



Council Meeting Agenda

Monday 14 November 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 2020 clause 67 meetings of the Council will be audio recorded and made available for public access, with the exception of matters identified as confidential items in the agenda.

Disclosure of Conflict of Interest

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

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

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

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

Behavior at meetings

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

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

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

Your cooperation would be appreciated.

Mayor, Deputy Mayor and Councillors, Stonnington City Council

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.

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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 Meeting held on 24 October 2022

Officer Recommendation

That the Minutes of the Meeting of the Stonnington City Council held on 24 October 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 0794/21 - 38 Anderson Street, Malvern East

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

Purpose of Report

For Council to consider a planning application for the construction of two (2) dwellings on a lot in a General Residential Zone at 38 Anderson Street, Malvern East.

Abstract

Proposal

The proposal seeks to construct two (2) two-storey dwellings on a lot, each comprising three (3) bedrooms, plus study and two (2) garage spaces in each respective garage.

Officer Recommendation Summary

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

- The proposed development is consistent with the objectives of State and Local Planning Policy.
- The development represents an appropriate design response to the preferred neighbourhood character of the area.
- The proposal provides for a satisfactory landscape response that will contribute positively to the landscape character of the area.
- The development will not unreasonably impact upon adjoining residential amenity as determined by compliance with ResCode (Clause 55) Objectives.
- 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).
- Does not respond to previous VCAT Decision applicable to the site (refer to Built Form and Objection assessment).
- Landscaping outcomes (refer to Landscaping assessment).
- Neighbourhood Character (refer to Neighbourhood Character assessment).
- Amenity impacts on the adjoining properties (refer to Overshadowing assessment).

Officer Response

The proposal seeks to construct two (2) two-storey dwellings on the site.

The site is located within an “substantial change area” where medium to high density development is encouraged given its location on a main road, which is serviced by tram connections. Despite this, the proposed development provides a design response that is more responsive to its immediate context, which includes heritage properties all of which, are one to two storeys in height. Importantly, the proposed development appropriately responds to the key issues raised in the VCAT Decision for Planning Application 0505/19.

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 meets all of the Objectives of Clause 55 (Two or More Dwellings on a Lot & Residential Buildings) and provides a high level of internal amenity without compromising the amenity of neighbouring properties.

Executive Summary

Applicant:	Janani Amman Vari Rajarajan Petridis Architects
Ward:	East
Zone:	General Residential Zone (Schedule 3)
Overlay:	N/A

Neighbourhood Precinct:	Garden Suburban 4 Precinct
Date Lodged:	09 September 2021
Statutory Days: (as at Council Meeting date)	137 Days
Trigger for Referral to Council:	Seven (7) or more objections
Cultural Heritage Plan	No
Number of Objections:	Eighteen (18) from seventeen (17) different property addresses
Consultative Meeting:	Yes – Held on 3 August 2022
Officer Recommendation	Notice of Decision to Grant a Permit

Background

Background

The application lodged on 9 September 2021 was seeking approval for the construction of two (2) dwellings on a lot, each consisting of three (3) storeys in height. This proposal underwent public notice in December 2021, where it obtained seventeen (17) objections.

A Section 57A Amendment was lodged with Council on 2 June 2022 which sought to make the following changes:

- The two (2) proposed dwellings reduced from three (3) storeys for two (2) storeys in height.
- The total number of bedrooms reducing from five (5) to three (3) for each dwelling.
- Each dwelling modified to include a Storage / Games Room area

The application was readvertised in June 2022 and resulted in one (1) additional objection, increasing the total number of objections to eighteen (18).

After the Community Consultation held on 3 August 2022, Council received 'Discussion Plans' on 28 August 2022, which included the following changes:

- Increased landscaping along the eastern boundary and throughout the property (and inclusion of a Landscape Plan).
- Modifications to the colour of the garages.
- Address inconsistencies in material colours.

The 'Discussion Plans' were circulated to all Objectors on 12 September 2022.

On 21 October 2022, the abovementioned 'Discussion Plans' were formally lodged with Council as part of a Section 57A Amendment.

The Proposal

The plans that form part of the basis of Council's consideration were prepared by Petridis Architects 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 outbuildings on site (no permit required).

- Construction of two (2) two-storey detached dwellings. The site is located on a corner, allowing Dwelling 01 to have a frontage to both Wattletree Road and Anderson Street. Dwelling 02 has a primary frontage to Anderson Street.
- Pedestrian and vehicle access to each dwelling is provided along Anderson Street. A new crossover is proposed for each dwelling, with the existing crossover located at the south-west corner of the site to be removed and reinstated to the satisfaction of Council.
- Each dwelling has a two (2) car garage and can accommodate B85 vehicles, in accordance with Clause 52.06 (Car Parking).
- Each dwelling includes a basement, which will be utilised for storage / games room. Each basement includes a laundry and powder room. The basement is accessible via and internal and external stairwell.
- The ground floor for each dwelling includes kitchen, living and dining in an open plan arrangement. The ground floor for each dwelling also includes a study (with ensuite) and powder room. Secluded Private Open Space (SPOS) is located at the rear of each dwelling, accessible from the living area. Dwelling 01 also includes a large area of Private Open Space (POS) within the front portion of the dwelling, facing Wattletree Road.
- The first floor for each dwelling includes three (3) additional bedrooms (with ensuite) and retreat area.
- The dwellings will have a maximum building height of 9.34 metres.
- Site coverage for the overall development is 44.6%.
- The basement site coverage for the overall development is 29.4%.
- The development adopts a contemporary built form response that included traditional building elements such as a pitched roof and eaves. The materials include a mix of exposed brick, rendered brick in lighter and darker tones and terracotta roof tiles.

Site and Surrounds

The site is located on the eastern side of Anderson Street. The site has the following significant characteristics:

- The site is regular in shape and is located on the corner of Anderson Street and Wattletree Road. The site has a 38.71 metre frontage to Anderson Street (east boundary) and a 16.49 metre frontage to Wattletree Road (northern boundary). The site has a maximum depth of 42.06 metres and an overall site area of 637 square metres.
- The site is currently vacant and includes some vegetation (not significant) along the northern boundary. At the rear of site is a 1.83 metre drainage easement that traverses along the entire southern boundary.
- The site includes a low-rise, brick fence along Wattletree Road and Anderson Street. The fence partially acts as a retaining wall along Anderson Street as a result of the gentle slope in the land, which falls from the east to the west.
- There is an existing vehicle crossover located at the south-west corner of the site.

Key features of the surrounding sites are as follows:

- To the north is Wattletree Road, which is identified as an arterial road and is located within a Transport 2 Zone. Wattletree Road consists of four (4) lanes, two (2) lanes travelling east and two (2) lanes travelling west. Further north is No. 335 Wattletree Road, which is occupied by a large two-storey detached dwelling.
- No. 318A Wattletree Road is located east of the site and is occupied by a two-storey detached inter-war villa. The dwelling is affected by Heritage Overlay (HO133 – Gascoigne Estate Precinct) and identified as a significant building (B Graded) indicating that the building is of ‘significance’ under Council’s Local Heritage Policy.
- No. 36 Anderson Street is located at the site’s southern boundary. The land consists of a detached dwelling with a hipped-gable roof, constructed out of tiles. The site consists of landscaping throughout and a vehicle crossover, which provides access to the driveway and garage at the northern boundary.
- To the west is Anderson Street, which is a local road connecting to Wattletree Road in the north and Central Park Road in the south. Further west is No. 316 Wattletree Road which consists of a multi-unit development comprising of six (6) single storey dwellings.

Previous Planning Application

A search of Council records indicates the following planning application is of relevance to the assessment of this application:

- Planning Application 0505/19 which sought approval for the construction of three (3) three-storey dwellings on a lot.
- The application was refused by the planning department under delegation on 25 March 2020.
- The Permit Applicant appealed Council’s decision under Section 77 of the *Planning and Environment Act 1987*. The Victorian Civil & Administrative Tribunal (VCAT) upheld Council’s decision and issued a Refusal to Grant a Permit.

The Title

The site is described on Certificate of Title Volume 09751 Folio 002 as Lot 1 on Title Plan 136703S. No covenants affect the land, however, there is a drainage easement affecting the land at the southern boundary.

Planning Controls

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

Zone

Clause 32.08 – General Residential Zone (Schedule 3)

Pursuant to Clause 32.08-6 a permit is required to construct two (2) or more dwellings on a lot.

A permit is also required to construct a front fence that exceeds 2.00 metres (along Wattletree Road) and 1.50 metres (along Anderson Street). The application proposes a 1.50 metre front fence along Wattletree Road and therefore, no planning permit is required for the front fence.

Pursuant to Clause 32.08-4 an application to construct or extend a dwelling or residential building on a lot with a lot size greater than 650.00 square metres must provide a minimum garden area equal to 35% of the lot size. 50.60% of garden area is provided.

Pursuant to Schedule 3 of the General Residential Zone, a building used for a dwelling, or a residential building must not exceed 12.00 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 13.00 metres. The proposed development has a maximum height of 9.34 metres and therefore, meets the height requirements.

The development must meet all the objectives of Clause 55 (Two or More Dwellings on a Lot & Residential Buildings) and should meet all the Standards of the Clause. Schedule 3 of the General Residential Zone modifies the following requirements:

- Site Coverage (Standard B8) – Basements should not exceed 75% of the site area.
- Side and Rear Setbacks (Standard B17) – For a distance of at least 5.00 metres behind the front façade of the building fronting the street, setback new buildings (including basements) a minimum of 2.00 metres from at least one side boundary and at least 1 metre from the other side boundary up to 3.60 metres in height. Where no setback is specified, Standard B17 applies.
- Walls on Boundaries (Standard B18) – Walls should not be located on side boundaries for a distance of 5.00 metres behind the front façade of the building fronting the street.

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 four car parking spaces (two spaces per dwelling). Four (4) 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 21.06 – Built Environment and Heritage

Clause 21.08 – Infrastructure

Clause 22.05 – Environmentally Sustainable Development Policy

Clause 22.18 – Water Sensitive Urban Design Policy

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

A total of seventeen (17) objections were received from sixteen (16) different addresses.

A Section 57A Application was lodged with Council on 2 June 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 two (2) sign(s) on the site). The public notification of the application has been completed satisfactorily.

One (1) additional objection from a different residential property was received, increasing the total number of objections to eighteen (18) from seventeen (17) 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:

- Intention of basement areas is unclear.
- Does not recognise or provide a suitable transition to the surrounding heritage listed properties.
- Lack of landscaping along the eastern boundary.
- Overshadowing.
- Concerns around how stormwater will be pumped from the site.
- Minor drafting errors on the plans.
- Visually bulky and out of scale for the area.
- Does not adhere to Neighbourhood Character.
- High site coverage.
- Increase in traffic to the area and car parking concerns.
- Hidden driveways are unsafe.
- Is not consistent with street setbacks.
- Does not respond to issues raised in previous VCAT decision.

A Consultative Meeting was held on 3 August 2022. The meeting was attended by Councillors Jami Klisaris, Polly Morgan and Alexander Lew, representatives of the applicant, objectors, and a Council Planning Officer.

The meeting did result in changes to the plans. These plans were initially lodged as 'Discussion Plans' on 28 August 2022 and included the following changes:

- Increased landscaping along the eastern boundary and throughout the property (and inclusion of a Landscape Plan). At the Consultative Meeting, objectors raised concerns with the Landscape Plan proposed as part of Planning Permit 0505/19 as this plan included plant types such as bamboo and palm trees. The Landscape Plan provided has responded to objector concerns and does not include such species as part of the

proposal but rather, has adopted species that are more suitable and common throughout the municipality.

- Modifications to the garages, by way of including a window to provide articulation. To address objector concerns, the applicant proceeded to modify the colour of the garage door from white to light grey. This information is reflected in the material schedule, however, a condition is included on the permit requiring the applicant to accurately reflect this information on the elevations.
- Address inconsistencies in material colours in terms of material references on the schedule and elevations. As stated above, a condition is included on the permit to require the material schedule to be accurately coded and references on all elevations.

