



# Council Meeting Agenda

**Monday 30 May 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 67 meetings of the Council will be audio recorded and made available for public access, with the exception of matters identified as confidential items in the agenda.

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

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

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

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

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

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

### **Behavior at meetings**

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

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

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

Your cooperation would be appreciated.

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

## Attendees

<b>Chair</b>	<b>Cr Jami Klisaris (Mayor)</b>
<b>Councillors</b>	<b>Cr Melina Sehr (Deputy Mayor)</b> <b>Cr Nicki Batagol</b> <b>Cr Marcia Griffin</b> <b>Cr Kate Hely</b> <b>Cr Matthew Koce</b> <b>Cr Alexander Lew</b> <b>Cr Polly Morgan</b> <b>Cr Mike Scott</b>
<b>In attendance</b>	<b>Jacqui Weatherill, Chief Executive Officer</b> <b>Annaliese Battista, Director Planning &amp; Place</b> <b>James Rouse, Acting Director Community &amp; Wellbeing</b> <b>Rick Kwasek, Director Environment &amp; Infrastructure</b> <b>Tracey Limpens, Acting Director Organisation Capability</b>

### Statement of Reconciliation

The Chair will recite the following Statement of Reconciliation.

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

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

### Statement of Commitment

The Chair will recite the following Statement of Commitment.

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

# Council Meeting Agenda Monday 30 May 2022 Order of Business

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

#### 5.1 Minutes of the Council Meeting held on 16 May 2022

##### Officer Recommendation

*That the Minutes of the Meeting of the Stonnington City Council held on 16 May 2022 be confirmed as an accurate record of the proceedings.*

- 6 Disclosure of Conflicts of Interest
- 7 Questions From the Community
- 8 Business

## 8.1 Planning Application 0987/21 - 49-51 & 55 Claremont Street, South Yarra

**Planning Appeals Coordinator: Edward Wilkinson**  
**Director Planning & Place: Annaliese Battista**

### Purpose of Report

For the Council to consider a planning application for use and development of a mixed-use building in an Activity Centre Zone, Land Subject to Inundation Overlay and Environmental Audit Overlay; use of the land for dwellings, office and food and drink/retail premises (food and drink/retail use is as of right) and reduction in the standard car parking requirement at 49-51 & 55 Claremont Street, South Yarra.

### Abstract

#### Proposal

This application proposes a 20-storey mixed use development comprising of ground level food and drink/retail premises, offices at first and second levels, 62 residential dwellings at Levels 3 to 19 and a rooftop communal terrace.

Car parking will be provided in a 6-level basement comprising 121 car parking spaces. Eight car spaces are allocated for office use, 3 spaces for the retail/food and drink premises use and 110 spaces allocated to the dwellings.

Vehicular access to the site is provided via the abutting laneway to the west. The rooftop will comprise of a communal terrace, services and solar panels.

The proposal includes a monetary contribution of \$1,666,845 towards streetscape upgrade works proposed by Council along the east-west and north-south sections of Claremont Street. The proposal also includes 70sqm of site area for the purposes of laneway widening to provide 2-way access in the western laneway.

### Officer Recommendation Summary

That the 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 land uses will contribute positively to the local activity centre context and diversify the local land use mix.
- The proposed building height is supported by the context of the site. It presents acceptable outcomes for the streetscape and neighbouring amenity and is supported by a significant community benefit in the form of a contribution towards local streetscape upgrades and laneway widening.
- The building is well designed and will positively influence the local environment.
- The building has been sensitively designed so as to not unreasonably impact upon the amenity experienced within any existing residential interface.
- Matters regarding car parking and traffic are adequately resolved.

### Issues

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

- Building height and massing (refer to Building Massing and Design assessment);
- Amenity impacts on the adjoining properties (refer to Amenity Impacts);
- Internal design (refer to On-site Amenity assessment); and
- Car parking and traffic matters (refer to Car Parking & Traffic assessment).

### Officer's response

The permit applicant proposes to redevelop three contiguous parcels within the Forrest Hill Precinct of the Chapel Street Activity Centre, with a new 20-storey mixed use building.

The maximum height of the building (at 75.49 metres to the top of the columns) exceeds the discretionary building height set down in the Activity Centre Zone (ACZ) of 50 metres, although is considered to achieve the Height and Massing Requirement of ACZ in that it demonstrates a significant community benefit, and it meets the broader objectives, requirements and guidelines of that policy.



The building is well designed and is supported by Council’s Urban Designer. It sensitively manages its relationship to existing abutting residential properties in a manner that will not unreasonably compromise their amenity.

The application seeks a car parking reduction. This is supported. Forrest Hill has excellent access to public transport and an already heavily utilised traffic network. As confirmed by Council’s Transport and Parking Unit, the access arrangements and anticipated increase in traffic are considered reasonable and will not result in unacceptable traffic or parking impacts along the laneway and the surrounding local road network.

### Executive Summary

Applicant:	Kellie Burns UPco- Urban Planning Collective
Ward:	North
Zone:	Activity Centre Zone – Schedule 1
Overlay:	Environmental Audit Overlay Land Subject to Inundation Overlay
Neighbourhood Precinct:	Forrest Hill
Date Lodged:	05 November 2021
Statutory Days: (as at Council Meeting date)	187
Trigger for Referral to Council:	More than seven objectors and development of four or more storeys
Number of Objections:	24
Consultative Meeting:	23 March 2022
Officer Recommendation	Notice of Decision to Grant a Permit

### Background

#### The Proposal

The plans that form part of the basis of Council's consideration were prepared by SJB and are known as Drawing No’s SD01\_01, SD01-02, SD02-00 to SD02-019, SD05\_01 to SD05\_03, SD06\_01 to SD06\_03, SD14\_01 to SD14\_11, SD30\_01 to SD30\_07, all revision 2 dated 24/11/21, and are Council date stamped 25 November 2021.

Supplementary documentation provided with the application includes:

- Urban Context Report prepared by UPco, Council date stamped 25 November 2021;
- Traffic Engineering Assessment prepared by Traffix Group; Council date stamped 5 November 2021 and 31 March 2021;
- Waste Management Plan prepared by Traffix Group, Council date stamped 5 November 2021;
- Acoustic Report prepared by Acoustic Logic, Council date stamped 5 November 2021;

- Environmental Wind Assessment prepared by Mel Consultants; Council date stamped 18 January 2022;
- Sustainability Management Plan prepared by Ark Resources Council date stamped 10 November 2021.

Key features of the proposal are:

- Construction of a 20-storey mixed-use development comprising of ground level retail/food and drink floor space, offices at first and second levels and 62 residential dwellings at Levels 3-19.
- The building reaches a height of 71.6 metres (or 74.292 AHD) to the top of the roof deck. However, vertical columns (referred to as the 'crown' of the building) extend above the roof deck, resulting in a maximum building height of 75.49 metres to the top of the vertical columns (77.995 AHD). This height is inclusive of the roof services.
- The building rises to 20 levels directly from Claremont Street north, meaning the building is not composed in a podium/tower arrangement. Rather the façade is broken up into three horizontal segments, by way of materials and proportional differences in the framing. Along the eastern elevation, the podium façade design utilises a similar grid configuration.
- The ground floor level comprises of 266 square metres of commercial tenancies (three tenancies) fronting Claremont Street north and Claremont Street east for the purpose of food and drink/retail space. The ground floor level also comprises the basement ramp, loading bay and building services enclosed behind the lobby areas.
- The ground floor level is elevated above the footpaths due to the flood prone nature of the land and accessible to pedestrians from a series of external steps as well as access lifts from Claremont Street north and Claremont Street east.
- The ground level also accommodates a resident bin enclosure. A commercial bin enclosure is located in Basement Level 1.
- At the first and second levels are office tenancies (totalling 1350sqm) which include 'end of trip' facilities. There is also a central space housing building services.
- At Levels 3-19 are 62 residential dwellings comprising:
  - 4 x 1-bedroom apartments
  - 15 x 2-bedroom apartments
  - 31 x 3-bedroom apartments
  - 9 x 4-bedroom apartments
  - 3 x 5-bedroom apartments

Each apartment is provided with an outdoor terrace area.

- The rooftop will comprise of a north-facing communal terrace which also comprises of plant room services and solar panels.
- Vehicular and loading access to the site is provided via the abutting laneway to the west of the site. The proposal includes the provision of a building setback along the western boundary at ground floor to enable the widening of the laneway from 3 metres to 6.05 metres.

- Car parking will be provided in a 6-level basement comprising of 121 car parking spaces, with 8 spaces allocated for the office use, 3 spaces for the retail/food and drink premises use and 110 spaces allocated to the dwellings.
- 90 bicycle parking spaces are proposed across the basement levels comprising:
  - 63 resident spaces
  - 18 commercial staff spaces
  - 18 visitor spaces
- 5 motorcycle parking spaces are located within Basement Levels 5 and 6.
- The application proposes a monetary contribution of \$1,653,165 for the purpose of funding the streetscape upgrade works proposed by Council along the east-west and north-south sections of Claremont Street in front of the subject site.
- The building utilises a material palette comprising light-coloured, face brickwork, concrete, charcoal metal and bronze powdercoat louvres and screening, clear glazing and obscure glass spandrel glazing. The building's 'podium and tower' are delineated by a change in material from podium level brickwork to concrete for the tower façade.

Discussion plans SD02\_05 (Basement 1 Floor Plan) Council date stamped 31 March 2022 and SD02\_10 (Level 3 Floor Plan) and SD02\_10 (Level 4-6 Floor Plan) Council date stamped 2 February 2022 were submitted to Council to address concerns raised by Council's ESD and Transport & Parking Departments. Changes to the plans are as follows:

- Addition of 9 bicycle spaces within Basement Level 1 allocated to commercial staff.
- Alternative layouts for southern apartments on levels 3-6 to improve daylight provision to these apartments.

These plans have not been formally substituted and the above changes will be required via conditions of any permit granted.

### Site and Surrounds

The site is located on the north-west corner of Claremont Street north and Claremont Street east in South Yarra, approximately 43 metres east of Yarra Street and adjacent to a large area of open space associated with Melbourne High School immediately to the north. The site has the following significant characteristics:

- The subject site is made up of three contiguous parcels, known as 49 Claremont Street, 51 Claremont Street and 55 Claremont Street, South Yarra.
- The site has a combined frontage to Claremont Street north of 40.1 metres, a combined frontage to Claremont Street east of 24.3 metres and a total site area of approximately 977sqm.
- To the west, the site abuts an unnamed laneway which extends south off Claremont Street for approximately 100 metres.
- The site at 55 Claremont Street is currently paved and used for car parking, which is accessed from a single width crossover from Claremont Street. Cyclone wire fencing exists along the west and north boundaries. The site was formerly developed with a two-storey commercial building.

- The sites at 49 and 51 Claremont Street currently contain two double-storey brick buildings, generally constructed to the boundaries. These buildings have previously operated as commercial and office uses.
- 49 Claremont Street comprises undercroft car parking on the ground level accessed by a triple-width crossover.
- 51 Claremont Street is a corner block, also with a triple width crossover. There is an existing splay to the north-east corner of the site which is used by the public as a footpath.

The site is located within a high-density part of the Chapel Street Activity Centre, known as Forrest Hill. Forrest Hill has been largely redeveloped over the last two decades and includes numerous tower-style developments most of which are residential. Broadly, existing development in Claremont Street ranges between 40-60 metres in height, while taller forms (mostly 70-80 metres) are located along Yarra Street. West of Yarra Street is the South Yarra Railway Station. The railway line marks the edge of the Activity Centre.

The subject site is one of the few remaining sites in the Forrest Hill Precinct yet to be redeveloped.

Land immediately adjoining the site is described below:

- North: On the opposite side of Claremont Street (north of the site) is land owned and used in association with Melbourne High School. The immediate interface includes a car parking and access area, sporting pavilions and an oval.
- South: To the south, the site abuts 47 Claremont Street. This property is developed with a 15-storey building plus communal roof deck. The maximum height of the building is 51.38 metres. The lower six levels of the building are built hard up against the laneway, with upper levels recessed from the laneway by at least 3 metres. The building is largely constructed with a solid wall to the northern common boundary with the subject site with the exception of a 1 metre deep light court. Inside the building there are no habitable room windows facing the site. There are west facing balconies above the podium, however these spaces have solid walls along their northern edges. A roof top deck is located on the western half of the building's roof space. It includes a covered BBQ area, landscaping and open recreation areas. Car parking is accessed from the western laneway via a car lift.
- East: At the far north-eastern end of Claremont Street is No. 56-58 Claremont Street, which is occupied by a four-storey office building. Air rights above the existing building have been negotiated to allow use of the roof as a common terrace for the adjoining development at 50-54 Claremont Street.
- No. 50-54 Claremont Street has been developed with a 21-storey multi-storey apartment building. The maximum height of the building is 63.5 metres. Level 5 of the building contains a common space for residents, which includes a north facing terrace and swimming pool. The lower 6 levels of this building comprise above ground car parking.
- West: West of the site, across the laneway, there are two sites: 18 Yarra Street and 19 Yarra Street.

- 18 Yarra Street is to the south of No. 19 and is developed with a building of 26 levels plus a roof deck (the building is approximately 78 metres tall to the parapet, not including the roof top plant enclosure/roof top structures). The building is used for dwellings. At the rear (east), the building is setback 3.25 metres from the laneway, above a five-level podium. There are some habitable room windows orientated towards the east, although the primary aspect for all dwellings within this building is to the north. This layout has been achieved as a consequence of the developer of No. 18 purchasing the air rights above No. 19 Yarra Street.
- 19 Yarra Street is developed with a three-storey apartment building and the sale of the air rights above prevent development above the existing building height. The existing building is built hard up against the laneway separating it from the subject site and it has a series of east facing windows.
- Other developments of note include:
  - 14-16 Yarra Street & 35-41 Claremont Street, approved via a mediated outcome at VCAT on 20 July 2021 (Planning Permit 479/20), which is located to the south-west of the site. This development combines two of the few remaining undeveloped sites in this area of Forrest Hill to create a large site between Yarra Street and Claremont Street. The development comprises two towers, one facing Yarra Street and one facing Claremont Street. The Yarra Street tower is proposed as 30 storeys (99.25 metres) and the Claremont Street tower is 21 storeys (70.6 metres). The development also includes a privately owned public pedestrian link at ground level between Yarra Street and Claremont Street. Vehicle access and egress is via Yarra Street.
  - 17 Yarra Street, approved via a mediated outcome at VCAT on 20 August 2019 (Planning Permit 134/18), which is located to the south-west of the site. The development comprises of a mixed-use tower, with a maximum building height of 76.4 metres. A total of 80 car spaces are located within three basement levels, with access from Yarra Street and egress from the rear laneway.

### Previous Planning Applications

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

- On 17 September 2015, Council issued Planning Permit 1087/14, which allowed for a multi-dwelling development at 55 Claremont Street (western portion of the subject site). The approved building had a height of 50m to the parapet. This permit has since expired.
- On 26 March 2021, Planning Permit 248/20 was granted at the direction of VCAT. This permit allows the redevelopment of 49 and 51 Claremont Street (eastern portion of the subject site) with an 18 level (plus roof garden) building containing office floor space (and a food and drink premises at ground floor level). The approved building has a maximum height of 63.77 metres (RL66.12) plus an additional 4.5 metres for plant and equipment. At the ground floor, the car park entry / exit is from Claremont Street north. As part of this development, the permit applicant agreed to fund streetscape improvements in Claremont Street in the order of \$835,000, as a means of

demonstrating a significant community benefit deriving from the proposal. This permit remains valid.

- On 14 September 2021, Council issued Planning Permit Application 889/20, which allows the construction of a 19-storey office building, ground level food and drink premise and associated on-site podium car parking for 18 vehicles, at 55 Claremont Street (western portion of the subject site). The proposed building has a height of approximately 68.15 metres to the parapet (70.520 AHD), plus an additional 2.7m to the roof services (74.220 AHD). As part of this development, the permit applicant agreed to fund streetscape improvements in Claremont Street in the order of \$818,165, as a means of demonstrating a significant community benefit deriving from the proposal. This permit remains valid.

### The Title

The subject site comprises of three parcels of land, registered on Title as:

- 55 Claremont Street: Lots 1 & 2 on Title Plan 218686J (Volume 05224 Folio 641). No covenants or easements affect the land.
- 49 & 51 Claremont Street: Lots 1 and 2 on Plan of Subdivision 030094 (Volume 08063 Folio 029 and Volume 08063 Folio 028). No covenants affect the land. The lots share a party wall.

### Planning Controls

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

#### Zone

#### Clause 37.08 – Activity Centre Zone – Schedule 1 (Chapel Street Activity Centre)

Pursuant to Clause 37.08-2, land uses are detailed in Schedule 1 to the ACZ. In this case, the proposed use of the land for a food and drink premises/retail premises does not require a planning permit. However, as the ground floor frontage to access the offices and dwellings exceeds 2 metres in width, a permit is required to use the land for office and dwellings.

Pursuant to Clause 37.08-5, a permit is required for construction of buildings and works.

Schedule 1 to the zone includes requirements relating to various aspects of design and development including height, setbacks, materials, access, landscaping, public realm, etc.

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

The relevant design and development requirements in this case are listed below.

- The site has a preferred maximum height of 50 metres as per the Forrest Hill Built Form Requirements. This height applies to all properties with an address to Claremont Street. Properties facing Yarra Street have a preferred maximum height of 76 metres.
- The site has a preferred maximum street wall height of 12 metres to Claremont Street north. No setback above the street wall is specified.
- The site has a preferred maximum street wall height of 12 metres to Claremont Street east and a preferred 3 metre setback above the street wall.

- The ACZ1 includes the following requirement at Clause 4.4:  
The preferred maximum building height may be exceeded in some circumstances if:
  - It can be demonstrated that a significant community benefit can be achieved; and;
  - It continues to meet the objectives, requirements and guidelines in relation to visual impact and overshadowing with increased upper-level setbacks.
- Interface setback requirements are as follows:
  - A 4.5 metre building separation from side boundaries above the podium up to 27 metres where there are adjacent lots with existing or proposed habitable room windows and balconies (Excludes FH-2, FH-3 and FH-8). Above 27 metres, a further minimum side setback of 5.5 metres is recommended.
- The following Building Adaptability Requirements apply:
  - *Provide a minimum 4.0 metres floor to floor height at ground floor.*
  - *Provide a minimum 3.8 metres floor to floor height at first floor and second floor of a building. This does not apply to second floor on a side street.*
- The Open Space and Landscaping Requirement is to:
  - Provide generously sized, accessible, useable and well-designed communal open space areas in developments comprising ten or more dwellings or more than 1,000 square metres of office.

The site is located within the Forrest Hill Precinct of the Chapel Street Activity Centre. More specifically, it is located within sub-precinct FH6, which comprises of all properties in Claremont Street and is designated for Side Street Uses.

#### Clause 44.04 Land Subject to Inundation Overlay

Pursuant to Clause 44.04-2 a permit is required to construct a building or to construct or carry out works. In this case, the relevant flood plain manager is Melbourne Water.

Melbourne Water supports this proposal subject to permit conditions (refer referral section below).

#### Clause 45.03 Environmental Audit Overlay

Pursuant to Clause 43.03-1, before a sensitive use (residential use, childcare centre, pre-school centre, primary school, secondary school or children's playground) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences:

- A preliminary risk screen assessment statement in accordance with the Environment Protection Act 2017 must be issued stating that an environmental audit is not required for the use or the proposed use; or
- An environmental audit statement under Part 8.3 of the Environment Protection Act 2017 must be issued stating that the land is suitable for the use or proposed use.

As the development includes residential dwellings, the site will be subject to environmental assessment before the development commences.

### *Particular Provisions*

#### Clause 52.06 Car Parking

Clause 52.06 states that before a new use commences, the number of car parking spaces required under Clause 52.06-5 must be provided.

Pursuant to Clause 52.06-5, the following statutory parking rates are applicable to the development:

- Retail/food and drink premises: 3.5 spaces to each 100 square metres of leasable floor area.
- Office: 3 spaces to each 100 square metres of net floor area.
- Dwelling: 1 space to each one or two-bedroom dwelling and 2 spaces to each 3 or more-bedroom dwelling.

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

The proposed uses generate a total statutory requirement of 154 car parking spaces, broken down as 9 for the retail/food and drink premises, 40 for the offices and 105 for the dwellings. The development provides for 121 parking spaces on site, with 3 allocated to the retail/food and drinks premises, 8 allocated to the offices and 110 for the dwellings. The application therefore seeks a permit to reduce the car parking requirements associated with the retail/food and drinks premises and office uses.

#### Clause 52.34 Bicycle Parking

Pursuant to Clause 52.34-1, a new use must not commence until the required bicycle facilities and associated signage has been provided on the land. Pursuant to Clause 52.34-3, the following requirements apply to each of the uses:

- 1 space per 300 square metres for staff of the office;
- 1 space per 1,000 square metres for customers of the office;
- 1 space per 300 square metres for staff of the retail/food and drink premises;
- 1 space per 500 square metres for customers of the retail/food and drink premises;
- One resident bicycle space is required per 5 dwellings;
- One visitor bicycle space is required per 10 dwellings.

The proposal triggers a need to provide 12 resident spaces, 6 staff spaces and 8 visitor spaces (26 spaces). The proposed development includes 63 spaces for residents (across Basement levels 3-6), 18 bicycle spaces for the commercial uses (at Basement Level 1), and 18 spaces for visitors (at Ground Floor), which exceeds the statutory requirement.

End of Trip facilities with three shower and change rooms are also provided within Basement Level 1. This is in excess of the requirements in the Planning Scheme. No permit is required under Clause 52.34.

#### Clause 58 - Apartment Developments



A development must meet all of the objectives of this clause and should meet all of the standards of this clause.

### *General Provisions*

#### Clause 66.02 - Use and Development Referrals

Pursuant to Clause 66.02-11 (Land use and transport integration), an application to construct a building for a residential development comprising 60 or more dwellings or lots must be referred to the Roads Corporation under Section 55 of the Act. The Department of Transport (formerly known as VicRoads) is a determining referral authority.

#### Relevant Planning Policies

Clause 11	Settlement
Clause 15	Built Environment and Heritage
Clause 16	Housing
Clause 17	Economic Development
Clause 18	Transport
Clause 19	Infrastructure
Clause 21.01	Structure of MSS
Clause 21.02	Overview
Clause 21.03	Vision
Clause 21.04	Economic Development
Clause 21.05	Housing
Clause 21.06	Built Environment and Heritage
Clause 21.08	Infrastructure
Clause 22.05	Environmentally Sustainable Development
Clause 22.18	Stormwater Management (Water Sensitive Urban Design)

#### Advertising

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

The site is located in North Ward and objections from 24 different properties have been received. The objections are summarised as follows:

- The size and scale of the building do not align with existing buildings.
- Excessive building height with no significant community benefit.
- Unreasonable daylight impacts on adjacent properties.
- Loss of views and sunlight to existing dwellings.
- Impacts on privacy for existing residents.
- Unreasonable wind impacts.
- Reflections from rooftop solar panels.
- The use of retail/food and drink premises is not appropriate to the area.
- Noise from rooftop garden.
- Inadequate local facilities to accommodate more people – including green space.

- The local road network is over capacity and additional traffic will exacerbate existing issues of congestion, safety and maintenance (including in the lane adjoining the site).
- Inadequate car parking supply within development (for commercial uses).
- Excessive number of pedestrians already in the area.
- Communal rooftop should not be allowed to be licenced.
- Excessive existing construction noise in the area.
- Inaccuracies in Acoustic Report and Waste Management Plan.
- Depreciation in property values.

A Consultative Meeting was held on 23 March 2022. The meeting was attended by Councillors Hely, Griffin and Koce, representatives of the applicant, objectors and a Council planning officer. The meeting did not result in any changes to the plans.

## Referrals

### **External Referral**

#### Melbourne Water

Melbourne Water, pursuant to Section 52 of the *Planning and Environment Act 1987*, does not object to the proposal, subject to the following conditions:

1. Prior to the development plans being endorsed, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Amended Plans must be submitted as follows:
  - a) Finished floor level of the proposed sub-station area must be shown located no lower than 4.26 metres to AHD or, stepped up to achieve this level where main components of the sub-station will be installed.
2. Finished floor levels of the ground floor area including Commercial Tenancy areas, Commercial and Residential lobbies, Lobby to main stairs, Fire Control Room etc must be constructed no lower than 4.86 metres to AHD which is 600mm above the applicable 1% ARI flood level of 4.26 metres to AHD.
3. Finished floor level of the proposed sub-station area must be located no lower than 4.26 metres to AHD or, stepped up to achieve this level where main components of the sub-station will be installed.
4. All openings for the basement (entries and exits, vents, windows etc) must be set above 4.86 metres to AHD.
5. No habitable areas must be shown at levels lower than 4.86 metres to AHD. Transition spaces with minimal floor area are permitted to remain at levels lower than 4.86 metres to AHD.
6. All electrical installations within the building must be set no lower than 4.86 metres to AHD which is 600mm above the applicable 1% ARI flood level of 4.26 metres to AHD.
7. Prior to the issue of a Certificate of Occupancy, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be

submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.

#### Department of Transport (DoT)

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

#### **Internal Referrals**

##### Urban Design

- Given the significant restrictions imposed by the Land Subject to Inundation Overlay, the proposed design provides an acceptable degree of activation to the street interfaces; and the widening of the entry to the laneway improves the operation of the lane.
- This proposal incorporates the site at No.55 and, as a consequence, the consolidated site enables a more integrated design response to the 'completion' of the Northern edge of the Forrest Hill precinct.
- The form, scale and materiality of the building has been well considered and the quality of the architectural response is of a high calibre and is a fitting response to this highly exposed and prominent site.
- I would support the increase in height on the basis that the provisions of Clause 4.4 'Height and Massing Guidelines' of Schedule 1 to the ACZ1 have been satisfied; and subject to the applicant entering an agreement with Council regarding the value of the 'community benefit' being commensurate with the value of the proposed 'commercial uplift'.
- The A/C condenser units for the offices are located at Levels 1 and 2 adjoining the laneway. Noise from these may be a source of potential detrimental impacts on the apartments on the opposite side of the laneway.

##### *Planner Response:*

To ensure that noise emissions from mechanical plant associated with the site do not impact adversely on the amenity of the residents within the proposed development as well as the surrounding noise sensitive areas, a condition of permit will require the development to comply with the Environment Protection Regulations under the incorporated Noise Protocol.

Key urban design features are discussed in detail in the assessment to follow.

##### City Strategy

- The proposal generally aligns with the requirements of the ACZ1 (apart from building height) and fits within the intent of the ACZ1.
- Consideration must be given as to whether the commercial value to the applicant of the potential uplift is commensurate with the proposed significant community benefit to warrant the approval of the additional height.

##### Transport & Parking

##### *Parking Supply*

- The supply of parking at the site is supported.

#### *Traffic*

- It is acknowledged that obtaining accurate data for the current operation of the laneway has been difficult given recent COVID-19 lockdown restrictions, however the applicant has included traffic counts from 12 February 2020 which can be used in this instance.
- 23 vehicle movements would be generated in each peak period by this development.
- The laneway would be expected to carry 44 vehicle movements in the AM peak and 35 vehicle movements in the PM peak.
- There are a number of properties abutting the laneway that have set an informal strategic precedent to have all exit movements via the laneway and entry movements from another frontage. Based on the above figures the development is likely to have implications for the operation of the laneway, as it would exceed recommended capacity during peak times.
- As a guide from the Australian Standards, 30 or more movements in a peak hour would usually require the provision for two vehicles to pass. As the expected traffic generation is to exceed 30 movements, the applicant is proposing to widen the laneway to 6.05 metres along the site frontage. This would allow for vehicles to pass from the site access to Claremont Street.
- The traffic analysis provided demonstrates that post development the laneway conditions would not be significantly impacted, with no discernible delays or queueing to be experienced.
- The development should not have a significant impact to the laneway, particularly with the mitigation works of extending the laneway.

#### *Access*

- In terms of the proposed laneway widening, it is not clear how this arrangement would operate in terms of maintenance, liability, and management of the carriageway. It appears that the additional width would remain private property and this raises concerns regarding liability in case of any incidents in the future.
- The laneway vehicle crossing is proposed to be widened to the east to better accommodate two-way traffic. The plans do not provide any details of the vehicle crossing. The applicant is to ensure this complies with Council's Vehicle Crossing Policy.
- It should also be noted that there is a strategic plan for streetscaping in Claremont Street, including a narrowed carriageway width and widened footpaths. Plans are to be forwarded to Council's Project Management and Delivery Unit for further comment.
- The site frontages are subject to a NO STOPPING restriction. As such, alteration to the vehicle crossings is unlikely to impact on-street parking availability.

#### *Car Parking Layout and design*

- The ramp curves as it approaches the Basement 1 level, and the applicant must confirm that an internal radius of 4m will be provided.
- The dimensions of the circulation aisles and ramps are not clearly shown. The minimum width of the circulation appears to be 5.35 metres, in Basement 1. The applicant is to provide swept path diagrams demonstrating the turn from Basement 1 down the ramp to Basement 2.
- It is understood that the ramps between each basement level will be 3.6 metres wide however this must be confirmed.
- No sight distance triangles are provided, as the exit lane is adjacent to the southern property boundary. Adequate sight distance is to be provided.
- No blind aisle extension is provided beyond the last space in Basement 6. The applicant is to either ensure the aisle is extended 1 metre beyond the space or provide swept path diagrams demonstrating entry and exit movements to this critical space.
- The grades and lengths are to be clearly shown on the plans.
- The applicant is to ensure that a minimum grade of 1:200 is provided throughout covered areas and 1:100 throughout uncovered areas for drainage.
- Motorcycle parking spaces are shown within Basements 5 and 6. There are no objections to the inclusion of these spaces. Some spaces are dimensioned with a width of 1.2 metres and length 2.5 metres. This is satisfactory however all space dimensions are to be confirmed on the plans.
- The applicant is to revise the design so that doors within the basements and the substation at ground level do not open into trafficable areas.

#### *Bicycle Parking*

- The proposal is to include 63 spaces for residents, 9 for employees, and 18 for visitors.
- This is in excess of the Planning Scheme rates, however a shortfall in car parking provision is proposed, particularly for the office use. As such, it is recommended that the surplus of office spaces be increased to encourage other transport modes.

#### *Loading Bay*

- The loading bay has not been dimensioned. It is recommended that dimensions be confirmed on the plans, including headroom, to confirm access for an SRV (Small Ridged Vehicle).

#### *Corner splay*

- The existing site includes a splay in the north east corner of the site, to assist with pedestrian visibility and circulation. A 2 metre x 2 metre splay is reasonable in this location and is to be implemented.

#### *Planner Response:*

As detailed above, discussion Plans have been submitted which include an additional 9 bicycle spaces for commercial staff, which further exceeds the requirement of Clause 52.34

and the supply of bicycle parking is considered to be acceptable. Conditions are included in the recommendation seeking to resolve the remaining outstanding issues outlined above.

### Waste Management

- 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.
- Issues with the Waste Management Plan and/or the plans requiring addressing are:
  - Experience tells us that residents will often opt for the more convenient option of utilising the designated waste chute at each level of the development rather than transporting receptacles directly to the bin store room at the basement level. Further consideration is required as to how the development will ensure that all other recycle material (i.e. food/organics) and glass will be transported to the correct designated bins within the bin store.
  - Further details as to how residents will be encouraged to recycle materials and avoid and reduce waste disposal. As per *'Sustainability Victoria, Best practice waste and recycling in multi-developments'*.
  - The Waste Management Plan needs to ensure private waste collection only occurs Monday to Saturday – 7:00am and 10:00pm; and Sundays and Public Holidays – 9:00am and 10:00pm.

### *Planner Response:*

Conditions are included in the recommendation seeking to resolve the outstanding issues with the WMP outlined above.

