



Council Meeting Agenda

Monday 24 October 2022 at 7 PM

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

Information for the Community

Welcome

Welcome to a City of Stonnington Council meeting.

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

About this meeting

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

Arrangements to ensure meetings are accessible to the public

Council meetings are generally held at the Malvern 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 69 meetings of the Council will be audio recorded and made available for public access, with the exception of matters identified as confidential items in the agenda.

Disclosure of Conflict of Interest

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

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

- The item for which they have a conflict of interest;

- Whether their conflict of interest is general or material; and
- The circumstances that give rise to the conflict of interest.

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

Behavior at meetings

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

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

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

Your cooperation would be appreciated.

Mayor, Deputy Mayor and Councillors, Stonnington City Council

Statement of Reconciliation

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

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

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

Statement of Commitment

The Chair will recite the following Statement of Commitment.

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

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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 10 October 2022

Officer Recommendation

That the Minutes of the Meeting of the Stonnington City Council held on 10 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 Annual Report 2021-22 - Council Adoption

Acting Director Organisation Capability: Marilyn Kearney

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 and adopt the City of Stonnington Annual Report for the 2021-22 financial year.

Officer Recommendation

That the Council:

1. ***APPROVE in principle the 2021-22 Performance Statement (Attachment 2) and Annual Financial Report (Attachment 3).***

2. ***AUTHORISE Mayor, Cr Jami Klisaris and Deputy Mayor, Cr Melina Sehr, to certify the Performance Statement and Annual Financial Report for the year ended 30 June 2022, in accordance with the Local Government (Planning and Reporting) Regulations 2014 and Local Government Act 2020.***
3. ***ADOPT the full Annual Report 2021-22; comprising the Report of Operations (Attachment 1), Performance Statement (Attachment 2), and Annual Financial Report (Attachment 3).***
4. ***NOTE that Report of Operations (Attachment 1), Performance Statement (Attachment 2) and Annual Financial Report (Attachment 3) will be consolidated into a single, designed Annual Report document following Council adoption.***
5. ***NOTE that the Closing Report (Attachment 4) and Management Letter (Attachment 5) provides a summary of results of the audit of Stonnington City Council at 30 June 2022, which has been discussed at the Audit and Risk Committee meeting on 5 October 2022.***
6. ***NOTE that the Annual Report 2021-22 meets all requirements of the Local Government Act 2020.***

Executive Summary

1. Council has prepared an Annual Report for the financial year 1 July 2021 to 30 June 2022 to meet Council's obligations under the Local Government Act 2020 (the Act).
2. The Annual Report comprises three sections: Report of Operations (**Attachment 1**), Performance Statement (**Attachment 2**) and Annual Financial Report (**Attachment 3**).
3. The Performance Statement and Annual Financial Report have been:
 - a. Audited by RSD Audit, who are contracted and oversighted by the Victorian Auditor-General's Office (VAGO), to undertake the review of the audit on their behalf.
 - b. Presented to the Audit and Risk Committee (the Committee) on 5 October 2022, with the Committee recommending both documents be approved in principle by Council.
 - c. RSD Audit's closing and management reports were presented to the Committee (**Attachment 4 & 5**) with both concluding no material findings.
4. The preparation of Council's Annual Report 2020-21 meets all requirements of the Act.

Background

5. Under Section 98 the Act and *Local Government Planning and Reporting Regulations*, councils are required to prepare an Annual Report in respect of each financial year consisting of three parts:
 - **Report of Operations:** Information about the operations of Council including service performance indicator results, achievement of major initiatives, a governance and management checklist and other information as required by legislation and best practice (**Attachment 1**).

- **Performance Statement:** Audited results achieved against the prescribed performance indicators and measures (**Attachment 2**).
 - **Annual Financial Report:** Audited financial statements prepared in accordance with the Australian Accounting Standards (**Attachment 3**).
6. The Act also stipulates that the Annual Report must be adopted at a Council meeting no later than four months after the end of the financial year.
 7. Unlike requirements under the previous *Local Government Act 1989*, there is no longer a requirement to submit the Annual Report to the Minister, nor provide an advertised public notice of the Council meeting where the Annual Report will be considered.

Key Issues and Discussion

8. The Annual Report provides the opportunity for Council to communicate to the community its achievements and challenges of the past financial year.
9. The Annual Report 2021-22 fairly represents Council's operations, financial position and performance for the financial year in the context of the Council Plan 2021-25, and appropriately reflects the impact of COVID-19 and other external matters.
10. The structure of the Report of Operations (**Attachment 1**) is aligned to the Council Plan 2021-25 and represents the annual update in delivering year 1 of the Council Plan.
11. Council's performance results are prepared in accordance with the Local Government Performance Reporting Framework (LGPRF), with results detailed within the Performance Statement (**Attachment 2**) and the overview below.
12. The financial position of Council is reflected in the Annual Financial Report (**Attachment 3**) and the overview below. RSD Audit provided an unqualified audit opinion on the Annual Financial Report.
13. All legislative requirements have been met, with the financial statements prepared as required by the Act, the Local Government (Planning & Reporting) Regulations 2014, Australian Accounting Standards and other mandatory professional reporting requirements.

Report of Operations (Attachment 1)

14. The Report of Operations (the Report) is the key mechanism for presenting how a council is achieving its operational and strategic goals. It is a statutory requirement under s 98(2) of the Act.
15. Minimum content requirements for the Report are included in s 98(3) of the Act, and Local Government Victoria provides a Better Practice Guide to assist councils in ensuring legislative and regulatory requirements are met. The preparation of the Report meets all requirements of the Act.
16. The Report of Operations, together with the recently introduced Quarterly CEO Updates, provide a key opportunity for Council to demonstrate its commitment to transparency regarding Council's performance and delivery of the Council Plan.

17. Councilors were provided with a draft structure of the Report via email on 17 August 2022. As part of Council's continuous improvement and maturity uplift of its planning and performance, the following improvements have been made in this year's Report:
- a. Clearer progress update for the delivery of Annual Plan actions
 - b. Introduction of a suite of strategic indicators against each strategic objective
 - c. Inclusion of highlight and update stories which provide further context on the delivery of our Council Plan

Performance Statement (Attachment 2)

18. The Performance Statement is the key mechanism whereby council makes itself accountable to the community. It contains prescribed information under the Local Government Performance Reporting Framework (the framework) about the performance of the council for the financial year.
19. The framework is made up of a range of sustainable capacity, service performance and financial performance indicators. It is complemented by a Governance and Management checklist, which shows the policies, plans and procedures in place at each Council.
20. Results from the framework are reported variously in Council's Annual Report 2021-22 in accordance with Local Government Victoria's Better Practice Guides and reflected in the table below. Results are also published on the 'KnowYourCouncil' website.

Indicator type	Included within <i>Report of Operations (Attachment 1)</i>	Included within <i>Performance Statement (Attachment 2)</i>
Sustainable capacity	N/A	All indicators (7)
Service performance	All indicators (40)	Auditable indicators only (10)
Financial performance	N/A	All indicators (11)
Governance and management checklist	All items (24)	N/A
Audit requirements	Nil.	Indicators and statement audited by RSD Audit

21. The Council's internal control processes ensure compliance with the LGPRF reporting obligations set out by the Act and Regulations and contribute to reliable and consistent data collection methods, including:
- a. Performance reporting milestones aligned with financial reporting processes;
 - b. Internal guidelines (for each service area) that details source systems and methodology used to calculate each measure;
 - c. Quarterly reports to the Executive Team and relevant service areas; and
 - d. Data verification and quality control process prior to RSD Audit audit.

22. Materiality, in the context of performance reporting, is the threshold at which omission or misstatement of information could influence the decisions made and expectations formed by reference to the data reported. Council is required to provide an explanation in its Performance Statement on any material variations (+/- 10%) in measures between the results achieved for that financial year and the corresponding results for the preceding three financial years. To maintain consistency, no changes to the adopted materiality thresholds have been proposed from previous periods.
23. Detailed service performance, sustainable capacity and indicator results and comments are disclosed within the Performance Statement (**Attachment 2**).
24. The performance statement must be submitted to the auditor as soon as possible after the end of the financial year and certified in its final form by two Councillors, the CEO and principal accounting officer.
25. The Performance Statement has been presented to the Committee and audited by RSD Audit, with the closing and management reports concluding no material findings (**Attachment 4 & 5**).

Annual Financial Report (Attachment 3)

26. The financial statements are a general-purpose financial report. The financial report complies with Australian Accounting Standards (AAS), other authoritative pronouncements of the Australian Accounting Standards Board, the Local Government Act 2020 and the Local Government (Planning and Reporting) Regulations 2020.
27. The report is prepared in accordance with the Local Government Model Financial Report published by Local Government Victoria and is consistent with the approach presented in the RSD Audit strategy and financial reporting timetable presented to the Audit and Risk Committee (the Committee) in March 2022.
28. The Annual Financial Report has been presented to the Committee and audited by RSD Audit, with the closing and management reports concluding no material findings (**Attachment 4 & 5**).

New Accounting Standards

29. Certain new Australian Accounting Standards and interpretations have been published that are not mandatory for the 30 June 2022 reporting period. Council assesses the impact of these new standards.
30. As at 30 June 2022 there has been a clarification released for the application of IAS 38 Intangible Assets - Configuration or Customisation Costs in a Cloud Computing Arrangement which has impacted Council's results. The clarification reflected arrangements in respect of a specific part of cloud technology, Software-as-a-Service (SaaS), and how they should be accounted for and deals with specific circumstances in relation to configuration and customisation costs incurred in implementing SaaS. Council has reflected this change in accounting policy in respect of customisation and configuration costs incurred in implementing SaaS arrangements and in applying this

accounting policy, Council has made key judgements that may have a significant impact on the amounts recognised within the financial statements.

31. Further details have been outlined in Note 5.2 (b) of the Financial Report, as well as in a separate paper to the Audit Committee.

Impacts of the COVID-19 pandemic on the 2021-22 Financial Report

32. As disclosed within Note 1(b) of the Financial Report, the COVID-19 pandemic continued to impact on Council's operations within the first half of the year. Council has noted the following significant impacts on its financial operations for the financial year ended 30 June 2022:

- a. Additional revenue: Council recognised Immediate Outdoor Activation COVIDSafe (Part A) \$0.70 million (operating grant), Semi Perm/Perm Outdoor Precinct Establishment (Part B) \$0.41 million, Working For Victoria initiatives \$0.12 million and other minor COVID-19 grants \$0.17 million.
- b. Revenue reductions: In response to Government restrictions and lockdown periods during the first half of the financial year, aquatic centre facilities, libraries, community centres, venues and community events closed. These closures by Council resulted in a reduction in user fee revenue by \$3.83 million compared with budget assumptions for 2021/22 as well as associated cost reductions.
- c. Revenue foregone: Council significantly reduced parking enforcement across the municipality resulting in a decrease in statutory fees and fines by \$2.40 million offset by direct contract costs for parking enforcement. In addition, Council waived some property rental costs during the lockdowns as a property hardship relief measure.
- d. Additional costs: Council established a COVID-19 response and recovery reserve of \$1.89 million during the budget process for 2021/22, the draw-down of this fund included waiving Footpath trading permits from September to December 2021, Health Registration waiver, Prahran Market rental relief and other community related initiatives through-out the year. This reserve was drawn-down in full.
- e. Project delivery delays: Due to lingering impacts of COVID-19 this has significantly impacted the delivery of the capital program. This is due to supply chain issues with materials, labour shortages and contractor availability, and has resulted in a number of projects not complete deferred into 2022/23. This has impacted Council's ability to recognise various capital grants associated with these projects and therefore resulted in a \$8.37 million revenue variance compared to Budget.

Operating Surplus / Deficit

33. For the reporting period, Council's operating surplus was \$10.94 million and significantly less than previous reporting periods, which additionally to the impacts of COVID-19 as

stated above, is primarily driven by accounting adjustments for the year ended 30 June 2022. This includes:

- a. Application of IAS 38 Intangible Assets – Configuration or Customisation Costs in a Cloud Computing Arrangement: At 30 June 2022, Council has expensed \$4.96 million software investment from capital to operating cost, in addition to the recognition of \$2.86 million of impairment of current software Work-in-Progress.
 - b. Accounting for Asset Write-Offs: There was also an additional \$2.98 million of operating cost identified from annual asset capitalisation progress together with \$4.20 million for assets demolished or written-off through capital works progress. Council also conducted a revaluation of Open Space and Recreation & Leisure assets, which saw a growth in value of Councils asset base together with asset additions from capital works. This led to an increase in depreciation of \$1.42 million compared to the 2020/21 Financial Year. Overall, the increase on asset related operating cost is \$8.60 million from 2020/21.
34. The long-term outlook for Council displays prudent financial management and increasing operating surpluses to support community infrastructure requirements, however the new accounting methodology for SaaS will need to be factored into future Council budgets and will impact our financial management principles.

Cash and cash equivalents

35. Total cash and cash equivalents and other financial assets (term deposits with original maturity dates exceeding 90 days) was \$90.64 million as at 30 June 2022.
36. Total restricted funds (trust funds and deposits) are \$8.39 million and intended allocations are \$114.15 million (cash held to fund carried forward capital works, long service leave and retirement gratuity provisions, reserves-future fund, public open space and roads restoration, conditional grants unspent and IMAP monies held under payables). Restricted funds and intended allocations total \$122.55 million.
37. This leaves a deficit position of \$31.91 million as unrestricted cash, cash equivalents and term deposits. It is highly unlikely that settlement of all restricted funds and intended allocations will be required within the next twelve months. Noting that this is however primarily driven from funding requirements to deliver on the carry forward capital program of \$33.68 million.
38. As per the approved budget for 2022/23, Council has approved financing arrangements in the form of borrowings to meet short term funding requirements of \$37.0 million of new borrowings and \$13.0 million of carry forward borrowings from 2021/22. Therefore, Councils cashflow for the next 12 months is considered on track and healthy. The Finance Team will monitor cash over restricted assets on a monthly basis and report this to the Executive Team through the monthly financial reporting.

Unrestricted Cash at 30 June 2022

	Actual \$'000
Total cash and investments	\$90,643
Restricted cash and cash equivalents:	
Trust funds and deposits	\$8,393
Intended allocations:	\$114,154
Open space contributions	\$56,270
Future funds reserve	\$5,000
Other reserves	\$250
Cash held to fund c/forward capital works	\$33,680
Long service leave	\$10,870
Conditional Grants Unspent	\$7,799
M9 Contribution monies held under payables	\$40
IMAP funds held in trust	\$245
Unrestricted cash and cash equiv.	-\$31,905

Parking infringement debtors

39. Bad and doubtful debts of \$3.35 million was raised at 30 June 2022 for infringement court income owing to Council. The majority of infringement court income owing to Council is offset by a provision for doubtful debts as there is a low likelihood of this income being paid to Council. This is calculated at 100% for all debtor balances exceeding 12 months old, 86% for debtor balances between 6-12 months old, 89% for 3-6 months old, and 92% for 0-3 month old. The percentages are calculated based on historical collection rates. The collection of infringement court income is managed by Fines Victoria.

Investments in joint operations and subsidiary

Investment in joint operation - Regional Landfill Clayton South

40. Council's investment is brought to account using the equity accounting method as an investment in the joint operation. Stonnington has a 12.76% interest in the assets, liabilities and operating results.

41. The Regional Landfill ceased commercial landfill operations in January 2016 and is no longer able to generate income from ongoing operations to continue to meet obligations of aftercare under its EPA licence for a period of 30 years following closure. However, the JV's financial report has been prepared on the going concern basis in the belief it will receive continuing financial support from its member Councils in future periods under the Clayton South Regional Landfill User Group Agreement to allow it to meet its liabilities.
42. An updated joint venture agreement was signed by the five Council's on 18 September 2020. This agreement states the five Council's commitment to the liabilities both as at 30 June 2022 and any that may arise in the future. This resulted in member contributions during the year of \$1.98 million.
43. At the reporting date the Joint Venture recognised a provision for rehabilitation works which is measured at the present value of the Joint Venturers' best estimate of the costs associated with remediation of the site. Remediation is expected to be completed by 2050. The revaluation for Clayton South Landfill provision was reduced by approximately \$2.0 million in 2021/22.
44. The calculation of the provision is based on a review of the Annual and planned equipment replacement aftercare costs of the site. These costs have been inflated at 2% per year. The present value calculation uses the Milliman Group of 100 discount rate forecasts for 30 years. The provision also takes into account a forecast \$1.996 million of capping and gas infrastructure works that are required to be completed primarily in 2021/22 in order to decommission the land fill.
45. At 30 June 2022, the JV held cash of \$0.62 million (2021, \$0.63 million). This cash will be available to partly fund the aftercare costs through to 2045. The difference between the cash held and the expected future costs will need to be funded through contributions from the owner councils in future years and also by any income that can be generated from any alternative use of the landfill site.
46. Council's 12.76% share of this provision is reported in Council's Balance Sheet as a non-current liability of \$2.27 million (2021, \$2.53 million).

Subsidiary – Prahran Market Pty Ltd

47. AASB 10 Consolidated Financial Statements requires an entity that controls another entity to present consolidated financial statements. Prahran Market is a wholly owned subsidiary of Council. Full control exists and Council fully consolidates the assets and liabilities of Prahran Market with inter-entity transactions eliminated in full.
48. In response to the COVID-19 pandemic, Council provided rent abatement to Prahran Market of \$0.87 million including financial support of \$0.50 million during 2021/22. Council will continue to provide financial support to Prahran Market in line with Council's financial hardship policy.

Non-current physical asset revaluation

49. Council assets are measured at fair value. Plant and equipment are measured with acquisition cost with the exception of Heritage Plant and Antiques (revaluation method), while other Council non-current physical assets are measured using revaluation method

after initial recognition from purchase or construction, including land, buildings and infrastructure assets.

50. The aim for revaluation is to ensure Council assets accurately reflect their current market value or cost of construction under current market condition. Council undertakes a formal revaluation of these assets on a regular basis ranging from 1 to 5 years. Council would also conduct out of cycle revaluation on a class of assets, should material deviation is observed from book value to the fair value.
51. Council's land, land under roads, buildings, open space and recreation & leisure asset were revalued in 2021/22, with a net total increment of \$176.55 million to the asset revaluation reserve and Roads and Bridges were indexed with cost inflation of \$39.06 million. The total revaluation reserve movement for the year is \$215.61 million. Investment properties are required to be revalued each year with recognition through the income statement. The 2021/22 valuation has led to a gain of investment asset value by \$0.815 million based on the current market value of the property.

Events occurring after balance date

52. No matters have occurred after balance date that require disclosure in the financial report.

Governance Compliance

Policy Implications

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

Financial and Resource Implications

54. Financial implications associated with this report have been noted above.

Conflicts of Interest Disclosure

55. 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

56. As noted within the Annual Report, the COVID-19 pandemic, cyber security incident, Melbourne earthquake, and other economic events have had financial, community, workforce and technology impacts on Stonnington as described in the Annual Report. Due to the ongoing impacts of this environment, Council recognises the need to be dynamic in the implementation and delivery of its Council Plan, Annual Plan, Budget and Financial Plan. While Council's long term strategic goals will endure, relevant prioritisation and sequencing of actions and timeframes will need to be reviewed.

Environmental Implications

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

Community Consultation

58. There was no requirement for community consultation.

Human Rights Consideration

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

Attachments

1. Report of Operations 2021-22 [**8.1.1** - 53 pages]
2. Performance Statement 2021-22 [**8.1.2** - 16 pages]
3. Financial Report 2021-22 [**8.1.3** - 63 pages]
4. External Audit Closing Report 2021-22 [**8.1.4** - 20 pages]
5. External Audit Final Management Letter 2021-22 [**8.1.5** - 9 pages]

8.2 Planning Application 0300/21 - 1667-1669 & 1671-1673 Malvern Road, Glen Iris

Coordinator Statutory Planning: Phillip Gul
Director Planning & Place: Annaliese Battista

Purpose of Report

For Council to consider a planning application for construction of a multi-dwelling development in a General Residential Zone and alteration of access to a road in a Transport Zone 2 at 1667-1669 and 1671-1673 Malvern Road, Glen Iris.

Abstract

Proposal

The proposal seeks to construct a four-storey apartment building with two basement levels, comprising of 40 dwellings (5 x one-bedroom, 30 x two-bedroom and 5 x three-bedroom). 50 car parking spaces and 50 bicycle spaces are provided in the basement levels, which is proposed to be accessed via a new crossover from Malvern Road.

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 the Planning Policy Framework and Local Planning Policy Framework.
- The site is appropriately located to support an increase in density as it is located on a main road and within close proximity of the Malvern Road and Burke Road Neighbourhood Activity Centre, Peace Park, public transport routes, a variety of services and amenities.
- The proposed development provides an appropriate design response to the emerging and preferred neighbourhood character of the area, specifically the Garden Suburban 4 Neighbourhood Character precinct.
- The development achieves a high level of compliance with Clause 55 (ResCode) and will not result in unreasonable amenity impacts to adjoining properties subject to the recommended conditions.
- The development will provide for an acceptable level of internal amenity to the apartments.
- The proposal provides an appropriate landscape response that will contribute to the landscape character and canopy coverage of the surrounding area.
- The proposal provides adequate car parking and access arrangements and will not result in unreasonable traffic or parking impacts.

Issues

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

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

Officer's response

The proposal seeks to construct a contemporary four storey apartment building comprising of 40 dwellings. The site is located within a "incremental change" area. In this location, policy seeks to direct multi-unit development (two to three storeys) to lots capable of accommodating increased density. The site is a substantial size that is capable of supporting the increase in density that is proposed. The site is also well located to support an increase in density as it is located in close proximity to the Malvern Road – Burke Road Neighbourhood Activity Centre and Peace Park and has convenient access to a range of services, facilities and public transport. There is clear strategic direction for the site that encourages medium density residential development, subject to an appropriate design response, landscaping and not adversely impacting the amenity of the adjoining properties.

The proposal is considered to appropriately respond to the design objectives and guidelines for the Garden Suburban 4 Precinct as well as the existing, emerging and preferred character of the area, and is supported by Council's Urban Designer. The landscape response provides canopy tree planting and meaningful landscaping that is commensurate with the scale of the development.

The proposal meets all of the Objectives of Clause 55 and provides an acceptable level of internal amenity without compromising the amenity of the neighbouring properties. The proposal also provides the required number of car parking spaces and appropriate access arrangements.

Executive Summary

Applicant:	Sinha Family Trust c/o UpCo
Ward:	East
Zone:	General Residential Zone (Schedule 7) General Residential Zone (Schedule 10)
Overlay:	N/A
Neighbourhood Precinct:	Garden Suburban 4 Precinct
Date Lodged:	26 April 2021
Statutory Days: (as at Council Meeting date)	39
Trigger for Referral to Council:	More than 7 objections
Cultural Heritage Plan	No
Number of Objections:	16

Consultative Meeting:	Yes - held on 6 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 are prepared by Peddle Thorpe and are known as Drawing No's TP100-107, TP200-208, TP211-212, TP300-306, TP600-606 and TP900, Revision B, Council date stamped 15 September 2022.

Key features of the proposal are:

- Demolition of all existing buildings and removal of all vegetation on the site (no planning permit required).
- Construction of a four-storey apartment building with two basement levels, comprising of 40 dwellings (5 x one-bedroom, 30 x two-bedroom and 5 x three-bedroom).
- A total of 50 car parking spaces and 50 bicycle parking spaces are provided over two levels of basement.
- Access to the basement is proposed via a new crossover from Malvern Road, on the southern side of the frontage. There are two existing crossovers to Malvern Road that will be removed and reinstated to kerb and nature strip.
- The building slightly steps down with the land to respond to the slope of the site, with an overall building height of 11.5 metres above natural ground level (excluding lift overrun and rooftop plant screen).
- Pedestrian entry to the building is provided centrally on the Malvern Road frontage via an entry bridge. Internally all apartments are accessible via a lift and stairwell from the basement to all floors.
- The building presents a contemporary architectural style and is proposed to be constructed of a variety of materials including, light and dark render, light and dark metal and brick finishes. In addition to clear and frosted glassing and horizontal metal louvers.
- The development has a proposed site coverage of 58%, a basement site coverage of 68% and permeability of 22%.
- A variety of landscaping treatments are proposed around the perimeter of the development including canopy trees, hedging, shrubs, ground covers and climbers. As well as planting in internal light gardens which comprise of green walls and planter boxes on the entry bridge and around the upper-level terrace.
- A 1.7-metre-high front fence is proposed to be constructed of solid rendered sections and vertical metal fins along the Malvern Road frontage of the site.

Site and Surrounds

The site is located on the north-eastern side of Malvern Road. The site has the following significant characteristics:

- The site comprises three lots, with a total area of 2,036 square metres. There are two primary lots, being 1667-1669 Malvern Road and 1671-1673 Malvern Road, and then at the rear there is a 3.05 metre strip of land that extends along the rear boundaries

and up to King Street. The site has a total frontage to Malvern Road of 39.52 metres, a depth of 50.3 metres and the rear strip of land that extends to King Street has a length of 57.41 metres.

- The site has a fall from the Malvern Road frontage to the rear by up to 2.81 metres.
- 1667-1669 Malvern Road is currently occupied by a single storey dwelling with pitched roof and high solid front fence. A driveway is located on the northern side of the frontage and provides access to a garage towards the rear of the lot.
- 1671-1673 Malvern Road is current occupied by a single storey dwelling with a pool at the rear and high solid front fence. A driveway is located on the northern side of the frontage.
- The site contains minimal vegetation with some small plantings in the front gardens, and along the rear boundary of the site.

The site is located within a well serviced area, including within approximately 250 metres of the Malvern and Burke Road Neighbourhood Activity Centre (NAC) and Peace Park to the west of the site. The site is also well serviced by public transport with Gardiner Railway Station located approximately 450 metres to the north-west and Glen Iris Railway Station 700 metres to the south-east, plus tram services located at the intersection of Malvern Road and Burke Road.

The surrounding area is largely made up of residential properties, featuring a mixture of detached dwellings and multi-dwelling developments (in the form of townhouses and apartment buildings) constructed in various periods and styles. Developments along the north-eastern side of Malvern Road are largely two to four storeys with a more robust and contemporary built form, this is considered representative of the emerging character within the surrounding area. The south-western side of Malvern Road is characterised by a predominance of traditional single and double detached dwellings. The majority of properties comprise of high front fences, which is characteristic for lots with an abuttal to a main road.

The site interfaces with adjoining properties as follows:

- North-west: the land immediately adjoining the subject site benefits from Planning Permit No. 416/13 which allows for the construction of six three-storey townhouses. Three of the townhouses, at 7, 9 and 11 King Street, have been constructed and are occupied. The other three, at 13, 15 and 17 King Street, are currently under construction.
- North-east: Units 1, 2 and 3 of 5 King Street comprises of a row of double storey townhouses. The dwellings are located towards their north-eastern boundary with the communal driveway and garages interfacing the subject site.
- South-east: Unit 1, 2 and 3 of 1675-1677 Malvern Road are occupied by single storey units with pitched roofs. The dwellings have their secluded private open space on the north-western boundary interfacing the subject site and their driveways and access on the south-eastern side. Unit 1 has a high rendered front fence interfacing Malvern Road and landscaping behind.
- South-west: This interface is to Malvern Road. On the opposite side of Malvern Road are single storey dwellings with generous front setbacks, pitched roofs and high front fencing at 1588-1590, 1592-1594 and 1596-1598 Malvern Road. At 1600-1602 Malvern Road is a soon to be completed townhouse development, comprising of five

double-storey townhouses with basement level, constructed generally in accordance with Planning Permit No. 291/18.

Previous Planning Applications

A search of Council records indicates that there have been a number of planning permit applications associated with the 1667-1669 Malvern Road parcel of land. Whilst there are none associated with the 1671-1673 Malvern Road parcel. Of relevance this includes:

- Planning Permit Application No. 412/09:

The application was for construction of a multi-unit development and alteration of access to a Category 1 Road Zone. The proposal comprised of four double-storey dwellings with basement car parking for three of the dwellings. A Section 79 (Failure to determine) appeal was lodged. Had the appeal not been lodged Council would have refused the application on the following grounds:

1. *The proposed development does not meet the objectives of the State and Local Planning Policies, in particular Clause 55 (Neighbourhood Character, Infrastructure, Access, Side and Rear Setbacks, Walls on Boundaries, Overlooking and Design Detail), Clause 22.02 (Urban Design Policy) and 22.06 (Residential Character, Amenity and Interface Policy).*
2. *The proposed development would be inconsistent with the neighbourhood character of the area including poor design and bulk of the building.*
3. *The proposed development would have a detrimental impact on adjoining properties through the impact of building bulk, overlooking and inadequate setbacks from the boundaries.*
4. *The proposed development provides unsatisfactory access and layout of car parking.*
5. *The method of drainage for the proposed development is unsatisfactory.*

In order P3261/2009 (dated 9 August 2010) VCAT affirmed Council's position and directed that no permit is granted. It is noted that at paragraph 4 of the order that the following comments were made about redevelopment of the site:

- 4 *This is not a case about planning policy and questioning the appropriateness of a more intense development of the site. The site is well located to further urban consolidation objectives. It is close to all amenities including public transport, shops, schools and public open space. It has the benefit of policy support for a more intense development.*

Since this order was made there has been a number of changes in planning policy, including the site being rezoned from Residential 1 Zone to General Residential Zone and the inclusion of Council's Neighbourhood Character Policy at Clause 22.23. However, the comments in relation to the intensification of the development on site are still considered relevant. A more detailed discussion is included in the assessment section of this report.

- Planning Permit Application No. 555/13:

The application was for the construction of a multi-dwelling development, reduction in the car parking requirement and alter access to a Road Zone, Category 1. The

proposal comprised of 16 three-storey dwellings plus basement level with 20 car parking spaces. Council refused the application on the following grounds:

1. *The proposed development would be inconsistent with the neighbourhood character given the crowding of the boundaries and the bulk of the building at the rear of the site.*
2. *The proposed development would have a detrimental impact on adjoining properties through the impact of building bulk and inadequate setbacks from the boundaries*

The refusal was appealed to VCAT. In VCAT Order P1240/2014 (dated 24 February 2015) the refusal was upheld. Of note in the order the Senior Member stipulated the following at paragraphs 17 and 18:

- 17 *The Tribunal considers that the intrusion of a single flat roofed three storey apartment building of unbroken built form into this neighbourhood would strike a jarring and discordant note. It simply would not respect that existing neighbourhood character. The site is more suited to a town house development of the type that is being built next door. Such a development is also better suited to handle the slope of the land by stepping down the building either individually or in groups of dwellings. This will avoid a visual impact that is too bulky at the rear.*
- 18 *For this reason the application for review is disallowed. The applicant is encouraged to put forward a development that is in keeping with the town house style of development that characterises the neighbourhood. The additional 3 metres that has been acquired at the rear of the property provides ample space for landscaping.*

This order was issued in February 2015. There has been substantial intensification of urban development along Malvern Road in this time. Of note 1639 Malvern Road has recently been developed with a part 3 and part 4 storey apartment building (Permit No. 638/15) and 1683 Malvern Road has been developed with a three-storey apartment building (Permit No. 1195/15). There have also been planning permit approvals for four storey apartment buildings in the vicinity of the site, including at 1647-1653 Malvern Road (Permit No. 1030/15) and another at 1655-1661 Malvern Road (Permit No. 1299/18). On this basis it is considered that the proposal for a four-storey apartment building is in keeping with the current and emerging neighbourhood character, this will be further expanded upon in the assessment section of this report.

- Planning Permit No. 872/15.

This planning permit was issued on 18 July 2016 for construction of a multi-dwelling development in a General Residential Zone and alteration of access to a Road Zone Category 1. The approval comprised of six double-storey attached townhouses with basement level. A Section 72 Amendment for the inclusion of an additional level was refused in June 2017. The permit was not acted upon and subsequently expired in July 2020.

Repeat Application / Appeal

As outlined above, the site has a fairly extensive planning application history. Therefore, it is considered appropriate to consider the principles of repeat applications (appeals). In Pearl

Diamond Pty Ltd v Stonnington CC [2011] VCAT 2309 the following principles were outlined at paragraph 12:

12. *Relevant to the consideration of repeat appeals are the tests that are set out in the Tribunal's determination of K & B Reichert v City of Banyule and ors.... It seemed to me that the factors which might justify a departure from an earlier determination could include:*
- *significant changes in the application itself;*
 - *changes in the circumstances of the land and its surrounds;*
 - *changes in planning policy; and/or*
 - *changes in the interpretation of the facts or law relevant to the Tribunal's consideration.*

In regard to these principles the following is noted:

- These previous applications only applied to the single parcel of land at 1667-1669 Malvern Road. Whilst this current application now includes the land at 1671-1673 Malvern Road plus the land in the rear access strip that has been acquired via adverse possession. Therefore, the development site is substantially larger, with a total area of 2,036sqm.
- As noted above, the development context surrounding the site has evolved and there are a number of multi-storey developments and approvals in the surrounding area.
- The proposed apartment development is a contemporary four storey form with flat roof which is characteristic of other similar developments in the vicinity of the site.
- There have been a number of changes in policy since the first application in 2009, notably the introduction of Council's Neighbourhood Character Policy at Clause 22.23 and the reformed residential zones in 2014.

It is considered that there have been substantial changes to the site context, policy and site itself and that the current application is not a repeat application.

The Title

- The site comprises of three lot:
- 1667-1669 Malvern Road: Lot 1 on TP253563C (Vol. 4283 Fol. 492).
- 1667-1669 Malvern Road: Lot 7 on SP34557E (Vol. 11490 Fol. 415). This land is the strip of land at the rear (north-eastern boundary) and is encumbered by a 3.05 metre drainage and sewerage easement.
- 1671-1673 Malvern Road: Lot 1 on TP130240Q (Vol. 7739 Fol. 013).

No covenants affect any of the parcels of land.

Planning Controls

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

Zone

Clause 32.08 – General Residential Zone (GRZ)

The majority of the site is zoned GRZ – Schedule 7 (Residential Boulevards & Corridors) whilst the rear 3.05-metre-wide section of land is GRZ – Schedule 10 (Garden River & Garden Suburban Precincts). This rear section of land is encumbered by an easement

therefore no works are proposed in this area. Consequently, the details of the controls outlined below will focus on the provisions of the GRZ7.

Pursuant to Clause 32.08-6, a permit is required to construct two or more dwellings on a lot. A development must meet the requirements of Clause 55. Schedule 7 modifies the following Clause 55 requirements:

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

Pursuant to Clause 32.08-4, a minimum garden area of 35% is required to be provided on a lot greater than 650 square metres. The development provides a minimum garden area of 36% (which equates to 740 square metres) in compliance with the mandatory requirement.

Schedule 7 a maximum building height of 10.5 metres unless the slope of the natural ground level at any cross section wider than 8 metres of the site of the building is 2.5 degrees or more, in which case the height of the building must not exceed 11.5 metres. Due to the slope of the site the maximum allowable height is 11.5 metres and a lift overrun may exceed this height by up to 1.2 metres. The proposal has a maximum building height of 11.5 metres above the natural ground level, excluding the lift overrun which extends an additional 1.2 metres above the roof parapet and the rooftop plant screen which extends an additional 2 metres. The proposal complies with the mandatory building height requirement.