The 'Discussion Plans' were circulated to objectors on the 12 September 2022.

The abovementioned 'Discussion Plans' were then formally lodged with Council as part of a Section 57A Amendment on 21 October 2022.

Referrals

Urban Design

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

- With regards to the original scheme, where each dwelling was three (3) storeys in height, Council's Urban Designer stated that the development should be limited to two storeys, with a well-articulated form and a material palette that sympathetically responds to the heritage context
- In light of the above, a Section 57A Application was lodged on 2 June 2022 which sought to reduce the building height of the two (2) dwellings from three (3) storeys to two (2) storeys.
- The plans submitted as part of the Section 57A Application were issued to Council's Urban Designer who stated that matters relating to height had been addressed but further work was required to provide a strong landscaping response to the eastern boundary, a lighter material palette should be adopted and the floor to ceiling heights should be lowered to reduce the visual bulk of the development.
- In response to the 'Amended Plans' (Council date stamp 21 October 2022) which sought to address the abovementioned concerns. Council's Urban Designer advised that these modifications addressed his concerns.

Officer Response:

The 'Amended Plans' (Council date stamp 21 October 2022) address the concerns raised by Council's Urban Designer and have been appropriately referenced in the conditions of the permit.

Transport & Parking

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

- *Dwelling 01 the width is proposed at 3.600m (matching the vehicle crossing width), but the access point for Dwelling 02 is not clearly dimensioned. The vehicle crossing for this dwelling is 4.50m wide, but does not align with the property access point. In either case, the applicant must still demonstrate that access into each space within the garages is possible with the other space occupied.*

- *Each property has a separate driveway, however, the driveway and the property opening do not appear to align for Dwelling 02. Typically, the width of the property opening, and the vehicle crossing would be the same, and aligned directly. The applicant is to address this.*
- *The material does not show the headroom clearance of the garages. The applicant is to revise the plans to clearly show the headroom clearance with the door in the open position, and that it is compliant with the Planning Scheme requirements.*

Officer Response:

Dimensions of the accessway for Dwelling 02 has been addressed as a condition of permit.

With regards to the alignment of the driveways, the 'Amended Plans' (Council date stamp 21 October 2022) include swept path diagrams for a B85 Vehicle, where there is a vehicle parked in each garage. The swept path diagrams confirm that a B85 Vehicle can enter and exit efficiently.

The Transport and Parking comments go on to state that that the property and driveway do not align. The swept path diagrams demonstrate that B85 Vehicles can enter and exit safely under this arrangement.

The 'Amended Plans' (Council date stamp 21 October 2022) show the garage head clearance at 3.00 metres, which exceeds the standard requirement of 2.10 metres.

The abovementioned plans 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.

Lastly, the southern vehicle splay is angled, and it is requested to be revised to align with the property boundary. It is not a requirement of Clause 52.06-9 for the vehicle splay to align with the property boundary, however, it a requirement under Council's Local Laws for these to be alignment. As such, a condition is included on the permit requiring for the driveway to be in alignment with the property.

Parks

Comments from Council's Parks Department can be summarised as follows:

- *No objection to this proposal.*
- *A Landscape Plan must be conditioned to ensure canopy trees are being installed as part of this proposal.*
- *If trees are to be retained, please request a Tree Management Plan.*

Officer Response:

A Landscape Plan was provided as part of the 'Amended Plans' (Council date stamp 21 October 2022) This Landscape Plan has been addressed as a condition of the permit, along with the Tree Management Plan.

Infrastructure

Comments from Council's Infrastructure Engineers can be summarised as follows:

Please include the following conditions:

- *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. 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.*
- *The existing footpath levels must not be raised or altered in any way at the property line (to facilitate the driveway ramps).*
- *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.*
- *The owner 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 2,5000 litres greater than those tanks required to satisfy WSUD requirements for the development. Those tanks must be connected to all toilets.*

Officer Response:

Conditions of approval will reflect the above requirements.

Key Issues and Discussion

Strategic Context

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

The Municipal Strategic Statement (MSS) recognises the need for increased densities across the municipality and identifies locations where specific outcomes are encouraged (Clause 21.03). Council's Local Policy on the location of residential development 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 an "substantial change area" in which medium density and higher density development are encouraged particularly for sites with an immediate abuttal to a main road, that is serviced by a tram or bus route.

The purpose of the General Residential Zone is to implement the Municipal Planning Strategy and the Planning Policy Framework, to encourage a diversity of housing types and growth in areas that are well serviced by public transport, and to manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.

The site is well located within the municipality, being approximately 550.00 metres west of Central Park and the Central Park Neighbourhood Activity Centre, which includes a variety of retail and restaurant offerings, as well as everyday necessities. The site is serviced by

Tram Route No.5 which connects from Malvern to Melbourne University (via the Central Business District). The proposed development will result in a modest increase in density which is appropriate within this residential neighbourhood of Malvern East. 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.

Overall, the proposal responds adequately to the State and Local planning policy objectives for increased density and infill development.

The provisions of the General Residential Zone require that the proposal be assessed against the objectives and standards of Clause 55 (Two or More Dwellings on a Lot & Residential Buildings) and any modified standards specified in the schedule to the zone. 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.

The application has been assessed against Clause 55 (Two or More Dwellings on a Lot & Residential Buildings) and the key areas for discussion are as follows:

Built Form

Neighbourhood Character

Standard B1 (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 4 Precinct' which is described 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.

The proposed development appropriately responds to the preferred character and design objectives for the 'Garden Suburban 4 Precinct' for the following reasons:

- Each 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 dwellings have appropriate setbacks, articulation, and landscaping all of which, respectfully responds to the neighbourhood and character of the streetscape.
- The proposed dwellings are contemporary but incorporate some traditional building features that are consistent with the area, such as eaves and a hipped roof. The built form of each dwelling is recessed at the upper levels and includes variations in materials and colours. It is considered that its contemporary design response will provide a pleasant contrast to the older style dwellings within the immediate context, particularly to properties that are affected by the Heritage Overlay.
- Each 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 44.6% (and 29.4% for the basement) which ensures there is ample space for landscaping to occur. For reference, Standard B8 (Site Coverage) requires a 60% site coverage (and 75% for basements).

- As shown on the Landscape Plan (Council date stamp 12 September 2022), canopy tree planting is proposed along the northern and western boundaries including a Drooping She-Oak and Silver Banksia. Twelve (12) Emerald Standard Ficus are proposed along the eastern boundary and three (3) Capital Pears at the south-west corner. This is considered to be a strong landscaping response that will strengthen the garden setting of the building.
- Car parking structures are located along the western boundary of the site. Given the site has a 38.71 metre frontage to Anderson Street, it is considered that there is sufficient space to not only accommodate two (2) dwellings but to ensure that there is sufficient separation between garages to ensure they do not dominate the streetscape. The driveways avoid the use of excessive paving and are complemented by landscaping.
- A 1.50 metre fence is proposed along the northern boundary, which will be constructed out of brick piers and steel inserts. 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 dwellings and is consistent with other fence designs within the area. Furthermore, the proposed fence height complies with Standard B32 (Front Fences) where fences along a main road can be constructed to a height of 2.00 metres.

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

Street Setback

The site is located on a corner and therefore has two (2) frontages. One to Wattletree Road and one to Anderson Street. Wattletree Road is the primary street frontage, and Anderson Street the secondary street (side street).

Pursuant to Standard B6 (Street Setback) when the site is a corner the setback to the primary street frontage should meet the setback of the front wall of any dwelling on an abutting site, or 9.00 metres, whichever is the lesser.

In this case the abutting dwelling to the east is No. 318A Wattletree Road, which has a setback of 10.55 metres. The Wattletree Road setback of 9.00 metres to Dwelling 01 therefore complies with the Standard.

With regard to the side street setback of Dwelling 01 to Anderson Street, Standard B6 (Street Setback) allows for a 2.00 metre minimum setback to the side street. The 2.31 metre setback proposed therefore complies with the Standard.

Finally, Dwelling 02 proposes a 3.00 metre setback to Anderson Street. Standard B6 (Street Setback) states that the front wall of a new development fronting the side street of a corner site should be setback at least the same distance as the setback of the front wall of any existing building on the abutting allotment facing the side street or 3.00 metres, whichever is the lesser.

In this case, the abutting dwelling to the south at No. 36 Anderson Street has a setback of 11.60 metres, so the applicable setback requirement is 3.00 metres. Dwelling 02 proposes a setback of 3.00 metres and complies with the Standard.

Building Height

As outlined earlier in this report, Schedule 3 of the General Residential Zone stipulates a mandatory maximum height limit of 12.00 metres. The proposed development has a maximum height limit of 9.34 metres and therefore, complies with the Standard.

Site Coverage & Permeability

Each dwelling includes a games room / storage area below the ground floor and is therefore, identified as the basement level within each dwelling. The basements have a combined site coverage of 29.4%, complying with the varied requirements of Standard B8 (Site Coverage) which allows for 75% At ground level, the proposed development presents a site coverage of 44.6% which again, complies with the Standard which allows for 60% site coverage.

In terms of permeability, the proposed development achieves 50.9% permeability, exceeding the minimum 20% requirement.

The extent of the site coverage and permeability allows for the establishment of in-ground landscaping and will assist to reduce the impact of increased stormwater run-off on the drainage system. Therefore, the relevant objectives are considered to be met.

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, however, the proposed development seeks to retain a number of trees on site A Tree Management Plan is included as a condition of the permit to ensure the trees are protected during construction, including the street trees along Anderson Street.

The proposed development seeks to plant additional canopy trees throughout the site as follows:

- One (1) x *Allocaurarina verticillata* (Drooping She-Oak)
- Two (2) x *Banksia marginata* (Silver Banksia)
- Three (3) x *Pyrus calleryana* (Capital Pear)

In addition to the above, twelve (12) *Ficus hillii* (Emerald Standard Ficus) are proposed along the eastern boundary of the development to provide added privacy to the adjoining property but also provide for a lush, landscape setting.

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.

As discussed earlier above, the Landscape Plan (Council date stamp 21 October 2022) was submitted as part of the 'Amended Plans' and as such, a condition has been placed on the permit to ensure the Landscape Plan is implemented.

The proposed landscaping response will respect and enhance the existing landscaped character of the neighbourhood as required by Standard B13 (Landscaping) and align with the neighbourhood character objectives the 'Garden Suburban 4 Precinct'.

Access & Parking Location

Vehicle access to the two (2) double-space garages is proposed by two (2) new separate vehicle crossovers from Anderson Street. The location and design of the proposed access arrangement is convenient and appropriate for the site and meets the requirements of Standard B14 (Access) and B15 (Parking Location).

Specific requirements identified by Council's Transport & Parking Engineer will be addressed as conditions of approval.

Amenity Impacts

Side & Rear Setbacks

Schedule 3 of the Zone varies the side setback requirements and seeks that for a distance of at least 5.00 metres behind the front façade of the building fronting the street, new buildings (including basements) should be setback a minimum of 2.00 metres from at least one side boundary and at least 1.00 metre from the other side boundary up to 3.60 metres in height.

The eastern boundary of Dwelling 01 complies with this requirement with regards to the setback at the ground and basement level, however, the height of the wall of Dwelling 01 exceeds 3.60 metres. Similarly, at the southern boundary, Dwelling 02 complies with this requirement but also proposes a wall height, that exceeds 3.60 metres.

It is considered that a variation to the Standard can be accepted in this instance, given the wall height of 4.00 metre at the eastern boundary, and 4.95 metres at the southern boundary, complies with the requirements of Standard B17 (Side & Rear Setbacks). The walls at the eastern and southern boundaries will be obscured by landscaping. Lastly, the walls at the eastern and southern boundaries largely align with the driveway of the respective adjoining properties, rather than an area of Secluded Private Open Space (SPOS), which is a more sensitive interface. Adopting a variation to this requirement will not result in material detriment and can be supported.

Standard B17 (Side & Rear Setbacks) is used to assess the appropriateness of the remaining side and rear boundary setbacks.