### Environmental Sustainable Design

Council's ESD Officer has reviewed the proposal and advised that the proposed development could provide an acceptable outcome from an ESD perspective provided that details in the report and on plans are consistent and further supporting evidence is provided for the ESD initiatives claimed.

Council's ESD officer has also recommended conditions to ensure that appropriate shading is provided to habitable room windows within the development along the northern and eastern facades of the building.

### *Planner Response:*

Conditions are included in the recommendation seeking to resolve these outstanding issues and the permit applicant has agreed to these conditions.

### Infrastructure

- I note the proposed widened section of the rear right-of-way. The widened section should be constructed in a material that clearly delineates the land from the Council ROW.
- Conditions are required relating to a report for the legal point of discharge, stormwater drainage system, for existing footpath levels and the levels of the rear right-of-way not to be raised or lowered in any way, for redundant vehicular crossings to be removed,

the footpath and kerb reinstated and for public lighting to be provided at the owner's cost and maintained by the owners of the property to the laneway.

*Planner Response:*

Conditions are included in the recommendation seeking to address these requirements.

Infrastructure & Landscape Projects

- The applicant is to confirm that their proposal aligns with our future design for the Claremont Streetscape works and is to submit their landscape package for our review.

*Planner Response:*

Conditions are included in the recommendation seeking the submission of a detailed landscape plan.

**Key Issues and Discussion**

**Strategic Justification**

The application proposes to redevelop three of the remaining lots in the Claremont / Yarra Street area of Forrest Hill. The development of the subject site will 'fill in' the north section of this part of the Forrest Hill Precinct. The proposed building occupies a highly prominent edge location and its open interface to the north is highly unlikely to change in the foreseeable future, as directly to the north is the Melbourne High School grounds.

The site's north elevation is flanked in perpetuity by the lower forms at 56-58 Claremont Street and 19 Yarra Street (to the east and west respectively), where air rights have been sold to their respective southern neighbours. Behind this primary row of buildings, building heights along Claremont Street and Yarra Street rise significantly, although in this backdrop there remains an evident step down from west to east, owing to the 76-metre height control operating in Yarra Street and the lower 50-metre control operating in Claremont Street.

Planning permits have already been issued for an 18-storey tower on the eastern portion of the site at No.49-51 Claremont Street and a 19-storey tower on the western portion of the site at No.55 Claremont Street. The current 20-storey proposal incorporates both sites, and as a consequence, the consolidated site enables a more integrated design response to 'complete' the Northern edge of the Forrest Hill precinct.

The subject site is located within the Activity Centre Zone (ACZ) where the purpose of the zone is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To encourage a mixture of uses and the intensive development of the activity centre:
  - As a focus for business, shopping, working, housing, leisure, transport and community facilities.
  - To support sustainable urban outcomes that maximise the use of infrastructure and public transport.
- To deliver a diversity of housing at higher densities to make optimum use of the facilities and services.

- To create through good urban design an attractive, pleasant, walkable, safe and stimulating environment.
- To facilitate use and development of land in accordance with the Development Framework for the activity centre.

State planning policies at Clause 11.03-1S (Activity Centres) encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community. State Policy supports residential intensification in areas well served by public transport and has a particular emphasis on encouraging higher land use densities and mixed-use developments near railway stations, major bus terminals, transport interchanges, tramways and principal bus routes. The site is located approximately 400 metres from the entrance to the South Yarra Railway Station, 340 metres from Toorak Road and approximately 220 metres from the Main Yarra Trail, making it highly accessible to public transport and cycling infrastructure.

At a local policy level, one of the key issues for activity centres at Clause 21.04-1 is the need to achieve the right balance of local and visitor uses, day and night-time uses, residential and commercial uses and retail and office / service uses. Generally, the intention of ACZ1 is to achieve a range of land uses, including additional housing, within high-quality, well-designed buildings which respond to their context and positively influence the local environment, in particular, the public realm.

The subject site is located within the Forrest Hill Precinct of the Chapel Street Activity Centre. More specifically, it is located within sub-precinct FH6, which comprises of all properties in Claremont Street and is designated for Side Street Uses. Some of the broad objectives for the Forrest Hill Precinct include:

- To activate streets, particularly side streets, improve street level amenity, the streetscape and the public realm.
- To reduce car dependency and car parking rates within Forrest Hill.
- To reduce vehicle congestion by encouraging sustainable forms of transport, car free development and improvements to existing cycle infrastructure.
- To develop a predominantly higher density precinct where new buildings are of a pedestrian friendly scale and design at ground floor, with upper levels setback where necessary so as to minimise off site amenity impacts.

Within Sub-Precinct FH-6 the following more specific objectives apply:

- Ensure new development along Claremont Street will relate to and not dominate the open spaces of Melbourne High School.
- Build the street wall to the full width of the lot (i.e. boundary to boundary).
- Setback new development from side boundaries above the podium to provide a separation between towers.
- Encourage an enhanced and functional east west through block link and a plaza.
- Encourage vehicle access/egress, service delivery and loading to be undertaken via Daly Street where possible.



- Encourage well designed human scale development in Claremont Street.

The proposed development is a high-density mixed-use building comprised of ground level commercial floor space, 2 levels of offices and 16 levels of residential apartments. The commercial component does not require a planning permit. The office and dwelling uses require a permit due to their frontage at ground floor level exceeding 2 metres.

The proposal seeks to provide a mixed-use development in a location that benefits from the services and infrastructure which presently exist in the Activity Centre. More specifically, the subject site is located within an area characterised by both commercial and residential uses and which is easily accessible by public transport. Essentially, it is well placed to accommodate a mixed-use development which makes efficient use of the land by improving employment choices and services for the local community, in addition to contributing to housing growth to support the surrounding commercial uses. An office use is an appropriate inclusion in this location, and will positively diversify the local land use mix, which is one of the key objectives for the Forrest Hill Precinct (*'To achieve a vibrant, higher density, true mixed-use precinct'*). The proposal will also provide for well-located and diverse housing, in the form of 62 apartments, ranging from 1-bedroom to 5-bedroom dwellings. This is consistent with the aspirations of the ACZ1, as well as Clause 16 (Housing), Clause 17 (Economic Development) and Clause 21.04 (Economic Development).

The proposal also seeks to contribute to and enhance the public realm in the form of ground streetscape improvements. These are consistent with the Forrest Hill Precinct Public Realm/Streetscape Masterplan (2008) and are to occur immediately adjacent to the site. These works will address safety, accessibility and mobility, consistent with the aspirations of Clause 21.08 (Infrastructure) and the precinct requirements of the ACZ1.

In light of the above, the proposal for a mixed-use development measures favourably against policy objectives. The site is considered an ideal location for a mixed-use building of significant scale.

As will be discussed throughout this report, the proposal exceeds the building height recommended by the ACZ1, yet is deemed to be fitting to the surrounding context and will provide a significant community benefit to support the additional building height.

## Built form

### *Building Height*

Pursuant to the ACZ1, the subject site has preferred maximum height of 50 metres. The building reaches a height of 71.6 metres (or 74.292 AHD) to the top of the roof deck. However, vertical columns (referred to as the 'crown' of the building) extend above the roof deck, resulting in a maximum building height of 75.49 metres to the top of the vertical columns (77.995 AHD). This height is inclusive of the roof services. It is therefore approximately 25 metres higher than the preferred maximum.

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

Although the proposed building is higher than preferred under the ACZ1, the proposed building height is comparable to other tall buildings in Claremont and Yarra Streets, including 48 Claremont Street (67 metres/23 storeys), 16-22 Claremont Street (88 metres /28 storeys),

and 18 Yarra Street (80 metres/26 storeys). It is below the heights of buildings within Yarra Street, where a 'step up' in built form has always been sought by the height controls.

The applicant has provided 3D montages of the proposed building within the context of the surrounding built form, taken from various vantage points along Alexandra Avenue when viewed from the open space at Melbourne High School to the north of the site. In both nearby and distant views from various locations, it is considered that the perception of form and scale of the proposed building is such that it will compliment and achieve an acceptable 'fit' within the existing and approved developments within the Forrest Hill precinct.

Furthermore, it will provide an acceptable transition between the heights of the two existing neighbouring towers to the East and West of the subject site occupying the northern edge of the precinct (which also each exceed the preferred maximum building height).

#### *Significant Community Benefit*

Council's Urban Designer is supportive of the proposed height exceedance subject to the demonstration of significant community benefit.

The existence of a high number of building approvals within Forest Hill above the preferred height limits imposed by ACZ1 demonstrate that within the Forrest Hill Precinct there are sites that have opportunities beyond that foreseen by the ACZ preferred height limits. As a primary starting point in planning for new development, the Planning Scheme calls for site responsive design. While the ACZ remains a key determinative reference when considering applications, the context of these approvals lend weight for a consideration of taller building form at the site.

The ACZ1 preferred heights are not mandatory, and the planning controls allow for taller buildings where the following criteria can be met:

*The preferred maximum building height may be exceeded in some circumstances if:*

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

Council's support for the buildings at 49-51 Claremont Street and 55 Claremont Street were predicated on an appropriate design response and the permit applicant's agreement to fund streetscape improvements in Claremont Street to the order of \$835,000 (49-51 Claremont Street) and \$818,165 (55 Claremont Street), as a means of demonstrating a 'significant community benefit'. The contribution was deemed to be 'significant' since it was equal to the increased value of the land resulting from the higher development yield above the preferred height.

In the subject application, the permit applicant has offered the following in support of the additional building height:

- The combined monetary contribution approved under Permit No's 248/20 and 889/20 of \$1,653,165 towards the Claremont Street streetscape improvements proposed by Council in the Forrest Hill Masterplan.
- To the west, the provision of 70sqm of site area for the purposes of publicly accessible laneway widening to provide 2-way access in the laneway. These works will be provided by and paid for by the permit holder.

In determining the required contribution, an independent valuation exercise has been undertaken which demonstrates that the land value of the additional floor area being sought above the preferred 50 metres height limit equates to approximately 2,912 square metres and has a value of \$2,257,000. The valuation exercise also demonstrates that the land value of the space set aside for the publicly accessible laneway widening within the development (referred to as 'public benefit land'), as well as the cost of its delivery, has a value of \$1,770,465.

While the laneway widening works will be of benefit considering that a number of properties utilise the laneway, given that the laneway widening works will also be of benefit to the subject development, it is considered that the value of the widened laneway to the community would be worth a third of the value derived within the valuation exercise (i.e. \$590,155). As such, a monetary contribution of \$1,666,845 combined with the 'public benefit land' for the purposes of the laneway widening would be equal to the value resulting from the higher development yield. The applicant has agreed to this monetary contribution. The site is in a section of Claremont Street that is in need of activation, renewal and improvements to the streetscape. There is real opportunity for this application to contribute towards streetscape upgrades.

In the absence of a definition of "significant community benefit" within the Stonnington Planning Scheme, it is considered that "significant community benefit" can be derived from a developer contribution to fund the streetscape upgrades that will support the wider community as the area continues to grow. It is considered that \$1,666,845 is sufficient to meaningfully contribute towards the public realm improvements and streetscape works in Claremont Street in exchange for the additional building height.

The ground level setback enabling widening of the laneway also has the added benefit of improving the functionality and efficiency of vehicle movements in the laneway, effectively creating a passing area at the intersection with Claremont Street. This benefits existing and future users of the laneway. A number of properties fronting Yarra and Claremont Streets rely on the laneway for vehicle access. Providing a passing area at the northern end of the laneway is considered to benefit all users to the south. Importantly, the widened section of lane is to remain in private ownership.

To ensure an equitable balance between building uplift and significant community benefit, conditions of the permit will require a contribution of \$1,666,845 for the public realm and streetscape works in front of the subject site. This agreement must be set down in the permit and required through the execution of a Section 173 Agreement. With regards to the extended section of the laneway, it is recommended this agreement also indemnify Council of any liability and require costs for construction, ongoing maintenance and management to be borne by the landowner.

To further address safety, the widened section of the lane is to be finished in a material to clearly delineate the property boundary from the public realm. This will be required via conditions.

Collectively the abovementioned items are considered to represent a significant community benefit and satisfactorily offset the proposed height increase sought.

However, where a development seeks to exceed the recommended heights of the ACZ1, in addition to a "significant community benefit", development must also continue to meet built

form objectives in relation to visual impact, overshadowing and increased upper-level setbacks. It is considered that given the proposed form of the building, and the setbacks provided from adjoining properties, there will be no unreasonable off-site amenity impacts to neighbouring properties as a consequence of the additional height sought. This is discussed further below.

### *Building Massing and Design*

#### *'Claremont Street North interface'*

The building is not composed in a podium/tower arrangement. Rather, the building rises directly up from Claremont Street, and the 'street wall' is emphasised through the architectural treatment of the exterior, rather than recession of the upper levels. The approved buildings at 49-51 Claremont Street and 55 Claremont Street adopted a similar approach, however the current proposal includes additional recesses from Claremont Street for the provision of balconies at Levels 1-19, adding articulation and design detail to this façade. The building's podium and tower are delineated by a change in material from podium level brickwork to concrete for the tower façade. There are several specific contextual characteristics of the site that supports this proposed approach in this case.

The land opposite the site (in Melbourne High) is highly unlikely to be redeveloped with high density buildings in the foreseeable future, meaning that there will not be a potential 'canyon' effect to consider in this streetscape. The experience from the footpath in the east-west leg of Claremont Street will likely always benefit from the open, landscaped interface to the north and this reduces the impacts of tall buildings on its south side.

The means of articulating the street wall is subtle, but adequate to break up the form of the tower, which will present as three horizontal segments. There is no need to require a setback for the tower, and this massing approach is consistent with the ACZ1 provisions, which do not specify a required setback above the street wall/podium.

The relationship of the building to Claremont Street is affected by the need to elevate the ground floor level for flood management reasons, although views to and from the footpath/ground floor can still be gained. At ground level, active frontage shopfronts flank a wide central entranceway. The extensive use of glazing at the ground floor level ensures that the development presents an active frontage to Claremont Street and a colonnaded entry way defines the street edge, with stepped seating behind. The approach to the street wall is considered to be acceptable and is supported by Council's Urban Designer.

With regard to vehicle access, the approved building at 49-51 Claremont Street allowed for vehicle access (including a double crossover) from Claremont Street north, which limits the extent of the active frontage to Claremont Street north. The approved building at 55 Claremont Street allowed for vehicle access from the western laneway which included two vehicle waiting bays in the north-western corner of the site.

In the current proposal, vehicular access to the building is provided from the laneway adjoining the site's western boundary leading to a basement car park at the rear of the site. This removes the vehicle waiting bay area at the north-western corner of the site and the double crossover on Claremont Street north as per the existing building approvals, resulting in additional opportunities to provide a continuous, visible and active frontage of the Claremont Street interface. This is considered a superior outcome that will improve the pedestrian environment along the site's northern boundary. This will also eliminate additional

vehicular movements across the Northern footpath to ensure that vehicle access does not dominate the ground floor frontage and to maximise pedestrian safety, as sought by the precinct objectives of the ACZ1.

*‘Claremont Street East interface’*

The proposed building meets the massing requirements by applying a 3-metre setback to Claremont Street (east) above the street wall. The ACZ1 recommends a preferred maximum street wall height of 12 metres and the development proposes a street wall of approximately 14.5 metres. This is marginally above the street wall height of the approved development for 49-51 Claremont Street (being approximately 14.4 metres).

The development immediately to the south (47 Claremont Street) has a street wall height of 12.77 metres and to the east 50-54 Claremont Street has a street wall height of approximately 13.7 metres. Although the street wall as proposed on the subject site is higher than the preferred 12 metres, it is important to acknowledge the challenges presented by the required flood level on this site. Melbourne Water as the relevant floodplain management authority has required the floor levels to be raised well above street level. As a result, the terrace level has been raised approximately 2.5 metres above the footpath.

Being located on a corner where the land slopes down towards the north, the impacts of a higher street wall are minimal as it will not interrupt the continuity of the street. Moreover, the street wall as proposed is not significantly higher than the street wall to the east at No. 50-54 Claremont Street (difference of 0.8 metres). This height difference is unlikely to be appreciated in this densely developed area.

Similar to the Claremont Street north interface, ground level also comprises of an active frontage with shopfronts and a wide central entranceway to the office lobby.

Council's Urban Designer has not raised concerns with the street wall or the visual impact of the new building on the streetscape or the adjoining properties.

*‘Southern and Western interfaces’*

The building is generally constructed to the title boundaries, apart from progressive setbacks around the south and south-west corner. These setbacks have been applied in response to amenity expectations to adjacent properties. A comparable level of building separation is achieved to that provided within the existing building approvals on 49-51 Claremont Street and 55 Claremont Street.

The exterior massing and design of the building does not present any issues in terms of urban design. The overall composition and materiality of the design is well resolved, and this is an important part of the proposal's acceptability. As agreed by Council's Urban Designer, the architectural response is of a high calibre and the consolidation of the sites enables a more integrated design response. This also responds to the ACZ1 precinct objective to encourage site amalgamation and intensive development on large sites.

It is considered the building will enhance the public experience of the Forrest Hill precinct.

**Amenity Impacts**

In general terms, the proposed setbacks at the upper levels are greater than the recently approved developments on the subject site.

The site is located within a context where there are numerous examples of high-rise developments, many in excess of the preferred maximum height for the precinct.

With respect to overshadowing of the public realm, impacts of overshadowing are as expected for a building up to 75 metres in height. The proposed building will cast additional shadow to Claremont Street (east) after 1pm, however it is noted that the extent of shadow cast is similar to that of the approved building for 49-51 Claremont Street.

The proposed building faces existing dwellings across the laneway at 18 and 19 Yarra Street, immediately to the south at 47 Claremont Street, and opposite Claremont Street at 50-54 Claremont Street. These interfaces are considered below.

#### *19 Yarra Street*

The building at this site is three-storeys in height and built to fully abut its interface with the laneway that separates it from the subject site. The building has a series of windows orientated towards the site and these windows will be separated from the proposed tower by the width of the laneway (3.047 metres).

The dwellings within this adjoining apartment building appear to all be configured in a north-south alignment, with a frontage to the north. The dwellings in the middle of the floorplate only receive daylight from the north. The dwellings abutting the laneway, however, have a secondary light source to the east which will be affected by the proposal.

The ACZ1 does not require a setback at the subject site adjoining the laneway although it (and other clauses of the Planning Scheme) requires that the impacts of new development on existing dwellings be considered. In this case, it is important that the east is not the primary orientation for dwellings within 19 Yarra Street. It is also relevant that the existing windows at 19 Yarra Street are sited immediately on the boundary in a high-density context, meaning their amenity is wholly gained by external conditions. It would be unreasonable to require a setback at the site to protect these windows, particularly where significant change would be required to have any discernible impact. It is also noted that the building approved for 55 Claremont Street, fully abuts the side laneway opposite these windows, and this is consistent with the approach of the current proposal. It should be noted that the current proposal does however reduce the extent of boundary construction at the upper levels along the laneway compared to the existing building approval. Therefore, the difference between the approved and proposed building height on the subject site in terms of daylight access to the adjacent dwellings at 19 Yarra Street would be negligible.

The apartment windows along the western façade of the building (from Level 3 upwards) include external fins which will restrict overlooking into the habitable room windows at 19 Yarra Street. Additionally, the upper levels for the dwellings are elevated above the neighbouring windows, and therefore the extent of overlooking is minimal and not unreasonable. The office windows at Levels 1 and 2 directly interface with the habitable room windows of 19 Yarra Street and are not provided with screening. Considering these windows are located 3 metres away from the neighbouring habitable room windows, a condition of permit will require these windows to be screened.

Otherwise, the relationship of the building to 19 Yarra Street is considered to be acceptable in this context.

#### *18 Yarra Street*

At 18 Yarra Street there is a series of habitable room windows orientated east and setback 3.25 metres from the rear laneway at all levels above the podium.

Within this building it is evident that living rooms have a primary aspect to the north, although also have east facing windows, which would sit immediately opposite the rear of the proposed building. To respond to this, Level 3 and above is setback a minimum of 3 metres immediately opposite these existing windows in order to achieve a minimum separation of 8.8 metres. This minimum separation is consistent with the previous building approval at 55 Claremont Street. The building footprint along the western boundary of the current proposal has also reduced at levels 3-16 when compared to the existing approval (this is depicted on the floor plans which has overlaid the previously approved scheme with a pink dotted line).

The setback proposed from the laneway is the same as the west setback of the building at 47 Claremont Street at Level 4 and above, meaning that the proposed interface conditions will be the same as those which were accepted in this case.

While the Interface Setback Requirement of ACZ1 does not apply to this interface, the Interface Setback Guidelines do apply. The Guidelines seek to provide '*appropriate separation between buildings for:*

- The provision of equitable development opportunities and privacy of habitable room windows and balconies;
- The protection of view lines;
- Daylight;
- Solar access;
- Natural ventilation;
- Space for recreational activities; and
- Outlook from within buildings'.

These outcomes need to be tempered somewhat in consideration of the high-density context within which the site is located as well as other approvals allowing development on or close to title boundaries in Forrest Hill.

Taking account of the above, it is considered that the proposed building provides for a fair and reasonable building separation and that the existing dwellings at 18 Yarra Street will not be excessively impacted.

While Rescode does not apply to a building of five or more storeys, the overlooking standard can be used as a guide to assess the impact on adjoining properties from potential overlooking. The external fins on the north-west corner of the building from Level 3 above will limit views into the adjoining dwellings. Objectors from 18 Yarra Street have raised concern that the external fins should also be extended to the southerly portion of the building (as shown on the current approval for 55 Claremont Street).

Additional screening is not considered necessary to this part of the building. The separation provided between the two buildings is considered adequate to mitigate overlooking opportunities, being only minutely (and inconsequentially) short of the 9-metre separation required in a wholly residential context (the minimum setback provided is 8.9 metres from the neighbouring windows). This avoids the need for screening and is a positive outcome. To

include additional screening will prevent daylight access into the apartments which is a poor internal amenity outcome for future residents of the building. At the upper most levels (Levels 17-19), building setbacks further increase and provide a 16.6 metre separation from the neighbouring windows.

Additionally, it is noted that the balconies of 47 Claremont Street, adjoining the site to the south, do not have screened balconies, which are also setback a minimum 3m from the rear boundary.

Privacy impacts are therefore considered to be adequately managed.

#### *47 Claremont Street*

47 Claremont Street is the subject site's immediate southern neighbour. Due to their east-west orientation, its internal layout makes dwellings within this building relatively insensitive to development at the site. This residential building is largely constructed with a solid wall to the northern boundary with the exception of a 1-metre-deep light court. The existing building has no habitable room windows orientated towards the site. The apartments in the building have an outlook to the east and west, rather than to the north and will not appreciate the new building from any outlook within the building.

There are some east and west facing habitable room windows orientated into the central light court within 47 Claremont Street. The proposed building incorporates a light court along the southern facade from Level 1 upwards, matching the length of the adjoining light court. The width of the light court is proposed to be 4 metres, which is also greater than the width of that of the approved building at 49-51 Claremont Street (which provides a 1.2 metre wide light court). This is seen to be an equitable outcome.

The Interface Requirements of the ACZ1 seek to provide a separation distance of 4.5m and 5.5m between adjoining towers above the podium. However, given the adjoining property does not contain any habitable room windows or balconies that face the subject site, the interface requirements for a tower setback do not apply. The existing building to the south has not incorporated a tower setback in anticipation of a development to the north abutting the common boundary. Therefore, the proposal to construct abutting existing walls on boundaries is logical.

With regard to overlooking, the bedroom windows orientated east and west facing into the light court may have possible oblique views into some of the windows facing the light court at 47 Claremont Street. However, considering the minimum separation between the windows will be approximately 8 metres, this is considered to adequately mitigate overlooking opportunities and avoids the need for screening to the bedrooms facing the light court, which is a positive outcome.

The west facing private balconies at 47 Claremont Street have a solid wall along their north boundary, and so will not be notably affected by the proposed building, or by the terraces which are located within the south-west corner of the subject site at upper levels.

These proposed terraces and the south facing apartment windows (located in the south-west corner of the site) will however, be able to overlook the roof terrace at No. 47. This is not considered to be unreasonable, given this is a communal (rather than private, secluded) space. The roof terrace can be accessed by all of the occupants of the 58 dwellings within the building and it is already overlooked by the building at 18 Yarra Street and the approved



building at 17 Yarra Street. The opportunities for views into the terrace at 47 Claremont Street are not considered to be unreasonable and it is therefore acceptable that privacy screening is not provided at this interface.

In terms of overshadowing, within a high-density context such as this, shadowing of balcony spaces (including private balcony spaces) must be reasonably tolerated. The Planning Scheme does not provide a directly applicable standard against which to assess the shadowing impacts in cases such as this. Nonetheless, it must still be noted that the existing rooftop at 47 Claremont Street currently receives good solar access and this will be affected by the proposal.

The proposed building has made efforts to incrementally setback the building where it has an interface to this existing outdoor area. Therefore, the proposed shadowing is more limited than it would otherwise be in the afternoon.

The terrace at 47 Claremont Street has a total area of 158sqm (including an undercover BBQ area and planter boxes). The permit applicant has submitted shadow diagrams at the equinox and these generally show the following:

- 9am – 11am: There is effectively no useable space available which has direct solar access on the terrace. However, existing structures on the roof do create some shadow. It is noted that the shadow impacts to the terrace do not significantly alter from the combined shadow impacts of the two recent building approvals on the subject site.
- 12 noon: The proposed building shadows an additional 79% of the deck and there is still some usable space available.
- From 1pm: solar opportunities begin to open up again. At 1pm, the building shadows 40% of the deck and the majority of the deck will not be in shadow.
- At 2pm: the building shadows 10% of the deck and approximately half the deck will be in shadow from the existing structures on the roof.
- At 3pm: the building shadows 1.3% of the deck and the majority of the deck will be in shadow from the existing shadows cast by the buildings in Yarra Street.

While it is acknowledged that the proposed building has a notable impact on existing solar access to the existing roof terrace, there are still opportunities to gain direct sunlight. The roof terrace is unlikely to be used in large numbers at any one time, meaning a resident is likely to be able to find a space free from shadow to use, if they chose to. The area in which the additional shadow is proposed is a communal roof area and is not the principal secluded private open space of any of the dwellings within 47 Claremont Street. Each of the apartments also have a private balcony with opportunities to gain direct sunlight throughout the day. The communal roof area will still be provided with solar access in the afternoon hours, which is considered a reasonable outcome for roof tops within a high-density context, and on balance the impact is considered to be expected and acceptable. Moreover, the alternative, which would significantly reduce building height at the site is not preferred, given the proposal presents a well-conceived, architectural impression as it stands and a desirable land use in this context. Ultimately the amount of solar access received to the roof deck of 47 Claremont Street does not significantly differ having regard to the previous building approvals. It is further noted that no objections have been received from this property.

The terrace at 45 Claremont Street (further south of the subject site) has a total area of 174sqm. The building will cast some additional shadow to this terrace in the morning hours, and from 12 noon onwards, the proposal casts limited shadows to this area and solar opportunities open up again and this is considered reasonable.

#### *50-54 Claremont Street*

A number of apartments within this 21-storey building have an outlook to the north and west.

With regard to overshadowing on the common terrace at Level 5 within this building, the shadow diagrams confirm that the common space at No. 50-54 Claremont Street will be unaffected by shadows from 9am-1pm. The building will then shadow a small part of the terrace at 2pm and the majority of the terrace will be in shadow at 3pm on the 22 September (Equinox). It is noted that the building approved at 49-51 Claremont Street results in a similar extent of overshadowing to the common terrace.

The new building on the subject site is to be setback a distance of approximately 16 metres from the apartments to the east at Level 6 and above. Ground to Level 5 at 50-54 Claremont Street contains a car parking podium. The 16-metre distance is considered sufficient to limit overlooking and to provide adequate separation for daylight, solar access and ventilation in this higher density setting.

For the reasons already expressed above, the proposed massing of the building is not out of scale within this context and will not result in unreasonable amenity impacts on the surrounding properties.

#### **On-site Amenity**

ACZ1 provides two design requirements relevant to this proposal. The first is building adaptability, which seeks to ensure adequate floor to floor clearances to provide for a range of uses in the future. The proposal adheres with the requirement to have a minimum 4 metre ground floor clearance (4.45 metres is proposed) although falls short of the required 3.8 metre clearance at first floor level (3.6 metres is proposed). This is still greater than the Level 1 clearance provided as part of the approval at 55 Claremont Street (3.4 metres approved). Part of the justification for allowing a variation to the Level 1 clearance as part of this approval was due to the fact that the purpose of the building adaptability requirement is principally to facilitate commercial development. Given this floor is a commercial one, it is clearly already suitable for this use. The second floor adheres with the requirement to have a minimum 3.8 metre floor clearance (4.25 metres is proposed).

The minor variation is acceptable, and the clearances provided at these levels will ensure they are adaptable for different purposes, consistent with the design and development guidelines of the ACZ1.

The two office floors of the building have been generally well laid out to allow for good ventilation, daylight access and outlook, thereby providing good levels of on-site amenity to future employees. Staff amenities are also provided on each floor.

The floor plates of the commercial tenancies at ground floor are relatively small and likely to suit a range of small business operators, in what is likely to be a highly desirable location.

Clause 58 (Apartment Developments) of the Planning Scheme provides standards against which to assess the quality of new apartment developments. An assessment against the standards and objectives has been undertaken and the development is considered to

achieve a high level of compliance and meets all relevant objectives. Key areas of consideration are discussed below.

In terms of the internal layout of the building and the amenity, which is provided to each of the new dwellings, the building performs well. Dwelling sizes range from one to five-bedroom apartments that offer an appropriate level of dwelling diversity.

Apartment sizes range between 70-546 square metres and all dwellings are provided with direct access to sufficiently sized balconies from living areas. Each of the dwellings are provided between 9sqm and 68sqm of balcony space, which complies with the recommendations of Standard D19. Most of the balconies are orientated to the north or east.

As 62 dwellings are proposed, Standard D7 (Communal Open Space Objective) calls for approximately 155 square metres of communal open space to be provided. ACZ1 also includes an open space and landscaping requirement seeking '*generously sized, accessible, useable and well-designed communal open space areas*'. A north facing communal open space for residents is provided at roof level measuring 182 square metres, which exceeds the requirements of Standard D7. It is concealed from the public domain and located to maximise northern solar access and has been designed to maximise functionality and enjoyment of the space by residents without imposing any adverse amenity impacts. Indicative landscape zones have been shown around the terrace. A condition of permit will require a landscape plan confirming the landscape detail within the proposal. At least 50% of the communal outdoor open space receives a minimum of two (2) hours of sunlight between 9am and 3pm on 21 June in accordance with Standard D8. The two office floor levels each have three terraces attached to them facing the street, with an overall area of 76sqm, which is considered adequate communal open space for the offices.

All apartments will receive good access to daylight to all habitable rooms. The apartments each have a functional layout with well-proportioned, open-plan living spaces and bedrooms which meet or exceed the minimum dimensional requirements in Standard D25 (Functional layout objective). All single aspect habitable rooms have a floor to ceiling height of either 2.7 metres or 3 metres and a room depth that complies with the numeric requirements of Standard D26 (Room depth objective), ensuring that adequate daylight will penetrate the space. All bedrooms and living areas are provided with direct daylight access with no reliance on borrowed light. Council's ESD Advisor is satisfied with daylight levels achieved within the apartments, subject to a condition requiring the internal room layouts of the southern apartments to reflect those submitted on the discussion plans.

Furthermore, as required by Standard D6, the building has been sited to ensure that the energy efficiency of adjoining lots is not unreasonably reduced having regard to the high-density nature of the precinct.

Standard D28 requires that at least 40% of dwellings should provide effective cross ventilation. The development proposes 81% of the apartments to be naturally ventilated.