Overlays

The site is not affected by any overlays.

Particular Provisions

Clause 52.06 – Car Parking

Pursuant to Table 1 at Clause 52.06-5, one car parking space is required to each one- or two-bedroom dwelling and two car parking spaces are required to each three or more-bedroom dwelling. The subject site is located within the Principal Public Transport Network (PPTN) area; therefore, no visitor car parking is required to be provided on site.

The development comprises of 35 x one- and two-bedroom dwellings and 5 x three plus bedrooms, therefore generating a statutory car parking requirement of 45 car parking spaces. The development provides 50 car parking spaces over two levels of basement car park, which is a surplus of 5 spaces.

Clause 52.29 – Land adjacent to the Principal Road Network

Pursuant to Clause 52.29-5 a permit is required to create or alter access to a road in a Transport Zone 2. Malvern Road is a road in a Transport Zone 2; therefore, a permit is required. The Head, Transport for Victoria is a determining referral authority.

Clause 52.34 – Bicycle Facilities

Pursuant to Table 1 at Clause 52.34-5, in developments of four or more storeys 1 bicycle space is required to each 5 dwellings for residents and 1 bicycle space to each 10 dwellings for visitors. The development therefore requires 12 bicycle parking space. The proposal comprises of 50 spaces, in excess of the statutory requirement.

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

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

It is noted that Planning Scheme Amendment VC174 was gazetted on 20 December 2021. The amendment introduced revised Better Apartment Design Standards at Clause 55.07. This was introduced after the initial lodgement of the application was in April 2021. In this instance, given the history of the application with Council, it is considered appropriate to vary the new and modified standards and assess the application in relation to the Clause 55 standards in force at the date of initial lodgement.

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 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 3 signs on the site. The public notification of the application has been completed satisfactorily.

The site is located in East Ward and 18 objections from 16 different properties were received. 1 objection was subsequently withdrawn, resulting in a total of 17 objections. The objections are summarised as follows:

- Over development of the site.
- Proposal is excessive in size for the site context.
- Impacts on traffic and car parking in the area.
- Impact on the skyline of Malvern Road.
- Overlooking to surrounding properties.
- Excessive bulk and mass to the secluded private open space of adjoining properties.

- Insufficient setbacks, including inappropriate transition to dwellings in King Street.
- Impacts on surrounding properties during construction.
- Inadequate landscape response and opportunities for landscaping around the site.
- The proposed development is not in keeping with the character of the area.
- Noise from plant equipment.
- Loss of natural light to surrounding dwellings.

A Consultative Meeting was held on 6 September 2022. The meeting was attended by Councillors Sehr and Lew, representatives of the applicant, objectors and a Council Planning Officer.

Prior to the consultation meeting discussion plans were circulated to all objector parties, these plans were discussed during the meeting. Following the meeting the applicant formally lodged the discussion plans as revised plans comprising of the following changes:

- The rear setback to 5 King Street increased from 3.6-4.5 metres to between 4.5-6.8 metres at ground floor.
- First and second floor rear setbacks increased from 3-3.6 metres to between 4.5-6.95 metres.
- Reduction in the number of dwellings from 41 to 40 dwellings and a change in the dwelling typology from 9 x one bedroom, 27 x two-bedrooms and 5 x three-bedrooms to 5 x one-bedroom, 30 x two-bedrooms and 5 x three plus bedrooms.
- Ground level of the building raised by 730mm to address drainage issues and improve daylight access to ground level dwellings. Plus, consequential changes to the building envelope to comply with the maximum building height.
- Alterations to the landscape plan to improve the landscaping along the rear interface to 5 King Street and side interface to 1675 Malvern Road.
- Provision of additional perimeter planter boxes at upper levels.

Referrals

Urban Design Advisor

- A minimum 6 metre setback should be provided from the units at No.5 King Street and the units at No.1675 Malvern Road. These separation distances from adjoining dwellings (that are not capable of redevelopment to a similar four-storey scale) are reasonable and demonstrably achievable on sites that are of a similar size to the subject site.
- I would also expect that the development provides a meaningful in-ground canopy-tree landscape setting to assist in softening the residential interfaces.

Infrastructure (Asset Management and Planning)

- Over the course of the application Council's Infrastructure Department raised a number of concerns with the drainage of the site. In response to these concerns the applicant raised the floor levels of the ground floor, as well as providing detailed drainage plans. On this basis, Council's Infrastructure Department have no objection to the proposal subject to conditions.

Parks

- Council's Parks Department noted that two significant trees were removed from the site in 2007 without a Local Law Permit. They considered that the landscape plan should provide appropriate replacement planting for the trees that were lost.
- Subsequently, a revised landscape plan was submitted which they advised was suitable for approval.

Council's Parks Department have not requested any conditions in relation to the protection of trees surrounding the site. However, the applicants arborist recommends a Tree Management Plan to protect trees during works, as such this will form a condition of the permit along with standard tree protection conditions if a permit is to issue.

Waste Management

- A comprehensive Waste Management Plan accompanied the proposal.
- A flat surface is recommended in the bin room and area that connects to the rear of the waste collection vehicle to reduce OHS manual handling.

The revised plans amended the location of the access to the bin store to adjacent to the 1:200 area of the basement and away from the 1:20 slope, addressing this concern.

Environmentally Sustainable Development Advisor

- The two areas of greatest concern with the proposal are internal daylight levels and excessive heat gain.
- Daylight – Council's Best Practice Standards is to achieve a minimum daylight factor of 1% for 90% of the floor area in each living area including kitchens, and a minimum daylight factor of 0.5% for 90% of the floor area for each bedroom. Daylight is deemed particularly important for living areas given length of time spent and activities typically undertaken in these spaces by occupants. Poor daylight outcomes to these rooms is generally not supported.
- Daylight - It is noted on the plans that various "*wing walls and balcony ceilings are to be white with a minimum VLT of 0.8*", however VLT refers to glazing Visual Light Transmittance. The note should state that wing walls and balcony ceilings are to be white with a minimum reflectance of 80%.
- Internal studies – apartments with internal studies with no direct access to daylight or natural ventilation are not supported by Council.
- Daylight modelling – the models have not taken into account the change in the ground level; the daylight modelling must include the front fence and change in levels. The model should also be amended to a maximum reflectance value of 20% for the ground floor as 35% is an overly optimistic value.
- Shading – Fixed external shading devices are to be provided to north-east and north-west windows in order to prevent passive solar gain in summer while enabling warming winter sun access. As a rule of thumb, a fixed overhang (such as an eave) width should measure 45% of the height from the windowsill and the bottom of the shading device. This ensures that the windows are shaded from the spring equinox till the autumn equinox (21 September to 21 March). Alternatively adjustable external shading devices can be provided. Where sun shading devices are being utilised a dimensioned section diagram is to be included to demonstrate their effectiveness.

- Stormwater – the submitted roof plan states that 906m² of roof is connected to the rainwater tank (RWT), however within the STORM Report 888m² of roof area is connected to the RWT. Both should be consistent.
- Water efficient landscaping - To claim this credit within BESS the water efficient landscape should not require water to survive. The project Landscape Architect should confirm that the proposed planting meets the BESS criteria to claim these points or if irrigation is required it is to be connected to the rainwater tank and it is to be noted that no potable water is to be used for irrigation on the architectural and landscape plans.

Substantial redesign will be required to the dwellings as a result of other conditions that are recommended if a permit is to issue (discussed further below). As part of this redesign a condition will be required that Council's Best Practice Standards for daylight are achieved for living areas and bedrooms and supported by daylight modelling that addresses the above. The other outstanding matters in relation to shading, stormwater and landscaping can be addressed via conditions.

Transport and Parking

- Car parking provision – A surplus of car parking is provided in the development. No visitor parking is provided, and none is required to be provided. However, it is noted that on-street parking in the area is well utilised, and there is a surplus of 3 parking spaces in the development, so it is recommended that the applicant consider allocating some visitor parking on-site. Future concerns about visitor parking or requests for changes to on-street restrictions, including for trades or deliveries, will not be entertained by Council. Residents will also not be eligible for parking permits.
- Design Standard 1 – The width of the accessways is generally acceptable subject to the implementation of the internal stop/go lights where internal basement ramps are 4 metres wide, which is not wide enough for simultaneous two-way flow. Internal headroom is acceptable. Appropriate sight distance triangles have been implemented, vegetation in the sight distance triangles must not exceed 0.9 metres.
- Design Standard 2 – All parking spaces are reasonable with a 4.9 metre length and 2.6 metre width or more and accessed from a 6.4 metre wide aisle. A convex mirror is proposed near the end of the ramp down to basement 1. The applicant should consider additional mirrors for the start and end of the ramp down to basement 2.
- Design Standard 3 – The proposed ramp grades of 1:10, 1:4 and 1:8 grade to basement 1, and 1:8, 1:4 and 1:8 grade to basement 2 are acceptable. The grades to the parking floors are 1:200 (0.5%) which will allow for adequate drainage as per AS 2890.1.
- Bicycle parking provision – A surplus of bicycle parking spaces are provided on site; the application is to confirm which bicycle spaces are allocated to visitors.
- Bicycle parking design – Vertical bicycle spaces are 1.2 metres long and 0.5 metres either side, vertical racks will be staggered, at least 20% of bicycle parking is horizontal in accordance with Australian Standards and the horizontal racks are 1.8 metres long with 0.5 metres either side. The bicycle parking design is reasonable.
- Vehicle crossing - The applicant is to ensure the existing crossings are removed and the footpath, nature strip, and kerb and channel are reinstated at the time of the construction works. As Malvern Road is an arterial road, DoT will stipulate crossing requirements.

- Waste collection – The swept path diagrams for the waste collection vehicle are acceptable.

The outstanding matters identified above can be addressed via conditions if a permit is to issue.

Head, Transport for Victoria

- No objection to the proposal subject to permit conditions and inclusion of a note.

Key Issues and Discussion

Strategic Justification

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

The strategic vision at Clause 21.03 recognises the need for increased densities across the municipality and identifies locations where specific outcomes are encouraged. 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 '*incremental change area*' where the policy directs multi-unit development (two to three storeys) to lots capable of accommodating increased density. Furthermore, Local Policy at Clause 21.06-4 directs medium density development with a two to three storey form in residential areas to respect the preferred character of the precinct. The site being a large sloping site has the capability of accommodating a four-storey building.

The subject site is well located to support medium density redevelopment. Notably, the site is located on a main road and within walking distance to a Neighbourhood Activity Centre, Peace Park, Gardiner Railway Station and Glen Iris Station. There are also a number of medium density housing developments and approvals within the vicinity of the site. It is considered that the site is suitably located to support the modest increase in density, which is proposed in line with policy expectations. Overall, the proposal responds adequately to the State and Local planning policy objectives for increased density and infill development, subject to an appropriate design response and landscape outcome that responds to the emerging and preferred neighbourhood character.

The site is located in a General Residential Zone, the purpose of this zone is to implement the Municipal Planning Strategy and the Planning Policy Framework, to encourage development that respects neighbourhood character of an area, encourage diversity of housing types and housing growth. The provisions of the General Residential Zone requires that the proposal be assessed against the objectives and standards of Clause 55 and any modified standards specified in the schedule to the zone. A full assessment against the 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 below.

Built Form

Neighbourhood Character

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

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

The proposed development is generally considered to appropriately respond to the preferred character and design objectives for the Garden Suburban 4 Precinct for the following reasons:

- The demolition of the dwellings and outbuildings is not controlled under the planning provisions affecting the site, therefore is accepted.
- The character of the immediately surrounding area has substantially evolved in recent years. It is characterised by a mixture of traditional lower scale one to two storey dwellings interspersed with new three to four storey apartment buildings and two to three storey townhouse developments.
- The proposed development will read as a three-storey form with a recessed fourth level and a maximum building height of 11.5 metres above natural ground level. The four-storey apartment typology proposed provides a scale and height of development that is consistent with other existing and approved medium density developments along this section of Malvern Road.
- The development has been designed to respond to the topography of the land, which slopes down towards the rear. This ensures the development is compatible with the approved four storey apartment building to the north-west and complements the one to three storey scale of buildings along this section of Malvern Road, whilst not being overtly dominate the streetscape.
- The building is of a contemporary design and a high quality. The form of the building, architectural detailing and articulation through recesses and distribution of window elements assists in breaking up the mass and breadth of built form which spans over a large lot and provides visual relief.
- The use of various building materials provides further articulation to the building and visual interest. The materiality of brick, renders and metal cladding is consistent with the predominant architectural detailing of other contemporary developments in the vicinity, whilst complementing the older housing stocks in the surrounding area.
- The upper level has been designed to minimise visual bulk as presented to the sensitive neighbouring residential interfaces and the streetscape. It is adequately recessed and adopts a different building material and colour palette contrasting with the three-storey base below, which allows it to visually recede. The setbacks and

different material will ensure that the upper level where visible is a recessive element in the streetscape.

- The proposed landscape response is generally considered acceptable, subject to conditions. Refer to the landscape assessment below for further details.
- The car parking will be fully concealed within the basement level which ensures that it is not visually dominant to the streetscape.
- The front fence along Malvern Road is proposed with a maximum height of 1.7 metres and is to be constructed of solid rendered elements and vertical metal pickets. The proposed front fence is partially permeable, which will allow views through to the front gardens and provide passive surveillance to the street whilst still providing some privacy to future occupants. The fence height and design are compatible with other existing front fences within the wider streetscape of Malvern Road and the preferred character of the area.

There is however one significant concern with how the proposal responds to the character of the neighbourhood and that is the setbacks of the proposal from the adjoining residential interfaces. It is considered that the proposal presents excessive visual bulk to the adjoining properties and does not provide an appropriate transition in the scale of the form to the lower scale of adjoining properties. Increased setbacks are proposed to be required via condition if a permit is to issue, refer to the side and rear setback assessment below.

With the exception of the setbacks from adjoining properties, the proposed development is considered to be a site responsive design that responds to the site constraints, the site context, as well as the existing, emerging and preferred character of the area as identified in Neighbourhood Character Policy. The proposed building is of a high architectural quality and will sit comfortably within the existing and emerging streetscape.

Street Setback

To the north-west the proposed street setback of 17 King Street is 7.04 metres (currently under construction) and to the south-east, the property at 1/1675 Malvern Road has a street setback of 7.64 metres. The average setback for these two properties is 7.34 metres. The proposed street setback at ground floor is 7.43 to 8.81 metres, first floor is 7.18 to 9.38 metres, second floor is 7.21 to 9.56 metres, and the upper floor is 11.49 to 11.56 metres. There are some minor encroachments at the upper levels of balconies and window shrouds. The proposed street setback is considered to respect the existing and preferred character of the streetscape and is appropriate in relation to the street setbacks on the adjoining properties.

Building Height

As outlined above, the proposed height of 11.5 metres complies with the mandatory provisions under the GRZ. Whilst the site is located in an *'incremental change area'* which seeks for two to three storey development it is considered that the proposed four storeys is in line with the expectations of the GRZ7. There are also a number of examples of robust three and four storey developments and approvals along this section of Malvern Road. It is considered that the four-storey scale of the development is compatible with the main road location and is not dissimilar with other existing and approved medium density housing developments in the vicinity of the site.

In addition, the proposed building has been designed to be set below natural ground level and will present as largely three storeys to Malvern Road. It will also provide gradual transition with the existing and emerging built form within this streetscape. On balance, the proposed height is considered appropriate and acceptable.

Site Coverage and Permeability

The GRZ7 stipulates that basements should not exceed 75% of the site area. The proposed basement site coverage is 68%, less than the recommendation of the GRZ7. Whilst at ground level the proposed site coverage is 58%, which is below the 60% maximum coverage recommended by Standard B8. Standard B9 recommends at least 20% site permeability. The proposal has a permeable area of 22%, in excess of the standard.

Landscaping

Council's local policies emphasise the provision of high-quality landscaping and the Garden Suburban 4 precinct seeks to *maintain and strengthen the garden settings of buildings and the tree canopy of the neighbourhood*. The policy further encourages landscape responses that include canopy trees around the perimeter of the site and basements to be setback from property boundaries to allow for in-ground planting.

The proposal seeks to remove all vegetation from the site to facilitate the development, it is also noted that over the years of the various planning permit applications a number of trees have been removed from the site. It is important for the new development to incorporate meaningful landscaping to compensate for the loss of previously existing vegetation and to complement and contribute to the existing and preferred landscape character of the area. The proposed landscape response comprises of the planting of 41 canopy trees. Including, 3 x October Glory Red Maple trees with a mature height of 12 metres, 4 x Eumundi Quandong with a mature height of 6 metres, 8 x Pink Flowering Blueberry Ash with a mature height of 8 metres, 10 x Fastigiate Maidenhair with a mature height of 10 metres, 3 x Native Frangipani with a mature height of 8 metres, 6 x Exmouth Bull Bay Magnolia with a mature height of 10 metres, 2 x Black Tupelo with a mature height of 11 metres, 2 x Sweeper Weeping Lilly-Pilly with a mature height of 10 metres and 4 x Luscious Water Gum with a mature height of 8 metres. When established, the landscaping will soften the built form, moderate visual bulk, improve the outlook and enhance the interfaces with the neighbouring lower scale developments.

Standard B38 of Clause 55 requires development on a site with an area of 1501 – 2500 square metres to provide 10% of the site area with a minimum dimension of 6 metres for deep soil planting. The site has an area of 2,036 square metres and therefore a total deep soil area of 204 square metres is required. The proposal provides 553 square metres (27% of the site area) of deep soil area, of which 260sqm has a dimension of greater than 6 metres. The landscape response provides more canopy tree cover than the minimum required in the standard and provides appropriate replacement planting for the trees that have been previously removed. Therefore, it is considered the objective of Standard B38 is met. Council's Parks Department have also advised that the proposed landscaping is appropriate for the site.

It is noted that the landscape plan was not amended as part of the submission of revised architectural plans, if a permit is to issue a condition will require that changes are made to accord with the architectural plans. Following the consultation meeting the applicant has

requested that the 4-metre clipped hedge along the north-western boundary is reduced to 2.5m to 2.6m to not exceed the height of the boundary fence. This has been requested in order to address concerns raised from the neighbours in the townhouses to the north-west of the site about the height of vegetation on the boundary. As a number of canopy trees are proposed along this interface which will soften the bulk of the building the reduction in the height of the hedge is acceptable.

On balance it is considered that an acceptable landscape response for the site has been provided. Subject to permit conditions, the landscape response will enhance the garden setting and the landscape character of the area and ensure a high standard of landscape integration is achieved.

Amenity Impacts

Side and Rear Setbacks

As noted under the neighbourhood character assessment above, there are concerns with the proposed side and rear setbacks of the development.

North-west interface

The north-western interface is to the existing townhouses at 7, 9 and 11 King Street and the townhouses currently under construction at 13, 15 and 17 King Street. At ground floor the proposed development is setback 3.01 to 5.09 metres from the boundary and at first floor the proposed setback 3.01 to 7.78 metres. The setbacks at these levels comply with Standard B17. At the second floor the proposed wall height is up to 8.87 metres above natural ground level (NGL), with the highest point to the northern side due to the slope of the site. This requires a setback of up to 3.96 metres. The proposed setback in the northern most corner is 3.01 metres, therefore not complying with Standard B17. The third floor has a wall height of 11.38 metres on the northern side, this requires a setback of 6.47 metres. The proposed setback is 6.05 metres in the northern most corner, therefore not complying with Standard B17. The applicant has agreed to comply with Standard B17 from the north-western interface, as such this will form a condition of the permit, noting that due to the slope of the site this will only be required at parts of the interface. Subject to compliance with Standard B17 via condition it is considered that this interface will appropriately respond to and transition to the adjacent three storey townhouses.

North-east interface

The north-eastern interface is to the double storey units at 5 King Street. The proposed setbacks at ground floor are 4.48 to 6.8 metres and first floor and second floor are 4.5 to 6.95 metres. The setbacks from this interface comply with Standard B17, however are considered to crowd the boundary in relation to the low scale forms of the adjoining units. As outlined in the comments from Council's Urban Designer, these units are unlikely to be substantially redeveloped. Therefore, greater setbacks should be provided in order to provide an appropriate transition to the adjacent properties which are of a lower scale and reduce the visual bulk. Following a review of the setbacks of other developments in the vicinity of the site with similar interfaces it is considered that a minimum 6 metres setback at ground floor, first floor and second floor would be more appropriate. It is noted that this setback would be in excess of Standard B17. However, this is considered necessary to ensure an appropriate transition and to ensure that the development doesn't result in excessive bulk. If a permit is to issue this will be included as a condition, the condition will

require that the articulation and recessed elements are retained as part of the increased setback to ensure appropriate articulation and massing along the boundary.

At third floor the proposal has a maximum wall height of 11.46 metres, which requires a setback of 6.55 metres. The third floor is setback a minimum of 7.06 metres to the planter and 9.77 metres to the façade, therefore in excess of Standard B17. It is considered that the setbacks to the upper floor provide an acceptable response to the north-eastern interface.

South-east interface

The south-eastern interface is to the single storey units at 1675 Malvern Road, including to their areas of secluded private open space. The proposed setbacks at ground floor are 3.15 to 8.14 metres, at first floor area 3.15 to 7.60 metres and second floor are 5.16 to 8.93 metres. Whilst these setbacks comply with Standard B17, they are considered to crowd this boundary and present excessive bulk to the units to the south-east. As with the north-east interface it is considered that these units are unlikely to be substantially redeveloped and a greater setback is required to provide an appropriate transition in the height and scale of the built form. Consistent with the above a minimum 6 metres setback is considered to be required to this interface at ground, first and second floor. With the exception of the setbacks in the southern corner to apartments G.6, 1.7 and 2.7 as the setbacks proposed to these apartments are considered to provide an appropriate stepped transition to the adjoining unit and sit comfortably above the basement access.

At third floor the maximum wall height is 11.47 metres, this requires a setback of 6.56 metres. The third floor is setback a minimum of 6.56 metres to the planter and 8.51 metres to the façade, therefore in excess of Standard B17. The setback to this upper level on this interface is also considered acceptable and provide an appropriate transition and separation from the adjoining properties.

Walls on boundaries

N/A – no walls on boundaries are proposed.

Daylight to Existing Windows and North facing windows

The development is not considered to have adverse impacts on any existing or approved adjacent habitable room windows as defined by Standard B19. Considerable setbacks are proposed opposite the existing townhouses and the townhouses under construction to the north-west of the site with light courts in excess of 6 metres. To the north-east there are no habitable room windows within close proximity to the proposal, as this interface is generally non-sensitive to the driveway of the units.

The most sensitive interface is to the south-east where the units 1, 2 and 3 at 1675 Malvern Road have a number of north-west facing habitable room windows, as well as their secluded private open space. With a maximum wall height of 11.47 metres on the south-eastern interface the required boundary setback in accordance with Standard B20 of the North Facing Windows Objective is 7.55 metres. The setback is in excess of 8.51 metres, complying with the standard. It is considered that subject to the additional setback to 6 metres for the lower floors on this interface that the proposal will not unreasonably impact the daylight access or solar access to the windows of the units on the adjacent properties.

Overshadowing

The submitted shadow diagrams demonstrate that there will be no additional overshadowing to the adjoining areas of secluded private open space, particularly to units 1, 2 and 3 at 1675 Malvern, as a result of the proposal. The diagrams demonstrate that the additional overshadowing falls within areas already affected by overshadowing or to non-sensitive areas such as across adjoining built form. The proposal is considered to comply with Standard B21 and will not unreasonably impact the amenity to the adjoining areas of secluded private open space.

Overlooking

With regard to overlooking, Standard B22 specifies that any new windows or balconies with an outlook to a sensitive interface within a horizontal distance of 9 should be screened to a height of 1.7 metres above finished floor level. The development has generally been designed to appropriately limit views into neighbouring habitable room windows and secluded private open spaces. At ground floor due to the cut of the site and existing boundary fencing Standard B22 does not apply, and it is considered that there is no potential for unreasonable overlooking.

North-west interface

At first and second floor the north-west facing bedroom windows either have frosted glazing or louvres to 1.7 metres above finished floor, with the exception of the two central most bedrooms on each floor which aren't screened. These windows have a setback of 7.78 metres from the boundary, and due to the wing walls and boundary fence it is considered that downwards views are likely obscured. However, no sections have been provided demonstrating this is the case, therefore this will be required as a condition if a permit is to issue. The central balconies of Apt 1.11 and Apt 1.12 are not proposed to be screened, overlooking Section 1 demonstrates that the existing boundary fence blocks downwards views to the adjoining SPOS, therefore there is no unreasonable overlooking. Whilst at second floor the balconies of Apt 2.11 and Apt 2.12 are proposed with frosted glazing to 1.7 metres above finished floor level complying with Standard B22.

At third floor some windows are proposed with sliding metal screens, however as these aren't fixed, they aren't considered to comply with Standard B22. Whilst balconies also have no screening but utilise planter boxes in areas. A review of the submitted overlooking diagrams indicates that the diagrams haven't been measured to 1.7 metres above the ground level of the adjoining SPOS. If they were there is potential for direct downwards views to the adjoining SPOS of the townhouses to the north-west. If a permit is to issue a condition will require screening treatment unless it is demonstrated that views are obscured.

North-east interface

On the north-eastern interface there are no sensitive areas within 9 metres of any proposed habitable room windows or balconies, therefore it is not considered that there is potential for unreasonable overlooking. The additional setbacks required on this interface will further reduce the perception of overlooking from the apartments on this interface.

South-east interface

At first floor on the south-eastern interface the bedroom windows are all screened with frosted glazing to 1.7 metres above floor level with the exception of the central bedroom windows of Apt 1.5 and 1.6. No screening is proposed to the balconies. Section A indicates that due to the existing boundary treatment that the potential for downwards views from

these central balconies to adjoining SPOS are adequately limited by the existing boundary fencing, Section B demonstrates the same for the central windows.

At second floor no screening is proposed to the living room window of Apt 2.7 this window is opposite SPOS and habitable room windows of 1/1675 Malvern Road. A condition will require that this window be screened. The other bedroom windows are screened with frosted glazing to 1.7 metres above finished floor level, with the exception of the central bedroom windows of Apt 2.5 and 2.6. These windows are 8.9 metres from the boundary therefore it is considered that overlooking within 9 metres is adequately limited. No screening is proposed to the balconies, as above the sections provided are not measured to 1.7 metres above ground level of the adjoining SPOS. A condition will require that the section diagrams are amended and screened if required, however given the required additional setbacks this is unlikely.

At third floor, as with the north-west interface, some windows are proposed with sliding metal screens, however as these aren't fixed, they aren't considered to comply with Standard B22. Whilst balconies also have no screening but utilise planter boxes in areas. A review of the submitted overlooking diagrams indicates that the diagrams haven't been measured to 1.7 metres above the ground level of the adjoining SPOS. If they were there is potential for direct downwards views to the adjoining SPOS of the townhouses to the north-west. If a permit is to issue a condition will require screening treatment unless it is demonstrated that views are obscured.

Noise Impacts

The proposed apartment building is not expected to generate noise above and beyond that normally associated with a residential development. There is service plant enclosure shown on the roof with screening noted, this will reduce associated noise and the visibility of the plant equipment.

Onsite Amenity

The assessment of the internal amenity will be in relation to the Standards at Clause 55.07 immediately in force prior to Planning Scheme Amendment VC174.

Internal amenity

The apartments generally have a functional layout with well-proportioned, open-plan living spaces and bedrooms which meet or exceed the minimum dimensional requirements in Standard B47. The apartments will also be provided with adequate internal storage areas including walk-in-robos, wardrobes and built-in cupboards within each dwelling plus external storage in the basement, complying with Standard B44. Appropriate levels of accessibility can also be achieved to comply with Standard B41 as well as adaptable bathrooms have been incorporated and door openings and circulation paths for a minimum 50% of the dwellings. Appropriate daylight access and natural ventilation can also be provided to comply with Standards B48 and B49.

However, the revised plans didn't include the Better Apartment Design Standards typical apartment details, which were included in the advertised plans at TP400 through TP429. As outlined above, substantial redesign will be required to the development and dwelling typologies to accommodate the increased setbacks. To ensure that an appropriate level of internal amenity is provided a condition will require that the proposal complies with BADS,

this will require the submission of typical apartment details. The storage cages in the basement will also need to be amended to reflect revised apartment typologies.

All apartments are provided areas of private open space in the form of a courtyard or balcony with direct access from a living room. The courtyards at ground floor level vary between 43 and 146 square metres with a minimum width of 3 metres. The upper-level balconies range from 8 to 52 square metres, with a minimum internal depth of 1.8 metres for single dwellings and up to 2.4 metres for the 3 or more-bedroom dwellings, the minimum areas and depths required by Standard B43 are achieved. It is noted that some of the apartments have their private open space to the south-west or south-east of the building with no solar access directly from the north, however they will receive direct sunlight from the east in the morning and/or the west in the afternoon. This is considered acceptable for an apartment development as it is not practicable to provide all private open space areas to the north. It is noted that the street facing balconies oriented to the south will provide good passive surveillance of the public realm. Overall, all private open spaces would have adequate dimensions and acceptable solar access to meet the recreation and service needs of future residents.

Overall, it is considered that an acceptable level of internal amenity can be provided to the dwellings that will achieve compliance with the Standards of Clause 55.07, subject to conditions.

Building entry and circulation

The development will have a clear sense of address, identifiable by the entry bridge in the centre of the frontage to Malvern Road leading to the entry hallway. Internal light gardens with green walls are provided at both ends of the hallway. The light gardens extend up all floors and have windows at all levels providing for natural light access to the communal area. Windows with an outlook to the internal lightwell gardens are provided to the common area corridor at each level for natural light access. It is considered that the building entry and central circulation meet the objectives of Standards B12 and B42.

Site Services

The development provides adequate space for services to be installed and maintained effectively. A mail room is located within the entry hallway with convenient access from the entry, the bin storage area is located in basement Level 1 and is accessible from the service core and via bin shoots. Service cabinets are proposed in the front setback adjacent to the entry bridge, the services will be well integrated with the proposed rendered sections of the fence and their location are easily accessible by utility providers. It is considered that Standard B34 is met.

Waste Management

A Waste Management Plan (WMP) has been submitted in support of the application. The WMP has been reviewed by Council's Waste Department and is generally acceptable. It is considered that adequate compliance with Standard B45 has been achieved by the provision of waste and recycling storage and collection facilities, which are conveniently accessed and located to minimise impacts on the subject site and adjoining dwellings.

Car Parking and Traffic

As outlined above, 50 car parking spaces have been provided across two basement levels which is a surplus from the statutory requirement. The location and design of the proposed access arrangement is considered convenient and appropriate for the site and meets the requirements of Standard B14 and B15. It is also noted that Department of Transport has not objected to the proposed access arrangement from Malvern Road, subject to conditions. The car parking area has generally been designed in accordance with the applicable design standards at Clause 52.06. The outstanding issues identified by Council's Transport and Parking Unit regarding the car parking design can be resolved via conditions if a permit is to issue.

It is noted that the revised plans that form the basis of this assessment have not been amended to reallocate car parking to the dwellings in accordance with the number of bedrooms. A condition on the permit will require that the car parking allocation is amended to accord with the dwelling typologies and the requirements of Clause 52.06-5.

Bicycle Parking

The plans show that 50 bicycle spaces are to be provided within the basement. The bicycle parking provision is deemed to be acceptable and in excess of the requirements of Clause 52.34. As confirmed by Council's Transport and Parking Unit, the design of bicycle spaces generally accords with the Australian Standards.

Environmentally Sustainable Development

A Sustainability Management Plan (SMP) is required for the proposal in accordance with Council's Environmentally Sustainable Development (ESD) Policy at Clause 22.05. An SMP has been submitted in support of the application which also includes a Water Sensitive Urban Design (WSUD) response as required by Clause 22.18. The SMP achieves a BESS score of 62%, which is considered best practice and a STORM rating of 102%. The commitments in the SMP include the installation of 15 kW rooftop solar photovoltaic system, a 37,500L rainwater tank, water efficient fixtures, achieve a minimum average NatHERS energy rating of 7.7 stars, double glazing to habitable spaces, electric vehicle charging infrastructure and a range of other measures.

In order to address the conditions in relation to increased setbacks there will be substantial readjustments required to the internal floor layouts. As outlined above, there are also a number of outstanding issues raised by Council's ESD advisor. As a consequence of this, the SMP will need to be amended accordingly. Council's standard SMP condition will be included if a permit is to issue. Subject to appropriate permit conditions, the proposed development includes features designed to achieve best practice for sustainable design, particularly in terms of Indoor Environment Quality (IEQ), daylight access, natural ventilation, shading and stormwater management, and achieves an acceptable ESD outcome.

Signage

The plans include signage on the fence of 'JSP', being the developers' initials. This signage is considered to constitute a promotion sign. Pursuant to Clause 32.08-14 the site is within Category 3 of the sign requirements. In Category 3 a promotion sign requires a permit and must not exceed 3sqm. No signage has been applied for as part of the application and the developers initials on the fence is not considered in keeping with the residential character of the area. As such, a condition will require that this is removed from the plans as well as a note that any signage requires a permit.

Objections

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

- Impacts on surrounding properties during construction – the impacts during construction are not considered as part of the planning permit application. These matters are controlled under Building Regulations and Council's Local Law.

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. 0300/21 - 1667-1669 & 1671-1673 Malvern Road, Glen Iris [8.2.1 - 29 pages]

Officer Recommendation

That Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 300/21 for the land located at 1667-1669 & 1671-1673 Malvern Road, Glen Iris under the Stonnington Planning Scheme for construction of a multi-dwelling development in a General Residential Zone and alteration of access to a road in a Transport Zone 2, subject to the following conditions:

1. ***Before the commencement of the development, 1 copy of plans drawn to scale and fully dimensioned, must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the plans prepared by Peddle Thorpe and known as Drawing No's TP100-107, TP200-208, TP211-212, TP300-306, TP600-606 and TP900, Revision B, Council date stamped 15 September 2022, but modified to show:***
 - a) ***The setbacks of the proposal increased to a minimum of 6 metres at Ground, Level 1 and Level 2 from the north-eastern boundary (opposite the 5 King Street dwellings) and the south-eastern boundary (opposite the 1675 Malvern Road dwellings) with the exception of apartments G.6, 1.7 and 2.7. The increased setbacks must retain satisfactory levels of articulation and recession to the façades.***
 - b) ***The setbacks from the north-western boundary increased to comply with Standard B17 of Clause 55.***
 - c) ***As a result of Conditions 1.a. and 1.b. the dwellings must be amended to:***
 - i. ***Comply with the relevant Standards of Clause 55.07, including Standard B42 (Accessibility), Standard B43, (Private open space),***

Standard B44 (Storage), Standard B46 (Functional Layout), Standard B47 (Room depth), Standard B48 (Windows) and Standard B49 (Natural Ventilation).