At the ground floor of the eastern boundary, Dwelling 01 has a wall height of 4.00 metres, which requires a 1.24 metre setback from the boundary. Dwelling 01 provides a 2.20 metre setback, which then increases to 7.00 metres. This exceeds the requirements at the ground level. The first floor has a maximum wall height of 6.40 metres, which requires a 1.84 metre setback from the boundary. The first floor is setback 2.25 metres, exceeding the requirements of the Standard.

With regards to Dwelling 02, ground floor setbacks from the eastern boundary will be a minimum of 1.40 metres. Dwelling 02 has a wall height of 3.99 metres, requiring a setback of 1.11 metres and therefore, meeting the Standard. At the first floor, Dwelling 02 has a

minimum setback of 2.25 metres. The wall height is 6.20 metres, requiring a setback of 1.78 metres. The first-floor setback of Dwelling 02 exceeds the requirements of the Standard.

In terms of setbacks to the southern boundary, Dwelling 02 has a maximum wall height of 4.95 metres at the ground floor, requiring a setback of 1.40 metres. Dwelling 02 is setback 2.10 metres, exceeding the requirements of the Standard. At the first floor, Dwelling 02 has a maximum wall height of 6.60 metres, requiring a setback of 1.90 metres. Dwelling 02 has a minimum setback of 4.05 metres to the rear boundary and therefore, exceeds the requirements of the Standard.

Based on the above, the proposed development exceeds the requirements of the Standard and therefore, meets the objective of Standard B17 (Side and Rear Setbacks).

Walls on Boundaries

No walls are proposed along any boundaries.

Daylight to Existing Windows & North-Facing Windows

Existing habitable room windows are located along the western boundary of No. 318A Wattletree Road. These habitable room windows are located 3.00 metres from the common boundary.

Standard B19 (Daylight to Existing Windows) requires a light court that has a minimum area of 3.00 square metres and a minimum dimension of 1.00 metre clear to the sky. This requirement has been met at No. 318A Wattletree Road, which the Standard allows for.

The ground floor walls of Dwelling 01 and Dwelling 02 are located opposite these habitable room windows and in accordance with the Standard, should be appropriately setback to ensure adequate daylight access is achieved into the existing habitable room windows.

Dwelling 01 has a wall height of 4.00 metres and in accordance with the Standard, requires a setback of 2.00 metres from the windows. The proposed development is setback 5.20 metres from the windows and therefore, exceeds the requirement of the Standard.

Dwelling 02 has a wall height of 3.99 metres and requires a setback of 1.99 metres from the windows. Dwelling 02 also presents a setback of 5.20 metres, exceeding the requirements of the Standard.

Based on the above, the proposed development meets the objective of Standard B19 (Daylight to Existing Windows) and will not compromise daylight access to the existing habitable room windows.

There are no north-facing windows within 3.00 metres of the site and therefore, Standard B20 (North-Facing Windows) is not applicable in this instance.

Overshadowing

The submitted shadow diagrams show that the proposed development will result in overshadowing at No. 36 Anderson Street and No. 318A Wattletree Road at different times of the day.

With regards to No. 36 Anderson Street, the proposed development results in additional overshadowing between the hours of 9am-3pm. The extent of overshadowing, however, is confined to the driveway of No. 36 Anderson Street. A driveway is not considered to be an

area of Secluded Private Open Space (SPOS) and therefore, the proposed development acts in accordance with the Standard.

The proposed development overshadows No. 318A Wattletree Road at 2pm and 3pm but as shown in the submitted diagrams, the extent of overshadowing is confined to the existing lines of shadow, in accordance with the Standard.

Therefore, the proposed development is compliant with the requirements of the Standard.

Overlooking

The proposed development is within 9.00 metres of habitable room windows located at No. 318A Wattletree Road.

Bedroom 02 located on the first floor of Dwelling 02 is equipped with screening to a height of 1.70 metres above the Finished Floor Level (FFL) and therefore, meets the Standard.

With regards to Dwelling 01, it appears that Bedroom 03 just falls in within 9.00 metres of the existing habitable room windows at No. 318A Wattletree Road. The window at Bedroom 03 does not include screening or any other treatment to limit overlooking. As such, a condition is included on the permit requiring the Bedroom 03 window in Dwelling 01 to be screened in accordance with Standard B22 (Overlooking).

On-Site Amenity

Access and Dwelling Entry

The pedestrian entry point to each dwelling is located along Anderson Street. The entry point is well defined by a pathway and landscaping, which leads to a porch, providing shelter to residents and visitors.

Due to the slope in the land, there are steps that lead into each dwelling but given the space available, it would be possible for these steps to be modified into a ramp, to assist those with limited mobility.

Internal Amenity

The proposal is considered to provide a high level of internal amenity. All proposed new habitable room windows are clear to the sky, providing adequate daylight. Where possible, habitable room windows for Dwelling 01 are orientated north, maximising solar access. The proposed development is cognisant of the neighbouring sensitive interfaces and where necessary, adopts screening to windows to mitigate opportunities for overlooking.

Dwelling 01 has Private Open Space (POS) orientated north and Secluded Private Open Space (SPOS) orientated east, maximising its orientation where possible. Dwelling 02 SPOS is orientated to the east and south, which is largely due to the orientation of the lot.

Nonetheless, it is considered that adequate solar access will be obtained throughout the day.

Both dwellings exceed the requirements of Standard B28 (Private Open Space) and provide POS areas ranging from 105-333 square metres. SPOS areas range between 45.6-105.2 square meters.

With regards to Storage (Standard B30) each dwelling is well equipped with storage, with the basement area to be utilised as a storage space. However, the proposed development has

not identified any external storage space and as such, a condition is included on the permit requiring for this to be shown on the plans.

Car Parking and Traffic

Traffic

Council's Transport & Parking have advised that, given the small number of parking spaces provided on the site, the traffic impact of this development is anticipated to be negligible.

Car Parking

As outlined above, the statutory car parking requirement of four spaces can be provided on the site in the form a two-space garage per dwelling.

Car Parking Design

As outlined above, the car parking has generally been designed in accordance with the applicable design standards at Clause 52.06-9. The outstanding issue are addressed as conditions of the permit.

Sustainable Design Assessment

A Sustainable Design Assessment (SDA) is required for the proposal in accordance with Council's Environmentally Sustainable Development Policy at Clause 22.05. A detailed SDA was submitted with the application, including a BESS assessment, which achieves a score of 53%. This meets the best practice requirement of 50% and is satisfactory.

The development also achieves a pass in the four key performance categories of Water, Energy, Stormwater and IEQ.

A Water Sensitive Urban Design (WSUD) Response was included within the SDA. The report indicates the development achieves a STORM rating of 109% which is achieved by the provision of two (2) rainwater tanks (one (1) for each dwelling) with a total capacity of 6,000L.

3,000L tanks are proposed for both dwellings, and are located within the basement of each dwelling. However, it is noted that the roof areas stipulated on Drawing TPA03 do not align with the figured in the SDA. A condition is included on the permit requiring this information to be updated. Furthermore, the plans do not state that the rainwater tanks will be used for toilet flushing. This will be addressed as a condition of the permit.

Subject to these conditions, the requirements of Clause 22.18 are considered to be met.

Objections

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

- The 'Amended Plans '(Council date stamped 21 October 2022) clearly show that the basement will be used for the purposes of storage, games room and a gym. 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. Furthermore, since the pandemic, many property owners are modifying their homes to allow for more space for home gymnasiums and home offices. Therefore, this arrangement is considered acceptable.

- It is considered that the proposed two-storey form of both dwellings is respectful to the adjoining heritage listed dwellings. One of the key concerns raised in the VCAT proceedings associated with Planning Application 0505/19 was that the height and density of the development does not respond to the heritage character of the adjoining properties. For reference, the previous application (Planning Application 0505/19) proposed three (3), three-storey dwellings. Member Wilson states the following in the VCAT Order:

“The three-storey height will create an abrupt transition from the single storey appearance of the adjoining dwelling to the east. Although the eastern elevation is stepped, I find the combination of the overall height, the visually prominent rectangular form of the ground and first floor and the limited side setback, especially at ground floor will result in an intrusive form that detracts from the heritage significance. I consider the development will appear as a visually intrusive contrast to the nearby heritage properties”.

It is considered that the proposed development has appropriately responded to this point by not only reducing the total number of dwellings from three (3) to two (2) but by reducing the height of the overall development from 11.24 metres to 9.34 metres by removing a storey. Furthermore, the development has also reduced the floor to ceiling heights, as advised by Council’s Urban Designer, to reduce the ‘visually intrusive’ form. Lastly, the proposed development adheres to the setback requirements to the eastern and southern boundaries to ensure there is more than adequate space between dwellings.

- It is considered that the proposed development has adhered to a number of concerns raised in the VCAT Decision for Planning Application 0505/19. As discussed above, the proposed development appropriately responds to the heritage context of the area and has adopted a reduced built form. In terms of street setbacks, the proposed development has adopted a 9.00 metre setback to Wattletree Road (previous setback was 8.10 metres), which is not only compliant with Standard B6 (Street Setback) but also more in keeping with the adjoining setbacks to the street. The proposed development is appropriately setback from the eastern boundary, enabling for meaningful landscaping to occur. Even with the inclusion of the external staircase leading to the basement, the development is able to accommodate twelve (12) Emerald Standard Ficus trees. This will strengthen the garden setting and also provide a privacy buffer between dwellings.
- Despite being located in a ‘substantial change area’ the proposed development has adopted a more conservative design that responds to the contextual features of the site and is more in keeping with the requirements of Council’s ‘incremental change areas’ where one to two storey built forms are encouraged.
- Council’s Infrastructure Engineer has no objection to the proposed development and has recommended a number of conditions to ensure that drainage is effectively managed.

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. 794/21 - 38 Anderson Street, Malvern East [8.1.1 - 12 pages]

Officer Recommendation

That Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 0794/21 for the land located at 38 Anderson Street, Malvern East under the Stonnington Planning Scheme for the construction of two (2) dwellings on a lot in a General Residential Zone 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 'Amended Plans' (Council date stamp 21 October 2022) prepared by Petridis Architects but modified to show the following:***
 - a) ***Bedroom 03 window of Dwelling 01 modified to comply with the requirements of Standard B22 (Overlooking) unless it can be demonstrated that there is no unreasonable overlooking to areas of secluded private open space or habitable room windows at No. 318A Wattletree Road, Malvern East.***
 - b) ***Notation stating that rainwater tanks for each dwelling will be connected to toilets for flushing.***
 - c) ***Location of external storage areas for Dwelling 01 and Dwelling 02 shown on the Ground Floor Plan.***
 - d) ***Vehicle crossovers for Dwelling 01 and Dwelling 02 modified to be in direct alignment with the property boundary.***
 - e) ***Vehicle accessway for Dwelling 02 notated on the Ground Floor Plan.***
 - f) ***Any modifications required by Condition 3 (Landscape Plan) shown on the plans.***
 - g) ***Any modifications required by Condition 5 (Tree Management Plan) shown on the plans.***
 - h) ***Any modifications required by Condition 7 (Sustainable Design Assessment) shown on the plans. The plans must be consistent with the Sustainable Design Assessment.***
 - i) ***Material Schedule updated to include material codes. Material codes must be accurately referenced and shown on all elevations and must include a light grey colour to the garage doors.***

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 commencement of the development, 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 in accordance with the Landscape Plan (Council date stamped 21 October 2022) prepared by Keystone Alliance but modified to show:***
 - a) ***The survey of existing vegetation modified to specifically outline which trees will be removed and / or retained, in accordance with the Landscape Plan.***
 - b) ***Any modifications required by Condition 1 (Architectural Plans) shown on the plans.***
 - c) ***Any modifications required by Condition 5 (Tree Management Plan) shown on the plans.***
4. ***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.***
5. ***Prior to the commencement of the development, a Tree Management Plan (TMP) 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 all trees proposed to be retained as part of the development (including the street trees) in accordance with the Landscape Plan (Council date stamp 21 October 2022) prepared by Keystone Alliance.

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.