Clearly defined, safe and convenient access is provided to the dwellings via the communal entry lobby from Claremont Street north, which then splits into separate entries for the commercial and residential uses. The communal entrance area from Claremont Street contains a glazed entrance, allowing for natural light and ventilation. Office and dwelling balconies and terraces face the streets and the western laneway, providing passive surveillance to the immediate streetscape and surrounds.

Each apartment is also accessible from the basement via two lifts and stairs, and common corridors are well laid out. The apartments have been designed to accommodate the accessibility requirements of Standard D17, with 100% of the apartments compliant (Standard requires 50% for compliance).

Appropriate noise attenuation measures will be used in constructing the new commercial tenancies and dwellings, protecting the amenity of all tenants and residents from external and internal noise sources in accordance with Standard D16 (Noise Impacts objectives).

The proposal provides areas for the necessary site services. Each dwelling is provided with sufficient internal and external storage facilities (minimum of 6 cubic metres) in accordance with Standard D20, and a mail room and other site service facilities are appropriately and conveniently located in accordance with Standard D22. Given the land is located within an established area, it can be readily connected to services without creating any unreasonable impacts on the existing infrastructure as required by Standard D4.

The development provides a dedicated residential waste room at ground floor level located behind the lift/stairwell and a commercial bin storage area within Basement Level 1.

Therefore, the bin storage areas will not be visible from the street. The waste and recycling facilities are appropriately located in accordance with Standard D23.

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

### Car Parking and Traffic

The site is located within a congested traffic environment, yet also benefits from excellent access to public transport being only 400 metres from the South Yarra Railway Station. The proposed development is located in close proximity to bus, tram and train services, as well as car share locations and bicycle facilities. In addition, the proposed site is easily accessible for pedestrians.

The proposed uses generate a total statutory requirement of 154 car parking spaces, broken down as 9 for the retail/food and drink premises, 40 for the offices and 105 for the dwellings. The development provides for 121 parking spaces on site, with 3 allocated to the retail/food and drinks premises, 8 allocated to the offices and 110 for the dwellings.

The application therefore seeks a permit to reduce the car parking requirements associated with the office and retail/food and drink premises.

The 3 spaces allocated to the retail/food and drink premises is acceptable given the likelihood that it would only service people already in the area (rather than being a destination in its own right). Staff of the Food and Drink Premises and office workers can conveniently catch public transport to the site or utilise the on-site bicycle parking. If staff members wanted to drive to work (and they were not allocated an on-site space) there are private paid parking options in the area. The highly restricted availability of on street parking is unsuited to all day parking, and staff of the building will be aware of this. The car parking provision is acceptable, and this is supported by Council's Transport Department.

On site vehicular parking is provided within 6 basement levels and accessed via the side laneway. The laneway is proposed to be widened from 3 metres to 6.05 metres to allow for 2-way access in the laneway. These arrangements are supported by Council's Transport Department subject to some type of pavement delineation to designate the public and

private areas. This will assist with operation of the widened section of laneway in regard to maintenance, liability, and management (this can be resolved by a permit condition). The plans have been reviewed from Council's Urban and Landscape Department (who are coordinating the Forrest Hill Masterplan works) and no issues have been raised in respect to the arrangements for access.

The car parking layout is also found to be generally acceptable by the Transport Department subject to some minor modifications which can be resolved by permit conditions.

With regard to bicycle parking, the 90 spaces and end of trip facilities provide well in excess of the statutory requirements and encourage a modal shift away from private vehicle use.

#### *Laneway access*

Objectors have raised concern with the vehicle access to the proposed development being provided from the western laneway and have raised concerns that the additional traffic will exacerbate existing issues of congestion and safety within the laneway.

The applicant has provided advice prepared by Traffix, which provides traffic count information for the Claremont Street / laneway environs. Surveys of the laneway were undertaken by Traffix Group on Wednesday 12th February 2020. The observations from these studies are follows:

- The surveys identified a peak hour between 8:30am and 9:30am and 5:30pm and 6:30pm for the morning and afternoon peak hours, respectively.
- The laneway currently carries a maximum of 21 vehicle movements during the AM peak hour, reducing to 12 movements during the PM peak. This equates to a maximum of approximately 1 vehicle movement every three minutes during the peak.
- The proposal is expected to generate in the order of 23 vehicle movements during the AM and PM peak hours.
- The expected traffic volumes have been superimposed onto the existing traffic volumes recorded within the laneway.
- *Post development* the laneway is expected to carry up to 44 vehicle movements during the AM peak hour. During the PM peak hour a total of 35 vehicle movements are expected within the laneway.
- Clause 3.2.2 of the Australian Standard for Off-Street Car Parking (AS2890.1-2004) states: *As a guide, 30 or more movements in a peak hour (in and out combined) would usually require provision for two vehicles to pass on the driveway, (i.e. a minimum width of 5.5m).*
- The post development volumes along the laneway will exceed 30 movements and therefore the proposal includes a setback of the building along the laneway for its full length to provide a clear width of 6.05 metres.
- This width will adequately allow for passing along the site boundary to manage the future traffic volumes on the laneway. This will also allow for clear passing and two-way traffic near to the intersection of the laneway with Claremont Street.

- It is noted that this increased traffic generation to exceed 30 movements will be limited to the widened two-way section of the laneway to access the site. No increase to the traffic within the single width portion of the laneway is expected by the proposal.
- A SIDRA Analysis has also been undertaken for the AM and PM peak hours, for the post development traffic volumes within the laneway. SIDRA provides information about the capacity of an intersection in terms of queuing lengths, delay times of vehicles making movements and the ratio of the volume of traffic observed making a particular movement compared to the maximum capacity for that movement.
- The results of this analysis identify that the intersection operates under 'excellent' conditions during both peak hours and all movements within the laneway are expected to have very minimal, if any, delays or queues following the development of the site.

Objectors have also raised concern with the volume of traffic through the laneway having regard to *future developments* which have been approved abutting the laneway. Traffix Group has provided the following information regarding traffic volumes taking into consideration these future developments:

- The laneway traffic volumes, following development of the subject site, along with 17 Yarra Street (south-west of the subject site), will be comfortably accommodated into the future. The development at 17 Yarra Street (featuring 80 car spaces) will egress only via the laneway (10 egress movements during the AM peak and 4 egress movements during the PM peak).
- The sites at 14-16 Claremont Street and 35-41 Claremont Street have been consolidated and a permit has been granted (Permit No.479/20). This development provides vehicle access / egress via Yarra Street only, and not the laneway.

Council's Transport and Parking Department has reviewed the Traffic Reports and additional traffic count information/analysis of the laneway and have confirmed that the laneway, following its widening, will have ample capacity to accommodate vehicle movements associated with adjoining properties with vehicle access, including the subject site.

Objectors have recommended 'flipping' the accessway, so that vehicle access is provided from Claremont Street east. It is considered that providing vehicle access from Claremont Street would be detrimental to the creation of a pedestrian friendly environment and active frontage, as encouraged by the ACZ1 provisions.

It is considered that use of the existing roadway infrastructure, will minimise impacts on the footpath along Claremont St east and this is the safest and most suitable design outcome for the site and the surrounds, as it directs vehicles to one key access point, which assists pedestrians in knowing where cars are coming and going. The widening of the lane will give all drivers using the lane additional space when they are in the vicinity of the subject site, which is considered to be a positive outcome for all users.

Overall, and subject to conditions, the arrangements concerning traffic and parking are satisfactory.

### Sustainable Design Assessment

The building has been designed with the intent of meeting the objectives of Council's ESD Policy at Clause 22.05 and Stormwater Management (WSUD) Policy at Clause 22.18. A BESS score of 70% is achieved which is deemed to be of 'excellence' (and exceeds the best

practice being a minimum 50%). ESD commitments include targeting a recycling rate of 80% of construction and demolition waste, installing carbon monoxide (CO) sensors to the basement carpark, a minimum average NatHERS energy rating of 7.5 stars, a rainwater harvesting system for toilet flushing and irrigation, electric vehicle charges installed to 10% of car-parking spaces, a 20kW rooftop solar photovoltaic system, water efficient fixtures and appliances, high performance glazing, environmentally preferable internal finishes and bicycle parking for residents and visitors.

Council's ESD Officer has reviewed the proposal and advised that the proposed development could provide an acceptable outcome from an ESD perspective provided that additional shading is provided to habitable room windows, that details in the report and plans are consistent and further supporting evidence is provided for the ESD initiatives claimed.

Conditions are included in the recommendation seeking to resolve these outstanding issues.

### Objections

#### *Retail/food and drink premises is not appropriate to the area*

Firstly, it is noted that these land uses are as of right within the Activity Centre Zone.

The Chapel Street Activity Centre is a principal activity centre, the purpose of which is to build up and intensify development, with a range of complementary uses. The land uses are consistent with the Precinct Objectives of the ACZ1 which seeks to provide continuous, visible and active retail or commercial frontages.

#### *Inaccuracies within the Acoustic Report*

Objectors have raised concern that findings with the acoustic report are outdated and also inaccurate with regard to measurements undertaken from 18 Yarra Street (neighbouring property to the west) given permission to access the property was not provided.

The applicant has confirmed that Acoustic Logic (author of the subject acoustic report) were engaged by the developer and the project acoustic consultants on the 18 Yarra Street development. As part of that engagement noise level measurements were undertaken during the project prior to completion.

It is noted that Section 4.2.1 of the Acoustic report provided with this application specifies that train noise measurements and background noise monitoring were conducted in October 2021.

The purpose of this report is to reasonably protect the internal amenity of residents of the proposed development from noise sources and to contain noise sources within the development.

It is also important to note conditions have been included on the permit which requires that noise emanating from the site must not exceed the prescribed limits specified in the Environment Protection Regulations.

#### *Inaccuracies within the Waste Management Plan*

Objectors have raised concern that the development summary within the WMP is inaccurate as it does not reflect the correct number of bedrooms within the apartments throughout the development and therefore does not reflect the correct waste generation rates.

The development summary has referenced the 62 apartments proposed, however has not referenced that three of these apartments are '5 bedroom' apartments (rather they are included in the four-bedroom apartment numbers). It is important to note that the weekly waste generation rates (as per the *Sustainability Better Practice Guide for Waste Management and Recycling in Multi-unit Developments*) for a three or more-bedroom apartment all remain as 120L a week, and therefore this error in the report has no impact on the overall waste generation within the development.

A condition of permit will require that the Waste Management Plan be updated to reflect the correct number of bedrooms within the apartments.

#### *Wind Impacts*

With respect to the wind impacts, a Wind Tunnel Test has been conducted by Mel Consultants which assesses the pedestrian level winds for the proposed development. The wind tunnel test found that the wind conditions for all test locations in the streetscapes surrounding the development, the main entrance, the balconies and roof top terrace have been shown to pass the relevant criteria. The wind conditions for the balconies, rooftop terraces and in the streetscapes that surround the proposed development also pass the safety criterion. No mitigation strategies or modifications to the proposed development have been recommended.

#### *Setback required to laneway, as provided by other buildings.*

The ACZ1 does not prescribe a setback for sites west of the laneway, nonetheless the building is setback adequately to provide reasonable amenity to neighbours.

#### *Excessive number of pedestrians already in the area.*

Population increases are an inevitable consequence of Council's desire to achieve a high-density mixed-use local environment.

Council is progressively rolling out streetscape improvements, to which the applicant will contribute.

#### *Communal rooftop should not be allowed to be licenced*

Additional planning permission would be required to licence the communal rooftop. This application does not propose to licence this area.

#### *Reflections from rooftop solar panels*

An objector located along the east side of 18 Yarra Street has concern with possible reflections from the solar panels into their apartment. The closest solar panels to this apartment are located more than 17 metres away and this is considered sufficient separation to ensure no unreasonable amenity impacts. The provision of solar panels within the development are considered to be a positive environmentally sustainable design initiative.

#### *Depreciation of property values*

Depreciation of property values is not a consideration under a town planning assessment.

#### *Construction Activity*

Construction activities are outside the realm of town planning and will be managed during the building permit processes. Construction is an inevitable component of the urban



transformation which Council intended for this area and is not a legitimate reason to prevent such development.

## 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. 0987/21 - 49-51 & 55 Claremont Street, South Yarra [8.1.1 - 57 pages]

## Officer Recommendation

***That the Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 987.21 for the land located at 49-51 & 55 Claremont Street, South Yarra under the Stonnington Planning Scheme for use and development of the land for a mixed use building in an Activity Centre Zone, Land Subject to Inundation Overlay and Environmental Audit Overlay; use of the land for dwellings, office and food and drink/retail premises (food and drink/retail use is as of right) and reduction in the standard car parking requirement subject to the following conditions:***

1. ***Before the commencement of the development, 1 copy of plans drawn to scale and fully dimensioned, must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the advertised plans prepared by SJB Architects (revision 2 dated 24/11/2021) and Council date stamped on 25 November 2021 but modified to show:***
  - a) ***Items required by Melbourne Water as set out in Conditions 20 to 26.***
  - b) ***The addition of 9 bicycle spaces within Basement Level 1 allocated to commercial staff as detailed in Discussion Plan SD02\_05 (Basement 1 Floor Plan) Council date stamped 31 March 2022.***
  - c) ***Revised apartment layouts on Levels 3 to 6 to improve daylight access as detailed in Discussion Plans SD02\_10 (Level 3 Floor Plan) and SD02\_10 (Level 4-6 Floor Plan) Council date stamped 2 February 2022.***
  - d) ***Details of surface treatment in the privately owned part of the vehicular accessway, which should distinguish it from the publicly owned laneway.***
  - e) ***The western office windows at Levels 1 and 2 provided with screening (with no more than 25% transparency) to a height of 1.7m above the finished floor level.***
  - f) ***As part of the north façade, additional external horizontal shading devices a minimum of 600mm deep (measured from the window) provided to***

**habitable windows on each level where there is not already a façade horizontal overhang 800mm deep or greater proposed.**

- g) The vertical fins to the east façade to be a minimum 600mm deep (measured from the window) and additional external horizontal shading devices a minimum of 600mm deep (measured from the window) to be provided to the windows on each level where there is not already a façade horizontal overhang 600mm deep or greater proposed.**
- h) Amendments to the Level 1 Commercial Tenancies so that as a minimum 30% of the floor area achieves a daylight factor (DF) of at least 2%.**
- i) The specific values used for the reflectance of the construction elements and glazing visible Light Transmittance (VLT) as part of the Attachment B: Revised Daylight Modelling, prepared by Ark Resources (dated 2 February 2022) to be noted on the plans.**
- j) Elevations of the light court detailing all openable windows.**
- k) A notation confirming the water used for fire testing is to be collected onsite and details of the intended re-use.**
- l) A notation confirming all windows to habitable spaces are to be double glazed.**
- m) A notation confirming the total capacity, angle of inclination and orientation the Photovoltaic (PV) panels.**
- n) A notation on the basement plan confirming the provision of Carbon Monoxide (CO) monitoring to the basement carpark.**
- o) A notation that doors are provided with a door catch for the apartments where the natural ventilation breeze path travels through an internal door.**
- p) A notation confirming a tap and floor waste is provided to each apartment balcony.**
- q) A notation confirming the rainwater tank (RWT) is to be connected to all toilets up to and including level 7 and landscape irrigation.**
- r) A notation on the roof plan confirming the total catchment area (m<sup>2</sup>) to drain to the rainwater tank.**
- s) A marked up plan detailing all impervious and permeable areas entered as part of the STORM assessment.**
- t) An internal radius of 4m to be provided as the ramp curves as it approaches the Basement 1 level.**
- u) Confirm the dimensions of the circulation aisles and ramps within the basement. Swept path diagrams are to be provided demonstrating the turn from Basement 1 down the ramp to Basement 2.**
- v) Provision of a convex mirror at the basement entry / exit point wholly within the subject site to provide sufficient sight lines for exiting vehicles.**

- w) ***The blind aisle adjacent the last space in Basement 6 either extended 1 metre beyond the space or swept path diagrams are to be provided demonstrating entry and exit movements to this space.***
- x) ***Details of the grades and lengths within the basement.***
- y) ***A minimum grade of 1:200 provided throughout covered areas of the basement and 1:100 throughout uncovered areas for drainage.***
- z) ***All dimensions for the motorcycle parking spaces to be shown within Basements 5 and 6.***
- aa) ***Doors within the basements and the substation at ground level are not to open into trafficable areas.***
- bb) ***Dimensions of the loading bay, including headroom, to confirm access for a Small Rigid Vehicle.***
- cc) ***A report from the author of the Wind Tunnel Test as required by Condition 12.***
- dd) ***Provision of a 2m x 2m corner splay at ground floor in the north-east corner of the site, to assist with pedestrian visibility and circulation.***
- ee) ***Any changes required by Conditions 3 (Sustainable Management Plan), 6 (Green Travel Plan), 7 (Landscape Plan), 10 (Waste Management Plan) and 14 (Façade Strategy).***

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

2. ***The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason, without the prior written consent of the Responsible Authority.***
3. ***Prior to the endorsement of any plans pursuant to Condition 1 a Sustainable Management Plan (SMP) must be submitted to and approved by the Responsible Authority. Upon approval the SMP will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the SMP to the satisfaction of the Responsible Authority. Amendments to the SMP must be incorporated into plan changes required under Condition 1. The report must be generally in accordance with the Sustainability Management Plan prepared by Ark Resources (Revision C Council date stamped 10 November 2021) but modified to include the following:***
  - a) ***Preliminary JV3 energy modelling for the non-residential components of the proposed development. All fabric assumptions including added insulation, window type and performance values used for the assessments are to be included within the SMP.***
  - b) ***Preliminary NatHERS certificates of at least one apartment for each level rated to substantiate the commitment made within the SMP to achieve an average 7.5 star rating.***
  - c) ***The heating and cooling systems for the apartments are to have a minimum energy rating of 3 Stars.***

- d) ***Daylight contour plots superimposed over the current plans for the commercial spaces.***
  - e) ***BESS credit 2.1 Effective Natural Ventilation 100% has been claimed, therefore the apartments rooms, which are to use ceiling fans to improve natural ventilation are to be nominated in the SMP and indicated on the plans.***
  - f) ***A revised BESS assessment is to be provided with the following amendments:***
    - i. ***The points claimed under category 2.3 Green Walls and Facades are to be removed as the proposed green wall does not reduce the urban heat island effect,***
    - ii. ***Under the Innovation category only the following points can be claimed;***
      - ***One (1) point if electric vehicle charges are installed to 10% of the car-parking spaces and capacity for all remaining parking bays to install charge points in the future.***
      - ***One (1) point if air tightness testing of representative spaces is to be carried out in accordance with the requirements set out in AS/NZS ISO 9972:2015 Thermal performance of buildings.***
4. ***Prior to the occupation of the development approved under this permit, a report from the author of the Sustainability Management Plan, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Sustainability Management Plan have been implemented in accordance with the approved plan.***
5. ***The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.***
6. ***Prior to the endorsement of plans, a Green Travel Plan must be submitted to and approved by the Responsible Authority. When approved, the Green Travel plan will be endorsed to form part of the permit. The Green Travel Plan must include actions and recommendations designed to reduce the use of cars and increase the use of alternative travel methods to the satisfaction of the Responsible Authority. The development must operate in accordance with the Green Travel Plan.***
7. ***Prior to the endorsement of plans, a landscape plan to be prepared by a landscape architect or suitably qualified or experienced landscape designer, must be submitted to and approved by the Responsible Authority. When approved, the landscape plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions. The landscape plan must show:***

- a) ***A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant and irrigation details for all planting.***
- b) ***A detailed landscape plan for north-south section of Claremont Street and east-west section of Claremont Street that must be prepared in conjunction with Council, and to Council's satisfaction.***
8. ***Before the occupation of the development, the landscaping works as shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority. Landscaping must then be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.***
9. ***Upon submission of plans to be endorsed in association with condition 1, the Applicant is to provide to Council's GIS department a digital 3D model of the development site (to Council's specification).***
10. ***Concurrent with the endorsement of plans, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by Traffic Group (Council date stamped 5 November 2021) but updated to include:***
  - a) ***The correct breakdown of bedrooms within apartments.***
  - b) ***Details as to how the development will ensure that all other recycle material (i.e. food/organics and glass) will be transported to the correct designated bins within the bin store.***
  - c) ***Further details as to how residents will be encouraged to recycle materials and avoid and reduce waste disposal as per 'Sustainability Victoria, Best practice waste and recycling in multi-developments'.***
  - d) ***The Waste Management Plan needs to ensure private waste collection only occurs Monday to Saturday – 7:00am and 10:00pm; and Sundays and Public Holidays – 9:00am and 10:00pm.***

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

11. ***Prior to the commencement of the development, the owner of the land must enter into an agreement with the Responsible Authority under Section 173 of the Planning and Environment Act 1987 to covenant that it will:***
  - a) ***Pay a monetary contribution to Council prior to the commencement of the development, capped at a total value of \$1,666,845 to fund the streetscape and public realm works in the east-west section of Claremont Street in front of 49 & 51 Claremont Street and the north-south section of Claremont Street in front of 55 Claremont Street in exchange for the agreed building height.***

- b) The monetary contribution may only be used by Council to fund the streetscape works referenced in Condition 11.a).**
- c) Allow the public, including Stonnington City Council, to access all of the land between the western title boundary and the building at ground floor as shown on the endorsed plans (shown as widened laneway) at all times and without charge.**
- d) Indemnifies Council for any damage to the development by reason of, or in connection with, the use of the widened laneway by the public.**
- e) Will not make any claim for damages or loss of any kind against Council for any damage or injury caused to the widened laneway or to any person using the widened laneway.**
- f) Will maintain public liability insurance for the use of the widened section of laneway by the public.**
- g) Will maintain the land subject to the widened laneway in accordance with the endorsed plans and to a standard that is safe and fit for public access all to the satisfaction of the responsible authority.**
- h) Costs for construction, ongoing maintenance and management of the laneway are to be borne by the landowner.**
- i) Provide public lighting to the laneway at the landowners cost to the satisfaction of Council. The lighting is to be maintained by the owners of the property.**

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

- 12. Prior to the occupation of the development, a report from the author of the Wind Tunnel Test, 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 Wind Tunnel Test Report have been implemented in accordance with the approved Plan.**
- 13. The loading and unloading of vehicles and the delivery of goods to and from the premises must at all times be conducted in a manner that limits interference with other vehicular traffic to the satisfaction of the Responsible Authority.**
- 14. Prior to the endorsement of plans pursuant to Condition 1, a Façade Strategy must be prepared to the satisfaction of the Responsible Authority and must be submitted to and approved by the Responsible Authority. Once approved, the Façade Strategy will be endorsed and will then form part of the permit. The Façade Strategy must include:**

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

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

15. ***Before a sensitive use (residential use, childcare centre, pre-school centre, primary school, secondary school or children's playground) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences:***
  - ***A preliminary risk screen assessment statement in accordance with the Environment Protection Act 2017 must be issued stating that an environmental audit is not required for the use or the proposed use; or***
  - ***An environmental audit statement under Part 8.3 of the Environment Protection Act 2017 must be issued stating that the land is suitable for the use or proposed use.***

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

16. ***The use and development allowed by this permit must comply with the directions and conditions of any statement of environmental audit issued for the land.***
17. ***All the conditions of the Statement of Environmental Audit must be complied with to the satisfaction of the responsible authority, prior to commencement of use of the site. Written confirmation of compliance must be provided by a suitably qualified environmental professional or other suitable person acceptable to the responsible authority. In addition, sign off must be in***

**accordance with any requirements in the Statement conditions regarding verification of works.**

- 18. Prior to the commencement of the development hereby approved, the owner/developer must obtain approval from Council's Building and Local Laws Department to construct or modify any vehicle crossover/s providing access to the subject site. The issue of a planning permit does not provide approval for vehicular crossovers which are outside of the title boundary.**
- 19. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.**

**Start Melbourne Water Conditions**

- 20. Prior to the development plans being endorsed, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Amended Plans must be submitted as follows:
  - a) Finished floor level of the proposed sub-station area must be shown located no lower than 4.26 metres to AHD or, stepped up to achieve this level where main components of the sub-station will be installed.****
- 21. Finished floor levels of the ground floor area including Commercial Tenancy areas, Commercial and Residential lobbies, Lobby to main stairs, Fire Control Room etc must be constructed no lower than 4.86 metres to AHD which is 600mm above the applicable 1% ARI flood level of 4.26 metres to AHD.**
- 22. Finished floor level of the proposed sub-station area must be located no lower than 4.26 metres to AHD or, stepped up to achieve this level where main components of the sub-station will be installed.**
- 23. All openings for the basement (entries and exits, vents, windows etc) must be set above 4.86 metres to AHD.**
- 24. No habitable areas must be shown at levels lower than 4.86 metres to AHD. Transition spaces with minimal floor area are permitted to remain at levels lower than 4.86 metres to AHD.**
- 25. All electrical installations within the building must be set no lower than 4.86 metres to AHD which is 600mm above the applicable 1% ARI flood level of 4.26 metres to AHD.**
- 26. Prior to the issue of a Certificate of Occupancy, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.**

**End Melbourne Water Conditions**

- 27. 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.*
- 28. 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 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.*
  - 29. The existing levels of the abutting footpaths and also the levels of the rear right-of-way must not be raised nor altered in any way (including to facilitate the basement ramp).*
  - 30. Any poles, service pits or other structures/features on the footpath required to be relocated to facilitate the development must be done so at the cost of the applicant and subject to the relevant authority's consent.*
  - 31. 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. The collection of wastes and recyclables from the premises (other than normal Stonnington City Council collection) must be in accordance with Council's General Local Laws.*
  - 33. All redundant vehicular crossing must be removed and the footpath, and kerb reinstated at the owners cost to the satisfaction of Council.*
  - 34. Prior to occupation, access for persons with disabilities must be provided in compliance with the Disability Discrimination Act 1992 and such access must be maintained at all times the building is occupied or in use.*
  - 35. Prior to the occupation of the building, the walls on the boundary of the adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.*
  - 36. Noise emanating from the subject land must not exceed the prescribed limits specified in the Environment Protection Regulations under the incorporated Noise Protocol (Publication 1826.2, Environment Protection Authority, November 2020). Any works required to ensure and maintain the noise levels are in compliance with the regulations must be completed prior to the commencement of the use or occupation of the building and maintained thereafter, all to the satisfaction of the Responsible Authority.*
  - 37. All fixed plant and equipment (including air-conditioning units) must be screened and baffled and/or insulated to minimise noise and vibration to ensure compliance with noise limits specified in the Environment Protection Regulations under the incorporated Noise Protocol (Publication 1826.2, Environment Protection Authority, November 2020) to the satisfaction of the Responsible Authority.*

**Upon written request of the Responsible Authority, a report prepared by a suitably qualified professional demonstrating compliance with the requirements of this condition must be provided to the satisfaction of the Responsible Authority.**

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

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

**NOTES:**

- A. This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.**
- B. 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.**
- C. At the permit issue date, Section 69 of the Planning and Environment Act 1987 stated that the Responsible Authority may extend the periods referred to if a request is made in writing within the following timeframes:**
  - i. Before or within 6 months after the permit expiry date, where the development allowed by the permit has not yet started; and**
  - ii. Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.**

## 8.2 Planning Application 0324/21 - 909 & 911 Dandenong Road, Malvern East

**Planning Appeals Coordinator: Edward Wilkinson**  
**Director Planning & Place: Annaliese Battista**

### Purpose of Report

For the Council to consider a planning application for the use and development of the land for Student Accommodation (Residential Building) in a Residential Growth Zone and Design and Development Overlay, and alteration and creation of access to a road in a Transport Zone 2 at 909 & 911 Dandenong Road, Malvern East.

### Abstract

#### Proposal

The proposal seeks to use and develop the land for a part five and six-storey building for student accommodation, comprising 124 units with 127 beds. A total of six car parking spaces is provided in the basement car park with access from Dandenong Road.

#### Officer Recommendation Summary

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

- The proposed use and development are consistent with the objective of the Planning Policy Framework and Council's Student Housing Policy.
- The development is appropriately located on the main road and within close proximity to the Caulfield Activity Centre, Waverley Road Neighbourhood Activity Centre, Monash University, public transport and existing services and infrastructure, to accommodate a purpose-built student housing development.
- The proposal represents an appropriate design response to the design objectives and built form outcomes sought by the Design and Development Overlay (Schedule 5) for this part of the Waverley Road Neighbourhood Activity Centre.
- The development will provide an adequate level of daylight, outlook and internal amenity to the units and will not result in unreasonable amenity impacts to adjoining properties.
- The proposal provides a satisfactory landscape response that will compensate the loss of vegetation on site, enhance the garden setting and contribute to the broader landscape character of the surrounding area whilst balancing the expectation of more intensive development of the land.
- The level of on-site car parking and bicycle parking is considered adequate for a development of this nature given the proximity to public transport and the University and will suit the need of students. The access arrangement and design of basement car park is considered acceptable. The proposal will not result in unreasonable traffic or parking impacts to the surrounding street network.

## Issues

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

- Use (refer to Strategic Context assessment);
- Building height, scale and massing (refer to Built Form assessment);
- Amenity impacts on the adjoining properties (refer to 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 use and develop the land for a part five and part six-storey residential building for student accommodation, comprising 124 units with 127 beds.

The site is located within the southern boundary of the Waverley Road Neighbourhood Activity Centre and directly opposite the Monash University Caulfield Campus. It is also in close proximity to the Caulfield Activity Centre and Caulfield Railway Station and is well serviced by public transport.

There is strong strategic support to direct high-density development, particularly new student housing development, to this precinct taking advantage of the proximity to the Monash University as well as excellent access to public transport and other amenities, services and facilities.

The proposed development is purposely designed and built for student accommodation. It provides adequate level of daylight, outlook and internal amenity within the units and communal spaces and facilities within the development to suit the need of students. The proposal achieves a satisfactory environmentally sustainable design response. Finally, it will not result in unreasonable visual bulk and amenity impacts to the neighbouring residential properties.

The proposal is considered to appropriately respond to the built form objectives and design and development guidelines of Schedule 5 to the Design and Development Overlay, as well as the emerging and preferred character of the surrounding area. The proposed design is supported by Council's Urban Designer. It strikes an appropriate balance with its built form responding to a number of site constraints and neighbouring sensitive interfaces whilst complementing the diverse, robust built form in this precinct.

The proposal provides adequate level of on-site car parking and bicycle parking provision to suit the demand of students. As confirmed by Council's Transport and Parking Unit and the Department of Transport, the anticipated increase in traffic is considered reasonable and will not result in unacceptable traffic or parking impacts to Dandenong Road and the surrounding local road network. The design and access arrangement of the basement car park is considered adequate, subject to permit conditions.

Measures, including a Management Plan, will be imposed in any permit issued to ensure effective and accountable management of the student accommodation by future operators. A Section 173 Agreement (to be registered on title) will be required by way of conditions on any permit issued to ensure the occupants of the building are bona fide students and student

housing is kept for students, and that any future owners of the units (if were subdivided and individually owned) are made aware of this through any sale process.

### Executive Summary

Applicant:	Chahid Kairouz Architects
Ward:	East
Zone:	Residential Growth Zone (Schedule 1)
Overlay:	Design and Development Overlay (Schedule 5)
Neighbourhood Precinct:	Garden Suburban 1 Precinct
Date Lodged:	29 April 2021
Statutory Days: (as at Council Meeting date)	46
Trigger for Referral to Council:	4 storeys or above
Cultural Heritage Plan	Yes
Number of Objections:	Three (3)
Consultative Meeting:	No
Officer Recommendation	Notice of Decision to Grant a Planning Permit

### Background

#### The Proposal

The plans that form part of the basis of Council's consideration were prepared by Chahid Kairouz Architects and are known as Drawing No.s: A000.1 (Rev U), A001 – A004 (Rev F), A005 – A006 (Rev U), A007 – A009 (Rev F), A010 (Rev W), A011 – A012 (Rev U), A013 (Rev W), A101 (Rev U), A102 – A103 (Rev W), A104 – A108 (Rev X), A109, A109.1, A110, A110.2 (Rev U), A111 (Rev W), A112 – A114 (Rev U), A115 (Rev X), A116 (Rev U), A117 (Rev W), A118 (Rev X), A201 – A207 (Rev U), and A301 – A302 (Rev U), and Council date stamped 3 April 2022.

