Council Meeting Notice Paper

Monday 24 June 2019 at 7pm

Council Chamber, Malvern Town Hall,
(enter off Glenferrie Road, Malvern)
Vision

Stonnington will be an inclusive, healthy, creative, sustainable and smart community.

Council's vision will be implemented through four key pillars:

- **Community**: An inclusive City that enhances the health and wellbeing of all residents, where people can feel safe, socially connected and engaged.
- **Liveability**: The most desirable place to live, work and visit.
- **Environment**: A cleaner, safer and better environment for current and future generations to enjoy.
- **Economy**: A City that will grow its premier status as a vibrant, innovative and creative business community.

These pillars reflect the shared priorities of our community and Council, and are consistent with our history and vision for a liveable future. For each pillar, there is a framework for our strategies, actions and measures which outline the key services and projects to be delivered to our community.

The Strategic Resource Plan sets out how Council will provide the resources needed to implement strategies and actions within the Council Plan.

Councillors

Cr Steven Stefanopoulos, Mayor  
Cr Glen Atwell  
Cr John Chandler  
Cr Sally Davis  
Cr Marcia Griffin  
Cr Judy Hindle  
Cr Jami Klisaris  
Cr Matthew Koce  
Cr Melina Sehr
NOTES
Council business is conducted in accordance with Part 4 Division 3 of the Meeting Procedure section of Council’s General Local Law 2018 (No 1). Some copies are available with the agenda or you can find a copy on Council’s website www.stonnington.vic.gov.au under local laws.

Councillors carry out the functions, powers, authorities and discretions vested with them under the Local Government Act 1989, and any other relevant legislation. Councillors impartially perform the Office of Councillor duties, in the best interests of the City of Stonnington residents to the best of their skills and judgement.

Councillors must formally declare their conflicts of interest in relation to any items listed on the agenda at the start of the meeting and immediately prior to the item being considered, in accordance with Sections 77 to 79 of the Act.

READING OF THE RECONCILIATION STATEMENT
We acknowledge that we are meeting on the traditional land of the Boonwurrung and Wurundjeri people and offer our respects to the elders past and present. We recognise and respect the cultural heritage of this land.

READING OF THE AFFIRMATION STATEMENT
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
Welcome

Welcome to a Stonnington City Council meeting. These meetings are an important way to ensure that your democratically elected Councillors work for you in a fair and transparent way.

About this meeting

The first page of tonight’s agenda shows the different parts to the meeting, some of these are administrative and are required by Stonnington’s Local Law.

In the agenda you will also find a list of all the items to be discussed under ‘General Business’. Each report is written by a council officer and outlines the purpose of the report, relevant information and a recommended decision for councillors.

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 this meeting.

Arrangements to ensure meetings are accessible to the public

Council meetings are held at the Malvern Town Hall, corner High Street and Glenferrie Road (entry via Glenferrie Road by the door closest to the Malvern Police Station).

The Malvern Town Hall has an entrance ramp and elevators to ensure that the Council Chamber is accessible to the public. Fully accessible toilet and bathroom facilities are also available.

If you require translation, interpreting services or a hearing loop set up, please contact Council’s civic support on 03 8290 1331 to make appropriate arrangements before the meeting.

To ensure that people in the chamber can follow the meetings’ proceedings, proposed alternate resolutions, also known as ‘yellows’, are displayed on a screen and microphones are used during debate.

Live webcasting

Council meetings are webcast live via Council’s website, allowing those interested to view proceedings without attending Council meetings.

This gives people who may otherwise be unable to attend access to Council decisions and debate. A recording of the meeting is available on our website after the meeting (usually within 48 hours).

Only Councillors and Council officers seated around the Council table are visible on film. People in the public gallery will not be filmed, but if you speak, you will be recorded. Visit stonnington.vic.gov.au for more information.
Members of the gallery
If you choose to attend a council meeting as a member of the public gallery, you should note the role of the Chairperson and your responsibilities under the City of Stonnington General Local Law 2018(1).

Extracts from the Local Law:

81. Gallery to be Silent
(1) Visitors must not interject or take part in the debate.
(2) The gallery must be silent at all times during any Council Meeting.
(3) The ring tones of mobile telephones and other devices must be turned off by people in the gallery at all times.

88. Recording or Filming Proceedings
(1) A person must not operate an audio tape, mobile telephone or other recording or transmitting equipment or film (‘a device’) at any Council Meeting without first obtaining the consent of the Chairperson.
(2) Consent given under sub-clause (1) may be revoked by the Chairperson at any time during the course of a meeting.
(3) If a device is operated, or suspected of being operated, in contravention of sub-clause (1), the Chairperson may:
   (a) order the person operating, or suspected of operating, the device to produce the device to the Chairperson; and
   (b) arrange for any matter that has been recorded on the device in contravention of sub-clause (1) to be deleted, erased or otherwise removed from the device.
(4) Subject to sub-clause (5), the Chairperson shall return any device that has been produced to him or her pursuant to sub-clause (3) at the conclusion of the relevant Council Meeting.
(5) If the Chairperson has been unable to arrange for the matter that has been recorded on the device in contravention of sub-clause (1) to be deleted, erased or otherwise removed from the device, the device shall be returned to the person as soon as practicable after the deletion, erasure or removal has been carried out.

84. Removal from Chamber of a Councillor or Member of the Public
The Chairperson, or Council in the case of a suspension under clause 82, may ask any Authorised Officer or member of Victoria Police to remove from the meeting (including the gallery):
(1) any person who the Chairperson has ordered to be removed under clause 82(3); or
(2) any Councillor who has been suspended under clause 82 and who has not immediately left the Council Meeting.
50. Questions to Council from Members of the Public

(1) Questions to Council from members of the public will be considered as part of the order of business of an Ordinary Meeting only when submitted in the format outlined below:
   (a) Questions must be in writing and lodged at the office of the Chief Executive Officer by 12 noon on the day of the next scheduled Ordinary Meeting.
   (b) A limit of five (5) questions per questioner applies.
   (c) Questions must include the name and address of the questioner and the date of the question. Questions by facsimile or email are acceptable.

(2) Within four (4) working days of receiving a complying question to Council from a member of the public, the Chief Executive Officer will dispatch a notice to the member of the public who submitted the question, advising that the question has been received.

(3) At a meeting at which a question is to be considered:
   (a) The Chairperson will acknowledge that a question or questions have been received from a (named) person and ask if that questioner is in the gallery.
   (b) If the questioner is present in the gallery, a summary of the subject matter of the question(s) will be read out by the Chairperson and the questioner advised that a written reply to the question(s) will be issued within 14 days of that meeting date.
   (c) If the questioner is not in the gallery, Council will respond to the question(s) in accordance with any standard correspondence to Council.

(4) The Chairperson has the discretion to allow a question to be asked and/or answered at the meeting that is in variance with the procedure in this Local Law.

(5) The Chairperson may refuse to acknowledge a question if, in the opinion of the Chairperson, the question is, or is potentially, defamatory, indecent, offensive, abusive, objectionable in language or substance, irrelevant, trivial, aimed at embarrassing a Councillor or a member of Council staff, outside Council’s powers or functions, has been asked at a previous Council Meeting and a reply issued, or relates to matters that come under section 89(2) of the Act.

(6) Any question relating to electoral matter during an Election Period will not be considered at any Council Meeting.

(7) A copy of the questions and responses will be tabled and inserted into the minutes of the following Council Meeting.

47. Open Meetings

(1) Subject to sub-clause (2), Council Meetings must be open to members of the public pursuant to section 89(1) of the Act.

(2) Council may resolve, under section 89(2) of the Act, that a meeting be closed to members of the public if Confidential Business is to be discussed.

Your cooperation is appreciated, we hope you enjoy the meeting.

Mayor and Councillors, Stonnington City Council
Council Meeting
Notice Paper
Monday 24 June 2019
Order of Business and Index

a) Reading of the Reconciliation Statement and Affirmation Statement
b) Introductions
c) Apologies
d) Adoption and confirmation of minutes of previous meeting(s) in accordance with Section 93 of the Act and Clause 49 of General Local Law 2018 (No 1)

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f) Questions to Council from Members of the Public (Clause 50 of General Local Law 2018 (No 1)
g) Correspondence – (only if related to council business)
h) Questions to Council Officers from Councillors
i) Tabling of Petitions and Joint Letters
j) Notices of Motion
k) Reports of Special and Other Committees; - Assembly of Councillors
l) Reports by Delegates
m) General Business including Other General Business

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RECOMMENDATION

That the Council confirms the Minutes of the Council Meeting of the Stonnington City Council held on 3 June 2019 and Minutes of the Confidential Meeting of the Stonnington City Council held on 3 June 2019 as an accurate record of the proceedings.
1. **Planning Application 0738/18 - 64 Armadale Street, Armadale - Construction of Two Dwellings on a Lot in a General Residential Zone and Special Building Overlay and a Reduction in the Car Parking Requirement.**

Acting Manager Statutory Planning: Phillip Gul  
General Manager Planning & Amenity: Stuart Draffin

**Purpose**

For Council to consider a planning application for construction of two dwellings on a lot in a General Residential Zone and Special Building Overlay and a reduction in the car parking requirement at 64 Armadale Street, Armadale.

This item was considered at the Council meeting of 3 June 2019. The application was deferred and is now presented to Council for further consideration.

**Executive Summary**

Applicant: CS Town Planning Services  
Ward: South  
Zone: General Residential Zone  
Overlay: Special Building Overlay  
Neighbourhood Precinct: Garden Suburban 1  
Date lodged: 16 July 2018  
Statutory days: (as at council meeting date) 40  
Trigger for referral to Council: 7 or more objector properties  
Number of objections: 12 properties  
Consultative Meeting: Yes – 7 February 2019  
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 CS Town Planning and are known as Job No. CS1410, Drawing No.s: TP05 to TP10 and TP12 and Council date stamped 16 May 2019.

Key features of the proposal are:

- Construction of two double storey dwellings in a tandem arrangement;
- Dwelling 1 is oriented to Armadale Street and comprises three bedrooms and amenities at ground floor and kitchen, dining and living room at first floor along with a laundry and powder room. Private open space comprises a ground level courtyard, a first floor balcony and an uncovered rooftop terrace;
Dwelling 2 is oriented to Cheel Street and comprises an open plan kitchen/dining/living area, laundry and bathroom on the ground floor, and two bedrooms with a bathroom on the first floor. Private open space is at ground level adjacent to Cheel Street;

- The proposed maximum building height is 6.476 metres, or 8.866 metres to the top of the stairwell pop-up to dwelling 1’s roof terrace;
- The proposal represents a contemporary design with a flat roof form and a materials palette incorporating red face brickwork and white acrylic render with Colorbond roof sheeting;
- A 0.9 metre high brick front fence is proposed to Armadale Street.
- The Cheel Street frontage comprises a 0.9 metre high metal gate and brick support pillars to the dwelling entry, along with a 2 metre high timber picket fence adjacent to the secluded private open space area.
- There is no car parking proposed on site for either dwelling.

The plans Council date stamped 16 May 2019 were formally submitted to Council as revised application plans to address officer concerns regarding the dark materials palette proposed as well as the visual presentation of the dwellings to Armadale Street.

These plans show the following changes:

- The materials palette amended from ‘Black Beauty’ face brick and ‘shale grey’ acrylic render to red face brickwork at ground floor and white acrylic render at first floor.
- Windows to the Armadale Street façade amended to reflect a more vertical presentation.
- Provision of a vertical window to the first floor laundry façade to Armadale Street.
- Provision of a roof over the first floor balcony.

Site and Surrounds

The site is located on the eastern side of Armadale Street approximately 24 metres south of its intersection with Cheel Street, which extends diagonally from the intersection north-west to south-east along the rear of the subject site. The site has the following significant characteristics:

- An irregular shaped allotment with a primary frontage to Armadale Street of 7.03 metres, an angled secondary frontage to Cheel Street of 10.39 metres, and a maximum depth of 34.62 metres, yielding a total site area of 223 square metres.
- The land is relatively flat with a fall from front to back (west to east) of approximately 600mm.
- The site is currently occupied by a single storey, rendered brick “inter-war” dwelling which shares a party wall and pitched roof form with the adjoining property to the south at 62 Armadale Street. The dwelling is also constructed to its northern site boundary from approximately 3 metres behind the facade, with the front portion provided with a side setback of approximately 1 metre.
- A small front garden is fronted by a 1.1 metre high diagonal timber board fence to Armadale Street.
- Secluded private open space is at the rear adjacent to Cheel Street with privacy provided by a 2 metre high timber paling fence along the site boundary.
- There is no significant vegetation on site, however there is a large street tree adjacent to the site on Cheel Street.
- There is no vehicle access or car parking on site.
Surrounding residential development is characterised by a mix of single and double storey dwellings of varying architectural styles from traditional to modern. There are also a number of medium density developments evident in the area including several 1960s three storey walk-up flats and two storey contemporary developments.

The site has the following direct interfaces:

- To the north the site adjoins a double storey, flat roofed dwelling addressed to 66 Armadale Street. The dwelling is setback 2.6 metres from Armadale Street behind a low wrought iron palisade fence. The dwelling is constructed to both of its side boundaries and adjoins a double storey heritage building to its northern side, also constructed to the boundary. Secluded private open space is located at the rear of the dwelling adjacent to the subject site. A carport extends across the site at the rear, with vehicle access provided from Cheel Street via a roller door on the boundary.

- To the south the property at 62 Armadale Street contains a single storey dwelling. The dwelling is constructed to the northern boundary and shares a party wall with the subject site, although the boundary wall of this dwelling extends beyond the dwelling on the subject site. Due to the extent of the walls on boundary and the angled alignment of the rear boundary, the secluded private open space does not directly interface with the subject site. The dwelling is setback 3.6 metres from Armadale Street. Along the Cheel Street boundary is a 2 metre high paling fence and metal gates to a carport located at the rear of the site.

- On the opposite side of Armadale Street to the west is a pair of traditional, single storey dwellings separated by a central common driveway as well as a Coin Laundry café.

- To the east across Cheel Street is a railway reserve with Armadale railway station located directly to the north-east of the site.

**Previous Planning Application(s)**

A search of Council records indicates the following planning applications pertaining to the subject site:

- A planning application (694/98) for “construction of two double storey attached dwellings” was refused on 21 July 1999. It is noted that the grounds of refusal were based on (amongst other issues) overdevelopment, insufficient car parking, overlooking and general layout and internal amenity issues.
- A planning application (248/02) for a “two storey dual occupancy” was refused on 9 July 2002. It is noted that the grounds of refusal were based on (amongst other issues) the inadequacies of the site to accommodate two narrow dwellings in a side by side arrangement with rear car parking.
- A planning permit (557/06) for “construction of a new dwelling on a lot less than 500 square metres” was issued on 15 November 2006. This permit was not acted upon.