6. **Prior to commencement of the development (including excavation and demolition), tree protection fence(s) must be erected around the trees proposed to be retained on site (including the street trees) in accordance with the Landscape Plan prepared by Keystone Alliance (Council date stamp 21 October 2022). Fencing is to be compliant with Section 4 of AS 4970. Signage identifying the need for approval from Council's Parks Unit for any root cutting (prior to it occurring) must also be displayed on the fence**
7. **Prior to the commencement of works, a Sustainable Design Assessment (SDA) must be submitted to and approved by the Responsible Authority. When approved the SDA will be endorsed and will then form part of the permit. The development must incorporate the sustainable design initiatives outlined in the SDA to the satisfaction of the Responsible Authority. The SDA must be in accordance with the SDA prepared by Fraser Consulting Services (Council date stamped 2 June 2022) but modified to show:**
 - a) **Revised STORM Assessment that correctly states the impervious area for each dwelling. This information must be correctly shown on the Architectural Plans.**
8. **The project must incorporate the Water Sensitive Urban Design (WSUD) initiatives detailed in the endorsed SDA.**
9. **Prior to the occupation of the building, fixed privacy screens (not adhesive film) designed to limit overlooking as required by Standard B22 (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.**
10. **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. 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.**
11. **The existing footpath levels must not be raised or altered in any way at the property line (to facilitate the driveway ramps).**
12. **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.**

13. ***The owner 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 2,5000 litres greater than those tanks required to satisfy WSUD requirements for the development. Those tanks must be connected to all toilets.***
14. ***Any poles, service pits or other structures/features on the footpath required to be relocated to facilitate the development must be done so at the cost of the applicant and subject to the relevant authority's consent.***
15. ***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. 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.**
- 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 0259/22 - 31 Beatty Avenue, Armadale

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

Purpose of Report

For Council to consider a planning application for partial demolition, construction of a multi-storey building to be used as an office (as of right) in a Commercial 1 Zone and Heritage Overlay, buildings and works in common property and reduction in the associated car parking requirement at 31 Beatty Avenue, Armadale.

Abstract

Proposal

The proposal seeks to partially demolish and existing building and construct of a multi-storey building comprising of three (3) levels. Office is proposed at all levels and roof terrace at the second floor. The development includes two (2) bicycles spaces and zero (0) on site car parking spaces.

Officer Recommendation Summary

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

- The proposed development is consistent with the objectives of State and Local Planning Policy.
- The proposed development appropriately responds to Council's Heritage Policy and is supported by Council's Heritage Advisor.
- The proposed development represents a design that appropriately responds to its immediate context and strikes a balance in reducing amenity impacts to the nearby residential properties, whilst meeting the built form expectations for sites located in activity centres. Council's Urban Designer is supportive of the application.
- The proposed development will be used as an office, which is an 'as of right' use in the Commercial 1 Zone.
- Zero (0) car parking spaces are provided on site, however, given its proximity to public transport this is considered to be an acceptable outcome as it promotes the use of sustainable transport methods. Council's Transport & Parking Department support the application.

Issues

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

- Building height and massing (refer to Built Form assessment)
- Overlooking (refer to Overlooking assessment)
- Amenity impacts on the adjoining properties (refer to Overlooking assessment)
- Traffic & Car Parking (refer to Car Parking & Traffic assessment)

Officer Response

The proposal seeks to partially demolish an existing building in order to facilitate the construction of a three-storey office building, with roof terrace at second floor. The proposal seeks to provide zero (0) car parking and two (2) bicycle spaces.

The site is located within the Beatty Avenue Neighbourhood Activity Centre, which is identified as a (small) neighbourhood activity centre under Council's Local Planning Policy. Activity centres, regardless of their size, are encouraged to provide a diversity of land uses to foster the growth of lively and viable activity centres.

The office building will complement the activity centre in a variety of ways but will importantly provide employment opportunities, both during and post construction. The site is located within the Commercial 1 Zone where office is an 'as of right' use.

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

The proposal also appropriately responds to Council's Heritage Policy and ensures that the heritage significance of the existing building is celebrated through design. Council's Heritage Advisor is supportive of the application.

Overall, the proposal development will serve as a positive contribution to Beatty Avenue.

Executive Summary

Applicant:	Ashley Lochhead Ashley Lochhead Architects
Ward:	South
Zone:	Commercial 1 Zone
Overlay:	Heritage Overlay (HO130)
Commercial Precinct:	Beatty Avenue
Date Lodged:	26 April 2022
Statutory Days: (as at Council Meeting date)	111 Days
Trigger for Referral to Council:	Seven (7) or more objections.
Cultural Heritage Plan	No
Number of Objections:	Eight (8)
Consultative Meeting:	Yes – 21 September 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 Ashley Lochhead Architects and are known as the Advertised Plans, Drawing No(s) TP0-001 to TP4-200 and Council date stamped 06 July 2022.

Key features of the proposal are:

- Partial demolition of an existing significant ('B-Graded') heritage building, currently utilised as an office, to facilitate the construction of a three (3) storey office (as of right) building.
- The proposed development will have a maximum building height of 11.30 metres.
- The proposed development is largely constructed boundary to boundary, with the second floor adopting a reduced footprint and terrace.
- The proposed development will partially be constructed in areas of common property, which is shared with No. 30 Beatty Avenue.
- Primary pedestrian access to the building will remain via the existing entry point along Beatty Avenue and additional pedestrian access point will be provided via Kestle Lane.
- Zero (0) car parking will be provided on site and two (2) bicycle parking spaces within the development.
- The ground floor of the proposed development will consist of office floor space, as well as kitchen, bathroom, DDA compliant bathroom, building services and stairwell. The first floor and second floor will consist of further office space and the continued stairwell. The second floor will also consist of a south-facing roof terrace.
- The proposed development provides a contemporary design response and will be constructed out of dark concrete, as well as rendered brick in a white and light grey colour. The development will consist of a substantial amount of glazing. The glazing will vary between clear, frosted and clear glazing with a mesh interlay.
- The existing heritage building will be reinstated where applicable and the existing roof will be made good, with replacement of like-for-like terracotta tiles.

Site and Surrounds

The site is located on the northern side of Beatty Avenue and the eastern side of Kestle Lane. The site has the following significant characteristics:

- The site is a triangle shaped lot, located on the corner of Beatty Avenue and Kestle Lane. The site has a 11.67 metre frontage to Beatty Avenue and a 23.14 metre frontage to Kestle Lane. The site has an overall site area of 144.00 square metres.
- The site is currently occupied by a single storey significant (B-Graded) heritage building, which is reflective Edwardian style architecture. The building presents more as a dwelling however has been internally reconfigured and is currently used as an office.
- The existing building includes a gable roof, with two (2) intersecting hips facing Beatty Avenue. The roof is constructed out of terracotta tiles and includes a chimney. On the other side of the gable roof, the roof is constructed out of corrugated iron. The façade of the existing building consists of two (2) windows, located underneath the hips of the roof and an entry / porch area.
- At the rear of the building is a small courtyard where there is no significant vegetation on site.
- The site shares a party-wall with No. 30 Beatty Avenue and includes areas of common property, which is also shared with No. 30 Beatty Avenue. Areas of common property

lie 2.00 metres below both properties and the area beyond 10.00 metres above of both properties.

- The topography of the land is generally flat.

Key features of the surrounding sites are as follows:

- To the north of the site is Kestle Lane. Kestle Lane is identified as a local road, which is accessible from Beatty Avenue and Clendon Road, which is located further east of the site.
- Further north of the site are several residential properties, No. 752 – No. 756 Malvern Road, Armadale. These dwellings are two (2) storeys in height and have their Secluded Private Open Space (SPOS) located at the rear, abutting Kestle Lane. No. 752 Malvern Road also includes a garage located at the rear and uses Kestle Lane to access the garage. These properties are also affected by the same Heritage Overlay as the site, HO130 – Armadale Precinct.
- No. 30 Beatty Avenue abuts the site to the east and is occupied by a similar Edwardian style building, that has been extended at the rear to include three (3) storeys, similar to the proposed development, and has an overall height of 9.90 metres. The site is used as an office and includes a terrace at the third floor. Approval for this development was obtained under delegation on 28 July 2009 as part of Planning Permit 0990/08.
- Beatty Avenue is located south of the site. Beatty Avenue is a local road, which connects to Malvern Road in the west and Elm Grove in the east. Beatty Avenue includes restricted on street parking on both sides of the street. Further south is the railway line and Toorak Railway Station, which forms part of the Frankston Train Line.
- West of the site is the access point to Kestle Lane. Further west is No. 32 Beatty Avenue, which is used as a Medical Centre. Like the site, No. 32 Beatty Avenue presents to the street as a dwelling. The building is single storey in height and has a slate roof. Along the Beatty Avenue frontage is a high-rise fence, complemented by some landscaping.
- The site forms part of the Beatty Avenue Commercial Precinct. Further east of the site are several cafe / restaurant and retail offerings, as well as commercial tenancies along Beatty Avenue.
- In recent times, the built form of Beatty Avenue has undergone changes, particularly between No. 30 and No. 26-29 Beatty Avenue. Building heights at these properties vary between three to five storeys before transitioning to a one to two storey built form.

Previous Planning Application(s)

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

The Title

The site is described on Certificate of Title Volume 09209 Folio 575 as Lot 2 on Registered Plan of Strata Subdivision 009796. No covenants or easements affect the land.

The land is affected by Owners Corporation Plan No. RP009796 and includes areas of common property, shared with No. 30 Beatty Avenue. Common property is identified as the area 2.00 metres below the site and the area beyond 10.00 metres above both properties.

The proposed development protrudes 1.30 metres (area beyond 10.00 metres) into common property.

Planning Controls

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

Zone

Clause 34.01 – Commercial 1 Zone

Pursuant to Clause 34.01-01 a permit is not required to use the land for an office.

Pursuant to Clause 34.01-4 a permit is required for buildings and works.

Overlay

Clause 43.01 – Heritage Overlay

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

Particular Provisions

Clause 52.06 – Car Parking

Pursuant to Clause 52.06-3 a permit is required to reduce (including to zero) the number of car parking spaces required under Clause 52.06-5.

Clause 52.06-5 stipulates that an Office should provide three (3) car spaces to each 100sqm net floor area. Based on this car parking rate, the proposed development generates a car parking requirement of four (4) car spaces.

The proposed development provides zero (0) car parking spaces and therefore, seeks a reduction in the car parking requirement under Clause 52.06.

Relevant Planning Policies

Clause 21.04 – Economic Development

Clause 21.06 – Built Environment & Heritage

Clause 22.04 – Heritage Policy

Clause 22.05 – Environmentally Sustainable Development Policy

Clause 22.18 – Water Sensitive Urban Design 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 (2) sign(s) on the site). The public notification of the application has been completed satisfactorily.

The site is located in South Ward and objections from eight (8) different properties have been received.

The objections can be summarised as follows:

- Overdevelopment.

- Visually bulky.
- Overlooking into Secluded Private Open Space (SPOS) areas of property to the north.
- No screening on the stairwell.
- Development will obscure city view.
- Car parking should be provided.
- Does not complement the heritage of the area.
- Construction works will impact small businesses.
- Loss of views to sky and daylight.

A Consultative Meeting was held on 21 September 2022. The meeting was attended by Councillor Sehr, representatives of the applicant, objectors and a Council Planning Officer. The meeting did not result in any changes to the plans.

Referrals

Heritage

The advice of Council's Heritage Advisor can be summarised as follows:

- *The demolition works are acceptable in that the primary façade, side elevations and front face of the roof (and chimneys) are retained. Sufficient fabric is retained to preserve a sense of the original three-dimensional building envelope.*
- *The proposed development is acceptable having regard for its specific built form context.*
- *The subject building was originally a residence but now forms part of a mixed commercial streetscape where a greater degree of change could reasonably occur. Similar outcomes would not necessarily be appropriate in the more intact residential streetscapes in the Armadale Precinct.*
- *It is suggested that approval be conditional on restoration works to the retained building, ideally including stripping paint from face brickwork and the use of an appropriate heritage paint scheme (albeit that external paint controls do not apply to HO130).*

Officer Response:

With regards to the colour of the existing building, it is noted that paint controls are not applicable to any properties within the HO130, including the site. However, it is considered that the redevelopment of the land is an opportunity to 'make good' on the existing heritage building and undertake the appropriate measures to restore the building to its former glory. As such, a condition to this effect is included on the permit.

