 1. NOTE the results of the Lime E-bikes Trial after eight months of operation.**
- 2. APPROVE the following recommendations:**
  - a. Extend the e-bike sharing scheme to be ongoing after the Trial ends (14 February 2023) and review after a period of two years.**
  - b. Open local operations to other service providers (to a maximum of two) to increase competition and lower costs for residents to access the service.**
  - c. Seek to increase the local vehicle fleet size to a maximum of 500 pending demand and capacity when usage reaches 2.5 rides per day per bike in line with standard practice worldwide. (Current maximum of 200)**
  - d. Implement No Ride zones and No Parking zones on an as need basis to maintain safety and amenity of public spaces.**

### Executive Summary

1. The Lime E-bike Trial has been running since 14 February 2022.
2. A total of 7,672 trips have been completed in Stonnington (as on 31 October 2022) since the start of the trial. The average trip distance is 2.35 km and 14.1 minutes. This indicates that Lime E-bikes are being used by the community for short trips and 'last mile' connections that might otherwise be made by private vehicles.
3. There are about 100 bikes currently operating in Stonnington and this will be increased to up to 200 bikes over the next four months, pending demand and capacity of deployment locations.

### Background

4. In November 2021, Council endorsed the one-year trial of Lime Pty Ltd (Lime) dockless electric bike scheme in Stonnington at no operational cost to Council (see Attachment 1), apart from a third-party monitor dashboard that Council elected to make use of.
5. City of Stonnington then entered a Memorandum of Understanding (MoU) with Lime Pty Ltd (Lime) to implement a one-year trial of their dockless electric bike share scheme, which commenced in February 2022.
6. The trial commenced in February 2022 and has extended the areas serviced by Lime from the local governments of Melbourne, Yarra and Port Phillip, who have been trialling the service since 2020.
7. The trial has been an opportunity to better understand the benefits and issues of an e-bike share scheme and to support the education and promotion of new and innovative transport technologies for the community.
8. The trial is in line with Council's transport mode hierarchy which places e-bikes among the top two priority transport modes, under Micromobility, due to its sustainability and space efficiency.
9. The evaluation report covers the first eight months of the trial and provides insights on the operation of the e-bike share scheme (number of trips, users, operational vehicles, and deployment locations) and issues management (number of accidents, complaints and resolution) - See Attachment 2.

### Key Issues and Discussion

10. There was one accident recorded in Stonnington over the first eight months of the trial. The accident occurred at the corner of River Street and Toorak Road in South Yarra. The rider reported they were injured in an accident involving a tram and they presented to hospital due to soft tissue damage in right leg. Lime followed-up with the rider to gain more information about the accident but is yet to receive a response. The bike was retrieved, and no mechanical faults were recorded.
11. Council officers received 14 complaints in 7,672 trips over eight months. That is 0.18% or one complaint for every 548 trips. All complaints received by Council officers were forwarded to Lime for their investigation and appropriate action.
12. Most common complaints pertain to inappropriately parked bikes. These are bikes that are parked blocking footpaths/driveways or placed outside the approved deployment zones which are in areas where they are likely to be then used by others. Lime has investigated these complaints and removed the bikes within timeframes agreed to in the MoU.
13. Council officers are working with Lime to address these and other issues by implementing No Parking zones (such as parks, laneways and narrow footpaths) and providing alternative locations where users can park the bike. This ensures that the amenity of public spaces is maintained while not discouraging users to utilise the e-bike share scheme. Slow speed zones are also being considered in shared user paths and trails if speeding issues are identified.
14. Based on the above statistics the trial is considered a success and it is recommended that this service be ongoing.
15. Other recommendations in continuing and expanding shared e-bike services in Stonnington include:

- Opening local operations to other service providers (to a maximum of two) to increase competition and lower costs for residents to access the service. Any additional operators will have to meet the requirements as per the existing MoU with Lime.
- Identifying additional deployment locations and extending the operational area to the eastern suburbs to cover the whole municipality.
- Increasing the local vehicle fleet size to 500 (from the current maximum of 200). This would increase the bike density to 21 bikes per km<sup>2</sup>, in line with density levels in other similar cities operating bike share programs. Such an increase would be carefully monitored and undertaken over time in response to demand.
- Implementing No Ride zones, No Parking zones and Slow Speed Zones on an as needed basis to maintain safety and amenity of public spaces.
- Undertake periodic reviews on a two-year cycle.
- Include the following additions to the MOU:
  - i. Work with Council to provide discounts for rides ending at Council Events.
  - ii. Pay Council a nominal flat rate for every penalty issued for illegal parking (this will be on top of the fee charged by the provider).
  - iii. Service providers (Operator – eg Lime Pty Ltd) to be responsible for the costs associated with the dashboard.

## Governance Compliance

### Policy Implications

16. Implementing the e-bike share scheme is consistent with Council's active and sustainable transport objectives.

### Financial and Resource Implications

17. Council will continue to incur minimal costs for the subscription to the data dashboard Ride Report, but this is to be covered by the providers. Ride Report is a tool that provides data analytics and information pertaining to e-bike trips and deployment metrics.

### Conflicts of Interest Disclosure

18. 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

19. The risk is borne by the service provider (eg. Lime Pty Ltd) and users are covered by the provider's Public Liability Insurance. As per the MoU, the service provider is responsible for maintaining customer safety and managing customer compliance with all relevant laws and regulations. This includes providing education and training and deploying mechanisms to deter irresponsible use of e-bikes.
20. The MoU also requires the service provider to hold a current public liability insurance policy with coverage for any injuries or damage that may result from the use of its bicycles, which names and indemnifies Council to cover legal liability to third parties for personal injury or property damage as a result of an occurrence in connection with the business insured, as specified in the public liability policy in the name of the provider.

21. The public liability policy shall extend to cover the Council in respect to claims for personal injury or property damage arising out of the negligence of the service provider.
22. The sum insured should not be less than \$20,000,000.
23. The same requirements will apply when the service is extended.