**The Title**

The site is described on Certificate of Title Volume 9189 Folio 534 as Lot 1 on Title Plan 162321K and no covenants or easements affect the land.
Planning Controls

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

Zone
Clause 32.08 - General Residential Zone (Schedule 10)
Pursuant to Clause 32.08-6 a permit is required to construct two or more dwellings on a lot. A permit is also required to construct a front fence if the fence is associated with two or more dwellings on a lot and exceeds the maximum height specified in Clause 55.06-2 (1.5 metres).

A development must meet the requirements of Clause 55. Schedule 10 to the GRZ modifies the following ResCode Standards:

<table>
<thead>
<tr>
<th>Standard</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site coverage</td>
<td>B8 Basements should not exceed 75% of the site area.*</td>
</tr>
<tr>
<td>Landscaping</td>
<td>B13 In addition to the requirements of B13, at least one canopy tree should be planted on the site.</td>
</tr>
<tr>
<td>Side and rear setbacks</td>
<td>B17 For a distance of at least 5 metres behind the front façade of the building fronting the street, setback new buildings (including basements) a minimum of 2 metres from at least one side boundary and at least 1 metre from the other side boundary up to 3.6 metres in height. Where no setback is specified, standard A10 or B17 applies.</td>
</tr>
<tr>
<td>Walls on boundaries</td>
<td>B18 Walls should not be located on side boundaries for a distance of 5 metres behind the front façade of the building fronting the street.</td>
</tr>
</tbody>
</table>

* It is noted that as the development does not propose a basement, the varied requirement of Standard B8 does not apply to this application.

Pursuant to Clause 32.08-4, as the subject site is less than 400 square metres in area, the minimum garden area requirement does not apply.

Pursuant to Clause 3.0 of Schedule 10 to the GRZ, the maximum height of a building for use as a dwelling must not exceed a height of 9 metres. The proposed two storey development has a maximum overall height of 8.866 metres in compliance with this mandatory requirement.

Overlay
Clause 44.05 – Special Building Overlay
Pursuant to Clause 44.05-2 a permit is required to construct a building or construct or carry out works. It is noted that the SBO only affects the north-eastern portion of the site.

Particular Provisions
Clause 52.06 – Car Parking
Clause 52.06 applies to a new use, or an increase in the floor or site area of an existing use, or an increase to an existing use by the measure specified in Clause 52.06-5.

Pursuant to Clause 52.06-3 a permit is required to reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5.
Clause 52.06-5 states that where an existing use is increased by the measure specified in Table 1 for that use, the car parking requirement only applies to the increase, provided the existing number of car parking spaces currently being provided in connection with the existing use is not reduced.

Table 1 at Clause 52.06-5 provides that the applicable car parking measure for a dwelling is the number of bedrooms. One car space is to be provided for each one or two bedroom dwelling and two spaces are to be provided for each three or more bedroom dwelling. There is no requirement for visitor parking as the site is located within the Principal Public Transport Network area.

The subject site is presently developed with a two bedroom dwelling with no on-site car parking, and the development proposes a two bedroom dwelling and a three bedroom dwelling. The increase to the applicable measure of the existing use (ie. the number of bedrooms) therefore is one three bedroom dwelling. Thus the application seeks a reduction of two car parking spaces for the three bedroom dwelling.

Relevant Planning Policies

Clause 15 - Built Environment and Heritage
Clause 16 - Housing
Clause 21.03 - Vision
Clause 21.05 - Housing
Clause 21.06 - Built Environment and Heritage
Clause 22.05 - Environmentally Sustainable Development
Clause 22.18 - Stormwater Management
Clause 22.23 - Neighbourhood Character Policy
Clause 32.08 - General Residential Zone
Clause 44.05 - Special Building Overlay
Clause 52.06 - Car Parking
Clause 53.18 - Stormwater Management in Urban Development
Clause 55 - Two or more dwellings on a lot (ResCode)
Clause 65 - Decision Guidelines

Advertising

The original application plans (Council date stamped 12 October 2018) have been advertised pursuant to Section 52 of the Planning and Environment Act 1987 by sending notices to the owners and occupiers of adjoining land and by placing two signs on the site. The public notification of the application has been completed satisfactorily.

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

- car parking;
- overdevelopment;
- visual bulk and neighbourhood character;
- overlooking;
- overshadowing;
- safety.
A Consultative Meeting was held on 7 February 2019. The meeting was attended by Councillors Hindle and Stefanopoulos, a representative of the applicant, objectors and a Council planning officer. Subsequently, the plans were formally amended on 16 May 2019. The amended plans include the following key changes:

- Reduction of area of dwelling 1 by approximately 15 square metres per floor and consequent increase in floor space of dwelling 2;
- Living areas for dwelling 2 provided at ground floor;
- A picket fence and vegetation screening provided along the Cheel Street frontage around the secluded private open space for dwelling 2;
- Deletion of the roof top terrace for dwelling 2;
- The materials palette amended from ‘Black Beauty’ face brick and ‘shale grey’ acrylic render to red face brickwork at ground floor and white acrylic render at first floor.
- Windows to the Armadale Street façade amended to reflect a more vertical presentation.
- Provision of a vertical window to the first floor laundry façade to Armadale Street.
- Provision of a roof over the first floor balcony.

Referrals

Melbourne Water

This referral authority, pursuant to Section 56 (1) of the Planning and Environment Act 1987, do not object to the proposal and do not require any permit conditions.

Infrastructure

- The applicable flood level is 44.50m A.H.D. The minimum finished floor level of dwelling 2 must be at least 44.70m A.H.D, and this requirement should form a permit condition.
- A permit condition is recommended to ensure adequate drainage is provided.

Planner response: The finished floor level required for dwelling 2 will result in an increase of 2.5cm above what is shown on the plans. This change is considered negligible and will not result in any consequential impacts.

Parks

- The site is adjacent to a semi-mature Fraxinus pennsylvanica ‘Cimmaron’ (Cimmaron Ash) street tree on Cheel Street. Tree protection conditions are required on the permit.
- Established neighbouring trees directly adjacent to the northern boundary of the site are completely covered in Hedera helix (English Ivy), and their size or species is unable to be determined.

Planner response: A site inspection revealed that the neighbouring vegetation covered with ivy is likely to be shrubs of up to 3-4 metres in height. The development proposes a boundary wall adjacent to the western-most shrub, however existing built form on the subject site presently exists in this location along the boundary, and the vegetation is also directly adjacent to the neighbouring carport. Therefore it is unlikely that the vegetation will be further impacted by the proposed development and tree protection measures have not been recommended by Council’s arborist.
Transport and Parking

- On-street parking in the surrounding area is in high demand and is largely subjected to existing parking restrictions and permit zones. With these restrictions in place, it will be difficult for future occupants of the new development to find long term parking nearby to the property.
- Long term parking is available adjacent to the train station, however this is not considered as an appropriate option for parking as residents of the new development would require to compete for these spaces with daily commuters.
- It is noted that residents of this development would be eligible to receive residential parking permits, however there is a limit to the amount of permits each dwelling is eligible for.
- As this is a new development within a residential area, sufficient on-site parking must be provided. As such, the proposal is not supported at this time.

Planner response: A detailed response to these issues is provided within the assessment section of this report.

Urban Designer

- The application proposes the use of a colour palette that is, in my opinion, not compatible with the predominant colour-characteristics of adjoining and nearby existing buildings along this Northern section of Armadale Street (East side).
- Red brick and/or a light-colour render (off-white or white) are more compatible colour choices for the exterior finish; in order to achieve a greater integration with this emerging streetscape character.
- Further, it is suggested that the design presentation to Armadale Street may be improved by the following:
  - The addition of a small window to the laundry facing the street (West elevation).
  - The incorporation of a pergola structure above the first-floor terrace (West elevation).
  - Refining the shape and size of the windows to reflect the predominant vertically-proportioned windows that characterise the existing buildings nearby.

Planner response: A detailed response to these issues is provided within the assessment section of this report. As noted above, the plans Council date stamped 16 May 2018 were formally submitted to Council as revised application plans which include amendments to the materials palette as well as the visual presentation of the dwellings to Armadale Street in line with the above comments.

KEY ISSUES

Strategic Context

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

Council's Strategic Framework defines the site as being within an "incremental change area" in which multi-unit development of 2-3 storeys is anticipated.
The subject site is located within reasonable walking distance to the High Street Armadale commercial precinct (which forms part of a Major Activity Centre) and public open spaces, including Armadale Reserve approximately 190 metres south of the site, as well as having excellent access to public transport services which operate along High Street, Wattletree Road and Dandenong Road, and Armadale Railway Station which is less than 50 metres to the north-east of the site.

The site is considered to be suitably located to support the increase in density proposed in line with these policy expectations.

Neighbourhood Character

The objectives of Council’s Neighbourhood Character Policy, at Clause 22.23-2, seek to ensure that developments contribute to the preferred character of the area and reflect the intention of the statement of preferred neighbourhood character and associated design guidelines for each precinct. The site is located within a Garden Suburban 1 precinct. The relevant statement of preferred neighbourhood character is:

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….

Specific design guidelines seek to ensure new buildings and extensions do not dominate the streetscape, to encourage a high quality of building detailing, to maintain and reinforce the rhythm of spacing between and around buildings, to maintain and strengthen the garden settings of buildings, prevent the loss of front garden space and the dominance of car parking structures, and ensure front fencing is complementary to the streetscape.

The new contemporary dwellings will be of a form and scale that is generally respectful of the surrounding character, without mimicking the style of the older dwellings. The two storey scale is entirely appropriate for both streetscapes which include numerous double storey buildings and three storey flats. The design presents with a flat roof and contemporary detailing which is compatible with the surrounding mixed character, and in particular the infill developments in close proximity to the south at 52 to 60 Armadale Street. The proposal incorporates red face brickwork and white acrylic render finishes, with variation in materials between ground and first floors to provide an articulated and visually interesting response. This is considered to be consistent with the colour palette of the predominantly red brick and white/off-white coloured finishes which are evident in Armadale Street and is considered to be compatible with the surrounding streetscape character.

In line with the Urban Designer’s comments, the formally amended plans show a vertical presentation in the style of windows to the Armadale Street façade, which is considered to be consistent with the predominant vertically-proportioned windows that characterise the adjacent buildings. The presentation of what was previously a first floor blank wall associated with the laundry has also been improved with the provision of a small street facing window. The amended plans also incorporate a roof over the first floor balcony which further increases the visual interest and further articulates the façade of the dwellings.
The proposal incorporates boundary to boundary construction at the Armadale Street façade, and this is considered to be acceptable when considering the immediate context in which spacing between dwellings is inconsistent and boundary walls are characteristic. The setback requirements are discussed in further detail within the “Amenity Impacts” section of this report.

On balance, the proposal represents an appropriate design response to the preferred neighbourhood character outcomes for the area and meets the objectives of Standard B1 (Neighbourhood character) and Standard B2 (Residential policy). The development will respect the surrounding character by ensuring that the new dwellings are of a consistent form and scale to the existing, contemporary dwellings in the area. The setbacks respond to the features of the site and its context and provide for an appropriate landscape response, commensurate with the size of the lot.

**Built Form**

A full assessment against the applicable objectives and standards of Clause 55 (ResCode) as well as the modified standards specified in Schedule 10 to the GRZ has been carried out. The following relevant objectives are highlighted and discussed:

**Street Setback**

The development proposes a street setback of 3.1 metres to Armadale Street. This equates to the average distance of the setbacks of the front walls of the existing buildings on adjoining lots, in compliance with Standard B6.

To Cheel Street, a staggered setback is proposed, with a minimum dimension of 1.9 metres and a setback of 4.6 metres to the entrance of dwelling 2. Neither of the existing buildings on the abutting allotments face the same street, as they are orientated to Armadale Street, therefore Standard B6 calls for a setback of 4 metres. Due to the angled street alignment and corresponding angled lot boundaries, all adjacent buildings offer staggered setbacks to Cheel Street, and all are less than 4 metres. The minimum rear setback of the dwelling to the north is 3.8 metres, and north of this the adjacent dwelling is constructed on the street boundary. To the south the adjoining dwelling has a minimum rear setback of 0.6 metres and prevailing setbacks further south of properties fronting Cheel Street are also narrow.

The design response represents a suitable staggering of the built form along the Cheel Street interface which is consistent with the character of the street and considered appropriate when taking into account the prevailing setbacks of nearby buildings.

**Building Height**

The proposed dwellings are two storey with an overall building height to the roof of 6.476 metres, which is well below the mandatory maximum height of 9 metres. The stairwell pop-up to the roof terrace associated with dwelling 1 has a maximum height of 8.866 metres. It is a narrow structure located along the southern boundary and it slopes away from Armadale Street, thus it is considered that it will not have unreasonable visual impact when viewed from the public realm or neighbouring properties, subject to the overall height of the structure being limited to no more than 2.4 metres above the finished floor level of the roof terrace. The balustrading to the roof terrace should be recessed in from the roof edge below, to ensure its visibility from Armadale is minimised. These matters are addressed via permit conditions.
Site Coverage and Permeability

The development represents a site coverage of approximately 66% which exceeds the 60% recommended by Standard B8. This departure from the standard is considered acceptable given the small lot size and the associated site constraints. Higher site coverage is characteristic of small allotments in the neighbourhood. As the setbacks proposed are compatible with surrounding properties and the proposed permeability is approximately 33 per cent, which is well in excess of the 20% minimum required by Standard B9, the overall building footprint will not result in adverse impacts on the neighbourhood character.

Landscaping

The layout of the development will allow adequate opportunities for sufficient landscaping commensurate with the size of the development and the small gardens which are characteristic in the vicinity.

Standard B13 calls for an appropriate landscape response to the area which provides for the retention or planting of trees and vegetation consistent with the neighbourhood character. In addition, Schedule 10 of the GRZ imposes additional requirements of at least one canopy tree to be planted on the site.

The submitted landscape plan demonstrates an ability to include a canopy tree within the front setback of dwelling 2 facing Cheel Street, along with other vegetation including shrubs and ground level plantings with the Armadale Street front setback and the secluded private open space adjacent to Cheel Street, which also incorporates screen planting around the perimeter.