- ii. Achieve a minimum daylight factor of 1% for 90% of the floor area in each living area including kitchens, and a minimum daylight factor of 0.5% for 90% of the floor area for each bedroom.**
- d) The north-west and south-east Level 3 windows and balconies screened to comply with Standard B22 unless it is demonstrated via the provision of a sectional/sightline diagram that views to the adjoining secluded private open spaces are adequately limited. The sight lines must be along the 45 degree angle from the plane of the windows and balconies into the secluded private open space of the adjoining properties measured to 1.7m above Natural Ground Level and demonstrating compliance with Clause 55.04-6.**
- e) The south-east facing living room window of Apt 2.7 screened in accordance with Standard B22.**
- f) Sectional/sightline diagrams from the bedrooms in the centre of the north-western interface associated with Apt 1.11 and Apt 1.12 at Level 1 and Apt 2.11 and Apt 2.12 at Level 2 demonstrating that views to the adjoining secluded open space are adequately limited. The sight lines must be along the 45 degree angle from the plane of the windows and balconies into the secluded private open space of the adjoining properties measured to 1.7m above Natural Ground Level and demonstrating compliance with Clause 55.04-6. If the sightlines do not demonstrate compliance with Clause 55.04-6 then the windows must be screened in accordance with Standard B22.**
- g) The south-east Level 2 balconies screened to comply with Standard B22 unless it is demonstrated via the provision of a sectional/sightline diagram that views to the adjoining secluded private open spaces are adequately limited. The sightlines must be along the 45 degree angle from the plane of the balconies into the secluded private open space of the dwellings at 1675 Malvern Road measured to 1.7m above Natural Ground Level and demonstrating compliance with Clause 55.04-6.**
- h) All dwelling floor plans amended to annotate the proposed use of each room.**
- i) All habitable room windows must be provided with direct daylight access and natural ventilation. Any internal studies with no direct access to daylight or natural ventilation must be deleted.**
- j) Fixed external shading devices are to be provided to north-east and north-west facing windows to prevent passive solar gain. External shading can be in the form of a fixed overhang (such as an eave) width should measure 45% of the height from the windowsill and the bottom of the shading device or adjustable external shading devices can be provided. Where sun shading devices are being utilised a dimensioned section diagram is to be included to demonstrate their effectiveness.**

- k) Sign on the fence removed (no signage is to be shown on the plans).***
- l) Car parking spaces allocated to each dwelling in accordance with the requirements of Clause 52.06-5.***
- m) Each dwelling provided with a storage cage in the basement.***
- n) Wing walls and balcony ceilings are to be white with a minimum reflectance of 80%.***
- o) Convex mirrors provided at the start and end of the ramp down to basement 2.***
- p) A notation on the roof plan to reflect the total area in (m2) to drain to the rainwater tank. This is to be consistent with that shown in the Water Sensitive Urban Design Report included in the SMP (Condition 7).***
- q) Any changes required by Conditions 3 and 4 (Engineering Plans), Condition 5 (Landscape Plans), Condition 7 (Sustainable Management Plan), Condition 10 (Waste Management Plan) and Condition 12 (Tree Management Plan).***

All to the satisfaction of the Responsible Authority.

- 2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason, without the prior written consent of the Responsible Authority.***
- 3. Prior to the endorsement of any plans in accordance with Condition 1, engineering plans must be submitted to and approved by the Responsible Authority to the satisfaction of Council's Asset Management and Planning Department. When approved, the engineering plans will be endorsed and will then form part of the permit. The engineering plans must be prepared generally in accordance with the concept drainage plans prepared by Rapawa Civil Services, but modified to include:***
 - a) Amended to reflect the changes to the architectural plans as per the Section 57A revision submitted to Council on 15 September 2022.***
- 4. The minimum ground floor level must be in accordance with the Engineering drainage plan showing the floor level to be 27.23m A.H.D. All other pavement and landscaping works must also comply with that Engineering plan.***
- 5. Prior to the endorsement of any plans in accordance with Condition 1, an amended landscape plan must be submitted to and approved by the Responsible Authority. When approved, the landscape plan will be endorsed and will then form part of the permit. The landscape plan must be generally in accordance with the Landscape Plans prepared by John Patrick Landscape Architects, Council date stamped 15 September 2022, but modified to include:***
 - a) Vegetation in the sight distance triangles must not exceed 0.9 metres.***
 - b) The 4-metre clipped hedge along the north-western boundary reduced to a clipped height of 2.5m to 2.6m (to not exceed the height of the boundary fence).***

- c) ***Any changes required by Condition 1 (Architectural Plans), Conditions 3 and 4 (Engineering Plans), Condition 5 (Landscape Plans), Condition 7 (Sustainable Management Plan) and Condition 12 (Tree Management Plan).***
6. ***Prior to the occupation of the development, the landscaping works as shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority. Landscaping must then be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.***
7. ***Prior to the endorsement of any plans in accordance with Condition 1, an amended Sustainable Management Plan (SMP) in accordance with Clause 22.05 must be submitted to and approved by the Responsible Authority. Upon approval the SMP will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the SMP to the satisfaction of the Responsible Authority. Recommendations of the SMP must be incorporated into the plans required under Condition 1. The SMP must be generally in accordance with the SMP prepared by Northern Environmental Design as advertised September 2021, but modified to include:***
- a) ***Amended to reflect the changes to the architectural plans as per the Section 57A revision submitted to Council on 15 September 2022.***
- b) ***Daylight modelling generally in accordance with the Daylight Analysis report prepared by Northern Environmental Design but amended to account for the change in the ground level and include the front fence. At ground floor the model should also be amended to a maximum reflectance value of 20%.***
- c) ***The project Landscape Architect must confirm that the proposed planting meets the BESS criteria to claim the relevant points or if irrigation is required it is to be connected to the rainwater tank and noted that no potable water is to be used for irrigation on the Architectural Plans (Condition 1) and Landscape Plans (Condition 5).***
- d) ***Demonstrate how Best Practice measures from each of the 10 key Sustainable Design Categories of Stonnington Council's Sustainable Design Assessment in the Planning Process (SDAPP) have been addressed.***
- e) ***Identify relevant statutory obligations, strategic or other documented sustainability targets or performance standards.***
- f) ***Document the means by which the appropriate target or performance is to be achieved.***
- g) ***Identify responsibilities and a schedule for implementation, and ongoing management, maintenance and monitoring.***
- h) ***Demonstrate that the design elements, technologies and operational practices that comprise the SMP can be maintained over time.***
- i) ***Any changes required by Condition 1 (Architectural Plans) and Condition 5 (Landscape Plans).***

8. **All works must be undertaken in accordance with the endorsed Sustainable Management Plan to the satisfaction of the Responsible Authority. No alterations to the Sustainable Management Plan may occur without written consent of the Responsible Authority.**
9. **The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.**
10. **Prior to the endorsement of any plans in accordance with Condition 1, a Waste Management Plan (WMP) must be submitted to and approved by the Responsible Authority. When approved, the WMP will be endorsed and will then form part of the permit. The WMP must be generally in accordance the WMP prepared by Northern Environmental Design as advertised September 2021, but modified to include:**
 - a) **Amended to reflect the changes to the architectural plans as per the Section 57A revision submitted to Council on 15 September 2022 and any changes required by Condition 1 (Architectural Plans).**
11. **Waste collection from the development must be in accordance with the Waste Management Plan, to the satisfaction of the Responsible Authority.**
12. **Prior to the endorsement of development plans a Tree Management Plan prepared by a suitably qualified arborist must be submitted to and approved by the Responsible Authority. When approved, the Tree Management Plan will form part of this permit and all works must be done in accordance with the Tree Management Plan (AS 4970).**

The Tree Management Plan must detail measures to protect and ensure the viability of the trees surrounding the site, including the two Brush Box (*Lophostomon confertus*) street trees, the English Oak (*Quercus robur*) to the rear of the site at 5 King Street and the Box Elder (*Acer negundo*) to the south-east of the site at 1/1675 Malvern Road.

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.

- 13. Prior to commencement of the any works (including excavation and demolition whether or not a planning permit is required), the tree protection fencing must be erected around the street trees. 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.**
- 14. No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Zone without the prior written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Zone.**
- 15. Prior to a building permit being issued, a report for the legal point of discharge must be obtained from Council and a drainage design for the development must be prepared by a suitably qualified Engineer in accordance with all 'recommendations' and requirements contained in that report. All drainage must be by means of a gravity-based system and not pumped, with the exception of runoff from any basement ramp and agricultural drains, which may be pumped. The relevant building surveyor must check and approve the drainage design and ensure that protection of the building is provided from a 1 in 100 A.R.I. rainfall event as required by the Building Regulations.**
- 16. Prior to an 'Occupancy Permit' being issued, a suitably qualified Engineer must carry out a detailed inspection of the completed stormwater drainage system and associated works including all water storage tanks and detention (if applicable) to ensure that all works have been constructed in accordance with the approved design and the relevant planning permit conditions. Certification of the completed drainage from the Engineer must be provided to Council prior to a 'Statement of Compliance' being issued for the subdivision of the building. That inspection must also confirm that all finished ground floor levels and landscaping levels through to King Street have been constructed in accordance with the Engineering drainage plan.**
- 17. The existing Malvern Road footpath levels must not be lowered or altered in any way at the property line (to facilitate the basement ramp).**
- 18. The redundant vehicular crossing must be removed and the footpath, naturestrip and kerb reinstated at the owner's cost to the satisfaction of Council.**
- 19. 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 7,000 litres greater than those tanks required to satisfy WSUD requirements for the development. Those tanks must be connected to all toilets.**
- 20. Prior to the occupation of the building, fixed privacy screens (not adhesive film) designed to limit overlooking as required Standard B22 of Clause 55.04-6 in accordance with the endorsed plans must be installed to the satisfaction of the**

Responsible Authority and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

- 21. All fixed plant and equipment (including air-conditioning units) must be located and screened to visually integrate into the development to the satisfaction of the Responsible Authority.**
- 22. 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.**
- 23. Prior to occupation of the building or commencement of the use, any existing vehicular crossing made redundant by the building and works hereby permitted must be broken out and re-instated as standard footpath and kerb and channel at the owner/developer's cost to the approval and satisfaction of the Responsible Authority.**
- 24. All utility services to the subject land and buildings approved as part of this permit must be provided underground to the satisfaction of the Responsible Authority by completion of the development.**

Department of Transport Conditions:

- 25. Prior to the endorsement of plans, amended plans must be submitted to and approved by the Head, Transport for Victoria. When approved by the Head, Transport for Victoria, the plans must be endorsed by the Responsible Authority and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the plans date stamped April 2021 and annotated Ground Floor Plan, TP102 but modified to show:
 - a) The crossover at the site boundary widened to 7.2m and associated transition to 6.1m within the passing area.**
 - b) The edges of the crossover angled at 60 degrees to the road reserve boundary, at least for the first 3.0m from the edge of the road with 3.0m radial turnouts.**
 - c) Any alterations to the existing utility/water authority assets.**
 - d) Location(s) and details of the Stop/Go light system that always gives priority for vehicles entering the site.****
- 26. The level of the footpath must not be lowered or altered in any way to facilitate access to the site.**
- 27. Prior to occupation of the development, the crossover and driveway are to be constructed to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria.**
- 28. Prior to occupation of the development, all disused or redundant vehicle crossings must be removed, and the area reinstated to kerb and channel to the satisfaction of and at no cost to the Head, Transport for Victoria.**
- 29. Vehicles must enter and exit the land in a forward direction at all times.**

30. ***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. ***Unless a permit is not required under the Stonnington Planning Scheme, signs must not be constructed or displayed without a further planning permit.***
- 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. ***Nothing in this permit hereby issued shall be construed to allow the removal of, damage to or pruning of a significant tree (including the roots) without the further written approval of Council.***

"Significant Tree" means a tree or palm:

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

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

- E. ***The crossover must be constructed to Council's Standard Vehicle Crossover Guidelines unless otherwise approved by the Responsible Authority. Separate consent for crossovers is required from Council's Building and Local Law Unit.***
- F. ***The owners and occupiers of the dwelling/s hereby approved are not eligible to receive "Resident Parking Permits".***

Department of Transport Note:

- G. ***The proposed development requires reinstatement of disused crossovers to kerb and channel and the construction of a crossover. Separate approval under the Road Management Act 2004 for this activity may be required from the Head,***

Transport for Victoria. Please contact the Department of Transport prior to commencing any works.

H. At the permit issue date, Section 69 of the Planning and Environment Act 1987 stated that the Responsible Authority may extend the periods referred to if a request is made in writing within the following timeframes:

- a) Before or within 6 months after the permit expiry date, where the development allowed by the permit has not yet started; and***
- b) Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.***

8.3 Planning Application 0153/22 - 1287, 1289, 1291, 1293 & 1295 High Street, Malvern

Coordinator Statutory Planning: Phillip Gul
Director Planning & Place: Annaliese Battista

Purpose of Report

For Council to consider a planning application for construction a multi-dwelling development and front fence in a General Residential Zone and Special Building Overlay and alteration of access to a Transport Zone 2 – Principal Road Network at 1287, 1289, 1291, 1293 & 1295 High Street, Malvern.

Abstract

Proposal

The proposal seeks to construct a multi-dwelling development comprising 28 dwellings across four storeys (9 x two-bedroom apartments and 19 x three-bedroom apartments). A crossover is proposed from High Street into a two-level basement which will house 78 car spaces and 36 bike 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 development is appropriately located on a main road and with close proximity to Glenferrie Road – High Street Activity Centre, the smaller High Street – Tooronga Road Centre, Malvern Gardens, public transport routes and existing services and infrastructure to accommodate a medium density development.
- The proposal provides for a satisfactory landscape response that will contribute to the landscape character of the area.
- The development will not unreasonably impact upon adjoining residential properties.
- The development will provide for an acceptable level of internal amenity.
- Sufficient car parking is provided in accordance with the Stonnington Planning Scheme and the development will not result in unreasonable traffic and parking impacts.

Issues

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

- Building height, scale and massing (refer to Neighbourhood Character and Built Form assessment);
- Amenity impact on the adjoining properties (refer to Amenity Impacts assessment);
- Internal amenity within the development (refer to Internal Amenity and Environmental Sustainable Design assessment);

- Landscaping; and
- Car parking and traffic impacts (refer to Car Parking and Traffic assessment).

Officer's response

The permit applicant proposes to re-develop five parcels of land along High Street, with a four-storey apartment building. There is strong policy support within the Planning Scheme for higher density residential development on the subject site.

The subject site has many of the characteristics outlined in local planning policy as suitable locations for medium density housing, being on an arterial road, being located in proximity to the Glenferrie Road – High Street Activity Centre, the High Street – Tooronga Road Neighbourhood Activity Centre, having good access to public transport and being within close proximity to a number of existing medium density housing developments.

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

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

As confirmed by the Department of Transport (DoT) and Councils Transport and Parking Unit, the parking and access arrangements are considered reasonable.

Executive Summary

Applicant:	Rachael O'Neill O'Neill Consulting
Ward:	East
Zone:	General Residential Zone, Schedule 3 (GRZ3)
Overlay:	Special Building Overlay, Schedule 2 (SBO2)
Neighbourhood Precinct:	Garden Suburban 1 (GS1) Precinct
Date Lodged:	15 March 2022
Statutory Days: (as at Council Meeting date)	38
Trigger for Referral to Council:	4 storeys or above
Cultural Heritage Plan	No
Number of Objections:	4
Consultative Meeting:	No
Officer Recommendation	Notice of Decision to Grant a Permit

Background

The Proposal

The plans that form part of the basis of Council's consideration were prepared by Ewart Leaf Architects and are known as File No. M21139, Drawing No.s: (TP-020.C, TP-023.C, TO-023.C, TP-025.C, TP-026.C, TP098.B, TP-099.C, TP-100.C, TP101.C, TP102.C, TP103.C,

TP400.C, TP401.C, TP402.C, TP900.C, TP901.C, TP902.B, TP903.B), and Council date stamped 26 September 2022, and Landscape Plans, TP01 Rev B, TP02 Rev B, TP03 Rev B, TP04 Rev B, TP05 Rev B, TP06 Rev B, prepared by Jack Merlo Design & Landscape, and Council date stamped 31 May 2022.

The application was originally advertised in June 2022. Following the public notification period, the application was formally amended on 16 September 2022 to substitute the advertised plans. The amended plans increase the setbacks from the building to the north and western property boundaries, with subsequent internal alterations. Corrected plans were sent to Council Officers on 26 September 2022 to rectify minor inconsistencies on the floor plans and elevations.

Notably, the revised plans which are Council date stamped 26 September 2022 were formally substituted pursuant to Section 57A of the *Planning and Environment Act 1987* and supersede the advertised plans. Further details of the changes are outlined in the 'Advertising' section of this report.

Key features of the proposal are:

- Demolition of the existing dwellings and associated outbuildings on the sites (no planning permit required).
- Construction of a four-storey building comprising 28 apartments (9 x two-bedroom and 19 x three-bedroom apartments).
- Provision of 78 resident car parking spaces across two levels of basement. Basement level 1 will include a total of 37 spaces (including 6 internal garages that hold a total of 17 spaces, and 20 single car spaces). Basement level 2 will include a total of 41 spaces (including 6 internal garages which will hold a total of 17 spaces, and 24 single car spaces).
- A total of 36 bicycle spaces are provided across the site. Bicycle spaces are provided within the basement in the form of wall mounted racks (14 spaces) adjacent to the bin room, each of the internal garages will be provided with 'Mona Lisa' wall mounts (12 spaces). Six bicycle spaces are also proposed adjacent the stairwell at level 1 of the basement. At ground floor, an additional 4 spaces are provided along the sites frontage to accommodate for visitors.
- Vehicle access is via a proposed crossover from High Street, on the south-eastern side of the site.
- The existing five crossovers from High Street to the separate properties are to be removed and reinstated as kerb and channel.
- Pedestrian access is also proposed from High Street. The pedestrian path leads to a central lobby, lift and stairwell area.
- The building is set back from all property boundaries (including at basement level) with no boundary construction proposed.
- The building façade includes a recessed entrance and lobby. The façade includes two recesses that modulate the built form in to three parts.
- The development proposes an overall building height of 13.4 metres, and a maximum site coverage of 60%. The materials proposed to the building include textured

concrete, concrete render, metal cladding in dark grey and cement sheet cladding in dark grey.

Site and Surrounds

The subject land comprises 5 separate properties, from 1287 High Street, through to 1295 High Street (hereby referred to as the 'site'). The site is located on the northern side of High Street, approximately 10.5 metres west of the intersection with Eva Street and approximately 43 metres east of the intersection with Park Street in Malvern. The site has the following significant characteristics:

- The site is a rectangular shape lot, has a combined frontage of approximately 43 metres to High Street and a depth of 45.72 metres, yielding a total site area of 1,979 square metres.
- The land has a fall of approximately two metres from west to east and from south to north.
- The properties at 1287 and 1289 High Street and 1291 and 1293 High Street contain single storey, attached pair dwellings. Each dwelling has an at-grade car space within the front setback. The pairs are setback from each side boundary.
- The property at 1295 High Street contains a detached, inter-war dwelling. The property also has a car parking space within the front setback.
- Each property contains low scale, planting in the rear gardens.

The site is located within an area that has good access to services and facilities. The Glenferrie Road – High Street Activity Centre is located approximately 700 metres west of the subject site, the High Street – Tooronga Road Neighbourhood Activity Centre is located approximately 200 metres east of the subject site. The site is within close proximity to a number of schools, public open space areas (including the Malvern Public Gardens and the Malvern Cricket Ground), a number of tram routes (along High Street, Glenferrie Road and Malvern Road), bus routes (along Tooronga Road) and public services including the Malvern Library.

This section of High Street is largely made up of residential properties, featuring a mixture of attached and detached dwellings constructed in various periods. To the west of the site, as High Street rises in topography, there are various examples of more robust and contemporary dwellings and developments, including a recently constructed four-storey apartment building on the corner of High Street and Spring Road (No. 1273 High Street). To the east of the subject land, commercial buildings and non-residential uses are interspersed amongst residential dwellings. It is noted that to the east of Alice Street, there is an emerging character of built form increasing and most notably including a three-storey apartment building at No. 1325 High Street, and another three-storey townhouse development which is currently under construction at 1331-1335 High Street.

It is noted that the predominant building materials along this section of High Street include render and brick and there are examples of original housing stock that has been painted. Whilst pitched roofs are typical, the more contemporary developments incorporate flat roofs as do the commercial properties further along High Street. Given the main road context, front fences to residential buildings are typically high and constructed of solid materials.

The site interfaces with the adjoining properties as follows:

- To east of the subject site is No. 1297 High Street. The site is improved with a single storey building that is currently used by the Malvern Artists' Society as an art gallery. The commercial building is constructed mostly constructed along the High Street frontage and constructed in part along the common boundary with the subject site (for a length of approximately 10.5 metres). The building is then setback from the boundary by approximately 1.5 metres for a length of 19 metres. Along this elevation, the building includes three non-habitable room windows. The front entrance is setback from the street alignment and a secondary door is located on the Eva Street frontage. The decorative parapet wraps around the corner and beyond that the Eva Street elevation extends as a solid expanse.
- Directly to the west of the subject site is No.s 1285A and 1285B High Street, These sites contain two single-storey dwellings, with a common driveway extending along the shared property boundary with the subject site. The dwellings are rendered, and the front dwelling has a gable roof form that presents to the street. The front entrance to the dwelling at No. 1285A High Street is located to the side of the house, off the common driveway. The porch protrudes forward of the remainder of the dwelling, and a small garden on the side of the house acts as the 'front garden for the site'. The secluded private open space is located within the front setback, along High Street. The site includes an east-facing habitable room window located towards the rear of the dwelling. The dwelling is setback approximately 5 metres from the common boundary with the subject land. The dwelling at No. 1285B High Street is located at the rear of No. 1285A High Street. This garage associated with this dwelling is constructed along the shared property boundary with the subject land. The secluded private open space is located to the rear of the garage and the dwelling.
- Directly to the north of the subject site is Malvern Central School. The school extends between Park Street and Eva Street. The site is included within a Heritage Overlay. It is noted that there are demountable buildings that are setback between 800mm and 2.8 metres from the common boundary with the subject site. Beyond these demountable buildings, is the playground and further north is the original school building.

Previous Planning Application/s

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

- Planning Permit 384/00 issued on 14 June 2000 for Alterations including a single storey addition to an attached dwelling at No. 1287 High Street.
- Planning Permit 902/19 issued on 26 May 2020 for Extension to a dwelling on a lot less than 500 square metres in a General Residential Zone at No. 1291 High Street.
- Planning Permit 1162/14 issued on 21 March 2016 for Use and development of the land for a medical centre in a General Residential Zone, alteration of access to a road in a Road Zone, Category 1.

The Title

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

- Lot 1 on Title Plan 622413S Volume 04475 Folio 821
- Lot 2 on Registered Plan of Strata Subdivision 027211J Volume 09770 Folio 764
- Lot 1 on Registered Plan of Strata Subdivision 027211J Volume 09770 Folio 763

- Lot 2 on Registered Plan of Strata Subdivision 029029L Volume 09818 Folio 365
- Lot 1 on Registered Plan of Strata Subdivision 029029L Volume 09864 Folio 477

No covenants or easements affect the land. There is a drainage easement located adjacent the northern boundary however sits outside the subject site. The proposed development will not affect the easement.

Planning Controls

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

Zone

Clause 32.08 – General Residential Zone (Schedule 3) – Residential Boulevards & Corridors

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

Pursuant to Clause 32.08-4, a minimum garden area of 35% is required to be provided on a lot greater than 650 square metres. The development provides a minimum garden area of 36.7% (which equates to 727 square metres) in compliance with the mandatory requirement.

Schedule 3 to the General Residential Zone (GRZ) specifies that a building used as a dwelling must not exceed a height of 12 metres unless the slope of the natural ground level at any cross section wider than 8 metres of the site of the building is 2.5 degrees or more, in which case the height of the building must not exceed 13 metres. In areas subject to the Special Building Overlay, the maximum building height may be exceeded by no more than the minimum additional building height required by the overlay provisions.

The flooding travels in various directions including from High Street and also from the properties to the west and from the rear. The depth of flooding varies as it passes through the property, however the depth of flooding at the High Street frontage where the basement is proposed calls for levels that are 41.13 A.H.D. The ground floor FFL at the entry to High Street must also be 500mm above the back of the High Street footpath at the Western (high) side of the access. Based on the levels provided, that the FFL of the ground floor must be at least 41.81m A.H.D.

The requisite additional height is 13.5 metres, given the finished floor level must be 500mm above the footpath level. The overall height of the proposed development is 13.4 metres and complies with the maximum height requirement of the zone.

Schedule 3 modifies the following requirements:

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

Overlay

Clause 44.05 – Special Building Overlay, Schedule 2

Clause 44.05-2, a permit is required to construct a building or construct or carry out works. Schedule 2 of the Special Building Overlay identifies the City of Stonnington as the relevant floodplain management authority.

Particular Provisions

Clause 52.06 – Car Parking

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

The development comprises 19 x three-bedroom and 9 x 2-bedroom dwellings, generating a statutory car parking requirement of 47 car parking spaces. The subject site is located within the Principal Public Transport Network (PPTN) area and therefore no visitor car parking is required to be provided on site.

The development provides 78 spaces across two levels of basement car parking, which exceeds the statutory requirement of Clause 52.06.

Clause 52.29 – Land adjacent to the principal road network

Pursuant to Clause 52.29-2, a permit is required to create or alter access to a road in a Transport Zone 2. An application to create or alter access to a road declared as an arterial road under the Road Management Act 2004 must be referred to the Roads Corporation under Section 55 of the Act. The Department of Transport (formerly known as VicRoads) is a determining referral authority.

Clause 52.34 – Bicycle Facilities

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

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

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

This generates a requirement for five resident bicycle spaces and three visitor spaces. The development provides 36 bicycle spaces in the basement for residents and visitors, which exceeds the statutory requirements of Clause 52.34.

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

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

Relevant Planning Policies

Clause 15 – Built Environment and Heritage

Clause 16 – Housing

Clause 18 – Transport

Clause 21.03 – Vision

Clause 21.05 – Housing

Clause 21.06 – Built Environment and Heritage

Clause 22.05 – Environmentally Sustainable Development Policy

Clause 22.18 – Water Sensitive Urban Design Policy

Clause 22.23 – Neighbourhood Character Policy

Clause 53.18 – Stormwater Management in Urban Development

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

Clause 65 – Decision Guidelines

Advertising

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

The site is located in East Ward and objections from three different properties have been received

- Traffic and parking concerns
- Height of the proposed building resulting in overlooking.
- Overshadowing open space.
- Overlooking from the east facing balconies.
- Concerns relating to earthworks at basement level.

Following public notification, the plans were formally substituted on 16 September 2022 under Section 57A of the *Planning and Environment Act 1987*. The key changes shown on the amended plans include, but are not limited to, the following:

- Increase the setbacks along the western interface.
- Increase the setbacks along the northern interface.

The amended application was not re-advertised as it was considered no additional detriment would result from the changes. The Revised plans submitted alongside the Section 57A revision were corrected on 26 September 2022, to rectify minor inconsistencies on the elevations and floor plans.

Referrals

Urban Design

- The scale and form of the building is consistent with the intent of the zone.
- The current revised plans represent an adequate response, and the design character is supported.
- Recommendation is made to alter the dark grey coloured materials proposed to the development, to a lighter coloured material.

Environmentally Sustainable Design

- Councils ESD officer is generally supportive of the proposal, however requests conditions be placed on the permit to issue that are considered to better meet the objectives within councils Environmentally Sustainability Development (ESD) policy.

- Additional information is required with regard to the provision of adequate shading to address issues of excessive heat gain to the north, east and the west facing glazing to habitable rooms.
- The provision of daylight to snorkel bedroom is also requested to be revised.
- Other standard conditions are recommended to be included on any permit to issue.

Transport and Parking

- Councils Transport and Parking Department are supportive of the proposal. Conditions have been requested in relation to ensuring splay areas are not obstructed, sightline distances for the internal ramp, internal ramp grades to minimise scraping, removal of crossovers to be reinstated to Council requirements.

Infrastructure

- Councils Infrastructure Department are supportive of the proposal subject to condition.
- The height of the barrier wall along the High Street frontage, and on the western side should be amended to read 'minimum of 500mm above the back of the adjacent High Street footpath' not '500mm above the existing surface level'. A permit will be included on the permit to issue to reflect this requested alteration.
- Conditions relating to the FFL of the access ramps and terrace areas, overland flow paths, and outfall drains) have also been requested to be included on the permit to issue.
- Additional standard conditions will be included on the permit.

Waste Management

- The comprehensive Waste Management Plan that accompanied the proposal responded well to the waste management challenges presented in the plans.
- Waste Department is supportive of the proposal subject to conditions. Alterations are recommended to the submitted Waste Management Plan, including recycling frequency, organic waste bins and truck SWEPT paths diagrams be submitted).

Department of Transport

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

- Prior to commencement of the buildings and/or works; amended plans must be submitted to and approved by the Head, Transport for Victoria. When approved by the Head, Transport for Victoria, the plans must be endorsed by the Responsible Authority and will then form part of the permit. The plans must be generally in accordance with the plans submitted with the application and properly dimensioned but modified to show:
 - Appropriate signal installation within the basement car park and detector loops to prioritise entry movements into the site to prevent any queuing back vehicles to High Street.
 - A passing area at the entrance of at least 6.1m wide and 7.0m long.
 - Swept path diagrams showing vehicles can simultaneously enter and exit the development.

- Prior to commencement of occupation, the crossover and driveway must be constructed at no cost to the Head, Transport for Victoria and to the satisfaction of the Responsible Authority.
- Prior to commencement of occupation, any disused or redundant vehicle crossing must be removed, and the area reinstated to the kerb and channel, at no cost to the Head, Transport for Victoria and to the satisfaction of the Responsible Authority.
- Vehicles must always enter and exit the site in a forward direction.
- The permit holder must avoid disruption to tram operation along High Street during the construction of the development. Any planned disruptions to tram operation during construction and mitigation measures must be communicated to and approved by the Head, Transport for Victoria and Yarra Trams a minimum of thirty-five (35) days prior.
- The permit holder must ensure that all track, tram, and overhead infrastructure is not damaged. Any damage to public transport infrastructure must be rectified to the satisfaction of the Head, Transport for Victoria at the full cost of the permit holder.

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

- The proposed development requires roadworks within the road reserve. Separate approval under the *Road Management Act 2004* for this activity may be required from the Head, Transport for Victoria. Please contact the Department of Transport prior to commencing any works.

Key Issues and Discussion

Strategic Justification

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

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

Council's Local Policy on the location of residential development at Clause 21.05-2 seeks to maintain a clear distinction between the type of development outcomes in locations for higher density development and lower density residential hinterland. The subject site is identified as being suitable for substantial change within Council's Strategic Framework Plan (Clause 21.03-3), where the policy directs medium density housing and higher density housing on land with immediate abuttal to a main road which is a tram or priority bus route. In this instance the four-storey built form across five sites on High Street (a main road) is considered more than capable of accommodating such a development.

The purpose of the General Residential Zone is to encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport. The proposal incorporates two and three-bedroom apartment which will provide for a greater range of housing stock in this established area and is consistent with the purpose of the

zone and Clause 21.05-4 (Housing Diversity) which encourages infill developments to provide for a range of dwelling types.

The subject site has many of the characteristics outlined in the local policy as suitable locations for medium density housing being on an arterial road, being located in proximity to the Glenferrie Road – High Street Activity Centre, the High Street – Tooronga Road Neighbourhood Activity Centre, having good access to public transport and being within close proximity to a number of existing/under construction medium density housing developments. The subject site is also large in area (1,979 square metres) by virtue of the consolidation of five separate lots (1287, 1289, 1291, 1293 & 1295 High Street).

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

Neighbourhood Character

The Neighbourhood Character Policy in Clause 22.23 sets out the preferred character and design guidelines for development in different character precincts. The subject site is located in the Garden Suburban 1 (GS1) Precinct where the statement of preferred neighbourhood character is as follows:

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

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

- The character of the area has evolved in recent years and features three and four-storey apartment buildings, townhouse developments as well as new detached dwellings, smaller scale unit developments, interspersed with older traditional homes.
- The existing dwellings and outbuildings on the sites are not historically significant and therefore planning permission is not required for their demolition.
- The proposed development will be more intensive in density and built form than its immediate neighbours. However, it is considered with the consolidation of the five properties, the proposal will offer generous setbacks from all property boundaries which ensure the form and scale of the building is moderated. The built form will be

further softened by the provision of a meaningful landscape response throughout the site.

- While the proposed development is a four-storey building, the built form will present as largely three-storey when viewed from ground level along High Street. The top of the fourth level is recessed in excess of 10 metres from High Street. The detailing, articulation of the façade, varied setbacks along all interfaces ensure the built form will not dominate the streetscape.
- The modulation of the built form, the use of light-weight materials and the façade which incorporates balconies, terraces and framing elements provides further articulation to the building and offers visual relief when viewed from the public realm.
- The apartment typology provides for a scale and building height that is emerging within the surrounding area, with a number of apartment buildings, unit developments and townhouse developments emerging along High Street.
- The development represents a contemporary design and incorporates high architectural quality. The contemporary architectural expression is appropriate in the diverse neighbourhood context in which the subject site sits.
- Given the setbacks from the street, and the property boundaries, the proposal maintains a rhythm of spacing between and around the building for planting to occur on the site. This is consistent with the design objectives of the Garden Suburban 1 Precinct.
- The proposal removes five existing crossovers from High Street and proposes one new point of entry/egress to a communal basement car park from High Street.
- The proposed 1.8-metre-high front fence comprises a solid plinth and transparent pickets. Planters are sited forward of the fence that will provide a softening of its appearance. The height and materiality will complement other front fences along High Street which are typically high in this main road context.

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

Built Form

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

Street Setback

Standard B6 states that if there is an existing building on both the abutting allotments facing the same street, and the site is not a corner, the average distance of the setbacks of the front walls of the existing buildings on the abutting allotments facing the front street or 9 metres, whichever is the lesser. The adjoining property to the east is developed to the street property boundary (0 metre setback), and the property to the west includes a setback between 5.8 metres and 7.2 metres. The development requires a setback of 2.9 metres to

comply with the requirements of the standard. The development provides a front setback which ranges between 6.2 metres and 7.3 metres at the lower levels (balconies protruding forward to achieve a minimum setback of 5.2 metres). The fourth floor is setback between 10.6 metres and 11.9 metres. The setbacks will ensure that the new building will not dominate the streetscape along High Street. The building has a modern, contemporary appearance, and the façade incorporates balconies, terraces and framing elements as well as a mixture of materials and colours which provides further articulation to the building and visual relief as presented to the public realm.

Building Height

Schedule 3 of the General Residential Zone states that a building used as a dwelling or residential building must not exceed 12 metres unless the slope of the natural ground level at any cross section wider than 8 metres of the site of the building is 2.5 degrees or more, in which case the height of the building must not exceed 13 metres. Further, in areas subject to the Special Building Overlay, the maximum building height may be exceeded by no more than the minimum additional building height required by the overlay provisions. The requisite additional height is 13.5 metres, given the finished floor level must be 500mm above the footpath level. The overall height of the proposed development is 13.4 metres and complies with the maximum height requirement of the zone.