#### Environmental Implications

24. Lime provides the Stonnington community with more diverse mobility options, to offer convenient and sustainable trips to be made by e-bikes that could otherwise be made by private vehicles, thus reducing carbon emissions, traffic congestion and other externalities.
25. Shifting trips away from private vehicles to sustainable modes of transport is widely acknowledged as an effective way to stem carbon emissions and accelerate environmental priorities, as outlined in Council's Transport Strategy and Climate Emergency Action Plan.
26. The electricity used to charge the batteries in the in the warehouse comes from 100% renewable energy.

#### Community Consultation

27. There was no requirement for community consultation. However, the community's views have been noted through the feedback and complaints received during the trial. There have been few, and most are easily manageable.

#### Human Rights Consideration

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

#### Attachments

1. Lime E-bikes Trial Mo U [8.7.1 - 18 pages]
2. Lime Evaluation Report Oct 2022 [8.7.2 - 9 pages]

## 8.8 Sustainability Snapshot 2021-22

**Acting Manager Climate, Sustainability & City Greening: Dominic Mazza**  
**Acting Director Environment & Infrastructure: Simon Holloway**

### Linkage to Council Plan

**Direction 2: An inclusive and healthy community**

2.4 Sustainability and climate action

### Purpose of Report

This report presents the Sustainability Snapshot 2021-22, an annual report informing Council of progress made towards achieving the goals of the *Sustainable Environment Strategy 2018-23*.

### Officer Recommendation

**That the Council:**

- 1. NOTE the Sustainability Snapshot 2021-22 and ongoing progress towards achieving the goals of its Sustainable Environment Strategy 2018-2023.**
- 2. ENDORSE the Sustainability Snapshot 2021-22 for publication.**

### Executive Summary

- The *Sustainable Environment Strategy 2018-2023* outlines Council's broad environmental and sustainability objectives across areas of climate change, energy, integrated water management, biodiversity and urban environment, waste, and community engagement.
- The annual Sustainability Snapshot has been developed as the primary method for reporting Council's environmental achievements each year.
- Council's key achievements during the 2021-22 financial year include:
  - Reducing corporate emissions to a total of 4,847 tonnes of CO<sub>2</sub>e, which is an overall reduction of 75 percent below 2005 levels.
  - Development of the *Towards a Circular Economy: Our Future Waste Strategy 2022-2025*.
  - Adoption of the *Sustainable Assets Policy*.
  - Completion of Water Sensitive Urban Design and small floods studies, investigating predicted future flood conditions and responses.
  - Completion of a biodiversity inventory study, examining current and future potential habitat and connectivity.
  - Successful implementation of the Sustainable Schools Program.

### Background

- The *Sustainable Environment Strategy 2018-2023* plays an integral role in fulfilling Council's broad environmental objectives (outlined in the *Council Plan 2021-2025*) with a focus on improving resource efficiency and leading and supporting sustainable practices within the community.



5. The Strategy is framed around five priority areas:
  - Climate change and energy
  - Resources and waste management
  - Integrated water management
  - Urban environment
  - Education, engagement and collaboration
6. The annual Sustainability Snapshot has been developed as the primary method for reporting Council's environmental achievements each year and is complemented by quarterly and annual updates on progress against Council's *Climate Emergency Action Plan 2021-2024*.
7. Council's progress against each priority area of the *Sustainable Environment Strategy 2018-2023* is reported in the Sustainability Snapshot. The snapshot report summarises key achievements of Council and the Stonnington community over the past 12 months and outlines the intended focus for each priority area for the coming year.
8. The annual Sustainability Snapshot is presented to Council for endorsement.

### Key Issues and Discussion

9. Council has continued to improve its corporate environmental performance and expand community programs to achieve significant environmental outcomes in 2021-22.
10. The following overview presents Council's more significant achievements.

### Climate change and energy

11. Council has formalised and expanded on its ongoing commitment to climate change action through the development and adoption of a separate *Climate Emergency Action Plan 2021-2024*.
12. In 2021-22, Council reduced greenhouse gas emissions by 45 percent compared to 2020-21 levels, to a total of 4,847 tonnes of CO<sup>2</sup>e. Council has now achieved an overall reduction of 75 percent below 2005 levels, which significantly exceeds its original goal for 2022 of 35 percent on 2005 levels.
13. A new target of zero emissions by 2030 was established as part of Council's newly adopted *Climate Emergency Action Plan 2021-2024*.
14. The unprecedented emissions reduction for 2021-2022 can be largely credited to Council's participation in the Victorian Energy Collaboration (VECO), where Stonnington has joined with 45 other Victorian councils to purchase 100 percent renewable energy to meet its electricity requirements. Ongoing investment in energy efficiency including the installation of solar PV systems on Council buildings and facilities and LED lighting upgrades have also contributed.
15. In addition to reducing its own energy consumption, Council continues to support Stonnington residents to reduce their home energy use through a range of environmental education and engagement programs.

### Resources and waste management

16. Council has formalised its ongoing commitment to waste and increasing resource recovery through the development of a standalone waste strategy, *Towards a Circular Economy: Our Future Waste Strategy 2022-2025*. Whilst the strategy was adopted in September 2022, drafting and community consultation occurred during the 2021-22 financial year.
17. Measures undertaken by Council to reduce the amount of organic waste being sent to landfill include planning for a changeover of food and green waste bins to Australian Standard colours as well as development of a service expansion campaign and the ongoing provision of discounted composting and worm farming systems via Compost Revolution.
18. Council established new contracts for its hard waste collection service, recycling collection and processing, and organics processing contracts during the 2021-22 financial year. The specifications developed for these contracts were designed to enable continuous improvement over time and facilitate increased resource recovery.
19. Engaging the community around waste issues has been a key focus of Council over the past year. A new suite of educational collateral has been developed including material for social media, a new food and green waste service booklet, and a range of items to support reductions in contamination. A number of community events were also held to engage and educate the community including an online Zero Waste Festival, which was delivered in collaboration with Zero Waste Victoria and reached over 1,200 attendees.
20. Collaboration and research have also been key priorities during 2021-22. Council has participated in:
  - a. A Sustainability Victoria grant-funded study with seven other councils to identify suitable materials and strategies to increase the use of recycled content in council building and infrastructure projects.
  - b. A Sustainability Victoria grant-funded feasibility study examining existing reusable nappy programs and barriers to reusable nappy use.
21. Council also took over the leadership of a collaborative, multi-year Sustainability Victoria grant-funded implementation project, which will involve infrastructure and behavioural interventions at 60 apartment blocks across 10 participating councils.