This is an adequate response to the immediate streetscape character which exhibits small, modestly planted gardens which rely on the presence of mature street trees for more substantial greenery. In response to the advice of Council’s arborist, the permit will include conditions to ensure protection is provided to the street tree on Cheel Street throughout construction.

Front fences

The development proposes a low (0.9 metres) brick fence to Armadale Street which will complement the development and is compatible with nearby fencing in the streetscape.

To Cheel Street, a combination of fencing is proposed to differentiate the front entrance area from the secluded private open space of dwelling 2. The fencing comprises of a 0.9 metre high brick fence and gate to the dwelling entry and a 2 metre high timber picket fence with 25 per cent transparency. A hedgerow will be provided inside the timber fencing to establish a privacy screen to the secluded open space area.

The fencing is compatible with the height of fencing to the rear of adjacent properties which consists of a high timber paling fence to the south and two adjacent roller doors constructed on the boundary to the north. The existing fence on the subject site is also a 2 metre high paling fence. Thus the proposed development, which incorporates both a high but visually permeable fence and a low fence, will provide an improved streetscape response within this part of Cheel Street. The high fence and vegetated privacy screen will also assist to minimise noise intrusion from the railway line located directly opposite the site.
Other

The plans indicate that the south-western corner of the building at the ground and first floor is proposed to be constructed marginally outside of the title boundary. The southern title boundary is irregular and does not correspond with the straight alignment of the party wall where it adjoins the façade of the attached dwelling. A permit condition is recommended to ensure that all permitted construction works are constructed wholly within the title boundary of the subject site.

Amenity Impacts

Side Setbacks / Walls on Boundaries

Schedule 10 to the GRZ varies Standard B17 and requires new buildings to provide side setbacks of 1 metre and 2 metres respectively for a distance of 5 metres behind the street facing façade, up to a height of 3.6 metres. Furthermore, Standard B18 is modified to stipulate that walls should not be located on boundaries within 5 metres of the front façade. The development as it presents to Armadale Street is proposed to be constructed to both side boundaries at the facade. To Cheel Street, the development will be constructed to the southern boundary, however a 2.8 metre setback is provided to the northern side boundary for a distance of 4.6 metres behind the facade.

The relevant objectives seek to ensure that neighbourhood character is respected and amenity impacts on adjacent buildings is limited. Variation to the standards can be considered appropriate if the design responds to existing streetscape character, and in particular where the building abuts an existing wall built on the boundary, and when neighbouring windows and/or secluded private open spaces are not unreasonably impacted. This is relevant to the existing site context.

The existing dwelling on site is constructed entirely to the southern boundary, with the façade projecting forward of the adjoining dwelling, and the northern side boundary wall is setback approximately 3 metres from the façade. To the north, the adjacent buildings are both constructed to their respective side boundaries, with no setbacks at the façade. To the south, the adjoining dwelling is narrowly setback from one side boundary only, and this is the predominant pattern of the street. A nearby exception to this is the townhouse development at 56 and 58 Armadale Street, which is constructed to both side boundaries. Walls on boundaries form a distinct part of the immediate neighbourhood character which typically applies to narrow lots in the vicinity.

The width of the subject site is only 7 metres, which is a significant site constraint in terms of providing the recommended side setbacks totalling 3 metres and also providing for both a prominent entry and a habitable room at the frontage which is also preferred. It is considered provision of ground level side setbacks adjacent to the façade would not make efficient use of this small site nor respond to the layout of adjoining lots, both of which have dwellings constructed entirely along their respective common boundaries which already compromises the rhythm of spacing between dwellings. Due to the immediate neighbouring context in which the pattern of spacing between dwellings is inconsistent, providing the prescriptive setbacks would result in little benefit to the streetscape.

There are no neighbouring windows facing the subject site which could be impacted by the proposed development. Furthermore, there will be no impacts on neighbouring secluded private open space. To the north a ground floor boundary wall associated with dwelling 2 will abut adjacent private open space for a length of 6.3 metres and an average height of 3.6 metres. As the wall is to the south of the space, there will be no overshadowing impacts and the height ensures visual bulk will not be unreasonable.
Above the wall, the first floor is setback from the boundary in accordance with the prescriptive requirements of Standard B17, as are all other first floor setbacks within the development. The proposed building is not adjacent to any private open space to the south as it does not extend beyond the footprint (and boundary wall) of the neighbouring dwelling.

On balance, whilst the extent and height of walls on boundaries do not strictly comply with the applicable standards, the design is considered an appropriate response to the neighbourhood character, in which boundary walls are typical on small, narrow allotments. With the exception of the ground floor boundary wall associated with dwelling 2 on the northern boundary, all remaining walls abut existing boundary walls on neighbouring lots. Due to the siting and layout of adjoining properties, any amenity impacts will be adequately limited.

**Overshadowing**

Due to the orientation of the site and the layout of the adjoining property to the south, the development will not result in any overshadowing of secluded private open space beyond existing conditions between 9am and 3pm, and thus the development complies with Standard B21. It is also noted that given there are no neighbouring windows directly facing the subject site, daylight to habitable rooms will not be impacted by the proposal.

**Overlooking**

The development achieves full compliance with the prescriptive requirements of Standard B22. Overlooking from all ground floor north and east facing windows will be adequately limited by 2 metre high fencing which is proposed to both side boundaries.

At first floor, the street facing balcony to dwelling 1 is not required to be screened as it does not provide direct views into neighbouring properties. Potential overlooking from north and east facing windows associated with the living area of dwelling 1 has been addressed with the provision of fixed obscure glazing to a height of 1.7 metres above finished floor level. There is a rooftop terrace proposed to dwelling 1 which is proposed to be screened with fixed obscure glazed balustrading to all sides, to a height of 1.8 metres above finished floor level. This measure is adequate to limit overlooking into neighbouring secluded private open space to the north.

For dwelling 2, the north facing bedrooms are provided with highlight windows with a 1.7 metre sill height, while the east (rear) facing window of the master bedroom has fixed obscure glazing to 1.7 metres above finished floor level. It is noted however that whilst a highlight window is shown to the master bedroom window on the north elevation, it is not shown on the first floor plan. This can be addressed via permit condition. The narrow, east facing window of dwelling 2 does not provide a direct view of neighbouring secluded private open space and therefore it is not required to be screened.

**Internal Amenity**

The layout of the dwellings has been designed to be functional and maximise natural daylight and solar energy where possible. Double glazing is proposed to all doors and windows to improve energy efficiency and to mitigate noise impacts from the nearby rail corridor.
Dwelling entry and Integration with the street

As each dwelling is oriented to a separate street frontage, the development will integrate well with the respective streetscapes. The pedestrian entries to each dwelling are clearly defined, a cantilevered verandah structure over the porches provides shelter, and the entrances are highly visible behind semi-permeable low front fencing. The development therefore complies with the applicable Standards B5 and B26.

Private Open Space

Each dwelling is provided with sufficient private open space to meet the recreational and service needs of future residents.

In addition to the front setback, dwelling 1 is provided with three separate forms of secluded private open space totalling 67.6 square metres. This is comprised of a ground level courtyard (11.52sqm) accessed from the master bedroom which will house domestic services, a first floor balcony (8.47sqm) accessed via the living area, and a 47.62sqm rooftop terrace with access via a stairwell, which also incorporates room for a storage shed. A condition will require this storage shed to be located so not to be visible from Armadale Street and to be no higher than 2.4 metres above finished floor level. Dwelling 2 is provided with a total of 65 square metres of ground level private open space, including a 25 square metre secluded area with direct access off the living area. Areas are set aside within this space for domestic services and a storage shed.

The area and dimensions of the various forms of private open space accord with the requirements of Standard B28 and each space will receive good solar access from the north in compliance with Standard B29.

Car Parking and Traffic

The existing two bedroom dwelling on the site is not provided with any car parking. The development proposes to replace this with one two-bedroom and one three-bedroom dwelling with no on site car parking. Based on the provisions of Clause 52.06-5, there is an existing parking “credit” of one space for the two bedroom dwelling. As previously indicated, the car parking requirement only applies to the increase in the measure associated with the dwelling use (i.e. the number of bedrooms), therefore the application essentially seeks a reduction in the requirement for two spaces associated with the three bedroom dwelling.

The reduction in the car parking requirement is considered acceptable for the following reasons:

- The lack of parking on site can be considered to effectively encourage the use of alternative and sustainable modes of transport, in accordance with Council’s MSS at Clause 21.08.
- The site enjoys excellent access to public transport as it is in very close proximity to Armadale Railway Station, which is located less than 50 metres walking distance to the north-east, as well as tram routes within reasonable walking distance on High Street and Wattletree Road.
- Given the site is highly accessible and the small size of the dwellings proposed, it can be reasonably expected that future residents of the dwelling may not own a vehicle.
- If future residents do own a vehicle, each dwelling is eligible for up to three residential parking permits.
- The increase in density is limited to one dwelling, which is not considered to have a significant impact on traffic generation or the demand for parking in the vicinity.
Due to the site constraints, being the small lot size which is narrow in width as well as the presence of an established street tree on Cheel Street, it is considered impracticable to provide a vehicle crossover and parking on site.

The absence of a vehicle crossover to the site maintains the existing level of pedestrian safety and available on street parking opportunities.

Environmentally Sustainable Development (ESD) and Water Sensitive Urban Design (WSUD)

A Sustainable Design Assessment (SDA) was submitted with the application as required by Clause 22.05. The proposed development seeks to incorporate several ESD initiatives to ensure the development achieves a BESS score of 51%, which is considered to meet best practice and is therefore considered satisfactory. The plans include annotations in accordance with the key commitments outlined in the SDA. However the SDA and BESS report are in draft format. This can be addressed via permit condition.

A Water Sensitive Urban Design Response was submitted with the application. The STORM Report indicates a rating of 119% which is achieved by the provision of a 1000 litre rainwater tank for each dwelling. Each tank will collect rainwater from the roof catchment and be connected to all toilets within the development. The development meets the requirements of Clause 22.18 and Clause 53.18.

Human Rights Consideration

This application has been assessed in accordance with the requirements of the Planning and Environment Act 1987 (including the Stonnington Planning Scheme), reviewed by the State Government and which complies with the Charter of Human Rights and Responsibilities Act 2006.

CONCLUSION

Having assessed the application against the relevant planning controls, it is recommended that the proposal be supported for the following reasons:

- The proposed development is consistent with the objectives of State and Local Planning Policy.
- The development is designed and sited to adequately respond to its context and the surrounding neighbourhood character.
- The proposed development meets the objectives of ResCode and will not result in unreasonable amenity impacts.
- The development will not result in unreasonable traffic and parking impacts.
ATTACHMENTS
⇦1. PA - 738-18 - 64 Armadale Street Armadale - Attachment 1 of 1

Plans

RECOMMENDATION

That a Notice of Decision to Grant a Planning Permit No: 738/18 for the land located at 64 Armadale Street, Armadale be issued under the Stonnington Planning Scheme for construction of two dwellings on a lot in a General Residential Zone and Special Building Overlay and a reduction in the car parking requirement subject to the following conditions:

1. Before the commencement of the development, including demolition, 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 amended plans prepared by CS Town Planning Services and Council date stamped 16/05/19, but modified to show:
   
a) The storage shed must be relocated so it will not be visible from Armadale Street and be no higher than 2.4 metres above the finished floor level.
   
b) Minimum finished floor level of dwelling 2 to be 44.70m A.H.D.
   
c) The south-western corner of the building to be wholly contained within the title boundaries of the land.
   
d) The southern edge, (on the west side of the access) and the western edge of the roof deck must be setback a minimum of 2 metres from the roof edge immediately below.
   
e) The roof terrace access structure to be no more than 2.4 metres above the finished floor level of the deck.
   
f) All window locations on floor plans to be consistent with elevations.
   
g) The location of proposed air-conditioning units, which must be sited to not be visible from the street or neighbouring secluded private open space areas.
   

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. 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.

4. Before the development (including excavation and demolition) starts, a tree protection fence must be erected around the Fraxinus pennsylvanica ‘Cimmaron’ (Cimmaron Ash) tree adjacent to the site on Cheel Street. Fencing is to be compliant with Section 4 of AS 4970. Signage identifying the need for approval from Council’s Parks Unit for any root cutting (prior to it occurring) must also be displayed on the fence.
5. No vehicular or pedestrian access, trenching or soil excavation is to occur within the tree protection zone without the written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the tree protection zone.

6. Prior to a building permit being issued, a report for the legal point of discharge must be obtained from Council and a drainage design for the development must be prepared by a suitably qualified Engineer in accordance with all ‘recommendations’ and requirements contained in that report. All drainage must be by means of a gravity based system with the exception of runoff from any basement ramp and agricultural drains which may be pumped. The relevant building surveyor must check and approve the drainage design and ensure that protection of the building is provided from a 1 in 100 A.R.I. rainfall event as required by the Building Regulations.

7. 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.

8. Prior to the occupation of the building, fixed privacy screens (not adhesive film or timber screens) designed to limit overlooking as required by Standard B22 of Clause 55.04-6 in accordance with the endorsed plans must be installed to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

9. 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.

10. The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.

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

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

NOTES:

I. 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.
II. 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:

i. with a trunk circumference of 180 centimetres or greater measured at its base; or
ii. with a trunk circumference of 140 centimetres or greater measured at 1.5 metres above its base; or
iii. listed on the Significant Tree Register.

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.

III. Nothing in the permit hereby issued may be construed to allow the removal of, damage to or pruning of any street tree without the further written consent of the Stonnington City Council. Contact the Council Arborists on 8290 1333 for further information.

VI. 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.
2. **Planning Permit Amendment Application 0725/11 - 590 Orrong Road & 4 Osment Street, Armadale – To Amend the Current Permit to Extend the Trading and Licensed Hours of the Existing Café and Increase Patron Numbers**

**Acting Manager Statutory Planning: Phillip Gul**  
**General Manager Planning & Amenity: Stuart Draffin**

**PURPOSE**

For Council to consider an amendment to the permit to extend the trading and licensed hours of the existing café and increase patron numbers at 590 Orrong Road & 4 Osment Street, Armadale.