Urban Design

The advice of Council's Urban Designer is summarised as follows:

- *The proposal adopts an appropriate form and scale; and exhibits an elegant contemporary design expression that will complement the retained portion of the existing heritage building and the Beatty Avenue streetscape.*
- *The application is supported.*

Environmentally Sustainable Design

The advice of Council's ESD Advisor is summarised as follows:

- *This application has met all of the required Council's Environmentally Sustainable Design (ESD) standards with the exception of the following:
A note is be added on architectural plans that mechanical ventilation system will provide an increase in outdoor air (in L/s) of at least 50% above the AS1668.2:2012 and monitor and maintain CO2 concentrations of 800ppm maximum.*

Officer Response:

The abovementioned note is included as a condition of the permit.

Transport & Parking

The advice of Council's Transport & Parking Engineer is summarised as follows:

- *Considering the location of the site the parking shortfall for the proposed office is acceptable.*
- *The applicant be aware that as this is a commercial property the future occupiers will not be eligible to receive parking permits to exempt them from the posted parking restrictions. The streets surrounding the site are primarily restricted by 1-HOUR, 2-HOUR, or PERMIT ZONE restrictions, so all-day staff parking will not be available in the area.*
- *Considering the scope of the development, with no on-site parking provided, it is not anticipated to significantly impact the surrounding road network.*
- *The applicant has not dimensioned the bike store located on the ground floor. The applicant should ensure the area can accommodate bicycles 1.7m long, 1.2m tall and 0.7m wide at the handlebars.*

Officer Response:

The site is well equipped with public transport at its doorstep, not to mention that there are nearby tram services located along Malvern Road. The application seeks a reduction of four (4) car spaces, which is acceptable in this instance given the Office use, availability of public transport and support from Council's Transport and Parking Unit.

A condition is included on the permit requiring for the dimension of the bicycle parking racks to be provided.

Key Issues and Discussion

Strategic Justification

State and Local Planning Policies acknowledge the importance of activity centres and their role in fostering economic growth and development. Activity centres are typically located in areas within the municipality that are well serviced by public transport and as such, are desirable locations for attracting a diversity of land uses to the area.

The site is located within the Beatty Avenue Neighbourhood (Small) Activity Centre, which is well equipped with a range of land uses, including office, retail and food and drinks premises, all within close proximity to train and tram routes. The proposed development,

which seeks to provide an office development, is a welcomed addition to the activity centre, complementing the diversity of uses already within the activity centre.

Given the desire to work and play in activity centres, there also comes a desire to live in activity centres and quite often, land within activity centres is prioritised towards residential development. Policy calls for better management of land within activity centres, ensuring it does not diminish future opportunities for retail and commercial expansions. It is considered that the proposed development responds directly to this by providing a development that is strictly used for the purpose of an office. The proposed development goes one step further and also seeks to make efficient use of the land, by converting an existing building, which is of heritage significance and located on an irregular shape lot, into a three-storey office development that sits comfortably within the streetscape.

By providing an office development, this can foster the growth of businesses, providing employment and services for the local community, which in turn, supports the local economy.

The office development is also in accordance with the purpose of the Commercial 1 Zone, which encourages the creation of a vibrant mixed-use commercial centre for retail, office, business, entertainment and community uses.

Overall, the site has strong strategic support for an office development. Office is an 'as of right' use under the Commercial 1 Zone and is considered compatible in the context of the neighbourhood activity centre. The introduction of an office development is deemed an appropriate outcome for the site and will assist in improving the viability and self-sufficiency of the activity centre.

Heritage

The site is occupied by a single-storey, semi-detached Edwardian building (previously used as a dwelling but refurbished internally for office use) and identified as a 'significant' place under HO130 (Armada Precinct).

The application has been assessed against the applicable provisions stipulated under Clause 22.04 (Heritage Policy) of the Planning Scheme and is considered acceptable for the following reasons:

- The extent of demolition proposed is considered acceptable in this instance given that the primary façade, side elevations and the front face of the roof (including the chimney) will be retained as part of the development. These are considered to be key features of the site that contribute to the heritage significance of the building, as well as the wider precinct.
- Furthermore, the extent of demolition ensures that the primary volume of the building is retained, which is visible to the streetscape.
- The upper storeys of the proposed development will be somewhat visually prominent when viewed from the streetscape, however, given the immediate context adjoining property at No. 30 Beatty Avenue, it is considered that this upper storey extension is an acceptable outcome.
- The second floor of the proposed development is significantly reduced and includes a terrace. This assists in providing a visually recessive design response, particularly

behind the roof line, ensuring that the heritage place remains the dominant visual element.

- The materiality of the built form is modern and contemporary, which ensures that the works are easily identifiable from the heritage place.
- The proposed development avoids new openings within the primary building volume and significant building fabric. It is noted that a new window is proposed at the ground floor, along the western interface, however, this is considered acceptable in this instance given it does not form part of the primary façade and it will provide much needed activation to Kestle Lane.

For the reasons outlined above, the proposed development appropriately responds to Council's Heritage Policy.

Built Form

Building Height

The site is located on a triangle shaped lot, which is an irregular shaped lot that can present a series of design challenges. However, the proposed development overcomes these challenges and presents a design response that works with the site's parameters, as well as appropriately responding to the sensitive interfaces that lie within the site, being the existing heritage building, and the adjoining properties that are also recognised under HO130.

In terms of building height, the Commercial 1 Zone does not stipulate a preferred or mandatory building height and as such, the building height must be to the satisfaction of Council. Having reviewed the site's context, it is considered that a three-storey built form (maximum building height of 11.30 metres) is appropriate given the adjoining development at No. 30 Beatty Avenue is three-storeys in height and at No. 26-29 Beatty Avenue, the development is five storeys in height. Constructing the building to three storeys is appropriate as it forms an appropriate design response and is consistent with the existing streetscape.

The zone of the land changes from Commercial 1 Zone to General Residential Zone to the north and west of the site and there is an expectation that an appropriate transition in building height between zones is provided. This is achieved by adopting a reduced footprint and providing a terrace at the second floor, creating a sense of openness and separation within the development. It also ensures that the tallest portion of the built form is confined to the rear of the site. Kestle Lane serves as a 3.00-metre-wide separation 'buffer' between the subject site and No. 32 Beatty Avenue and the neighbouring properties located along Malvern Road. This allows the transition in built form to occur more seamlessly.

Based on the above, it is considered that the building height is appropriate in this context.

Building Massing & Design

The proposed development is largely constructed to all boundaries, with a reduced footprint and terrace area at the second floor. It is not uncommon for developments of this nature to provide a zero-metre setback to their respective boundaries. The proposed development achieves a continuous street wall at the northern boundary and partially at the western boundary by providing a street wall (and overall building height) of 11.30 metres.

The height of the street wall is considered appropriate, given that Kestle Land provides a 3.00-metre-wide separation between the nearby residential dwellings and the façade of the

built form is well articulated, providing visual interest, which in turn, reduces the visual impact of the development. Details of the façade and materiality is discussed further in the next section of this Report.

In terms of presentation to Beatty Avenue, the existing heritage building remains unchanged in that respect and will continue to provide a maximum setback of 1.60 metres to Beatty Avenue. The built form addition will sit comfortably behind the ridgeline of the existing heritage building. Given the height of the ridgeline, the proposed first floor will not be overly visible to the streetscape, however, the terrace and second floor will be visible.

As stated by Council's Heritage Advisor, this arrangement is acceptable in this instance given the context of the area. Regardless, the second floor is setback 9.50 metres to the streetscape, which is considered to be a generous setback to the streetscape. Council generally encourages a setback of 8.00-10.00 metres and therefore, the setback of the second floor is in accordance with this requirement. Should a greater setback be provided, this would significantly compromise the functionality and overall viability of the second floor, particularly because the site is irregular in shape.

At the eastern boundary, the proposed development will be constructed to the boundary, aligning with No. 30 Beatty Avenue. This is an appropriate arrangement, which has been allowed for by No. 30 Beatty Avenue providing an equitable development design response to their western boundary.

Façade & Materiality

The façade of the proposed development is contemporary in nature, adopting a repetitive black concrete grid form, which 'creates order and visual rhythm' as outlined in the 'Contextual Analysis & Design Response' prepared by the applicant.

Although the black concrete may appear stark and visually dominating, particularly when viewed from the residential properties to the north, there is a considerable amount of glazing (in varying styles) along the northern and western interface. This 'breaks up' the black concrete and ensures the development appears more recessive from the adjoining properties.

The development is also articulated through the use of other materials, such as white and light grey rendered brick, metal finishes for the windows and door, as well as a metal balustrade for the balconies. All of these materials are considered appropriate in delivering contemporary design response.

The existing heritage building that will be retained as part of the development will remain largely unchanged, with the exception of some roof tiles that will be replaced with like-for-like terracotta tiles. This provides a pleasant contrast between the two building forms and clearly delineates the old from the new.

However, as recommended by Council's Heritage Advisor, a condition is included on the permit requiring the applicant to undertake restoration works to the building façade and select a heritage appropriate colour for the existing heritage building.

Activation & Entry

A key feature of the overall design is the extent of glazing that is proposed throughout the development. Under current conditions, the existing building provides activation solely to Beatty Avenue. The proposed development is considered to be a vast improvement on

current conditions as it seeks to provide activation to Kestle Lane. This is particularly important in laneways where there is limited passive surveillance. By providing more passive surveillance, this may assist in deterring anti-social behaviour from occurring within the laneway.

Activation to Beatty Avenue continues to be provided as part of the proposed development. However, it is noted that the south-eastern window at the ground floor will service the unisex bathroom, requiring the window to be modified to include privacy glazing. This is considered to be a poor outcome and one that could easily be improved by relocating the unisex bathroom and converting this space into an extension of the proposed office space, or a more habitable area such as the kitchen.

As such, a condition is included on the permit requiring the unisex bathroom to be relocated on the ground floor and for the privacy glazing to be removed from the existing window.

In terms of entry points, the site proposes two pedestrian entry points – one via Beatty Avenue and one via Kestle Lane. It is intended that the Beatty Avenue pedestrian access point will serve as the primary access point, and Kestle Lane access point will be for future employees. The primary access point along Beatty Avenue is clearly identifiable from the streetscape as there is a pathway leading to the entry and a small porch that identifies the entry point.

The access point along Kestle Lane is a sliding door, which is partially set into the development. It is considered that the sliding door should be set further into the development, allowing the creation of a landing that would allow employees to check for oncoming traffic traversing along Kestle Lane. Currently the door is set in 0.30 metres from the boundary, it is considered that the sliding door should be set in 1.00 metre from the boundary to allow for a landing area, where employees can check for oncoming traffic. It is considered that 1.00 metre is an appropriate distance to provide improved safety outcome, that doesn't require significant reconfiguration to the ground floor layout. A condition to this effect is included on the permit.

Amenity Impacts

Overshadowing

The site is located south of the residential properties located along Malvern Road and north of Beatty Avenue. Due to the site's favourable orientation, the extent of overshadowing caused by the proposed development is confined to Beatty Avenue and the railway line.

Given that these are not sensitive areas or areas of significance, it is considered that the extent of overshadowing is acceptable.

Overlooking

The proposed development provides extensive glazing along the northern and western boundaries. The glazing at the first and second floor overlooks areas of Secluded Private Open Space (SPOS) that are within 9.00 metres of the site, at the No. 752 – 756 Malvern Road.

It should be acknowledged that ResCode is not applicable in this instance, given the proposed development is not a residential development. However, in designing the development, the applicant has adopted a 'ResCode lens' to assess matters pertaining to overlooking.