### Integrated Water Management

22. The City of Stonnington continues to investigate opportunities to increase water efficiency, reduce potable water use, improve the quality of local waterways, and respond to flooding. Several studies were initiated during 2021-22 including:
  - a. A Water Sensitive Urban Design (WSUD) study, which examined the potential of assets such as raingardens, wetlands, and swales to provide cooling and flood calming benefits.
  - b. A small flood study for the Chapel Street precinct, which mapped the expected impacts and extent of annual to 1-in-10-year flood events.
23. Excess sediment and vegetation were cleared out to restore optimal stormwater filtration and habitat at Percy Trevaud Memorial Park Wetlands.
24. A number of rainwater and stormwater harvesting tanks and irrigations systems received repairs, including Waverley Oval, Lumley Gardens and Princes Close Childcare Centre.

25. Council Officers began development of an Integrated Water Management Plan.

#### Urban environment

26. Despite being a highly urbanised municipality, important areas of native flora and fauna exist within the municipality. Council has concentrated investment at a number of these key biodiversity sites including the Yarra River and Gardiners Creek (KooyongKoot) corridors and at the Malvern Valley Golf Course.
27. In 2021-22, Council conducted a biodiversity inventory study, examining current and future potential habitat and connectivity at key sites. The findings from this study will be used to inform development of an Urban Biodiversity Action Plan.
28. Council continued to protect and enhance biodiversity, and improve urban liveability, by planting over 31,000 plants and trees throughout the municipality, reducing air pollution, preventing water run-off and helping cool surrounding areas.
29. As part of the implementation of Council's Gardiners Creek (KooyongKoot) Masterplan implementation, Council commissioned a lighting strategy for the corridor. This strategy will enable Council to balance outcomes for wildlife, user safety and accessibility as part of lighting projects along the creek and will go on to inform development of Council's next iteration of its Urban Lighting Guidelines.

#### Education, engagement and collaboration

30. Council provides a range of events and initiatives to support and inspire residents to learn more about the environment and explore ways to contribute to a more sustainable community.
31. In 2021-22, Council delivered a broad range of engaging and interactive environmental events, workshops and tours across the topics of sustainable gardening and home-food growing, energy efficiency, electric vehicles, citizen science, biodiversity, waste and recycling, and more.
32. Council delivered the second year of its Environmental Champions Program, engaging 19 residents across a 12-week program designed to build community capacity to launch local environmental initiatives.
33. Council also continued delivery of its annual Sustainable Schools Program which supports schools and early learning centres in the areas of biodiversity enhancement and environmental leadership.

#### Governance Compliance

##### Policy Implications

34. The priorities of the Sustainable Environment Strategy 2018-2023 align with the key strategic objectives of the Council Plan 2021-25.

##### Financial and Resource Implications

35. Implementation of the Sustainable Environment Strategy 2018-2023 and development of the annual Sustainability Snapshot are undertaken using existing resources.
36. Delivery of many of the projects and activities undertaken as part of the Sustainable Environment Strategy, in particular the adoption of the Sustainable Assets Policy, have assisted Council in reducing the overall costs of:

- a. Delivering sustainability outcomes through earlier and more considered design integration.
  - b. Operating assets through reduced energy and maintenance costs.
37. Council's participation in the collaborative energy procurement initiative, VECO, resulted in significant annual cost savings for Council's electricity consumption.
38. While increased environmental sustainability standards and requirements may have an impact on upfront project capital costs, this increase in capital investment delivers significant ongoing operational benefits and minimises whole of life costs in recovery and maintenance.
39. Council received over \$200,000 ex GST in grant funding for sustainability projects during the 2021-22 financial year.

#### Conflicts of Interest Disclosure

40. 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

41. According to the Victorian Local Government Act 2020 (the Act), Council must, in the performance of its role, consider the social and environmental sustainability of the municipality, including mitigation and planning for climate change risks. Council's fulfilment of actions in its Sustainable Environment Strategy 2018-2023 support compliance with the Act.
42. Additionally, delivery of the projects and activities outlined in this report assist in reducing Council's legal exposure to climate risks.

#### Environmental Implications

43. The Sustainability Snapshot 2021-21 reports progress towards achieving the goals of Sustainable Environment Strategy 2018-2023. Parts of this update overlap with actions included as part of Council's Climate Emergency Action Plan 2021-2024 and Towards a Circular Economy: Our Future Waste Strategy 2022-2025.

#### Community Consultation

44. There was no requirement for community consultation as part of the development of the Sustainability Snapshot 2021-22, however significant community consultation was undertaken as part of the development of the strategy as well as for the development of Council's Climate Emergency Action Plan 2021-2024 and Towards a Circular Economy: Our Future Waste Strategy 2022-2025.

#### Human Rights Consideration

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

#### Attachments

1. Sustainability Snapshot 2021-22 [8.8.1 - 6 pages]

## 8.9 Electric Vehicle Charging Infrastructure Policy

**Manager Transport & Parking: Ian McLauchlan**

**Acting Director Environment & Infrastructure: Simon Holloway**

### Linkage to Council Plan

#### **Direction 1: A thriving and unique place**

1.4 Active transport and connected city

#### **Direction 2: An inclusive and healthy community**

2.4 Sustainability and climate action

### Purpose of Report

To seek endorsement for the Electric Vehicle Charging Infrastructure Policy to guide Council's ongoing commitment to developing a local electric vehicle charging network.

### Officer Recommendation

***That the Council:***

- 1. ENDORSE the Electric Vehicle Charging Infrastructure Policy.***
- 2. NOTE that a draft Electric Vehicle Charging Plan aligned to the Policy will be referred to the Transport Advisory Committee and Climate Emergency Advisory Committee for review and endorsement prior to being considered by Council for adoption in early 2023.***

### Executive Summary

1. Council's Transport Strategy and Climate Emergency Action Plan 2021-2024 outline a commitment to facilitating the uptake of electric vehicles (EVs).
2. Council have developed a draft Electric Vehicle Charging Infrastructure Policy and draft Electric Vehicle Charging Plan. Together these documents would guide Council's ongoing commitment to developing a local electric vehicle charging network.
3. Officers are seeking endorsement of the Electric Vehicle Charging Infrastructure Policy at this point in time and will refer the draft Electric Vehicle Charging Plan to the Transport Advisory Committee and Climate Emergency Advisory Committee for review and endorsement prior to being considered by Council for adoption in early 2023.