Key features of the proposal are:

- Demolition of all existing buildings on the site (no planning permit required).
- Construction of a part five and part six-storey residential building for the purpose of student accommodation. The building comprises 124 units with 127 beds.
- All units are self-contained. Studio (one-bed) unit will range in size from 18 to 30 square metres with varied room sizes and floor layouts. Two-bedroom units will have a suite layout with an area of 36 square metres.
- A total of six (6) car parking spaces, three (3) motorcycle parking spaces and a loading bay are provided in a basement, with access from Dandenong Road.
- A total of 112 bicycle spaces is provided within the development, including 106 spaces in the basement car park for resident and 6 spaces adjacent to the building entry for visitors.

- The development is to be of a contemporary style and will be finished in renders in white and grey, grooved panel cladding, seam metal cladding, clear and opaque glass, and perforated metal screens in gold and dark grey.
- The building will have an overall building height of 19.81 metres above natural ground level excluding lift core and stairwell shaft. The stairwell shaft rises an additional 2 metres above the parapet.
- Communal space is provided in the form of two indoor common rooms (110m<sup>2</sup> at ground floor and 108m<sup>2</sup> on the basement level); two sunken courtyards on the basement level (40m<sup>2</sup> and 47m<sup>2</sup>); two communal outdoor open spaces at ground floor (67m<sup>2</sup> and 84m<sup>2</sup>); and a communal rooftop terrace (216m<sup>2</sup>) on Level 5. A total of 454m<sup>2</sup> of outdoor communal open space is provided within the development.
- Communal internal facilities comprise of a lobby, common rooms at basement and ground floors, study areas, laundry, and bicycle storage areas.
- Refuse room, bicycle storage areas, storage area, and plant rooms are provided within the basement whilst the substation is located on the ground floor.
- Main pedestrian access to the building will be from Dandenong Road and a pedestrian access is also provided to the laneway at the rear.
- The development will have a site coverage of 59.3%, a basement coverage of 72.9% and a site permeability of 22%.
- All vegetation on the site is proposed to be removed (no planning permit required). The existing significant street trees (London Plane) within the naturestrip of Dandenong Road are proposed to be retained.
- A timber picket fence of 1.5 metres in height is proposed along the Dandenong Road frontage.

### Site and Surrounds

The subject site is located on the northeast side of Dandenong Road, approximately 110 metres to the southeast of the intersection with Waverley Road and 170 metres to the northwest of the intersection with Burke Road in Malvern East.

The site has the following significant characteristics:

- The site is made up of two continuous allotments, known as 909 Dandenong Road and 911 Dandenong Road. The site is trapezoid in shape and has a total area of approximately 1648 square metres. It has a street frontage to Dandenong Road of 30.5 metres, side boundaries of 42.14 metres and 66.32 metres and a rear boundary of 39.78 metres. It abuts an unnamed laneway (right of way) to the north.
- 909 Dandenong Road is developed with a single-storey brick dwelling and two outbuildings.
- 911 Dandenong Road contains a single-storey brick building with an outbuilding to its rear. This building was previously used as a rooming house and according to Council's records, the use was ceased in November 2019.
- The site has a fall of approximately 1 metre from Dandenong Road frontage towards the rear laneway. It contains established vegetation and significant trees scattered within the front setback and the backyards. Vehicle access to the properties is provided from Dandenong Road via a double width crossover shared by the two lots

and located centrally along the street frontage. There are a large mature street tree and power pole located to the northwest of the crossover.

The subject site is located on the southern boundary of the Waverley Road Neighbourhood Activity Centre, a small neighbourhood activity centre that is predominantly characterised by a mix of residential, office and retail uses. This activity centre is in transition with emergence of robust built form over the last decade. Large multi-storey residential and student housing developments, predominantly four-storey, with contemporary design and robust built form have emerged in the immediate environs on the same side of Dandenong Road.

The site interfaces with adjoining properties as follows:

- Abutting the site to the northwest at 907 Dandenong Road is a four-storey apartment building containing 18 dwellings over a basement car park. The Planning Permit 810/10 associated with this development was issued on 23 May 2011 at the direction of VCAT. The apartment building is of a contemporary architectural design with raked roof form. It contains apartments orientated to the southeast, with ground floor courtyards, upper-level balconies and habitable room windows that interface with the subject site. The basement car park is accessed from the rear laneway (right of way) with the basement ramp located adjacent to the common boundary with the subject site.
- Land to the southeast at 913 Dandenong Road is developed with a single-storey dwelling. The dwelling contains habitable room windows orientated towards the subject site. Private open space is located to the rear of the dwelling interfacing with the subject site. Large trees are scattered within the front and rear setbacks. The front setback features a large expanse of hard paving used for parking with vehicle access from Dandenong Road.
- To the north, the site has a direct abuttal to an unnamed laneway. Across the laneway, the subject site interfaces two properties, 70-78 Waverley Road and 80-90 Waverley Road. The property at 70-78 Waverley Road is zoned Mixed Use and is the Caulfield East Telstra telephone exchange, a single-storey purpose-built brick building.
- Also to the north at 80-90 Waverley Road is a part single and double-storey brick building. It is constructed to the front, west and rear boundaries with a single-storey form to Waverley Road and double storey form to the rear laneway. This building is used as a dance school, known as Australian Academy of Dance, under Planning Permit 292/19.
- The eastern side of the property is occupied by a double storey warehouse style building. Planning Permit 1043/19 was issued on 17 February 2021 allowing for a temporary use of the building as a place of assembly. Car parking is provided at the rear of the site accessed via the rear laneway that connects to Burke Road to the east and Dandenong Road to the southwest.
- It is also noted that a 6-storey mixed use development was once approved by VCAT in 2014 for the property at 80-90 Waverley Road. The planning permit (606/12) was since expired on 21 March 2020 as works have not commenced.

#### Previous Planning Application/s

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

- Planning Application 804/19 proposed a seven-storey residential building for the purpose of student accommodation, comprising 200 units with 205 beds. It was refused by Council (under delegation) on 26 May 2020.

Council's refusal was subsequently upheld by VCAT in December 2020. The proposal refused by VCAT featured a seven-storey building with 179 beds.

#### *909 Dandenong Road*

- Planning Application 861/10 was refused by Council on 24 August 2011 for removal of restrictive covenant. The refusal was upheld by VCAT.

#### *911 Dandenong Road*

- Planning Permit 399/99 was issued on 15 September 1999 allowing for use of the existing dwelling as resident building providing 12 rooms for student accommodation. The use as rooming house use ceased in November 2019.

Planning Scheme Amendment C207 was approved by the Minister for Planning and was gazetted on 15 June 2017. Amendment C207 amends the Schedule to Clause 52.02 (Easements, Restrictions and Reserves) of the Stonnington Planning Scheme to provide for the removal of the two restrictive covenants pertaining to the properties at 909, 911 and 913 Dandenong Road. The restrictive covenants restricted the land to the following:

- No more than one dwelling house shall be erected on the subject
- Not less than the sum five hundred pounds shall be expended in the erection of such a dwelling house; and
- Nor shall any such house be used for any purpose other than a dwelling house.

The restrictive covenants have subsequently been removed from the titles.

#### **The Title**

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

- Certificate of Title Volume 08328 Folio 874 / Lot 1 on Title Plan 298718V.
- Certificate of Title Volume 07583 Folio 030 / Lots 1 and 2 on Title Plan 852735G.

No covenants or easements affect the land.

#### **Planning Controls**

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

##### *Zone*

##### *Clause 32.07 – Residential Growth Zone (Schedule 1) (RGZ1) – Key Boulevards*

Pursuant to Clause 32.07-2, a permit is required to use the land for a residential building.

Pursuant to Clause 32.07-5, a permit is required to construct or extend a residential building.

The requirement for a development to meet the requirements of Clause 55 does not apply to a development of five or more storeys. As such, Clause 55 does not apply to this application.

Pursuant to Clause 32.07-9, a building used as a residential building should not exceed a height of 13.5 metres (discretionary maximum height). The development as proposed contains 5-6 storeys and has a maximum height of 19.81 metres, excluding lift core and



stairwell shaft. It exceeds the discretionary maximum building height as specified in the Zone.

There is no mandatory garden area requirement within the RGZ provisions.

#### *Overlay*

#### *Clause 43.02 – Design and Development Overlay (Schedule 5) (DDO5) – Waverley Road Neighbourhood Activity Centre*

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

The site is located within Precinct 3 – Dandenong Road Residential Frontage. This area is designated for higher density residential and student housing development which takes advantage of the proximity to transport, retail and educational facilities.

The Schedule recommends that buildings in Precinct 3 should not exceed an overall height of 15 metres (4 storeys). The proposed development of a maximum height of 19.81 metres (excluding lift overrun and stairwell shaft) exceeds the preferred building height.

#### *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. It is however noted that the use of land as a 'residential building' or 'Student Accommodation' is not a use specified in Table 1 under Clause 52.06-5.

Clause 52.06-6 stipulates that where a use of land is not specified in Table 1, before the new use commences, car parking spaces must be provided to the satisfaction of the responsible authority. The development will provide six (6) car parking spaces within the basement, including one (1) space allocated to staff parking. Council therefore must consider whether the provision of on-site car parking for students is acceptable or not.

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

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

#### *Clause 52.34 – Bicycle Parking*

Pursuant to Clause 52.34, a residential building of 4 or more storeys is required to provide 1 bicycle space to each 10 lodging rooms for resident and 1 bicycle space to each 10 lodging rooms for visitor.

The development proposes a total of 127 lodging rooms and thus generates a requirement of 13 bicycle spaces (rounded up from 12.7) for residents and 13 bicycle spaces for visitors. The development provides 106 bicycle spaces for residents and 6 bicycle spaces for visitors. It complies with the resident bicycle parking requirement but falls short of the visitor bicycle parking requirement.

#### **Relevant Planning Policies**

Clause 15 – Built Environment and Heritage  
Clause 16.01 – Residential Development  
Clause 21.03 – Vision  
Clause 21.05 – Housing  
Clause 21.06 – Built Environment and Heritage  
Clause 22.05 – Environmentally Sustainable Development Policy  
Clause 22.08 – Student Housing Policy  
Clause 22.18 – Stormwater Management (Water Sensitive Urban Design)  
Clause 22.23 – Neighbourhood Character Policy  
Clause 53.18 – Stormwater Management in Urban Development  
Clause 65 – Decision Guidelines

### Advertising

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

The site is located in East Ward and objections from three (3) different properties have been received. The objections can be summarised as below:

- Excessive height, which is a departure from the existing character of the area.
- Fails to integrate with the prevailing streetscape.
- Unreasonable level of massing and visual bulk.
- The University supports the provision of the development of student accommodation in this location. However, the proposal does not provide appropriate daylight and outlook for all rooms.
- Inadequate on-site car parking provision and impact on on-street parking.

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

Notwithstanding this, the applicant has submitted amended plans in an effort to address the concerns expressed by the objectors and Council officers. The plans were formally substituted under Section 57A of the *Act* on 14 April 2022.

The key changes to the design shown on the amended plans (Council date stamped 3 April 2022) include, but are limited to, the following:

- Reduction in number of units and beds from 133 units/beds to 124 units with 127 beds.
- Reduction in number of car parking spaces from 9 to 6.
- Increase in number of bicycle parking spaces from 102 to 112.
- Changes to setbacks and reduction in building footprint at basement level.
- Setbacks of the central and rear wings from the southeast boundary increased from 0 metres to between 1.8 –3 metres at ground floor and Level 1.
- Increase in rear setback from 1 metre to 3.5 metres between the ground floor and Levels 3.
- Reconfiguration of rear wall at Level 4 to provide a 3.5 metre setback from the rear boundary.

- Widening the rear bridge and subsequent reduction in southeast setback from 16.84 metres to 13.48 metres and northwest setback from 11.37 metres to 10.62 metres.
- Rear outdoor communal area (located between the central and rear wings) reduced from 84 to 67 square metres.
- Removal of the rear rooftop terrace at Level 5 and replacement with service plant area with solar panels.
- Reconfiguration of internal floor layout at each level.
- Modifications to window openings, size and location.
- Changes to screening measure to windows facing outdoor communal open space areas.
- Substation added at ground floor.
- Reduction in height of the lift core and stairwell shaft and removal of enclosed lift lobby at roof level.
- Modifications to wall heights, plant screens, form and appearance of the building.
- Modifications to landscape response with additional landscaping and canopy trees.

The amended plans were not formally readvertised.

#### Referrals

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

- The proposal has been revised to be generally consistent with recommendations in my previous advice regarding the extent of the basement, form and scale, interfaces to sides and rear, and landscaping.
- The partial sixth level, located in the central portion of the site, is sufficiently well setback from Dandenong Road, and from the rear of the site, and could be regarded as an acceptable exceedance above the height provisions of the DDO.
- The proposed materials and colour schedule are satisfactory.
- The proposal is supportable in its current form.

##### *Parks Unit (comments based on the amended plans)*

- The amended design is a better outcome than the previous design.
- The amended landscape plan is generally acceptable, subject to replacement of the species that have slow growth in Melbourne's climate. This can be addressed by permit conditions.
- Conditions including tree management plan, tree protection bond and other standard tree protection conditions, are required in any permit issued to protect the significant neighbouring trees and street trees.

##### *ESD Officer (comments based on the amended plans)*

- The issue regarding daylight access has been adequately addressed in the amended plans and report.
- The amended SMP and BESS report still contains a number of erroneous and/or unsupported claims. Additional consideration is required particularly in relation to

adequate shading, and natural ventilation so that the proposed development could reach an acceptable outcome from an ESD perspective.

- Notwithstanding this, the remaining outstanding ESD issues can be addressed by way of permit conditions.

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

- The site is to be used exclusively for student accommodation and is very close to Monash University and good public transport options. The Transport and Parking Unit has no in-principle objection to a parking provision lower than the statutory rate for residential dwellings.
- The revised Traffic Impact Assessment (TIA) has adopted a car parking rate of 0.5 spaces per unit based on an empirical assessment of other student accommodation developments nearby. Council's Transport and Parking Unit has concern with this empirical car parking rate and prefer a higher car parking rate of 0.06 spaces per unit (a same rate in the advertised plans) to be adopted. It would be preferable to provide seven parking spaces plus any staff parking requirements.
- The anticipated volume of traffic generated by the development is low and is likely to impact the operation of the local traffic network.
- The TIA does not discuss the likelihood of pick up and drop off by taxi/Uber. The applicant should consider if this is likely to occur.
- The car parking and loading bay design, headroom clearance, accessway and ramp gradient are considered acceptable.
- No objection to the provision of motorcycle spaces subject to dimensions of the spaces in accordance with the Australian Standards.
- The ramp curves at the property boundary. It appears that this is to match with the vehicle crossing, which is constrained by the street trees. It is preferable for the ramp to be straight, to ensure visibility along the ramp and easy manoeuvring.
- Additional dimensions of columns and clearance from the access aisle and floor gradients for drainage are required on the plans.
- The design of the proposed crossover is considered satisfactory.
- The reduction in on-street parking resulted by the creation of a new crossover is considered acceptable given to a net increase in parking provision on site.
- The swept path diagrams for waste collection vehicle are considered acceptable.
- The design of and manoeuvring around the loading bay are considered appropriate.
- The hydrant booster door will open into the footpath and is not supported. No doors should open into trafficable areas, or into public roads/footpaths.
- All pedestrian paths must be a minimum of 1.1 metre wide, with a grade no steeper than 1:14.
- The applicant is to ensure that adequate visibility is provided to the rear pedestrian entry (either splays or limited height of infrastructure/landscaping) near the property boundary, as there is no footpath offset to vehicle movements.

- The number of bicycle parking spaces for resident well exceeds the statutory requirements of Clause 52.34 and Clause 22.08. However, the number of visitor bicycle parking spaces falls short of the requirements in Clause 52.34. There are no general objections to the total number of bicycle parking spaces however more spaces could be allocated to visitors. It is preferable that these be provided at ground level, where they are easily accessible for visitors. All bicycle spaces must be provided within the property (i.e, they cannot be provided on the footpath).
- The design of visitor bicycle parking spaces and the horizontal racks adjacent to Laundry and Car Parking Bay No.3 is broadly acceptable subject to further dimensions to be shown on the plans. The racks adjacent to Car Parking Bay No.3 are accessed over a kerb and is considered acceptable.
- The spacing and envelope of bicycle racks adjacent to the access ramp are satisfactory but the access aisle is not accordance with the Australian Standards.
- The bicycle racks within the bicycle store are shown with a spacing of 400mm. This is narrower than the requirements of the Australian Standards (700mm spacing, or 500mm if the rack heights are staggered). There is concern with difficulty in access due to narrow spacing, resulting in a lower occupancy. The applicant is to revise the material to provide manufacturer's specifications and address the concerns regarding spacing.
- The applicant is to provide manufacturer's specifications for the double height arrangement, detailing how the upper racks will be accessed. There are no in principle concerns with a double height system however specifications are required so that an adequate assessment can be made as to whether there is sufficient room to operate.

Planner response: A response is provided to the key issues raised above:

- The proposal is for a student housing development. Unlike a residential hotel, the likelihood of pick up and drop off by taxi/Uber generated by student housing development would have no difference to other residential apartment buildings. The site has a direct abuttal to an arterial road, which would have capacity to accommodate a low frequency of pick up and drop off by taxi/Uber. Importantly, Department of Transport, who is responsible for managing Dandenong Road, has not raised any concern.
- The basement ramp has been purposely designed to retain and minimise the impact to the significant neighbouring tree and street trees. The design of the ramp complies with the Australian Standards. Whilst Council's Transport and Parking Unit prefers a straight ramp, it is considered unnecessary given the low on-site car parking provision and traffic volume within the development. A balance has been reached between protecting significant street trees and providing a safe access.
- The issue with car parking rate will be discussed in detail below.
- As discussed in detail below, the applicant has chosen to provide additional visitor bicycle parking spaces to comply with the statutory requirements in Clause 52.34. This issue will be addressed by way of permit conditions.
- The bicycle racks in the basement bicycle store are double height/ stacked. This type of bicycle rack is not a floor mounted hoop or horizontal hanging rail which generally require wider spacing in accordance with the Australian Standards. Manufacturers

specifications will be required in the permit conditions to demonstrate how the upper racks will be assessed and ensure adequate spacing is provided between racks.

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

- A comprehensive Waste Management Plan (WMP) accompanied this proposal. This document responded well to the waste management challenges presented in the plans with exception of the issues identified below.
- The proposed waste collection hours do not align with that outlined in the Stonnington 'Residential Waste Management Guidelines'.
- A collection frequency of 4 times per week for recycling is excessive. This needs to be reduced to limit the amount of disturbance to the local area.
- A swept path diagram is required demonstrating how access to the bin store loading area will be achieved (*Mini waste rear loader as outlined in the Waste Management Plan*).

Planner response: The above matters can be addressed via permit conditions should the development be approved.

*Infrastructure Unit (comments based on the advertised plans)*

No objection subject to implementation of the recommended permit conditions.

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

No objection subject to permit conditions.

## Key Issues and Discussion

### Strategic Context

While the overarching State and Local Planning Policies seek to increase opportunities for higher density development in and around activity centres and close to public transport, this is not to be achieved at all costs. A balance must be struck between providing higher density development for a growing population and providing a development outcome that respects the character and strategic vision for the activity centre. State policies also call for well-designed development that respects the local context, improves housing choice, makes better use of existing infrastructure and improves energy efficiency.

The subject site is located directly opposite Monash University Caulfield Campus that caters for a large number of students with specialised accommodation needs, a small percentage of whom seek purpose-built housing. This type of housing has specific requirements and impacts which need to be fully considered as part of any planning application.

The Municipal Strategic Statement (MSS) at Clause 21.03-1 seeks to '*maintain housing diversity and provide housing choice to meet the needs of Stonnington's population*'. An identified specific housing need is student housing and one of the relevant strategies at Clause 21.05-5 is to '*support suitable student accommodation close to large tertiary institutions such as Swinburne, Holmesglen and Monash*'.

Specially, Clause 22.08 (Student Housing Policy) seeks, amongst other things, to '*channel purpose-built student housing into locations which have good access by foot or public transport to the tertiary institutions which generate the demand for this type of housing, and which offer high accessibility to relevant facilities such as shops, community facilities and appropriate services*'. It is also policy to direct student housing uses and developments to

*preferred student housing locations areas* within 800 metres of Monash University Caulfield Campus.

Further to this, the Strategic Framework Plan in the MSS (Clause 21.03) identifies locations where specific outcomes are sought. In regard to redevelopment and residential intensification, the Strategic Framework Plan recognises the need for increased densities across the municipality and directs specific types of development to specific areas. Dandenong Road is defined as a tram and bus priority route in the Strategic Framework Plan. Clause 21.05 (Housing) in the MSS identifies the subject site as being within an area of '*substantial change*' where policy directs medium density housing and higher density housing to occur.

In addition, the subject site is located within Precinct 3 – Dandenong Road Residential Frontage as identified in the Design and Development Overlay, Schedule 5 (DDO5). This precinct is designated for higher density residential developments, and particularly new student housing developments which take advantage of the proximity to Monash University, shops and transport.

A purpose of the Residential Growth Zone (RGZ) is to provide housing at increased densities in buildings up to and including four storeys, and to encourage a diversity of housing types in locations offering good access to services and transport. The subject site is located within the southern boundary of the activity centre on an arterial road where substantial change is anticipated and encouraged. The site sits directly opposite Monash University Caulfield Campus and is within easy walking distance to public transport and the Waverley Road Neighbourhood Activity Centre and Caulfield Activity Centre. There is strong policy support at both a State and local level for higher density development in and around activity centres and well serviced locations on main roads, as well as student housing specifically encouraged in this location.

Whilst student housing/ accommodation is defined as a residential building under the Stonnington Planning Scheme, this type of housing caters for a transient and special group in the community and offer different services and facilities to that of a conventional residential building. The proposal responds appropriately to the broad strategic intent to make efficient use of the land, contribute to improved housing diversity and choice and respond to an identified need. The proposal is therefore appropriate in terms of the broad strategic vision and future expectations for this area.

In principle, a purpose-built, multi-storey student accommodation development is consistent with the purpose of the RGZ, the strategic vision of the DDO5 and the activity centre, and relevant State and local planning policies. The height, scale and massing of the building is considered appropriate in this site context and adequately responds to the future expectations of this Precinct as sought by DDO5 and Council's Neighbourhood Character Policy (Clause 22.23). Further consideration of the built form and amenity impacts are discussed below.

### Built Form

The Neighbourhood Character Policy at Clause 22.23 applies to all development in residential zones and consideration of the relevant *statement of preferred neighbourhood character* is required.

Pursuant to Clause 22.23 (Neighbourhood Character Policy), the site is part of the *Garden Suburban 1 Precinct*, where the following Statement of Preferred Neighbourhood Character applies:

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

The policy also sets out a number of design guidelines to achieve the preferred character. For sites within a RGZ or within a substantial change area, the design guidelines place emphasis on new developments minimising the impact of upper levels on adjoining residential properties and avoiding new developments that are visually bulky. The policy also requires new developments to *maintain and strength the rhythm of spacing between and around buildings* and *maintain and strengthen the garden settings of buildings and the tree canopy of the neighbourhood*.

The zoning of the land being RGZ is an important consideration. Unlike the General Residential Zone (GRZ) or the Neighbourhood Residential Zone (NRZ), the RGZ makes no reference to respecting existing neighbourhood character in its purpose. Built form outcomes will be different from what is expected in the residential hinterlands included in other residential zones. However, this does not mean that off-site amenity impacts or character issues can be ignored. Rather, they have to be tempered in light of policy encouraging more intensive development.

In addition to the Neighbourhood Character Policy, new development on this site is also guided by the Design and Development Overlay, Schedule 5 (DDO5). As outlined above, the subject site is part of the Waverley Road Neighbourhood Activity Centre and sits within an area identified as Precinct 3 in the DDO5.

Schedule 5 to the Design and Development Overlay (DDO5) sets out the future character and the design and built form expectation of new developments within this precinct. This includes built form, building appearance, height, setbacks, public/private interface, vehicle access and parking. Amongst other things, the following centre-wide objectives are of relevance:

- *To design buildings that enhance the appearance, amenity and safety of the Waverley Road Centre, and contribute to its street life and activity.*
- *To design buildings of an appropriate scale and form to the streetscape context and with well considered architectural detail.*
- *To provide a range of housing choices within the centre to accommodate different housing needs and household types.*



- *To respect the preferred character of existing residential areas.*
- *To protect existing residential areas from unreasonable loss of amenity.*

Importantly, the benchmark for both the DDO5, RGZ and Clause 22.23 (Neighbourhood character policy) clearly place a stronger emphasis on respecting the *preferred* character of the area and frame how change is to be managed.

Within Precinct 3, DDO5 seeks to achieve the following future character and outcome:

#### Future Character

*New student housing developments will be focussed in this precinct, taking advantage of the proximity to the University which will be easily accessed by clear pedestrian or cyclist crossing points over Dandenong Road. Higher scale buildings will reflect the scale of the university buildings opposite, creating a strong and distinct streetscape image for this section of Dandenong Road.*

#### Outcome

- *A cluster of well designed, higher density residential development that takes advantage of the proximity to Monash University, shops and transport.*
- *Buildings that contribute to the appearance of Dandenong Road as a regionally significant boulevard.*

For this site, new development must meet the design objectives and should address the design requirements and outcomes to be achieved identified for the centre as well as Precinct 3.

The surrounding area has evolved in recent years with emergence of more robust and diverse built form. Whilst a number of single dwellings and older walk-up flats still exist in this precinct, there is a gradual emerging character of four-storey buildings, predominantly student housing of contemporary design. This reflects the planning controls of the land and the strategic vision of growth and change in this precinct as outlined above.

#### *Height*

The RGZ allows a discretionary maximum building height of 13.5 metres. Furthermore, DDO5 contemplates more intensive development up to 15 metres (four-storeys) in Precinct 3 (Dandenong Road Residential Frontage). The preferred character of Precinct 3 seeks for higher scale buildings which will reflect the scale of the university buildings opposite, creating a strong and distinct streetscape image for this section of Dandenong Road.

The previous application refused by VCAT was for a seven-storey building, comprising a four-storey base with further three-storeys above, and rise to 23.1 metres (excluding lift core) for the whole building. Despite refusing the application, the Tribunal remarked that in balancing the context of the site and the envisaged future character, it could be possible to design a building of five storeys and achieve an acceptable outcome. This could benefit a legible response to a preferred height but recognise the opportunity arising from the consolidated nature of the site to accommodate a taller form, with appropriate design treatment, siting for the topmost level that would achieve a recessive appearance.

The new proposal has made a number of substantial design change, which is considered to have satisfactorily addressed the fundamental concerns expressed by VCAT in the previous refusal. The new design adopts a part five-storey and part six-storey form with a four-storey

base and recessed upper levels above. The massing of the building has been broken down into three wings (front, central and rear) with varied building heights from 16.55 metres to 19.81 metres. This excludes the stairwell shaft which rises an additional 2 metres above the parapet. Each wing is linked by a 'bridge', which provides appreciable visual breaks in the built form. The front wing features a four-storey base with a recessed fifth level and a height of 16.55 metres. The building then rises to six-storeys in the central wing with a height of 19.81 metres and then drops down to five-storeys in the rear wing with a height of 16.63 metres.

Despite exceeding the (discretionary) preferred maximum height of 15 metres as specified in DDO5, the design response and the resulting overall height is considered appropriate in this context. The front and rear wings of the building is presented as a five-storey building as opposed to wholly seven-storey as previously refused. The small height exceedance by 1.6 metres above the preferred height limit will not be readily distinguishable in the context of main road and substantial change area. The four-storey walls on the front building façade respond and achieve a gradual transition with the existing four-storey apartment building to the northwest. The fifth level is sited and designed to recess from the base below. Through the use of setbacks, different building materials and a darker colour palette, which creates a visual contrast to the built form below, the fifth level will present as a distinctive recessive element to the street and neighbouring properties.

On balance, the four-storey base with a recessed fifth level has struck a right balance between the characteristics and context of the site which is capable of accommodating a taller building given its larger lot size and wider street frontage, whilst responding to the preferred height and envisaged future character of the area. The five-storey form at the front will provide variation and a gradual transition in height to the existing four-storey apartment building to the northwest and any future development to the southeast. It will sit comfortably within this part of the activity centre and Dandenong Road, and will not present as visual dominant in the overall built form composition of the streetscape.

In terms of the sixth level, the height of 19.81 metres exceeds the preferred height limit by 4.81 metres. However, this level has a small building footprint and is positioned centrally within the site with substantial setbacks from Dandenong Road (approximately 23.8 metres) and the rear and side boundaries. With the proposed building setbacks, the visual bulk of this level is absorbed within the site by its large lot size. This sixth level will be largely obscured by the built form below and will not be highly visible when viewed in oblique from Dandenong Road and surrounding properties. It will not result in an overly dominant and overbearing presence in the streetscape and the activity centre.

As confirmed by Council's Urban Designer, the form and scale of the proposal is considered appropriate in the streetscape context and the partial sixth level can be regarded as an acceptable exceedance above the DDO5 provisions.

Overall, the site being a large, consolidated lot has attributes and capacity to accommodate a taller building. The partial five and six-storey building with its recessed upper levels is appropriately designed to ensure the building, particularly the two topmost levels and stairwell shaft where additional height proposed, will not be overly dominant in the Dandenong Road streetscape or towards neighbouring properties. The uplift of building height will not result in unreasonable adverse amenity impacts to the neighbouring properties or the public realm. It will reflect and complement the preferred future character of

the area as well as the scale of the university buildings opposite, as sought by the DDO5. The proposed height is considered an acceptable response for this site in this eclectic and evolving context.

### *Form and Massing*

Unlike other DDOs in the Stonnington Planning Scheme, DDO5 does not specify the prescriptive requirements of street wall and building setbacks. Instead, it requires *new buildings should be sited so that there is a landscaped frontage setback from Dandenong Road* in Precinct 3. The general design requirements in DDO5 further specified, amongst other things, that:

- *Provide visual interest through variations in the form, setbacks and massing of new buildings.*
- *Building facades should be composed with an appropriate scale, rhythm and proportion that respond to the building's use and context.*
- *New buildings adjoining residential properties should provide a transitional height and setbacks.*

The proposed development adopts a defined four-storey base with recessed upper levels. The composition of the front building façade has been broken down into two well-defined forms with staggered street setbacks averaging 4.5 metres and a central deep recess in between. It exhibits a four-storey street wall with a height of 12.5 metres to Dandenong Road.

The staggered street setbacks with an average of 4.5 metres provide a gradual transition between the adjoining apartment building to the northwest at 907 Dandenong Road and any future development to the southeast at 913 Dandenong Road. The western corner of the building broadly aligns with the front façade of the adjoining apartment building to the northwest, which is setback 3.7 to 4.7 metres from Dandenong Road. The eastern section of the front façade then steps back to 4.5 metres. It is evident that surrounding street setbacks along this section of Dandenong Road, particularly properties to the northwest, are not large. There is no doubt that the building will sit forward and above the existing older buildings to the southeast at 913 Dandenong Road. However, given the planning controls in the Residential Growth Zone and Design and Development Overlay, future redevelopment and built form change on the adjoining property to the southeast is to be expected. Such an outcome is also expected by DDO5 in creating a strong and distinct streetscape and more evolving and robust built form along this section of Dandenong Road. The proposed street setback of 4.5 metres will provide room for deep soil landscaping with large canopy trees along the Dandenong Road frontage, which is consistent with the design aspirations in DDO5 and will assist in softening the appearance of the building when viewed from public realm.