As shown on the northern and western elevations, the first and second floor are equipped with clear glazing, which includes a mesh interlay (identified as 'GLS.01' on the material schedule). Drawing TP4-001 provides a separate detail of GLS.01 which shows that the mesh interlay will be to a height of 1.70 metres above the finished floor level, in accordance with ResCode Standards. The screening detail, however, does not outline how the 25% transparency requirement associated with Standard A15 / B22 (Overlooking) and a condition to this effect is included on the permit.

Subject to the abovementioned condition, it is considered that the proposed glazing treatment, with mesh interlay to a height of 1.70 metres above the finished floor level is appropriate in limiting views to the neighbouring SPOS areas.

The proposed roof terrace at the eastern boundary provides a 1.70-metre-high privacy screen, to avoid overlooking into the terrace area of No. 30 Beatty Avenue. It is considered that a privacy screen should also be included along the western boundary of terrace, to avoid views into the neighbouring residential properties. This is also addressed as a condition of the permit.

At the ground floor, the proposed development does not present any opportunities for overlooking. However, it appears on the elevations that GLS.01 is also proposed. It is unclear from the plans how this glazing is different to the GLS.01 at the first and second floor of the development. A condition to this effect is included on the permit.

Internal Amenity

The proposed development seeks to provide high levels of internal amenity for future employees. This is largely achieved through the inclusion of extensive glazing at all levels of the development, particularly along the northern and western interfaces, facing out to Kestle Lane. Windows that have a direct view to the neighbouring residential properties will be appropriately screened to ensure privacy is maintained to the residents of those properties, as discussed in the 'Amenity Impacts' section of this Report. Despite this, the screening is to a height of 1.70 metres, which still provides approximately 1.20 metres of clear glazing (above the screen) to allow for daylight into each level of the development.

The proposed development is also equipped with a roof terrace, providing an outdoor area for future employees to enjoy.

The ground floor is equipped with bicycle parking, to accommodate employees who ride their bicycle to and from work. There are also bathrooms, including a DDA compliant bathroom and kitchen for employees to use. DDA access to the site is available via the Beatty Avenue entrance and the ground floor is absent of any steps.

Whilst it is noted that there is no lift core provided, it is understood that given the scale of the development, there is no requirement under building regulations for a lift core to be provided. This arrangement is considered acceptable.

Car Parking and Traffic

Traffic

Council's Transport & Parking have advised that, given that zero (0) car parking is to be provided on site and, the car parking reduction is four (4) car spaces, the traffic impact of this development is anticipated to be negligible.

Car Parking

As stated above and throughout the Report, the proposed development seeks to provide zero (0) car parking spaces on site. This arrangement is supported by Council's Transport and Parking Department as it is not uncommon for an office development to provide a car parking shortfall. In most office developments, car parking spaces are not provided to employees and it is often the responsibility of the employee to determine their appropriate mode of transport.

It is considered that in the context of this site, there are a variety of public transport options, with Toorak Station being located opposite the site, and also tram services located along nearby Malvern Road. The site also provides for bicycle parking on site to accommodate employees who may choose to ride their bicycle.

State and Local Planning Policy, specifically Clause 21.08 (Infrastructure) encourages the use of sustainable transport methods and encourages developments, such as the proposed, to be located in areas where sustainable transport methods can be encouraged and relied upon.

If car parking was to be provided on site, this would consume a significant portion of the site's floor area. Dedicating space towards car parking over floor area is not considered practical, especially in the site's context.

For these reasons, it is considered that the car parking reduction is appropriate.

Sustainable Design Assessment

A Sustainable Design Assessment (SDA) is required for the proposal in accordance with Council's Environmentally Sustainable Development Policy at Clause 22.05. A detailed SDA was submitted with the application, including a BESS assessment, which achieves a score of 53%. This meets the best practice requirement of 55% and is satisfactory.

The development achieves a pass in the four key performance categories of Water, Energy, Stormwater and IEQ. All of the proposed design initiatives are shown / notated on the plans accordingly, with the exception of a notation referring to the mechanical ventilation system, as discussed in the 'Referrals' Section of this report. This matter has been addressed as a condition of the permit.

A Water Sensitive Urban Design (WSUD) Response was included within the SDA. The report indicates the development achieves a STORM rating of 102% which is achieved by the provision of one (1) rainwater tank with a total capacity of 2,000L.

Subject to the abovementioned condition, the requirements of Clause 22.18 are considered to be met.

Objections

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

- Views are not protected under the Stonnington Planning Scheme. An individual cannot own a view and as such, planning legislation does not protect individual views.
- Matters relating to construction and traffic management during construction are managed by the appointed Builder and as part of the Building Permit.

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. 0259/22 - 31 Beatty Avenue, Armadale [8.2.1 - 19 pages]

Officer Recommendation

That Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 0259/22 for the land located at 31 Beatty Avenue, Armadale under the Stonnington Planning Scheme for the partial demolition, construction of a multi-storey building to be used as an office (as of right) in a Commercial 1 Zone and Heritage Overlay, buildings and works in common property and reduction in the associated car parking requirement subject to the following conditions:

1. ***Before the commencement of the development (including demolition), 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 stamped 6 July 2022) prepared by Ashley Lochhead Architects but modified to show the following:***
 - a) ***Pedestrian entry along Kestle Lane increased to a setback of 1.00 metre from the boundary.***
 - b) ***Notation on the ground floor plan stating that metre cupboards will not open out on to Kestle Lane.***
 - c) ***Bicycle parking detail on Drawing TP4-001 updated to include the dimensions of the bicycle parking.***
 - d) ***Notation on all floor plans (Drawing TP1-100 to Drawing TP1-201) stating that the mechanical ventilation system will provide an increase in outdoor air (in L/s) of at least 50% above the AS1668.2:2012 and monitor and maintain CO2 concentrations of 800ppm maximum.***
 - e) ***Material schedule on Drawing TP4-200 updated to include the materiality of the existing heritage building. The colour must be an appropriate heritage colour. A notation must also be included to state that paint from the face of the existing brickwork heritage building must be removed prior to repainting the surface. Colour codes / references must be shown on the relevant elevations.***

- f) Material schedule on Drawing TP4-200 updated to include the fixed privacy screen detail with a different material code / reference, which must be shown on the relevant elevations.**
- g) Ground floor reconfigured with the unisex bathroom relocated from the south-east corner and that area replaced with office floor area, or a similar habitable area.**
- h) Privacy glazing removed from the south-east window located on the ground floor and replaced with standard glazing.**
- i) Screening detail provided on Drawing TP4-001 updated to demonstrate how the proposed screening achieves a maximum 25% transparency.**
- j) Privacy screen to a height of 1.70 metres included on the northern and western boundaries of the terrace located on the second floor, unless it can be demonstrated that there is no unreasonable overlooking to areas of secluded private open space or habitable room windows at No. 752 and No. 754 Malvern Road, Armadale.**

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 commencement of the development (including demolition), a Sustainable Design Assessment (SDA) must be submitted to and approved by the Responsible Authority. When approved the SDA will be endorsed and will then form part of the permit. The development must incorporate the sustainable design initiatives outlined in the SDA to the satisfaction of the Responsible Authority. The SDA must be in accordance with the SDA prepared by Ark Resources (Council date stamped 1 July 2022).**
- 4. Prior to the occupation of the building, a report from the author of the SDA 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 SDA have been implemented in accordance with the approved plan.**
- 5. The project must incorporate the Water Sensitive Urban Design (WSUD) initiatives detailed in the SDA prepared by Ark Resources (Council date stamped 1 July 2022).**
- 6. Prior to the commencement of the use, the walls on the boundary of the adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.**
- 7. The level of the footpaths and laneways must not be lowered or altered in any way to facilitate access to the site.**

8. ***Any poles, service pits or other structures / features on the footpath and laneway 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.***
9. ***This permit will expire if one of the following circumstances applies:***
 - a) ***The development is not started within two years of the date of this permit.***
 - b) ***The development is not completed within four years of the date of this permit.***

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

NOTES

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

8.3 VCAT Quarterly Report - Third Quarter 2022 (July-September 2022)

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

Linkage to Council Plan

Direction 1: A thriving and unique place

1.3 Pride of place and character

Purpose of Report

To inform Councillors of the planning decisions issued by the Victorian Civil and Administrative Tribunal (VCAT) in the third quarter of 2022, between July and September 2022.

Officer Recommendation

That Council:

- 1. RECEIVES and NOTES the VCAT Quarterly Report – Third Quarter (July-September 2022).***

Background

- Council has acknowledged that it is important to review and understand how decisions at VCAT are made and the implications of these decisions. As a result, this report is prepared, outlining all decisions issued by VCAT in the third quarter of 2022.

VCAT Decision Terminology

- The following definitions of often used VCAT Terminology is provided to assist Councillors in understanding this report and accompanying spreadsheet.

Terminology	Definition
Set aside	VCAT has overturned Council's decision to either issue or refuse a permit.
Affirmed	VCAT supports Council's decision to either issue or refuse a permit.
Varied	VCAT is largely supportive of Council's decision to issue a permit, but has either removed conditions, altered the wording of conditions, or imposed additional conditions on that permit.
Struck out	The appeal has been thrown out and will not be heard.
Withdrawn	The person who lodged the appeal has decided not to pursue it and has withdrawn the appeal.

Outcome by consent	An agreement was reached prior to a hearing where all parties were satisfied with the outcome and agreed to a permit issuing, subject to agreed changes.
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Key Issues and Discussion

3. Twenty-four cases were determined by VCAT in the third quarter of 2022, which is in line with the normal range of 20 – 25 cases per quarter.
4. In this third quarter, there were 9 outright wins (37.5%). In addition to the outright wins, 7 positions of consent were reached (29.2%), these are also considered wins as Council only consents to the matter being settled if it is satisfied with the resulting outcome. 6 cases were lost (25%). A remaining 2 matters were withdrawn/struck out before the hearing (8.3%).
5. The above figures used by the Planning Department to report to Council on VCAT decisions differ to the Local Government Performance Reporting Framework (LGPRF) 'win/loss' ratio. This difference is because the LGPRF data does not factor in outcomes where positions of consent were reached, or matters struck out or withdrawn. The LGPRF data only looks at matters that went to a full merits hearing and a decision was handed down by a member of the Tribunal. This means for the current quarter, 37.5% of VCAT outcomes are excluded from being included in the LGPRF results.
6. A significant decision worth noting this quarter relates to an application at 274 – 284 High Street Windsor. This was an appeal against Council's refusal of an application proposing the part demolition of an A2 graded heritage building and the construction of a seven-storey building that 'wrapped around' the retained portion of the heritage building. Council officers were concerned with the excessive building scale and height, the inappropriate response to the heritage building, unacceptable amenity impacts to adjacent sites and poor internal amenity for future residents. VCAT found that the proposal did not adequately address heritage values, had unacceptable off-site amenity impacts to its western neighbour and did not achieve acceptable internal amenity. On this basis the Tribunal affirmed Council refusal.
7. A second decision of note relates to an address at 1755 1757-1759, 1761-1763 & 1765-1767 Malvern Road, Glen Iris. This was an application for a three storey childcare centre and primary school (prep only). Council was not supportive of the proposal. Council's key concern was that the proposal would have an unacceptable impact on the amenity of the surrounding area, having regard to the site's location within a residential neighbourhood. This was particularly focused on the potential impact on parking amenity in the surrounding streets and along Malvern Road. VCAT found that the proposal was an acceptable outcome. The Tribunal found the use was one encouraged by policy and the built form was appropriate. The Tribunal was also satisfied that the car parking and traffic could be managed and would not create unreasonable amenity impacts on local residents.

Governance Compliance

Policy Implications

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

Financial and Resource Implications

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

Conflicts of Interest Disclosure

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

Legal / Risk Implications

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

Environmental Implications

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

Community Consultation

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

Human Rights Consideration

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

Attachments

Nil

8.4 Amendment C316ston - Malvern Heritage Review - Panel Report

Director Planning & Place: Annaliese Battista

Linkage to Council Plan

Direction 1: A thriving and unique place

1.3 Pride of place and character

Purpose of Report

To consider the recommendations of the Planning Panel for Planning Scheme Amendment C316ston; to adopt Amendment C316ston to the Stonnington Planning Scheme with changes; and to request the Minister for Planning to approve Amendment C316ston.