### Background

4. Transport is the fastest growing source of greenhouse gas emissions in Australia. Shifting away from fossil fuelled cars to more sustainable transport modes, such as electric vehicles where active and public transport are not feasible, is the second biggest opportunity to reduce emissions in Stonnington.
5. The Transport Strategy and Climate Emergency Action Plan 2021-2024 outline Council's role in facilitating the uptake of electric vehicles including:

- a. Developing a policy to support a network of electric vehicle charging stations across Stonnington to drive private uptake of electric vehicles.
  - b. Undertaking a feasibility study to explore options for supporting electric vehicle uptake including opportunities for on street and off-street charging.
6. To deliver on these clear commitments supporting increased uptake of electric vehicles in our local community, Council Officers engaged a consultant to assist in developing the Electric Vehicle Charging Plan and peer review the draft Electric Vehicle Charging Infrastructure Policy developed by Officers.

### Key Issues and Discussion

7. Stonnington has a high demand for electric vehicles with two of our suburbs being in the top 10 for electric vehicle ownership in Australia.
8. Stonnington also has a significant proportion of households without off-street parking (over 20%) which creates an issue with charging electric vehicles. As most charging is done at home these residents must therefore use public charging if they choose to run an EV.
9. Council's role in this space is to facilitate the development of a local network of EV chargers and, where and when appropriate, install electric vehicles chargers for public and/or Council fleet use.
10. Council has and will continue to advocate for Federal and State funding for the installation of EV chargers however significant installation of chargers by Council requires staff resources not currently available and will incur ongoing maintenance and upgrade costs.
11. There is considerable interest from the private sector in partnering with local governments, as important holders of parking in high profile and strategic areas, to install fast EV chargers. Such partnership models would provide operators access to Council parking spaces (usually off-street) for them to install and run commercial EV charging services at no cost to Council, with arrangements for revenue sharing from the charging itself and advertising.
12. The Electric Vehicle Charging Infrastructure Policy (**Attachment 1**) outlines Council's policy position responding to the aforementioned issues, including the focus on facilitating development of a public off-street fast-charging network.
13. The Electric Vehicle Charging Plan aligning to the Policy and providing a detailed implementation plan has been developed and will be considered by the Transport Advisory Committee and Climate Emergency Advisory Committee for review and endorsement prior to being considered by Council. This Plan also provides options for on-street charging to be considered once the public fast charging network is more developed.

### Governance Compliance

#### Financial and Resource Implications

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

#### Legal / Risk Implications

There are no legal / risk implications relevant to 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.

#### Environmental Implications

Increasing the uptake of electric vehicles is aligned with actions in the Climate Emergency Action Plan 2021-24 aimed at reducing greenhouse gas emissions and improving urban amenity.

#### Community Consultation

Considerable consultation was undertaken in development for the Integrated Transport Strategy and Climate Emergency Action Plan 2021-24 which informed actions related to electric vehicles and in turn informed the work outlined in this report. The Electric Vehicle Charging Plan has been developed based on technical assessment and modelling, and so any future consultation would be on specific proposals for electric vehicle charging stations, where required. The Transport Advisory Committee and Climate Emergency Advisory Committee will be engaged to review and endorse the draft Electric Vehicle Charging Plan prior to it being considered by Council.

#### Attachments

1. Electric Vehicle Charging Infrastructure Policy [8.9.1 - 8 pages]



## 8.10 Quick Response Grant

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

### Linkage to Council Plan

#### **Direction 2: An inclusive and healthy community**

- 2.1 Health and wellbeing
- 2.2 Diverse, inclusive and safe

#### **Direction 3: A people-centred and future ready city**

- 3.1 Community focus, connection and engagement

### Purpose of Report

To seek Council endorsement for the community grants program 'Quick Response Grant' application.

### Officer Recommendation

***That the Council:***

- 1. *ENDORSE Quick Response Grants funding recommendation as per Attachment 1;***
- 2. *NOTE that Quick Response Grants will remain open until the funds are fully expended; and***
- 3. *AUTHORISE the Chief Executive Officer to approve Quick Response Grants under delegation for the remainder of the 2022/2023 Grants period.***

### Executive Summary

1. Quick Response Grants opened on 25 July 2022 and will remain open until funds are exhausted.
2. One application has been received in November and is recommended for full funding (**Attachment 1**).
3. Quick Response Grants decisions can be expedited through delegation to the Chief Executive Officer.

### Background

4. The 2022 Community Grants Program Policy and Guidelines adopted by the Council reflect improvements recommended in previous grants programs and audits findings and recommendations.
5. Quick Response Grants intend to deliver a flexible and agile funding stream to support eligible applicants, capped at \$1,000 per grant with one grant per group per annum.
6. The Council has discretion to waive or amend assessment and/or eligibility criteria, except taxation status.

7. On 11 April 2022 the Council approved Quick Response Grants to open on 25 July 2022 and remain open until fully expended.

### Key Issues and Discussion

8. One application has been assessed by a Panel and is recommended for full funding for in-kind venue and cash support. It is noted the recommendation for funding is above the maximum grant limit of \$1,000 however council has discretion to waive or amend eligibility criteria.
9. The Panel comprised Coordinator Community Support; Manager of Community Services, Coordinator Aquatic Services.
10. Quick Response grants are intended to be an agile and flexible response to support unexpected initiatives or unforeseen events; assist with new initiatives or where groups have missed the annual grants cycle due to circumstances beyond control.
11. Distribution of funding to applicants can be delayed through the Council reporting and approval process.
12. Delegating decisions for quick response grants to the Chief Executive Officer is recommended to expedite decisions and enhance the applicant experience.