Above the street wall, the building steps back with setbacks of 7.11 to 7.87 metres from the Dandenong Road frontage. At the topmost level (sixth level), it is setback approximately 23.8 metres from Dandenong Road. The two topmost levels adopt a lightweight architectural expression with a darker colour palette, clearly distinguishing it from the base below. They are adequately setback from the street and recessed from the floors below so that they will present as a recessive element to the street and will not dominate the streetscape.

The building presents a well-defined and highly articulated modular form to Dandenong Road. The design response incorporates two defined forms with staggered street setbacks, vertical projecting fins and frames, deep recess, and fenestration. This provides strong punctuation and readable vertical emphasis and articulation in the building façade to reflect the vertical ordering and fine grain subdivision pattern as well as maintain the modules and rhythm in the streetscape. Along with the horizontal projecting framing elements, the vertical built form articulation breaks up the mass and breadth of the built form which spans over two lots and moderate building bulk, ensuring that the building does not read as one large heavy mass within the street.

The development adopts a contemporary architecture with use of various modern building materials. The materiality of renders, grooved panel cladding, seam metal cladding, glass, and perforated metal screens is compatible with the predominant architectural detailing of other contemporary residential buildings in the surrounding area. The varied materiality, colours and fenestration on the building façades provides additional differentiation, contrast and articulation to the building.

The primary building entrance is centrally located along the Dandenong Road frontage and provides a clear sense of address. The development has incorporated with windows and communal courtyards and rooftop terrace to face the street. Combined with low, open style front fence, the development will provide an active frontage that interfaces with the street and passive surveillance of the public realm. The service cupboards and substation along the street frontage have been minimised and integrated into the design of the front fence and building. A condition will be imposed in any permit issued to ensure the service cupboards are setback and designed in a way that open doors are wholly contained within the property boundary to prevent obstruction to foot traffic and safety hazard.

Overall, the proposed design provides an acceptable relationship to the existing context and is a suitable response to the future character and built form aspirations for this precinct. It is considered that the proposal exhibits a good architectural quality and will sit comfortably within the existing and emerging streetscapes.

#### *Northwest and Southeast Interfaces*

The four-storey apartment building to the northwest at 907 Dandenong Road contains 15 apartments, some of which have primary outlook to the southeast towards the proposed building. At ground floor, single aspect apartments with southeast facing courtyards and habitable room windows interface with the subject site. The common corridor, with single aspect habitable room windows behind, is setback 1.15 metres from the common boundary with the subject site at first floor and 2.15 metres at second floor. At upper levels, there are balconies interfaced with the proposed building to the southeast.

The adjoining property to the southeast at 913 Dandenong Road is a single-storey dwelling. It contains multiple habitable room windows orientated towards the subject site with 1 metre setback and the secluded private open space located to the rear.

The DDO5 sets out the following design guidelines for setbacks where adjoining residential zoned properties:

- *New buildings adjoining residential properties should provide a transitional height and setbacks.*

- *Building heights and setbacks of all non-residential and residential buildings adjoining a residential boundary should implement the objectives of ResCode for development up to 9 metres. Where development exceeds 9 metres, regard should be given to the directions of Clause 52.35.*
- *Where a laneway separates existing residential properties from a development site, the interface at which assessment should be made is at the residential property.*

The DDD5 further calls for building heights and setbacks that maintain reasonable amenity to existing residential properties.

As outlined in the section of 'Planning Controls' above, Clause 55 does not apply to a development of five or more storeys such as the proposal. Neither of Clause 58 given that the proposal is not an apartment building. Despite this, Standard B17 (Side and Rear Setbacks Objective) is considered to be a useful tool to assess visual bulk and amenity impact to the adjoining residential properties.

The proposal has adequately responded to these sensitive residential interfaces by breaking up the substantial mass and continuous length of the building of this scale into three forms, (each linked by a 'bridge') with staggered setbacks. The break between each wing is 5 metres. This design response successfully moderates the visual bulk of a building of this scale and length and provides readily appreciable visual break and visual relief when viewed from the adjoining residential properties on either side.

To the northwest, the adjoining apartment building interfaces the front and central wings of the proposed building. In response to the adjoining sensitive residential interfaces particularly the most affected on the ground floor, the ground floor and Level 1 of the proposed building are to be setback 1.8 metres from the property boundary. This two-storey base has been designed to fit within the Standard B17 envelope. With exception of a small section of the building at the front, the upper levels including rooftop terrace are then stepped back from the floors below with a setback varying from 4.5 to 6.5 metres from the northwest side boundary.

Small buildings setbacks and boundary construction are common in this part of the activity centre. It is considered that the northwest walls of the new development have been adequately setback to reflect the adjoining development to the northwest. Combined with the break incorporated between the wings, these building setbacks are considered to adequately mitigate the visual bulk presented to the existing habitable room windows and secluded private open space areas directly abutting the site. The proposed building setbacks will maintain a reasonable level of daylight access and outlook to the affected single aspect apartments and minimise the sense of enclosure to a reasonable level.

The landscape plan submitted shows that a row of shrubs with one 6 metre high Native Frangipani is proposed along the northwest boundary. Such landscape buffer is not commensurate with the scale of the building and is considered inadequate. The landscape buffer could be strengthened by replacing the low-level shrubs with taller landscape elements of 6 to 8 metres in height in order to assist to soften the large built form and moderate visual bulk when viewed from the adjoining properties. This issue can be addressed by way of permit conditions.

To the southeast, the existing dwelling and its secluded private open space interface with the central and rear wings of the proposed building. The two-storey base (ground floor and Level

1) has been designed to fit within the Standard B17 envelope with a setback of 1.8 metres from the southeast boundary. Levels 3 to 5 are gradually stepped back with a setback of 4.5 metres from the property boundary whilst Level 6 is further recessed with a setback of 6.72 metres.

The proposed setbacks to the southeast boundary are considered acceptable. They balance the anticipation of change and amenity impact to the adjoining property. The building façade has been sufficiently articulated through varied setbacks and a mixed palette of materials so as to avoid unreasonable visual bulk. The proposal achieves an appropriate separation with neighbouring habitable room windows to the southeast, ensuring a reasonable level of outlook and natural light is maintained. The removal of two significant trees along the common boundary on the adjoining property to the south allows an opportunity to further strengthen the landscape buffer along the southeast boundary. A good layer of screen planting to 6 metres in height could be incorporated along the rear wing to assist to further softening the large built form. Overall, the proposed setbacks are sufficient to limit amenity impacts and unreasonable visual bulk from the adjoining secluded private open space to the southeast. The amenity of the adjoining dwelling to the southeast will not be unreasonably reduced.

In addition, the proposed southeast walls have been designed to allow for an equitable development opportunity on the adjoining property to the southeast with a development of a commensurate height and scale aligned with the DDO5 provisions. The proposed setbacks will provide adequate building separation and minimise the need of privacy screening in any future development while maintaining the rhythm of spacing between buildings in the streetscape.

#### *Laneway Interface*

The DDO asks built form outcomes to appropriately respond to the interface with residentially zoned land to the rear. It specifies that where a laneway separates existing residential properties from a development site, the interface at which assessment should be made is at the residential property. However, as the properties across the laneway are zoned Commercial 1 and Mixed Use Zones, this design requirement does not apply to the proposal.

The proposed development is to be setback 3.5 metres from the rear boundary at a height of 17.2 metres. The laneway to the rear provides an additional separation of 3 metres, achieving a total setback of 6.5 metres from the properties to the northeast.

The properties across the laneway are non-residential buildings with no sensitive interfaces. The proposed rear setbacks will provide appropriate spacing along the rear boundary and ensure the proposed development does not crowd the laneway. Given the existing conditions on the properties to the northeast and the context of the laneway and coupled with the additional separation offered by the laneway, the proposal will not result in any unreasonable visual bulk and loss of amenity to the properties across the laneway.

The development has been designed to recognise the equitable development opportunity on the properties across the laneway. As outlined above, the properties across the laneway are zoned Mixed Use Zone and Commercial 1 Zone and are affected by the DDO5. Taller buildings with more robust built form are anticipated in this part of the activity centre in accordance with the DDO5 provisions. The proposed rear setbacks will provide adequate

building separation and transition to any future developments on the properties across the laneway. Common area and corridor windows, as opposed to student room windows, are orientated toward the laneway interface. This will remove the need of screening measure to any future developments across the laneway and will minimise off-site amenity impact to both of the subject site and any future developments across the laneway.

The rear interface of the building is provided with adequate space for large canopy tree planting and meaningful landscaping. The landscape plan shows that five canopy trees with a maturity height of 8 metres and canopy width of 5 metres are proposed along the rear boundary. Given the height of the rear wall, it is considered that taller landscape specimen with a minimum maturity height of 11 metres should be planted along the rear boundary in order to further soften the large built form and mitigate visual bulk presented to the properties across the laneway. This can be achieved without compromising the internal amenity of the development as the windows on the rear wall are predominantly corridor windows, not student room windows.

On balance, the proposed rear setbacks and the treatment to the laneway interface are considered appropriate.

#### *Landscaping*

The aspirations of the preferred character of this area seek developments within a RGZ or a substantial change area to be designed with a more compact setting but with space for canopy trees and other vegetation. In addition to this, the DDO5 specifically seeks to create a landscaped frontage to Dandenong Road. More generally, the importance of landscaping within residential areas is emphasised within the Local Planning Policy Framework, particularly in Clause 21.06-2 (Landscape Character) and Clause 22.23 (Neighbourhood Character Policy).

It is considered that the layout of the proposed development will allow adequate opportunities around the perimeter of the site to accommodate for canopy tree planting and meaningful landscaping commensurate with a development of this scale. Importantly, the building (including basement level), with exception of a small section of basement walls, has been appropriately setback off from all boundaries to provide adequate space for deep-root, in ground planting. The proposal results in a site coverage of 59.3% and a basement coverage of 72.9%, which would be comply with Clause 55 (ResCode) if it was applicable. The design is responsive to the site and local context and therefore achieves the design objectives in Clause 22.23.

All vegetation on the site is proposed to be removed to facilitate the proposed development. Council's Arborist has reviewed the proposal and found the removal of the trees to be acceptable. To compensate the loss of established vegetation, a total of 18 canopy trees, including 14 trees to be planted in deep soil, are proposed around the new building. The trees are anticipated to reach a height between 3 and 10 metres at maturity. Given the height and scale of the proposed development, taller specimens are considered more appropriate in order to assist to soften the large built form, moderate visual bulk, improve the outlook and enhance the interfaces with the adjoining properties. The landscape plan has been reviewed by Council's Arborist who has advised that the landscape plan is considered generally acceptable, subject to replacement with more suitable species to ensure successful establishment in Melbourne's climate. On balance, the proposed landscape

response will provide a better landscape contribution to the streetscape and the landscape character of the neighbourhood compared to the adjoining development to the northwest.

To ensure successful retention of the significant English Oak tree and Spotted Gum tree on the adjoining property to the southeast at 913 Dandenong Road and the significant London Plane street trees in front of the subject site on Dandenong Road, a Tree Management Plan will be required to be submitted for Council's approval. A bank guarantee will also be required as security against a failure to protect the health of the four significant trees. This will form part of the conditions of any approval.

Overall, a balanced outcome is achieved between making efficient use of the land and intensifying developments whilst providing a sympathetic landscape response to the neighbourhood. Subject to permit conditions, the landscape response will enhance the garden character of the area and ensure a high standard of landscape integration is achieved.

### Amenity Impacts

#### *Overshadowing*

The shadow diagrams submitted illustrate that the proposed development will cast additional shadows over the adjoining building to the northwest at 907 Dandenong Road between 9am and 10am. In particular, at 9am, the shadow of the adjoining ground floor courtyards will be increased respectively by 0.4 and 1.5 square metres, whilst the upper-level balconies will not be affected. At 10am, shadows will fall over Dandenong Road and the subject site itself. The level of additional shadowing is deemed to be reasonable in this dense, built-up urban context considering the separation afforded between the buildings and the expectation of more intensive developments in this location. Consideration is also given to the fact that additional shadowing will occur only in one hour period and the extent of additional shadows will not adversely or unreasonably affect the overall function and useability of secluded private spaces.

From 11am onwards, the development will cast additional shadows over the adjoining property to the southeast at 913 Dandenong Road and 915 Dandenong Road. Between 11am and 12noon, the development will cast additional shadows over 913 Dandenong Road. From 2pm onwards, the shadow casts will extend onto 915 Dandenong Road.

The extent of overshadowing over the adjoining property to the southeast is considered reasonable. It is within the permissible extent if Standard B21 (Overshadowing open space objective) was to apply. Additional shadow cast is envisaged for land within RGZ given the strategic vision of future growth and built form change for more intensive development in this area.

#### *Overlooking*

With regard to overlooking, while Clause 55 (ResCode) does not apply to a building of five or more storeys, the overlooking standard at Standard B22 can be used as a guide to assess overlooking impact to adjoining residential properties.

A 1.8 metres high timber paling fence is proposed along the side boundaries. The boundary fences will limit view into the adjoining dwellings to the northeast and southeast and will not result in unreasonable level of overlooking.



The properties to the northeast across the laneway are non-residential properties. There are no sensitive interfaces that would require protection from overlooking.

To the northwest (907 Dandenong Road), the proposal interfaces with an apartment building, which contains existing habitable room windows and balconies facing the subject site. With exception of Units 1-01, 2-01, 3-01, 4-01 and 4-07, all northwest facing habitable room windows at Level 1 or above within the front and central wings are highlight windows, which will limit overlooking to the adjoining properties to the northwest. The northwest facing habitable room windows to Units 1-01, 2-01 and 3-01 that are not screened will face a screened terrace and the common corridor of the adjoining apartment building to the northwest. There will be no unreasonable overlooking from Units 1-01 and 2-01 to the adjoining terrace given its existing privacy screen. It is considered that direct view from Unit 3-01 window to the adjoining terrace will be appropriately limited by the external perforated screen proposed outside its window and will not result in unreasonable overlooking. A condition will be imposed in the permit to ensure the perforated screen is fixed and not operable.

Existing habitable room windows and secluded private open spaces are located within 9 metres of the northwest facing habitable room windows to Units 4-01 and 4-07, which are unscreened. Views from these windows in likely screened by the projecting built form below. However, overlooking diagrams are required to demonstrate no unreasonable overlooking to the neighbouring apartments.

The proposed development will be located within 9 metres of the existing habitable room windows and secluded private open space of the adjoining property to the southeast (913 Dandenong Road). The southeast facing windows within the front wing do not need to be screened as they will overlook the front setback area of the adjoining property with no sensitive interface. The southeast facing habitable room windows within the central wing and those at Level 1 of the rear wing are highlight windows, which are sufficient to limit overlooking into the adjoining habitable room windows and secluded private open space. The windows to the rear bridge are located beyond 9 metres from the property boundary and therefore are not required to be screened. In the rear wing, the southeast facing habitable room windows at Levels 2 to 4 are unscreened and will result in unreasonable overlooking to the adjoining property. Conditions will be imposed in any permit issued requiring screening to these windows.

In terms of the windows around the front bridge facing the internal courtyards, the northeast facing habitable room windows will be screened obscure glazing to 1.7 metres above finished floor level. This will limit overlooking to the habitable room windows opposite and the adjoining dwellings to the northwest and southeast. With exception of Unit 1-14, downward view from the southwest facing windows into the adjoining ground floor courtyards to the northwest will be largely limited by boundary fence and will not result in unreasonable overlooking. The window to Unit 1-04 however will need to be screened given the direct view into the neighbouring courtyard. There will be no unreasonable overlooking to the adjoining property to the southeast from the southwest facing windows given the location of existing habitable room windows and secluded private open space.

The windows to the front bridge are corridor windows and therefore are not required to be screened. In any event, these windows are located beyond 9 metres from the side boundaries and thus will not give rise to any overlooking issue.

The rooftop terrace at Level 5 is to be treated with a 1 metre solid balustrade. Direct view from the rooftop terrace to the abutting ground floor courtyards to the northwest will be limited by the balustrade and the proposed building itself. The rest of the rooftop terrace will overlook the public realm to the southwest and the front setback area of the adjoining property to the southeast, which is not a sensitive interface. Overall, there will be no unreasonable overlooking from the rooftop terrace to the adjoining residential properties.

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

### Internal Amenity

Clause 22.08 (Student Housing Policy) provides the benchmarks of assessing the internal design of purpose built student accommodation. This policy seeks (among other things) to ensure that the layout, standards and facilities for student housing provides a positive living experience for students.

#### *Room Sizes and Internal Layout*

In particular, the policy provides the following guidelines in considering layout, size and facilities of rooms:

- Ensure each student resident enjoys a *private personal space* in a habitable room to sleep and study.
- Design each habitable room so that it is not excessively *overlooked* by another room, either in the same building or an adjoining property.
- Ensure that the internal design of the student housing enables every habitable room to have direct access to *daylight and fresh air*.
- Require that each habitable room in student housing is *large enough* to include a desk, book shelves, ample storage space, and a freestanding table or bench to provide a space to eat.
- Require each unit to include *kitchen facilities* such as a hot plate, microwave and /or oven, bench space, sink and fridge. Consideration will be given to 'shared' cooking facilities where proposals involve the conversion of existing buildings.

The proposed development proposes a total of 124 self-contained units (including 121 studio units for single occupancy and 3 x two-bedroom units) with 127 beds. Each studio unit will range in size from 18 to 30 square metres with varied room sizes and floor layouts. Each room contains a single/ double bed, a study desk, bathroom, kitchenette, and storage space. Two-bedroom units will have a suite layout with an area of 36 square metres. They contain two individual bedrooms (including a single bed and wardrobe) and a shared bathroom, kitchenette with storage and desk.

The lodging rooms have been designed in accordance with the policy objectives to meet the anticipated need of students. It is important to note that the policy does not set out a benchmark of minimum room size; rather it requires that each room is large enough to accommodate facilities for student needs, such as a desk, bookshelves, storage space, a table or bench on which to prepare and eat food, basic cooking facilities, a sink and fridge. The floor layouts of the studio units are considered adequate and functional, and the room sizes are sufficient to provide adequate space to live, sleep and study, and accommodate basic amenities that suit the need of student residents. This is not the case for the two-bedroom units. The unit size is acceptable on face value; however, the floor layout is

considered problematic. Only one (shared) desk is provided within the unit for two occupants and the bedrooms are small and of irregular shape. This design response is considered unacceptable as it does not provide adequate study space, which is crucial for student residents. Conditions are recommended in any permit issued to require reconfiguration of the floor layout to ensure each occupant has sufficient space to study.

All lodging rooms within the building will have direct access to sources of natural light, fresh air and ventilation through operable external windows open to sky and none rely on borrowed light. The windows to the lodging rooms are appropriately designed to minimise overlooking potential, avoid excessive screening and maintain a reasonable level of outlook. As substantiated by the daylight modelling analysis and further confirmed by Council's ESD officer, the rooms will achieve an adequate level of daylight access and internal amenity for future residents and will reduce the reliance on artificial light.

### *Shared Facilities*

The Student Housing Policy at Clause 22.08-3 seeks to ensure the provision of *laundry and drying* facilities in appropriate locations.

The proposal includes a communal laundry facility in the basement. As there are no outdoor clothes drying areas provided and rooms are not provided with balconies, it is anticipated that laundry facilities (particularly drying facilities) will be in high demand. The communal laundry room has an area of 51 square metres with direct access to the communal sunken courtyard. Such room size is deemed appropriate for a building of this scale with 127 student residents. The generous space in the laundry room and direct access to the communal sunken courtyard will provide space for residents to wait for laundry or social interaction, which is considered positive.

A storage room is provided within the basement, which can be used as storage area for property manager's equipment and building maintenance or for student residents. This arrangement is considered acceptable.

The refuse stores are to be located within the basement. Waste chutes are provided on each floor to allow for convenient access by residents. Waste disposal will be managed via a comprehensive Waste Management Plan (WMP). Council's Waste Management Unit has reviewed the WMP and considered it generally acceptable subject to minor variations to waste collection frequency and hours. This issue can be addressed by way of permit conditions.

### *Communal Spaces*

The Student Housing Policy at Clause 22.08 calls for communal areas that will provide a positive living experience for student residents. The detailed policies relating to communal area include:

- Require the provision of *facilities* that promote student interaction and a sense of community, such as a common lounge or recreation room.
- Ensure that the internal common areas provided are capable of being used for multiple functions to meet a range of study, social, cultural and religious needs of residents.
- Ensure internal common areas are located in 'high movement areas' to achieve passive surveillance.

- Encourage a direct relationship between common outdoor and internal spaces to enhance function and safety.
- Ensure that lighting of communal internal and external access areas is adequate.
- Ensure each resident has access to communal or private open space (as appropriate) that is well designed, safe, accessible and can be maintained appropriately.

*One way to comply with this policy would be by providing an area – preferably at ground level of communal open space at a ratio of 2.5 sqm per bed in a maximum of two parcels, each parcel with a minimum dimension of 3m.*

- Ensure adequate solar access into any communal open space area.

*One way to comply with this policy would be by ensuring that the communal open space is located on the north side of the building and the southern boundary of the open space is set back from any wall on the north of the space at least  $(2+0.9h)$  metres, where 'h' is the height of the wall.*

The proposed development proposes several communal areas to promote student interaction and a sense of community. These areas include indoor common rooms at ground (110m<sup>2</sup>) and basement levels (108m<sup>2</sup>); sunken courtyards (40m<sup>2</sup> and 47m<sup>2</sup>) at basement level; outdoor communal open spaces (67m<sup>2</sup> and 84m<sup>2</sup>) at ground floor; and a communal rooftop terrace (216m<sup>2</sup>) on Level 5.

In terms of indoor common spaces, the common room at basement level is directly connected with two sunken courtyards, which will enhance its functionality. Along with an open-plan design, this space, comprising both indoor and outdoor areas with a total area of 195m<sup>2</sup>, is capable of accommodating multiple functions and diverse uses. It will provide flexible space and a functional facility to students. The internal common room at ground floor is appropriately located in high movement area to provide convenient access to students and passive surveillance within the development. The common rooms are incorporated with glazing to ensure adequate access to natural light and ventilation and an acceptable level of internal amenity and reduce reliance of artificial lighting. At Levels 1 to 4, there is also an open study area provided near the rear bridge. However, this space is tiny and is more alike part of the common corridor rather than a proper study area. With exception of study areas, the provision of indoor common areas is considered acceptable to cater for student needs.

The building is proposed to accommodate up to 127 residents. According to the above policy, a total of 317.5 square metres of communal open space, preferably at ground level and in a maximum of two parcels, is required for the development. The development proposes five separate parcels of outdoor communal open space with a total of 454 square metres. It is noted that the areas along the front, side and rear boundaries are excluded in this calculation given that they are designated primarily for landscaping, rather than a useable outdoor space for active or passive use. The communal rooftop terrace on Level 5, which is the primary outdoor communal open space within the development, will receive excellent solar access. Its size and layout are adequate and usable. It is capable of accommodating a considerable number of users at a time and provides a reasonable recreation area for student residents. The two communal outdoor open spaces at ground floor are landscaped with planter boxes and benches. Although these spaces are small in size and will receive minimal solar access, they are still usable secondary open space for passive use and will provide additional amenities to suit the choice of students.

The noise generated from the use (e.g. from students on the external terraces) will be residential in nature and will be comfortably absorbed within the surrounding residential and commercial environment of the activity centre.

On balance, the communal spaces proposed are considered appropriate and will meet the need of a facility of this scale.

### Environmentally Sustainable Design (ESD)

A revised Sustainable Management Plan (SMP) and Daylight Modelling Report have been submitted in an effort to address the concerns identified by Council's ESD Officer.

It is noted that the revised SMP and daylight modelling report have addressed most of the identified issues, particularly daylight access to student rooms and indoor common rooms. The revised daylight modelling report demonstrates that overall, the development will have adequate daylight access to the student rooms and indoor common rooms, and this is accepted by Council's ESD Officer. The units have been well designed with appropriate operable window openings to allow for natural ventilation, daylight access and outlook providing a reasonable level of on-site and internal amenity to future student occupiers. Privacy screens to the units facing the internal courtyards have been carefully designed and minimised to allow for better daylight penetration and outlook without over screening, whilst still addressing internal and external overlooking.

The revised SMP demonstrates that the development will achieve a BESS score of 57% with a pass in three of four mandatory categories (Water, Energy and Stormwater). The Water Sensitive Urban Design (WSUD) response demonstrates that the development meets the best practice and achieves a STORM rating of 107% (above the minimum 100%) through the provision of a 13,000 litre rainwater tank and a 10 square metre raingarden with a detention depth of 100mm. Council's ESD Officer has noted that the development does not obtain a pass in IEQ as Effective Natural Ventilation. However, Council's ESD Officer is of a view that this outstanding issue can be addressed by permit conditions without significant change in floor layouts. As such, conditions will be imposed any permit to ensure the development must achieve a pass in IEQ.

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

### Car Parking and Traffic

#### *Car Parking*

The car parking rates for student housing are not specified within the Stonnington Planning Scheme and as such, parking is to be provided to Council's satisfaction. The Student Housing Policy at Clause 22.08 specifically directs that car parking provision reflect the reduced car ownership pattern of overseas students and the location of the student housing that is close to the University or public transport.

The development provides six (6) car parking spaces and three (3) motorcycle parking spaces in the basement. Amongst this, one car parking space is to be allocated for staff

parking and one for car share scheme (within which also incorporates electric vehicle charging facilities).

The revised Traffic Impact Assessment (TIA) provided by the applicant has adopted a car parking rate of 0.05 spaces per unit based on an empirical assessment of other student accommodation developments nearby. Council's Transport and Parking and Parking Unit has no in-principle objection to a parking provision lower than the statutory rate for residential dwellings. However, it has concern with this empirical car parking rate and preferred a higher car parking rate of 0.06 spaces per unit (a same rate in the advertised plans) to be adopted, which will generate seven spaces plus any staff parking requirement.

The proposed car parking provision is considered acceptable for the site's location in activity centre and the nature of the proposed use. This development is located directly opposite Monash University and 200 metres from the Caulfield Railway Station. In addition, tram and buses all operate within close proximity of the site providing alternative modes of transport. Activity centres such as Caulfield Activity Centre and Waverley Road NAC are also within a short walking distance of the subject site, providing easy access to a range of services and daily needs.

Whilst it is the preference of Council's Transport and Parking Unit to provide more car parking spaces on site (an additional two spaces in this case), the proposed number of car park spaces is not dissimilar to other existing, or recent approval of, student housing developments nearby which feature very low number or zero on-site car parking. Importantly, a four-storey student housing development was recently approved by VCAT in 2021 at 923 Dandenong Road, which is located further southeast of the subject site. The approved development comprises 31 units with 33 beds and zero on-site car parking space. In the VCAT decision, the Tribunal made the following commentary regarding the car parking rate for such use:

80. *Whilst there is empirical data, it differs between Ms Dunstan's evidence and that in the TIA. This indicates to me that there is variation that can be found and there may be many reasons for this. On this basis and without a specific rate set out in the Table 1 to clause 52.06 means caution should be given to that empirical data.*
81. *Notwithstanding, I agree with Ms Dunstan's evidence in this regard and that the site's locational attributes are a reason to allow zero on-site parking provision for a use such as this. Whilst it could be assumed that the proposal is aimed at catering for students of the Monash University Caulfield campus, if it were to serve students of other education facilities, the public transport nearby provide the ability for various locations to be accessed. However, the shops and services located nearby provide the ability to serve day-to-day shopping needs.*
82. *On the basis of my findings above, the provision of no on site car parking is to the Tribunal's satisfaction in this case.*

A lower car parking rate and reduction in car parking requirement for student housing is generally acceptable for student housing in this location given that students, particularly those seeking affordable housing options, will be less likely to own a vehicle. Overall, the provision of on-site car parking as currently proposed is considered appropriate and acceptable for a development of this nature in this location.

#### *Traffic Generation*

In terms of traffic generation, as noted by Council's Transport and Parking Unit, the development will have a negligible traffic impact and will not have an adverse impact on the safety and operation of the surrounding road network. Equally, the Department of Transport, which is responsible for managing Dandenong Road, has no objection to the proposal.

#### *Car Parking Design*

As outlined in the referral section, Council's Transport and Parking Unit considered that the parking and loading bay design, headroom clearance, accessway, and ramp gradient, all comply with the requirements of Clause 52.06-9. The issues of dimensions of columns and motorcycle spaces, floor gradient for drainage, sightline to rear pedestrian access, services cabinet doors could be addressed by way of permit conditions if a permit were to be issued.

The removal of the existing shared crossover and construction of a new crossover off Dandenong Road are supported by Department of Transport, which is the determining referral authority for applications under Clause 52.29.

#### *Bicycle Parking*

The development proposes a total of 127 lodging rooms and thus generates a requirement of 13 bicycle spaces (rounded up from 12.7) for residents and 13 bicycle spaces for visitors pursuant to Clause 52.34. The development provides 106 bicycle spaces for residents and 6 bicycle spaces for visitors. It complies with the resident bicycle parking but falls short of the visitor bicycle parking requirements.

Equally, the Student Housing Policy at Clause 22.08 requires *bicycle storage at the rate of one for every three beds*. Based on this policy, no less than 42 bicycle spaces should be provided for 127 beds. The provision of 112 bicycle spaces therefore well exceeds this requirement. Such extent of bicycle parking is considered sufficient to compensate the shortfall of on-site car parking as it is accepted that vehicle ownership is to be very low within this type of student housing development in this location.

The bicycle spaces for resident are provided in multiples areas within the basement. Six (6) visitor bicycle spaces are provided adjacent to the pedestrian walkway at the building entry. The comments provided by Council's Transport and Parking Unit regarding the bicycle parking design can be adequately addressed by permit conditions as already discussed above.

In terms of visitor bicycle parking, it is the applicant's preference to provide the shortfall of seven (7) visitor bicycle spaces on site as opposed to seeking a reduction in the statutory requirement. It is considered that a compliance with the statutory visitor bicycle parking requirement would be a preferred planning outcome. There is sufficient space at ground floor to accommodate an additional seven visitor bicycle spaces, without compromising the proposed canopy tree planting. The applicant has confirmed that this is achievable and has accepted this to be addressed by way of permit conditions.

Overall, the rate of bicycle parking is considered appropriate to compensate the shortfall of on-site car parking given the nature of the proposed development and reliance of alternate transport modes by student residents.

#### **Cultural Heritage Management Plan**

The front section of the subject site has been identified as being an area of cultural heritage sensitivity. The proposal is a listed high impact activity as specified in the *Aboriginal Heritage Regulations 2007*. Hence a Cultural Heritage Management Plan (CHMP) is required.

The applicant has relied on the approved CHMP (approved by a Registered Aboriginal Party) prepared for the previous planning application. The applicant has also submitted a letter prepared by the author of the approved CHMP to demonstrate that the approved CHMP is still applicable and a new CHMP is not required, given that the assessment was undertaken for the entire site and the current proposal for construction of student housing is consistent with the previous proposal.

Based on the findings of the approved CHMP, it is satisfied that there is no consequential impact to the proposal. The conditions set out in Part 1 of the approved CHMP must be implemented and adhered with pursuant to the *Aboriginal Heritage Act 2006*.