Site Coverage and Permeability

The maximum site coverage as specified at Standard B8 is 60%, whereby Schedule 3 to the Zone stipulates a maximum 75% basement site coverage. The proposed footprint of the basements equates to 71% site coverage in compliance with the varied requirement. Above ground, the proposed site coverage is 60%.

Clause 55 seeks at least 20% of the site to be of permeable surfaces and the application proposes approximately 466 square metres or 23.5%, thereby exceeding the minimum requirement. The proposal complies with these Standards of ResCode.

Landscaping

Clause 21.06-2 of the Planning Scheme encourages developments to repair and reinforce the high-quality landscape character of the city. New developments are to retain established trees and incorporate a landscape setting that comprises substantial canopy tree vegetation. There are no trees of any significance on the subject site and the proposal seeks the removal all existing vegetation to facilitate a landscape response that is complementary to the proposed development.

It is noted that the basement levels 1 and 2 'step-in' at the south-west corner of the site. This is to allow a large canopy tree (Japanese Elm) that will reach a mature height of approximately 14 metres and will be planted at a height of 4 metres. The inclusion of such a canopy tree is considered to soften views of the building at the south-west corner.

The alignment of the retaining wall adjacent the western boundary has been proposed to facilitate in-ground planting opportunities along this interface. A row of Compact Lily Pilly will be clipped at a mature height and will be interspersed three Tupelo and Cimmarron Ash adjacent the rear courtyard of 1285A High Street, which will reach a mature height of 11 metres.

Compact Ornamental Pears are proposed adjacent the northern boundary, and Weeping Lilly Pilly is proposed along the eastern property boundary.

The front setback will be improved with various levels of planting, including a row of Smooth Leaf Quandong and a row of Compact Bull Bay Magnolia which can reach heights of 8metres and 5 metres respectively.

Landscaping is also proposed within planters on the balconies, and this will provide a further layer of greening to the building itself.

The provisions of Standard B38 (Deep soil areas and canopy trees) requires development on a site with an area of 1501-2500 square metres to provide 10% of the site area with a minimum dimension of 6 metres for deep soil planting. The site has an area 1,979 square metres and therefore a total deep soil area of 197.9 square metres is required. The plans indicate a total of 444.62 square metres (or 22.5%) of deep soil areas. The deep soil area proposed, coupled with the landscape plan ensure the proposal will offer a meaningful landscape response which is respectful to the landscape character of the neighbourhood.

In light of the revised architectural plans submitted to Council and date stamped 26 September 2022 where the setbacks along north and west sides have been increased, a revised landscape plan is required to be submitted and this will be requested by way of conditions on any permit to issue.

Access and Parking Location

Standard B14 states that the width of an accessway should not exceed 33 percent of the street frontage. The number of access points to a road in a Transport Zone 2 should be minimised.

The proposal seeks to remove all vehicle crossings from High Street, a new vehicle crossing is proposed from High Street along the eastern side of the subject site. The location and design of the proposed vehicle access is supported by Council's Transport and Parking Unit as well as the Department of Transport (DoT) subject to conditions.

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

Amenity Impacts

Side and Rear Setbacks

Pursuant to Clause 55.04-1, a new building not on or within 200mm of a boundary should be setback from side or rear boundaries a distance of 1 metre, plus 0.3 metres of height over 3.6 metres up to 6.9 metres, plus 1 metre for every height over 6.9 metres.

Schedule 3 of the zone varies the side setback requirements and seeks new buildings, including basements, to be setback a minimum of 2 metres from at least one side boundary and at least 1 metre from the other side boundary up to 3.6 metres in height, for a distance of at least 5 metres behind the street facing façade. The proposed development complies and even exceeds these modified requirements in the zone.

The setbacks and wall heights vary across the site due to the slope of the land. However, it is noted that the development generally sits within the B17 envelope ensuring the building is well setback from sensitive interfaces (particularly the western interface). The sectional diagrams submitted, demonstrate encroachments into the B17 envelope.

An encroachment is proposed to the east-facing balcony of Apartment 2.08. A balustrade height of 7.8 – 8.1 metres is proposed, a 2.89 metre – 3.19 metre setback is required to comply with the standard. A setback of 3 metres is proposed from the eastern property boundary and therefore a variation is required.

An encroachment is required to the balustrade of Apartment 3.01 on the eastern side. A balustrade height of 10.4 metres is proposed, and a setback of 5.49 metres is required to comply with the requirements of the standard. A setback of 5 metres is proposed. Therefore, a variation of 490mm is required for a length of 3.8 metres (the length of the proposed dining room). An encroachment is also proposed to east-facing balcony of Apartment 3.04. The balustrade includes a height of 10.5 metres, and a setback of 5.59 metres is proposed to comply with the B17 requirements. A setback of 4.9 metres is proposed for the master bedroom and living room. The proposal interfaces a solid wall to the commercial property at No. 1289 High Street. This is not a sensitive interface and as such the variation is deemed acceptable.

Along the northern side, variations are also required to Apartments 2.08 and 2.06. Bedroom 3 to apartment 2.06 includes a wall height of 9.2 metres, which would require a setback of 4.29metres to comply with the standard. A setback of 4.1 metres is proposed. Bedroom 3 to Apartment 2.08 also requires a variation to Standard B17. A wall height of 9.6 metres if proposed, a setback of 4.69 metres is required and a setback of 4.1 metres is proposed.

Also, along the north, variations are proposed to Apartments 3.03 and 3.04. The following setbacks are required and proposed:

Apartment	Wall Height	Setback required	Setback proposed	Variation?
Apt 3.03 Bedroom 3 (wall)	12.8 metres	7.89 metres	6.3 metres	Yes
Apt 3.03 Bedroom 3 (Planter)	10.1 metres	5.19 metres	5.3 metres	No
Apt 3.03 Living (wall)	12.8 metres	7.89 metres	7.6 metres	Yes
Apt 3.03 Dining (wall)	12.8 metres	7.89 metres	7.9 metres	No
Apt 3.03 Dining (balcony and planter)	10.5 metres	5.59 metres	4 metres – 4.2 metres	Yes
Apt 3.04 (Balcony)	11.2 metres	6.29 metres	4.3 metres	Yes
Apt 3.04 Living (wall)	13.2 metres	8.29 metres	5.4 metres	Yes
Apt 3.04	10.5 metres	5.59 metres	4.6 metres	Yes

Living (balcony and planter)				
Apt 3.04 Bedroom 3	12.8 metres	7.89 metres	5.8 metres	Yes
Apt 3.04 Bedroom 4	12.8 metres	7.89 metres	5.8 metres	Yes

The school interface on the north is not a sensitive interface, includes demountable buildings within close proximity to the common boundary, will not be impacted by the variation and therefore an encroachment is supported.

Overshadowing Open Space

Standard B21 seeks to ensure buildings do not significantly overshadow the secluded private open space of abutting properties. Where sunlight to the secluded private open space of an existing dwelling is reduced at least 75 per cent, or 40 square metres with minimum dimensions of 3 metres, whichever is the lesser, of secluded private open space should receive at least five (5) hours of sunlight between 9am and 3pm at the September Equinox.

Due to the orientation of the site, the layout of the development and the nature of the adjoining properties, the overshadowing requirement is limited to the two properties on the west (No. 1285A High Street and 1285B High Street).

The secluded private open space of No. 1285A High Street is located on the southern side of the dwelling, within the front setback. Overshadowing is proposed to the secluded private open space of No. 1285A High Street between 9am and 10am. An additional shadow of 17 square metres is proposed to the open space area, however the dwelling will retain approximately 50 square metres of unshaded open space area from 9am to 10am. No further shadows are proposed from 10am onwards, and the proposal complies with the requirements of Standard B21.

Additional overshadowing of the private open space at 1285B High Street is proposed, but confined to the morning hours. The development will attract an additional two square metres of shadow into the secluded private open space area at 9am and 10am, and an additional 1 square metre at 11am. The dwelling will retain at least 60 square metres (approx.) of unshaded area during the hours of 9am and 11am. The proposal complies with the overshadowing requirements of Standard B21 for the dwelling at No. 1285B.

Overlooking

Clause 55.04-2 requires development to limit views into the secluded private open space and habitable room windows of adjacent properties. Standard B22 seeks to prevent overlooking opportunities from habitable room windows, balconies, terrace, decks or patios into secluded private open space of existing dwellings within a horizontal distance of 9 metres from these vantage points. This includes areas within a 45 degree angle from the pane of the windows or perimeter of the window, balconies, terrace, deck or patio which faces a property boundary where there is a visual barrier at least 1.8 metres high and the floor level of the habitable room, balcony, terrace, deck or patio is less than 0.8 metres above ground level at the boundary.

It is noted that there is a habitable room window and two windows beside the entrance at No. 1285A High Street. No screening is provided to any of the proposed west-facing windows. There is insufficient information provided on the submitted plans to definitively confirm that limited overlooking will be proposed from the habitable room windows, and balconies along the western side of the development into the habitable room windows and secluded private open space area of the adjoining property to the west (No. 1285A High Street). As such a condition will be placed on any permit to issue, requiring screens or to demonstrate compliance with Standard B22. The conditions will relate to the master bedroom, bedroom 2 and bedroom 3 of Apartment 1.04, the west-facing balcony of Apartment 2.04 and 3.02.

Internal Views

As required by Standard B23, windows should be designed to prevent overlooking of more than 50 per cent of the secluded private open space of a lower-level dwelling or residential building directly below and within the same development.

The plans demonstrate no direct views to be projected into the proposed scheduled private open space within the development. The standard is therefore satisfied.

Noise Impacts

The proposal is not considered to generate noise over and above that expected with an apartment building. The use of the land for dwellings is existing and as-of-right in the General Residential Zone. The mechanical equipment typically associated with residential buildings (air-conditioning, hot water systems etc.) is not considered to pose any significant noise sources.

Internal Amenity

Accessibility, Dwelling Entree, Ventilation and Safety

The development is oriented to front High Street, where a 3-metre-wide crossover is proposed on the south-eastern side of the site. The main pedestrian entrance is also from High Street via a clearly identifiable, centralised and landscaped pedestrian walkway. This walkway leads to a secure point of entry into the building for residents. The lobby includes extensive glazing allowing internal circulation and is considered to satisfy the objectives of Standard B50 (Building entry and circulation objectives).

Each apartment will be provided with a good level of internal amenity. The apartments have been generally designed to be energy efficient. Each proposed apartment will be of a reasonable size, ranging between 90 – 176 square metres internally. Each apartment will have direct access to natural light and ventilation.

Standard B42 (Accessibility) seeks to ensure the design of dwellings meets the needs of people with limited mobility. Owing to the slope of the land, steps have been incorporated at the pedestrian path to the entrance. The development includes a lift in the central lobby area and allows easy access for people with limited mobility. In terms of internal apartment layouts, Drawings TP-100, TP101, TP102 and TP103 depict that 14 apartments (50 per cent) are designed to be accessible to people with limited mobility. This meets the requirements of the relevant Standard.

The apartments will be provided with ample internal storage areas including walk-in-robos, wardrobes and built-in cupboards with each dwelling as well as external storage ranging

between 6 – 30 cubic metres at the basements levels. The internal storage areas within the apartments vary between 11 – 42 cubic metres per dwelling. These exceed the minimum storage requirements of Standard B44 (Storage).

All apartments will receive adequate access to daylight into all habitable rooms. The apartments have a functional layout with well-proportioned, open-plan living spaces and bedrooms. All but two apartments meet or exceed the minimum dimensional requirements at Standard B46 (Functional Layout). Apartments 104 and 106 are both three-bedroom dwellings and therefore require a minimum of 12 square metres of functional living areas. The proposal offers 11 square metres to these two apartments at level 1, however it is considered that the usability, functionality and amenity of these living rooms will not be impacted as a result of 1 square metre shortage to comply with the standard. The development has included multi aspect habitable room windows where possible. The single aspect habitable room windows achieve compliance with Standard B47 (Room Depth) and therefore each apartment is considered to be provided with direct daylight access with no reliance on borrowed light.

All apartments are provided with private open space in the form of a terrace or balcony with direct access from a living room. The ground floor apartments are provided with open space areas that are compliant with Standard B28. At first, second and third floors, the open space areas are provided in the form on balconies. The balconies provided to each apartment meet and exceed the minimum requirements of Standard B44.

All apartments will be provided with either terraces or balconies allowing adequate solar access given the orientation of the development. Some apartments have their open space areas located on the southern side of the building, with no direct northerly solar access. With the exception of apartment G08, 103 and 203 the other south facing balconies will also receive direct sunlight from the east in the morning and/or west in the afternoons. This is considered acceptable for an apartment development as it is not practicable to provide all private open space areas to the north. It is noted that the street-facing terraces and balconies will be provided with good passive surveillance of the public realm.

In terms of Standard 46 (Functional layout), the new apartments are adequate in size with the smallest bedroom having dimensions of 3 metres by 3 metres. All main bedrooms have a minimum depth of 3.4 metres. The smallest living room/kitchen area will be approximately 43 square metres. The proposal complies with Standard B46 (Functional layout).

The layout of the floor plan will ensure natural cross-ventilation can be achieved to more than 54 percent of the dwellings, and over 60 percent will be achieved through mechanically assisted ventilation. The standard only requires a minimum of 40 percent, therefore the proposal achieved compliance with Standard B49.

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

Car Parking and Traffic

The application attracts an on-site car parking requirement of 47 spaces for residents, being 9 spaces for the 9 x two-bedroom dwellings and 38 spaces for the 19 x three-bedroom dwellings. As previously indicated, there is no requirement for visitor car parking as the subject site is located within the Principal Public Transport Network area. The proposal exceeds the car parking requirement by providing 78 spaces across two levels of basement.

Access to the site is proposed off High Street via a ramp in the south-east corner of the site. The ramp will be double width at the interface to High Street to allow for a vehicle to enter the site whilst another is giving way.

Within the basement car parking levels, a combination of double tandem garages, standard single car spaces and a tandem space are proposed. Basement level 1 will include 6 internal garages (17 car spaces) and 20 single car spaces, totalling 37 spaces. Similarly, at basement level 2, 6 internal garages will be provided (17 spaces) as well as 24 single car spaces, totalling 41 car spaces.

As part of the development, the five existing crossovers from High Street are proposed to be removed with kerb and channel reinstated. The removal of the existing crossovers provides the opportunity for additional kerbside parking spaces to be reinstated.

Councils Transport and Parking Unit have reviewed the development and are generally supportive of the proposal.

While the development proposes a surplus of car parking spaces to its future residents, no visitor parking has been provided. Councils Traffic Engineer have noted that the inclusion of visitor parking could be used by trades people, carers and guests. It is noted however, that the garages on site would be large enough to cater up to 4 vehicles depending on how the future residents use this space. This could be used for visitors as well, including trades people for deliveries. While no visitor parking is allocated on the site when there is ample opportunity to provide it, it is reiterated that there is no requirement in the Scheme to provide it.

As previously mentioned, access is proposed directly off High Street, and as such the application was referred to the Department of Transport (DoT) to consider under Section 55 of the Planning and Environment Act 1987. The Department of Transport is supportive of the proposal subject to appropriate signal installation within the basement car park and detector loops being installed to prioritise entry movements into the site to prevent queuing back of vehicles to High Street, a passing area at the entrance of at least 6.1 metres wide and 7.0 metres long, and swept path diagrams be submitted showing vehicles can simultaneously enter and exit the development. The Department of Transport have also requested a number of other conditions relating to the removal of the crossovers and reinstatement of kerb and channel, and these will be included on any permit to issue.

The width of the ramp into the basement has been dimensioned at its narrowest point at 3 metres between the kerbs and 3.9 metres between the walls at the base of the ramp and this is considered acceptable. The internal ramp is dimensioned at 3.6 metres and is also supported by Councils Traffic Engineers. The plans show the proposed ramp gradients and grade changes along both ramps within the car parks. The grade of 1 in 8 is the maximum grade change allowed in order to prevent vehicle scraping. In this case, the top of the internal ramp has been graded at the allowable maximum. Council's Traffic Engineers have advised that to ensure vehicle scraping does not occur, the grade must be extended to transition from 2 metres to 2.5 metres.

The plans submitted show a splay on each side of the access way which is supported. Councils Traffic Engineers have requested that any item located within the splay area is limited to a height of 900mm, including any fences and walls. Councils Transport Engineers raise concern with the sight distance for vehicles travelling on the internal ramp as it would

be limited around the corners on each level of the car park. A condition will be included on any permit to issue to alleviate this concern.

The proposal generates a requirement of five resident bicycle spaces and three visitor spaces. The development provides 36 bicycle spaces in the basement for residents and visitors. The bicycle parking spaces are proposed as a mixture of vertical mounted rails and bicycle hoops. The vertical spaces are proposed at 500mm centers with an envelope of 1.2 metres accessed from a 1.5 metre aisle. The bicycle hoops are to be separated by 1m with an envelope of 1.8 metres accessed from a 1.5 metre aisle. These design dimensions meet the Standards and are considered appropriate for approval.

Sustainable Design Assessment

The applicant has provided a Sustainable Management Plan (SMP) and Water Sensitive Urban Design Response (WSUD), which includes a BESS assessment addressing Council's 10 Key Sustainable Building Categories. A BESS score of 56% has been achieved where 50%+ is considered best practice. The proposed development is considered to meet the requirements of Stonnington's Environmentally Sustainable Development Policy at Clause 22.05. It is noted that the key commitments within the SMP include:

- Builder user guide for residents.
- Water efficient fixtures (4 star WELS showers, 5 star taps, 4 star toilets and 5 star dishwashers).
- Water efficient landscaping.
- A 25,000 litre rainwater tank with a tank water supply reliability of 82% and connected to all toilets and landscape irrigation.
- A minimum NatHERS energy rating of 6.5 stars.
- All dwellings to achieve an annual limit < 21MJ/m² (NatHERS climate zone '62 – Moorabbin).
- Reverse cycle ducted air-conditioning within 1 star energy efficiency rating (3 Star rating).
- Lighting density to be reduced to at least 20% below NCC.
- Hot water supplied by a central electric heat pump hot water system with 7 Star energy rating.
- Carbon monoxide sensors to the basement carpark.
- Low VOC paints, adhesives and sealants.
- Daylight;
 - 89% of living floor area achieves >90% above a daylight factor (DF) of 1%
 - 80% of bedroom floor area achieves >90% above DF 0.5%
- Double glazing to all habitable space windows and glazed doors.
- 60% of the apartments are mechanically induced or naturally ventilated, with apartment 1.07 and 2.07 having mechanical ventilation delivering fresh air rates of between 2.5 - 5 L/s/m².
- 46% of apartments to achieve at least 3 hours of sunlight.

- 32 bicycle parking spaces.
- Future provision for Electric Vehicle (EV) charging points.
- Separate general, recycling, hard, and organic waste storage will be provided at the basement bin room.
- 80% of construction and demolition waste to be diverted from landfill.
- 23% of the site area is covered in vegetation.
- All balconies or private open space have been provided with a tap and floor waste.

The above measures are generally considered acceptable. Council's Environmentally Sustainable Design Officer has requested some general conditions be placed on any permit to issue relating to external shading devices, notes about the irrigation system and the inclusion of snorkel bedrooms. It is noted that revised plans have been formally submitted to Council and date stamped 26 September 2022 will require alterations to the submitted Sustainable Design Assessment, and this will be requested by way of conditions on any permit to issue.

Water Sensitive Urban Design

The policy at Clause 22.18 – Stormwater Management (Water Sensitive Urban Design) details the requirements for new buildings and extensions to existing buildings that are 50 square metres in floor area or greater, to submit a water sensitive urban design response to Council, which details stormwater treatment measures. Given the application proposes the construction of a new four-storey building, Clause 22.18 is applicable.

A Sustainability Management Plan and Water Sensitive Urban Design Response was submitted with the application. The report includes a STORM Rating Report with a STORM Rating of 109%. The STORM Rating has been achieved through the installation of a 25,000-litre rainwater tank and raingardens. This complies with the requirements of Clause 22.18.

Special Building Overlay

The site is impacted by the Special Building Overlay. The relevant floodplain management authority for the Special Building Overlay is the City of Stonnington. Council's Infrastructure Unit have reviewed the proposal and provided their general support for the development subject to the conditions outlined in the referral section of the report. Importantly, no fundamental changes to the building are required as a result of these conditions.

Council's Infrastructure Department note that the flooding travels in various directions including from High Street and also from the properties to the west and from the rear. The depth of flooding varies as it passes through the property, however the depth of flooding at the High Street frontage where the proposed basement access is proposed, is 200mm. In order to protect the basement from flooding, there will need to be an apex created in the ramp that is at least 500mm above the existing back of the footpath on the Western (high) side of the proposed ramp. The ground floor FFL at the entry to High Street must also be 500mm above the back of the High Street footpath at the Western (high) side of the access. Based on the levels provided, this level is back of footpath level is 41.31m meaning that the FFL of the ground floor must be at least 41.81m A.H.D.

The depth of flooding varies as it passes through the site. With the exception of the above entry, a depth of flooding for the property that impacts on the ground floor should be

assumed to be 150mm and the minimum floor levels must be at least 300mm above that depth of flooding. This means that the ground floor levels must be at least 450mm above the existing and finished surface levels with a minimum step up of 450mm from all terraced, paved and surface levels to the finished floor levels.

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. 0153/22 - 1287, 1289, 1291, 1293 & 1295 High Street, Malvern [8.3.1 - 47 pages]

Officer Recommendation

That Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 153/22 for the land located at 1287 & 1289, 1291, 1293 & 1295 High Street, Malvern under the Stonnington Planning Scheme for the Construction of a multi-dwelling development and front fence in a General Residential Zone and Special Building Overlay and alteration of access to a Transport Zone 2 – Principal Road Network, subject to the following conditions:

1. ***Before the commencement of the development, one (1) electronic copy of plans drawn to scale and fully dimensioned must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the Revised Plans (TP-020.C, TP-023.C, TO-023.C, TP-025.C, TP-026.C, TP098.B, TP-099.C, TP-100.C, TP101.C, TP102.C, TP103.C, TP400.C, TP401.C, TP402.C, TP900.C, TP901.C, TP902.B, TP903.B), Council date stamped 26 September 2022, but modified to show:***

- a) ***The following west facing habitable room windows and balconies with potential for overlooking within 9 metres of neighbouring secluded private open space and habitable room windows of the properties on the western side, must be either screened or it be demonstrated through a sectional diagram (and any other material required), in accordance with Standard B22 at Clause 55.04-6:***

- i. ***Apartment 1.04 – Master bedroom, Bedroom 2 and Bedroom 3.***
- ii. ***Apartment 2.04 – Balcony along the western side.***
- iii. ***Apartment 3.02 – Balcony along the western side.***

Direct lines of view to the neighbouring secluded private open space and habitable room windows must be measured to 1.7 metres above natural ground level.

- b) A notation on the Ground Floor Plans detailing the height of the fencing between each ground floor secluded private open space area.**
- c) A notation that external lightings are to be controlled with movement and daylight sensors.**
- d) A schedule of colours, materials, finishes, including colour swatches to be submitted.**
- e) The concrete grey render material proposed to the development to be replaced with render in a lighter colour such as white or similar.**
- f) Fixed external shading to be provided to north-facing glazing to habitable rooms to prevent passive solar gain in summer while enabling warming winter sun access.**
- g) Adjustable external shading devices to be provided to the east and west facing glazing for habitable rooms.**
- h) The location of the raingarden to be relocated to within common property.**
- i) A notation is to be included on the landscape plan confirming the irrigation system to be connected to the rainwater tank.**
- j) All items (including fences and walls) within the splay on either side of the access way to be limited to a height of 900mm.**
- k) The grade transition of the internal ramp to be extended from 2 metres to 2.5 metres to ensure vehicle scraping does not occur.**
- l) The height of the barrier wall at the front should be amended to state a 'minimum of 500mm above the back of the adjacent High Street footpath'.**
- m) Any changes required by Condition 27, to ensure sight distance for vehicles travelling on the internal ramp.**
- n) Updated Landscape Plan to reflect the revised plans (date stamped 26 September 2022) and in accordance with Condition 9.**
- o) Sustainable Management Plan to reflect the revised plans (date stamped 26 September 2022) and in accordance with Condition 12.**

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.**

Department of Transport Conditions

- 3. Prior to commencement of the buildings and/or works; amended plans must be submitted to and approved by the Head, Transport for Victoria. When approved by the Head, Transport for Victoria, the plans must be endorsed by the Responsible Authority and will then form part of the permit. The plans must be generally in accordance with the plans submitted with the application and properly dimensioned but modified to show:**

- a) ***Appropriate signal installation within the basement car park and detector loops to prioritise entry movements into the site to prevent any queuing back vehicles to High Street.***
 - b) ***A passing area at the entrance of at least 6.1m wide and 7.0m long.***
 - c) ***Swept path diagrams showing vehicles can simultaneously enter and exit the development.***
4. ***Prior to commencement of occupation, the crossover and driveway must be constructed at no cost to the Head, Transport for Victoria and to the satisfaction of the Responsible Authority.***
 5. ***Prior to commencement of occupation, any disused or redundant vehicle crossing must be removed, and the area reinstated to the kerb and channel, at no cost to the Head, Transport for Victoria and to the satisfaction of the Responsible Authority.***
 6. ***Vehicles must always enter and exit the site in a forward direction.***
 7. ***The permit holder must avoid disruption to tram operation along High Street during the construction of the development. Any planned disruptions to tram operation during construction and mitigation measures must be communicated to and approved by the Head, Transport for Victoria and Yarra Trams a minimum of thirty-five (35) days prior.***
 8. ***The permit holder must ensure that all track, tram, and overhead infrastructure is not damaged. Any damage to public transport infrastructure must be rectified to the satisfaction of the Head, Transport for Victoria at the full cost of the permit holder.***

Department of Transport Conditions END

9. ***Concurrent with the endorsement of plans, a revised 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 must be drawn to scale with dimensions. The landscape plan must be generally in accordance with the landscape plans submitted to Council, prepared by Jack Merlo Design and Landscape, and date stamped 31 May 2022, but modified to show:***
 - a) ***An updated landscape response to reflect the revised setbacks of the built form from the north and western property boundaries (revised plans date stamped 26 September 2022).***
 - b) ***A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.***
 - c) ***Details of all proposed hard surface materials including pathways, patio and / or decked areas.***

To the satisfaction of the Responsible Authority.

10. ***Before the occupation of the development, the landscaping works as shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority. Landscaping at ground, first, second and third floors including planter boxes, must then be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.***
11. ***Concurrent with the endorsement of plans, a Waste Management Plan must be submitted to and approved by the Responsible Authority. When approved, the Waste Management Plan will be endorsed and will form part of the permit. The Waste Management Plan must be generally in accordance with the Waste Management Plan submitted to Council, prepared by Urban Waste, and date stamped 31 May 2022, but modified as follows:***
- a) ***The Waste generation rates does not match ‘Sustainability Victoria’s Multi-unit and Commercial Waste and Recycling Generation Rates Calculator’, as such the total volume of waste for each stream is incorrect. There is an over allocation for general rubbish, and under allocation for recycling and organic waste. This is to be rectified.***
 - b) ***The comingle recycling collection frequency to match the total volume of recycling generated per week.***
 - c) ***The organic waste bins and collection frequency does not meet Sustainability Victoria’s Multi-unit and Commercial Waste and Recycling Generation Rates Calculator’ recommended organic generation rates. This is to be amended.***
 - d) ***The organic waste bin colour to be specified.***
 - e) ***SWEPT Path diagrams for trucks to be included on the plans.***
 - f) ***The designated bin stores to allow space for glass recycling as per ‘Recycling Victoria Guidelines’, should such a service be available in the future.***

To the satisfaction of the Responsible Authority.

12. ***Concurrent with the endorsement of plans, a Sustainable Design Assessment (SDA) must be approved by the Responsible Authority. Upon approval, the SDA will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the SDA to the satisfaction of the Responsible Authority. The report must be generally in accordance with the Sustainable Management Plan (SMP) prepared by GIW Environmental Solutions, Council date stamped 31 May 2022, but modified to include:***
- a) ***Energy***
 - ***Investigate increasing the size of Photovoltaic (PV) system as even with the 8.8kW system there is a significant amount of free roof space.***
 - b) ***IEQ***

- **Daylight:** For snorkel bedrooms, where there is a built in robe (BIR) located on the wall forming the snorkel, the corner is to be curved with a minimum radius the depth of the BIR (600mm) or the corner is to have a 45 degree wall equal to the depth of the BIR.
- **Ventilation:** For apartments where the breeze path travels through an internal door, that door must be provided with door catches and to be noted on the plans.
- **Shading – North:** Fixed external shading to be provided to north facing glazing of habitable rooms in order to prevent passive solar gain in summer while enabling warming winter sun access. As a rule of thumb a fixed overhang (such as an eave) width should measure 45% of the height from the window sill and the bottom of the shading for living areas. This ensures that north windows are shaded from the spring equinox till the autumn equinox (21 September to 21 March). For bedrooms the fixed overhang (such as an eave) width should measure 25% of the height from the window sill to the bottom of the shading device. Where sun shading devices are being utilised a dimensioned section diagram must be included to demonstrate their effectiveness.
- **Shading – East and West:** Adjustable external shading devices should be provided to east and west facing glazing of habitable rooms. As they will be exposed to relatively low sun angles, on 21 December (mid-summer), eastern and western sun angles remain below 600. Due to the low sun angles, normal fixed horizontal sun shading becomes ineffective. Therefore adjustable vertical shading devices are to be used, which could be in the form of operable louvres, sliding shutters or external blinds.

c) **Stormwater**

- **The location of the raingarden to be relocated to within common property thereby becoming the responsibility of the Owners Corporation.**
- **Notation is to be included on the landscape plan confirming the irrigation system to be connected to the rainwater tank.**

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

13. **Prior to the occupation of the building, a report from the author of the Sustainability Management Plan approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Sustainability Management Plan have been implemented in accordance with the approved plan.**

14. ***The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.***
15. ***The driveway access ramp must be protected from flooding associated with the SBO1. An apex and associated retaining walls must be provided that is at least 500mm above the existing back of the footpath on the Western (high) side of the proposed ramp. Based on the levels provided, this apex must be at least 41.39m A.H.D. The entirety of the basement must be protected from flooding to a level that is 500mm above the existing and finished surface levels surrounding the basement. All doors, windows, vents and openings must be above this required level of protection.***
16. ***The ground floor must be protected from flooding to a level that is a minimum of 500mm above the back of the High Street footpath. The ground floor must also be protected from flooding to a level that is 500mm above the existing and finished surface levels along the Western and Northern boundaries to provide protection from flooding. This may be achieved with the use of a permanent and waterproof concrete or double masonry walls that are at least 500mm above the existing and finished surface levels.***
17. ***There must be a minimum step up of 150mm from the terrace and outdoor areas to the finished floor levels at ground level.***
18. ***A clear unobstructed 1.2m wide overland flow path must be provided within the Western boundary to transfer flooding that may enter the property, Northwards and clear of the development. That overland flow path must be graded to the North and must closely match the existing surface levels and not be raised above the existing surface levels which may prevent the flooding entering the property. Overland flow and flooding must not be obstructed from entering the property from the neighbouring property to the West. The fence along the Western boundary must be timber palings or similar which will allow flooding to enter the subject property.***
19. ***The existing 225mm diameter Council outfall drain located from the North-East corner of the property through to Eva Street must be upgraded to a 300mm diameter rubber ring jointed reinforced concrete pipe at the cost of the owner. Prior to the commencement of works, a plan of the works must be prepared by a Registered Professional Civil Engineer (VIC) and submitted to and approved by Council's Asset Management Unit. Once approved, the works must be completed in accordance with the approved plan under the supervision and to the satisfaction of the Asset Management Unit. A supervision fee and security deposit will be applicable for the works.***
20. ***Prior to a building permit being issued, a report for the legal point of discharge must be obtained from Council and a drainage design for the development must be prepared by a Registered Professional Civil Engineer (VIC) in accordance with all 'recommendations' and requirements contained in that report. All drainage must be by means of a gravity-based system and not pumped, with the exception of runoff from any basement ramp and agricultural drains which may be pumped. The relevant building surveyor must check and approve the***

- drainage design and ensure that protection of the building is provided from a 1 in 100 A.R.I. rainfall event as required by the Building Regulations.*
- 21. Prior to an 'Occupancy Permit' being issued, a Registered Professional Civil Engineer (VIC), must carry out a detailed inspection of the completed stormwater drainage system and associated works including all water storage tanks and detention (if applicable) to ensure that all works have been constructed in accordance with the approved design and the relevant planning permit conditions. Certification of the completed drainage from the Engineer must be provided to Council prior to a 'Statement of Compliance' being issued for the subdivision.*
 - 22. Prior to an 'Occupancy Permit' being issued and prior to a 'Statement of Compliance' being issued for the subdivision, an inspection of all works must be completed by a Registered Professional Civil Engineer (VIC). Certification must be provided by that Engineer to show compliance with all requirements and levels as required by the planning permit. Levels taken by a licensed land surveyor on the finished ground floor levels and the apex to the basement must be provided.*
 - 23. The existing footpath levels must not be raised nor altered in any way at the property line (to facilitate the basement ramp).*
 - 24. All redundant vehicular crossings must be removed and the footpath, nature strip and kerb and channel reinstated at the owner's cost to the satisfaction of Council.*
 - 25. There will be significant additional stormwater runoff generated by the development and there are known drainage problems and flooding downstream of the property. 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 7,000 litres greater than those tanks required to satisfy WSUD requirements for the development. Those tanks must be connected to all toilets*
 - 26. Any item within the splay on either side if the access way is limited to a height of 900mm. This includes any fences and walls.*
 - 27. Additional measures to be undertaken to ensure sight distance for vehicles travelling on the internal ramp on each level of the car park. Vehicles in opposing directions will not see each other around the corner which may cause conflicts.*
 - 28. The grade transition of the internal ramp must be extended from 2 metres to 2.5 metres to ensure vehicle scrapping does not occur.*
 - 29. Prior to the occupation of the building, fixed privacy screens (not adhesive film or timber screens) designed to limit overlooking as required by Standard B22 of Clause 55.04-6 in accordance with the endorsed plans must be installed to the*

satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

- 30. All plant and equipment (including air-conditioning units) shall be located or screened so as to minimise visibility from any of the surrounding footpaths and from overhead views and shall be baffled so as to minimise the emission of unreasonable noise to the environment in accordance with Section 48A of the Environment Protection Act 1970 to the satisfaction of the Responsible Authority.**
- 31. All utility services to the subject land and buildings approved as part of this permit must be provided underground to the satisfaction of the Responsible Authority by completion of the development.**
- 32. 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.**
- 33. This permit will expire if one of the following circumstances applied:**
 - 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. Council has adopted a zero tolerance approach in respect to the failure to implement the vegetation related requirements of Planning Permits and endorsed documentation. Any failure to fully adhere to these requirements will be cause for prosecution. This is the first and only warning which will be issued.**
- C. The owners and occupiers of the dwelling/s hereby approved are not eligible to receive "Resident Parking Permits".**

Department of Transport Note

- D. The proposed development requires roadworks within the road reserve. Separate approval under the Road Management Act 2004 for this activity may be required from the Head, Transport for Victoria. Please contact the Department of Transport prior to commencing any works.**

End Department of Transport Note

- 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:**

- a) Before or within 6 months after the permit expiry date, where the development allowed by the permit has not yet started; and**
- b) Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.**

8.4 Planning Application 0887/21 - 2 Paran Place & 1539 High Street, Glen Iris

Coordinator Statutory Planning: Phillip Gul
Director Planning & Place: Annaliese Battista

Purpose of Report

For Council to consider a planning application for partial demolition, construction of buildings and works associated with a mixed-use development, and use of the land as Offices and Food and Beverage Production (coffee roasting) in a Commercial 1 Zone, Industrial 3 Zone and Heritage Overlay; and a reduction in the car parking requirements at 2 Paran Place & 1539 High Street, Glen Iris.