**Executive Summary**

- **Applicant:** Norma Steeneveld & Associates  
- **Ward:** South  
- **Zone:** Mixed Use Zone - Clause 32.04  
- **Overlay:** Development Plan Overlay, Schedule 2 (DPO2)  
- **Date lodged:** 26 November 2018  
- **Statutory days:** (as at council meeting date) 51  
- **Trigger for referral to Council:** Seven (7) or more objections  
- **Number of objections:** 24  
- **Consultative Meeting:** Yes – held on 17 April 2019  
- **Officer Recommendation:** Issue a Notice of Decision to Grant an Amended Planning Permit

**BACKGROUND**

This amendment as advertised had originally sought to vary the liquor licence to a General Licence and subsequently change the use to a Hotel (restaurant/wine bar). Following the consultative meeting the applicant formally revised the proposal in response to the concerns raised by withdrawing the request to vary the use and the type of liquor licence; as well as reducing the proposed hours and the number of patrons. The revised application now seeks to extend the trading and licensed hours of the approved café use and increase patron numbers. It no longer seeks to change the liquor licence classification.

**The Proposal**

The plans that form part of the basis of Council's consideration were prepared by *Ewert Leaf* and are known as Drawing No: A-020 Rev D and is Council date stamped 4 February 2019.

Key features of the proposal are:

- Variation to Planning Permit 725/11 conditions 5 and 6 to allow for an extension to the trading hours of the use and the hours for the sale and consumption of liquor.
The following hours are proposed:

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<tr>
<th>Internal hours:</th>
<th>Approved</th>
<th>Proposed</th>
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<tbody>
<tr>
<td>Monday to Thursday</td>
<td>7am to 7pm</td>
<td>7am to 10pm</td>
</tr>
<tr>
<td>Friday and Saturday</td>
<td>7am to 7pm</td>
<td>7am to 11pm</td>
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<tr>
<td>Sunday</td>
<td>7am to 7pm</td>
<td>7am to 10pm</td>
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<tr>
<td>Good Friday and Anzac Day</td>
<td>7am to 7pm</td>
<td>7am to 10pm</td>
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<td></td>
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<td>(alcohol between 12noon and 10pm)</td>
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<table>
<thead>
<tr>
<th>Outdoor Area:</th>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Monday to Sunday</td>
<td>7am to 7pm</td>
<td>7am to 9pm</td>
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</table>

Increase the patron capacity to a total 130 as follows:

- Internal restaurant - 80 patrons
- External/outdoor dining area - 50 patrons

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<tr>
<th></th>
<th>Approved Patrons</th>
<th>Proposed Patrons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Internal</td>
<td>100</td>
<td>80</td>
</tr>
<tr>
<td>Outdoor dining area</td>
<td></td>
<td>50</td>
</tr>
</tbody>
</table>

Music will be limited to background noise levels only.

Site and Surrounds

The subject site is bounded by Orrong Road, Toorak Park, Victory Square Reserve, Osment Street, the railway line adjacent to Toorak Railway Station and an existing residential area to the north. The site has the following significant characteristics:

- The subject site is known as “Toorak Park” and has been developed as a mixed use precinct comprising 19 buildings (labelled A to S) varying in height between 2 and 12 storeys containing 448 apartments and 18 townhouses. The development also includes a convenience shop, café and maternal health centre and ancillary facilities for residents, such as a pool, gym and multi-purpose rooms.
- The land is irregular in shape and has an area of approximately 2.49 hectares.
- This amendment relates to the food and drinks premises (café) located at the base of Building G, which is centrally located within the residential complex on the east side of the plaza and has a direct abuttal to the forecourt to the Toorak railway station entrance.
- The café has a floor area of 172 square metres and incudes both internal and external seating areas. The tenancy is currently occupied by “Toorak Tractor”.
- The external seating area is covered and is partially enclosed with glass screening on its sides.
- An internal no-through road extends east of Orrong Road and reaches a turning circle called the plaza. The plaza is a space of about 38 square metres surrounded by Building D (9 storeys), Building F (9 storeys), Building G (12 storeys) and Building L (7 storeys).
- The plaza contains a turnaround for cars and is fronted by a convenience shop, a maternal health centre, a multi-purpose room, building managers office and the café which is the subject of this amendment.
The current planning permit authorises a licensed food and drinks premises (café) to operate between 7am and 7pm seven days a week. The current liquor licence allows 100 patrons on this premises, although there is no restriction on the planning permit.

To the north across the railway reserve is Beatty Avenue, which contains a neighbourhood activity centre with a number of commercial uses including licensed food and drinks premises.

To the south are Toorak Park and Victory Square Reserve. The wider area to the east and west (across Orrong Road) is predominantly residential in nature.

**Previous Planning Application(s)**

A search of Council records indicates the following relevant planning applications

590 Orrong Road and 4 Osment Street, Armadale

- Planning Permit No. 725/11 was issued at the direction of the Victorian Civil and Administrative Tribunal (VCAT) on 13 July 2012 for use and staged development of the land for dwellings, convenience shop, food and drink premises, and maternal health centre, alterations to access to land in a Road Zone Category 1, reduction in the car parking requirement, variation to the car parking design requirements, removal of native vegetation, waiver of loading requirements, and sale or consumption of liquor from the food and drink premises (cafe).

This current amendment relates to the approved licensed café only.

**The Title**

The site is described on Certificate of Title Volume 11880 Folio 525 as Lot 4 on Plan of Subdivision 723358 and no covenants or easements affect the land.

**Planning Controls**

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

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

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

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

**Zone**

Clause 32.04-2 - Mixed Use Zone

Pursuant to Clause 32.04-2, a permit is not required for a food and drinks premises where the floor area does not exceed 150 square metres. The floor area of the approved café is in excess of 150 square metres and was approved when the land was zoned Business 5. The use has already been approved and the floor area is not being increased.
Pursuant to Clause 32.04-9 a permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 32.04-2. No works are proposed as part of this application.

**Overlays**

The subject site is affected by a Design and Development Overlay (DPO2), Environmental Audit Overlay and Special Building Overlay. As no buildings and works are proposed by this amendment, there are no permit triggers under these Overlays.

**Particular Provisions**

**Clause 52.06 - Car Parking**

Pursuant to Clause 52.06-5, 3.5 car spaces are to be provided to each 100sqm in floor area. The tenancy has an area of 172 square metres, which equates to a requirement of 6 car parking spaces.

At the time the permit issued the food and drinks premises required 24 car parking spaces. The permit as issued allowed a reduction from this number to 2 staff spaces. As a reduction of 22 spaces has already been granted, no further reduction in car parking is being sought by this amendment.

**Clause 52.27 – Licensed Premises**

Pursuant to Clause 52.27, a permit is required to use land to sell or consume liquor if any of the following apply:

- A **licence is required under the Liquor Control Reform Act 1998.**
- A different licence or category of licence is required from that which is in force.
- **The hours of trading allowed under a licence are to be extended.**
- **The number of patrons allowed under a licence is to be increased.**
- **The area that liquor is allowed to be consumed or supplied under a licence is to be increased.**

As the hours are proposed to be extended and the patron numbers increased, a permit is required.

**Relevant Planning Policies**

**Clause 15** Built Environment and Heritage  
**Clause 17** Economic Development  
**Clause 21.03** Vision  
**Clause 21.04** Economic Development  
**Clause 22.10** Licensed Premises Policy

**Advertising**

The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987 by sending notices to the owners and occupiers of adjoining land (and by placing 2 signs on the site). The public notification of the application has been completed satisfactorily.

The site is located in South Ward and objections from twenty-four (24) different properties have been received. The concerns of the objectors can be summarized as follows:
A Consultative Meeting was held on 17 April 2019. The meeting was attended by Councillors Stefanopoulos and Hindle, representatives of the applicant, objectors and a Council planning officer.

Positively, the meeting resulted in changes to the proposal including withdrawal of the request to change the use of the land to a Hotel (restaurant/wine bar) and vary the licence to a General Licence. The applicant now seeks to extend the hours of the existing licensed café, albeit with reduced hours from those advertised and a reduction in the advertised patron numbers originally applied for.

The proposed use and licensed hours are as follows:

Internal hours:

Monday to Thursday 7am and 10pm  
Friday and Saturday - Between 7am and 11pm  
Sunday - Between 7am and 10pm  
Good Friday and Anzac Day - Between 7am and 10pm (alcohol between 12noon and 10pm)

Outdoor Area:

Monday to Sunday - Between 7am and 9pm

The revisions also reduce the patron capacity to a total 130 patrons as follows:

- Internal restaurant - 80 patrons
- External/outdoor dining area - 50 patrons

The changes were confirmed by way of a formal Section 57A amendment, submitted on 18 April 2019.

Referrals

Council’s Advocacy Performance and Innovation Department

Comments were sought on the advertised plans regarding the original proposal which was the change of use to a Hotel (restaurant/wine bar). The comments were as follows:

Any changes to the licence should include strict conditions to minimise harm and amenity impacts on the residents such as:

- Reduced operating hours.
- Closure of the outdoor area no later than 10pm.
- Seating for all patrons at all times.
• Food being available for consumption at all times the venue is trading.

Planner Note: The proposal has been amended following the consultative meeting to no longer vary the use to a Hotel. The operating hours have been reduced, the outdoor area is now to close at 9pm. Food will be required to be served at all times as required by café and restaurant liquor licence conditions, to be added.

The concerns of Council’s Advocacy Performance and Innovation Department have been addressed by the revised application.

KEY ISSUES

Planning permit 725/11 was granted in 2012 for the redevelopment of this large site to accommodate predominantly residential buildings with a licensed café, convenience shop and maternal health centre fronting the central plaza.

The subject site is now within a Mixed Use Zone where the purpose is, amongst other things:

• To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.
• To provide for housing at higher densities.
• To encourage development that responds to the existing or preferred neighbourhood character of the area.

Council’s Municipal Strategic Statement (MSS) recognises the importance of licensed premises in contributing to the vibrancy and economic strength of the municipality. Consideration of liquor licence applications is guided by Council’s Licensed Premises Policy at Clause 22.10 which seeks:

• To identify appropriate locations, trading hours and patron numbers for licensed premises.
• To effectively manage the amenity conflicts between licensed premises and other uses.
• To manage the impacts of licensed premises on the diversity of uses and economic viability of activity centres.
• To establish an appropriate mix of licensed premises relative to other commercial, retail and residential uses within activity centres.
• To encourage daytime uses and active frontages within activity centres.
• To provide reasonable commercial opportunities for the trading of licensed premises.
• To strongly encourage good venue design of licensed premises based on the Design Guidelines for Licensed Venues (Department of Justice).

Specifically, it is policy that the operation of licensed premises should have no unreasonable impact on the amenity and safety of surrounding uses, particularly in relation to noise and the hours of operation. An assessment of these factors is undertaken throughout this report.

As approved, the permit allows for a licensed café at the ground floor level of Building G with a frontage to the plaza and the forecourt to the Toorak railway station entrance. The licensed café is currently operating in accordance with conditions 5 and 6 of the permit which currently restrict the hours of the licensed café to 7pm, seven days a week.

Council’s Licensed Premises Policy discourages trading after 11:00pm adjacent to a residential zone unless the responsible authority is satisfied that the use will not adversely affect the amenity of the area. It is preferred that any trading after 11:00pm occur in a
Principal or Major Activity Centre. As this site is largely occupied by residential properties it is not deemed appropriate to trade beyond 11pm.

The licensed and trading hours as proposed are:

**Internal hours:**
- Monday to Thursday 7am and 10pm
- Friday and Saturday - Between 7am and 11pm
- Sunday - Between 7am and 10pm
- Good Friday and Anzac Day - Between 7am and 10pm (alcohol between 12noon and 10pm)

**Outdoor Area:**
- Monday to Sunday - Between 7am and 9pm

Notably, the changes that have occurred after the consultative meeting have reduced the outdoor dining hours to 9pm, seven days a week. The advertised plans had proposed the use of the outdoor dining area to 11pm daily, with the internal areas operating until 1am on a Friday and Saturday. The reduced hours for both the internal and external area is considered to be more appropriate to the residential context.

The outdoor area is proposed to operate 2 hours later than currently permitted (7pm). In addition, the applicant has confirmed that only background music will be played at all times and all patrons will be seated. The consumption of alcohol in association with seated dining is less likely to result in excessive noise or antisocial behaviour. The outdoor dining area hours are supported as they are not likely to result in excessive noise or amenity impacts on the surrounding residential properties within a Mixed Use Zone.

The internal hours are now proposed up to 10pm Monday to Thursday and Sunday, and 11pm Friday and Saturday. These hours are also considered to be acceptable for a licensed café in this location subject to a number of conditions, discussed below.

In allowing the internal dining area to operate up until 11pm on a Friday and Saturday night, it is considered necessary that all external doors and windows must be closed at 9pm each night and internal music must be limited to background music at all times. With the doors and windows closed (except for access), it is not anticipated that there would be unreasonable noise impacts on the residential properties directly above or to the west that overlook the plaza.

In considering the impacts of noise it is also important to recognise that the dwellings have been designed with acoustic attenuation measures to limit noise intrusion from the railway line. Condition 45 of the permit requires that all dwellings must be designed to achieve an internal noise level of $35\text{dB(A)}_{\text{Leq}}$ and $55\text{dB(A)}_{\text{Lmax}}$ in bedrooms between 10pm and 7am. The endorsed acoustic report confirms the use of minimum specifications for glazing and lightweight wall construction to reduce the noise to the required levels and construction must adhere to the endorsed plans.

Given that the apartments have been constructed to protect the internal amenity of bedrooms from external noise intrusion from the railway line between 10pm and 7am, the impacts of any noise from the internal area of the licensed café with only background music beyond 9pm are likely to be minimal. For clarity, background music is defined as a level that enables patrons to conduct a conversation at a distance of 600 millimetres without having to raise their voices to a substantial level. This will be detailed on any amended permit that issues.
To further ensure the amenity protection of residents within the “Toorak Park” complex, a noise and amenity action plan will be required by way of conditions to detail, amongst other things, all noise sources and details of any measures to work with neighbours or other residents in the immediate area to address complaints and general operational issues.

With regard to patron numbers, the current permit does not restrict the number of patrons within the licensed café, although the liquor licence as issued by the Victorian Commission for Gambling and Liquor Regulation (VCGLR) has stipulated a 100 patron capacity. The applicant is seeking to increase this number to 130 patrons, with 80 internal and 50 external. The increase in patron numbers has been accompanied by an assessment by a registered building surveyor detailing the patron capacity of the licensed premise that confirms that the site can accommodate in excess of this number of patrons for seated consumption of alcohol. The red line plan that has been submitted does not show the seating numbers to correspond with the patron numbers, noting that the applicant has advised that all patrons will be seated at all times. The seating numbers will be required to be shown on the plan and this is to be dealt with via conditions.