### Governance Compliance

#### Policy Implications

13. Quick Response Grants are guided by the 2022-2023 Community Grants Policy and 2022-2023 Quick Response Grants Guidelines.

#### Financial and Resource Implications

14. Quick Response Grants are funded through the remaining Community Grants budget following the annual program (\$79,021.30). A total of \$14,550 has been approved in Quick Response cash grants.

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

#### Environmental Implications

17. Grant applicants are required to indicate, and are assessed, on the environmental impact of the activity requested for funding.

#### Community Consultation

|                          |   |
|--------------------------|---|
| <b>Purpose</b>           | To provide information to eligible community groups and organisations on the opening and closing dates for applications to annual community grants program, including the application and eligibility requirements. |
| <b>IAP2 Goal:</b>        | Inform  |
| <b>Exhibition period</b> | Community Grants opened 26 April at 9am and closed 23 May 2022 at 11.59am. Quick Response Grants open 25 July 2022 until funds exhausted.   |

|                             |  |
|-----------------------------|--|
| <b>Method:</b>              | Two in person and one online information session for interested applicants<br>SmartyGrants database notification EDMS: Stonnington News, Active Stonnington, Environment, Youth Services, Engaged and Library News – collective reach: 23,505 Community Grants webpage |
| <b>Reach:</b>               | SmartyGrants database: 1,782 contacts Social media: Facebook: 9,500 followers; Instagram: 2,864 followers; LinkedIn: 8,777 followers EDMS collective reach: 23,505   |
| <b>Summary of feedback:</b> | Not requested.   |
| <b>Impact:</b>              | 74 applications received to the annual community grants program Ongoing receipt of applications to Quick Response Grants program   |

### Human Rights Consideration

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

### Attachments

1. Quick Response Grant Funding Recommendation Attachment 1 December [8.10.1 - 1 page]

## 8.11 Proposed Lease - 6 & 7 Almeida Crescent, South Yarra

**Chief Financial Officer: Julia Gallace**

**Acting Director Organisation Capability: Marilyn Kearney**

### Linkage to Council Plan

#### Direction 1: A thriving and unique place

1.1 Identity and destination

#### Direction 3: A people-centred and future ready city

3.1 Community focus, connection and engagement

### Purpose of Report

The purpose of this report is:

To consider all submissions received in response to Council's public notice of intention to lease 6 & 7 Almeida Crescent, South Yarra (Subject Properties), published in The Age and Council's Website on Saturday 29 October 2022, in accordance with *section 115 of the Local Government Act 2020* (the Act); and

To seek approval to proceed to lease the Subject Properties for a term of up to 10 years.

### Officer Recommendation

#### ***That the Council:***

- 1. NOTE the two submissions received in relation to the statutory process and public notice for the proposed lease of 6&7 Almeida Crescent South Yarra.***
- 2. APPROVE to proceed with its intention to lease 6 & 7 Almeida Crescent, South Yarra;***
- 3. ADVISE all parties that provided a submission in response to the Notice of Intention to Lease, 6 & 7 Almeida Crescent, South Yarra of Council's decision to proceed to lease the properties; and***
- 4. APPROVE the Chief Financial Officer to negotiate and execute a lease for 6 & 7 Almeida Crescent, South Yarra in accordance with the requirements of section 115 of the Local Government Act 2020 and the independent valuation advice.***
- 5. NOTE Council officers will finalise exclusive authority with Aston Commercial to negotiate a 10-year lease after Council has resolved to pursue its intention to lease 6 & 7 Almeida Crescent, South Yarra.***

### Executive Summary

1. This report seeks approval to lease 6 and 7 Almeida Crescent South Yarra for a period of up to 10 years. Council's Executive Team agreed at the 6 September 2022 meeting that acquisition, funding, design and development of future public open space could not be achieved within a five-year time horizon, allowing Council to enter into a lease term of up to 10 years (5 years with an option for a further 5-year term) which will provide a positive financial outcome.

## Background

2. Council owns a two-level office/retail property in Almeida Street, South Yarra. The site was purchased with intention is to convert it into public open space in the future.
3. The property has been generating a revenue stream but has recently become vacant. The redevelopment of this site is a long-term plan and Council's Executive Team have determined to continue leasing the property. The most recent tenancy has consisted of short-term leases of 6 and 7 Almeida Crescent as site offices for a large construction company which has recently been vacated.
4. In December 2021, approval was given by the Chief Executive Officer to lease the properties for a term of three years. There are difficulties in trying to lease these types of properties with short-term arrangements, especially as the retail market is recovering from the impacts of COVID-19.
5. At the Executive Team Meeting on 6 September 2022, approval was given to pursue a different lease outcome for a term of up to 10 years (5 years with an option for a further 5-year term) and subsequently allow the Chief Financial Officer to negotiate the most favorable financial outcome for Council.
6. In October 2022, a current market rental assessment as at 21 September 2022 was completed by JACX Property. An annual market rent was assessed in excess of \$100,000, triggering the statutory requirement for the Council to give public notice of its intention to lease the Subject Properties in accordance with section 115 of the Act.
7. On 12 October 2022, Council's Chief Executive Officer approved the commencement of the statutory process to give public notice of Council's intention to lease 6 & 7 Almeida Crescent, South Yarra. A copy of the public notice (**Attachment 1**) was published in The Age and posted on Council's website on Saturday 29 October 2022 in accordance with section 115 of the Act.
8. After the 14-day advertising period, two written submissions have been received in relation to the Council's notice of intention to lease the Subject Properties. Neither party has requested to be heard in support of their submission. Submissions are attached in (**Attachment 2 and 3**).

## Key Issues and Discussion

9. The Council's real estate agents, Aston Commercial, had trouble in leasing the Subject Properties under the original short-term lease proposal. Subsequent feedback indicated some market appetite for longer-term leases.
10. During the initial marketing campaign, Aston Commercial engaged with various parties to discuss short-term lease proposals. Aston Commercial then presented proposals for conditional longer-term leases. This information motivated the proposal to pursue a lease term of up to 10 years.
11. Consistent with Council's Engagement Policy and requirements of the Act, Council gave public notice of its intention to lease the Subject Properties which is a requirement prior to entertaining any Heads of Agreement or Offers to Lease.
12. Aston Commercial's misunderstanding of this statutory process has created some confusion for interested parties seeking to lease the Subject Properties.