Officer Recommendation

That Council:

- 1. NOTE the public release of the Planning Panel Report for Amendment C316ston.**
- 2. CONSIDER the Planning Panel Report for Amendment C316ston (refer Attachment 1).**
- 3. ADOPT Amendment C316ston to the Stonnington Planning Scheme, with changes since exhibition (Attachment 3) pursuant to Section 29(1) of the Planning and Environment Act 1987, including the removal of 1225 Malvern Road, Malvern from the proposed Heritage Overlay and the Amendment documentation.**
- 4. SUBMIT the adopted Amendment C316ston to the Minister for Planning for approval, in accordance with Section 31(1) of the Planning and Environment Act 1987.**
- 5. ADVISE submitters to Amendment C316ston of Council's decision.**
- 6. AUTHORISE the Director Planning and Place to make necessary minor alterations to Amendment C316ston where they do not materially impact on the intent of the Amendment.**

Executive Summary

1. Amendment C316ston seeks to implement the outcomes of the *Malvern Heritage Review, GJM Heritage, 2021 (updated October 2022)* (the Review) - refer to **Attachment 3**.
2. The Review is the first suburb review in a municipal-wide, 'suburb-by-suburb' program and recommended several individual places and precincts be included in the Heritage Overlay for the first time. It also recommended changes to places already in the Heritage Overlay that required updating to meet best practice.
3. The Amendment proposes to incorporate Statements of Significance for each identified heritage place into the planning scheme. The Statements of Significance provide a

- heritage grading for each property, which assists in determining how future planning permit applications will be considered within the context of Council's Heritage Policy.
4. Minor changes were also proposed to the *Heritage Design Guidelines* to remove the letter grading from the definition of 'contributory place', as well as a change to the Neighbourhood Character Overlay (due to the introduction of the Heritage Overlay).
 5. In line with Council's resolution of 14 June 2022, an independent Planning Panel considered Amendment C316ston on 15, 16 and 17 August 2022. The Panel's Report was received on 19 September 2022 (**Attachment 1**). The Panel recommendations are discussed in this report.
 6. The Panel has considered Amendment C316ston and concluded that it provides a net community benefit, is well founded and strategically justified and subject to some changes, should proceed.
 7. It is recommended that Amendment C316ston be adopted as exhibited, subject to changes outlined in **Attachments 2 and 3**, and be submitted to the Minister for Planning for approval.

Background

8. Council's adopted *Heritage Strategy and Action Plan 2018-2029* (the Strategy) provides a strong framework and commitment to retaining and preserving heritage in Stonnington. In its implementation of the Strategy, Council resolved (on 2 December 2019) to undertake comprehensive suburb-by-suburb Heritage Reviews across the municipality.
9. The Amendment was publicly exhibited from 24 March to 28 April 2022. 30 submissions were received (23 opposing, 6 supporting and 1 neutral). Council considered these submissions at its meeting on 14 June 2022 and resolved to refer the Amendment, including several changes made in response to submissions, and all submissions to an independent Planning Panel.
10. In considering the submissions, Council resolved to make the following major changes to the Amendment ahead of presenting its position to the Panel:
 - Remove the unit complex at 11-13 Sorrett Avenue, Malvern from the proposed permanent Heritage Overlay.
 - Remove 41 Elizabeth Street, Malvern from the proposed permanent Heritage Overlay.
 - Remove 1225 Malvern Road, Malvern from the proposed permanent Heritage Overlay.
 - Re-grade 10 Wilks Avenue, Malvern from 'significant' to 'non-contributory' to the Moorakynne / Stonnington Precinct.
11. An independent Planning Panel was appointed by the Minister for Planning to consider the submissions received. The Panel Hearing was held by video conference on 15, 16 and 17 August 2022 and the Panel delivered its Report to the City of Stonnington on 19 September 2022 (**Attachment 1**). The Report is publicly available on Council's website.

Key Issues and Discussion

Panel Recommendations

12. The Panel Report considered the key issues raised in submissions to the Amendment and recommended that the Amendment be adopted as exhibited subject to changes. The Panel's recommendations and Council Officers' responses are outlined in detail in **Attachment 2**.
13. The Panel agreed with Council's position for all places and precincts proposed for heritage protection and were satisfied that the relevant heritage criteria and threshold for local heritage significance have been met.
14. The Panel also agreed with those properties subsequently removed from the proposed Heritage Overlay (as per resolution of 14 June 2022) except for 1225 Malvern Road, Malvern. The Panel discussed and concluded that this property should remain in the proposed Heritage Overlay, although did not list this as a specific recommendation. Council officers maintain that 1225 Malvern Road should be removed from the Heritage Overlay and have updated the Amendment documentation (**Attachment 3**) to reflect this.
15. Council officers accept all Panel recommendations except for recommendations 4, 5 and 6. These recommended changes to Council's local heritage policy were not exhibited and will duplicate a pending Amendment (C312ston) currently with the Minister for Planning.
16. Amendment documentation (**Attachment 3**) has been updated to respond to the accepted Panel recommendations.

Adoption of Amendment C316ston by Council

17. In accordance with the requirements of the *Planning and Environment Act 1987*, Council can choose to adopt the Amendment with or without changes and submit it to the Minister for Planning for approval or abandon the Amendment.

Governance Compliance

Policy Implications

18. Amendment C316ston is consistent with:
 - The Council Plan 2021-25 and Community Vision 2040. Priority 1.3.2 seeks to ensure our built, natural and cultural heritage is protected and celebrated.
 - Council's *Heritage Strategy and Action Plan 2018-2029* that focuses on the identification and protection of places of heritage significance.
 - The *Planning and Environment Act 1987* that requires councils to use their planning scheme to implement the objectives of planning in Victoria, including: 'To conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.' (Section 4 (1)(d)).
 - Council's Municipal Strategic Statement at Clause 21.06 of the Stonnington Planning Scheme that seeks to: 'Protect and enhance all significant and contributory heritage places within the City of Stonnington'.

Financial and Resource Implications

19. Heritage studies represent a significant commitment of resources by the City Futures Unit. The financial cost and resourcing of heritage studies and planning scheme amendments has been included in the City Futures budget for 2022/23.

Conflicts of Interest Disclosure

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

Legal / Risk Implications

21. This Amendment has been prepared in line with the *Planning and Environment Act 1987*. Section 29(1) of the *Planning and Environment Act 1987* provides that after complying with Divisions 1 and 2 of the Act in respect of a planning scheme amendment, the planning authority may adopt the Amendment with or without change.

Environmental Implications

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

Community Consultation

23. Community consultation was undertaken through the exhibition process for Amendment C316ston, in accordance with the *Planning and Environment Act 1987*.
24. All affected parties have been given the opportunity to make a submission to the Amendment and had the opportunity to be heard by an independent Planning Panel.
25. All relevant parties were notified of the release of the Panel Report and of consideration of this matter at this Council meeting.

Human Rights Consideration

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

Attachments

1. Amendment C316ston Panel Report [8.4.1 - 95 pages]
2. Amendment C316ston Summary of Panel Recommendations [8.4.2 - 5 pages]
3. Amendment C316ston Amendment Documents [8.4.3 - 762 pages]

8.5 Next steps for business support at Stonnington

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

Linkage to Council Plan

Direction 1: A thriving and unique place

- 1.1 Identity and destination
- 1.2 Thriving and desirable businesses

Direction 3: A people-centred and future ready city

- 3.1 Community focus, connection and engagement
- 3.2 Enhanced customer experience

Purpose of Report

To provide Council with an overview of the proposed engagement program for City of Stonnington businesses following Council's recent decision to discontinue its Special Rate Scheme on 30 June 2023.

Officer Recommendation

That Council:

- 1. ENDORSE the methodology and timeline for broad quantitative and qualitative engagement with City of Stonnington's business community, commencing in November 2022, to understand the future needs of and support opportunities for the Stonnington business community from Council.**
- 2. NOTE this engagement will help inform the future model for business support from the Council, and a report outlining both the findings of the engagement and a proposed model for providing support for City of Stonnington's businesses, will be brought to Council for decision in Q4 of 2023.**
- 3. NOTE that Council Officers will continue to support the five (5) Business Associations in implementing the recommendations from the Grant Thornton audits, and work with them to understand and implement the necessary actions and responsibilities as the five schemes end on 30 June 2023.**

Executive Summary

1. On 26 September 2022, Council resolved to discontinue its Special Rate Scheme at the end of the current rating period on 30 June 2023.
2. Under the scheme, each year since 1992, more than \$1.8 million was raised via a Special Rate levied on 3,717 properties within defined commercial areas for the declared purposes of marketing, promotion and business development. These funds were distributed to five Precinct Associations to undertake the Declared Purpose.
3. With the expiration of the Special Rate Scheme, it is incumbent on Council to review the broader needs of its diverse business community, which currently comprises

18,000 registered businesses across a range of industries throughout the municipality, to enable Council to deliver a contemporary model for business support that meets the current needs of its ratepaying businesses.

Background

4. The City of Stonnington has over 18,000 registered businesses across a broad range of industries, with the largest proportion being the categories of Professional, Scientific and Technical Services industries (20.1%); Rental, Hiring & Real Estate services (18.7%); and Healthcare & Social Assistance (10.7%). Retail trade represents 6.5% of registered businesses in Stonnington, noting that this does not necessarily correlate with a shopfront presence, and food and accommodation represents 5.1%. Though retail and hospitality businesses comprise just 11.6% of all Stonnington businesses, it is the concentration of these business types within Stonnington's commercial precincts that adds considerably to the City's desirability and vitality, as they drive visitation and spend within the municipality. Refer Attachment 1 – Stonnington 2021 Economic Profile – Economy ID.
5. Given the diversity of the types of businesses registered in the City of Stonnington, as well as varied levels of engagement with Council, it has historically proven difficult to obtain a representative view of the municipality's business community. For example, in 2016, Council undertook broad-based engagement to understand business perspectives using the Australian Business Register (ABR). Of the 17,139 businesses registered in Stonnington at the time, responses were received from just 329 businesses.
6. In 2022, Council has conducted a significant amount of community and industry engagement and consultation to inform the delivery of economic development opportunities. Earlier this year, Council engaged with more than 1,600 participants in relation to the development of the 2021-2023 Place-led Economic Development Strategy (PLED). Council also undertook a comprehensive series of in-depth interviews with industry leaders, providing insight about their needs and the role Council can play in supporting businesses from both a sector and place-based perspective. (Refer Attachment 2 – Industry engagement).

Key Issues and Discussion

7. Adopting a new approach to supporting local businesses and improving the local economy requires a thorough understanding of what businesses within Stonnington want in terms of support and development opportunities. This 'evidence base' is critical to understanding how best Council can support the Stonnington business community going forward.
8. It is proposed to undertake a broad-based engagement program to understand the needs, challenges and opportunities of all businesses within the municipality. Council Officers will undertake a competitive procurement process to engage an independent research company to implement this engagement. The brief will include:
 - a. A review of recent community and industry engagement to date to identify any gaps in intelligence that would be useful for informing and future-proofing support for the business community across the broader municipality.