## 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. 324/21 - 909 & 911 Dandenong Road, Malvern East [8.2.1 - 46 pages]

## Officer Recommendation

***That the Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 324/21 for the land located at 909 & 911 Dandenong Road, Malvern East under the Stonnington Planning Scheme for the use and development of the land for Student Accommodation (Residential Building) in a Residential Growth Zone and Design and Development Overlay, and alteration and creation 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, Drawing No.s: A000.1 (Rev U), A001 – A004 (Rev F), A005 – A006 (Rev U), A007 – A009 (Rev F), A010 (Rev W), A011 – A012 (Rev U), A013 (Rev W), A101 (Rev U), A102 – A103 (Rev W), A104 – A108 (Rev X), A109, A109.1, A110, A110.2 (Rev U), A111 (Rev W), A112 – A114 (Rev U), A115 (Rev X), A116 (Rev U), A117 (Rev W), A118 (Rev X), A201 – A207 (Rev U), and A301 – A302 (Rev U), prepared by Chahid Kairouz Architects and Council date stamped 3 April 2022, but modified to show:***
  - a) ***Finished floor level of each floor and outdoor communal open spaces.***
  - b) ***Setbacks of basement from all property boundaries.***



- c) Setback of front wing from the southeast boundary at Level 1.**
- d) Reconfiguration of the internal floor layout of two-bedroom units to accommodate two study desks, ensuring each occupant has sufficient space to study. This can be achieved through reconfiguration with the adjacent unit(s) or reduction in number of units/beds. The building setbacks must not be reduced. All internal layout changes must be designed to the satisfaction of the Responsible Authority.**
- e) Overlooking sections/ sightline diagrams to demonstrate sightlines from the northwest facing habitable room windows of Units 4-01 and 4-07 into the adjacent habitable room windows and balconies/ terraces to the northwest at 907 Dandenong Road. The sightlines must demonstrate overlooking within 9 metres will be limited to the satisfaction of the Responsible Authority.**

**Alternatively, screening or alternative measure must be provided to these windows to limit direct views into the adjacent properties. Details of screening including materials and transparency must be noted on the plans.**
- f) Screening measure to the southeast facing habitable room windows to the rear wing at Levels 2, 3 and 4 to limit direct views into the existing habitable room windows and secluded private open space of the adjoining property to the southeast (913 Dandenong Road) within 9 metres.**
- g) Screening measure to the southwest facing habitable room windows to Unit 1-14 to limit direct views into the existing habitable room windows and secluded private open space of the adjoining property to the northwest.**
- h) Notation depicting that external perforated screen to Unit 3-01 northwest facing window is fixed and not operable.**
- i) Notations showing the sill height of highlight awning windows to be a minimum 1.7 metres above finished floor level.**
- j) Notations depicting the window type of the southeast facing windows to Units 1-19 and 1-20.**
- k) Deletion of two existing trees (Gum and Red Flowering Gum) on the adjoining property to the southeast adjacent to the rear wing to reflect the existing conditions.**
- l) Deletion of the pedestrian path across the nature strip of Dandenong Road.**
- m) All pedestrian paths must be a minimum of 1.1m wide, with a grade no steeper than 1:14.**
- n) All columns in the car park and clearance of columns from access aisle to be dimensioned.**
- o) Dimensions of motorcycle parking spaces in accordance with the Australian Standards.**

- p) A minimum gradient of the parking area to be 1 in 200 (0.5%) for covered areas to allow for adequate drainage as per AS 2890.1.**
- q) Adequate visibility provided to the rear pedestrian entry near the property boundary to satisfaction of the Council's Transport and Parking Unit. This can be either in a form of splays or limited height of infrastructure/ landscaping.**
- r) Depth of bicycle parking spaces located adjacent to Car Parking Bay No.3 to be no less than 1.8 metres in length.**
- s) Spacing between bicycle racks located adjacent to the Laundry to be dimensioned on the plans.**
- t) Assess aisle to bicycle parking spaces located adjacent to the access ramp/ NBN security room to be minimum 1.5 metres in width, or otherwise in accordance with the Australian Standards. The bicycle parking spaces in this location can be reconfigured if necessary with no reduction in the number of spaces to the satisfaction of the Responsible Authority.**
- u) Manufacturers specifications for the proposed bicycle racks in the bicycle store. It must show the spacing requirements between racks and the double height/ stacker arrangement, detailing how the upper racks will be assessed.**
- v) A 500mm clearance between the visitor bicycle parking spaces and the walls/ landscaping at either end.**
- w) A minimum access aisle of 1 metre to visitor bicycle parking spaces at ground floor.**
- x) An additional seven (7) visitor bicycle parking spaces to be provided at ground floor in an easily accessible location within the property to the satisfaction of the Responsible Authority. This is to be achieved with no reduction in the number of proposed canopy trees. Details of bicycle spaces, including type and spacing between racks, must be shown on the drawings.**
- y) Service cupboards are setback or designed to ensure doors (in fully open position) are wholly contained within the property boundary.**
- z) External materials, colours and finishes of the service cupboards and substation.**
- aa) Material codes showing the proposed external materials, colours and finishes for all external walls on all elevations.**
- bb) External shading devices are to be provided to north, northwest and northeast facing windows of habitable rooms, which should ensure that the windows are shaded from the spring equinox until the autumn equinox (21 September to 21 March). Where sun shading devices are being utilised a dimensioned section diagram is to be included to demonstrate their effectiveness. All external shading devices are to be clearly shown/noted on the plans and elevations.**

**cc) Any changes required by Condition 3 (Landscape Plan), Condition 5 (Tree Management Plan), Condition 13 (Sustainable Management Plan), Condition 16 (WSUD Response), Condition 18 (Waste Management Plan), Condition 30 (Stormwater Runoff) and Condition 38 (Department of Transport).**

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

- 2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason, without the prior written consent of the Responsible Authority.**
- 3. Prior to the endorsement of plans, a landscape plan to be prepared by a landscape architect or suitably qualified or experienced landscape designer, must be submitted to and approved by the Responsible Authority. When approved, the landscape plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions. The landscape plan must be in accordance with the landscape plan (Rev B) prepared by John Patrick Landscape Architects, Council date stamped 2 February 2022, but modified to show:**
  - a) A survey (including botanical names) of all existing vegetation to be retained and/or removed.**
  - b) Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary.**
  - c) Details of surface finishes of pathways and driveways.**
  - d) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.**
  - e) Landscaping and planting within all open areas of the site.**
  - f) The extent of any cut, fill, embankments or retaining walls associated with the landscape treatment of the site.**
  - g) Details of all proposed hard surface materials including pathways, patio or decked areas.**
  - h) Soil volumes for all in-situ planting.**
  - i) Deletion of two existing trees (Gum and Red Flowering Gum) on the adjoining property to the southeast adjacent to the rear wing to reflect the existing conditions.**
  - j) The following proposed species to be replaced with a more hardy/vigorous species suitable for robust establishment in Melbourne's climate to the satisfaction of the Responsible Authority:**
    - Stenocarpus sinuatus**
    - Tristaniopsis laurina**
    - Corymbia ficifolia**

- ***Hymenosporum flavatum***
  - k) ***The canopy trees within the front setback to be replaced with larger specimen with a minimum 12 metres in height at maturity to the satisfaction of the Responsible Authority.***
  - l) ***The canopy trees along the laneway (rear) boundary to be replaced with larger specimen with a minimum 11 metres in height at maturity to the satisfaction of the Responsible Authority.***
  - m) ***The rows of shrubs along northwest boundary to be replaced with taller landscape elements with 6 to 8 metres in height at maturity to the satisfaction of the Responsible Authority.***
  - n) ***Screen planting of 6 metres in height at maturity along the southeast boundary adjacent to Units G20 and G21.***
  - o) ***Any changes necessary to reflect the plans to be endorsed in Condition 1. All to the satisfaction of the Responsible Authority.***
4. ***Prior to the commencement of the use / occupation of the building, the landscaping works as shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority. Landscaping must then be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.***
5. ***Prior to the endorsement of development plans, a Tree Management Plan prepared by a suitably qualified arborist must be submitted to and approved by the Responsible Authority. When approved, the Tree Management Plan will form part of this permit and all works must be done in accordance with the Tree Management Plan (AS 4970).***

***The Tree Management Plan must detail measures to protect and ensure the viability of two *Platanus x acerifolia* (London Plane) street trees located in the nature strip of Dandenong Road outside the subject site, and the significant Spotted Gum tree and the *Quercus robur* (English Oak) tree located along the northwest boundary of the adjoining property to the southeast at 913 Dandenong 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.**

6. **Prior to the endorsement of plans and prior to any development commencing on the site (including demolition and excavation whether or not a planning permit is required), the owner/ developer must enter into a Deed with the Responsible Authority and provide it with a bank guarantee of \$46,000 + GST as security against a failure to protect the health of the English Oak tree (representing \$10,000), the Spotted Gum tree (representing \$10,000) and two London Plane street trees (each representing \$13,000) to be retained respectively on the adjoining property to the southeast at 913 Dandenong Road and the nature strip of Dandenong Road. The applicant must meet all costs associated with drafting and execution of the Deed, including those incurred by the responsible authority. Once a period of 12 months has lapsed following the completion of all works at the site, the Responsible Authority may discharge the bank guarantee upon the written request of the obligor. At that time, the Responsible Authority will inspect the trees and, provided they have not been detrimentally affected, the bank guarantee will be discharged.**
7. **Prior to the endorsement of plans or prior to the commencement of any works at the site (including demolition and excavation whether or not a planning permit is required), whichever occurs sooner, a letter of engagement must be provided to the Responsible Authority from the project arborist selected to oversee all relevant tree protection works. The project arborist must be an appropriately experienced and qualified professional (minimum Cert IV or equivalent in experience).**
8. **The project arborist must maintain a log book detailing all site visits. The log book must be made available to the Responsible Authority within 24 hours of any request.**
9. **Prior to the commencement of any works at the site (including demolition and excavation whether or not a planning permit is required), the project arborist must advise the Responsible Authority in writing that the Tree Protection Fences have been installed to their satisfaction.**
10. **Prior to the commencement of any works at the site, each Tree Protection Zone nominated within the endorsed Tree Management Plan must:**
- a) **Be fenced with temporary fencing in accordance with the attached specifications annotated in this permit to the satisfaction of the Responsible Authority.**
  - b) **Include a notice on the fence to the satisfaction of the Responsible Authority advising on the purpose of the Tree Protection Zone, the need to**

**retain and maintain the temporary fencing and that fines will be imposed for removal or damage of the fencing and trees.**

- c) 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.**
- 11. A copy of the tree protection zones are to be included in any contract for the construction of the site or for any other works which may impact upon the trees.**
- 12. The owner / developer must advise Council in writing that a Certificate of Occupancy has been issued in respect to the development and that the 12 month establishment period has commenced.**
- 13. Prior to the endorsement of any plans pursuant to Condition 1, a Sustainable Management Plan (SMP) must be submitted to and approved by the Responsible Authority. When approved the SMP will be endorsed and will then form part of the permit. The development must incorporate the sustainable design initiatives outlined in the SMP to the satisfaction of the Responsible Authority. Amendments to the SMP must be incorporated into plan changes required under Condition 1. The report must be generally in accordance with the Sustainable Management Plan (Rev G) prepared by Urban Leaf, Council date stamped 6 April 2022, and include, but is not limited to, the following:**
- a) 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.**
  - b) Identify relevant statutory obligations, strategic or other documented sustainability targets or performance standards.**
  - c) Document the means by which the appropriate target or performance is to be achieved.**
  - d) Identify responsibilities and a schedule for implementation, and ongoing management, maintenance and monitoring.**
  - e) Demonstrate that the design elements, technologies and operational practices that comprise the SMP can be maintained over time.**
  - f) The following information must be provided in the SMP/ depicted on plans as relevant:**
    - i) Notation on plans confirming all common areas are to be sub-metered.**
    - ii) Information is to be provided regarding the water efficiency of the proposed clothes washing machine of the on-site laundry.**
    - iii) Confirmation from the project Landscape Architect that the proposed planting requires no irrigation system and does not require watering after an initial period when plants are getting established.**

*Alternatively, a notation is to be included on the plans confirming the landscape irrigation system is connected only to a rainwater tank and no potable water (mains water supply) is used for irrigation.*

- iv) Notation on plans confirming the water used for fire testing is to be collected onsite and details of the intended re-use is to be provided.*
  - v) All windows to be double glazed to be noted in the SMP.*
  - vi) Carbon Monoxide (CO) monitoring to basement carpark annotated on plans.*
  - vii) Notation on roof plan detailing the total system capacity of photovoltaic (PV) system and the angle of inclination of the panels.*
  - viii) Demonstrating that the proposal achieves Council's best practice standard for natural ventilation, whereby at least 60% of the student rooms can be effectively naturally ventilated.*
  - ix) Details of low VOC paints, sealants and flooring.*
  - x) Include a commitment to a 70% or greater recycling target for waste during demolition and construction.*
  - xi) A marked up plan detailing all vegetated areas in square metres.*
  - xii) Removing claim in BESS credit 2.2 Green Roofs, BESS credit 2.3 Green Walls and Facades, and BESS credit 2.4 Private Open Space – Balcony / Courtyard Ecology.*
- g) Any changes necessary to reflect the plans to be endorsed in Condition 1. All to the satisfaction of the Responsible Authority.*

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

- 14. Prior to the commencement of the development, the following documentation must be submitted and approved by the Responsible Authority to accompany the endorsed SMP to the satisfaction of the Responsible Authority:**
- a) Preliminary JV3 energy modelling of the proposed development. All fabric assumptions including added insulation, window type and performance values used for the assessments are to be included within the SMP. The building should have a 10% improvement beyond NCC 2019 requirements.*
- 15. Prior to the occupation of the building, a report from the author of the Sustainable Management Plan approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Sustainable Management Plan have been implemented in accordance with the approved plan.**
- 16. Prior to the endorsement of plans, the applicant must provide a Water Sensitive Urban Design Response addressing the Application Requirements of the Water**

***Sensitive Urban Design Policy to the satisfaction of the Responsible Authority. All proposed treatments included within the Water Sensitive Urban Design Response must also be indicated on the plans. The Water Sensitive Urban Design Response must include, but not limited to, the following:***

- a) ***The size of the rainwater tank(s) to be increased to ensure the tank water supply reliability is equal to or greater than 80% within STORM.***
- b) ***Access to in-ground rainwater tank for maintenance to be notated on plans.***
- c) ***Notation on plans confirming the area (in square metres) to drain to the rainwater tank(s) and raingarden.***
- d) ***The size of raingarden (in square metres) to be noted on the landscape plan.***
- e) ***Any changes necessary to reflect the plans to be endorsed in Condition 1.***

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

17. ***The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.***
18. ***Prior to the endorsement of plans, a Waste Management Plan must be submitted to and approved by the Responsible Authority. When approved, the Waste Management Plan will be endorsed and will then form part of the permit. The Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by RB Waste Consulting Service, Council dated stamped 3 April 2022, but modified to show:***

- a) ***Hours of waste and recyclable collection to be in accordance with the Stonnington 'Residential Waste Management Guidelines'.***
- b) ***Collection frequency for recycling must be limited to a maximum of twice per week.***
- c) ***Incorporate swept path diagrams for waste collection vehicles, demonstrating that waste collection vehicle is able to enter and egress the loading bay and the basement car park in a forward direction.***

***Detail and height of waste collection truck must be provided on the swept path diagram and headroom clearance templates.***

- d) ***Any changes necessary to reflect the plans to be endorsed in Condition 1.***

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

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

19. ***Prior to the commencement of the use, the operator of the student accommodation facility must submit a Management Plan to the satisfaction of the Responsible Authority. When approved, the Management Plan will be endorsed and will then form part of the permit. The management plan must establish a set of house rules for the development, to ensure:***



- a) ***Permanent display of the Management Plan in a common area.***
  - b) ***There is a continuous presence of a manager and/or lead tenant (permanently residing on the site) for the control and supervision of the students.***
  - c) ***Employment of a suitably qualified manager or lead tenant who is accommodated on-site.***
  - d) ***The nature of the management of the complex and the contact details of the manager/lead tenant.***
  - e) ***A contact person and their telephone number must be displayed at the student accommodation facility's frontage at all times. The displayed telephone number must be contactable at all times (otherwise call forwarded to another appropriate person) to enable a prompt response to any operational complaints which may arise that require immediate attention, such as noise emissions or other issues of non-compliance with this permit.***
  - f) ***Provision of information on community and education services, including health, counselling and cultural services.***
  - g) ***Provision of information on local public transport and to encourage walking (e.g. information on facilities within walking distance, local public transport timetables, outlets for purchase of Miki, car share services etc).***
  - h) ***Provision to ensure that the student housing does not cause negative impacts on the amenity of the surrounding area.***
  - i) ***House rules regarding occupancy and behaviour of students and visitors, and grievance procedures.***
  - j) ***The means by which car spaces are to be allocated and a register that documents allocation of these spaces.***
  - k) ***Resolution process for disputes between students.***
  - l) ***Critical Incident Management and Emergency & Evacuation Procedures.***
  - m) ***All garbage collection from the development be managed and conducted so as not to prejudicially affect the amenity of the locality by reason of appearance. No garbage bin or waste materials generated by the permitted use shall be deposited or stored outside the site.***
  - n) ***Maintenance and cleaning schedules.***
  - o) ***Evidence that all occupants are bona fide students.***
20. ***The operation of the approved use on site must at all times be in accordance with the endorsed Management Plan, to the satisfaction of the Responsible Authority.***
21. ***The use hereby permitted must not commence until the owner of the land enters into an agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987 in which it must be covenanted as follows:***

- a) ***That the requirements contained in this agreement must form part of any lease of the premises which the owner of the land under this permit may enter into with another party.***
- b) ***Pursuant to the provisions of Section 181 of the Planning and Environment Act 1987 this agreement must be registered with the Registrar of Titles and must run with the land.***
- c) ***That the building must be maintained as student housing.***
- d) ***That no person may reside in the student housing unless they are a bona fide student, whether part-time, full-time or short term, or resides there in a supervisory, management or caretaker capacity.***
- e) ***That the car spaces must not be subdivided, or sold, or leased separately from the student housing.***
- f) ***That the number of students residing on-site who have cars shall not exceed the number of on-site car spaces provided by the development.***

***The owner of the land under this permit must bear the costs and expenses of this agreement, including preparation, execution and registration on title.***

- 22. ***Prior to the occupation of the building, access for persons with disabilities must be provided in compliance with the Disability Discrimination Act 1992 and such access must be maintained at all times the building is occupied or in use.***
- 23. ***Prior to the commencement of the development hereby approved, the owner/developer must obtain approval from Council's Building and Local Laws Department to construct or modify any vehicle crossover/s providing access to the subject site. The issue of a planning permit does not provide approval for vehicular crossovers which are outside of the title boundary.***
- 24. ***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, naturestrip and kerb and channel at the owner/developer's cost to the approval and satisfaction of the Responsible Authority.***
- 25. ***All drainage of the development must be by means a gravity-based system and must not be pumped, with the exception of the drainage from,***
  - a) ***The basement courtyards;***
  - b) ***Basement ramp; and***
  - c) ***Agricultural drains,******which may be pumped.***

***The drainage from the courtyard must be isolated from the drainage from all roofed areas and other paved areas to ensure that this drainage cannot flood the courtyards.***

- 26. ***All subsurface drainage and runoff from the basement ramp and basement courtyards must be pumped to the 300mm diameter Council drain located in Dandenong Road and not discharged to the surface of the rear right-of-way.***

27. ***Prior to a building permit being issued, a report for the legal point of discharge (LPD) must be obtained from Council and a drainage design for the development must be prepared by a suitably qualified Engineer in accordance with Conditions 25 and 26 of the permit and all 'recommendations' and requirements contained in the report for the LPD. 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.***
28. ***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.***
29. ***The existing level of the footpaths must not be lowered or altered in any way at the property line to facilitate access to the site.***
30. ***The applicant must at their cost provide a stormwater detention system to restrict runoff from the development to no greater than the existing runoff based on a 1 in 10 A.R.I. to the satisfaction of Council's Infrastructure Unit. Alternatively, in lieu of the stand-alone detention system, the owner may provide stormwater tanks that are in total 4,000 litres greater than those tanks required to satisfy WSUD requirements for the development. Those tanks must be connected to all toilets.***
31. ***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.***
32. ***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.***
33. ***Prior to the occupation of the building, fixed privacy screens (not adhesive film) designed to limit overlooking in accordance with the endorsed plans must be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.***
34. ***External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.***
35. ***Prior to the occupation of the building/ commencement of the use, the walls on the boundary of the adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.***
36. ***All fixed plant and equipment (including air-conditioning units) must be screened and baffled and/or insulated to minimise noise and vibration to ensure compliance with noise limits specified in the Environment Protection Regulations under the incorporated Noise Protocol (Publication 1826.2,***

***Environment Protection Authority, November 2020, or any replacement publication) to the satisfaction of the Responsible Authority.***

- 37. *The conditions set out in Part 1 of the approved Cultural Heritage Management Plan (CHMP) must be implemented and adhered with pursuant to the Aboriginal Heritage Act 2006.***

**DEPARTMENT OF TRANSPORT CONDITIONS**

- 38. *Prior to the commencement of works, amended plans must be submitted to and approved by the Responsible Authority. When approved, the plans must be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans submitted with the application but modified to show the following signs being placed at appropriate location:***
- a) *“No Right Turn” sign facing exiting vehicles from the site.***
  - b) *“No Standing” signs within 1 metre of both sides of the crossover, facing Dandenong Road traffic.***
- 39. *Prior to the occupation of the development, the new crossover must be constructed to the satisfaction of the Responsible Authority and at no cost to the Responsible Authority and the Head, Transport for Victoria.***
- 40. *Prior to the 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 the Responsible Authority and at no cost to the Responsible Authority and the Head, Transport for Victoria.***
- 41. *Vehicles must enter and exit the site in a forward direction at all times.***

**END DEPARTMENT OF TRANSPORT CONDITIONS**

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

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

**NOTES:**

**DEPARTMENT OF TRANSPORT NOTE:**

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

**DEPARTMENT OF TRANSPORT NOTE END**

- B. This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.**
- C. The owners and occupiers of the units hereby approved are not eligible to receive “Resident Parking Permits”.**
- D. The crossover must be constructed to Council’s Standard Vehicle Crossover Guidelines unless otherwise approved by the Responsible Authority. Separate consent for crossovers is required from Council’s Building and Local Law Unit.**
- E. Nothing in the permit hereby issued may be construed to allow the removal of, damage to or pruning of any street tree without the further written consent of the Stonnington City Council. Contact the Council’s Arborists on 8290 1333 for further information.**
- F. 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.**

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

## 8.3 VCAT Quarterly Report - First Quarter 2022 (January to March 2022)

**Planning Appeals Coordinator: Edward Wilkinson**  
**Director Planning & Place: Annaliese Battista**

### Linkage to Council Plan

**Direction 1: A thriving and unique place**

1.3 Price of place and character

### Purpose of Report

To inform the Council of the planning decisions issued by the Victorian Civil and Administrative Tribunal (VCAT) in the first quarter of 2022, being 1 January to 31 March 2022.

### Officer Recommendation

**That the Council:**

- 1. RECEIVE and NOTE the VCAT Quarterly Report Q1 2022 (January to March 2022).**

### Background

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

### VCAT Decision Terminology

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

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

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

3. Eight cases were determined by VCAT in the first quarter of 2022, which is much lower than the normal range of 20 – 25 cases per quarter.
4. In the first quarter, there were 3 outright wins (37.5%). In addition to the outright wins, 4 positions of consent were reached (50%), these are generally considered to be positive outcomes as Council only consents to the matter being settled if it is satisfied with the resulting outcome. A remaining 1 matter was struck out as misconceived (12.5%). There were no 'losses' in the first quarter of 2022.
5. The above figures used by the Planning Department to report to Council on VCAT decisions differ to the Local Government Performance Reporting Framework (LGPRF) 'win/loss' ratio. This difference is because the LGPRF data does not factor in outcomes where positions of consent were reached or matters struck out or withdrawn. The LGPRF data only looks at matters that went to a full merits hearing and a decision was handed down by a member of the Tribunal. This means for the current quarter, 62.5% of VCAT outcomes are excluded from being included in the LGPRF results.
6. A significant decision worth noting relates to an application at 387-403 Malvern Road, South Yarra. This related to an appeal against Council's decision to issue a permit for a six-storey office building in the western precinct of the Hawksburn Village.
7. The appeal was lodged on behalf of a group of objectors. Their concerns focused on the height and scale of the building and its impact on the character of the Hawksburn Village. The objectors were also concerned about the negative off-site amenity impacts of overlooking and overshadowing, and finally the reduction in car parking.
8. VCAT found that the proposal was an acceptable response to strategic policy, specifically to the Hawksburn Village Structure Plan. On this basis, the Tribunal affirmed Council's decision and directed that the permit should be issued.
9. A second outcome of note relates to an application at 77 Repton Road, Malvern East. Council had refused an application for full demolition of a heritage dwelling and its replacement with a two-storey dwelling. The application was refused on grounds that the full demolition of the heritage dwelling was not appropriate, and that the prominence of the first floor on the replacement dwelling was not respectful of the heritage streetscape.
10. The permit applicant appealed Council's refusal to VCAT. Following discussions with Council officers, the permit applicant circulated Amended Plans. The plans addressed Council's concerns by retaining the front portion of the heritage dwelling and setting back the first-floor addition. As a result, Council changed its position to support the Amended Proposal and a consent position was reached.

### Conclusion

11. That the Council receives and notes the VCAT Quarterly Report Q1 2022 (January to March 2022).

### Governance Compliance

### Policy Implications

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

### Financial and Resource Implications

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

### Conflicts of Interest Disclosure

14. 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

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

### Stakeholder Consultation

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

### Human Rights Consideration

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

### Attachments

Nil



## 8.4 Elevating ESD Standards Group Council Amendment

**Manager City Futures: Hannah McBride-Burgess**  
**Director Planning & Place: Annaliese Battista**

### Linkage to Council Plan

**Direction 2: An inclusive and healthy community**

2.4 Sustainability and climate action

### Purpose of Report

To present the Council Alliance for a Sustainable Built Environment (CASBE), of which City of Stonnington is one of 31 member-Councils, the Stage 1 findings of the Elevating Environmentally Sustainable Design (ESD) Targets Planning Project, which was undertaken to provide CASBE's member-Councils with an evidence base to support improved environmental performance within their Planning Schemes.

To seek approval from Council to participate in Stage 2 of the project, including requesting authorisation from the Minister for Planning to prepare and exhibit a new ESD Particular Provision in the Stonnington Planning Scheme, through a collaborative joint Planning Scheme Amendment process.

### Officer Recommendation

**That the Council:**

- 1. REAFFIRM its commitment to CASBE as one of its 31-member Councils.**
- 2. ENDORSE the reports (Elevating ESD Targets Planning Report, Technical ESD and Development Feasibility Report, Elevating ESD Targets CBA Report) as shown in Attachments 1, 2 and 3 to this report, as supporting documents to this Amendment. The reports outline the rationale and evidence that underpin the proposed Planning Scheme changes.**
- 3. REQUEST authorisation from the Minister for Planning to prepare and exhibit an Amendment to the Stonnington Planning Scheme as shown in Attachment 4, under sections 8A and 8B of the Planning and Environment Act 1987 (the Act)**
- 4. REQUEST the Minister for Planning establish an Advisory Committee to consult on the ESD project in accordance with Section 151 of the Act.**
- 5. AUTHORISE the Director Planning and Place to make minor changes to the Amendment or provide guidance to any advisory committee established by the Minister for Planning.**
- 6. AUTHORISE the Director Planning and Place to execute the Elevating ESD Targets Planning Policy Amendment Memorandum of Understanding Stage 2.**

- 7. SUPPORT the Minister's Advocacy Letter that encourages the Mayor and Deputy Mayor to write to the Minister for Planning and Housing, Minister for Energy, Environment and Climate Change, and Minister for Local Government and Suburban Development outlining the benefits to the community of introducing zero carbon focused and elevated ESD standards into the Planning Scheme.**
- 8. SUPPORT Council's participation in a 'community awareness-raising communications activities process', centrally led by CASBE on behalf of the partner Councils.**

### Executive Summary

1. Priority 1 of Council's Climate Emergency Action Plan (CEAP) 2021-2024 is "Zero Carbon Stonnington", which includes Action 1.19 "Achieve zero carbon and resilient development in Stonnington". This action refers to strengthening the Planning Scheme to implement the CEAP and continuing to work with the Council Alliance for a Sustainable Built Environment (CASBE), of which City of Stonnington is one of 31 member-Councils, on strengthening Environmentally Sustainable Design (ESD) targets for new development, which is the subject of this report.
2. Council can influence the design of new development by setting ESD requirements through the Stonnington Planning Scheme. These can help to minimise energy use, water and waste, improve environmental outcomes and amenity, and reduce ongoing running costs for our community.
3. Applying ESD requirements through the Planning Scheme is a cost-effective way for Council to influence the built environment that results in lasting improvements to sustainability and residents' quality of life. Council's existing ESD local planning policy at Clause 22.05 has improved sustainability outcomes in new developments, but it will not be sufficient to ensure new development continues to meet current Council commitments, or align to global, national or state policies.
4. Council officers have been collaborating with CASBE, in partnership with a group of 30 other Councils across Victoria, on the Elevating ESD Targets Planning Project. Stage 1 of the project has been completed and Stage 2, the preparation of a group Council Planning Scheme Amendment, is now commencing.

### Background

5. The Elevating ESD project seeks to deliver revised and elevated ESD targets for new development, including targets for net zero carbon development.
6. Consultants were engaged to independently review draft ESD planning policy objectives and standards. Fifteen case studies were selected from the project councils to inform the baseline and test the technical and development feasibility, and economic implications of the elevated standards. The reports were as follows:
  - Part A. Technical ESD and Development Feasibility
  - Part B. Planning Advice
  - Part C. Economic Cost-Benefit Analysis

7. These reports form the evidence base underpinning the proposed joint Planning Scheme Amendment (Stage 2 of the project), as well as advocacy to the Victorian State Government. A webinar was held for Councillors and senior Council Officers on the Stage 1 project outcomes on 16 March 2022.