13. The notice of intention to lease ended on 15 November 2022 and two submissions have been received. The submissions object to the Council entering into a lease on the grounds that the Council made a representation to enter into a lease with Luxe Illusion.
14. The commercial terms presented by in the first submission represent discussions with Aston Commercial. The agents had no authority at this stage to accept or agree to offers to lease. These commercial discussions partly documented by email exchanges have not formed any binding arrangement on Council.
15. The two submissions are acknowledged but are based on incorrect understanding of Council's statutory requirements.
16. Council officers will finalise exclusive authority with Aston Commercial to negotiate a 10-year lease after Council has resolved to pursue its intention to lease the Subject Properties.

## Governance Compliance

### Policy Implications

17. Council has given public notice of its intention to lease the Subject Properties on Council's website and in the Age Newspaper in order to comply with Council's Engagement Policy.

### Financial and Resource Implications

18. Council engaged Jacx Property to perform market rental assessments of 6 and 7 Almeida Crescent South Yarra. As separate leases, 6 Almeida Crescent has been assessed at \$108,500 to \$126,000 exclusive of GST and 7 Almeida Crescent has been assessed at \$133,000 to \$143,000 exclusive of GST. The total assessment for a single lease is slightly less at \$236,000 to \$254,000. which has estimated \$240,000 - \$270,000 per annum (inclusive of GST) of rental income.
19. These rental assessments include carparking space as part of any lease and are based upon a net face rent and a 10% incentive in the current market.
20. Final terms will be subject to specific negotiations, but Council can expect to achieve a positive annual income from the properties, much higher than previous letting for the term of new lease/s.

### 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. A public notice was published on 29 October 2022 for a period of 14 days. In accordance with Section 115 of the Act, Council is required to give public notice in order to comply with Council's Engagement Policy prior to entering into a lease for the Subject Property as the market rental assessment has determined the annual rent to be above \$100,000.

### Environmental Implications

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

### Community Consultation

24. In response to Council's public notice of intention to lease the Subject Properties, Council has received two submissions attached to this report.
25. Both submissions relate to the perception that an Offer to Lease had been accepted by Council. This is factually incorrect.
26. Officers will notify all parties that made a submission of the outcome of this report.

#### Human Rights Consideration

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

#### Attachments

1. Public Notice - Notice of Intention to Lease 6 & 7 Almeida Crescent, South Yarra  
[8.11.1 - 1 page]



## 8.12 Councillor and Member of a Delegated Committee Expenses Policy

**Executive Manager Legal & Governance: David Thompson**  
**Manager Councillor & Civic Support: Tony Mcilroy**

### Linkage to Council Plan

#### **Direction 1: A thriving and unique place**

1.1 Identity and destination

#### **Direction 2: An inclusive and healthy community**

2.1 Health and wellbeing

#### **Direction 3: A people-centred and future ready city**

3.1 Community focus, connection and engagement

### Purpose of Report

The purpose of this report is to present the proposed Councillor and Member of a Delegated Committee Expenses Policy (the Policy) to the Council for adoption. The Policy presented for consideration follows an internal audit review by the Council Auditors HLB Mann Judd and various matters identified by Council officers considered prudent to incorporate based upon requirements of the *Local Government Act 2020*.

### Officer Recommendation

***That the Council resolve:***

- 1. To ADOPT the Councillor and Member of a Delegated Committee Expenses Policy (as annexed to the Minutes).***
- 2. The Councillor and Member of a Delegated Committee Expenses Policy COMMENCE on 1 April 2023.***
- 3. A COPY of the Councillor and Member of a Delegated Committee Expenses Policy be provided to all Councillors.***

### Executive Summary

1. As part of the internal audit services provided by HLB Mann Judd a review of the practices with respect to Councillor expenses was undertaken and reported to the Audit and Risk Committee on 2 June 2022.
2. The review was approved by the Audit and Risk Committee as part of the 2021-22 Internal Audit Plan.
3. The primary objective of the review was to assess and evaluate the design and effectiveness of internal controls embedded in Councillor expense processes.
4. The review recommended a number of enhancements to the Council policy which are outlined in **Attachment 1** (Summary of Detailed Findings Refer pages 10-17).
5. The overall conclusion reached by the Internal Auditor based on the results of the review is that the Council's policies, processes and practices associated with Councillors

expenses are adequate and compliant with the Local Government Act 2020. However, there are improvement opportunities to refine and update the Policy associated with forms and processes.

6. Recommendations 1-16 of the internal audit review have been accepted and are reflected in the Councillor and Member of a Delegated Committee Expenses Policy (refer **Attachments 2 and 3**).
7. Various improvement matters have also been identified by Council officers and it is considered prudent to incorporate these based upon the requirements of the *Local Government Act 2020* (the Act).

### Background

8. This report was presented to the Council meeting on 14 November 2022. Council resolved to defer consideration of this matter.
9. Council adopted the Councillor and Committees Expenses Policy for the reimbursement of expenses for the Mayor, Deputy Mayor, Councillors, Members of Delegated Committee, Community Asset Committees and Other Committees on 17 August 2020. This policy has been renamed the Councillor and Member of a Delegated Committee Expenses Policy (the Policy).
10. The Act provides councillors and members of a delegated committee are entitled to be reimbursed for bona fide out-of-pocket expenses incurred while performing their role and are reasonably necessary to perform that role.
11. In addition, the Act provides the Council must make available to the Mayor and Councillors the resources and facilities reasonably necessary to enable them to effectively perform their role. This includes consideration must be given to the support which may be required by a Mayor, Deputy Mayor or Councillor because of a disability and have particular regard to the support which may be required by a councillor who is a carer in a care relationship within the meaning of section 4 of the Carers Recognition Act 2012 (CR Act).
12. The Act requires the Policy to:
  - specify procedures to be followed in applying for reimbursement and in reimbursing expenses; and
  - provide for the reimbursement of child care costs where the provision of child care is reasonably required for a councillor or member of a delegated committee to perform their role; and
  - have particular regard to expenses incurred by a councillor who is a carer in a care relationship within the meaning of the CR Act.
13. The Policy must also comply with any requirements prescribed by regulations in regard to reimbursement of expenses. However, it is noted at this time no such regulations have been made.
14. Under the Act, the Council is required to provide details of all reimbursements for out-of-pocket expenses made to a Councillor and a member of a delegated committee to the Audit and Risk Committee.
15. The Policy is not intended to prescribe for every possible situation that may arise. Should a situation arise that is not adequately covered by the Policy, the matter will be referred to the Council for determination by resolution.