Abstract

Proposal

The proposal seeks to partially demolish the existing buildings and construct a six-storey building behind the retained heritage building. The development will comprise a food and drink premises (café) and a food and beverage production (coffee roasting) at ground floor with five levels of office floor space above. A total of 56 car parking spaces are provided within the ground floor car park and two levels of basement, with access from Paran Place.

Officer Recommendation Summary

That the Council authorise Officers to advise VCAT that had a Failure to Determine appeal not been lodged, it would issue a **Notice of Refusal to Grant a Permit** on the grounds outlined in the Officer Recommendation. **The proposal is not supported** for the following reasons:

- The proposal fails to provide an adequate level of floor space for industrial use within the development and adequately address the fundamental concerns identified in the previous VCAT refusal.
- The development with inadequate industrial floor space is not supported by the State and local planning policy.
- In the absence of odour and noise emission assessment reports, the proposed operating hours of coffee roasting to 9:00pm is considered inappropriate as it may result in adverse amenity impacts to the surrounding area.
- The application has not adequately demonstrated that the proposal will not adversely impact the significant tree within the adjacent VicTrack land.
- The traffic concerns identified in the previous VCAT refusal are unresolved.
- The proposal fails to achieve a satisfactory response to the Environmentally Sustainable Development policy.

Issues

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

- Land use (refer to Land Use assessment);
- Building height, scale and massing (refer to Built Form assessment);
- Amenity impacts on the adjoining properties (refer to Amenity Impacts assessment);
- Internal amenity (refer to Internal Amenity assessment);
- Environmentally sustainable design (refer to Environmentally Sustainable Design assessment); and
- Car parking and traffic impact (refer to Car Parking and Traffic assessment).

Officer's response

A previous planning application for this property (Planning Application No. 1042/19) was refused by Council in July 2020 and Council's refusal subsequently upheld by VCAT in May 2021. The previous proposal refused by VCAT featured a six-storey mixed use development comprising food and drink premises at ground floor and five levels of office floor space above with 56 on-site car parking spaces. Additional details of VCAT's refusal decision are outlined in the Planning History section of this report.

The current application (Planning Application No. 887/21) is a repeat application seeking to address the key shortcomings identified in the previous VCAT decision.

The current application seeks to partially demolish the existing buildings and construct a six-storey building behind the retained heritage building. The development will comprise a food and drink premises (café) and food and beverage production (coffee roasting) at ground floor with five levels of office floor space above. A total of 56 car parking spaces are provided within the ground floor car park and two levels of basement, with access from Paran Place.

The site comprising two properties is partially in Commercial 1 Zone and Industrial 3 Zone. It is situated within and at the edge of the Glen Iris Village Neighbourhood Activity Centre and well serviced by public transport.

The new proposal adopts a similar building design to the previous proposal refused by VCAT, with some design changes made to the built form and ground floor layout with provision of an industrial use (coffee roasting).

The alternative design response is considered to have satisfactorily addressed the fundamental concerns identified in the VCAT decision. The overall building height and built form response are considered generally acceptable in this site and local context as noted in the previous VCAT decision. With exception of inadequate industrial floor space, the proposal is supported by Council's Urban Designer.

Despite incorporating an industrial use within the development, the provision of industrial floor space is considered inadequate, and the ground floor layout continues to be problematic. The changes fail to achieve an acceptable and balanced planning outcome having regard to the current planning policy and overcome the shortcomings identified in the VCAT decision.

It is noted that the Environment Protection Authority (EPA) Victoria is not a statutory referral authority under Section 55 of the *Planning and Environment Act 1987* (the Act) for this application. Notwithstanding this, the EPA has noted the primary concerns associated with the proposed coffee roastery, which include odour, dust and noise, and has provided advice and comments for Council's consideration.

The reduction in car parking requirement for office use is reasonable when considering the proximity to the Glen Iris Railway Station and public transport and the site's activity centre location in which a mode shift from private vehicle ownership is encouraged. However, the current proposal proposes a same number of car parking spaces as the previous proposal. The fundamental traffic concerns identified by VCAT remain unresolved.

Executive Summary

Applicant:	Contour Consultants Australia Pty Ltd
Ward:	East
Zone:	Commercial 1 Zone (C1Z) Industrial 3 Zone (IN3Z)
Overlay:	Heritage Overlay 352 (HO352)
Commercial Precinct:	Glen Iris Village
Date Lodged:	12 October 2021
Statutory Days: (as at Council Meeting date)	182 at date appealed
Trigger for Referral to Council:	Four storeys or above
VCAT Hearing Date	Compulsory Conference scheduled for 7 November 2022 and a 3-day hearing scheduled for 31 January, 1 and 2 February 2023
Cultural Heritage Plan	No
Number of Objections:	Four (4)
Consultative Meeting:	No
Officer Recommendation	That Council advise VCAT that had a Failure to Determine appeal not been lodged, a Notice of Refusal to Grant a Permit would have been issued

Background

This application was lodged with Council on 12 October 2021. Following public notification and ongoing discussions with Council Officers in an effort of addressing officers concerns, the Applicant lodged an appeal with the Victorian Civil and Administrative Tribunal (VCAT) against Council's failure to determine the application within the prescribed timeframe.

A VCAT Compulsory Conference is scheduled for 7 November 2022 with a 3-day hearing set down for 31 January, 1 and 2 February 2023.

The purpose of this report is to formalise Council's position on the application prior to the VCAT Compulsory Conference.

The Proposal

The plans that form part of the basis of Council's consideration were prepared by Architects Eat and are known as Drawing No.s: TP01.02 – TP01.07, TP02.01 – TP02.02, TP02.04 – TP02.11, TP03.01 – TP03.06, TP04.01 – TP04.07, TP05.01 – TP05.07, TP05.15, TP06.01 – TP06.08 and Council date stamped 25 February 2022.

Key features of the proposal are:

- Partial demolition (permit required) and external alterations and additions to the B graded heritage building at 1539 High Street and use the building as a food and drink premises (café).
- Demolition of all buildings on the property at 2 Paran Place. No permit is required for demolition as the buildings are located outside a Heritage Overlay.
- Construction of a six-storey mixed use building at 2 Paran Place, comprising food and beverage production (coffee roastery) at ground level and five levels of office floor space above. Technically, the building is a seven-storey building as part of the basement protrudes more than 1.2 metres above natural ground level.
- The whole development will provide a total of 61 square metres of retail floor space, 128 square metres of floor space for food and beverage production, and 3,859 square metres of office floor space.
- The coffee roastery will operate between the following hours and employ eight (8) staff:
 - Monday to Wednesday, 7:30am to 3:30pm
 - Thursday to Friday, 7:30am to 9:00pm
 - Saturday, 8:00am to 9:00pm
 - Sunday, 8:00am to 3:30pm

The coffee roastery will be operated with a primary focus of roasting coffee for wholesale purpose, with a secondary ancillary component of a small café for on-site consumption. An estimated 150-200kg of coffee beans will be produced each week.

- A total of 56 car parking spaces and 45 bicycle spaces are provided on site, with vehicle access from Paran Place. The ground floor car park will contain a loading bay and 9 car parking spaces for visitor. A total of 47 car parking spaces will be provided over two levels of basement.
- Pedestrian entry to the office lobby is provided centrally along the Paran Place frontage. All office spaces above are accessible via lifts and stairwell from the basement. End-of-trip facilities, refuse room, substation, fire pump room are located on the ground floor.
- The development will have a maximum building height of 27.7 metres above natural ground level and will occupy approximately 93.5% of the site. The building will present a two to four storey street wall (up to 16.81 metres) to Paran Place with upper levels recessed between 2.22 and 4.6 metres from the street.
- The building presents a contemporary architectural style. Materials and finishes include a combination of red bricks, glass bricks, in-situ/ precast concrete panels, concrete in board marked finish, perforated mesh screen, steel screen and glazing.

Site and Surrounds

The site is located on the northeast corner of the intersection of High Street and Paran Place in Glen Iris.

The site comprises two land parcels, which are known as 1539 High Street and 2 Paran Place, and has the following significant characteristics:

- The site is irregular in shape and has a total area of 1,144 square metres, with a frontage to High Street of 5.7 metres, a combined frontage to Paran Place of 48.76 metres, and a depth of 32.05 metres. The rear boundary abuts the rail corridor to the east. The land has a fall of approximately 2 metres from west to east towards the rear boundary.
- The smaller lot at 1539 High Street is zoned Commercial 1 Zone and is occupied by a single storey, semi-detached brick building comprising a shopfront facing High Street. The building is a B graded heritage building and forms part of the Glen Iris Shopping Centre Heritage Precinct. To the rear of the building is an open area containing a small outbuilding.
- The larger lot at 2 Paran Place forms part of a small industrial area zoned Industrial 3 Zone. This property was used for motor vehicle parts and storage in the past. It is developed with two single storey, brick industrial buildings, which are built on the Paran Place frontage and the northwest boundary. Two steel sheds are constructed to the rear of the industrial buildings extended along the northwest boundary. It is noted that these buildings are partly constructed beyond the title boundary over the adjoining railway land at the rear. To the south of the industrial buildings is an open parking and loading area with vehicle access from Paran Place.

The subject site is situated within and on the periphery of the Glen Iris Village, a small Neighbourhood Activity Centre comprising approximately 30 shops constructed in the early 1920-30s. Paran Place is a narrow cul-de-sac. It forms part of a small industrial area, which is accessed off High Street, and abuts the rail corridor and the Glen Iris railway station to the east. It comprises a collection of low-rise (single and double storey) buildings for a mix of industrial, office and warehouse uses.

The site interfaces with adjoining properties as follows:

- Land to the northwest at 4 Paran Place is developed with a partially single and double storey brick building that has been operating as a brewery and bar under Planning Permit No. 974/17. Along the common boundary with the subject site is an open car park and driveway associated with the brewery.

The planning permit was first issued on 8 January 2018 with a number of amendments subsequently approved over the years. The conditions on the permit currently restrict the operating hours of the brewery and bar with the patron number for the bar capped at 150.

It is noted that Council is currently assessing an amendment application to the permit proposing to increase the patron number for the bar from 150 to 250.

- Land to the east at 1541-1543 High Street and 1545 High Street is occupied by single storey shops of brick construction. Both buildings are B graded heritage building featuring an early or intact shopfront.
- To the rear (northeast) is the rail corridor and the Glen Iris Railway Station. Across the station is the Monash Freeway.
- On the opposite side of Paran Place is 1531-1535 High Street and 1 and 1A Paran Place. The property at 1531-1535 High Street has a B grading and contains a group of three single storey shops of cement rendered brick with two early shopfronts and one new shopfront facing High Street.

- The property at 1 and 1A Paran Place is recently redeveloped with a three-storey office building comprising two office tenancies, which was approved under Planning Permit 1218/16.
- On the opposite side of High Street is a row of retail and commercial properties of one to three storey scale that forms part of the Glen Iris Village.

Previous Planning Application/s

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

- Planning Permit No. 948/03 was issued on 28 November 2003 for construction of a canopy at 2 Paran Place.
- Planning Permit No. 865/13 was issued on 2 July 2014 for the property at 2 Paran Place. The permit allows for 'use of the land as a store in an Industrial 3 Zone'.
- Planning Application No. 1042/19 proposed an eight-storey mixed use building comprising a food and drink premises at ground floor and seven levels of office floor space above for the properties known as 2 Paran Place and 1539 High Street, Glen Iris. The application was refused by Council (under delegation) on 24 July 2020 and Council's refusal was subsequently upheld by VCAT in May 2021.

During the VCAT process, the Applicant formally substituted the plans and amended the proposal from eight-storey to six-storey. The proposal refused by VCAT featured a six-storey mixed use building comprising food and drink premises at ground floor, five levels of office floor space above and 56 car parking spaces. The Tribunal found that the height of the previous proposal was appropriate in the site and local context. The key elements that the Tribunal had concern with largely relate to inadequate provision of industrial floor space within the development; the street wall presentation to Paran Place being more human scale; and traffic concerns.

It is noted that the design of the building refused by VCAT was similar to that now being pursued, although there are some changes made to the built form and industrial use on the ground floor in the current proposal in an effort to address the findings of the VCAT decision.

There is no other planning history for the property at 1539 High Street other than Planning Application No. 1042/19.

The Title

The application site made up of two titles described as follows:

- Crown Allotment 204E, Parish of Prahran at Gardiner in Volume 10314 Folio 754
- Crown Allotment 204H, Parish of Prahran at Gardiner in Volume 10315 Folio 213

No covenants are encumbered the land.

No easements affect the allotment of 2 Paran Place. A party wall easement of 0.27 metres in width is located along the front section of the eastern boundary on 1539 High Street.

Planning Controls

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

Zone

Clause 33.03 – Industrial 3 Zone (IN3Z)

The property at 2 Paran Place is zoned Industrial 3 Zone (IN3Z).

Pursuant to Clause 33.03-1, a permit is required to use the land for Office and Food and Beverage Production (coffee roasting).

Pursuant to Clause 33.03-4, a permit is required to construct a building or construct or carry out works.

There is no building height control stipulated in Industrial 3 Zone. The proposed building is six-storey with a maximum height of 27.7 metres.

Clause 34.01 – Commercial 1 Zone (C1Z)

The property at 1539 High Street is zoned Commercial 1 Zone (C1Z).

Pursuant to Clause 34.01-1, a permit is not required to use the land for food and drink premises (café).

Pursuant to Clause 34.01-4, a permit is required to construct a building or construct or carry out works.

Overlay

Clause 43.01 – Heritage Overlay, Schedule 352 (HO352)

Heritage Overlay affects the property at 1539 High Street, which contains a B graded building, and a small portion along the south-eastern boundary of 2 Paran Place.

Pursuant to Clause 43.01-1, a permit is required to:

- Demolish or remove a building.
- Construct a building or construct or carry out works.

Particular Provisions

Clause 52.06 – Car Parking

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

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

Use	Area	Rate	Required Spaces
Office	3,859.5 sqm	3 spaces to each 100 sqm of net floor area	115
Food and drink premises (café)	61.3 sqm	3.5 spaces to each 100 sqm of leasable floor area	2
Industry (coffee roasting)	128.2 sqm	1 space to each 100 sqm of net floor area	1
		Total space required	118

The development provides 56 car parking spaces across three levels of car park. All spaces with the ground floor car park (total of 9 spaces) are to be allocated to visitor parking.

The traffic impact assessment submitted indicates that 53 spaces are to be allocated to office use, 2 to food and drink premises, and 1 to coffee roastery.

The application therefore seeks a reduction in the car parking requirement associated with office use by 62 spaces, pursuant to Clause 52.06-3.

Clause 52.34 – Bicycle Parking

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

Use	Area	Rate	Required Spaces
Office employee	3,859.5 sqm	1 space per 300m ² of net floor area	13
Office visitor		1 space per 1000m ² of net floor area	4
Retail employee	61.3 sqm	1 space per 300m ² of leasable floor area	0
Retail visitor/shopper		1 space per 500m ² of leasable floor area	0
Industry employee	128.2 sqm	1 space per 1000m ² of net floor area	0
Industry visitor/shopper		None	None
Total space required			17 (13 for staff and 4 for visitor)

The development provides a total of 45 bicycle spaces on the ground floor, including 29 spaces for staff and 16 spaces for visitor. This has a surplus of 28 spaces from the statutory requirements specified in Clause 52.34-5.

Clause 52.34-5 also requires showers and changing rooms be provided in association with bicycle facilities. Based on the number of bicycle spaces provided, five (5) shower and changing facilities are required for the proposed development.

The development provides eight (8) combined shower and change rooms, which is in excess of the requirements in Clause 52.34.

Relevant Planning Policies

Clause 11.01-1S – Settlement

Clause 15 – Built Environment and Heritage

Clause 17 – Economic Development

Clause 18 – Transport

Clause 19 – Infrastructure

Clause 21.02 – Overview

Clause 21.03 – Vision

Clause 21.04 – Economic Development

Clause 21.06 – Built Environment and Heritage

Clause 21.08 – Infrastructure

Clause 22.04 – Heritage Policy

Clause 22.05 – Environmentally Sustainable Development Policy

Clause 22.18 – Water Sensitive Urban Design Policy

Clause 53.10 – Uses and Activities with Potential Adverse Impacts

Clause 53.18 – Stormwater Management in Urban Management

Clause 65 – Decision Guidelines

Advertising

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987* by sending notices to the owners and occupiers of adjoining land and by placing three (3) signs on the site. The public notification of the application has been completed satisfactorily.

The site is located in East Ward and objections from four (4) different properties have been received. The objections can be summarised as follows:

- Traffic generation and lack of car parking
- Concerns with pedestrian safety along Paran Place due to increased traffic movements
- Scale and bulk of the proposed built form
- Overlooking potential from the southern side of the proposed building

A Consultative Meeting was not held given that the application received less than seven (7) objections.

Referrals

Urban Designer

- I would support the current built form as it relates to Paran Place.
- The remaining key concern is to ensure that the majority of the ground level is designed for some form of 'Urban Manufacturing'. This will involve a redesign of the car parking and other ancillary uses currently dominating the ground floor level.

Heritage Advisor

- As with the previous proposal, the retention of the early buildings at 1539 High Street is a positive outcome.
- The details of the retention works requires further consideration but by and large the proposal can be supported.
- The six-storey development appears to be outside the HO curtilage but will provide an interesting backdrop to the heritage precinct.

- Given the current predominance of multi-level residential buildings in this area, the proposed design of this development is not surprising.

Parks Unit

T2 – Angophora costata (Smooth-barked Apple)

- Tree has a high retention value.
- The incursion into the Tree Protection Zone of 14.3% is a major incursion. This incursion either needs to be reduced or further evidence is required showing that this incursion will not impact on the trees health or structural integrity.
- The other concern is loss of canopy from the tree. Further detail about what pruning would be required to enable construction of this proposal is required. If pruning is excessive and alters the form / appearance of the tree the proposal would need to be moved further from the tree.
- Ultimately a detailed Tree Management Plan will be required to protect this tree.

T1 – Pittosporum undulatum (Sweet Pittosporum)

- A Tree Management Plan will be required to protect this tree.

ESD Officer

Comments based on the original SMP in the advertised material

- The Sustainability Management Plan (SMP) submitted in the advertised application has used the Green Star Design & As-Built v1.2 rating tool to demonstrate that the development will achieve an 'equivalent 5 Star Green Star Design & As-Built rating'. This version of Green Star is a discontinued version and therefore should not be used. The current Green Star rating tool is Green Star Buildings v1.
- The applicant is to provide an updated SMP which uses either BESS or Green Star Buildings v1 and if using Green Star there is to be a firm commitment that Green Star certification is to be pursued with a letter from the Green Building Council Australia confirming this commitment.

Comments based on the updated SMP

- The proposed development could provide an acceptable outcome from an ESD/WSUD perspective provided that details in the report and on plans are consistent.
- Additional consideration is required in relation to the provision of shading to the top floor northeast facing glazing.
- Items for further clarification and some inconsistencies in the documentation and on plans have been identified.

Planner Response: Had a permit recommended to issue, conditions could be included on the permit requiring the updated ('without prejudice') SMP to be formally substituted and to resolve the outstanding items identified in the referral comments.

Transport and Parking Unit

- The parking proposed for the office is lower than the rate provided in the Planning Scheme, with 53 parking spaces proposed (a shortfall of 62 spaces). However, despite this lower rate, the proposed provision is still relatively high. Given the site is located immediately adjacent to a railway station and is relatively close to a tram line, it is

recommended that even fewer spaces be provided on site to encourage future office employees to use non-car travel. Paron Place is a narrow street and there are concerns with the increase to traffic proposed in the street due to the large increase in spaces proposed on-site.

- It may be prudent to limit more of the parking for the office use to visitor parking to the site, as visitor parking in the area is limited at present, particularly in Paron Place itself.
- The traffic assessment estimates that the traffic generated by the development would be approximately 30 movements in the peak hour. This is broadly considered a reasonable estimate for the development proposal.
- The critical gap assessment and queue lengths provided in the TEA suggested that High Street would be able to absorb the traffic generated by the development. However, with the number of vehicles looking to exit Paron Place, particularly in the PM peak, it is a concern that the queues would be higher in Paron Place.
- As a consequence, further reducing the car parking provision or allocating more of these spaces to visitor parking would be beneficial, as this would reduce the reliance on car travel to the site (and thus the impact to the intersection).
- The design of accessway and car parking is broadly acceptable subject to additional details to be shown on the plans.
- A surplus of bicycle parking is proposed. To encourage more staff members to use alternative transport modes the applicant could consider installing a greater surplus of spaces.
- The design of bicycle parking is broadly acceptable subject to wider spacing between rails and more details on plans.
- The design of loading bay for loading purpose is supported in principle. However, additional information is required to demonstrate the bay can cater for nominated waste collection vehicle.

Waste Management Unit

- A comprehensive Waste Management Plan accompanied this proposal. Aside from the issue detailed below, this document responded well to the waste management challenges presented in the plans.
- Different bin sizes are suggested for single waste streams. Garbage containers are nominated in 660 litre and 1100 litre sizes. Irrespective of bin colouring or decals placed thereon, this will prove confusing to users. Only one bin size per waste stream is to be used.

Planner Response: Had a permit recommended to issue, the outstanding issues could be dealt with by permit conditions.

Infrastructure Unit

- The property grades towards the railway land. However, the floor levels are such that the development can be drained to the drainage available in Paron Place. The floor levels must not be lowered below those proposed, otherwise drainage of the development will be very difficult.
- No objection to the proposal subject to inclusion of the recommended permit conditions.

Department of Transport

- The proposal is a revised application of the previously referred mixed use development at the same location (1049/19). The previous application was refused by VCAT in May 2021.
- The proposal still providing the same number parking spaces and will be generating same number of traffic movements at High Street intersection. The Department still consider that vehicles turning right into the Paran Place from High Street might have an impact on operational efficiency of the road network.
- However, DOT respects the VCAT decision reflecting that the Paran Place/High Street intersection has an additional capacity to cater for the traffic generated by the proposed development.
- As such, The Head, Transport for Victoria does not object to the grant of a permit.
- Although DOT would recommend Stonnington City Council to consider removing the on-street parking places along the western side of Paran Place for at least 20-30m from the High Street Intersection for the smooth operation of the intersection.

VicTrack

- Highly reflective or large expanses of glazed surfaces are discouraged directly adjacent the rail corridor as the reflection off the surface can cause blinding or distracting effects on train driver's visual perception which represents a safety risk. We recommend that the elevation facing the rail corridor and the materials incorporated be reconsidered in respect of this issue. A light reflectivity report addressing this impact should be required to assess the impact of proposed materials and potentially recommend alternative non-reflective materials.
- VicTrack will not grant light and air easement's for new development adjoining the rail corridor. One of the key objectives of VicTrack's Rail Development Interface Guidelines is to ensure that new development adjacent the rail corridor is independent and does not rely on rail land. We note that the proposed car park of the development includes large ventilation screens that would use rail land as a ventilation easement and accordingly constrains the adjacent rail land. We strongly suggest that these be relocated as an air easement will not be granted over rail land and accordingly the ongoing functionality of the ventilation system would be compromised.
- We note that development of the site would be in close proximity to the retaining wall and structure around the underpass and that engineering drawings should be provided to VicTrack and the rail operator for review of impact on rail land.
- No objection subject to the recommended conditions being placed on any permit to issue to protect the railway.

Planner Response: As VicTrack did not object to the proposal, the concerns could be dealt with by way of permit conditions if a permit were to issue.

Environment Protection Authority (EPA) Victoria

- EPA Victoria has advised that it is not a statutory referral authority under Section 55 of the *Planning and Environment Act 1987* for this application. Notwithstanding this, the EPA has provided the following advice and comments for Council's consideration.

- The primary concerns associated with the proposed coffee roastery are odour, dust and noise.
- Odour emissions from the coffee roasting is identified as the main risk for the proposal. If the risk is not managed appropriately on site, offensive odour from the coffee roasting process has the potential to travel onto nearby residential areas and nearby residents may experience a loss of amenity in the long term.
- At this stage, the proponent has not provided any mitigation measures to minimise odour emissions from the site. EPA Publication 1883 (Guidance for assessing odour) offers additional guidance in regard to odour assessment.
- Dust could be generated from roasting/drying process of the coffee beans where the husks 'fall off' the beans and come out as particular matter from exhaust stacks. If this is not managed properly within the site, it has the potential to travel onto nearby sensitive receptors.
- No afterburner to treat this was mentioned or detailed within the planning submission. The proponent should provide a detailed process on the coffee roasting to ensure that all environmental risks are addressed and accounted for.
- The proposed coffee roastery has the potential to produce noise above background levels. If the noise emission is not managed properly, it can have detrimental effects on nearby residents.
- The proponent has not provided any details on the noise attenuation measures or acknowledged the risk within their submissions.
- If Council remains concerned with noise from the proposal, an acoustic report, prepared by a suitably qualified person may be requested to continuously achieve relevant noise limits with regard to surrounding sensitive land uses, including details of recommended mitigation measures where required.
- Obligations of the General Environmental Duty (GED) are particularly relevant to this proposal given the proximity of sensitive uses immediately south and west of the site and the risk of adverse odour impacts. The proponent should mitigate potential odour and dust impacts as much as reasonably practicable, which may include odour monitoring systems in place, other odour suppressing methods in minimising odour emissions from daily operations and exhaust stacks and afterburners.

Key Issues and Discussion

Background

The previous application (Planning Application No. 1042/19) was refused by Council (under delegation) on 24 July 2020 and Council's refusal was subsequently upheld by VCAT in May 2021.

In *1539 High Street Pty Ltd v Stonnington CC* [2021] VCAT 550, VCAT refused the proposal of a six-storey mixed use building comprising food and drink premises at ground floor and five levels of office floor space above. The key elements that the Tribunal had concern with largely relate to inadequate provision of industrial floor space within the development; the street wall presentation to Paran Place; and traffic concerns. Despite refusing the application, the Tribunal deemed the building design, including the height, building envelope,

some of the setbacks, and architectural appearance, to be an appropriate response in this site and local context.

This application is a repeat application, proposing essentially a similar building design as the previous refusal, with some changes made to the built form and industrial use on the ground floor in an effort to address the findings of the VCAT decision. As the site and local context as well as the planning policy and controls remain largely the same, and given the similarities of the two proposals, the previous VCAT decision is therefore of relevance and Council must take the VCAT decision into consideration when determining this application.

Use

The State and local policies encourage the concentration of development in and around activity centres such as the Glen Iris Village and intensifying development on sites well connected to public transport as this takes advantage of existing infrastructure.

The State and local policies are clear that industrial areas are to be protected and carefully planned. State policy at Clause 11.02-1S seeks to ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses. Clause 17.01-1S relates to industrial land supply and seeks to ensure availability of land for industry. Strategies to achieve this objective include:

- *Provide an adequate supply of industrial land in appropriate locations including sufficient stocks of large sites for strategic investment.*
- *Identify land for industrial development in urban growth areas where:*
 - *Good access for employees, freight and road transport is available.*
 - *Appropriate buffer areas can be provided between the proposed industrial land and nearby sensitive land uses.*
- *Protect and carefully plan existing industrial areas to, where possible, facilitate further industrial development.*
- *Avoid approving non-industrial land uses that will prejudice the availability of land in identified industrial areas for future industrial use.*

Clause 17.03-2S (Sustainable Industry) recommends protection of industrial activity in industrial zones from the encroachment of commercial, residential and other sensitive uses that would adversely affect industry viability.

Paran Place is one of only two industrial areas remaining within the municipality. The Municipal Strategic Statement at Clause 21.02-1 identifies that *'rising land values have largely driven out manufacturing and other production-based industries. Remaining industrial areas are small, and include the Weir Street and Paran Place areas in Glen Iris. Some isolated service industry uses remain in the Chapel Street Activity Centre.'*

Clause 21.04-5 sets out the key issues of industrial uses in the municipality, including:

- *The challenge of loss of industries (in particular small scale service industries serving local needs) which are moving out and being replaced by higher order uses, especially in and around the activity centres.*
- *The challenge in some industrial areas that have poor access and small sites which limit their industrial capability.*

The Municipal Strategic Statement seeks to retain these two industrial areas (Paran Place and Weir Street). Furthermore, the objective of Clause 21.04-5 (Industrial uses) seeks to provide for a wide variety of specialist industrial and local service uses in the City while protecting the character and amenity of surrounding residential areas. This Clause includes particular strategies to achieve this objective:

1.1 *Retain industrial properties for industrial use and development which:*

- *is innovative, technology intensive or involves communications, information or distribution services;*
- *provides opportunities for local employment; and*
- *provides services of benefit to the local and regional community.*

1.2 *Encourage and maintain the following uses in local industrial areas:*

- *a balance of small scale industry and service uses in the Paran Place mixed use area.*

The purposes of Industrial 3 Zone (IN3Z) seek, amongst other things:

- *To provide for industries and associated uses in specific areas where special consideration of the nature and impacts of industrial uses is required or to avoid inter-industry conflict.*
- *To allow limited retail opportunities including convenience shops, small scale supermarkets and associated shops in appropriate locations.*
- *To ensure that uses do not affect the safety and amenity of adjacent, more sensitive land uses.*

A key issue that led to the refusal of the previous application was the inadequate provision of industrial floor space within the development. In the previous decision, the Tribunal found that the intensity of the proposed uses (office and food and drink premises on an industrial land and lack of industrial use) do not achieve an acceptable planning outcome in the existing planning context. The Tribunal made the following findings about the proposed uses (emphasis added):

29. *We find that the proposed uses, particularly the proposed office use as it is manifested through this development, are not an acceptable outcome on this land. Policy in the scheme aims to maintain the little industrial land remaining in Stonnington for industrial and service type industry uses and this proposal is inconsistent with those policy aspirations.*
30. *However, we make this finding based on the way in which the layout of the proposal at ground floor level is dictated by the proposed office use.*
31. *The ground floor of the proposal is largely given over to elements of the development that are associated with the office use including car parking, basement ramps, and other services associated with the building. This is in addition to the proposed food and drink premises also located at ground floor with frontage to Paran Place. There is no evidence or indication as to how industrial uses could be accommodated in the proposed layout and this is something that any future proposal on this land should demonstrate, as supported by local policy.*

32. Whilst we find that perhaps office uses may be an appropriate use in this location, we find that there is substantial policy support to retain industrial land in this location for industrial purposes and the proposal does not accommodate this outcome.
33. *This may not be traditional forms of industrial uses such as manufacturing or uses such as panel beaters or motor mechanics and the like. We recognise that the industrial sector is not what it once used to be and we find that relevant policy in the Stonnington planning scheme recognises these changes.*
34. *In doing so the scheme also recognises that industrial areas still need to be retained for industrial purposes despite the fact that the industrial sector is modernising.*
35. In our view, it is primarily the layout of the proposal that we are not satisfied will result in an acceptable outcome when assessing the proposal and in balancing the existing policy framework. *The proposal does not demonstrate that the development could be used in a way that would be supported by the existing policy framework, particularly at the local level. Adding to this, the planning scheme recognises and specifically sets out that Paran Place should retain its small-scale industrial and service use functionality.*
36. *We do not disagree with the applicant and Mr Kelderman that the subject site has a number of positive attributes that might lend itself to a number of different types of non-industrial uses and development given its locational attributes near multiple modes of public transport and on the edge of an activity centre. However, we do not find that the policy support for the retention of this land for industrial purposes is outweighed by other policy within the planning scheme that might support other uses.*

The current application proposes a food and beverage production (in form of coffee roasting) with 128 square metres in area within the new building, in lieu of a 96 square metres of food and drink premises in the previous proposal. With exception of this change, the layout of the ground floor in the new proposal is more or less identical to that of the previous proposal, with merely minor variations and rearrangement of some building services. The number of car parking spaces and bicycle spaces and the layout of end-of-trip facilities, loading bay and bin room have not altered and are identical to that of the previous refused proposal.

The proposed use for coffee roasting (food and beverage production) is a small scale industrial use which is compatible with the industrial zoning of the land and is supported by the planning scheme. However, the layout of the ground floor and inadequate provision of industrial floor space within the development continue to be the crux of the fundamental concerns of this proposal.

The industrial floor space occupies only 12% of the ground floor area (128 square metres out of 1070.2 square metres). The ground floor continues to be largely devoted to elements that are associated with the office use, including car parking, basement ramps, and other services associated with the building, of which the Tribunal took issue with. This is evident by the fact that the number of car parking spaces and bicycle spaces and the layout of end-of-trip facilities, loading bay and bin room have not altered and are identical to that of the previously refused proposal. On this basis, it is considered that insufficient floor space is

devoted for industrial use within this development. The changes made in the current proposal are considered insignificant and clearly are not far enough to liberally address the fundamental shortcomings identified in the previous VCAT decision.

The design of the building has potentially missed opportunities to make the most of the site features and maximise space for industrial purposes. The subject site is one of the largest properties within this Industrial 3 Zone area and does not have the sensitivity issues associated with character and amenity of surrounding residential areas. The site has potential to be redeveloped for a variety of industrial or related purposes unconstrained by the existing buildings or sensitive residential interfaces, compared with some of the smaller allotments, particularly those on the western side of the street. It also has the potential to be used for industrial or related purposes, either for a single use or several smaller uses. The size of the industrial floor space as currently proposed is limited and does not provide flexibility and adaptability for other industrial uses (regardless of whether a permit is required or not) in future. The proposal does not achieve an acceptable and balanced planning outcome having regard to the current planning policy.

Further consideration of the floor plate and increasing the provision of industrial floor space within the development is considered necessary to overcome the identified shortcomings. The floor space on the ground floor devoted to industrial use would need to be maximised and it could be provided in form of single tenancy or multiple smaller tenancies. This could be achieved by relocating all car parking spaces, building facilities and services (except those must be located on ground floor as required by service authorities), and perhaps loading bay as well, from the ground floor into the basement. These changes must be achieved without any increase in number of car parking spaces and loss of bicycle spaces on the site. In doing so, it is also observed that a greater intensity of car parking reduction could be supported given the proximity of public transport; office use being conducive to a modal shift away from the private motor vehicle; and the existence of parking restrictions in the locality which means that long term on-street parking is not possible.