In terms of any cumulative impact, within 100 metres of the licensed premises (Toorak Tractor) there is only one other liquor licence held by the Prahran Cricket Club. There are other licensed premises within 500 metres and along Beatty Avenue. The impacts of extending the current hours of the licensed café from 7pm to between 10pm and 11pm is not considered to result in an adverse cumulative impact on the amenity of the surrounding area. The increase in patrons numbers by 30 is also not considered to be problematic as the use is one of low risk, being alcohol consumption in association with seated dining and no live or amplified music.

Subject to conditions, it is not anticipated that the extended hours for the licensed cafe will adversely affect the surrounding area in terms of amenity and safety as the majority of the activity from the new tenancies will be confined to the internal dining area after 9pm. The extended hours for the outdoor area up until 9pm may improve the opportunities for surveillance around the forecourt to the station, thereby improving safety and security. Matters of anti-social behaviour are unlikely given the nature of the use. However, details of how this will be addressed will be required within the noise and amenity action plan.

**Car Parking**

As previously mentioned, there is no requirement to provide any additional car parking on site as a result of this amendment.

Condition 24 of the permit required the submission of a traffic and parking management plan that detailed the allocation of car parking for the approved food and drinks premises (café). Plans to comply this condition were submitted and endorsed on 2 June 2015 and allocated 2 car spaces to the food and drinks premises (café) for staff use only. A reduction in the car parking requirements have already been approved by the original permit. As there is no increase in the floor area sought by this application, no additional car parking is required pursuant to Clause 52.06-5.

It is noted that the site is well suited for a reduction in car parking as it is located at a railway station and is within easy walking distance to several other transport options including trams and buses. The applicant has advised that the majority of the customers come from within “Toorak Park” itself and the surrounding local area.
Objections

The concerns of the objectors have been duly noted and assessed throughout this report.

Human Rights Consideration

This application has been assessed in accordance with the requirements of the Planning and Environment Act 1987 (including the Stonnington Planning Scheme), reviewed by the State Government and which complies with the Charter of Human Rights and Responsibilities Act 2006.

CONCLUSION

Having assessed the application against the relevant planning controls, it is recommended that the proposal be supported for the following reasons:

- Subject to conditions, the extended hours are appropriate as the licensed café provides seated dining in association with the consumption of alcohol and no live or amplified music is allowed at any time.
- The outdoor dining area is to close at 9pm, seven days a week along with all external doors and windows (except for building access).

ATTACHMENTS

1. PA - 725-11 - 590 Orrong Road & 4 Osment Street Armadale - Attachment 1 of Plans

RECOMMENDATION

That a Notice of Decision to Grant an Amended Planning Permit No: 725/11 for the land located at 590 Orrong Road & 4 Osment Street, Armadale be issued under the Stonnington Planning Scheme for Use and staged development of the land for dwellings, convenience shop, food and drinks premises (café), and maternal health centre, alteration to access to land in a Road Zone Category 1, reduction in the car parking requirement, variation to the car parking design standards, removal of native vegetation, waiver of loading requirements, and sale or consumption of liquor from the food and drinks premises (café) subject to the following amended conditions:

Amended plans

1. Before the first stage of the use and development starts, three copies of plans drawn to scale and fully dimensioned, must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans amended by the Victorian Civil and Administrative Tribunal in Proceeding P333/2012 and identified as the 169-page book of drawings entitled Design Report Volume 2 - Amended prepared by Denton Corker Marshall Architects and dated 2 April 2012, but modified to show to the satisfaction of the Responsible Authority—
cc. Red line plan to be updated to identify the 130 seats within the food and drinks premises (café) confirming 80 seats internally and 50 seats in the outdoor area.

dd. Noise and Amenity Action Plan to include the following information:
   i. The identification of all noise sources associated with the licensed premises (including, but not limited to, music noise, external areas allocated for smokers, queuing lines, entries and exits to the premises and courtyards).
   ii. Hours of operation for all parts of the premises.
   iii. Details of the provision of music.
   iv. The identification of noise sensitive areas including residential uses and accommodation in close proximity to the licensed premises.
   v. Measures to be undertaken to address all noise sources identified, including on and off-site noise attenuation measures.
   vi. Details of staffing arrangements including numbers and working hours of all security staff.
   vii. Standard procedures to be undertaken by staff in the event of a complaint by a member of the public, the Victoria Police, an authorised officer of the responsible authority or an officer of the liquor licensing authority.
   viii. Location of lighting within the boundaries of the site, security lighting outside the licensed premises and any overspill of lighting.
   ix. Details of waste management plan including storage and hours of collection for general rubbish and bottles, and delivery times associated with the licensed premises.
   x. Details of any measures to work with neighbours or other residents in the immediate area to address complaints and general operational issues.
   xi. Any other measures to be undertaken to ensure minimal impacts from the licensed premises.
   xii. Location and operation of air-conditioning, exhaust fan systems and security alarms.

5. The trading hours of the food and drink premises (café) are restricted to the following, except with the written consent of the Responsible Authority:

   **Internal hours:**
   
   Monday to Thursday - 7am and 10pm  
   Friday and Saturday - 7am and 11pm  
   Sunday - 7am and 10pm

   **Outdoor Area:**

   Monday to Sunday - 7am and 9pm

   **Alcohol**

6. Without the prior written consent of the Responsible Authority, the sale and consumption of liquor shall only occur within the licenced area between the following hours:

   **Internal hours:**

   Monday to Thursday – Between 7am and 10pm
Friday and Saturday - Between 7am and 11pm
Sunday - Between 7am and 10pm
Good Friday and Anzac Day - Between 7am and 10pm (alcohol between 12noon and 10pm)

Outdoor Area:

Monday to Sunday - Between 7am and 9pm

New conditions to be added:

56. A maximum number of 130 patrons may be housed in the food and drinks premises (café) as follows:
   - Internal restaurant - 80 patrons
   - External/outdoor dining area - 50 patrons

57. No glass bottles are to be placed outside of the building for collection between the hours of 8:00pm and 7:00am the following day.

58. The provision of music and entertainment both internal and external to the premises must be limited to background music at all times unless with the written consent of the Responsible Authority. No live or amplified music is allowed at any time.

59. All external doors and windows must be closed at 9pm each night. Doors used for building access must be fitted with automatic closing mechanisms.

60. The predominant activity carried out at all times on the licensed premises must be the preparation and serving of meals for consumption on the licensed premises to the satisfaction of the Responsible Authority.

61. Tables and chairs must be placed in position on the licensed premises so as to be available for at least 75% of the patrons attending the premises at any one time, to the satisfaction of the Responsible Authority.

62. Prior to the commencement of the extended hours, the applicant must display a sign at the exit of the premises advising patrons to respect the amenity of adjacent residential areas and to leave in a quiet and orderly manner, to the satisfaction of the Responsible Authority.

New Note to be added:

B. Background music level, in relation to premises, means a level that enables patrons to conduct a conversation at a distance of 600 millimetres without having to raise their voices to a substantial level.
3. **Planning Application 1120/18 - 250-252 Wattletree Road, Malvern – Construction of a multi-dwelling development in a General Residential Zone and removal of access to a Road Zone, Category 1**

Acting Manager Statutory Planning: Phillip Gul  
General Manager Planning & Amenity: Stuart Draffin

**PURPOSE**

For Council to consider a planning application for construction of a multi-dwelling development in a General Residential Zone and removal of access to a Road Zone, Category 1 at 250-252 Wattletree Road, Malvern.

**Executive Summary**

- **Applicant:** SJB Planning  
- **Ward:** East  
- **Zone:** Clause 32.08 – General Residential Zone  
  (Schedule 3 – Residential Boulevards & Corridors)  
- **Overlay:** None  
- **Neighbourhood Precinct:** Garden Suburban 1 Neighbourhood Precinct  
- **Date lodged:** 01 November 2018  
- **Statutory days:** (as at council meeting date) 48  
- **Trigger for referral to Council:** Number of objections and the height  
- **Number of objections:** 14  
- **Consultative Meeting:** Yes – 20 February 2019  
- **Officer Recommendation:** Issue a 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 *Ascuì & Co. Architects* and known as File No. 1559, Drawing No.s: TP11 (Basement 2 rev D), TP12 (Basement 1, rev D), TP13 (Ground Floor rev D), TP14 (Level 1 rev D), TP15 (Level 2 rev D), TP16 (Level 3 rev D), TP17 (Roof Plan rev D), TP18 (North & West Elevations rev D), TP19 (South & East Elevations rev D), TP20 (Section A & B rev D) and TP21 (Section C & D) and Council date stamped 8 May 2019.

Other supporting documents submitted include:

- *Planning Assessment Report*, prepared by *SJB Planning* and Council date stamped 1 November 2018;  
- *Traffic Engineering Assessment Report*, prepared by *TraffixGroup* and Council date stamped 1 November 2018;  
- *Tree Assessment Report*, prepared by *Tree Consultants & Contractors* and Council date stamped 1 November 2018;  
- *Waste Management Plan*, prepared by *WSS Waste Space Solutions* and Council date stamped 26 November 2018;
Sustainability Management Plan, prepared by Simpson Kotzman Consulting Engineers and Council date stamped 26 November 2018;
Landscape Concept Plan, prepared by MemLa and Council date stamped 26 November 2018.

Key features of the proposal are:

- Demolition of the existing dwellings (note: a planning permit is not required).
- Construction of a 4 storey development over a 2 storey basement, comprising the following components:
  - The basement extends over two levels comprising 44 car parking spaces, bin storage area, bicycle parking, stores and services. The basement will be set back a minimum 2.1 metres from all boundaries.
  - The existing vehicle crossover on Wattletree Road will be removed. The proposed vehicle crossover is provided from an altered existing crossover on Lysterville Avenue leading to the basement car park.
  - The ground floor level includes 5 dwellings (5 x 3 bed) and will be set back a minimum of 7 metres from the Wattletree Road frontage and 3 metres from the western, eastern and southern boundary.
  - The first floor level includes 6 dwellings (4 x 3 bed and 2 x 2 bed) and will be set back a minimum of 7 metres from the Wattletree Road frontage, 3 metres from the western and eastern boundary and 3.1 metres from the southern boundary.
  - The second floor level includes 6 dwellings (3 x 3 bed and 3 x 2 bed) and will be set back a minimum of 7 metres from the Wattletree Road frontage, 3 metres from the western boundary, 3.2 metres to 5.1 metres from the southern boundary and 3.1 metres from the eastern boundary.
  - The third floor level includes 3 dwellings (3 x 3 bed) and will be set back a minimum of 7 metres from the Wattletree Road frontage, 3 metres (measured to the terrace) or 6 metres (measured to the wall) from the western boundary, 3 metres (measured to the terrace) or 4.5 metres (measured to the wall) from the eastern boundary and 8.45 metres from the southern boundary.
  - The access to the dwellings is provided via a ground level entry at the centre of the Lysterville Avenue façade. Additionally, a secondary access to G02 (located in the north-east at ground level) is exclusively provided via Wattletree Road.
  - Private open space to each dwelling is provided in the form of courtyards at ground level and balconies at upper levels.
  - A minimum 1.8 metre high front fence is constructed along the northern (Wattletree Road) and the western (Lysterville Avenue) frontage. The section where the main entrance is located remains open to the street (i.e. Lysterville Avenue).
  - The proposed basement site coverage is 60 per cent of the site.
  - The proposed site coverage is approximately 59 per cent of the site.
  - The proposed permeability is approximately 30 per cent of the site.
  - The development has a maximum building height of 12.95 metres measured from natural ground level and dimensioned on the proposed North Elevation.

- The development presents a contemporary architectural style. Materials and finishes include a combination of concrete render, metal cladding, aluminium windows and metal slats vertical screening.
The plans that form part of the basis of Council's assessment are plans Council date stamped 8 May 2019. These plans were formally declared as now being received on 20 May 2019 pursuant to Clause 57A of the Planning and Environment Act 1987 and supersede the advertised plans (Council date stamped 26 November 2018). These plans were submitted as a response to concerns raised by Council and objectors and involve the following key changes:

**Dwelling G04**
- Located in the southeast and on the ground floor, the setback from the southern boundary increased from 3 to 3.5 metres;

**Dwelling 104**
- Located in the southeast and on the first floor, the setback from the eastern boundary increased from 3.2 to 4.1 metres, and the setback from the southern boundary increased from 3 to 3.5 metres;
- Internal reconfigurations including relocation of the balcony and a bedroom;

**Dwelling 105**
- The southern aspect of the balcony deleted;
- Located in the southwest and on the first floor, the setback from the southern boundary increased from 1.5 to 3.2 metres.

**Dwelling 204**
- Internal reconfigurations including the reduction to the balcony from 12sqm to 9qm;
- The setback from the southern boundary increased from 4.1 to 5.1 metres;
- The setback from the eastern boundary increased from 4.1 to 5.1 metres;

**Dwelling 303**
- The setback from the southern boundary increased by 1 metre (from 7.45-7.55 to 8.45-8.55 metres)

**Others**
- The proposed site coverage reduced by approximately 3.25 square metres in area;
- Additional landscaping in the increased setbacks;
- Additional landscaping in the roof terrace associated with Dwelling 302.

As a result of the above changes, the revised scheme will not further the potential detriment presented in the advertised plans. Re-advertising is therefore deemed unnecessary.

**Site and Surrounds**

The site is located on the southern side of Wattletree Road approximately 108 metres west of the intersection with Tooronga Road and 42 metres east of the intersection with Horace Street in Malvern.
The site has the following significant characteristics:

- The site comprises two lots, known as No. 250 Wattletree Road and No. 252 Wattletree Road, and has a total area of 1338 square metres.
- The site has dual frontage: to the north, it provides a combined frontage of 33.6 metres to Wattletree Road; to the west, it provides a frontage of 39.4 metres to Lysterville Avenue.
- A double storey brick dwelling improves each lot of the site. The existing dwellings do not exhibit any heritage value.
- Vehicle access to the dwelling at No. 250 Wattletree Road is provided from Lysterville Avenue and to the dwelling at 252 Wattletree Road from Wattletree Road.
- A 1.9 metre high front fence is constructed along the Wattletree Road frontage of No. 250 Wattletree Road, and a 2 metre high front fence along its Lysterville Avenue frontage.
- A 1.9 metre high front fence is constructed along the Wattletree Road frontage of No. 252 Wattletree Road.
- Private open space is located at the rear, to the south of existing dwellings.

The surrounding area is residential in nature and generally displays a varied built form with regard to scale and architectural style. The neighbourhood includes detached, single and double storey dwellings and single storey and three storey multi-dwelling developments.