### Key Issues and Discussion

8. The elevated standards in the proposed ESD policy will continue to apply to two (2) or more dwellings on a lot, therefore single dwellings and renovations to a single dwelling will not be required to meet the revised ESD policy objectives.
9. The revised policy is broken down into Objectives and Standards:
- **Objectives.** An objective describes the desired outcome to be achieved in the completed development and must be met.
  - **Standards.** A standard contains requirements to meet the objective. A standard should normally be met, however if the responsible authority is satisfied that an application for an alternative solution meets the objective, the alternative solution may be considered.
10. Standards are associated with key environmental themes. The table below outlines the key themes and examples of practical applications of these principles:

Theme	Includes	Examples of practical applications
<b>Operational Energy</b>	<ul style="list-style-type: none"> <li>• Energy efficiency</li> <li>• On-site renewable energy generation</li> <li>• Achieving net zero operational carbon</li> </ul>	<ul style="list-style-type: none"> <li>• Quality insulation</li> <li>• Double glazed windows</li> <li>• 7 Star NatHERS rating</li> <li>• Building orientation to maximise solar benefits</li> <li>• Sealing windows, doors, and downlights</li> <li>• Provision of solar panels</li> <li>• Energy efficient appliances</li> <li>• External clotheslines where practical</li> <li>• Off-site green power</li> <li>• Reduce fossil fuel usage</li> </ul>
<b>Sustainable Transport</b>	<ul style="list-style-type: none"> <li>• Facilitating increased active transport with the aim of reducing private vehicle trips and ensuring a smooth transition for the future uptake of electric vehicles.</li> </ul>	
<b>Integrated Water Management</b>	<ul style="list-style-type: none"> <li>• Reduction of potable water consumption through efficiency measures, use of non-potable water sources, and improving the quality of stormwater discharges.</li> </ul>	
<b>Indoor Environmental Quality</b>	<ul style="list-style-type: none"> <li>• Improve comfort of occupants</li> <li>• Internal temperatures</li> <li>• Air quality</li> <li>• Daylight access</li> </ul>	<ul style="list-style-type: none"> <li>• Adequately sized windows</li> <li>• Maximise natural light and sunlight</li> <li>• Natural ventilation</li> </ul>

		<ul style="list-style-type: none"> <li>• Passive cooling</li> <li>• Window shading and eaves</li> <li>• Low toxin building materials</li> </ul>
<b>Circular Economy</b>	<ul style="list-style-type: none"> <li>• Improving rates of resource recovery during both construction and operation and encouraging the use of recycled materials as an alternative to virgin materials.</li> </ul>	
<b>Green Infrastructure</b>	<ul style="list-style-type: none"> <li>• Ecosystem service benefits</li> <li>• Reduced urban heat island effect</li> </ul>	<ul style="list-style-type: none"> <li>• Increase green cover (landscaping)</li> <li>• Use native vegetation</li> <li>• Climate resilient plants</li> <li>• Light coloured building materials</li> </ul>

### Application of proposed ESD provisions

- The proposed Particular Provision containing the detail of the objectives and standards is provided in **Attachment 1**.
- Under Operational Energy, the main objective is: *“To ensure new development achieves net zero carbon emissions from operational energy use.”* The objective is broad and does not include any specific requirements e.g. the use of gas is not mentioned in the policy objectives, it is however mentioned within the standards as a way to achieve the objective.
- Standard A4 states: *“All new development should be designed to avoid consumption of natural gas or other onsite fossil fuels.”* It is important to note while a standard should normally be met, it is not mandatory and hence the use of the word ‘*should*’ acknowledges that there will be a transition period until more accessible renewable energy in Victoria is achievable.
- If alternative solutions are proposed, Council has discretion to determine whether the objectives are met. Planning permit applications must be accompanied by a Sustainability Management Plan detailing the applicant’s responses to the standards in the Particular Provision. By allowing discretion regarding Standards, Council can ensure that the impacts to the community and development are not unreasonable.
- However, there are significant benefits to the end user where new heat pump technology is utilised in heating applications and hot water service units. These include:
  - Reduced cost of gas infrastructure
  - Cost effective split systems that provide heating and cooling in one
  - More efficient heating or cooling (up to 400% efficiency) compared to gas, with reduced operational costs
  - Ease of installation for apartments (already the preferred method - no flue)
  - Opportunity/future ability to connect to solar power or external renewables
- Operational Energy also seeks to achieve a minimum 7 Stars NatHERS rating (energy rating of the building envelope), currently the standard is 6 Stars. The new National

Construction Code due for release later this year will also increase the requirement to 7 stars, and it is important that the ESD provisions do not fall behind current building requirements.

17. The Particular Provision to be introduced into the Planning Scheme would replace and update the current requirements of Clause 22.05 of the Stonnington Planning Scheme. Clause 21.06-8 of the Planning Scheme would also be updated to refer to the Particular Provision and the policy basis for the new requirements.

### Next steps

18. Enter into a Memorandum of Understanding to confirm Council's commitment to proceed with Stage 2 of the project. This will commit Council to contributing approximately \$20,000 to the cost of the project. This is a very cost-effective way of Council seeking to achieve several of its Council Plan and CEAP priorities. By way of comparison, the total cost of Stage 2 of the project is currently estimated at \$400,000. The cost is shared equally amongst the participating Councils.
19. Seek authorisation from the Minister for Planning to prepare and exhibit a joint Council Planning Scheme Amendment.
20. Participate in community awareness-raising communications activities centrally led by CASBE.

### Governance Compliance

#### Policy Implications

21. The proposed amendment responds to the priorities and actions of Council's CEAP to strengthen the ESD provisions of the Stonnington Planning Scheme and to continue to work with CASBE on this project.

#### Financial and Resource Implications

22. The cost of this Stage 2 of this project, at approximately \$20,000, is included in the FY21/22 Budget.

#### Conflicts of Interest Disclosure

23. 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

24. There are no legal / risk implications relevant to this report. Legal advice will be sought as required.

#### Community Consultation

<b>Purpose</b>	Notice will be given as required under the Act when the Amendment is publicly exhibited.
<b>IAP2 Goal:</b>	Consult.
<b>Exhibition period</b>	Timing dependent on Ministerial authorisation. Minimum 4 weeks duration.

<b>Method:</b>	As required by the Act and including social media and the Connect Stonnington webpage.
<b>Reach:</b>	Reach can be confirmed at the completion of the exhibition period.
<b>Summary of feedback:</b>	Collected and presented to Council with recommendations following statutory exhibition period.
<b>Impact:</b>	Not applicable at this time.

#### Human Rights Consideration

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

#### Attachments

1. Hansen Partnership Planning Report [8.4.1 - 51 pages]
2. Hip V. Hype Technical ESD and Development Feasibility Report [8.4.2 - 81 pages]
3. Frontier Economics CBA Report [8.4.3 - 81 pages]
4. Planning Scheme Amendment Documentation [8.4.4 - 19 pages]

## 8.5 Stonnington Toy Library Funding

**Manager Community Services: Dianne Panjari**  
**Acting Director Community & Wellbeing: James Rouse**

### Linkage to Council Plan

#### Direction 3: A people-centred and future ready city

- 3.1 Community focus, connection and engagement
- 3.4 Fit for purpose operating model and resource management

### Purpose of Report

To seek Council approval for funding of the Stonnington Toy Library (STL) for the 2022/23 and 2023/24 financial years, to align with Council's Community Grant policy and cycle of triennial partnership grants.

### Officer Recommendation

#### *That the Council:*

- 1. APPROVE a service agreement with the Stonnington Toy Library in the amount of \$45,000 per annum towards staffing costs, for the 2022/23 and 2023/24 financial years, to bring funding in line with the partnership grants cycle.**
- 2. APPROVE the agreement to be administered in line with the Stonnington Community Grants Policy (Triennial Grants) in future years.**

### Executive Summary

1. On 7 June 2021, the Council resolved to exempt Stonnington Toy Library from the requirement to participate in the competitive application process outlined in the Community Grants Program and that Council grant a 12-month service agreement for \$65,000 commencing 1 July 2021, with the same reporting requirements as grant recipients under the community grants policy.
2. Stonnington Toy Library has received support over many years from the Community Grants Program and is also supported through a peppercorn lease from Council at the Winter Street site, along with access to the Toorak/South Yarra Library meeting room one day per week at no fee.
3. In compliance with the resolution of 7 June 2021, officers have undertaken benchmarking exercise with neighbouring municipalities (refer **Attachment 1**) to understand the provision of cash and in-kind support for toy libraries operating in their municipalities.

### Background

4. Stonnington Toy Library promotes the importance and value of play and provides an important service to families, especially those who need to make a connection in their community, are experiencing difficulties or challenges in their lives, have a child with special/additional needs or are experiencing financial difficulty. The toy library

advocates for sustainable practices through re-using, recycling, borrowing and thoughtful purchasing. See the Stonnington Toy Library Annual Report - **Attachment 2** for details.

5. Stonnington Toy Library (STL) has approximately 450 current members with many using the library every 2-3 weeks. While COVID lockdowns impacted the way the service was used, the move to a Click-and-Collect service model ensured the library continued to be well used by families. Normal service has now resumed.
6. Stonnington Toy Library has successfully applied to the Community Grants Program for funding to support their service over many years, receiving around \$50,000 per year in the last few years.
7. For the 2021/22 financial year Council determined to provide \$65,000 through a service agreement and compliance consistent with the reporting and acquittal requirements of the Community Grants Program, whilst officers undertook a benchmarking exercise with neighbouring municipalities.
8. In 2021 STL increased profit from previous years and ended the year with a profit of \$71,696 an increase of \$50,000 from the previous year and \$30,000 more than what was budgeted. The 2020/21 annual report indicates a current cash balance of approx. \$113,000.
9. In terms of outgoings, the STL staff costs increased by \$10,000 in 2021 compared to FY20.

### Key Issues and Discussion

10. A benchmarking exercise was undertaken to compare toy library services across the municipalities of Boroondara, Glen Eira, Port Phillip, Kingston, Monash, Yarra and Frankston. (**Attachment 2**)
11. Benchmarking has been complicated as each toy library operates under different service models and as such does not allow for easy, direct comparison.
12. Funding ranges from \$6,000 to \$29,000 per year, with the majority sitting at around \$15,000 - \$20,000 per year. Funding models are either recurrent service agreements or annual community grant applications for funds.
13. All charge a membership fee ranging from \$100 - \$200 per year depending on the level of membership taken by each family.
14. All have at least one paid position and use volunteers to run the service in conjunction with paid staff members as well as a committee of management.
15. All increase funding through state or federal grants including the Stronger Communities program through the Federal Government and sponsorship or partnerships with local businesses. Stonnington Toy Library has undertaken all of these.
16. Benchmarking shows that Council's historical support for the Stonnington Toy Library has significantly exceeded other municipalities.



17. Based upon the benchmarking exercise undertaken and a review of the financial position of the Stonnington Toy Library, Council officers are of the view that a reduced level of financial support is justified.
18. Whilst officers are aware that the previous funding support has been high, it is important that any reduction is incremental. Therefore, a reduction to \$45,000 per annum, specifically towards staffing costs, aligned to the Partnership Grants cycle for the next two financial years is deemed appropriate.
19. Council's Early Years Services are observing high levels of post-Covid demand for family support services around issues such as family violence and mental health. In a financially constrained environment, the proposed savings in this grant could be prioritised to extend the Family Support Officer role across the municipality.
20. Given the current strong financial position of the Stonnington Toy Library and their ability to generate income through other means, Council officers are confident that this revised level of funding support would not detrimentally impact service delivery to the community during the funding period.
21. Through its Partnership Grants, Council currently supports thirteen community groups, ranging across arts, health, outreach, social support and sports. The first year of funding of the triennial program ends on 30 June 2022.
22. The proposed 2-year funding period for Stonnington Toy Library aligns with the cycle of this triennial partnership funding and would allow Council officers to re-assess the level of future funding through the next round of Partnership Grants which will commence in the 2024/25 financial year.

## Governance Compliance

### Policy Implications

23. The recommended funding support for the Stonnington Toy Library will be administered consistent with the Community Grants Policy and Guidelines.

### Financial and Resource Implications

24. Service agreement funding of \$45,000 per year, for the next two years in line with Partnership Grants, with a review in 2024 to ascertain future funding beyond the 2024/2025 financial year and providing Council the option to redirect Stonnington Toy Library to the competitive community grant program if required. This funding is available with the allocated Community Grants budget.
25. After examination of STL financial information, Council Finance Officers advise a \$20,000 reduction should not impact the day-to-day service operation.
26. The proposed \$20,000 saving could be re-prioritised to support an extension of the fixed term Family Support Officer position in the Maternal and Child Health Team.

### 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.

#### Community Consultation

29. There was no requirement for community consultation.

#### Human Rights Consideration

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

#### Attachments

1. Toy Library Benchmarking chart [**8.5.1** - 1 page]
2. STL Annual Report 2021 [**8.5.2** - 30 pages]

## 8.6 Art Acquisitions Policy

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

**Acting Director Community & Wellbeing: James Rouse**

### Linkage to Council Plan

#### Direction 1. A thriving and unique place

1.1 Identity and Destination

1.3 Pride of place and character

### Purpose of Report

To approve the Art Acquisitions Policy and Art Acquisitions Terms of Reference, which were updated to align with the Council Plan 2021-2025 and to ensure the Council's arts collecting practices are applied in a consistently responsible and rigorous manner.

### Officer Recommendation

***That the Council:***

- 1. APPROVE the updated Art Acquisitions Policy; and***
- 2. APPROVE the Art Acquisitions Advisory Committee Terms of Reference.***

### Executive Summary

1. The City of Stonnington maintains a significant collection of contemporary works of art displayed in publicly accessible locations throughout Council buildings.
2. The Art Acquisitions Policy and the accompanying Art Acquisitions Advisory Committee Terms of Reference provide a framework and guiding criteria for Council's acquisition of art to the Contemporary Art Collection.
3. The revised Policy demonstrates Council's commitment to the arts by celebrating our unique character and contributing to the vibrancy and cultural landscape of the municipality.

### Background

4. The Art Acquisitions Policy was originally drafted and adopted by Council in 2007 with the aim to develop a contemporary art collection for the City of Stonnington.
5. The Contemporary Art Collection of Stonnington currently holds over 120 works of art with a cumulative value of up to \$2 million.
6. This Policy provides a framework and guidance to the Art Acquisitions Advisory Committee, established in 2009, that recommends for consideration by Council, the acquisition of contemporary artworks to the Collection.
7. Works from the Contemporary Art Collection are valuable community assets and are displayed in publicly accessible locations throughout Council buildings.
8. The collection is comparable to inner-city council art collections with the Policy and Terms of Reference benchmarked across commensurate councils nationally.

## Key Issues and Discussion

9. The Art Acquisitions Policy was last updated in 2014 and scheduled for review in 2021.
10. The Policy and Art Acquisitions Advisory Committee Terms of Reference have been updated to align to the City of Stonnington's relevant strategies and policies and to adopt the new policy template requirements.
11. International art and museum codes of ethics and best practice have been integrated into the Policy to ensure Council's collection is administered to be responsible, rigorous, and consistent with industry best practice.
12. The objectives of the Policy are to:
  - Establish clearly defined criteria
  - Ensure ethical and transparent acquisitions
  - Ensure provenance and clear chain of ownership and valid legal title
  - Ensure highest quality artistic practice
  - Develop a strong connection to the City of Stonnington and reflect its uniqueness, diverse identities, perspectives and communities
  - Ensure no gender bias
  - Support the strategic direction of Council's Future Stonnington Plan
13. The Policy sets out the mandatory standards required for acquisition:
  - Enhances existing collection strengths, themes and media.
  - High quality, reflecting excellence in contemporary art practice
  - Established and verifiable provenance
  - Unconditional purchase or donation with valid legal title of ownership
  - Good condition, intrinsically sound and reasonably resistant to deterioration to withstand display in a non-museum environment
  - Can be managed, conserved and stored appropriately within the means of Council
  - Will not pose a risk to public safety or hinder public access
  - Respects the moral rights of the artist
  - Be drawn from all mediums and are required to withstand a variety of conditions, be fit for purpose, and consider public safety.
14. Works proposed for acquisition also need to meet one or more specific criteria as follows:
  - Artists must have a demonstrated professional visual arts practice and in the case of emerging artists show a strong potential and commitment to establishing a long-term career in the visual arts

- Work produced by First Nations artists, with preference given to those from the Wurundjeri Woi Wurring People and Bunurong of the East Kulin nations
  - Work produced by an artist who lives (lived) or works (worked), studies (studied) or made a significant contribution to the cultural development of the municipality
  - Responds and/or demonstrates a connection to the people, culture and geographical location of the municipality
15. The Art Acquisitions Advisory Committee Terms of Reference that accompany the Policy govern the responsibilities and operating arrangements of the Art Acquisitions Advisory Committee.
  16. The Art Acquisitions Advisory Committee Terms of Reference have been revised and provide a clear and transparent process for all works of art under consideration for acceptance into the City of Stonnington Contemporary Art Collection.
  17. The role of the Committee is to identify, recommend, and assess works of art for acquisition into the Collection, for the commissioning of public art and removal of artworks from the Collection and their method of disposal.
  18. The Committee acts in an advisory capacity only and has no delegated authority to make decisions on behalf of Council.
  19. The Committee comprises specialist members that have demonstrated professional experience in contemporary visual arts practice, the museum and gallery sector, community art and cultural engagement, and public art.

## Governance Compliance

### Policy Implications

20. The Policy aligns with the broader vision, strategies and framework of Future Stonnington (incorporating Council's Community Vision 2040 and Council Plan, 2021-2025) and additional Council documents.
21. The Acquisitions Policy aligns with the Council's Deaccessioning Policy which sets out specific criteria for the removal of works of art from Council's Art Collection.
22. This Policy also works alongside the Public Art Policy which sets out specific criteria for art acquired into Council's Public Art Collection.

### Financial and Resource Implications

23. A recurring budget of \$55,000 per year is generally allocated to the acquisition of art for the Contemporary Art Collection. This may vary depending on art acquisitions for specific projects with any further specific budgetary requirements considered by Council on a case-by-case basis.

### Conflicts of Interest Disclosure

24. 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

25. The Policy seeks to appropriately manage Council's risks in the acquisition of art works.

#### Environmental Implications

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

#### Community Consultation

27. There was no requirement for community consultation.

#### Human Rights Consideration

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

#### Attachments

1. 2022 - Art Acquisitions Policy [**8.6.1** - 7 pages]
2. 2022 - Art Acquisitions Advisory Committee Terms of Reference [**8.6.2** - 9 pages]

## 8.7 Transport Advisory Committee

**Manager Transport & Parking: Ian McLauchlan**

**Director Environment & Infrastructure: Rick Kwasek**

### Linkage to Council Plan

#### **Direction 1: A thriving and unique place**

1.4 Active transport and connected city

#### **Direction 3: A people-centred and future ready city**

3.1 Community focus, connection and engagement

### Purpose of Report

To approve the establishment of a new Transport Advisory Committee and the associated Terms of Reference.

### Officer Recommendation

#### ***That the Council:***

- 1. APPROVE the Transport Advisory Committee to replace the former Active Transport Advisory Group whose membership is now due for reappointment.***
- 2. APPROVE the Transport Advisory Committee Terms of Reference to guide formation of the new group, its membership and operation.***
- 3. NOTE that appointment of community members to the Transport Advisory Committee will be subject to Council approval.***

### Executive Summary

1. In December 2019, Council approved terms of reference to form a Cycling Reference Group consisting of community members with an interest and experience in cycling in the municipality to provide input into the planning and provision of cycling infrastructure.
2. Since this time, the focus of the group expanded to include walking and was renamed the Active Transport Advisory Group.
3. With the group's membership having served their initial two-year term and there being an opportunity to update the group's Terms of Reference, it is proposed to replace the group with a new Transport Advisory Committee. This group would encompass all transport modes and a new expression of interest process would be undertaken to appoint the community membership.

### Key Issues and Discussion

4. In December 2019, Council approved terms of reference to form a Cycling Reference Group consisting of community members who live, work, or study in the City of Stonnington, and have an interest and experience in cycling in the municipality. Members provided input into the planning and provision of cycling infrastructure in Stonnington and informed Council on issues to assist decision making in relation to policy, program and service delivery for cycling. Reference group members were to

- serve a one to two-year term with an option to apply for reappointment for a further two years.
5. In November 2020, due to the impacts of COVID-19 preventing face-to-face meetings, the group met for the first time in an online format. At this meeting a name change to the Active Transport Advisory Group was agreed along with a broadened scope to include walking and cycling. At the time of the name change the terms of reference (ToR) were not amended to reflect this change in focus.
  6. The ToR were reviewed and discussed extensively as part of the Group's meetings in 2021. Council Officers separately identified that a review of the ToR was required as despite the group operating well, due to the focus on cycling in the initial recruitment the scope of the group did not reflect the multi-modal nature of Stonnington's transport system and upcoming Council projects.
  7. In the first meeting of 2022, with Cr Klisaris as chair, the group was advised:
    - a. this was the last meeting of the current Active Transport Group
    - b. a reviewed ToR would go to Council for endorsement to form the basis to renew the Active Transport Advisory Group's membership
    - c. members would have the option to reapply for the new group through an expression-of-interest process, having served their initial two-year term and with some members having left the group
  8. The proposal to change the group to the Transport Advisory Committee was not outlined in detail to the group at this meeting but, if supported, would be done so through an email and expression-of-interest invite.
  9. This report proposes new ToRs (**refer Attachment 1**) to guide the formation and recruitment of a new group – the Transport Advisory Committee, to replace the former Active Transport Advisory Group. As part of this, the current group would be disbanded and a new expression-of-interest round held to recruit community representatives covering all transport modes including walking, cycling, car travel, accessibility, public transport, and micro mobility. The preferred members would have a broad understanding and experience of transport issues and their often-competing demands, land-use planning, and integrated transport to contribute to the group's discussions. The scope of this group would align with the Integrated Transport Plan 2020-25, upcoming transport projects, and better support Councils strategic objectives.
  10. The proposed new group is aimed at facilitating conversations between members who may have opposing points of view, which is valuable in understanding the diversity of community voices rather than those focused on a single transport mode. For sensitive issues such as road space allocation and parking, having people with diverse needs and ideas, can assist with developing proposals that are more acceptable to the broader community. The new ToRs also propose a Co-chair arrangement of one Councillor and one community representative through an election process. This would mirror the current process in the Climate Emergency Advisory Committee to provide greater community ownership of the Committee and the meetings.

## Governance Compliance



### Policy Implications

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

### Financial and Resource Implications

12. There are no additional financial and resource implications associated with this report.  
The current Council budget provides adequate resources for the support of this advisory committee.

### Conflicts of Interest Disclosure

13. 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

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

### Community Consultation

15. There was no requirement for community consultation.

### Human Rights Consideration

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

### Attachments

1. Terms of Reference - Transport Advisory Committee [8.7.1 - 9 pages]

## 8.8 FY22 Quarter 3 - Council Financial Report

**Chief Financial Officer: Julia Gallace**

### Linkage to Council Plan

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

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

### Purpose of Report

To provide the Council with an overview of the results of the third quarter 2021/22 performance to budget.

### Officer Recommendation

**That the Council:**

- 1. NOTE the Council Financial Report for the period ending 31 March 2022, which is projecting a full year surplus of \$27.31 million (including Open Space Contributions and Capital Grants) which is \$6.29 million unfavourable compared to the budget of \$33.61 million. Council has seen a minor decrease in projected full year surplus of \$0.07 million compared to second quarter projected surplus of \$27.38 million (refer Attachment 1 – Income Statement);**
- 2. NOTE the Council Financial Report for the period ending 31 March 2022, which is projecting an adjusted surplus of \$5.42 million (excluding Open Space Contributions and Capital Grants) which is \$5.60 million unfavourable compared to the budget of \$11.03 million (refer Attachment 1 – Financial Summary);**
- 3. NOTE that at 31 March 2022 Council has allocated \$16.43 million of the capital program for deferral into 2022/23 (refer Attachment 1 – Capital Works Expenditure Overview); and**
- 4. NOTE the Council expects to continue to meet the Victoria Auditor-General Office (VAGO) financial sustainability overall low risk indicators for the 2021-22 financial year.**
- 5. APPROVE that \$0.45 million be brought forward from the Draft 2022-23 Transformation Capital Budget allocation (\$14.6 million) for the following three projects, to enable work to progress in 2021-22:**
  - Finance Transformation Project: \$0.10 million**
  - Secure @ Stonnington: \$0.15 million**
  - Network Infrastructure Redesign Phase 2: \$0.20 million**
- 6. APPROVE that the \$0.45 million brought forward for the Transformation Program is drawn down against the Future Fund Reserve in 2021-22.**

## Executive Summary

1. A fiscal budget is adopted by Council for the subsequent financial year by June 30 each year. The budget is prepared over February through June using information and estimates available at the time. The budget for 2021/22 was adopted at the 28 June 2021 Council meeting.
2. The Budget 2021/22 included a road to recovery approach from COVID, whilst some provisions were included for downside risk associated with other revenue streams, it did not factor for further COVID restrictions and closures of our non-essential services in 2021/22.
3. State Government imposed restrictions commenced in July and continued until 26 October. The annual forecast has been adjusted down to reflect the expected financial impacts of COVID and thus contributing to a surplus shortfall of \$6.29 million. Council has been continuously updating our financial forecasts based on current trend post COVID lockdown as a result of reopening of non-essential services and better information.
4. Council has maintained agility through this time. We have adjusted our service models and delivery modes where possible to continue to provide vital council services. Services that remained closed during the first and partly the second quarter reporting period included aquatic centres, Chapel off Chapel, libraries, venues, carparks (limited use), outdoor and community events.
5. In-line with our commitment to supporting our community, at the Council Meeting of 28 June 2021, Council endorsed the introduction of a new \$1.89 million COVID Response/Recovery Fund. As at the March quarter, a range of fee waivers and community programs and / or events have to date been endorsed to draw-down against the fund totalling \$1.61 million. Note that further drawdown of \$0.28 million was endorsed by Council in May 2022.
6. Council was advised in first quarter of an additional \$1.57 million funding from the Victorian Government as part of their COVID Safe Outdoor Activation Fund (works, services, and promotion of outdoor activation). Officers have designed the program to be delivered from this grant, and initiated a range of activations that will support business, as well as recouping some of the infrastructure costs currently being borne by Council.
7. As reported in first quarter, City of Stonnington experienced an IT incident on 27 August 2021. Some systems were disabled while the issue was being investigated and resolved. During this time Council worked with the appropriate State Government Agencies and our Cyber Insurance partner to investigate the incident, to ensure all Council data is secure. The forecast cost of this incident is approximately \$0.50 million to which Council is currently seeking to recover through insurance.
8. At March 2022, Council is projecting a full year operating surplus (operating income less operating expenditure) of \$27.31 million in comparison to the adopted budgeted surplus of \$33.61 million resulting in an unfavourable variance of \$6.29 million. This variance has been driven by the following forecast to adopted budget movements:
  - Operating Revenue – (\$9.77 million) unfavourable variance; and
  - Operating Expenditure - \$3.48 million favourable variance.
9. For the reporting period of 2021/22 Council is projecting a reduction in parking infringement income by \$3.21 million, Usage fees income by \$4.09 million, Ticket / Meter income by \$0.12 million, Carpark Operator income by \$0.61 million, Program revenue

\$0.28 million. Council projects a full year surplus excluding open space contribution and capital grants to be \$5.42 million compared to the budgeted surplus excluding open space contribution and capital grant of \$11.03 million (an unfavourable variance of \$5.60 million).

10. With reduced other revenue sources over the financial year, Council has been managing expenditure under budget and critically monitoring discretionary spending.
11. Financially sustainable operating surpluses assist in funding Council's capital works program. The adopted budget includes a capital works program totalling \$97.66 million which has been forecasted at \$73.99 million. With the year to date actual at \$35.61 million, there is still significant spend forecast for the final quarter of the financial year, hence Council will be closely monitoring the progress of the projects.
12. Despite the impact on forecast revenue resulting from COVID-19 restrictions on services, Council remains in a strong financial position. We expect to continue to meet the Victoria Auditor-General Office (VAGO) financial sustainability overall low risk indicators for the financial year 2021-22.

### Background

13. Section 97 of the Local Government Act 2020 requires the provision of a quarterly financial report to an open Council Meeting comparing the budgeted revenue and expenditure for the financial year with the actual revenue and expenditure to date.

### Key Issues and Discussion

#### Year-To-Date Position

14. The YTD surplus including open space contribution was \$55.50 million against a budget of \$59.53 million, resulting in an unfavourable variance of \$4.03 million. This unfavourable result has been driven by the following actual to adopted budget variances:

**Operating Income:** (\$13.51m) Unfavourable - predominantly resulting from:

Description	Variance F – Favorable U - Unfavorable	Main Driver(s)
Rates	(\$0.72m) U	Cancellation of 214 properties - (\$0.21m) Rate in a Dollar adjustment to be compliant Rate cap - (\$0.11m) Actual garbage charges conversion of shared bins to non kerbside bins to which Council do not deliver the garbage collection - (\$0.26m) Rates interest variance due to interest charges commencing from March - (\$0.11m)
Statutory fees and fines	(\$4.37m) U	Reduced parking infringement income as a result of COVID restrictions - (\$3.00m) Permits/lodgments for statutory planning permits - (\$0.79m)

		Registration (Stat) income for food & alcohol services - (\$0.28m) Court income due to low PINs issued during first quarter (\$0.26m)
User fees	(\$3.39m) U	COVID impacts on child-care service - (\$0.94m) COVID impacts on Aquatics - (\$1.81m) Carpark operator & ticket / meter income across all Council owned carparks - (\$0.43m) Program revenue – Chapel off Chapel - (\$0.29m)
Grants Operating	\$1.37m F	Timing of State & Commonwealth grants received, including: General purpose grant from VGC - (\$1.53m) Immediate Outdoor activation grant - \$0.80m Various grants – domestic assistance, personal care etc. - \$0.60m State Govt grant for Library & Communities, unspent from FY22 - \$0.38m
Grants Capital	(\$6.51m) U	Delay in commencement of Toorak Park (\$2.4m) and Percy Treyvaud (\$2.8m) Princess Gardens masterplan timing of grant to be received (\$1.00m) Local Roads Community infrastructure construction under way variance result of timing of funding recognition (\$0.83m) Unbudgeted grants received for Outdoor activation program \$0.78m
Contributions	(\$0.01m) U	Timing of developer payments regarding public open space and in accordance with property development
Gain/(loss) on disposal	\$0.21m F	Proceeds from disposal of vehicles & machinery
Other Income	(\$0.08) U	Driven by reduced rental income from Council owned properties

**Operating Expenditure:** \$9.47m favourable - predominantly resulting from:

Description	Variance	Main Driver(s)
	F – Favorable	

	U - Unfavorable	
Employee Cost	(\$0.55m) U	<p>Ordinary hours favourable variance due to staff stood down due to closure of non-essential services - \$2.10m</p> <p>Limited annual/Long service leave taken during the first half of the year due to COVID restrictions - (\$1.34m)</p> <p>Increased reliance on Contract staff to support additional resources required to address Cyber Security Incident, additional costs have also been incurred to support workplace relations - (\$1.16m)</p>
Materials & services	\$6.55m F	<p>Permanent savings for major contracts, including parking control and property maintenance - \$1.70m</p> <p>Permanent savings in minor contracts including carpark operations, street cleaning, Prahran square operations- \$0.58m</p> <p>Permanent variance in utilities cost - \$0.89m</p> <p>Consulting cost timing variance predominantly in asset management and planning - \$0.60m</p> <p>Timing of expenditure in licensing cost \$0.27m, planning &amp; amendment expense \$0.31m, Permanent variance in waste disposal &amp; tipping \$0.51m.</p>
Depreciation & Amortization	\$0.92m F	Variance as a result of actual depreciation and accruals taken.
Other Expenses	(\$0.02m) U	Variance driven by contribution paid for Clayton South regional Landfill, offset by savings in borrowing costs.
Operating initiatives	\$2.56m F	Timing variance due to various project delays as a result of COVID restrictions imposed for the first quarter of 2021/22.