Coffee Roasting

The ground floor tenancy of 128 square metres is proposed to be used for coffee roasting (food and drink production). The coffee roastery will operate between the following hours and employ eight (8) staff:

- Monday to Wednesday, 7:30am to 3:30pm
- Thursday to Friday, 7:30am to 9:00pm
- Saturday, 8:00am to 9:00pm
- Sunday, 8:00am to 3:30pm

The coffee roastery will be operated with a primary focus of roasting coffee for wholesale purpose, with a secondary ancillary component of a small café for on-site consumption. An estimated 150-200kg of coffee beans will be produced each week.

The proposed use of coffee roasting is a legitimate industrial use, which is supported by the industrial zoning of the land and Clause 21.04-5 (Industrial uses) of which encourages and maintains a balance of small scale industry and service uses in the Paran Place mixed use area. While the use could be supported *per se*, there is concern with the small scale of the

use proposed and the proportion between the primary use of coffee roasting and ancillary use of café.

Additional details regarding the ancillary café use, such as extent of floor space to be devoted to café use and number of seats proposed, is required. This is to ascertain that the café use will be of a scale that is ancillary to the main operation of the coffee roasting facility rather than a dominant use. Importantly, a dominant use of café within this industrial zoned tenancy will lend itself towards an engagement for other commercial type uses rather than retaining for industrial use. It is also noted that stemming from the issue of ground floor layout and lacking industrial floor space, the use of food and drink premises in the previous proposal was found to be inappropriate and was not supported by VCAT. The limited ancillary use of café is consistent with the objective of planning policy to allow limited commercial use in an industrial zoned land, but not as a dominant use.

Clause 33.03-2 (use of land) requires a use must not adversely affect the amenity of the neighbourhood, including through the:

- Transport of materials, goods or commodities to or from the land.
- Appearance of any stored goods or materials.
- Emission of noise, artificial light, vibration, odour, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.

In addition to Clause 33.03-2 and the decision guidelines therein, Clause 53.10 (Uses and Activities with Potential Adverse Impacts) is particularly relevant in assessing the impact of industry on surrounding land uses. This clause defines those types of industries and warehouse which if not appropriately designed and located may cause offence or unacceptable risk to the neighbourhood. To achieve this a range of threshold distances are detailed within Clause 53.10 for particular uses. For this application, Clause 53.10 does not specify a threshold distance for food and beverage production of this scale, but it does direct that issues of noise, odour and emissions be considered in respect to the sites proximity to sensitive land.

The nearest residential zoned areas are situated approximately 60 metres from the subject site. However, there are residential dwellings within multi-storey mixed use buildings nearby, approximately 35 metres from the subject site, and a caretaker dwelling located on 13 Paran Street. The proposal has the potential to impact the amenity of the area through the emission of odour, smoke, and noise as explained below:

- In the absence of odour and noise emission assessment reports, the proposed operating hours of coffee roasting up to 9:00pm may result in detrimental impacts on the local amenity by virtue of odour and noise emissions at night-time.

With exception of the brewery at 4 Paran Place, the existing uses within this industrial area are largely daytime activities. It is noted that the adjoining brewery currently operates between the hours of 5:00am and 1:00am the following day, Monday to Friday. However, there are conditions on the permit restricting a maximum of 2 brewery staff members on the premises at any one time between 5:00pm and 1:00am the following day. As such, the brewery activities on the adjoining premises and the industrial activities in this area at night time continue to be fairly low.

Given the proximity to the existing residential dwellings and expectation of future mixed-use developments in this activity centre location, it is considered that the operating hours at night time should be reduced unless further odour and noise emission assessment reports are submitted to justify the appropriateness of the proposed operating hours. A ground of refusal will be included to ensure this issue would be properly addressed.

- Coffee roasting operation can emit offensive odour and smoke, and emissions released during coffee roasting include alcohols, aldehydes, organic acids, and nitrogen and sulfur compounds. An odour assessment report has not been submitted to demonstrate the impact of the proposed use on the amenity of the area. It is expected that the proposed use and operation would not result in unreasonable level of odour emission and amenity impact to the area, mainly given to the relatively small scale of operation proposed. However, as potential odour impact is a relevant consideration, an odour assessment report should be required in any permit made to issue to demonstrate compliance with the relevant EPA guidelines and ensure that the proposal would not discharge offensive odours and smoke beyond the property boundaries and create unacceptable amenity impact to the area.
- The operation of coffee roasting component will include equipment noise and noise from truck movements and waste collection. Given the small scale of operation, noise emission from the proposed use would likely be low. An acoustic report could be required by way of permit conditions to ensure the proposal will not cause unacceptable level of noise emission if a permit were to issue.
- The hours of delivery and despatch is to be occurred between 10:00am and 4:00pm with use of light commercial vehicles/ vans. There is no information of expected frequency of delivery submitted in the application.

However, given the low intensity of operation (production of 150-200kg of coffee beans per week), it is unlikely that the proposal would generate excessive level of delivery to the extent that would cause unreasonable amenity impact in an industrial context.

Heritage

The Heritage Overlay HO352 affects the property at 1539 High Street and a small portion along the south-eastern boundary of 2 Paran Place.

The property at 1539 High Street contains a single storey shop constructed in roughcast brick with decorative facebrick to parapets and original glazed tiles and shopfronts. The building is identified as B graded and is significant to the *Glen Iris Shopping Centre Heritage Precinct*.

Demolition

It is proposed to partially demolish and externally alter the existing shopfronts and construct a single storey extension to the rear. The external walls of the heritage building will be retained with the existing windows, door, roof and awning removed and replaced and new openings constructed on the western wall.

Council's Heritage Policy at Clause 22.04-4 discourages demolition of parts of significant buildings unless it can be demonstrated that one or more of the following apply:

- *The demolition is minor in scale.*

- *The demolition will not adversely affect the significance of the heritage place.*
- *The replacement development is sympathetic to the scale, setback and significance of the heritage place.*

The extent of demolition is limited to the non-original fabric and insignificant elements of windows and door on the existing shopfronts, rear wall of the building and awning. The full volume of the heritage building and significant heritage fabric, including brick walls, decorative facebrick to parapets, openings on the shopfronts, and roof form, will be retained. Although not ideal, the new openings on the existing western wall of the heritage building will activate the Paran Place frontage without compromising the significance and appearance of the heritage building. The commercial presence of the building in High Street, which is the significance of the heritage place, will be conserved.

Council's Heritage Advisor advised that there is insufficient detail with respect to the retention works and further information is required, although the extent of demolition and proposal is broadly supportive.

On balance, the extent of demolition is considered minor in scale and will not adversely affect the significance of the heritage place, subject to amended plans providing greater detail of retention works if a permit were to issue.

New Additions

The single storey extension at the rear will be situated behind the primary building volume and will fill the 'gap' between the existing heritage building at the front and the new building on 2 Paran Place. It will comprise a brick façade with a flat roof form and large window openings to Paran Place.

The proposed extension adopts a simple design and is of an appropriate scale and proportion. It will provide an integrated link and gradual transition in height between the existing single storey heritage building at the front and the two-storey foyer and the taller section of the new building at the side and rear. The design detailing as well as external materials, colours and finishes of the proposed extension will reflect and complement the existing heritage building at the front and other existing buildings in the wider heritage precinct. The proposed extension will present as a recessive element to the streets, ensuring the visual prominence and legibility of the heritage buildings and low scale streetscape in High Street will be maintained. The design and layout of the proposed extension will ensure the early building and the shopfront be retained as a commercial premises with main entrance off High Street and conserve the significance of the heritage shopping precinct. The design response is considered appropriate in this site and heritage context.

On balance, the proposed extension is considered to be a discrete addition which will not detract from the significance of the heritage place.

Built Form

The new building is proposed on the Paran Place property, which is in an Industrial 3 Zone (IN3Z). The subject site is situated within and on the edge of the Glen Iris Village Neighbourhood Activity Centre. However, there are no specific built form controls which apply to this site, nor any overlays (such as Design and Development Overlay) or adopted structure plan to guide future character and design and built form expectation of new

developments within this precinct. The relevant considerations for the built form are guided by the Industrial 3 Zone and the local policy at Clause 21.06.

In the previous VCAT decision of *1539 High Street Pty Ltd v Stonnington CC* [2021] VCAT 550, the Tribunal essentially deemed the height and built form of the previous proposal to be acceptable in principle, subject to some design changes. The Tribunal made the following findings about the proposed built form:

116. We find that the subject site is one which can support taller, more robust form. This is for a number of reasons:

- The relatively large size of the site when compared with other nearby sites.*
- The lack of sensitive interfaces.*
- The zoning of the land and surrounding land.*
- The nature of existing and emerging built form nearby.*

...

118. Given the likely emergence of increased development and associated pedestrian traffic, we find that the retention of a human scale in Paran Place is necessary and that the proposed building will not achieve this.

119. However, we are generally satisfied that changes could be made to the proposal to address this, without altering the overall composition or functionality of the building as a result. Changes similar to those proposed by the applicant in the sketch plan, extracted below, would be acceptable, in our view.

120. It is important to ensure a 'human scale' to the street. We therefore find that level 4 should be setback in line with the level 5 façade to Paran Place and the changes proposed by the applicant in the sketch plan submitted at the hearing (and extracted above).

121. Notwithstanding our findings on the use of this land for offices, we find that our concerns with the built form could have been addressed via conditions.

The development as now proposed adopts essentially a similar building design as the previous application refused by VCAT and retains the overall composition of the building and positive elements, including architectural expression, height, building envelope, massing, and setbacks to side boundaries and rail corridor.

The key changes to the design are the height of the street wall and the setbacks and presentation of Levels 4 and 5 to Paran Place. The alternative design response is considered to have satisfactorily addressed the above fundamental concerns by way of the following:

- The street wall to Paran Place is reduced from 5 to 4 storey, with a reduced height of 16.81 metres (was 20.61 metres). This is consistent with the changes shown on the sketch plan considered by VCAT.
- Level 4 is setback a minimum 2.22 metres from Paran Place boundary with a balcony projected in the setback. This is in lieu of 4.6 metres as shown on the sketch plan considered by VCAT. The extended area protruding into the setback will have a glazed façade.

- Level 5 front balcony is reduced in width and depth with a setback of 2.22 metres from Paran Place boundary. This design change is generally consistent with the sketch plan considered by VCAT.

The extended area protruding into the Level 4 setback sets directly below the projected balcony on Level 5 and is recessed from the floor (Level 3) below. The extended area will be readily concealed by the balcony balustrades on Level 4 and the parapet of Level 3 when viewed in oblique angles from the opposite side of Paran Place. The use of glazed curtain wall, a lightweight structure, in the exterior façade of the extended area will provide translucence and mitigate the building bulk.

A four-storey street wall to a height of 16.81 metres will provide more gradual transition with the two-storey foyer on the side and the low scale adjacent buildings to the north. It will reflect and appropriately respond to other recent developments in Paran Place (such as 1 Paran Street which features a three-storey street wall to a height of 12.2 metres) as well as the diverse and robust built form and emerging character of the area.

The expanse of the four-storey podium is broken up and articulated with solid grid like pattern of red brick fins, deep recess, punched fenestration and angled glazing. This provides vertical emphasis and strong articulation in the building façade and references the fine grain subdivision pattern and rhythm and the traditional industrial character of this industrial, commercial, and heritage precinct. The upper levels are recessed from the four-storey base, and along with use of different materiality and treatment, it will create distinctive forms and articulation and achieve a recessive appearance.

The differentiation provides vertical and horizontal articulations in the built form and façades and reduce the overall visual bulk and prominence of the building. Coupled with the changes detailed above, the street wall and the overall presentation of the building to Paran Place will be of more human scale and will not overwhelm the public realm and overly dominate the streetscape. The alternative design response is supported by Council's Urban Designer and is considered appropriate from an urban design perspective. It is considered that the fundamental design concerns expressed by the Tribunal have been satisfactorily addressed.

Importantly, it is noted that VCAT has previously deemed the overall building height and built form response to the side interfaces and rail corridor as acceptable. Notwithstanding this, the following comments are made against the proposed built form response to adjoining interfaces for the completeness of the assessment:

- Balancing the distinctive site context with no sensitive residential interfaces and expectation of future growth and change and more intensive developments in the activity centre, a six-storey building with a four-storey base and two recessed upper levels would be comparable with the scale envisaged for potential future developments to the south and would achieve an acceptable planning outcome in this site's activity centre location and context.
- The height, scale and massing of the building as currently proposed have been scaled back. The architectural expression, design character and composition of the building is considered appropriate and will fit in the eclectic mix of built form, emerging character, evolving streetscape and context of the area. Council's Urban Designer is generally supportive of the proposed built form response.
- To the south, the built form response presents three well defined, distinctive vertical components comprising different materiality and treatments (brick fins, concrete in

board marked finish, and glazed curtain wall). Along with varied setbacks, it will create visual contrast and articulation, and break up the building mass. As satisfied by Council's Urban Designer and Heritage Advisor, the new building will be read as a 'backdrop' building to the heritage precinct and will not be an overly dominant and overbearing presence in the broader High Street streetscape. It will not detract from the heritage building on the High Street property at the front and the significance of the wider heritage precinct.

- With exception of the ground floor, the proposed south wall will be setback off a minimum 3 metres from the south boundary. This has been designed to recognise the equitable development opportunity on the adjoining properties to the south which are in the activity centre and zoned Commercial 1 Zone. Taller buildings with more robust built form are envisaged given the site location of activity centre and zoning of the land. The proposed setbacks will provide reasonable building separation and transition to any future developments and will minimise the need of screening measure.

Given the orientation of the lots, the proposed development in no doubt will cast additional shadows over the adjoining properties to the south and public realm. The subject site and the surrounding area are within an activity centre and industrial area, where policy aspirations encourage growth and built form change for more intensive development is anticipated. Given the envisaged redevelopment of the area in future, overshadowing of public realm is somewhat inevitable. The development will cast shadows over Paran Place and save for High Street, which is an arterial road. The adjoining properties to the south are commercial properties with no existing residential dwellings. Such degree and impact of overshadowing to the adjoining properties and public realm is considered reasonable in this context.

On balance, the design response to this interface is considered acceptable.

- To the northern interface, the building is proposed to be built to the north boundary with a blank precast concrete wall. This design response will allow for an equitable development opportunity on the adjoining property to the north with a development of a commensurate height and scale given the same planning controls for both properties. The design response therefore is considered acceptable.

However, the treatment of the solid wall being blank in situ/ precast concrete is considered problematic. As the building will be 'first off the rank' in the precinct, the six-storey high solid blank concrete wall will remain quite exposed and prominent, particularly in longer range views, for a long period. It is therefore recommended that textures or patterning be incorporated to this wall to break up the expanse of blank wall and provide more articulation and visual interest.

- In terms of the rail corridor interface, an angled glazed curtain façade with projecting slab edges in part is proposed at Levels 1 to 5. The architectural variations and treatment to this building façade will enhance horizontal and vertical articulations and visual interest, break up the sheer volume of the building, and moderate the overall building bulk presented to this interface.

Nevertheless, VicTrack, as the owner of the abutting railway land and infrastructure, expressed concerns on the highly reflective or large expanses of glazed surface in the elevation facing the rail corridor. They have concern that reflection of this surface can cause blinding or distracting effects on train driver's visual perception which presents safety risk. VicTrack recommended the design of this elevation be reconsidered, and a

light reflectivity report addressing this impact be required to assess the impact of proposed materials. Furthermore, VicTrack also had issue with the incorporation of large ventilation screen on the building façade abutting the railway land and potential issue of implied light and air easement in future.

Clause 18.01-2S seeks to, amongst others, plan land use and development to protect existing transport infrastructure from encroachment or detriment that would impact on the current or future function of the asset. The *VicTrack Rail Development Interface Guidelines* (VicTrack, 2019), which is a reference document to Clause 18.02-3S, provides guidance on developments interfaced with railway land.

Having regard to the relevant strategic policy, it is considered appropriate to require these issues be addressed, possibly by way of permit conditions if a permit were to issue, to ascertain that the development will not compromise the use, function and safety of the rail corridor and infrastructure.

Extensive use of glazing in external façade is common in contemporary architecture, particularly commercial and institutional buildings, and is considered acceptable *per se* in this development from an architectural and urban design perspective. However, the development will be well exposed and visually prominent in both short- and long-range views, given to its height and the site's location and context. It is considered appropriate to require materials of low reflectivity be used to ensure that the development would not result in unreasonable level of glaze, reflection and amenity impact on the properties in the wider area.

Overall, subject to some minor design changes, the proposal provides a reasonable and balanced design response which will fit in this evolving context and eclectic mix of built form in the area.

Vegetation Impact

The development proposes 'major' encroachments (more than 10%) into the Tree Protection Zone of a significant *Angophora costata* (Smooth-barked Apple) tree (Tree 2) on the adjacent public (VicTrack) land, which the submitted arborist report deems to be of high retention and amenity value. This tree is situated on the west side of pedestrian path and underpass and contributes to the character of the public realm and amenity of pedestrian.

The submitted arborist report notes that there is potential for root development within the subject site, and the tree could be directly impacted by the proposed basement carpark footprint required for the proposed development. The arborist report recommends a non-destructive root investigation be undertaken along the proposed basement carpark evacuation location within the TPZ of this tree to determine the presence and significance of any roots that may have developed in the vicinity. The arborist report further notes that if significant roots are discovered, design changes *must* be considered to ensure this tree is not directly impact, and this could include increasing the setback of the building footprint from this tree.

Council's Arborist has reviewed the proposal and advised that the encroachment would either need to be reduced or further evidence be provided showing that the encroachment will not impact on the health or structural integrity of the tree. Council's Arborist also has concern with potential pruning and loss of canopy of the tree and noted that the

development would need to be setback away from the tree if there is excessive pruning and alteration to the form/appearance of the tree.

A non-destructive root investigation and further arboricultural assessment have not been undertaken to adequately demonstrated that this significant tree on public land will not be adversely affected by the development. Any design changes, particularly increasing setbacks, would likely have implication to the basement layout and design, and potentially reduce number of on-site car parking spaces. This is considered problematic.

Given the significance of the vegetation on a public land and the unknown flow on effect to the basement design, this issue should be considered and factored in any redesign of the proposal. A ground of refusal will be included to indicate the concern of vegetation impact resulted by the development.

Amenity Impacts

The subject site does not have any sensitive residential interfaces. Residential properties are located at considerable distance from the proposed development, approximately 35 metres to the east on Malvern Road and on the opposite side of High Street and the rail corridor. A caretaker dwelling is located further north on an industrial land at 13 Paran Place. The adjoining properties to the south are commercial properties and do not contain any dwellings. The proposed building would not result in any unreasonable amenity impact on any residential dwellings nearby by virtue of overlooking and overshadowing.

Internal Amenity

The proposed building has been well designed with appropriate window/ door openings to allow for adequate daylight access, outlook and ventilation. This is evident by the daylight modelling analysis which demonstrates that 100% of the nominated floor area (Level 3 in this regard) will achieve a daylight factor of greater than 2.0%, in which meets Council's best practice of minimum 30%. The building will be adequately ventilated with mechanical ventilation for office floor space and natural ventilation through window openings for retail floor space. The provision of outdoor communal spaces will offer additional on-site amenity for future occupants of the building.

The building provides a floor-to-floor height of 4.5 metres to ground level and 3.8 metres to all levels above. The proposed floor to floor heights are considered appropriate as it will suit the proposed commercial and office uses and accommodate potential adaptability for alternative commercial uses to that proposed.

Overall, the development provides good level of on-site and internal amenity to future occupiers of the retail and office tenancies.

Environmentally Sustainable Design (ESD)

The Sustainability Management Plan (SMP) submitted in the advertised application uses the Green Star Design & As-Built v1.2 rating tool to demonstrate that the proposed development will achieve an 'equivalent 5 Star Green Star Design & As-Built rating'. Council's ESD Officer advised that this version of Green Star is a discontinued version and should not be used, and requested an updated SMP using either BESS or Green Star Buildings v1 be submitted.

The applicant has subsequently submitted an updated SMP using BESS tool in response to the ESD comments. However, the updated SMP was not formally substituted to form part of the application and therefore cannot be given weight in this assessment. Given this

shortcoming, a ground for refusal will be included to indicate that a satisfactory ESD outcome has not been demonstrated.

Notwithstanding this, Council's ESD Officer has reviewed the updated SMP and advised that the proposed development would achieve an acceptable ESD outcome provided that details in the SMP and plans are consistent.

The updated SMP demonstrates that the development will achieve a BESS score of 58% and a STORM rating of 146% through a number of ESD initiatives and meet Council's best practice (minimum BESS score of 50% and STORM rating of 100%). The key ESD commitments include a 30 kW rooftop solar photovoltaic system, a 30,000 litre rainwater tank collecting water from the roof for toilet flushing and landscape irrigation, water efficient fixtures and landscaping, shading strategy, double glazing, low VOC products and paints, electric vehicle charging stations, and end-of-trip facilities.

The outstanding items identified by Council's ESD Officer, including shading devices and additional notations on the plans, could be readily dealt with by way of permit conditions had a permit issued.

Car Parking and Traffic

Car Parking Provision

Pursuant to Clause 52.06, the proposed development generates a statutory car parking requirement of 118 spaces (115 spaces for office, 2 spaces for food and drink premises, and 1 space for coffee roastery).

The development provides 56 car parking spaces across three levels of car park. All spaces with the ground floor car park (total of 9 spaces) are to be allocated to visitor parking. The traffic impact assessment indicates that 53 spaces are to be allocated to office use, 2 to food and drink premises, and 1 to coffee roastery. The application therefore seeks a reduction in the car parking requirement associated with office use by 62 spaces.

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

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

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

As confirmed by Council's Transport and Parking Unit, it is considered that a parking shortfall for the office use within this development in this location is a reasonable approach. The proposed on-site car parking provision is considered adequate to provide for office staff and visitor given the established activity centre location and the good level of public transport

options servicing the site and broader area. The site is also within easy walking distance of the Glen Iris Railway Station and bus service along High Street to the east, and tram service along High Street to the west. The surrounding on-street parking is restricted to ensure that car parking caters for short term visitors of the wider activity centre. In this case it is anticipated that future staff for office use will need to rely on use of public transport or sustainable modes of transport as alternative public parking is not available within the surrounding streets. Given the need to shift to alternate transport modes and move people away from utilising private vehicle to access their place of employment when located in an activity centre, the level of car parking reduction for office use in this case is considered reasonable and acceptable.

Traffic Impact

A key issue with the proposal is the potential impact to Paran Place and the intersection at High Street as a result of the proposed development.

In the previous VCAT decision, the Tribunal provided the following commentary on the car parking issue:

55. *We note here that car parking is not the issue per se, but rather the increase in peak hour traffic movements associated with those office use car spaces. A lesser number of onsite car parks is directly related to a reduction in traffic movements. These effects of traffic to be generated on roads are considered under clause 33.03 and are discussed further below.*

At paragraphs 101 to 107, the Tribunal provided a conclusion of their findings on the traffic issue (emphasis added):

102. *We agree with Council that, given the constrained nature of the intersection, in the absence of any major infrastructure works such as removal of the rail level crossing to the east, a reduction in peak hour movements is the only effective manner to manage traffic at the intersection. We also agree with the Council's consistent indication that a lower car parking rate on the site would reduce pressure on the intersection.*
103. *We fall short of agreeing with DoT's position to reduce the onsite car parking requirements to zero and that no further developments that increase traffic movements should be approved for Paran Place, without a broader revision of its access strategy. This may be an extreme solution for an intersection where there is likely some capacity for additional movements.*
104. *However, given the excellent public transport amenities provided by the site, we support the Council and DoT in their vision for an invigorated mixed-use zone. Enabling acceptable pedestrian access, via upgrades to the footpaths in Paran Place, and reducing car parking would enable more sustainable traffic interactions in the immediate area.*
105. *We accept the provided assessment of the traffic impacts and agree that there is capacity for the additional traffic movements created by this development at the Paran Place/High Street intersection. Impacts to current traffic are not central to our reasons for refusal.*

106. As for the future traffic impacts on the intersection, we accept that there needs to be more strategic assessment to determine its capacity.
107. We have reservations about the future traffic projections, but, given that we are refusing this application on other grounds, this is not for us to make a determination about.

The current proposal provides an identical amount of on-site car parking (56 spaces) as the previous refusal. The current application has not provided sufficient strategic assessment to determine the future capacity of the Paran Place/ High Street intersection and the future traffic impacts and/or projections which VCAT took issue with. As such, it fails to satisfactorily address the concerns identified in the VCAT decision.

In addition, as also expressed in the previous refusal, Council's Transport and Parking Unit has significant concern with congestion and queuing in Paran Place in peak periods as result of the development.

In the existing conditions, Paran Place itself, and its intersection with High Street is fairly constrained. Paran Place currently provides vehicle access not only to the properties within Paran Place, but also properties (including commercial and mixed use/ apartment buildings) fronted onto High Street and Malvern Road and the Metropolitan Fire Brigade station on Malvern Road. Paran Place is a narrow road with a width of 7.2 metres, with parking permitted on only the western side of the street. The street is not wide enough for two vehicles to pass adjacent to a parked car. A footpath is present on only the eastern side of the street and is 1.5 metres in width. Within this space is signage and power poles. The intersection has a keep clear sign on High Street, and appears to experience frequent queuing from the rail crossing back towards the west. There appears to be space for around three vehicles to queue between the level crossing and the keep clear sign.

Council's Transport and Parking Unit has noted that the capacity of High Street is severely limited at present by the level crossing, and the traffic signals which are located immediately west of the level crossing. The section of High Street between the level crossing and Malvern Road is routinely congested during the morning and afternoon peak periods. The proximity to signals and high traffic demand on High Street will impact the ability to exit Paran Place in the afternoon peak period. Although a keep clear sign is present, only one vehicle at a time would be able to enter High Street if it is congested, potentially resulting in significant queuing in Paran Place. Notably, these traffic concerns of congestion and queuing along Paran Place and High Street intersection are echoed by the objectors. Although not objecting to the new application, the Department of Transport still has considered that the vehicles turning right into Paran Place from High Street might have an impact on operational efficiency of the road network.

It is considered that given the constrained nature of the intersection, in the absence of major infrastructure works, a reduction in peak hour movements (i.e. a lower on-site car parking) is the only effective manner to manage traffic at the intersection. This view has been consistently expressed by Council's Transport and Parking Unit in both of the previous and current applications, and was also concurred by the Tribunal in the previous refusal.

Essentially, the cumulative traffic impact of the proposal is considered unreasonable and may adversely impact the operational efficiency of the surrounding road network. In the absence of sufficient strategic assessment, a development of such intensity and on-site car

parking could unreasonably constrain the scope of future developments in the street. The traffic concerns expressed in the previous VCAT decision remain unresolved.

On balance, it is considered that the on-site car parking provision would need to be reduced and bicycle parking be increased in order to address the traffic concerns. Given the key concern of inadequate ground floor layout already identified above, there is clearly opportunity to reduce and remove the car parking spaces on the ground floor. This would possibly alleviate the traffic concerns.

Car Parking Design

In terms of compliance with the design standards of Clause 52.06-9, there are no fundamental concerns with the ground floor and basement car parks. However, minor changes and further details on the plans will be required by way of permit conditions to ensure headroom clearance and accessible parking bay are adequate.

The design of loading bay for loading purpose is supported in principle as advised by Council's Transport and Parking Unit. However, additional information is required to demonstrate the bay can cater for nominated waste collection vehicle for on-site waste collection.

Overall, subject to permit conditions, the design of the car parks is considered satisfactory.

Bicycle Parking

The number of bicycle spaces proposed exceeds the statutory rate and good end-of-trip facilities are proposed. While the siting of end-of-trip facilities on the ground floor is positive (as it is directly accessible from the lift lobby and provides easy access to users), as discussed above, the ground floor layout is largely dominated by elements associated with the office use and therefore cannot be supported. It is considered that the potential relocation of end-of-trip facilities into the basement would not be an issue. The bicycle parking and end-of-trip facilities in the basement could still be accessed via lifts and would be safe and secure.

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. 0887/21 - 2 Paran Place & 1539 High Street, Glen Iris [8.4.1 - 41 pages]

Officer Recommendation

That Council AUTHORISE Officers to advise VCAT that had a Failure to Determine appeal not been lodged, a Notice of Refusal to Grant a Planning Permit No: 887/21 would have been issued for the land located at 2 Paran Place & 1539 High Street, Glen

Iris under the Stonnington Planning Scheme for Partial demolition, construction of buildings and works associated with a mixed use development, and use of the land as Offices and Food and Beverage Production (Coffee roasting) in a Commercial 1 Zone, Industrial 3 Zone and Heritage Overlay; and a reduction in the car parking requirements on the following grounds:

- 1. The proposal does not provide adequate provision of industrial floor space within the development. It fails to achieve an acceptable and balanced planning outcome having regard to the current planning policy.***
- 2. In the absence of odour and noise emission assessment reports, the proposed operating hours of coffee roasting to 9:00pm is considered inappropriate and may result in adverse amenity impacts to the surrounding area.***
- 3. The application has not adequately demonstrated that the proposal will not adversely impact the significant Smooth-barked Apple tree within the adjacent VicTrack land.***
- 4. The application has not provided sufficient strategic assessment to determine the future capacity of the Paran Place/ High Street intersection and the future traffic impacts and/or projections and fails to address the identified concerns in the previous VCAT decision. The proposal may result in unacceptable traffic impact to Paran Place and the intersection with High Street.***
- 5. The proposal fails to achieve a satisfactory response to the Environmentally Sustainable Development policy at Clause 22.05 of the Stonnington Planning Scheme.***

8.5 Instrument of Appointment & Authorisation - Statutory Planning

Coordinator Statutory Planning: Phillip Gul
Director Planning & Place: Annaliese Battista

Linkage to Council Plan

Direction 3: A people-centred and future ready city

3.4 Fit for purpose operating model and resource management

Purpose of Report

The purpose of this report is for the Council to consider executing an Instrument of Appointment and Authorisation under the Planning and Environment Act 1987 for Jacob Martin and Alessandro Dickinson.

Officer Recommendation

That the Council RESOLVE, in the exercise of the powers conferred by section 224 of the Local Government Act 1989 (Vic) and the other legislation referred to in the attached Instrument of Appointment and Authorisation, that:

- 1. The members of Council staff referred to in the Instrument of Appointment and Authorisation (Attachment 1 as annexed to the minutes) be APPOINTED and AUTHORISED as set out in the Instrument.***
- 2. The Instrument of Appointment and Authorisation COMES INTO FORCE immediately once the common seal of Council is affixed to the Instrument, and remains in force until Council determines to vary or revoke it.***
- 3. The Instrument of Appointment and Authorisation be SEALED.***

Background

1. The appointment of authorised officers enables appropriate staff within the organisation to administer and enforce various Acts, regulations or local laws in accordance with the powers granted to them under legislation or a local law.
2. Instruments of Appointment and Authorisation are prepared based on advice from the Maddocks Authorisations and Delegations Service. Whilst the appointment and authorisation of authorised officers under other relevant legislation is done by the Chief Executive Officer under delegation, Maddocks recommend that officers enforcing the Planning and Environment Act 1987 (Vic) be authorised by Council resolution. Maddocks also recommend that Instruments of Appointment and Authorisation be refreshed on a regular basis. The instruments are reviewed regularly and updated due to:
 - appointment of new staff;
 - changes in the names of Acts;
 - the introduction, amendment or revocation of legislation;
 - changes in position titles; and

- changes in roles.

Governance Compliance

Policy Implications

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

Financial and Resource Implications

4. The costs to prepare the Instrument are minimal and met within the current operational budget.

Conflicts of Interest Disclosure

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

Legal / Risk Implications

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

Stakeholder Consultation

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

Human Rights Consideration

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

Attachments

1. S11A Instrument of Appointment & Authorisation - Jacob Martin & Alessandre Dickinson [8.5.1 - 2 pages]

8.6 Aged Services Update

Director Community & Wellbeing: Cath Harrod

Linkage to Council Plan

Direction 2: An inclusive and healthy community

2.1 Health and wellbeing

Purpose of Report

To provide an update on aged care reforms and the experiences of service transitions within the sector.

Officer Recommendation

That the Council:

- 1. NOTE full implementation of aged care reforms planned for 1 July 2023 has been delayed by the new Federal Government until 1 July 2024;***
- 2. NOTE any CHSP funding extension offer 2023-2024 will be reviewed and presented to Council for approval; and***
- 3. NOTE ongoing information on aged care reforms will be provided to community as these are released.***

Executive Summary

- The full roll-out of the Commonwealth Government aged care reforms has been delayed from 1 July 2023 until 1 July 2024.
- The recent experience of other councils transitioning out of services and subsequent impact on continuity of services has caused concern for community members.
- Consultation to raise awareness of Commonwealth Government age care reforms and likely impacts is recommended.
- Council's current agreement to deliver the Commonwealth Home Support Programme (CHSP) expires 30 June 2023. It is expected an extension offer for 2023-2024 will be received and unknown if new conditions will be imposed.
- If Council accepts an extension to deliver aged services, associated supplier contracts will need to be considered.

Background

- Commonwealth Government commenced aged care reforms in July 2017.
- Council accepted a one-year extension Commonwealth Home Support Programme (CHSP) offer until 30 June 2023 when the full-roll out was to be implemented.
- Recently the new Federal Government announced the full roll-out planned on 1 July 2023 will be delayed to 1 July 2024.
- The one year 2022-2023 CHSP funding extension offer included an option to relinquish funding on 30 June 2022. The transition experiences of councils opting out, associated media and community sentiment is worthy of attention.

Key Issues and Discussion

10. Federal Government is responsible to approve requests from CHSP service providers to relinquish funding and for appointing new providers.
11. A Deed of Mutual Termination is issued by Commonwealth Government and jointly signed; usually this occurs at a time in the process when there is confidence a successful transition will be achieved.
12. Commonwealth Government place the responsibility on outgoing and incoming service providers to ensure client continuity of services.
13. Recently negative media focused attention on the transitions of Boroondara and Mornington Peninsula Shire Councils where new providers were unable to commence timely services and meet client demand; leaving clients without service.
14. The media reports caused concerns within the Stonnington community. Aged services clients and their families expressed concern and anxiety of a similar fate voicing fear of abandonment and of being denied service access.
15. Similarly, residents attending the south ward meeting held 1 September 2022 focused heavily on council's provision of aged services following media reports.
16. An improved understanding of Council's role in delivery of aged services is warranted. This includes Council's role in delivering aged services on behalf of the Commonwealth Government; the imminent and enforced changes coming with implementation of reforms and the impact of these on council's provision of services.
17. The current aged services system is significantly confusing. The Reforms intend to deliver a simplified and nationally consistent aged care system; however, the implementation date has been extended many times.
18. A program of information targeting community members, clients, their families in understanding the aged care reforms will assist understanding of the unique services environment and prepare for the Commonwealth Government change agenda.
19. Council's service agreement with the Commonwealth Government to deliver CHSP services expires 30 June 2023.
20. It is expected Council will be offered a further one-year extension to deliver CHSP and it is unknown if this will impose new conditions as was the case in 2022-2023.
21. As well, the regulatory environment for aged services is appropriately increasing in response to recommendations of the Royal Commission into Aged Care Quality and Safety.
22. For Council, from 1 December 2022, legislation will introduce new requirements expanding residential aged care serious incident response system (SIRS) to CHSP.
23. New provider governance responsibilities are being introduced for compliance from 1 December 2023 with more information required to understand implications for Council.
24. If Council accepts an extension to deliver aged services, there will be impacts on supplier contracts that will need to be considered in line with procurement policy.