The site enjoys good access to existing services and facilities, commercial premises, schools, parks and retail facilities. Specifically, it is noted that:

- **Tooronga Road / Wattletree Neighbourhood Activity Centre** (also known as Wattletree Village) is located to the east, approximately 96 metres from the subject site;
- **Glenferrie Road Major Activity Centre** is located to the west, approximately 890 metres from the subject site;
- **Malvern Central Shopping Centre** is located to the west (south-west), approximately 1km from the subject site;
- **The Cabrini Hospital** is located to the west of the site, approximately 450 metres from the subject site;
- Public transport is accessible via Tram 5 directly past the site along Wattletree Road, bus services along Toroonga Road to the east and **Malvern Railway Station** which is located approximately 1km to the south west.
- A number of recreational parks are located in close proximity, including the **Milton Gray Reserve, Malvern Gardens and Viva Street Reserve**.

The site has the following interfaces:

- To the immediate west, the subject site fronts Lysterville Avenue. Further to the west, across the road is the land at 248 Wattletree Road, which houses a double storey apartment building.
- To the immediate south is the land at 2 Lysterville Avenue, which houses a single storey dwelling that is part of a semi attached pair with the dwelling at 2A Lysterville Avenue.
- To the immediate east is the land at No. 254 Wattletree Road, where a four storey multi-dwelling development is under construction approved under a Planning Permit No. 234/17.
• To the immediate north, the subject site fronts Wattletree Road. Further to the north, across Wattletree Road is the land at 243, 245 and 247 Wattletree Road (from the west to the east). A single storey dwelling improves each of the land at 243 and 245 Wattletree Road, and a double storey residential building containing two dwellings improves the land at 247 Wattletree Road.

**Previous Planning Application(s)**

A search of Council records indicates no other planning applications have been lodged or considered for the subject site.

In the surrounding area, the following permits / applications are of relevance:

**254 Wattletree Road, Malvern (to the immediate east)**

• Planning Permit No. 234/17 was issued on 27 November 2017 under Council’s delegation. The permit allows construction of 6 dwellings within a four storey building over a basement car park in a General Residential Zone. Plans were first endorsed on 31 August 2018 forming part of the approval. The construction of the development has commenced.

  Additionally, it is noted that a Section 72 Amendment to amend this Permit was lodged to Council early this year and is currently advertising. The proposed changes to the approved development comprise extension of the second and third floors, alterations to external windows and finishes, and internal reconfigurations.

**244-246 Wattletree Road, Malvern (1 property to the west)**

• Planning Permit No. 898/04 was issued on 24 January 2015 under the direction of Victorian Civil and Administrative Tribunal. The permit allowed construction of 18 dwellings within a three storey building in a General Residential Zone and alteration of access to a road in a Road Zone Category 1. The construction has been completed.

**230-232 Wattletree Road, Malvern (5 properties to the west)**

• Planning Permit No. 378/16 was issued on 15 May 2017 under the direction of Victorian Civil and Administrative Tribunal. The permit allowed construction of 17 dwellings within a four storey development over a basement car park in a General Residential Zone, creation or alteration of access to a road in a Road Zone Category 1, and car parking reduction. The permit has been acted upon and the development is currently under construction.

**The Title**

The subject site is comprised of two parcels of land, which are described as follows:

• The land at 250 Wattletree Road, Malvern on Certificate of Title Volume 10936 Folio 0430 / Lot 1 on Title Plan 247131 and no covenants or easements affect the land.

• The land at 252 Wattletree Road, Malvern on Certificate of Title Volume 8303 Folio 0617 / Lot 1 on Title Plan 22918 and no covenants or easements affect the land.
Planning Controls

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

Zone

Clause 32.08 – General Residential Zone (Schedule 3)

Pursuant to Clause 32.08-5, a planning permit is required to construct two or more dwellings on a lot. A development must meet the requirements of Clause 55.

Schedule 3 to the General Residential Zone requires that dwellings and residential buildings must not exceed a height of 12 metres unless the slope of the natural ground level at any cross section wider than 8 metres of the site of the building is 2.5 degrees or more, in which case the height of the building must not exceed 13 metres.

A slope of more than 2.5 degree runs across the site. The applicable maximum building height should be 13 metres above the natural ground level. The proposed development has a maximum building height of 12.95 metres measured from natural ground level and dimensioned on the proposed North Elevation, and thus complies with the maximum height limit.

Schedule 3 also includes modified requirements of Clause 55, which are stated as follows:

<table>
<thead>
<tr>
<th>Site Coverage</th>
<th>Standard</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Side and Rear Setbacks</td>
<td>B17</td>
<td>For a distance of at least 5 metres behind the front façade of the building fronting the street, setback new buildings (including basements) a minimum of 2 metres from at least one side boundary and at least 1 metre from the other side boundary up to 3.6 metres in height. Where no setback is specified Standard B17 applies.</td>
</tr>
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</table>

Overlay

The subject site is not affected by any overlay.

Particular Provisions

Clause 52.06 – Car parking

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

Pursuant to Clause 52.06-5, column B of Table 1 (number of car parking spaces) applies to the proposal. Specifically, a dwelling requires the following rates:

- 1 parking space for each one or two bedroom dwelling;
- 2 parking spaces for each three or more bedroom dwelling.
The proposed development contains 20 dwellings including 15 x 3 bedroom and 5 x 2 bedroom. A statutory requirement to provide 35 spaces for residents therefore applies. The proposal provides 42 parking spaces and thus complies. This Clause is therefore not triggered.

Clause 52.29 – Land Adjacent to a Road Zone – Category 1

A permit is required to alter or create access to a Road Zone – Category 1. An application must be referred to the Road Authority (Vic Roads).

The proposed development contains a 2-level basement that can be accessed from an altered existing crossover from Lysterville Avenue. The altered existing crossover to the local road has no relation to this Clause.

The proposal also involves the removal of an existing crossover on Wattletree Road that is classified a Road Zone, Category 1. The Clause therefore is triggered.

Clause 52.34 – Bicycle Facilities

Pursuant to Clause 52.34-1, a new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land.

Pursuant to Clause 52.34-3, a dwelling requires the following rates:

- In development of four or more storeys, 1 to each 5 dwellings for residents.
- In development of four or more storeys, 1 to each 10 dwellings for visitors.

The proposed development is four storey in height and contains 20 dwellings in total. A statutory requirement to provide 4 bicycle spaces (including 4 bicycles spaces for the residents and 2 bicycle spaces for the visitors) there applies. A total of 20 bicycle spaces are proposed including 18 at lower basement level for residents and 2 at the ground level entrance from Lysterville Avenue. This Clause is therefore satisfied.

Clause 55 – Two or More Dwellings on a Lot and Residential Building

An application for two or dwellings on a lot must meet the objectives of Clause 55.

Relevant Planning Policies

Clause 15.01 Urban Environment
Clause 15.01-1S Urban Design
Clause 15.01-2S Building Design
Clause 15.01-4S Healthy Neighbourhoods
Clause 15.01-5S Neighbourhood Character
Clause 15.02 Sustainable Development
Clause 16.01 Residential Development
Clause 16.01-3S Housing Diversity
Clause 16.01-4S Housing Affordability
Clause 18.02 Movement Networks
Clause 18.02-2S Public Transport
Clause 21.03 Vision
Clause 21.05 Housing
Clause 21.06 Built Environment and Heritage
Advertising

The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987 by sending notices to the owners and occupiers of adjoining land and by placing 2 signs on the site. The public notification of the application has been completed satisfactorily.

15 objections were received during the advertising period. On 5 April 2019, the objector from the affected property at 254 Wattletree Road unconditionally withdrew the objection. The total number of objections therefore counts as 14. The grounds of objections are summarised as follows:

- Inadequate traffic access arrangement
- Insufficient landscaping throughout the site
- Visual bulk
- Inappropriate response to Council’s Neighbourhood Character Policy
- Inconsistent with the Policy under the zone (General Residential Zone)
- Inappropriate response to the State and the Local Planning Policy Framework
- Insufficient boundary setbacks
- Undue impact on the local traffic
- Excessive building footprint / scale
- Non-provision of visitor car parking spaces
- Significantly increased density in terms of the number of dwellings
- Unreasonable offsite amenity impact including overshadowing, overlooking and daylight access to existing windows
- Encroachment to the title boundaries of the abutting land
- Inadequate waste collection / management
- Poor design outcome in terms of materials and colours

A Consultative Meeting was held on 20 February 2019. The meeting was attended by Councillors Davis and Atwell, representatives of the applicant, objectors and a Council planning officer. The meeting has resulted in the submission of the revised plans Council received on 8 May 2019. These plans are formally lodged pursuant to Clause 57A of the Planning and Environment Act 1987 and supersede the advertised plans (Council date stamped 26 November 2018). These plans were submitted as a response to concerns raised by Council and objectors and involve the following key changes:

- Increased southern setbacks at all levels;
- Increased eastern setbacks at the first and the second floor levels;
- Additional landscaping
As these plans result in a reduction in the overall building footprints at various levels, re-advertising is not considered necessary.

Referrals

VicRoads

The application was referred to VicRoads under section 55 of the Planning and Environment Act 1987 as the application seeks to alter access to a road in a Road Zone, Category 1. VicRoads confirmed in writing that it does not object to the application subject to the following conditions:

1. Prior to the commencement of the use of the development hereby approved, all disused or redundant vehicle crossings must be removed and the area reinstated to the satisfaction of the Responsible Authority and at no cost to VicRoads.

The following Planning Note be placed on permit:

1. No work must be commenced in, on, under or over the road reserve without having first obtaining all necessary approval under the Road Management Act 2004, the Road Safety Act 1986, and any other relevant acts or regulations created under those Acts.

Infrastructure

Council’s Infrastructure Engineer indicated no objection and requested the following conditions:

- Prior to a building permit being issued, a report for the legal point of discharge must be obtained from Council and a drainage design for the development must be prepared by a suitably qualified Engineer in accordance with all ‘recommendations’ and requirements contained in that report. All drainage must be by means of a gravity based system 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. (Please do not state drainage design to satisfaction of Council, that is the responsibility of the relevant building surveyor to check and approve in accordance with the report and ‘recommendations’ for the legal point of discharge).

- 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.

- The existing footpath levels must not be lowered or altered in any way at the property line (to facilitate the basement ramp). This is required to ensure that normal overland flow from the street is not able to enter the basement due to any lowering of the footpath at the property line.

- The redundant vehicular crossing must be removed and the footpath, naturestrip and kerb reinstated at the owner’s cost to the satisfaction of Council.
There will be significant additional stormwater runoff generated by the development and there are known drainage problems and flooding downstream of the property. The applicant must at their cost provide a stormwater detention system to restrict runoff from the development to no greater than the existing runoff based on a 1 in 10 A.R.I. to the satisfaction of Council’s Infrastructure Unit. Alternatively, in lieu of the stand alone detention system, the owner may provide stormwater tanks that are in total 5,000 litres greater than those tanks required to satisfy WSUD requirements for the development. Those tanks must be connected to all toilets.

Planner comments:

The above conditions will be included in the recommendation.

Transport and Parking

The Transport and Parking Unit reviewed the plans and Traffic Engineering Report and made the following comments:

- It is recommended to provide onsite visitor car parking spaces.
- The additional traffic generated by the development is not expected to significantly impact upon the existing traffic condition in the area.
- A convex minor should be provided at the top and bottom of the internal ramp between basement level 1 and 2.
- The details of the corner splays at the corner of Wattletree Road and Lysterville Avenue are to be specified. The dimensions should be 3m by 3m to provide lines of sight for passing vehicles and pedestrians.
- The proposed booster cabinet should be set back to allow any doors and personnel assessing it to be entirely within the property.

Planner comments:

Whilst acknowledging that the provision of car parking spaces is recommended, it should be noted that pursuant to Clause 52.06-5, there is no statutory visitor car parking requirement for the subject site as it is situated within the Principal Public Transport Precinct. For other matters discussed above, requirements will be included in the recommendation by way of permit conditions.

Waste Management

Council’s Waste Management Coordinator reviewed the original application and a Waste Management Plan Council date stamped received 16 October 2018 and considered the proposed waste management acceptable.

Planner comments:

A condition requiring the submission and approval of a Waste Management Plan will be included in the recommendation.
Environmental Sustainable Design

Council’s Environmental Sustainable Design Officer reviewed the advertised plans Council date stamped 28 November 2018 and provided the following comments:

Management

- Some aspects for inclusion (such as operation and maintenance of rainwater tanks and solar panels etc) should be included to ensure long term appropriate use and maintenance.

Energy

- Glazing proposals for skylights and minimum insulation levels required should be noted.
- The size of array of the proposed 4.5KW solar PV system should be shown on the plans.
- Outdoor clothes drying should be provided.

Indoor environmental quality

- 3-d views of the building and neighbouring equitable development must be provided. Information should also be provided with regards to consideration of obstructions such as screening/trees etc. 3-d views are particularly important given windows to the eastern boundary on the ground floor are close to the fence, overhung by building elements and adjacent to the proposed neighbouring four storey development.
- Surface reflectance to be modified to show a no greater than 70% value for walls. This is a more typical value than the 80% finish proposed. Internal finish reflectance for balconies must also be nominated. For example, balcony finishes will be most critical for units 106 and 206. All reflectance and materials assumptions utilised in the daylight model to be included on materials schedules of architectural plans.
- Where shading has been proposed, applicant to review the depth to ensure it meets the 45% of window height rule.

Water

- The responses are acceptable.

Stormwater

- Architectural roof plans to be annotated to show non-trafficable roof catchment areas to be connected to rainwater tank as per SMP.
- Architectural basement plans to be noted to confirm connection of rainwater tank to the number of toilets and irrigation nominated in the SMP. Rainwater tank to confirm above or below ground. If below ground, suitable access point for maintenance to be indicated.
- Whilst the SMP identifies that a site management plan will be produced for the construction phase, further indicative details, such as a guideline/standard to be adopted should be identified. For example, Melbourne Water’s ‘Keeping our stormwater clean: A builder’s guide’ can be used.
- Size of tank in Section 7 of the SMP to be modified from 15,000 litres to the 17,500 litres proposed.
Transport

- Written statement regarding any initiatives that would address Council's objectives for sustainable transport in Clause 22.05 should be provided.

Waste

- Waste room plans must be annotated to confirm co-location of recycling bins for this credit to be claimed.

Urban Ecology:

- Additional credits could be claimed if tap and waste facilities are provided to balconies to encourage residents to provide additional vegetation.

Planner comments

The above additional requirements where applicable will be included in the recommendation.