- b. Quantitative research through online surveys or other database driven engagement for:
 - i. all 18,000 registered businesses in City of Stonnington (identified by the Australian Business Register);
 - ii. industry sectors as represented in City of Stonnington (identified by the ANZSIC industry codes – refer Attachment 1); and
 - iii. The seven largest commercial precincts in City of Stonnington, as defined by the PLED Strategy. This includes:
 - 1. Chapel Street, South Yarra, incorporating Toorak Road, South Yarra).
 - 2. Chapel Street, Prahran
 - 3. Chapel Street, Windsor
 - 4. Toorak Village
 - 5. Hawksburn Village
 - 6. High Street, Armadale
 - 7. Glenferrie Road, Malvern.
- Officers will endeavour to achieve reliable statistical samples of respondents.
- c. Qualitative testing of themes, whereby the data and sentiment captured through the quantitative research above will inform the next stage of qualitative research. Themes will be tested in person with industry focus groups and the like to ensure that the support options highlighted in the quantitative stage are reflective of the business community's needs and wishes. Officers will be guided by the engagement company that is awarded the contract as to the most effective methodology for the project.
 - d. A Councillor workshop to capture the concerns, needs and ambitions of the Councillor group for the future provision of business support and economic development in the City of Stonnington.
 - e. A final report that will outline the needs, challenges and support opportunities that exist, and provide options as to how best this can be delivered by Council. This report will be brought to Council for consideration.
- 9. The engagement of the business community can be challenging throughout the year, and especially during the December/January period. In this context, it is proposed that procurement for this project will be undertaken prior to Christmas, with a project commencement date of February 2023. It should be noted that this engagement project will take several months to deliver. (Refer attachment 3 – Timeline)
 - 10. Officers will consider the 'overlap' of other planned engagement for early 2023, to ensure that engagement fatigue is avoided, and will take advice on how best to manage several related projects, including the PLED Strategy and the Chapel Street Transformation Project.
 - 11. During this period, while the engagement piece is underway, Council Officers will continue to support the Business Associations in implementing the recommendations from the Grant Thornton audits, and work with them to understand and implement the necessary actions and responsibilities as the five schemes end on 30 June 2023.

12. Officers will also provide direct support to Business Association members and local businesses through an expanded, more pro-active Business Concierge service during this transition period.

Governance Compliance

Policy Implications

13. The PLED Strategy is currently under development and scheduled to be brought to Council in early 2023 to be endorsed as a draft for public exhibition. This business support engagement project will support, and potentially influence actions in the final PLED Strategy, and its related place plans.

Financial and Resource Implications

14. This engagement piece is currently unbudgeted and will require significant funds to deliver a comprehensive outcome that can be used to inform the short- and long-term opportunities Stonnington has for business support.
15. This expenditure (estimated \$200,000, excl GST) will need to be reallocated out of existing operating budget. In addition, the appointment of an additional Business Concierge Officer will cost \$100,000, pro-rata.

Conflicts of Interest Disclosure

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

Legal / Risk Implications

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

Environmental Implications

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

Community Consultation

19. A community engagement plan will be developed by the company that is awarded the contract to deliver this project.

Human Rights Consideration

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

Attachments

1. City of Stonnington - Economic Profile [8.5.1 - 6 pages]
2. Industry Engagement [8.5.2 - 2 pages]
3. Timeline [8.5.3 - 2 pages]

8.6 Transport Advisory Committee

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 3: A people-centred and future ready city

3.1 Community focus, connection and engagement

3.3 Engaged and capable people

Purpose of Report

To report back on the results of the Expressions of Interest and the proposed composition of the Transport Advisory Committee.

Officer Recommendation

That the Council:

- 1. ENDORSE the appointment of the Transport Advisory Committee members for an initial term of 12 months, with the option of an additional 12 months to be approved by the CEO.**
- 2. NOTE that a maximum of two (2) Stonnington Councillors will be nominated to the Transport Advisory Committee at the Council meeting of the 22 November 2022.**

Executive Summary

1. A membership recruitment program ran for eight weeks starting from 22nd July 2022, using direct email, social media posts and Stonnington Council website, seeking Expressions of Interest (EOI).
2. At the close of the EOI on 19th September 2022, 11 responses have been received (one applicant was excluded due to working for a consultant on a Transport Planning Panel).
3. The Transport Advisory Committee will provide advice to Council to support the implementation of Council's Transport Policy, Transport Strategy and subordinate documents

Background

4. In December 2019, Council approved terms of reference to form a Cycling Reference Group consisting of community members with an interest and experience in cycling in the municipality to provide input into the planning and provision of cycling infrastructure.
5. Since this time, the focus of the group expanded to include walking and was renamed the Active Transport Advisory Group, however the Terms of Reference did not alter.

6. With the group's membership having served their initial two-year term and there being an opportunity to update the group's Terms of Reference, it is proposed to replace the group with a new Transport Advisory Committee. This group would encompass all transport modes and a new expression of interest process would be undertaken to appoint the community membership.

Key Issues and Discussion

7. The Transport Advisory Committee Terms of Reference provides for six to ten community representative members, a maximum of two Stonnington Councillors, and two Council officers (Coordinator Transport Planning and Transport Planner). See **Attachment 1**.
8. Appointments are made for initial 12-month period with an option to extend for an additional 12 months. From that point onwards, membership is for a period of two years. All members will be eligible to re-apply for appointment, however continuous membership for longer than four years will not be considered.
9. The selection and endorsement process ensures that the community members represent a broad and diverse voice.
10. The Coordinator Transport Planning, and the Transport Planner evaluated the applicants. A summary of the evaluation is included in two confidential attachments (**Attachments 2 & 3**).
11. The Expression of Interest form for each applicant is included in a confidential attachment (**Attachment 4**). These attachments have been classified as confidential due to the personal nature of the information.

Governance Compliance

Policy Implications

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

Financial and Resource Implications

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

Conflicts of Interest Disclosure

14. The only conflict of interest identified was that a candidate works for a transport planning consultant in one of our panels.

Legal / Risk Implications

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

Environmental Implications

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

Community Consultation

Purpose	Invite expressions of interest for membership
IAP2 Goal:	Involve
Exhibition period	July 22, 2022 to September 19, 2022
Method:	<ul style="list-style-type: none">• Social media

	<ul style="list-style-type: none">• Council's website• Emails to key stakeholders
Reach:	Reach: 32,000 Page/link clicks: 253
Summary of feedback:	NA
Impact:	Involve

Human Rights Consideration

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

Attachments

1. Terms of Reference Transport Advisory Committee [8.6.1 - 9 pages]

8.7 Endorsement of the Eleven (11) Strategic Risks for the Council

Manager Safety and Risk: Sarah Taylor

Executive Manager Legal & Governance: David Thompson

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

To present to the Council the identified eleven (11) Strategic Risks of the Council for endorsement.

Officer Recommendation

That Council resolve to ENDORSE the eleven (11) Strategic Risks of the Council.

Executive Summary

1. Council's eleven (11) strategic risks have been developed through facilitated workshops involving the Executive and Management Leadership team. The recent strategic risk review has also ensured that recently identified emerging risks are captured within Council's eleven (11) strategic risks.
2. The assessment of the identified risks and any subsequent treatment actions will be completed internally by the relevant owner of the risk in consultation with Council's Risk team.
3. The strategic risks were reviewed and endorsed by the Audit & Risk Committee in June 2022.

Background

4. The initial development of Council's strategic risks commenced in March 2022 with a workshop for the Managers and Directors coordinated by Council's Risk Management team in conjunction with Marsh, a risk consultancy and insurance subsidiary of Council's Insurer Jardine Lloyd Thompson.
5. The purpose of the workshops was to identify Council's strategic risks in line with the current Council Plan. The workshop facilitated discussion on what the critical success factors are in achieving Council's strategic objectives and the potential disruptions to those critical success factors.
6. The analysis of the identified strategic risks will help to understand the causes of the risks, the impacts they may have and, most importantly, the processes and activities that Council can do to mitigate the identified risks.
7. Following on from the identification workshops, Council's Risk Management team worked with each of the risk owners to identify controls that are in place and also assist with developing treatment plans to further control the identified risks.

8. The Strategic Risks were reviewed by the Executive Team in May 2022 and presented to the Audit & Risk Committee on 2 June 2022.
9. The Strategic Risks are captured in Council's Strategic Risk Register. A Strategic Risk update is provided on a bi-annual basis to both the Executive team and the Audit and Risk Committee.

Key Issues and Discussion

10. The table below outlines the eleven (11) strategic risks identified for the Council.

Ref	Strategic Risk
1	Inadequate Council systems and technology in terms of quality relevance, efficiency, or reliability.
2	Non-compliance with all of the Council's obligations regarding relevant legislation, regulations, standards, or codes.
3	Insufficient staff with appropriate qualifications, skills or experience to meet the Council's objectives.
4	Assets and equipment to meet Councils strategic objectives are inadequate in terms of management, quantity, efficiency, effectiveness, or relevance.
5	Environmental management is insufficient to the requirements of legislation or community expectations.
6	Inadequate planning and preparation for climate change impacts.
7	Inadequate communication or engagement with the community or relevant stakeholders.
8	Inadequate budgeting and financial management to achieve Council's strategy.
9	Organisational governance and reporting or capability is insufficient to provide the transparency and assurance for meeting the increasing community expectations.
10	Planning capability and processes are inadequate to meet community expectations and facilitate growth.
11	Failure to adequately identify or secure economic development opportunities.

Attachment 1 provides further detailed information in relation to each of the eleven (11) Strategic Risks for the Council.

Governance Compliance

Policy Implications

11. The eleven (11) Strategic Risks of the Council have been developed having regard to the Risk Management Policy.

Financial and Resource Implications

12. The financial and resource costs to develop the eleven (11) Strategic Risks for the Council have been met from within Safety and Risk department operating budget.

Conflicts of Interest Disclosure

13. No member of Council staff involved in advising or in preparing this report has declared a material or general conflict of interest in relation to the matter of the report

Legal / Risk Implications

14. Risk identification enables the City of Stonnington to develop plans to minimize harmful events before they arise. The objective of identify the Strategic Risks that could harm the Council helps Council staff to understand potential risks to the Council and identify ways to minimise them or recover from their impacts.

Environmental Implications

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

Community Consultation

16. There was no requirement for community consultation.

Human Rights Consideration

17. The implications of this report have been assessed in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities Act 2006 (the Charter). The eleven (11) Strategic Risks of the Council is not considered to infringe unreasonably upon any prescribed human right, freedom or responsibility contained in the Charter. Complies with the Charter of Human Rights & Responsibilities Act 2006.

Attachments

1. Strategic Risk Register - Council Endorsement November 2022 [8.7.1 - 16 pages]

8.8 Councillor and Member of a Delegated Committee Expenses Policy

to be inserted by system do not remove

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 to:

- 1. ADOPT the Councillor and Member of a Delegated Committee Expenses Policy (as annexed to the Minutes); and***
- 2. That a copy of the Councillor and Member of a Delegated Committee Expenses Policy be provided to all Councillors.***

Executive Summary

- 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.
- The review was approved by the Audit and Risk Committee as part of the 2021/22 Internal Audit Plan.
- The primary objective of the review was to assess and evaluate the design and effectiveness of internal controls embedded in Councillor expense processes.
- 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 reflected in the 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 requirements of the Local Government Act 2020 (the Act).

Background

8. 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).
9. 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.
10. 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).
11. 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.
12. 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.
13. 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.
14. 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

15. 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**.
16. 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.
17. 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.

* In recognition that the majority of the business of the Council conducted by a councillor is outside of normal business hours, it is recommended the maximum hourly rate be set at \$54.40 which is the time and a half award rate paid to a member of Council staff in performing this role.

Governance Compliance

Policy Implications

18. Council officers recommend the Councillor and Member of a Delegated Committee Expenses Policy for adoption.

Financial and Resource Implications

19. 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.
20. 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

21. The Council officers preparing this report and the Policy have no general or material conflict of interest to declare.
22. 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

23. 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.
24. 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

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

Community Consultation

26. There was no requirement for community consultation.
27. When adopted by the Council, 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

28. The implications of the Policy have been assessed in accordance with the Charter of Human Rights & Responsibilities Act 2006.
29. 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) [8.8.1 - 9 pages]
2. Councillor and Member of a Delegated Committee Expenses Policy Track Changes Cou [8.8.2 - 30 pages]
3. Councillor and Member of a Delegated Committee Expenses Policy Clean Copy for Co [8.8.3 - 21 pages]

9 Correspondence

10 Tabling of Petitions and Joint Letters

11 Notices of Motion

12 Reports by Councillors

12.2 Record of Councillor Briefing Session held on 7 November 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 7 November 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 (7 November 2022) [**12.2.1** - 4 pages]

13 Questions to Council Officers

14 Urgent Business

15 General Business

16 Confidential Business