## Key Issues and Discussion

16. The changes to the Policy can be distinguished by the use of the track changes tool at **Attachment 2**. A clean copy of the Policy is at **Attachment 3**.
17. The Policy has been drafted to meet the prescribed requirements in the Act to reimburse councillors and delegated committee members for out-of-pocket expenses and to strengthen and reinforce Council's commitment to providing equitable and adequate resources and facilities which are reasonably necessary to enable the Mayor and Councillors and members of delegated committees to effectively perform their role.
18. The Policy also outlines the maximum hourly rate entitlement paid by the Council, or reimbursed by the Council for the following:
  - Carer in a Care relationship - \$33.75 per hour indexed annually to CPI
  - Support for a Councillor with a Disability - \$34 per hour indexed annually to CPI
  - Child care / family care - \$54.40 per hour indexed annually to CPI

The maximum hourly rate has been determined having regard to the award rates paid to Council staff who perform these roles.

At the time of writing this report, the Council has not paid and no councillor has made a claim for reimbursement of expenses for the costs incurred by a councillor for caring expenses or assistive personnel by a councillor with a disability.
19. **Attachment 4** reveals the benchmarking outcome with other councils and providers of child care / family care. It is acknowledged the benchmarking reveals the average hourly rate for child care / family care is approximately \$36.30. Nevertheless, Council officers are recommending the maximum hourly rate entitlement paid by the Council, or reimbursed by the Council with respect to child care / family care is \$54.40. This is in recognition that the majority of the business of the Council conducted by a councillor is outside of normal business hours, the ability to procure child care / family care provider who is adaptable to be available at short notice and the rate is the time and a half award rate paid to a member of Council staff in performing this role.
20. Council officers are also recommending the Policy commence on 1 April 2023. This transitional arrangement provision is in recognition should any councillor need to make alternative arrangements with respect to childcare / family care.

## Governance Compliance

### Policy Implications

21. Council officers recommend the Councillor and Member of a Delegated Committee Expenses Policy for adoption.

### Financial and Resource Implications

22. The Council approved budget each year includes provisions for facilities, support and resourcing of the Mayor and Councillors including the reimbursement or payment by the Council of reasonable bona fide expenses.
23. Provision is made in the Legal and Governance Department budget for anticipated costs of providing support and resources to meet expense claims made under the Policy. However, expenditure is subject to the level of claims made in each year.

## Conflicts of Interest Disclosure

24. The Council officers preparing this report and the Policy have no general or material conflict of interest to declare.
25. Regulation 7(1)(h) of the Local Government (Governance and Integrity) Regulations 2020 exempts a councillor from having a conflict of interest in this report and the Policy.

#### Legal / Risk Implications

26. Section 41 of the Local Government Act 2020 requires the Council to adopt and maintain an expenses policy in relation to out-of-pocket expenses for Councillors and members of delegated committees.
27. On the basis of the audit review of the current Councillor and Committees Expenses Policy for the reimbursement of expenses for the Mayor, Deputy Mayor, Councillors, Members of Delegated Committee, Community Asset Committees and Other Committees, the Policy will be enhanced through the internal auditor recommendations. Further the various matters identified by Council officers and incorporated into the Policy encourage transparency and accountability and meets the Council's statutory requirements. This will reinforce public confidence in the integrity of Council's decision-making processes and in the Council's ability to ensure good corporate governance within the municipality.

#### Environmental Implications

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

#### Community Consultation

29. There was no requirement for community consultation.
30. When adopted by the Council and upon coming into operation, the Policy will be made available on Council's website and intranet, for inspection at the Stonnington City Centre, a copy will be provided to each Councillor.

#### Human Rights Consideration

31. The implications of the Policy have been assessed in accordance with the Charter of Human Rights & Responsibilities Act 2006.
32. Aspects of the Policy intersect with the entitlement to participate in public life prescribed by the Charter, however, the Policy is considered to advance, rather than infringe upon the prescribed right.

#### Attachments

1. Mann Judd Audit - Councillor Expenses Policy ( April 2022) [8.12.1 - 9 pages]
2. Councillor and Member of a Delegated Committee Expenses Policy Track [8.12.2 - 30 pages]
3. Councillor and Member of a Delegated Committee Expenses Policy Clean [8.12.3 - 21 pages]
4. Benchmarking Exercise ( November 2022) [8.12.4 - 2 pages]

## 8.13 Bi Annual Report of the Audit & Risk Committee for the six months ended 30 September 2022

**Executive Manager Legal & Governance: David Thompson**  
**Manager Councillor & Civic Support: Tony Mcilroy**

### Purpose of Report

To present the bi annual report prepared by the Chair of the Audit and Risk Committee, Bev Excell (external member) on the activities of the Audit & Risk Committee (ARC) for the period ended 30 September 2022 to the Council for consideration as required by the Local Government Act 2020.

### Officer Recommendation

***That the Council resolve to NOTE the Audit and Risk Committee (ARC) Report for the six months ended 30 September 2022.***

### Key Issues and Discussion

The key issues for the Audit and Risk Committee for the six-month period ending 30 September 2022 are set out below.

#### Audit and Risk Committee Meetings

The Audit and Risk Committee was scheduled to meet on two occasions during the reporting period. However, the second meeting scheduled for 22 September 2022 was rescheduled to 5 October 2022 due to the National Day of Mourning being declared in honour of Queen Elizabeth 11. The report covers the re-scheduled meeting.