Governance Compliance

Policy Implications

25. Procurement Policy for associated supplier contracts.

Financial and Resource Implications

26. The average net cost to Council in delivering the Commonwealth Home Support Programme over the last 2 years averages per annum \$1.774 million.

Conflicts of Interest Disclosure

27. 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

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

Environmental Implications

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

Community Consultation

Proposed engagement

Purpose	To promote awareness and understanding of the Commonwealth Government aged care reforms including the impact on clients and services
IAP2 Goal:	Inform
Exhibition period	November – March 2023
Method:	Direct letters to clients and families Information updates and promotion on the Councils Website and social media channels Round table workshops as more information becomes available
Reach:	Direct letters to 900 clients (approx.) Council's website: potential reach 61,000 Social media channels: potential reach 14,000
Summary of feedback:	To be advised
Impact:	To be advised

Human Rights Consideration

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

Attachments

Nil

8.7 Arts and Culture Grants 2022/23 - Round 2

Manager Events, Arts & Culture: Alison Leach
Director Community & Wellbeing: Cath Harrod

Linkage to Council Plan

Direction 1: A thriving and unique place

- 1.1 Identity and destination
- 1.2 Thriving and desirable businesses
- 1.3 Pride of place and character

Direction 2: An inclusive and healthy community

- 2.2 Diverse, inclusive and safe

Direction 3: A people-centred and future ready city

- 3.1 Community focus, connection and engagement

Purpose of Report

To seek Council endorsement of projects and programs recommended for funding through the Arts and Culture Grants Program for the 2022/23 financial year.

Officer Recommendation

That the Council:

- 1. APPROVE the allocation of \$171,975 of the remaining Arts and Culture Grants pool of funds for 2022/23 to eight (8) applicants that have been recommended by the arts and culture grants assessment panel for funding as shown in Attachment 1; and**
- 2. APPROVE that the remaining balance of \$40,789 remain available for any out-of-round grant applications.**

Executive Summary

1. The Council's support of arts and cultural activities is an investment in the community's wellbeing and the local economy. The City of Stonnington's Arts and Culture Grants program brings creative, innovative, dynamic and contemporary projects that enhance the cultural, community and economic development of the City of Stonnington as a sought-after area to live, work and play.
2. The rich and diverse range of arts and cultural activities supported by the Arts and Cultural Grants is a key economic driver for local traders and brings vital business to our local community. Taking place throughout the precincts, these activities attract visitors and patrons from across Melbourne to shop, buy meals and pre-show drinks.
3. As restrictions have eased, arts and cultural activity will play a critical role in rebuilding social confidence, stimulating the local economy, providing opportunities for the local community to reconnect along with supporting arts and cultural practitioners.

4. The Arts and Culture Grants are open to all artists, organisations and individuals seeking to deliver arts projects within Stonnington. Applicants do not need to be based in Stonnington; however, the activity or project must be delivered within the municipality and demonstrate clear benefit to the locality.
5. The annual Arts and Culture Grants program contributes to the wellbeing of the community, strengthens its cultural reputation, supports a vibrant artistic community and attracts economic stimulus for local businesses.

Background

6. On 13 June 2022 Council endorsed 20 applicants that were recommended by the arts and culture grants assessment panel. Council also endorsed the remaining balance of \$212,764 being made available for second grant round to support projects taking place between 1 January and 30 June 2023.
7. Applications for Arts and Culture Grants second round opened on 25 July 2022 and closed on 1 September 2022. Calls for submissions were made from July to August 2022 via the Arts Hub Australia arts industry website (advertisement and social media promotion), direct email, Council's website and What's On e-newsletter, as well as other social media platforms. Potential applicants were encouraged to speak with officers during the application submission period via phone, email, Microsoft Teams and Zoom.
8. Success of an application is determined by the merits of the proposal against the assessment criteria and considered against other funding applications. In some cases, the panel will recommend part funding of an amount less than requested based on the merit of the application and supporting documents.
9. A panel of assessors was convened prior to grant applications closing, comprised of officers and a manager across Council departments, and an external arts industry assessor. Assessments are made against the stated assessment criteria within the grant guidelines and applications are rated and ranked in relation to each other. Grant decisions are based primarily on information supplied in the application form and support material provided.
- 10.

Key Issues and Discussion

11. The second grant round attracted a healthy number of applications for a diverse range of arts projects, events and exhibitions.
12. Each application has been assessed against the following criteria by the grant assessment panel and checked for any outstanding acquittal requirements on previous grants.

13. Assessment Criteria

Theme	Criteria	Weighting
Artistic	<ol style="list-style-type: none"> 1. Provide clear and detailed information on the project including expected outcomes. 2. Propose an innovative project and prove your capacity to deliver it by providing a detailed project timeline and relevant artistic support material. 	30%

	3. Include and/or celebrate local or specific communities within the City of Stonnington.	
	4. Demonstrate potential or confirmed career advancement opportunities for artists involved in the project. This could be through an extension of skills or development of existing and new audiences.	
Capacity	5. Facilitate arts and business partnerships including local businesses.	10%
Financial	6. Show a viable, accountable budget with diverse sources of income.	20%
Marketing	7. Demonstrate a commitment to maximising audience numbers and participation from the local community.	30%
	8. Provide a detailed marketing plan.	
	9. Demonstrate a capacity to attract participation and audience numbers from the wider metropolitan area and regional Victoria.	
Operational	10. Propose projects that align with City of Stonnington Council Plan.	10%

14. The panel has recommended funding for a total of 8 applications across a diverse range of artforms that will enhance the cultural vibrancy of the municipality, drive economic benefit through audience and visitation and work to sustain our local arts and cultural profile.
15. Full summary of applications received across the two (2) grant categories and recommendations for full, part or nil funding are provided in **Attachment 1**.

Governance Compliance

Policy Implications

16. The Arts and Culture Grants program is guided by detailed Arts & Culture Grants Guidelines, refer **Attachments 2 and 3**.

Financial and Resource Implications

17. Council's 2022/23 total budget allocation for Arts and Cultural Grants is \$440,000 of which there is \$212,764 of funds remaining to support the second round of grants and recommended applicants.
18. Endorsed applicants will be required to enter into a sponsorship agreement as per the Arts and Cultural Grant Guidelines that clearly outline the requirements of the grant recipient, including payment structure, acquittal requirements and the return of any unspent funds should the project not be able to proceed within 2022/23.

Conflicts of Interest Disclosure

19. All assessment panel members complete a declaration of confidentiality and declare any conflicts of interest part of the assessment process.

Legal / Risk Implications

20. Arts and Cultural Grant recipients are required to enter into a formal sponsorship agreement with Council. Sponsorship agreements are reviewed by Council's Risk and Integrity team and Corporate Counsel.

Environmental Implications

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

Community Consultation

Purpose	Council will notify applicants of the outcome of their application. Council will advertise all successful projects.
IAP2 Goal:	Inform.
Exhibition period	October 2022 to June 2023
Method:	<ul style="list-style-type: none"> • All applicants will be notified of the outcome of their application in writing once endorsed by Council. • Successful applicants will be provided with a confirmation letter and accompanying sponsorship agreement documentation. • Unsuccessful applicants will be notified in writing and offered an opportunity to receive feedback on their application. • Arts and culture grant recipients (and their projects) will be announced on Council's website and in a media release. • All arts and cultural grant projects will be promoted across Council's communication avenues including What's On Stonnington and Stonnington News. • Projects taking place within Chapel Off Chapel will also be promoted across Chapel's communication channels.
Reach:	<p>Direct correspondence with grant applicants (email).</p> <p>What's On and Stonnington News readership.</p> <p>Chapel Off Chapel social media audience.</p>
Summary of feedback:	n/a
Impact:	n/a

Human Rights Consideration

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

Attachments

1. Attachment 1. Round 2 - Arts and Culture Grants 2022-23 Overview Applications and Recommendations [8.7.1 - 22 pages]
2. Attachment 2. Annual Arts and Cultural Grant Guidelines Round 2 (up to 20000) 2022-2023 [8.7.2 - 12 pages]
3. Attachment 3. Annual Arts and Cultural Grant Guidelines Round 2(over 20000) 2022-2023 [8.7.3 - 13 pages]

8.8 Draft LGBTIQA+ Action Plan

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

Linkage to Council Plan

Direction 2: An inclusive and healthy community

- 2.1 Health and wellbeing
- 2.2 Diverse, inclusive, and safe

Purpose of Report

To seek approval for community consultation on the draft LGBTIQA+ Action Plan 2022-2025.

Officer Recommendation

That the Council:

- 1. ENDORSE the draft LGBTIQA+ Action Plan 2022-2025 (refer Attachment 1) for the purposes of community consultation for a period of 4 weeks; and***
- 2. NOTE following consultation, the draft LGBTIQA+ Action Plan 2022-2025 will be adjusted and presented to Council for final approval.***

Executive Summary

1. The draft LGBTIQA+ Action Plan 2022-2025 aims to strengthen social and economic inclusion for LGBTIQA+ people, families and communities and reduce barriers to their participation in local community life.
2. It responds to 02/2021 Notice of Motion unanimously endorsed by Council on 15 February 2021 requiring a committee be established and Action Plan developed.
3. Approval is sought to release the draft LGBTIQA+ Action Plan for community consultation for 4 weeks after which time it will be reviewed and presented to Council for final approval.

Background

4. Stonnington is home to one of the largest LGBTIQA+ communities in Victoria, including supporters and allies who help progress equality and fairness for all. During the Marriage Equality national vote in 2017, Stonnington achieved one of the highest recorded 'Yes' votes in the country.
5. Community life in Stonnington has been enriched by the contribution of LGBTIQA+ people through the arts, retail, celebrating identity and supporting community health. Council has a significant role in building on these contributions through strengthening equality, participation, and rights of all people, regardless of sexual orientation, gender identity, expression, or sex characteristics.
6. In February 2021, Council unanimously endorsed a Notice of Motion to establish an LGBTIQA+ Advisory Committee and Action Plan to increase inclusion, address service

gaps and identify opportunities for gender and sexuality diverse people to be involved in community life.

7. The LGBTIQ+ Advisory Committee first met in late 2021 and consultation to commence the action plan was held during March and April 2022.

Key Issues and Discussion

8. Stonnington has a rich, diverse, resilient, and proud LGBTIQ+ community heritage. Strengthening belonging, celebrating diversity, and leveraging the unique character of Stonnington will benefit the prosperity and wellbeing of the whole community.
9. The draft LGBTIQ+ Action Plan identifies opportunities for Council to work in partnership with local services and groups to increase inclusion, address service gaps and identify opportunities for LGBTIQ+ people to participate in community life.
10. Community consultation to input the draft Action Plan shows community strengths most identified as:
 - a. Stonnington has a large and visible LGBTIQ+ community with a unique and vibrant history within a broader community that is diverse, welcoming inclusive and celebrates difference.
 - b. Although impacted by gentrification, demographic, and cultural shifts, Stonnington retains a vibrant LGBTIQ+ venue, pub, and club culture and LGBTIQ+ owned and supportive businesses, particularly in the Chapel Street and Commercial Road precincts.
 - c. While public safety and amenity issues were frequently raised as a challenge for Stonnington, the resident community was identified by many as feeling safe.
 - d. Council and community delivered services and programs were identified as a key community strength and asset, including Council funding to local groups and sport clubs, the existence of services delivered by Thorne Harbour Health, Prahran Market Clinic, Positive Living Centre, youth services and others.
 - e. Council programming and other organisations were seen as inclusive of LGBTIQ+ communities, with Jazz in the Park, Chapel off Chapel, engagement with Midsumma and the Melbourne Queer Film Festival identified as exemplars.
11. Community consultation highlighted the main barriers, limitations, and gaps as:
 - a. many LGBTIQ+ people remain disconnected, isolated, and invisible within the local community and that discrimination and violence persists;
 - b. services, groups, networks, and information targeted to the needs of LGBTIQ+ people are hard to find, and it was felt visible services have eroded overtime;
 - c. universal services are often hetero- and cis-normative and fail to recognise or are insensitive to the experiences of LGBTIQ+ people;
 - d. COVID-19 had disproportionate effect on LGBTIQ+ people, leading to social isolation and mental health impacts;
 - e. Council's leadership and advocacy on issues of importance to LGBTIQ+ people are of critical importance;
 - f. an intersectional lens is important for understanding the diversity of LGBTIQ+ experience and need in a range of settings. Groups identified as being particularly at risk of exclusion included LGBTIQ+ people who are younger, older, culturally and linguistically diverse, trans, gender diverse and non-binary, people with a disability, mental health and alcohol and drug issues, and people experiencing poverty and / or homelessness.

12. While not relevant to all individuals, research does show LGBTIQ+ people have poorer health and wellbeing experiences and outcomes than others in the community including:
 - a. higher rates of violence, harassment, and discrimination;
 - b. poorer mental health, in the form of anxiety, depression, psychological distress, self-harm and risk of suicide;
 - c. higher rates of isolation and rejection, reduced social participation and engagement;
 - d. poorer life outcomes in terms of drug and alcohol use, homelessness, and early school leaving; and
 - e. avoidance or delay in help seeking behaviours because of real or feared prejudice within service settings.
13. In response to issues raised through research and community consultation, the draft Action Plan is focused around three Strategic Outcome areas. These include:
 - a. Action theme: Healthy and well
 14. Actions in this outcome aim to deliver inclusive, safe events; engagement and visibility for LGBTIQ+ people; strengthen inclusion and support; and advocate for needs in health and other services.
 - a. Action theme: Respectful and safe
 15. Actions in this outcome aim to deliver improved understanding of LGBTIQ+ people and experiences; enhance visibility and celebrate LGBTIQ+ community; create a welcoming and safe environment.
 - a. Action theme: Connected and supportive
 16. Actions in this outcome aim to deliver accessible community facilities; deliver engagement structures and partnerships; provide opportunities for connection.
17. Consultation on the draft Action Plan for 4 weeks is proposed to confirm priorities. Based on feedback the draft Action Plan will be amended and presented to Council for final approval.

Governance Compliance

Policy Implications

18. The draft Action Plan responds to 02/2021 Notice of Motion unanimously endorsed by Council Meeting on 15 February 2021. The Health and Wellbeing Plan 2021-2025 is the overarching strategy for the draft Action Plan.

Financial and Resource Implications

19. The LGBTIQ+ Action Plan 2022-2025 will be delivered over the next three years, with appropriate budget planning for key initiatives being the responsibility of the relevant Council department.

Conflicts of Interest Disclosure

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

Legal / Risk Implications

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

Community Consultation

Purpose	Phase 1 consultation (March-April) sought to understand the priority needs to inform the development of the Draft Plan. Phase 2 consultation (November) will seek to confirm the final Plan.
IAP2 Goal:	Consult
Exhibition period	Phase 1: March – April 2022 Phase 2: November 2022
Method:	<p>Phase 1 (Complete)</p> <ul style="list-style-type: none"> • Promotion via social media posts, Website news, Connect Stonnington (survey and ideas board), targeted emails invitations (49 recipients) • Intranet news, Just CoS, emails to local agencies, Councillor Weekly update • EDMS: Stonnington News, Active Stonnington, Engaged (Autumn Edition), Library News • Information to Committees: Community Safety Committee; Disability Access and Inclusion Committee; LGTIQA+ Advisory Committee; Community Recovery Committee • Customer Service on hold message (March 2021); posters displayed in libraries, Prahran Pool, Prahran Square digital screen. • LGTIQA+ Action Plan Survey • Focus Group Workshop Discussions (x 12) • Allyship Event by Youth Services and Xoe Belle Gender Collective <p>Phase 2 (November 2022)</p> <ul style="list-style-type: none"> • Draft Plan and feedback form on Connect Stonnington • Promotion via Council websites, social media, Stonnington News, e-newsletters • Direct email and distribution via the LGTIQA+ Advisory Committee • On hold message and intranet news
Reach:	<p>Phase 1:</p> <ul style="list-style-type: none"> • EDMS: Stonnington News, Active Stonnington, Engaged and Library news, collective reach is 23,505 with 98% opened. • Social media posts (paid): <ul style="list-style-type: none"> ○ 28/2/22 to 7/3/22: Facebook and Instagram posts for focus groups. 19,839 reach and 56,337 impressions • Social media (organic) Facebook (FB) & Instagram (IG): <ul style="list-style-type: none"> ○ Older people focus group – posted 25 Feb 2022 <ul style="list-style-type: none"> ▪ Clicked to link: FB 8, IG 11 ▪ Reach: FB 779, IG 349 ▪ Impressions: 823 (FB only) ○ Community members focus group – posted 2 March 2022 <ul style="list-style-type: none"> ▪ Clicked to link: FB 5, 31 IG ▪ Reach: FB 1021, IG 609 ▪ Impressions: 1067 (FB only) ○ Young people focus group – posted 12 March 2022 <ul style="list-style-type: none"> ▪ Clicked to link: FB 0, 13 IG ▪ Reach: FB 621, IG 392 ▪ Impressions: 633 (FB only) ○ Community Members Survey/Survey Extended – posted 17 March, 22 March, 28 March 2022 <ul style="list-style-type: none"> ▪ Clicked to link: FB 11, IG 48

	<ul style="list-style-type: none"> ▪ Reach: FB 1593, IG 1201 ▪ Impressions: 1640 (FB only) • Website events: 339 page views collectively • News Article posted 21 March 2022: 181 views • 28 Focus Group Session participants • 30 participants in staff workshop • 67 Surveys completed; 4 interviews and 3 written submissions • 25 participants in Allyship Event <p>Phase 2:</p> <ul style="list-style-type: none"> • Notification to those involved in phase 1 consultation and local services • Promotion via social media posts, Website news, Connect Stonnington (submission form) • EDMs: Stonnington News, Active Stonnington, Engaged, Library News • Customer Service digital screens, posters displayed in libraries, Prahran Pool, postcards to key services and distribution at forums • Information to Committees: Community Safety Committee; Disability Access and Inclusion Committee; LGTIQA+ Advisory Committee; Community Recovery Committee
Summary of Feedback:	Phase 1: Informed priorities in the LGBTIQ+ Action Plan Phase 2: Will confirm priorities in the LGBTIQ+ Action Plan
Impact:	Phase 1: Informed priorities in the LGBTIQ+ Action Plan Phase 2: Will confirm priorities in the LGBTIQ+ Action Plan

Human Rights Consideration

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

Attachments

1. Draft LGBTIQ A+ Action Plan - Final September 2022 (21 September 2022) [8.8.1 - 13 pages]

8.9 Smart Bin RFID Program - Stonnington Waste Services

Manager Climate, Sustainability & City Greening: Simon Holloway
Director Environment & Infrastructure: Rick Kwasek

Linkage to Council Plan

Direction 2: An inclusive and healthy community

2.4 Sustainability and climate action

Direction 3: A people-centred and future ready city

3.2 Enhanced customer experience

3.4 Fit for purpose operating model and resource management

Purpose of Report

To seek endorsement from Council to implement the Smart Bin RFID Program for Stonnington Waste Services.

Recommendation

That the Council:

1. **ENDORSE the Smart Bin RFID (Radio Frequency Identification) Program for Stonnington Waste Services inclusive of:**
 - a. **Procurement and installation of RFID readers on all Council waste collection fleet vehicles and associated software subscriptions.**
 - b. **Activation of RFID tags on all Stonnington food and green waste, garbage and recycling bin lids and ongoing collection of data.**
 - c. **Implementation of Phase 1 between December 2022 and March 2023 to test and refine the RFID system, data collection and management, IT integration, community engagement, driver training and data analytics.**
 - d. **Implementation of Phase 2 commencing between March – June 2023, in line with the changeover of garbage and recycling bin lids to standardised colours.**
2. **NOTE the total estimated cost of the program in Year 1 is \$547,200 ex GST, including capital costs for the installation and activation of RFID readers on waste trucks, and the ongoing annual cost is approximately \$43,200 ex GST.**
3. **APPROVE funding of the program in Year 1 (2022/23) from savings realised in the existing capital budget X00110 - Waste Bin Lid Changeover and future years from waste services budgets.**
4. **NOTE that procurement for the program will be progressed by Council Officers under financial delegation.**

5. NOTE the significant benefits of the implementation of RFID technology into Stonnington Waste Services

Executive Summary

1. Council is committed to embedding smart technology solutions into its service delivery, including waste collection. Adoption of smart technology will allow Council to future-proof its waste management practices, community education and engagement, and improve responsiveness to customers.
2. Council's current waste management processes are still largely paper-based, outdated and could benefit from improved efficiency. The processes do not meet industry standards or best practice, hindering Council from a proactive, data-driven approach to waste collection, education and engagement, planning and customer service.
3. Radio Frequency Identification (RFID) is widely used across multiple industries and has been assessed as the best technology solution to improve current service inefficiencies, enabling bin data collection and supporting a more efficient and effective waste service.
4. The proposed Smart Bin RFID Program for Stonnington Waste Services will be delivered as follows:
 - a. Procurement and installation of RFID readers on all Council waste collection fleet vehicles and associated software subscriptions.
 - b. Activation of RFID tags on all Stonnington food and green waste, garbage and recycling bin lids and ongoing collection of data.
 - c. Implementation of Phase 1 between December 2022 and March 2023 to test and refine the RFID system, data collection and management, IT integration, community engagement, driver training and data analytics.
 - d. Implementation of Phase 2 commencing between March – June 2023, in line with the changeover of garbage and recycling bin lids to standardised colours.

Background

1.
 5. Radio Frequency Identification (RFID) is a type of technology that uses radio waves to capture digital data encoded in a smart label known as an RFID tag.
 6. Future-proofing waste services and infrastructure is a key action and priority within Council's *Towards a Circular Economy: Our Future Waste Strategy 2022-2025*. Additionally, Council has demonstrated its commitment towards smart city solutions as part of the development of its first draft *Smart Cities Strategy*. Investing in in-truck technology improvements will enable Council to digitise data collection and reporting for a more efficient and responsive waste service.
 7. Digitisation of waste services will equip Council with the tools to enable data-driven decisions and leverage technological innovations, leading to more efficient processes and services.

8. Annually, Council receives more than 100,000 customer service calls and requests. Waste services are one of the highest volume services that Council provides, making up approximately 20% of total customer requests. Additionally, the waste services page on Council’s website was the second most visited page in 2021. Waste requests are broken down into the categories listed in Table 1. Of all waste requests received in 2021-2022, 36% were not resolved within target timeframes.

Table 1 Types of waste requests

Waste requests	
New, lost, change size, return bins	28.5%
Dumped rubbish	28%
Damaged bins	20%
Missed bins	16%
Abandoned bin	5%
Litter bin not emptied/repairs	1.3%
Other	1.2%

9. Recent mapping of Council’s current waste service processes revealed that the lack of automation and use of paper-based systems are leading to:
- Increased reliance on our most expensive customer service channel (call centre).
 - Increased opportunity for errors, more call backs to customers and delays in service delivery.
 - Double handling of customer forms and some high-volume email requests by Records and Customer Service teams, which leads to requests sitting in multiple queues while waiting to be processed.
 - Delays in the time taken to properly log, allocate and action waste requests, leading to inconvenience for customers.
 - A secondary process required where payments need to be made.
 - Printing of all works requests and manual allocation of tasks to waste collection officers.
 - Trips back to the Depot for extra supplies due to incomplete or inaccurate information on printed works requests.
10. Customer-centric and responsive services are best supported by real-time data. Council’s current waste fleet and software does not have the capacity to:
- a. Maintain accurate records of bin numbers across the city.
 - b. Attribute bin types, sizes and quantities to each property.
 - c. Record waste issues against properties (e.g., repeat reports of stolen bins).
 - d. Timestamp or geotag waste truck video footage.
 - e. Allocate additional tasks while trucks are on-route.
 - f. Monitor driver fatigue.
 - g. Report safety hazards or incidents in the field.

11. The Waste Management, Waste Services Administration and Waste Strategy and Engagement teams have been working with the Customer Experience, Customer Service and Digital Enablement teams to review and improve waste processes. A suite of changes is in progress to address delays in processing waste requests and improvements to internal processes. Customer experience enhancements are already on the way with the release of a newly created online waste services request form. This form will reduce double handling and enable customers to order bins or request repairs when most convenient. Soon, the form will also be able to process online payments, eliminating the need for a secondary payment process. Reducing the types of categories and process queues will enable requests to more easily and quickly be actioned by staff.

Key Issues and Discussion

12. Council's current waste fleet has already been fitted with cameras. Video and photos from waste collection routes are stored on hard drives in the truck until review of footage is required. This footage does not have inbuilt tracking of location or times. Hence, to find the correct section of footage, staff must play the whole file from the commencement of the run.
13. It is industry standard for all waste fleets to have in-truck computing technologies that enable real-time cloud-based recording and storage of bin and property data, photos and locations. Using this technology, issues reporting can be captured at the time of the incident and fed live into a platform that can be immediately accessed and actioned by Customer Service, Waste Management staff and the Waste Services Administration team. This will ultimately save council significant time and cost in the delivery of the service.
14. A range of options have been assessed for their ability to digitise Council's waste processes, improve bin data and record management and provide service enhancements. The options considered and compared in Table 2 are:
 - Option 1: Enhancements to Council's current Customer Relationship Management tool and other existing systems.
 - Option 2: Retrofit existing trucks with 4G/5G capability to record data in real-time. Data would be stored in the cloud and accessed through software.
 - Option 3: The proposed Smart Bin RFID Program for Stonnington Waste Services – install and activate RFID tags on bins, install readers in waste trucks and subscribe to associated software.
15. Combining the simplification of categorisation of waste requests and the digitisation of the waste services request form (Option 1) with the proposed Smart Bin RFID Program (Option 3) provides Council with the best tools to manage waste and deliver responsive customer service. RFID tags have the capability to address Council's current needs and adapt as Council's data and service requirements grow and change.

Table 2 Service enhancement options comparison

Service enhancements	Option 1	Option 2	Option 3
Accurate waste charges issued to properties - register of type, age and quantity of bins at a property.	✓		✓
Validation of waste charges - confirm the bins collected matches the bin charges for the property.			✓
Cost savings in creating and processing waste request- online forms for all waste requests.	✓		
Management of missed bins - record of bins collected: timestamped and GPS location when bins are emptied.		✓	✓
Ability to determine location of lost/stolen bins: alert when bin scanned at another location.		✓	✓
Record contamination against property when observed by the driver after bin is emptied into the truck.			✓
Weight of the bin recorded against property (future capability).			✓
Faster resolution of reported missed collections- issue identification and automated reporting in the waste truck (e.g., bin not out, obstructions, too heavy etc.)		✓	✓
Send notifications to residents when bin issues are identified by the driver			✓
Timely safety reports- enable driver to report hazards, incidents, or other issues in the field.		✓	✓
Identification of number of bins at a property prior to collection (i.e., driver is notified how many bins they should empty).			✓
Tailored waste education- enable history of waste issues logged and recorded against property.		✓	✓
Improved truck servicing - real-time and cloud storage of waste truck data.		✓	✓
Timely waste collections- route tracking of waste trucks.		✓	✓
Minimise noise disturbances - hazard warning when entering time restricted zones (e.g., school zones)		✓	✓
Digital job allocation to specific waste trucks while on route (messaging or updating driver through the in-truck computing system).		✓	✓
Proactive and timely responses to damage/issues - log damage to Council assets when observed on the waste collected route (e.g., overhanging trees, potholes, illegally dumped rubbish, damaged park benches)			✓

16. RFID tags and associated readers and software are a proven technology combination that has been widely used across multiple industries. Current uses of RFIDs include access cards, sorting books at libraries, tracking of laundry in hotels and hospitals and identifying livestock. The use of RFID as part of waste services is not new: Banyule, Manningham and Hobsons Bay Councils have been utilising RFID technology for several years and Wyndham City Council has recently commenced installation of RFID tags.
17. The proposed Smart Bin RFID Program for Stonnington Waste Services will collect the following bin data:

- a. When and where bins are collected.
 - b. Issues with bins (e.g., if a bin is damaged and requires repairs, if the bin is not out, if the bin is too heavy, if the driver observes contamination).
 - c. Allocation and completion of additional tasks allocated to specific driver or waste collection truck.
18. The Smart Bin RFID Program for Stonnington Waste Services will be delivered in a phased process as follows:
- a. Finalisation of the installation of RFID tags on all Stonnington bins:
 - RFID tags have already been installed on Council's 14,500 new food and green waste bins. These tags will remain deactivated until this Smart Bin RFID Program for Stonnington Waste Services is endorsed and in-truck readers are installed.
 - RFID tags will be installed on the approximately 121,000 garbage and recycling bins during the bin lid changeover project, which is being undertaken to achieve compliance with Victorian Government requirements for standardised bin colours. This project will be completed by June 2023.
 - b. Procurement and installation of RFID readers on all Council waste collection fleet vehicles and associated software subscriptions.
 - c. Activation of RFID tags on all Stonnington food and green waste, garbage and recycling bin lids and ongoing collection of data.
 - d. Implementation of Phase 1 between December 2022 and March 2023 to test and refine the RFID system, data collection and management, IT integration, community engagement, driver training and data analytics.
2. This phase of the program will involve RFID technology being implemented for Council's food and green waste service only.
- e. Implementation of Phase 2 commencing between March – June 2023, in line with the changeover of garbage and recycling bin lids to standardised colours.
3. This phase of the program will involve RFID technology being implemented across all Stonnington bins in the food and green waste, garbage and recycling streams.
19. Phase 1 of the program - test and refine the RFID system - will enable Council to:
- a. Review the types of data collected.
 - b. Assess the RFID software's interaction and compatibility with Council's current information technology systems: customer service, rates and invoicing, information management and complaints/feedback processes.
 - c. Provide insights to training and change management processes required to ensure adoption of the new software and processes by all staff.
 - d. Adequately plan and allocate resources to successfully implement the new digital processes.

- e. Communicate with residents about RFID technology and the expected improvements with use of RFID tags. All households with a food and green waste service will be notified prior to the commencement of Phase 1. See **Attachment 1** for details of the proposed communications plan.
20. All data collected through the implementation of Smart Bin RFID Program for Stonnington Waste Services will be handled in accordance with privacy and data protection legislation. It will be stored in a secure Australian cloud-based platform.
 21. Insights and learnings from Phase 1 of the program will be shared with Council and broader organisation ahead of the commencement of the ongoing Phase 2.
 22. Some of the key benefits of the proposed Smart Bin RFID Program for Stonnington Waste Services include:
 - Asset management
 - Maintain accurate records of bin numbers across the city
 - Attribute bin types, sizes and quantities to each property
 - Correlate bin damage to bin age, enabling tracking of any trends in early failure of the bins.
 - Better manage bin asset renewal
 - Find lost or stolen bins
 - Service data and analytics
 - Record when and where a bin is emptied
 - Better management and faster resolution of missed bin claims
 - Monitor contamination and provide tailored waste education to residents
 - Undertake desktop audits of bins at the property, eliminating the need for officers and drivers to monitor bins on the collection days
 - Identify waste service needs at the household level and support officers to have proactive conversations with residents about the best size of bins (e.g., continuous overflowing bins may indicate the residents may need a larger garbage bin or additional recycling bin)
 - Financial
 - Allow Council to accurately account for bins at each property, ensuring that waste charges correctly reflect the type and number of bins serviced at the property
 - Identify overservicing properties (i.e., bins that are not being paid for)
 - Align future waste contracts with actual bin lifts rather than dwelling numbers
 - Customer service

- Record waste issues against properties (e.g., repeat reports of stolen bins).
- Enhanced ability to deliver messages and feedback to residents in response to issues observed by the driver
- Ability to provide tailored waste education
- Risk management and insurance claims
 - Timestamp or geotag waste truck video footage.
- Efficient resource management
 - Allocate additional tasks while trucks are on-route.
- Health, wellbeing and safety
 - Monitor driver fatigue.
 - Report safety hazards or incidents in the field.

Governance Compliance

Policy Implications

23. The proposed Smart Bin RFID Program for Stonnington Waste Services aligns with the following Council strategies:
- a. *Council Plan 2021- 2025*
 - Action 3.4.6 - Modernise Council systems and technology to enable a future ready organisation.
 - b. *Towards a Circular Economy, Our Future Waste Strategy 2022-2025*
 - Action 3.3 - Drive smart city waste solutions
 - c. *Smart Cities Strategic Framework (draft)*
 - Strategic Objective 2: A future of enhanced Council services and customer experiences.
 - d. *Customer Experience (CX) Strategy 2022 – 2026*
 - Initiative 3 - Develop efficient processes and systems.

Financial and Resource Implications

24. The Smart Bin RFID Program for Stonnington Waste Services is estimated to cost \$547,200 (excluding GST) in Year 1, including capital costs for the installation and activation of RFID readers on waste trucks, and the ongoing annual cost is approximately \$43,200 ex GST (See Attachment 2 for a breakdown of estimated costs). Note these are estimates only and will be market tested via RFQ and Tender.
25. Significant financial savings against the allocated budget have been realised in the implementation of Council's waste and recycling bid lid changeover program, enabling the proposed Smart Bin RFID Program for Stonnington Waste Services to be funded from existing budget allocations in 2022/23 from capital account X00110 Waste Bin Lid

Changeover. The proposed RFID program is associated with waste bin infrastructure upgrades and enhanced functionality.

26. Capital budget X00110 Waste Bin Lid Changeover covers the replacement of food and green waste bins (body and lid) and garbage and recycling bin lids and was established based on bin and pricing estimates at the time of establishing the budget, which have since been validated through an audit of City of Stonnington bins and public tender for pricing. Savings on unit pricing for the bin lid changeover were also realised as a result of the bulk scale of the replacement program. There is sufficient budget remaining in capital budget account X00110 to fund the Smart Bin RFID Program for Stonnington Waste Services in 2022/23.