Parks

Council’s Arborist reviewed the plans and landscape plan Council date stamped and provided the following comments:

Significant Trees

- A significant *Liquidambar styraciflua* (Sweet Gum) is being retained within the front setback. A TMP is required for its retention.

Landscape Plan

- The proposed *Quercus rubra* (Red Oak) in the front setback to be substituted with *Quercus palustris* (Pin Oak).
- The proposed *Hymenosporum flavum* (Native Frangipani) to be substituted with suitable species to soften the built form
- All trees to be installed in a minimum 45L container.

Permit Conditions

- Protection fencing must be afforded to the *Waterhousia floribunda* (Weeping Lilly Pilly) and *Prunus cerasifera* (Flowering Plum) street trees on the Lysterville avenue frontage of the property, and the *Melaleuca linariifolia* (Snow In Summer) street tree on the Wattletree Road frontage of the property at this location prior to construction works occurring. Fencing must comply with Section 4 of AS 4970 and form a 2m x 1m protection zone around the trees.
- No vehicular or pedestrian access, trenching or soil excavation is to occur within the tree protection zone without the written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the tree protection zone.
- A Tree Bank Guarantee is required to protect the *Liquidambar styraciflua* (Sweet Gum) in the front setback.
Planner comments

The above requirements will be included in the recommendation by way of permit conditions.

Urban Design

Council’s Urban Design Officer Advisor reviewed the application and indicated that the application can be supported subject to the increased setback of the balcony of Dwelling 105 from the dwelling at No. 2 Lysterville Avenue.

Planner comments:

In the revised plans Council dated stamped 8 May 2019, the southern aspect of the balcony in question is deleted resulting in a setback of 3.2m from the common boundary shared with the land at No. Lysterville Avenue. This is considered an improved outcome and can be supported.

KEY ISSUES

The key issues with the proposal include whether the development respects the existing and preferred neighbourhood character and whether the proposal will have an adverse impact on the residential amenity of neighbouring properties. These key issues are discussed in detail below with an assessment of the application based on how the proposal meets State and Local Planning Policy and the relevant Objectives and Standards set out in Clause 55 (ResCode).

State Planning Policy

At the State Policy level, policy objectives provide an impetus for the residential intensification of sites that are well served by physical and social infrastructure. Specifically, it is noted that:

- The objective and direction at Clause 11.01-2 seeks to 'encourage a diversity of housing types at higher densities in and around activity centres'. As the subject site is within close proximity to a variety of commercial facilities and community services, it is considered consistent with the Policy and thus suitable for urban consolidation.

- Appropriate residential intensification is highlighted at Clause 16, which includes strategies to increase the supply of housing in existing urban areas by facilitating increased housing yield in appropriate locations, including under-utilised urban land (16.01-1R) and within established urban areas particularly at Activity Centres, employment corridors and at other strategic sites (16.01-2S). When considered against the above policy direction there is State Planning Policy support for the proposed redevelopment and residential intensification of the existing site which would increase housing yield. The subject site is considered strategically supported and consistent with the Policy, as it is close to Tooronga Road/Wattletree Road Neighbourhood Activity Centre and the Glenferrie Road Major Activity.

- In regard to transport, the State Policy objectives also provides a particular emphasis on encouraging higher land use densities and mixed use developments near railway stations, major bus terminals, transport interchanges, trams and principal bus routes (18.01-2S). The subject site is highly accessible to public transport, with Malvern Railway Station located within walking distance and trams along Wattletree Road operating directly past the site, and thus is considered to be supported by the Policy.
In light of the above, the subject site is strategically located for higher density development as supported by State Planning Policy. That said, the design response must respect and enhance the preferred neighbourhood character and a high level of amenity for adjoining properties must be maintained. This will be discussed further in detail in the following sections of the report.

**Local Planning Policy/Neighbourhood Character**

At the Local Policy level, the proposed development is considered consistent and worthy of support for the following reasons:

- At Clause 21.03 (Vision), it is a policy to recognise that medium density development is accepted in the residential hinterland, consistent with retaining the low rise character and high levels of amenity of the City’s residential precincts.

- Furthermore, in accordance with Clause 21.05 (Housing), the subject site is located in an area identified as a ‘substantial change area’, where medium and higher density housing is directed. The proposed development will contribute to Council’s need to accommodate projected population growth and to maintain housing diversity and provide housing choice to meet the future needs of Stonnington’s population as sought by Clause 21.05.

- The proposed development is also in accordance with Standard B2 and B3 of Clause 55 in that it supports a range of housing types in an area where development can take advantage of public transport and other services.

- Clause 22.23 (Neighbourhood Character Policy) details the preferred neighbourhood character for an area to ensure that a development proposal respects and reinforces the preferred character. The subject site falls within proposed precinct Garden Suburban 1 (GS1) which includes the following statement of preferred neighbourhood character:

> “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.”

In response to the above statement, the proposed 4 storey multi-dwelling development is considered acceptable. First of all, the proposed development has an overall height of 12.95 metres and complies with the maximum height specified in Schedule 3 to the General Residential Zone. Furthermore, in the General Residential Zone, medium density housing is encouraged. A four storey development in such a policy context can be supported given its proximity to activity centres and established services. Thirdly, the overall built form is considered sufficient to allow an appropriate transition in building height to the neighbouring development.
For instance, to the immediate east where a four-storey development is under construction, the proposed development has reasonably set back from the common boundary at all levels. More importantly, to the immediate south where a single storey dwelling improves the land, the proposed development provides setbacks at all levels in excess to the required setbacks as stipulated by Standard B17 (Side and rear setback objective). As such, it is considered that where sensitive interfaces present (i.e. the south and the east), the proposed development offers a reasonable transition. Lastly, the consideration of this application with regard to character is therefore not only about how it would fit with the medium density development that exists and is emerging in the area, but must also be given to whether the proposal respects the surrounding neighbourhood. As discussed above, a number of multi-dwelling developments are forming part of the emerging character of the area, including the 4 storey developments at 230-232 Wattletree Road and 254 Wattletree Road. As such, the proposed development is considered responsive.

- Clause 22.23 (Neighbourhood Character Policy) also sets out the design objectives of each Precinct. Below is a response to relevant objectives affecting this application:

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

  The application seeks to demolish the existing dwellings which are not prohibited under the planning controls. Given the lack of heritage controls and the overarching theme of the Planning Scheme to prompt urban consolidation, demolition of the existing dwellings can be justified. It is also worth noting that the proposed development is considered responsive to the emerging character of the area.

  To ensure new buildings and extensions do not dominate the streetscape;

  As required by Standard B6 (Street setback objective), when the site is on a corner, the minimum setback from front street should be the same as a building on the abutting land or 9 metres, whichever is the lesser; and the minimum setback from a side street should be the same distance as the setback of the front wall of any existing building on the abutting allotment facing the same street or 3 metres, whichever is the lesser. To Wattletree Road, as the development on the abutting land at 254 Wattletree Road has a street setback of 10.53 metres, the required setback for the proposal should be 9 metres. To Lysterville Avenue, as the dwelling on the abutting land at 2 Lysterville Avenue has a street setback of 17.264 metres, the required setback for the proposal should be 3 metres.

  The proposal provides a street setback of 7 metres to Wattletree Road and 3-4.26m street setbacks to Lysterville Avenue. This is considered adequate for the following reasons:

  - A variation to the Wattletree Road setback is reasonable as the proposed 7 metres is considered visually sufficient in terms of concealing the development from the streetscape.
  - The proposed setback to Lysterville Avenue complies with the Standard.
  - The proposed setbacks will contribute to limiting the visual dominance of the proposed development when viewed from either street, given the proposed landscaping within the setbacks.
  - The mass and the built form will not create a dominant feature on the existing streetscapes of Wattletree Road and Lysterville Avenue, given the sufficient boundary setbacks at all levels and from all boundaries.
Last not least, it is worth noting that the articulation by way of recessed elements provides a relief from the visual impact on the surrounds and contributes to a moderate built form. It is therefore considered consistent with the character of the area and can be supported.

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

The proposed development presents a contemporary architectural style, which is considered acceptable given the mixed built form in the neighbourhood and the emerging built form. The proposed use of concrete render, glazed brick, metal shingle cladding, aluminium windows and timber screening are of high quality and considered appropriate in this site context.

To maintain and reinforce the rhythm of spacing between and around buildings;

The proposed development is constructed reasonably set back from all boundaries. Resultantly, it will not result in a building mass that would potentially create visual bulk from various vantage points. Importantly, the setbacks maintain and reinforce the rhythm of space between and around buildings, in particular with consideration of the developments in the eastern and southern interfaces. Overall, it is considered that the proposal meets the objective and will sit comfortably within the street.

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

The proposed site coverage is approximately 59 per cent of the site, including the basement. The proposed permeability is approximately 30 per cent of the site. This arrangement is considered adequate and allows for a reasonable amount of open space for landscaping. Furthermore, the proposed Landscape Context Plan prepared by MemLa is considered acceptable as advised by Council’s Parks Unit. As required by Clause 21.06-2 (Landscape Character), it is a policy to ‘repair and reinforce the high quality landscape character of the City’. As the basement is set back from all boundaries, the proposed development allows for adequate opportunities for in-ground and meaningful landscaping in all setbacks and provides the opportunity to retain the existing significant tree in the front setback. Additionally, the proposed Landscape Context Plan shows that there will be 13 canopy trees to be planted with a mature height of 8-10 metres. Overall, it is considered that the proposal will maintain and strengthen the garden settings of the neighbourhood and respond to the objective appropriately.

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

Landscaping is proposed in the northern and western setbacks and also runs throughout the development. Vehicle access is provided via an altered existing crossover from Lysterville Avenue leading to a 2-level basement. As such, the car parking arrangement will not create any dominant feature on the street.

Additionally, as required by Standard B14 (Access objective), access ways should not exceed 33% of the street frontage. The altered crossover on Lysterville Avenue has a mere width of 5.5 metres amounting to approximately 14% of the frontage and thus complies. With respect to the existing crossover on Wattle Tree Road, it is proposed to be removed.
VicRoads indicated no objection to the closure of this crossover. Overall, the proposed vehicle access is considered acceptable. Together with the landscaping provision and car parking arrangement, the proposed development is considered compatible with the character of the area and meets the objective.

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

The site abuts Wattletree Road to the north and Lysterville Avenue to the west. To Wattletree Road, a 1.9 metre high rendered fence is proposed. The height complies with Standard B32 (front fence objective) and is considered responsive to other fences along Wattletree Road. To Lysterville Avenue, 2 metre high front fence is proposed. With a view to Lysterville Avenue streetscape, high front fencing at a height of 1.8 to 2 metres is common. As such, the proposed front fence is considered responsive.

Overall, it is considered that the design response, in terms of its presentation to key interfaces, the overall height of the building and the recessed building footprints from sensitive interfaces are considered responsive to the preferred character and features of the surrounding area. For these reasons, it is considered that the proposal is an appropriate response to the Local Policy and

**Off Site Amenity Impacts**

**Side and rear setbacks**

The proposed 2-level basement will be set back from all boundaries and thus meets the objective of the Standard.

With respect to the development above ground, an assessment of visual bulk impacts to each interface against this Standard is provided as follows:

**South Elevation**

The table below outlines whether the proposal complies:

<table>
<thead>
<tr>
<th></th>
<th>Wall height (approx.)</th>
<th>Setback required (metres)</th>
<th>Setback proposed (metres)</th>
<th>Complies (Y or N)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground Floor</td>
<td>2.84</td>
<td>1</td>
<td>3.1</td>
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<tr>
<td>First Floor</td>
<td>5.87</td>
<td>1.68</td>
<td>3.1</td>
<td>Y</td>
</tr>
<tr>
<td>Second Floor</td>
<td>9.12</td>
<td>4.2</td>
<td>4.2 – 5.1</td>
<td>Y</td>
</tr>
<tr>
<td>Third Floor</td>
<td>11.82</td>
<td>6.91</td>
<td>8.45</td>
<td>Y</td>
</tr>
</tbody>
</table>

The proposal therefore complies.
East Elevation

The table below outlines whether the proposal complies:

<table>
<thead>
<tr>
<th></th>
<th>Wall height (approx.)</th>
<th>Setback required (metres)</th>
<th>Setback proposed (metres)</th>
<th>Complies (Y or N)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground Floor</td>
<td>3.7</td>
<td>1.03</td>
<td>3</td>
<td>Y</td>
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<tr>
<td>First Floor</td>
<td>6.7</td>
<td>1.93</td>
<td>3</td>
<td>Y</td>
</tr>
<tr>
<td>Second Floor</td>
<td>Balcony: 7.5</td>
<td>Balcony: 2.59</td>
<td>Balcony: 3</td>
<td>Balcony: Y</td>
</tr>
<tr>
<td></td>
<td>The wall: 9.8</td>
<td>The wall: 4.89</td>
<td>The wall: 3</td>
<td>The wall: N</td>
</tr>
<tr>
<td>Third Floor</td>
<td>Balcony: 11.5</td>
<td>Balcony: 6.59</td>
<td>Balcony: 3</td>
<td>Balcony: N</td>
</tr>
<tr>
<td></td>
<td>The wall: 12.4</td>
<td>The wall: 7.49</td>
<td>The wall: 4.65</td>
<td>The wall: N</td>
</tr>
</tbody>
</table>

A variation to the upper level setbacks are considered acceptable for the following reasons:

- The proposed development will not result in any undue impacts on daylight access to habitable room windows contained in the eastern adjoining development. (Note: a detailed assessment against Standard B19 Daylight access to existing windows objective is included in the following section.)
- The proposed setbacks are considered reasonably recessed from the common boundary. Together with the approved setbacks of the eastern adjoining development, the physical distance between the two developments is considered adequate and will not create any undue visual impact when viewed from either aspect.
- The proposed development will not result in any undue amenity impact to the eastern adjoining development. The following assessment will be discussed in detail.

In light of the above, the proposal meets the objective of Standard B17 (Side and rear setbacks objective).

Walls on boundary

No boundary walls are proposed in this proposal. The Standard does not apply.

Daylight to existing windows

To the north and the west, the site adjoins Wattletree Road and Lysterville Avenue respectively. The Standard therefore does not apply.