#### Committee Business

At the meetings held on 2 June and 5 October 2022 the findings and recommendations of the Internal Auditor were considered in relation to the following Internal Audit Reviews:

- Financial Controls
- Councillor Expenses
- Occupational Health & Safety
- Risk Management Framework
- Asset Management
- Procurement

Additionally, the committee determined the priorities in respect of the Internal Audit Plan for 2022-25.

Accordingly, the following Internal Audit Reviews will be undertaken in the 2022/23 financial year.

| <b>Internal Audit Plan 2022/23</b> |   |
|------------------------------------|---|
| <b>Reference No</b>                | <b>Project</b>                          |
| FY 22/23 – 01                      | Payroll                                 |
| FY 22/23 – 02                      | Assurance Mapping Development           |
| FY 22/23 – 03                      | Occupational Health & Safety            |
| FY 22/23 – 04                      | Information Technology General Controls |
| FY 22/23 – 05                      | Digital Transformation                  |
| FY 22/23 – 06                      | Complaints Management                   |
| FY 22/23 – 07                      | Disaster Recovery                       |
| FY 22/23 – 08                      | Contract Management                     |
| FY 22/23 – 09                      | Privacy                                 |
| FY 22/23 – 10                      | Community Consultation & Engagement     |
| FY 22/23 – 11                      | Councillor Expenses                     |
| FY 22/23 – 12                      | Follow up review                        |

In addition, the Committee considered

- progress against the Victorian Protective Data Standards relating to Cyber Security
- the outcomes of the Enterprise Risk Management Capability Review
- learnings from the Victorian Auditor General's Reports on Spending in response to Covid-19, Managing conflicts of interest in procurement and Fraud control over local government grants.

#### *Financial Reporting and External Audit*

The Annual Financial Statements and Performance Statement for the year ended 30 June 2022 were examined at the rescheduled meeting on 5 October 2022. Management letters issued by the external auditors as part of the annual audit were received and considered. The Council received an unqualified audit opinion from the Victorian Auditor General.

The Committee recommended to the Council the adoption of the statements which in turn were submitted to the Minister for Local Government in accordance with the timeline of 30 October 2022 pursuant to Section 11 of the Local Government Act 2020.

#### Audit and Risk Committee Charter

At the rescheduled meeting on 5 October 2022 the Committee resolved to recommend to the Council that the Council adopt a revised Audit and Risk Committee Charter (the Charter).

The existing Charter has been in operation for two years being initially adopted in June 2020. This was a requirement under the Local Government Act 2020 to approve the first Charter and establish the first Audit and Risk Committee on or before 1 September 2020.

The revised Charter is in the main the outcome of an administrative review with no material changes made to the original Charter.

### Other Business

At the meetings held in this reporting period the other key (but not all) matters considered are summarised below:

- Annual Service Performance Indicators (as outlined in the Local Government Performance Reporting Framework).
- Regular updates on Risk Management and Health, Safety & Wellbeing
- Councillor Expenses and Councillor & Officers Gifts and Benefits Notifications.

### Conclusion

*The Audit and Risk Committee's overall assessment is that the Council is managing its responsibilities regarding financial control and compliance well. Further, the implementation of the recommendations from the recent Risk Management Audit and the Enterprise Risk Management Capability Review should see a significant uplift in the risk, control and compliance framework.*

*The Audit and Risk Committee would like to take this opportunity to note the quality work done by the Finance Team in the preparation of the 2021-22 financial statements, particularly with regard to the new advice from the Australian Accounting Standards Board on accounting for specific categories of recent IT expenditure and which had a major impact on the team.*

*The Audit and Risk Committee would like to thank the management team for its support in running the Committee and for its assistance in improving the efficiency and effectiveness of the running of the Committee over the last period.*

*As Chair, I would also like to thank my colleagues, both the independent members and councillors, for their contribution to a strong Audit and Risk Committee.*

*Bev Excell  
Chair*

## **Governance Compliance**

### **Policy Implications**

The Audit and Risk Committee Charter (the Charter) sets out the objectives, scope, functions and responsibilities of the Audit and Risk Committee.

### **Financial and Resource Implications**



Other than the Chair of the Audit and Risk Committee and Council officer time in preparing this report, there are no financial and resource implications associated with this report.

The sitting fees payable to independent members of the Audit and Risk Committee are provided for within the Legal and Governance Department's operational budget.

#### Conflicts of Interest Disclosure

The Chair of the Audit and Risk Committee and Council officers who prepared this report have no general or material conflict of interest to declare.

#### Legal / Risk Implications

The Audit and Risk Committee pursuant to Section 54(5) of the Local Government Act 2020 is required to prepare a biannual Audit and Risk Committee report that describes the activities of the Audit and Risk Committee and to provide a copy of the report to the Chief Executive Officer for tabling at the next Council meeting.

#### Stakeholder Consultation

There was no requirement for external stakeholder consultation.

#### Human Rights Consideration

The list of prescribed human rights contained in the Victorian Charter of Human Rights and Responsibilities Act 2006 has been reviewed. It is considered that the proposed actions contained in this report present no breaches of, or infringements upon, those prescribed rights.

#### Attachments

**9 Correspondence**

**10 Tabling of Petitions and Joint Letters**

**11 Notices of Motion**

**12 Reports by Councillors**

## 12.1 Record of Councillor Briefing Session held on 5 December 2022

### Purpose of Report

The Governance Rules provide that a summary of the matters discussed at an informal meeting of Councillors is tabled at the next convenient Council meeting and recorded in the minutes of that Council meeting.

### Officer Recommendation

***That the Council RECEIVE the Record of the Councillor Briefing Session held on 5 December 2022.***

### Governance Compliance

#### Policy Implications

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

#### Financial and Resource Implications

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

#### Conflicts of Interest Disclosure

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

#### Legal / Risk Implications

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

#### Community Consultation

5. There was no requirement for community consultation.

#### Human Rights Consideration

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

### Attachments

1. Record - Councillor Briefing Session (5 December 2022) [**12.1.1** - 4 pages]

**13 Questions to Council Officers**

**14 Urgent Business**

**15 General Business**

**16 Confidential Business**

**16.1 Art Acquisitions Advisory Committee Membership Recommendations**

**Director Community & Wellbeing: Cath Harrod**

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) (f) personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.