Conflicts of Interest Disclosure

27. 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

28. Some local governments have received negative media coverage around the use of RFID technologies. Similar to Council's bin feedback program, media and the community have expressed concerns around the collection of personal data and potential privacy infringements.
29. Council's Privacy Policy covers the organisation's use and storage of customer data and personal information.
30. Suppliers of the RFID hardware and software will be required to have sufficient public liability and professional indemnity insurance and comply with the *Privacy and Data Protection Act 2014* (the Act).
31. Any photographs taken as part of the implementation of this program will be of bins only, not personal information or any materials containing personal information.
32. In line with the Act, should staff find evidence of unlawful activity (e.g., identification of drugs, weapons or other illegal materials) when taking photographs, they may disclose personal information as necessary (e.g., addresses) to aid in reporting concerns to relevant persons or authorities.
33. All recorded data will be stored in line with the Information Policy Principles outlined within the Act. Information will be held in a restricted database and will be accessed and reviewed for the purpose of service delivery and improvement only.
34. Council's Risk team will be consulted to ensure appropriate inclusions in the specifications for any contracts relating to hardware or software provision necessary for the implementation of this program.
35. The Act requires a notice to be provided to persons affected at, or before, the time of collection of personal information. **Attachment 1** outline Council's communications plan.

Environmental Implications

36. This report supports Council to improve resource recovery and diversion from landfill by providing households with bespoke information and direct feedback about their waste practices and potential areas for improvement.

Community Consultation

37. Futureproofing Council's waste services and use of smart technology was identified as a priority as part of the *Towards a Circular Economy: Our Future Waste Strategy 2022-2025* community consultation process.
38. Community feedback received throughout consultations to develop Council's *Towards a Circular Economy: Our Future Waste Strategy 2022-2025* highlighted the need for Council to provide a mix of waste services to meet household needs. Furthermore, the community has voiced the need for waste education and information that is relevant to their households. The proposed RFID program will provide Council with valuable information that will enable Council to have tailored discussions with residents on their waste service needs as well as guide the design of future kerbside waste service improvements.
39. Internal stakeholders have been consulted, including representatives from the following Council business units:
 - a. Waste Management
 - b. Waste Services Administration
 - c. Customer Experience and Business Improvement
 - d. Technology Enablement
 - e. Customer Service
 - f. Data Enablement
 - g. Sustainable Environment
 - h. Property and Rates

Human Rights Consideration

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

Attachments

1. FULL RFID COMMS PLAN v 2 [8.9.1 - 7 pages]
2. CONFIDENTIAL REDACTED - Program Cost Estimates: Smart Bin RFID Program - Stonnington Waste Services [8.9.2 - 1 page]

8.10 Contract Award - Waste & Recycling Bin Lid Changeover

Manager Climate, Sustainability & City Greening: Simon Holloway
Director Environment & Infrastructure: Rick Kwasek

Linkage to Council Plan

Direction 2: An inclusive and healthy community

2.4 Sustainability and climate action

Direction 3: A people-centred and future ready city

3.4 Fit for purpose operating model and resource management

Purpose of Report

To seek Council approval to award Contract No. NPN1.11-3 Bin Lid Change Project to SULO MGB Australia Pty Ltd (ABN 27 002 605 192).

Officer Recommendation

That the Council:

- 1. AWARD Contract No. NPN1.11-3 Bin Lid Change Project, to SULO MGB Pty Ltd (ABN 27 002 605 192) from the MAV panel – Mobile Garbage Bins to supply and install new bin lids for all City of Stonnington garbage and recycling bin lids to comply with the Victorian Government requirement for standardised bin colours for an initial contract period of 12 months with a six-month extension option at the projected contract price of \$2,101,242.22 (excluding GST) comprising of:***
 - a. Supply and installation of new bin lids and recycling of old bin lids for the lump sum of \$1,458,524.20 (excluding GST)***
 - b. Supply and installation of Radio Frequency Identification (RFID) tags within the bin lid for the additional lump sum of \$451,696.00 (excluding GST).***
 - c. Contingency of 10% to account for variances in bin lid quantities (estimated by Council in the quote specification) for the sum of \$191,022.02 (excluding GST).***
- 2. AUTHORISE the Chief Executive Officer to execute the contract agreements with the above supplier.***
- 3. NOTE that expenditure under this contract is in accordance with Council's Budget for Financial Year 2022/23.***

Executive Summary

1. Please note that confidential information is contained in Attachments 1, 2 and 3 as circulated in the confidential section of the agenda attachments, in accordance with Section 66 (2) (a) of the Local Government Act 2020, as the information relates to contractual matters and premature disclosure of the information could be prejudicial to the interests of Council or other persons.
2. This item has been included in the public agenda to facilitate transparency and accountability in the Council's decision making. If discussion of the confidential information in the attachments to this report is required in order for Council to make a decision, this item will be deferred to the confidential section of the agenda.
3. The Victorian Government's *Recycling Victoria: A New Economy (2020)* policy includes a requirement for all local governments to standardise residential bin services, including the implementation of standard bin lid colours across the state. This commitment to standardise bin lid colours is also reflected in Council's newly adopted *Towards a Circular Economy: Our Future Waste Strategy 2022-2025*.
4. Council's food and green waste, garbage and recycling bin lids have not been consistent with the new statewide standardised colours, recently mandated by the Victorian State Government.
5. To ensure the City of Stonnington was prepared to meet these requirements, Council approved the inclusion of capital account X00110 Waste Bin Lid Changeover as part of the 2022/23 Council Budget at a value of \$4,200,000 excl. GST. This budget covers the replacement of food and green waste bins (body and lid) and garbage and recycling bin lids.
6. The budget value for the overall changeover project was based on bin and pricing estimates at the time of establishing the budget, which have since been validated through an audit of City of Stonnington bins and price benchmarking ascertained through a request for quote (RFQ) process.
7. Council has recently commenced, via a separate contract, the changeover of food and green waste bins (body and lid), funded from X00110 Waste Bin Lid Changeover.
8. To facilitate the shift to standard bin lid colours for garbage and recycling bins, Council sought quotes from an established Municipal Association of Victoria (MAV) panel for the provision of services to supply and install new bin lids, recycle all removed bin lids and install Radio Frequency Identification (RFID) tags on all bins.
9. One submission was received via VendorPanel from SULO MGB Australia Pty Ltd. The submission is considered good value to Council.

Contract No.	NPN1.11-3
Contract Name:	Bin Lid Change Project
Contract Supervisor:	Amy Yang (Coordinator Waste Strategy & Engagement)

Background

10. The Victorian Government's *Recycling Victoria: A New Economy* policy (RV Policy) outlines the state government's commitment to diverting waste from landfill, recovering more materials for reuse and recycling, and supporting communities and households

to reduce waste generation. Notably, the RV Policy includes a requirement to standardise residential bin services, including bin lid colours.

11. Standardising colours will harmonise education efforts and reduce confusion when households move from one municipality to another, allowing for significant improvement in resource recovery and reductions in contamination. One of the key recommendations arising out of Monash University's Behaviour Works 'Reducing Contamination of Household Kerbside Recycling' study was that creating consistency across regions is one of the most significant ways to reduce contamination.
12. A commitment to standardising bin colours is also reflected in Council's newly adopted *Towards a Circular Economy: Our Future Waste Strategy 2022-2025*.
13. The table below outlines Council's current bin lid colours, standard colour requirements and service status across the four waste and recycling streams covered by the RV Policy.

Stream	Current lid colour	Standard lid colour	Service status
Recycling	Blue	Yellow	Standard service
Garbage	Dark green	Red	Standard service
Food and green waste	Burgundy [^]	Lime green	Opt-in service only
Glass	Purple	Purple	Not yet introduced

15. [^] All food and green waste bins are currently being replaced with new bins (black body and lime green lids) to comply with the bin standardization requirements.
- 16.
17. As noted above, Stonnington's current kerbside bin lid colours are inconsistent with recently introduced and mandated Victorian standards. While changing over our 14,500 kerbside food and green waste bins is currently being completed as a separate project, our garbage and recycling bin lids are currently blue and dark green, and therefore require replacement.
18. To comply with the above RV Policy requirements and transition Stonnington kerbside bins to standard colours, Council resolved to change garbage and recycling bin lid colours during 2022/23.
19. Council approved the inclusion of capital account X00110 Waste Bin Lid Changeover as part of the 2022/23 Council Budget at a value of \$4,200,000 excl. GST. This budget covers the replacement of food and green waste bins (body and lid) and garbage and recycling bin lids.
20. In order to minimise the environmental impact associated with this project as much as possible, Council Officers ensured that the specifications for this procurement included the maximum possible recycled content for all purchased lids as well as the recycling of all old lids.
21. All new bin lids will be installed with hot-stamped lids featuring simple icons that demonstrate which items can be disposed of in each bin.

22. To capitalise on procurement efficiencies, supply and installation of Radio Frequency Identification Device (RFID) tags was included within the scope of the bin lid changeover contract.
23. Council Officers utilised the Municipal Association of Victoria (MAV) Panel Contract NPN1.11-3 (Mobile Garbage Bins) for this procurement. The scope of this MAV contract covers plastic mobile garbage bins and spare parts, RFID technology and accessories, lid replacement, bin pullback and recycling.

Key Issues and Discussion

Advertisement Date:	27 June 2022
Procurement Method:	Public
Documents released via:	VendorPanel
Closing Date:	8 August 2022
Number of Submissions received:	One

- 24.
25. The RFQ was released to six suppliers on the Mobile Garbage Bins (NPN1.11-3) MAV panel via VendorPanel on 27 June 2022 and closed on 8 August 2022.
26. One submission was received from SULO MGB Australia Pty Ltd. This submission was assessed against the Evaluation Criteria listed in the RFQ documents by an Evaluation Panel and supported by an independent probity auditor (Baron Consulting Pty Ltd).
27. Refer to the attached confidential Evaluation Report (Attachment 1) for:
 - a. Submissions Received
 - b. Submission Pricing
 - c. Evaluation Panel
 - d. Clarifications
 - e. Evaluation Matrix
 - f. Evaluation Panel Recommendation and Commentary
 - g. Conformance / Compliance Assessment.
 - h. Contract Departures
 - i. Referee Checks
 - j. Financial Due Diligence
28. The Council-wide standardisation of bin lids presents Council with the opportunity to also install Radio Frequency Identification (RFID) tags on all bins and support future waste service improvements.
29. Undertaking the installation concurrently with the bin lid changeover will significantly reduce installation costs compared with doing so as a separate project and eliminate

the need for secondary visits to the bins. Additionally, ordering larger volumes of RFIDs will bring down the cost of the RFIDs.

30. The RFID tags installation is intended as part of a suite of actions to digitise and futureproof Council's waste services. Council's new food and green waste bins (14,500) have already been fitted with RFID tags. Having RFID tags fitted to Council's garbage and recycling bins will allow Council to:
 - a. Record when and where a bin is emptied
 - b. Allow Council to accurately account for bins at each property, ensuring that waste charges correctly reflect the type and number of bins serviced at the property
 - c. Identify overservicing properties (i.e., bins that are not being paid for)
 - d. Find lost or stolen bins
 - e. Correlate bin damage to bin age, enabling tracking of any trends in early failure of the bins.
 - f. Undertake desktop audits of bins at the property, eliminating the need for officers and drivers to monitor bins on the collection days
 - g. Monitor contamination and provide tailored waste education to residents
 - h. Identify waste service needs at the household level and support officers to have proactive conversations with residents about the best size of bins (e.g., continuous overflowing bins may indicate the residents may need a larger garbage bin or additional recycling bin)
31. The scope of this contract award report does not include activation of RFID tags or any use of related data for the above purposes. An additional report is being brought to Council outlining the phased implementation of RFID technology in Council's waste services.

Conclusion

32. Council issued a quote for the provision of services to supply and install new garbage and recycling bin lids to comply with Victorian Government bin standardization requirements, recycle all removed bin lids and install Radio Frequency Identification (RFID) tags on all bins
33. The contract is for an initial contract term of 12 months with a six-month extension option.
34. One submission was received via VendorPanel from SULO MGB Australia Pty Ltd. The submission was assessed by the Evaluation Panel as providing good value to Council. SULO MGB Australia Pty Ltd offered a significant volume-based discount, which saw rates on average 37% lower than those on the MAV panel. SULO MGB Australia Pty Ltd has also successfully delivered similar bin delivery and bin lid change over projects for several Australian councils, can deliver on Council's sustainability and circular economy objectives and is able to provide the requested services at a reasonable cost to Council.

35. The quote process was supported and endorsed by an independent probity auditor (Baron Consulting Pty Ltd).

Governance Compliance

Policy Implications

36. This procurement activity aligns with the following Council policies and strategies:
- a. *Community Vision 2040*
 - b. *Council Plan 2021-2025*
 - Action 2.4.4 - Support the development of a circular economy as part of a minimal waste future and the transition away from landfill.
 - Action 3.4.5 - Ensure Council meets its legislative, regulatory, governance and ethical obligations.
 - Action 3.4.6 - Modernise Council systems and technology to enable a future ready organisation.
 - c. *Sustainable Environment Strategy 2018-2023*
 - Action 2.2.1a - Maintain Council's existing garbage collection service and continue to explore opportunities to further enhance the service.
 - Action 2.2.2 - Maintain Council's existing recycling service and continue to explore opportunities to further enhance the service to improve yield and quality.
 - Action 2.4.2c - Continue to identify opportunities to purchase recycled materials to be used in Council operations, where suitable alternatives are available.
 - Action 2.5.1b - Support and participate in initiatives and opportunities for reduced packaging, resources recovery opportunities and improved litter management.
 - d. *Climate Emergency Action Plan 2021-2025*
 - Action 1.8 - Continue to develop and deliver community education and behaviour change initiatives to avoid sending waste to landfill, reduce contamination and maximise resource recovery.
 - e. *Towards a Circular Economy: Our Future Waste Strategy 2022-2025*
 - Action 1.3 - Upgrade kerbside bins to comply with Victorian standards by 2025.
 - Action 3.3- Drive smart city waste solutions
 - Action 5.1- Develop and delivery community engagement and behaviour change programs
37. This procurement will also assist Council to deliver on reforms outlined in the Victorian Government's RV Policy and will ensure that Council complies with the *Circular Economy (Waste Reduction and Recycling) Act 2021* (the Act) which legislates requirements for councils to introduce a four-stream household waste and recycling

system. It is expected that regulations to require standard bin colours across all Victorian Councils will shortly be introduced by the Victorian Government under the Act.

Financial and Resource Implications

38. The estimated total expenditure under this contract is identified in the attached confidential Evaluation Report.
39. Funding is available in capital budget X00110 - Waste Bin Lid Changeover which contains a total budget of \$4,200,000 (excl. GST) for FY 2022/23.
40. The project will be completed in the 2022/23 financial year
41. The cost of this contract is within the current budget allocation. See Attachment 1 for additional detail.
42. The quote evaluation panel commissioned a financial due diligence report from CreditorWatch. On the basis of the information obtained, SULO MGB Australia Pty Ltd has the financial capacity to undertake the contract in question.
43. Due to the significant volumes, SULO MGB Australia Pty Ltd offered Stonnington a discounted rate that was on average 37% lower than those on the MAV panel.

Conflicts of Interest Disclosure

44. 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

45. This procurement will also assist Council to deliver on reforms outlined in the Victorian Government's RV Policy and will ensure that Council complies with the *Circular Economy (Waste Reduction and Recycling) Act 2021* (the Act) which legislates requirements for councils to introduce a four-stream household waste and recycling system. It is expected that regulations to require standard bin colours across all Victorian Councils will shortly be introduced by the Victorian Government under the Act.
46. Council utilised the Municipal Association of Victoria (MAV) Panel Contract NPN1.11-3 (Mobile Garbage Bins) for this procurement. The scope of this contract covers all components of the requested service including plastic mobile garbage bins and spare parts, RFID technology and accessories, lid replacement, bin pullback and recycling.

Environmental Implications

47. Council has ensured that the recycling of all old bin lids (and bin bodies where necessary) is included in the scope of this quote. SULO MGB Australia Pty Ltd is able to meet this requirement at no additional cost to Council as they produce new mobile garbage bins and lids using recycled content including material obtained from change over projects such as this one.
48. Council has sought the maximum recycled content levels possible for the lids and bins included in this quote.
49. The shift to standard colours enabled by this contract is expected to result in less confusion around material acceptance for each waste stream and will facilitate

increased consistency in Council's waste education efforts with other Victorian councils. This is predicted to lead to decreased contamination and increased resource recovery, which will enable Council to send less material to Victoria's depleting landfills and contribute more to a local circular economy.

Community Consultation

50. Because the shift to standard colours is mandated and required by Victorian Government policy, there was no requirement for community consultation.
51. The community will be informed of the rationale for the changeover, and the requirement for all Local Governments across Victoria to align with these new statewide waste bin colours.

Stakeholder Consultation

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

Human Rights Consideration

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

Attachments

1. CONFIDENTIAL REDACTED - Councillor Procurement Briefing Paper – Confidential Attachment - Bin Lid Changeover Project [8.10.1 - 5 pages]
2. CONFIDENTIAL REDACTED - Multi Party Evaluation Report - Bin Lid Changeover Project [8.10.2 - 7 pages]
3. CONFIDENTIAL REDACTED - Probity Report - Bin Lid Changeover Project [8.10.3 - 5 pages]

This document is confidential information under Section 66 (2) (a) of the Local Government Act 2020. The matter is deemed to be confidential under Section 3 (1) (g) private commercial information, being information provided by a business, commercial or financial undertaking that -i) relates to trade secrets; or ii) if released, would reasonably expose the business, commercial or financial undertaking to disadvantage.

8.11 Smart City Strategy

Chief Customer & Transformation Officer: Daniela Mazzone (Acting)

Draft report for discussion purposes for Councillor Briefing.

Linkage to Council Plan

Direction 3: A people-centred and future ready city

3.2 Enhanced customer experience

Purpose of Report

To update Council on the *Smart City Strategic Framework and elements of the Smart City Implementation plan*.

Officer Recommendation

That Council:

- 1. NOTE the Smart City Strategic Framework documents, refer Attachments 1-3.**

Executive Summary

1. The City of Stonnington is exploring and embracing opportunities of smart city technology and innovation to support our community vision of being a people-centred and future ready city.
2. A smart city applies digital technology, data and innovative practices to improve liveability, sustainability, collaboration and economic opportunities.
3. Smart city initiatives are changing community outcomes across Australia, enhancing local service delivery, citizen wellbeing, infrastructure effectiveness, and economic development.
4. The Smart City Strategic Framework is the inaugural Smart City strategic document for the City of Stonnington. The Smart City Strategic Framework was developed in consultation with internal and external stakeholders through various engagement activities.
5. The strategy aims to enable a 'smarter' Stonnington around three key themes:
 - Social outcomes
 - Economic outcomes
 - Environmental outcomes
6. An extensive staff and community engagement program was conducted over 9 months to inform the strategic framework. The intent of this engagement was twofold:
 - i. to inform and educate on the Smart City concept
 - ii. to test the Smart City Strategic Framework with the community, staff, industry and education leaders, to gather feedback, confirm that proposed actions are supported by the community and identify priorities and actions for Council to consider.

7. The strategic framework (short form and long form) and associated implementation documents outlines Smart Cities initiatives, opportunities and approaches to engage the community, and approaches to delivery.
8. The shorter form (Attachment 1) version provides an overview of the approach Stonnington is taking with digital and sensor technologies to enable its Smart City goals of sustainability, digital inclusion and efficient service delivery. This version is designed to help inform and promote Smart City initiatives within our community.
9. The longer form strategy (Attachment 2) outlines the strategic pillars to deliver on the Smart City goals and is accompanied by an Implementation Plan which provides detail to what, when and how we seek to deliver Smart City initiatives. This version is designed to guide decision making and to engage external partners.

Background

10. This is the first strategic document that Council has developed to guide Smart Cities. The Council has already begun the Smart City journey through the delivery of targeted individual foundation projects. This Strategic Framework is designed to build practice, principles and engagement to inform future strategies and investment.
11. The draft strategy is developed following two stages of internal and external stakeholder engagement, public surveys and benchmarking to national and international Cities. The Smart City Strategy engagement work facilitated approximately 18 workshops over 2 weeks in November 2021 and February 2022 for dedicated groups ranging from Council staff, the Executive Team, community groups, industry service providers, Councillors, the education sector, external stakeholders and members of the public. This engagement involved over 60 external stakeholders and community members and 100 internal staff and stakeholders.

Key Issues and Discussion

12. The strategy is aiming to enable a 'smarter' Stonnington around three key themes:
 - a. Social outcomes
 - b. Economic outcomes
 - c. Environmental outcomes
13. The engagement work Council facilitated has identified six (6) smart city strategic pillars based on best-practice research and consultation with key stakeholders:
 - a. Collaborative communication & partnerships
 - b. Connected communities & identity
 - c. Enhanced Council services & customer experiences
 - d. Vibrant places & character
 - e. Thriving economic innovation & businesses
 - f. Visionary people & leadership
14. The Smart City Strategic Framework is an excellent opportunity to engage community on identifying priority problems and seek solutions through partnerships.
15. The Implementation plan including engagement approach, has been developed to support the delivery of the framework. (Attachment 3)
16. Key Smart City initiatives currently being delivered include:
 - a. IOT (Internet of Things) sensor networks in key activity precincts to monitor movement (traffic, pedestrian, bikes)
 - b. Smart Parking trials to monitor car parking usage

- c. Smart Lighting trials to promote safety and efficient and sustainable use of resources
- d. Increase access to public WIFI to promote digital inclusion
- e. Delivery of the MyStonnington app to promote access to digital services

Governance Compliance

Policy Implications

17. The draft Smart City Strategy aligns closely with the following Council Plans and Strategies:
 - Community Vision 2040
 - Place-Led Economic Development Strategy (draft)
 - Sustainable Environment Strategy 2018-2023
 - Climate Emergency Action Plan 2021-2025
 - Towards a circular economy: Our future waste strategy 2022–2025 Waste Strategy
 - Integrated Transport Strategy
 - Public Health & Wellbeing Strategy
 - Asset Plan 2022

Financial and Resource Implications

18. Smart City initiatives are being delivered under the Digital Transformation Program – Data Enablement and Smart Cities Stream (FY 22/23 budget totalling \$2,789,192) delivering a range of projects to drive Social, Economic and Environmental outcomes using data and technology. The program is being delivered to forecast.
19. The Smart City Strategic Framework outlines an approach to maturing a Smart City capability. Smart City initiatives will be driven by applying a smart city perspective to already funded initiatives, such as increasing our sensor network in key activity sensors to monitor and report on movement data (traffic, pedestrian).
20. The strategic framework is designed to build practice, principles and engagement to inform future strategies, guide decisions and investment.

Conflicts of Interest Disclosure

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

Legal / Risk Implications

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

Environmental Implications

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

Community Consultation

24. There was extensive community consultation performed with several groups in dedicated workshops. The Smart City Strategy engagement work facilitated:

- Staff and public online workshops over 2 weeks in November 2021
- Survey available between October and end December 2021
- Contributing towards the PLED community surveys
- Dedicated online workshops for focus groups over 2 weeks in February 2022 as per table below

Engagement method:	Smart City Framework online sessions		
Audience	No. of Participants	Audience	No. of Participants
Councillors	5	Key Stakeholders	20
Executive	5	Local Businesses & Retailers	6
Key Council staff	Stage 2: 21 FocusGr: 21	Contractors & Suppliers	26
Council Staff	Stage1: 50 Stage2: 79	Students	0
General community	8	Government housing cohorts	7

Purpose	Engagement aimed to not only inform Council of the needs and ambitions of stakeholders, but also ensure that the community has a strong understanding of Council's smart city vision. This process encourages knowledge sharing from the beginning of the project and demonstrates our ongoing commitment to deliver a collaborative Strategy with Stonnington citizens.
IAP2 Goal:	Target - Staff – 200 participants in workshops and surveys Target - Community – 250 participants for workshops and surveys
Exhibition period	Six workshops between 15. November and 3. December Nine workshops between 21. February to 11. March 2022 Survey available from October to end December 2021
Method:	<ul style="list-style-type: none"> - Use of social media and standard Council communication channels to promote the workshops to wider audience. - Obtaining contact details of various community and non-for-profit groups from internal relationship officers - Reaching out to various external working groups and industry leaders to promote this work and interest in participation in the workshops. - Delivery of online workshops MS Teams and Zoom

<p>Reach:</p>	<p>A total of 238 community members, staff and key stakeholders were engaged through this process, with a further 18,562 people reached via website hits and social media impressions.</p> <p>Delos Delta engaged with 4 Stonnington Councillors and all 5 Executives via separate roundtable workshop discussions.</p> <p>Workshops and surveys reached over 150 Council staff.</p> <p>Workshops and surveys reached over 80 members of the Stonnington community.</p>
<p>Summary of feedback:</p>	<p>Councillors highlighted leveraging data and smart city technology to enable efficiency and efficacy in operations and assets in Stonnington.</p> <p>Councillors highlighted the importance of the local community in the transition to a Smart City.</p> <p>The workshops and surveys indicated that staff were interested in overcoming challenges and improving strengths Stonnington faces with data, digital technology, and innovation, such as leveraging the strong local economy and local community knowledge.</p> <p>Staff highlighted concerns of low internal capacity and capability, red tape, and the need to breakdown silos, however indicated strong buy-in to developing a Smart City Framework for Stonnington.</p> <p>The community were interested in the ability to leverage smart technology, digital innovation, and data to overcome challenges and promote sustainability within Stonnington.</p> <p>The community had a low smart city maturity, however indicated openness and willingness to long-term, sustainable, and community-centric transitioning of Stonnington to a smart city.</p>

Human Rights Consideration

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

Attachments

1. City of Stonnington- Framework Summary brochure [8.11.1 - 4 pages]
2. City of Stonnington- Smart City Strategic Framework [8.11.2 - 30 pages]
3. Implementation Plan [8.11.3 - 36 pages]

8.12 Audit and Risk Committee Charter

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

To present to the Council the Audit and Risk Committee Charter for adoption.

Officer Recommendation

That the Council:

- 1. ADOPT the Audit and Risk Committee Charter as annexed to the minutes.***

Executive Summary

- The Audit and Risk Committee at its meeting on 2 June 2022 initiated a review of the Audit and Risk Committee Charter (the Charter) to coincide with the two-year anniversary of the adoption of the initial charter on 1 June 2020.
- The Charter presented to the Audit and Risk Committee for the review utilised the best practice model template developed by the State Government for Local Government Audit and Risk Committees.
- The Charter was signed off by the Audit and Risk Committee at its meeting on 5 October 2022 with a recommendation to the Council that it be adopted.

Background

- Division 8 of the Local Government Act 2020 (the Act) sets out the requirements for a Audit and Risk Committee. Specifically, section 53 of the Act requires Council to establish an Audit and Risk Committee and section 54 requires Council to prepare and approve an Audit and Risk Committee Charter.
- The Audit and Risk Committee has reviewed the Charter. The Charter is now presented to the Council for consideration.

Key Issues and Discussion

6. In summary, the key elements of the Act requirements with respect to an Audit and Risk Committee Charter are:
7. Name
 - The entity must be called the Audit and Risk Committee.
8. Composition
 - The Audit and Risk Committee must consist of a majority of members who are not councillors.
 - Chairperson of the Audit and Risk Committee must not be a councillor.
9. Charter and responsibilities
 - Council must prepare and approve an Audit and Risk Committee Charter.
 - the Audit and Risk Committee Charter must specify the functions and responsibilities of the Audit and Risk Committee including the following:
 - monitor the compliance of Council policies and procedures with the overarching governance principles and the Act and the regulations and any Ministerial directions.
 - monitor Council financial and performance reporting.
 - monitor and provide advice on risk management and fraud prevention systems and controls.
 - oversee internal and external audit functions.
10. Assessment and reporting
 - the Audit and Risk Committee must undertake an annual assessment of its performance against the Charter and provide a copy to the Chief Executive Officer for tabling at the next Council meeting.
 - the Audit and Risk Committee must prepare a biannual audit and risk report that describes the activities of the Audit and Risk Committee and includes its findings and recommendations and provide a copy to the Chief Executive Officer for tabling at the next Council meeting.
11. The Charter incorporates these Act requirements.
12. The changes to the Charter can be distinguished by the use of the track changes tool at **Attachment 1**. A clean copy of the Charter is at **Attachment 2**.
13. The Charter was reviewed by the Audit and Risk Committee during the meeting held on 5 October 2022 with a recommendation to the Council that it be adopted.

Governance Compliance

Policy Implications

14. Council officers recommend the Audit and Risk Committee Charter for adoption.

Financial and Resource Implications

15. There are no financial and resource implications arising from the recommendations contained in this report. The sitting fees payable to independent members are provided for within the Legal and Governance Department's operational budget.

Conflicts of Interest Disclosure

16. The Council officers preparing this report and the Audit and Risk Committee Charter have no general or material conflict of interest to declare.

Legal / Risk Implications

17. Section 54 (1) of the Act 2020 provides that a Council must prepare and approve an Audit and Risk Committee Charter. The Audit and Risk Committee has determined that the Committee will undertake a review of the Charter on a two year cycle.

Environmental Implications

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

Community Consultation

19. There was no requirement for community consultation.
20. The Audit and Risk Committee has reviewed the Charter.

Human Rights Consideration

21. The list of prescribed human rights contained in the Victorian Charter of Human Rights and Responsibilities Act 2006 has been reviewed. It is considered that the proposed actions contained in this report present no breaches of, or infringements upon, those prescribed rights.

Attachments

1. Audit and Risk Committee Charter Track Changes Copy for Council [8.12.1 - 12 pages]
2. Audit Risk Committee Charter 2022 Clean Copy 24 October 2022 [8.12.2 - 10 pages]

8.13 Instrument of Delegation from Council to the Chief Executive Officer (s5)

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 for the Council to review the Instrument of Delegation from the Council to the Chief Executive Officer.

Officer Recommendation

In the exercise of the power conferred by section 11(1)(b) of the Local Government Act 2020 (the Act), Stonnington City Council (Council) resolve that:

- a. There be delegated to the person holding the position, or acting in or performing the duties, of Chief Executive Officer the powers, duties and functions set out in the Instrument of Delegation to the Chief Executive Officer (annexed to the minutes as Attachment 2), subject to the conditions and limitations specified in that Instrument.***
- b. The instrument comes into force immediately the common seal of the Council is affixed to the instrument***
- c. On the coming into force of the instrument all previous delegations to the Chief Executive Officer are revoked.***
- d. The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of the Council that it may from time to time adopt.***

Executive Summary

1. Council officers are proposing the current Instrument of Delegation from Council from the Council to the Chief Executive Officer with respect to entering into a contract and expenditure be increased from \$1M to \$5M. Other minor changes, purely administrative in nature, are also proposed to ensure the instrument remains current.
2. A change to the Instrument is required to enable the Council to respond to market trends and ensure the organisation is agile in the management of tenders. Some of

the key drivers currently being experienced include but are not limited to the increasing tender prices for some tenders in the order of 20% and contractors only holding pricing for 30 Days from tender submission.

3. A number of contracts (i.e. Prahran Skate Park, Central Park Playground) will be closing towards the end of November 2022 and are unlikely to be presented to the Council in December 2022 for determination. This will mean they cannot be considered by the Council until February 2023 delaying the capital delivery program.

Background

4. Council is empowered by section 11 of the Local Government Act 2020 (the Act) to delegate its powers, duties or functions with some strategic exemptions such as the setting of rates, borrowing funds, adopting a planning scheme amendment and adopting a budget.
5. Delegations are necessary to facilitate effective functioning of councils as they enable day-to-day decisions to be made in relation to routine administrative and operational matters.
6. In granting the delegations to the Chief Executive Officer, the Council is not granting unfettered power or relinquishing its own powers. The Chief Executive Officer must comply with the conditions of delegation as well as any policies of the Council and any legislative framework. Council can still exercise any delegated power, duty or functions itself by resolution of the Council. The attached Instrument of Delegation from the Council to the Chief Executive Officer (see **Attachment 2**) is recommended for the effective and efficient operation of Council's activities, as well as to enable routine and administrative tasks to be carried out with consistency and certainty.

Key Issues and Discussion

7. Council officers are proposing the Instrument of Delegation from the Council to the Chief Executive Officer with respect to entering into a contract and expenditure be increased from \$1M to \$5M. A copy of the current Instrument of Delegation from the Council to the Chief Executive Officer is at **Attachment 1**. A copy of the revised Instrument of Delegation from the Council to the Chief Executive Officer incorporating the proposed changes is at **Attachment 2**.
8. Council officers are of the view this change will enable the Council to respond to some of the market trends and ensure the organisation is agile in the management of tenders. Some of the key drivers currently being experienced include but are not limited to the increasing tender prices for some tenders in the order of 20% and contractors only holding pricing for 30 Days from tender submission.
9. The current requirement for the Council to determine any contract above \$1M, puts the organisation in a less than favourable position needing to readjust pricing following tender submissions for escalation. Increasing the delegation to the Chief Executive Officer would enable the organisation to be more agile in tender evaluation and contract management.
- 10.
- 11.
12. A number of contracts (i.e. Prahran Skate Park, Central Park Playground) will be closing towards the end of November 2022 and are unlikely to be presented to Council

in December 2022 for determination. This will mean they cannot be considered by the Council until February 2023 delaying the capital delivery program.

13. Other minor changes, purely administrative in nature (i.e. change of dates, and titles) are also incorporated into the revised instrument to ensure the instrument remains current.

Governance Compliance

Policy Implications

14. Instruments of Delegation represent the formal delegation of powers by the Council under the Act and enable the business of Council to be carried out efficiently and in line with Council approved policies.

Financial and Resource Implications

15. Overall the costs to prepare and adopt the revised Instrument of Delegation from Council to the Chief Executive Officer are minimal and will be met within the current Legal & Governance departmental budget.

Conflicts of Interest Disclosure

16. 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

17. If the Instrument of Delegation from the Council to the Chief Executive Officer with respect to entering into a contract and expenditure is not increased from \$1M to \$5M there is likely to be delay in the capital delivery program.

Community Consultation

18. There was no requirement for community consultation.
19. Council subscribes to the Maddocks Authorisations and Delegations Service, which provides advice regarding legislative amendments and template instruments.
20. Consultation with the Executive Leadership Team has taken place in the preparation of the revised Instrument of Delegation from the Council to the Chief Executive Officer.

Human Rights Consideration

21. 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 proposed changes to the Instrument of Delegation to the Chief Executive Officer is not considered to infringe unreasonably upon any prescribed human right, freedom or responsibility contained in the Charter.

Attachments

1. S 5_ Instrument of Delegation from Council to Chief Executive Officer 6 July 2020 [8.13.1 - 4 pages]
2. Instrument of Delegation from Council to Chief Executive Officer 24 October 2022 (1) [8.13.2 - 4 pages]

9 Correspondence

10 Tabling of Petitions and Joint Letters

11 Notices of Motion

11.1 Notice of Motion No 7/2022: Crs Sehr , Morgan and Klisaris

Notice of Motion 07/2022:

Councillors Sehr, Morgan and Klisaris

We hereby give notice of our intention to move the following motion at the Council meeting to be held at 7.00pm on 24 October 2022 :

Notwithstanding the Council resolution of 26 September 2022, the Council **RESOLVE** to conduct the remaining 2022 fixed Council meetings and any unscheduled / Special meetings:

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.

12 Reports by Councillors

12.1 Record of Councillor Briefing Session held on 17 October 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 17 October 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 (17 October 2022) [12.1.1 - 3 pages]

13 Questions to Council Officers

14 Urgent Business

15 General Business

16 Confidential Business