Full Year Forecast Position

15. The projected full year operating surplus is \$27.31 million compared to adopted budgeted surplus of \$33.61m, resulting in an unfavourable variance of (\$6.29 million). This unfavourable variance has been driven by the following full year forecast to adopted budget variances:

**Operating Income:** (\$9.77m) unfavourable - key variances impacting the forecast result are:

Description	Variance F – Favorable	Main Driver(s)

	U - Unfavorable	
Rates Income	(\$0.46m) U	<p>Rate in a Dollar adjustment to be compliant Rate cap – (\$0.11)</p> <p>Cancellation of 214 properties due to demolition of houses by the Office of Housing on Bangs St and consolidation of Lyall Hotel, also COVID restrictions to impact construction industry (subdivision and building works) - (\$0.21m)</p> <p>Actual garbage charges conversion of shared bins to non kerbside bins to which Council do not deliver the garbage collection - (\$0.26m).</p>
Statutory Fees & Fines	(\$5.01m) U	<p>Reduction in income resulting in a permanent variance due to COVID restrictions impacting parking infringements income (\$3.21m), permits/lodgments (\$0.99m) and court income (\$0.42m)</p>
User fees	(\$4.60m) U	<p>User fees from closure of non-essential facilities and compliance:</p> <ul style="list-style-type: none"> <li>• Aquatic Centers, Child Care Services &amp; Chapel off Chapel - (\$4.09m)</li> <li>• Carpark operator &amp; ticket/meter income – (\$0.61m)</li> <li>• Programming revenue – (\$0.28m)</li> </ul> <p>Offset by: Lodgment/Applications (Non-Stat) \$0.48m.</p>
Grants Operating	\$0.42m F	<p>Variance predominantly driven by unbudgeted funding received from State Government for an immediate outdoor activation program</p>
Grants Capital	\$0.31m F	<p>Unbudgeted funding received from State Govt. for Semi Perm/Perm outdoor precinct establishment fund – \$0.77m</p> <p>Unbudgeted RRIF IT upgrade funding - \$0.77m</p> <p>Princess Gardens delay of project into next financial year - (\$1.00m)</p>
Contributions - Monetary	(\$1.00m) U	<p>Unfavourable variance driven by the timing of budgeted public open space contributions</p>
Net Gain on Disposal PP&E	\$0.25m F	<p>Proceeds from disposal of vehicles &amp; office equipment</p>

Other income	\$0.33m F	Variance as a result of estimated Cyber security incident claim \$0.50m offset by loss on rental income from council owned properties
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**Operating Expenditure:** \$3.48m favourable - key variances impacting the forecast result are:

<b>Description</b>	<b>Variance</b> F – Favorable U - Unfavorable	<b>Main Driver(s)</b>
Employee cost	(\$1.53m) U	<p>Budget assumptions not being met in annual &amp; long service leave areas as staff not taking leave as planned due to COVID lockdowns (\$0.83m)</p> <p>Increase in maternity and overtime payments (\$0.40m)</p> <p>Contract staff permanent increase against budget to support Cyber Security incident during Aug-Sep, as well as costs incurred to support workplace relations (\$1.21m)</p> <p>Offset by increase in capitalisation of labour in line with increase in planned activity within Digital transformation and Environment &amp; Infrastructure - \$0.98m</p>
Material and services	\$3.95m F	<p>Stamp duty/lodgment cost associated with Fines Vic - \$0.35m</p> <p>Planning amendment expense - \$0.22m</p> <p>Tipping &amp; Waste disposal fees and waste removal - \$0.55m</p> <p>Major Contract: DCA contract and car park operation - \$1.49m</p> <p>Minor Contracts: reduction in various activities, for example car park operations, property maintenance, street cleaning - \$0.20m</p> <p>Utilities cost reduction - (\$0.73m)</p> <p>Offset by: increase in major contract to support increase in scope for footpath maintenance works - (\$0.11m) and technology enablement – (\$0.53m)</p>
Depreciation & Amortization	\$0.92m F	Variance due to adjustment of actual vs budgeted depreciation posted.



Other expenditure	(\$0.20m) U	Minor unfavorable variance driven by actual payment of SoC Contribution Clayton south regional landfill, offset by savings in borrowing cost.
Operating Initiatives	\$0.14m F	Forecast for operating initiative programs to be largely spent prior to year end.

### Capital Works Expenditure

16. At March 2022, capital works spending to date of \$35.61 million compared to budget of \$80.26 million, \$44.66 million underspent. Council has committed \$60.45 million of capital works expenditure to date, of which \$39.5 million a multi-year project for the delivery of Percy Treyvaud sports facility.
17. \$16.43 million of project expenditure has been allocated for deferral into 2022/23 due to impacts of COVID, and now supply chain issues with materials, labour shortages, contractor availability and escalating cost pressures has had on the delivery of the program.
18. At March QTR, the Council is recommending that \$0.45 million be brought forward from the Draft 2022-23 Transformation Capital Budget allocation (\$14.6 million) for the following three projects, to enable work to progress in 2021-22:
  - Finance Transformation Project: \$0.10 million
  - Secure @ Stonnington: \$0.15 million
  - Network Infrastructure Redesign Phase 2: \$0.20 million

This will reduce the proposed 2022-23 Transformation program budget to \$14.15 million.

### Balance Sheet and Cash flow

19. Officers are closely monitoring cash and cash equivalents against intended allocations each month. Cash and cash equivalents is forecasted to be higher than budget at 30 June 2022 by \$20.64 million. This is due to increased deferrals of capital projects as COVID related issues impact on project commencement dates.
20. At this stage, the Council is not intending to draw \$15.00 million of budgeted loan borrowings this financial year. However, we will continue to review this assumption alongside the delivery of the capital program.
21. Infrastructure, property, plant and equipment favorable forecast to budget variance of \$91.39 million relates to the timing of our annual asset revaluation that was finalised in July 2021, offset by the projected reduced expenditure for capital projects.

### Assessment against Financial Management Principal Indicators

22. Council's decision-making is reflected by the principles of sound financial management, to ensure our financial position is sustainable over both the short and long-term. Council financial performance is assessed and measured using the Adopted Financial Management Principles Policy indicators.
23. The third quarter 2021/22 results indicate an overall low risk financial sustainability rating for Council. Council remains in a strong financial position. The actual and budgeted results for each indicator are provided at **Attachment 1**.

24. Council has achieved the following assessed ratings for the financial management principal indicator targets: 16 Met, 11 NA (data from the Local Government Performance Reporting Framework was Not Available at March), 2 TBI (these indicators are being implemented), 5 Watch and 1 partially Met.
25. Indicators that are assessed as Watch or Partially Met are indicators that have been identified as ones that have fallen outside the Low-Risk target range on more than one occasion during the 4-year period (2018-19 to 2021-22) and should be monitored to ensure they consistently achieve the targeted risk level over the coming years. Note that indicators are calculated using YTD actuals.

### Future Fund Reserve and Borrowing Schedule

26. Note a reconciliation of Council's forecast draw-down of the Future Fund Reserve as outlined in Council's proposed 2022-23 Financial plan and a pay-back schedule over the next 10 Years:

Enter Scenarios	F2021/22	B2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32
<b>Future Fund</b>											
Open Balance-Future Fund	16,752	2,593	5,000	6,000	7,500	9,000	10,500	12,000	13,500	15,000	16,500
Interest	0	0	0	0	0	0	0	0	0	0	0
Top-up (Incl Unfunded Defined Super)	1,500	5,000	2,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500
Capex from Reserve	-15,659	-2,593	-1,500	0	0	0	0	0	0	0	0
<b>Closing Balance</b>	<b>2,593</b>	<b>5,000</b>	<b>6,000</b>	<b>7,500</b>	<b>9,000</b>	<b>10,500</b>	<b>12,000</b>	<b>13,500</b>	<b>15,000</b>	<b>16,500</b>	<b>18,000</b>

27. Note a reconciliation of Council's forecast borrowing schedule as outlined in Council's proposed 2022-23 Financial Plan and a pay-back schedule over the next 10 Years.

	F2021/22	B2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32
New Loan Funds	15,000	37,000	6,000	7,000	5,800	10,000	8,000	-	-	7,000	-
Interest - Borrowings (New & Exist)		548	1,251	1,461	1,691	1,822	2,111	2,143	1,941	1,897	1,887
Loan Repayments (New & Exist)		2,000	4,467	4,867	8,067	6,147	6,814	7,347	7,347	7,347	8,047
Loan Liability - Current		2,000	4,467	4,867	8,067	6,147	6,814	7,347	7,347	7,347	8,047
Loan Liability - Non Current		69,500	68,586	70,299	64,832	70,605	71,124	63,244	55,897	55,550	46,803
Loan Liability - Total		71,500	73,033	75,166	72,899	76,752	77,938	70,591	63,244	62,897	54,850

28. No key issues noted with Council's funding capacity, and no change to the forecast pay-back schedule during the current financial year.

### Conclusion

29. Despite the impact on forecast revenue resulting from COVID restrictions on services, Council remains in a strong financial position for 2021/22.
30. Retaining a surplus is imperative to Council as this surplus will fund our Capital Program and fund the amenity expectations of our community.
31. Council will continue to closely monitor expenditure to offset the reduction in projected income during the year.

### Governance Compliance

#### Policy Implications

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

#### Financial and Resource Implications

33. The annual budget sets out the financial resourcing required to deliver on the Council Plan.

#### Conflicts of Interest Disclosure

34. 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

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

#### Environmental Implications

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

#### Community Consultation

37. There was no requirement for community consultation.

#### Human Rights Consideration

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

#### Attachments

1. March QTR Council Financial Report [8.8.1 - 30 pages]

## 8.9 Quarterly CEO Update - Q3 FY22

**Manager Corporate Strategy & Performance: Mathew Burke**  
**Acting Director Organisation & Capability: Tracey Limpens**

### Linkage to Council Plan

#### Direction 3: A people-centred and future ready city

3.1 Community focus, connection and engagement

3.4 Fit for purpose operating model and resource management

### Purpose of Report

To present the CEO Quarterly Update for Q3 FY22, reporting the Council's progress delivering the Council Plan 2021-25 (Future Stonnington) and performance against Local Government Performance Reporting Framework (LGPRF) indicators.

### Officer Recommendation

#### **That the Council:**

- 1. APPROVE the Q3 FY22 CEO Quarterly Update for public release; and**
- 2. NOTE that the Q4 FY22 CEO Quarterly Update will be superseded by the Annual Report 2021-22, which will include reporting on the full-year implementation of the Annual Plan 2021-22.**

### Executive Summary

1. The CEO Quarterly Update is designed to keep the community updated on Council's performance as part of an ongoing commitment to transparency and accountability.
2. The Q3 report is the second edition and represents the period from January to March 2022 (**Attachment 1**).
3. Currently, as at Q3, 77% of Annual Plan 2021-22 actions are reported as 'on track' (at 75% completion), 11% are reported as delayed or 'monitoring' (between 60-70% completion) and 6% of actions have been deferred. This represents an improvement of 'on track' actions since last period (Q2: 73%).
4. Building upon the first edition, this quarter introduces several strategic indicators and a financial summary.
5. The Q4 Update will be superseded by the Annual Report 2021-22, which will include reporting on the full-year implementation of the Annual Plan 2021-22.

### Background

6. The CEO Quarterly Update was introduced during Q2 FY22 to keep the community updated on Council's performance, as part of an ongoing commitment to transparency and accountability.
7. The report incorporates Council's progress delivering the Annual Plan 2021-22 and a summary of service data collected as part of the Victorian Governments' Local Government Performance Reporting Framework (LGPRF).

8. As part of the continued evolution of this document, this quarter includes the following new content:
  - Initial strategic indicators for two strategic objectives to identify how we measure the successful delivery and impacts of the Council Plan.
    - Objective 2.3: Public and green space (page 19)
    - Objective 3.1: Community focus, connection and engagement (page 23)
9. These will continue to be developed and progressively included in future editions.
  - A finance update (page 33) which includes variances to Budget and high-level income and expenditure insights. The full Quarterly Financial Report is referenced for further details.
  - Full page showcases to highlight important activity undertaken this quarter, including COVID-19 response (page 14) and Climate Emergency Action Plan delivery (page 15).
10. Content identified for future editions include additional strategic indicators progressively across all strategic objectives, introduce targets and trends for strategic indicators, inclusion of additional Customer Experience insights, evolution of COVID-19 response update, and alignment of LGPRF indicators with relevant strategic objectives.

### Key Issues and Discussion

11. Council's overall progress as at Q3 towards implementing Annual Plan 2021-22 actions has been summarised according to the following categories:
  - On-track (75% completion): 77% of actions
  - Ongoing: 6% of actions
  - Monitoring (60-70% completion): 11% of actions
  - Off-track (<60% completion): 0% of actions
  - Deferred: 6% of actions
12. The table below provides a breakdown of the status of actions by strategic direction. Further details and commentary against each action are provided within **Attachment 1**.

Status	Direction 1 Place	%	Direction 2 Community	%	Direction 3 City	%
On track	24	71%	38	90%	20	67%
Ongoing	1	3%	1	2%	4	13%
Monitoring	5	15%	2	5%	5	17%
Off-track	0	0%	0	0%	0	0%
Deferred	4	12%	1	2%	1	6%
<b>Total</b>	<b>34</b>	<b>100%</b>	<b>42</b>	<b>100%</b>	<b>30</b>	<b>100%</b>

13. While Council operations continue to be impacted by the COVID-19 pandemic (as noted in the report) Council continues to deliver key projects and services for the community.

### Governance Compliance

#### Policy Implications

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

### Financial and Resource Implications

15. A high-level summary of the Quarterly Finance Report (presented separately to Council) is included in the Q3 Update.

### Conflicts of Interest Disclosure

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

### Legal / Risk Implications

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

### Community Consultation

18. There was no requirement for community consultation.

### Human Rights Consideration

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

### Attachments

1. CEO Quarterly Update - Q3 FY22 [8.9.1 - 34 pages]

## 8.10 Strategic Asset Management Policy and Asset Plan

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

### Linkage to Council Plan

#### Direction 1: A thriving and unique place

- 1.1 Identity and destination
- 1.3 Pride of place and character
- 1.4 Active transport and connected city

#### Direction 2: An inclusive and healthy community

- 2.3 Public and green spaces
- 2.4 Sustainability and climate action

#### Direction 3: A people-centred and future ready city

- 3.1 Community focus, connection and engagement
- 3.3 Engaged and capable people
- 3.4 Fit for purpose operating model and resource management

### Purpose of Report

To update Council of the status of the Strategic Asset Management Framework and seek Council approval of the draft Strategic Asset Management Policy and the draft Asset Plan.

### Officer Recommendation

***That the Council:***

- 1. APPROVE the Strategic Asset Management Policy***
- 2. APPROVE the Asset Plan***
- 3. NOTE the status of the Strategic Asset Management (SAM) Framework***

### Executive Summary

1. This Report seeks Council approval to adopt a new Strategic Asset Management Policy (Policy). The Policy is a principles-based setting developed in consideration of the outcomes of the deliberative engagement process implemented for the Integrated Planning Framework development, i.e. Community Vision 2050 and Council Plan 2021-2025.
2. The Local Government Act 2020 (Act) requires Council to develop, adopt and keep in force an Asset Plan (Plan) in accordance with its deliberative engagement practices. This Report seeks Council's approval to adopt the Plan in accordance with the provisions of the Act.
3. This Plan is Council's first asset management plan under the new Act and represents the status of Council's four main asset classes and their respective operational activities.

The Plan also references and foreshadows some improvement initiatives contained in the roadmap that are relevant to the Plan.

### Background

4. In August 2021, a new three phase (3-Year) roadmap for the development of the City of Stonnington Strategic Asset Management Framework (SAM Framework) was introduced
5. The roadmap incorporates a series of infrastructure related business improvement initiatives within the following work packages: Governance, Strategic, Tactical, Operational and Digital.
6. The fundamental objective of the SAM Framework is to uplift Council's asset management capability in terms of systems, data, business processes and resource skills over a 3 Year period by aligning with the most pertinent requirements of ISO 55001- Asset Management. Council is not seeking formal certification against ISO 55001.
7. By aligning with this international best practice Standard, by default Council will achieve alignment with the relevant provisions of the Local Government Act 2020, LGV Guidelines and other key local government standards such as the National Asset Management Assessment Framework.
8. While some unexpected challenges have necessitated the need to reschedule some tasks within the scope of the SAM Framework, delivery of the overall program remains on track and achievable within the nominated 3-Year timeframe.
9. The SAM Framework scope also includes the adoption of two plans in accordance with their respective legislated timelines. In this regard, Council will fully comply with its legislated obligations as it adopted its Road Management Plan in November 2021 and adoption of the Asset Plan is subject to this Report. The statutory deadline for the adoption of the Asset Plan is 30 June 2022.
10. Two foundational elements of the SAM Framework are the Policy and the identification of Asset Management Objectives (Objectives). These were developed in alignment with the Council Plan, more specifically in support of the three Corporate Directions, 12 Objectives and 13 (out of 61) relevant Priorities.
11. The Policy and Objectives were also shaped in consideration of Council's asset risk profile and the CEO's business focus areas of Customer Experience, Financial Stability, Environmental Sustainability and Right Culture.

### Key Issues and Discussion

12. Figure 1 below shows the hierarchy of the key elements within the SAM Framework and the relationship between Council Directions/Priorities, Policy Principles and the Objectives. It also shows how 'threading' these elements provides line of sight between corporate objectives and operational asset management activities.



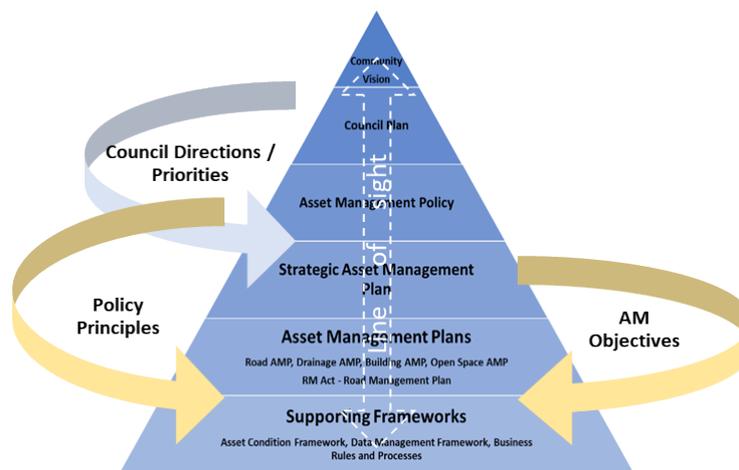


Figure 1: SAM Framework Hierarchy Model

13. Achieving line of sight in this way ensures that tactical and operational practices align with corporate requirements - which is a fundamental requirement of ISO 55001. This approach ensures that asset availability and service level standards are sustainable and align with corporate and community expectations.
14. The SAM Framework architecture model shown in Figure 2 differs slightly from the hierarchy model in Figure 1 as this architecture model demonstrates the ‘build up’ from the Policy setting through to the Strategic Asset Management Plan (SAMP) through to the Plan. The role that these three artefacts play in the SAM Framework is outlined in more detail below.

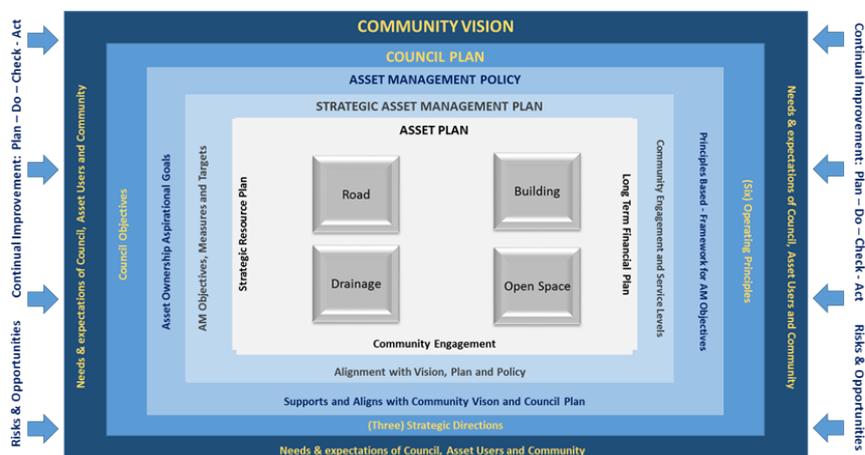


Figure 2: SAM Framework Architecture Model

15. The Policy is a principles-based setting that articulates Council’s strategic direction in relation to the way its assets are to be managed. The Policy is appended as **Attachment 1**.
16. The key function of the SAMP is to outline the role of the assets, asset management and the SAM Framework in supporting the achievement of Council’s business priorities by translating relevant Council Plan Priorities into Objectives and providing a framework for their delivery.

17. While formal documentation of the SAMP is a work in progress, the content necessary to develop the Objectives has been finalised and as a result seven Objectives have been identified and listed in page 4 of the Plan.
18. The Plan is a single document consisting of a common chapter that captures general information relevant to all asset classes and four asset class specific chapters that represent the four main asset classes, i.e. Roads, Drains, Buildings and Open Space assets. The Plan is appended as **Attachment 2**.
19. It is proposed that the SAMP and the Plan be updated in line with Council's business planning cycle to ensure Council's and the communities aspirations in terms of service driven infrastructure requirements remain relevant and contemporary.
20. To ensure Council's assets are sustainable, the Plan aligns with and supports the Long Term Financial Plan through responsible asset renewal forecasting. This is achieved by high-level modelling of asset condition and associated renewal requirements. The impacts of the COVID-19 pandemic and climate change considerations have also been considered in the Plan.
21. By way or outcomes, Council's high-level modelling indicates that the current level of asset renewal investment is sufficient to maintain the prevailing service levels provided by the four main asset classes in the short to medium term. For the long term, strategies are being implemented to provide improved clarity over Council's renewal investment requirements to ensure they are proportionate and sustainable.
22. The level of external stakeholder engagement for the Plan was undertaken at the Inform level in accordance with Council's Engagement Policy. Internal stakeholder engagement took several forms with the main approach being the use of three existing Community of Practice forums that bring together a broad range of stakeholders with common interests in particular asset classes. The engagement outcomes are detailed further below.

## Governance Compliance

### Financial and Resource Implications

23. The Plan provides alignment of asset renewal forecasting and planning with Council's Long Term Financial Plan.

### Conflicts of Interest Disclosure

24. 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

25. The adoption of the Plan complies with Section 92 of the Local Government Act.
26. Policy Principles 4 and 6 relate to asset risk considerations in decision-making therefore risk was a key input into the development of the Objectives and the Plan.

### Community Consultation

27. The Plan was developed in compliance with Council's Engagement Policy as shown in the Table below.

<b>Purpose</b>	To inform the public of the Asset Plan and obtain feedback.
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<b>IAP2 Goal:</b>	Inform
<b>Exhibition period</b>	5 April to 2 May 2022.
<b>Method:</b>	Engagement method(s) adopted: <ul style="list-style-type: none"> <li>• eNewsletter article to inform of the review and ask for feedback</li> <li>• Article in Stonnington News</li> <li>• Displays at libraries and customer service centres</li> <li>• Website news article and social media posts informing of the review of the Asset Plan and links to the draft document</li> <li>• Online ideas board, Connect Stonnington page with online survey</li> </ul>
<b>Reach:</b>	Connect Stonnington page view statistics: 222 views, from 207 separate viewings, and it was viewed by 151 individuals 6 likes on Instagram 13 reactions, 11 comments and 3 shares on Facebook 10 completes of the feedback page on Stonnington Connect survey
<b>Summary of feedback:</b>	'What we heard'. The public want Council to be more proactive in the overall management of its infrastructure assets which aligns with the objectives of the Plan. The public want Council to take note of suggestions and engage the relevant asset management international standards. The public want information presented clearly and simply so they can understand the concepts. Refer to Attachment 3 in this Report for further details.
<b>Impact:</b>	The level of influence as per the Engagement Policy was to inform and listen to the community feedback. The feedback received has resulted in minor formatting changes to ensure that the information is clear and easily comprehensible.

28. **Attachment 3** provides a summary of the Public Display results, Survey results and Social media interactions, including how the feedback and comments are to be addressed.
29. The deliberative engagement process used for the Future Stonnington framework development was used as a key input into the development of the Policy and the Objectives.

#### Human Rights Consideration

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

#### Attachments

1. Strategic Asset Management Policy [8.10.1 - 6 pages]
2. Asset Plan 2022 [8.10.2 - 25 pages]
3. Asset Plan Feedback Report [8.10.3 - 8 pages]

## 8.11 Multi-Purpose Sports Facility Project

**Manager City Projects: Madelyn Eads-Dorsey**  
**Director Environment & Infrastructure: Rick Kwasek**

### Linkage to Council Plan

#### Direction 1: A thriving and unique place

1.4 Active transport and connected city

#### Direction 2: An inclusive and healthy community

2.1 Health and wellbeing

2.2 Diverse, inclusive and safe

### Purpose of Report

To seek approval to grant a lease for part of Council's land at Percy Treyvaud Memorial Park (**Percy Treyvaud Park**), together with a licence over the adjoining licensed areas, to United Energy Distribution Pty Ltd (**United Energy**) for the purposes of constructing and using a new electrical substation to provide power to the Percy Treyvaud multi-purpose sports and recreation facility (**Facility**).

Council has authority to determine this matter and delegate responsibility to the Chief Executive Officer to undertake all operational requirements.

### Officer Recommendation

***That the Council, having complied with section 115 of the Local Government Act 2020:***

- 1. NOTE the project progress update***
- 2. RESOLVE to grant a lease to United Energy Distribution Pty Ltd for part of the land at the Percy Treyvaud Memorial Park (Premises), together with a licence over the adjoining licensed areas, generally as shown on the attached plan, for a term of 30 years with a further term of 20 years, for nominal consideration, for the construction and use of an electrical substation; and***
- 3. NOTE all other terms and conditions of the lease are to be to the satisfaction of the Chief Executive Officer.***

### Executive Summary

1. Since Council awarded contract T22011 to ADCO in December 2021, works have commenced on site and are progressing well. The site has been established with demolition of buildings and structures completed and significant earthworks have commenced. Piling is ongoing and capping beam works are underway. For a full summary please refer to **Attachment 1**.
2. A lease is sought by United Energy for the construction and use of an electrical substation at Percy Treyvaud Memorial Park, together with a licence over the adjoining licensed areas to provide access and cabling to the substation.

3. The substation upgrade is required to provide power to the new Facility.

### Background

4. The consultant design team working on the project has calculated the power supply requirement for the building and determined that the substation that currently exists on the east side of the reserve along Quentin Road is required to be upgraded in order to fully power the Facility.
5. The appointed engineering consultants (BRT) have documented the substation requirements and the design has been coordinated with the power authority and architects.
6. The required area of land for the substation is 6.4m x 6.4m which will form the premises under the lease. Licensed areas will also be established to allow for the provision of underground and overhead cabling and linkages to the nearest pits. See **Attachment 2** for the location and plan.
7. All terms and conditions of the lease/licence have been drafted by United Energy's legal representatives and reviewed by Council's legal representative to ensure Council's rights are protected.
8. The lease will be for a period of 30 years with a 20 year further term. A nominal rental of \$1 plus GST will be charged (if demanded).
9. The lease is to run concurrently with the works contract which enables the construction of the substation.

### Key Issues and Discussion

10. The new substation works contract and lease must be signed by mid-May 2022 so that the substation can be delivered in time for the Facility's electrification in January 2023.

### Conclusion

11. Council approval is required to grant the lease over part of Percy Treyvaud Memorial Park, together with a licence over the adjoining licensed areas, for the new electrical substation to United Energy.

### Governance Compliance

#### Policy Implications

12. Council was required to undertake a community engagement process in respect of the proposed lease to United Energy in accordance with Council's Community Engagement Policy under section 115 of the *Local Government Act 2020*. Council published a public notice in the Herald Sun on 7 March 2022 which invited public submissions in respect of Council's proposal to grant the lease to United Energy within 28 days. No submissions were received in response to Council's public notice.

### Financial and Resource Implications

13. A nominal rental of \$1 plus GST per annum (if demanded) will be payable by United Energy for the term of the lease. The nominal rental has been agreed in lieu of the

financial contributions made by both parties in facilitating the substation and enabling power supply to the Facility.

#### Conflicts of Interest Disclosure

14. 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

15. The construction of a new substation will ensure that Council's Facility remains operational with a suitable power supply.
16. Council's legal representatives have reviewed the works contract, lease and licence and provided comments to ensure that Council's interests are protected as part of the proposal.

#### Community Consultation

<b>Purpose</b>	<p>Stonnington City Council (<b>Council</b>), acting under clause 115 of the <i>Local Government Act 1989 (Act)</i>, proposes to enter into a lease agreement and a license arrangement over Council's land for a new electrical substation in favour of the power authority, United Energy Distribution Pty Ltd.</p> <p>The substation will power the new multipurpose sports facility at Percy Treyvaud Memorial Park. The lease area will be 6.4m by 6.4m and require an additional licenced area for the connection cabling.</p> <p>The lease will be for a period of 30 years and offer a 20 year further term. A rental of \$1 per annum plus GST (if demanded) will be charged over the course of the full terms.</p>
<b>IAP2 Goal:</b>	Level of consultation restricted to public notices only – as defined for 'Other statutory and non-statutory plans, strategies or policies, service planning and capital works projects'
<b>Exhibition period</b>	7 March 2022 – 5 April 2022
<b>Method:</b>	Public notice on Council's website and Herald Sun
<b>Reach:</b>	Stonnington Community and Herald Sun readers/subscribers
<b>Summary of feedback:</b>	No submissions received in response to public advertisements
<b>Impact:</b>	No change to projected outcome after no submissions were received

#### Environmental Implications

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

#### Human Rights Consideration

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

#### Attachments

1. Project Update 9 May 2022 [8.11.1 - 5 pages]

2. Contract No T22011 [**8.11.2** - 2 pages]

## 8.12 Instrument of Appointment & Authorisation - Statutory Planning

**Planning Appeals Coordinator: Edward Wilkinson**  
**Director Planning & Place: Annaliese Battista**

### Linkage to Council Plan

3.4.5 Ensure we meet legislative, regulatory, governance and ethical obligations.

### 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 Jessica Farrugia, Ashley Mallen and Nicholas McFarlane.

### Officer Recommendation

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

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

### Background

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



- changes in roles.

### **Governance Compliance**

#### Policy Implications

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

#### Financial and Resource Implications

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

#### Conflicts of Interest Disclosure

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

#### Legal / Risk Implications

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

#### Environmental Implications

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

#### Community Consultation

8. There was no requirement for community consultation.

#### Human Rights Consideration

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

### **Attachments**

1. S11A Instrument of Appointment & Authorisation - Jessica Farrugia, Ashley Mallen & Nicholas McFarlane [8.12.1 - 2 pages]

**9 Correspondence**

**10 Tabling of Petitions and Joint Letters**

**11 Notices of Motion**

**12 Reports by Councillors**

## 12.1 Record of Economic & Place Development Committee held on 12 May 2022

### Purpose of Report

The Governance Rules provide that a summary of the matters discussed at the Economic & Place Development Committee are tabled at the next practical Council meeting and recorded in the minutes of that meeting.

### Officer Recommendation

***That the Council RECEIVE the Record of the Economic & Place Development Committee meeting held on 12 May 2022.***

### Executive Summary

1. The requirements for reporting contained in the former *Local Government Act 1989*, have now been accommodated in the Governance Rules (Refer Chapter 6 – Miscellaneous)

### Governance Compliance

#### Policy Implications

2. There are no policy implications associated with the report.

#### Financial and Resource Implications

3. There are no financial and resource implications associated with the report.

#### Conflicts of Interest Disclosure

4. 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

5. There are no legal / risk implications relevant to the report.

#### Community Consultation

6. There was no requirement for community consultation.

#### Human Rights Consideration

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

## Attachments

1. Record of Economic & Place Development Committee 12 May 2022 [**12.1.1** - 2 pages]

## 12.2 Record of Councillor Briefing Session held on 23 May 2022

### Purpose of Report

The Governance Rules provide that a summary of the matters discussed at a Councillor Briefing Session are tabled at the next practical Council meeting and recorded in the minutes of that meeting.

### Officer Recommendation

***That the Council RECEIVE the Record of the Councillor Briefing Session held on 23 May 2022.***

### Executive Summary

1. The requirements for reporting contained in the former *Local Government Act 1989*, have now been accommodated in the Governance Rules (Refer Chapter 6 – Miscellaneous)

### Governance Compliance

#### Policy Implications

2. There are no policy implications associated with the report.

#### Financial and Resource Implications

3. There are no financial and resource implications associated with the report.

#### Conflicts of Interest Disclosure

4. 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

5. There are no legal / risk implications relevant to the report.

#### Community Consultation

6. There was no requirement for community consultation.

#### Human Rights Consideration

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

### Attachments

1. Record - Councillor Briefing Session (23 May 2022) [12.2.1 - 3 pages]

**13 Questions to Council Officers**

**14 Urgent Business**

**15 General Business**

**16 Confidential Business**