To the south, 1 habitable room window is located at No. 2 Lysterville Avenue with a setback of 3.75 metres from the common boundary. It is also noted that the finished floor level of the southern adjoining dwelling is R.L. 43.70 (Section D). Below is an assessment against this Standard:

<table>
<thead>
<tr>
<th></th>
<th>Wall height (approx.)</th>
<th>Setback required (metres)</th>
<th>Setback proposed (metres)</th>
<th>Complies (Y or N)</th>
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</thead>
<tbody>
<tr>
<td>Ground Floor</td>
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<tr>
<td>First Floor</td>
<td>6</td>
<td>3</td>
<td>7.25</td>
<td>Y</td>
</tr>
<tr>
<td>Second Floor</td>
<td>9.15</td>
<td>4.58</td>
<td>7.95</td>
<td>Y</td>
</tr>
<tr>
<td>Third Floor</td>
<td>11.85</td>
<td>5.93</td>
<td>12.2</td>
<td>Y</td>
</tr>
</tbody>
</table>
To the east, as the approved development is currently under construction, the assessment below will reference the approved setbacks as indicated in the endorsed plans associated with the development in the eastern adjoining allotment. Below is a detailed assessment against this Standard:

Ground Floor Windows of the development at 254 Wattletree Road

As shown on the endorsed plans, the finished floor level is annotated R.L.42. As detailed below, the proposal complies.

<table>
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<tr>
<td>First Floor</td>
<td>7.7</td>
<td>3.85</td>
<td>4.628</td>
<td>Y</td>
</tr>
<tr>
<td>Second Floor</td>
<td>10.85</td>
<td>5.43</td>
<td>7.194</td>
<td>Y</td>
</tr>
<tr>
<td>Third Floor</td>
<td>13.55</td>
<td>6.78</td>
<td>8.735</td>
<td>Y</td>
</tr>
</tbody>
</table>

First Floor Windows of the development at 254 Wattletree Road

As shown on the endorsed plans, the finished floor level is annotated R.L.45. As detailed below, the proposal complies.

<table>
<thead>
<tr>
<th></th>
<th>Wall height (approx.)</th>
<th>Setback required (metres)</th>
<th>Setback proposed (metres)</th>
<th>Complies (Y or N)</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Floor</td>
<td>4.7</td>
<td>2.35</td>
<td>4.628</td>
<td>Y</td>
</tr>
<tr>
<td>Second Floor</td>
<td>7.85</td>
<td>3.93</td>
<td>7.194</td>
<td>Y</td>
</tr>
<tr>
<td>Third Floor</td>
<td>10.55</td>
<td>5.28</td>
<td>8.735</td>
<td>Y</td>
</tr>
</tbody>
</table>

Second Floor Windows of the development at 254 Wattletree Road

As shown on the endorsed plans, the finished floor level is annotated R.L.48. As detailed below, the proposal complies.

<table>
<thead>
<tr>
<th></th>
<th>Wall height (approx.)</th>
<th>Setback required (metres)</th>
<th>Setback proposed (metres)</th>
<th>Complies (Y or N)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Second Floor</td>
<td>4.85</td>
<td>2.43</td>
<td>7.194</td>
<td>Y</td>
</tr>
<tr>
<td>Third Floor</td>
<td>7.55</td>
<td>3.78</td>
<td>8.735</td>
<td>Y</td>
</tr>
</tbody>
</table>

Third Floor Windows of the development at 254 Wattletree Road

As shown on the endorsed plans, the finished floor level is annotated R.L.51. As detailed below, the proposal complies.

<table>
<thead>
<tr>
<th></th>
<th>Wall height (approx.)</th>
<th>Setback required (metres)</th>
<th>Setback proposed (metres)</th>
<th>Complies (Y or N)</th>
</tr>
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<tr>
<td>Third Floor</td>
<td>4.55</td>
<td>2.28</td>
<td>8.735</td>
<td>Y</td>
</tr>
</tbody>
</table>
In light of the above, the proposed development complies with Standard B19 (Daylight to existing windows objective).

**North facing windows**

No neighbouring north facing windows are located within 3 metres from the common boundary. The Standard therefore does not apply.

**Overshadowing**

The relevant assessment mechanism for overshadowing of neighbouring areas of private open space is the Overshadowing Open Space Objective, including Standard B21. This Standard states the following:

*Where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September.*

*If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.*

The Objective of Standard B21 (Overshadowing) states: *To ensure buildings do not significantly overshadow existing secluded private open space*

To the west, the site fronts Lysterville Avenue and will not create additional overshadowing onto any secluded private open space.

To the south, in the morning, the increased shadow will be cast onto the front setback of the southern adjoining allotment at 2 Lysterville Avenue. There will also be some minor increased overshadowing to the rear yard of the land at 2 Lysterville Avenue during late afternoon hours. However, the amount of private open space of this property that is not affected by overshadowing is in excess of the requirement of Standard B21. The Standard has been met.

To the east, as the approved development at 254 Wattletree Road is currently under construction, as demonstrated on the advertised shadow diagrams, any increased shadow will occur in the afternoon. As shown on the endorsed plans of the approved development at 254 Wattletree Road, the primary secluded private open space (in the form of courtyards at ground level and balconies at upper levels) have been orientated to receive adequate daylight through the day. It is therefore considered that the proposal will not produce unreasonable overshadowing cast onto the eastern adjoining development. The objective is therefore considered met.

**Overlooking**

The relevant assessment mechanism to determine unreasonable overlooking is the Overlooking Objective at Clause 54.04-5, including Standard B22. The standard provides a 9m 45 degree angle arc that determines unreasonable overlooking, and windows or balconies that are located in such a position must be screened to a height of 1.7m above finished floor level accordingly.
To the north and the west, the site fronts Wattletree Road and Lysterville Avenue respectively. In the absence of any neighbouring habitable room windows and/or secluded private open space, the Standard does not apply.

To the south, it is noted that:

- On the ground floor, a 2.1m paling fence is indicatively shown on the elevation and meets the requirement.
- On the first floor, no screening is proposed for this interface. There are a number of windows associated with Dwellings 104 and 105 respectively that are in a position to overlook the open space associated with the dwelling at 2 Lysterville Avenue. The southern (side) edge of the front balcony to Dwelling 105 is also in a position to overlook this space. The neighbouring open space in question is located to the front and the side of the dwelling at 2 Lysterville Avenue and is afforded a level of seclusion due to the existing front fence and car port structure fronting Lysterville Avenue itself. The space itself also incorporates outdoor entertainment facilities and as a result should be protected from unreasonable overlooking impacts. A condition is therefore recommended to screen all the windows in this interface along with the southern edge of the proposed front balcony.
- On the second floor, no screening is proposed. There are habitable room windows associated with bedrooms for Dwellings 204 and 205 that are in a position to overlook the previously mentioned neighbouring open space at 2 Lysterville Avenue. The front balcony to Dwelling 205 also wraps around the southern edge of this level and is also in a position to overlook this space. For reasons outlined above, these windows and the southern edge of the balcony should be screened and this will be achieved by permit condition.
- On the third floor, no screening is proposed. However, as the proposed setback at this level is 8.45-8.55m, the Objective is considered met. Any views within the 9m arc provided by Standard B22 are limited to a half metre section adjacent the neighbouring fence, and this area will be adequately blocked by the fence itself.

To the east, it is noted that:

- On the ground floor, a 2.1m paling fence is indicatively shown on the elevation and meets the requirement to have a visual barrier of at least 1.8 metres above natural ground level.
- On the first floor, balconies are screened up to 1.7m above the finished floor level and obscure glazing is incorporated to habitable rooms and installed up to 1.7m above the finished floor level. This is considered satisfactory. There are two windows that are not proposed to be screened. These are the east facing bedroom window to Dwelling 102 and the east facing bedroom window to Dwelling 103. Both of these windows are in positions to overlook neighbouring open space and habitable room windows and a condition will be included requiring this window to be screened. This will be achieved by way of permit condition.
- On the second floor, the east facing bedroom window to Dwelling 203 is not nominated for screening and is in a position to overlooking neighbouring open space and habitable room windows and a condition will be included requiring this window to be screened. All remaining balconies and windows are screened up to 1.7m above the finished floor and thus complies.
On the third floor, the most southerly located east facing bedroom window incorporates a 1.7m obscure glazing above the finished floor level and thus complies. Further to the north, two bedroom windows and a window to the kitchen are not proposed to be screened. These windows are in a position to overlook secluded private open space of the under-construction development at 254 Wattletree Road. A condition is recommended requiring these windows to be screened. Further to the north are the terrace and the windows to the open plan living and dining room contained in Dwelling 302. These habitable windows and terrace will be largely screened. The terrace will taper down toward the northern edge of the building meaning there will be a small east facing section that will not be screened. This section will have no direct interface with a habitable space contained in the eastern adjoining development. Overall, the arrangement of screening / obscure glazing at this level is considered acceptable.

In light of the above, the proposal is acceptable subject to conditions.

Onsite Amenity and Facilities

Dwelling Entry

The access to the dwellings is provided via a ground level entry at the centre of the Lysterville Avenue façade. It is also noted that a secondary access to G02 (located in the north-east at ground level) is exclusively provided via Wattletree Road. The proposed access is clearly identifiable from the street. The entrances are not obscured by dense vegetation and passive surveillance opportunities exist from the ground and upper floor windows. Overall, the Objective of Standard B12 (Safety objective) and B26 (Dwelling entry objective) have been achieved.

Internal Amenity

With respect to the amenity provided to each dwelling, it is considered that the proposal provides all the necessary components for comfortable living within each dwelling, including the provision of windows to all habitable rooms. Daylight access and direct sunlight access is considered adequate.

Private Open Space

Standard B28 states the following:

A dwelling or residential building should have private open space consisting of:

- An area of 40 square metres, with one part of the private open space to consist of secluded private open space at the side or rear of the dwelling or residential building with a minimum area of 25 square metres, a minimum dimension of 3 metres and convenient access from a living room, or
- A balcony of 8 square metres with a minimum width of 1.6 metres and convenient access from a living room, or
- A roof-top area of 10 square metres with a minimum width of 2 metres and convenient access from a living room."

The ground level dwellings are provided within an area of private open space ranging between 40 and 180 square metres. It is considered that these areas provide an appropriate area for the recreational needs of future residents. The objective is considered to have been achieved in terms of the ground level areas of private open space. The upper level dwellings are provided with a balcony.
The smallest balcony proposed is 8sqm with the size and the minimum width complying with the requirements. Overall, the proposed development meets the objective.

**Detailed Design**

**Design detail**

As discussed earlier in the report, the proposed development represents an appropriate scale and siting for a site in this context. The mass of the building is considered moderate and the design incorporates adequate setbacks from the side and rear boundaries to alleviate any undue visual impacts. Additionally, it is worth noting that the application is supported by Council’s Urban Design Advisor in principal. Overall, the proposal is considered responsive to the objective.

**Service Facilities**

All areas of common property are considered functional and capable of being easily maintained as required by Standard B33 (Common property objective). Each dwelling is provided with storage facilities in the basement that are secure and conveniently accessible. Sufficient space is provided for services to be installed and maintained efficiently and economically. Bin storage is located in the basement where is considered safe and convenient for residents as required by Standard B34 (Site service objective). Additionally, it is noted that the location of mail boxes is not detailed on the plans. This will be addressed by way of permit conditions.

**Environmental Sustainable Design and Water Sensitive Urban Design**

A Sustainable Management Plan (SMP) was submitted with the application. It is considered generally acceptable. However, there are a number of details that would need to be addressed as detailed in the referral section of the report. These requirements will be addressed by way of permit conditions.

**Car Parking and Traffic**

The proposed development generates a statutory requirement to provide 35 for residents. As the subject site is situated within a *Principal Public Transport Network Precinct* (PPTN), no visitor car parking is required by the Planning Scheme. The proposal provides 42 parking spaces and thus complies.

Council’s Traffic Engineer recommended that the visitor parking requirement be provided given the surplus of resident car parking spaces to the standard required. However, as this is not a statutory requirement and considering that the site is located within proximity to a wide range of public transport (including *Malvern Railway Station* and trams along Wattletree Road), the zero provision of visitor car parking spaces can be supported.

The proposed ramp and access to the basement, height clearance, sight distances, car parking dimensions, column location and bicycle provision and specification are considered appropriate.

With respect to traffic generation, Council’s Traffic Engineer commented that the proposed development is unlikely to affect the operation of the surrounding network. Therefore, it is considered that the additional traffic would not create unacceptable traffic or amenity impacts.
Waste Management

The application plans detail the bin storage location within the basement car park. A Waste Management Plan was submitted with the application and was considered generally satisfactory.

Infrastructure

The application was referred to Council’s infrastructure Engineer who advised that the increase in intensity of the number of dwellings on the land will not unreasonably exceed the capacity of existing services. Council’s Infrastructure Unit supports the intensity subject to further conditions as outlined in the Referral section above. These conditions will be included in the recommendation.

Objections

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

Encroachment to the title boundaries of the abutting land

All new building and works must be contained with the title boundary. To better address this concern, a condition is required seeking annotations on the plans indicating that all buildings and works will be constructed within the title boundary.

Human Rights Consideration

This application has been assessed in accordance with the requirements of the Planning and Environment Act 1987 (including the Stonnington Planning Scheme), reviewed by the State Government and which complies with the Charter of Human Rights and Responsibilities Act 2006.

CONCLUSION

Having assessed the application against the relevant planning controls, it is recommended that the proposal be supported subject to conditions.

ATTACHMENTS

1. PA - 1120-18 - 250-252 Wattletree Road Malvern - Attachment 1 of 1 Plans
RECOMMENDATION

That a Notice of Decision to Grant a Planning Permit No: 1120/18 for the land located at 250-252 Wattletree Road, Malvern be issued under the Stonnington Planning Scheme for construction of multi-dwelling development in a General Residential Zone and removal of access to a Road Zone, Category 1 subject to the following conditions:

Development

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 revised plans (Council date received on 8 May 2019) but modified to show:

   a) A convex mirror to be provided at the top and bottom of the internal ramp between Basement Level 1 and 2;
   b) The details of the corner splay at the intersection between Wattletree Road and Lysterville Avenue to be shown on relevant site / floor plans, with the dimensions of 3m by 3m;
   c) The proposed booster cabinet to be set back to allow any doors and personnel access entirely within the development;
   d) The size of array of the proposed 4.5KW solar PV system to be shown on the plans;
   e) Annotations to be included on the Basement plans, confirming connection of rainwater tank to the number of toilets and irrigation nominated by Condition 5;
   f) The location of mail boxes to be shown on relevant plans by way of annotations;
   g) Annotations indicating ‘all new buildings and works are contained within the title boundary’ to be included on the proposed site / floor plans;
   h) All first floor south facing habitable room windows, and the southern side of the front balcony, all associated with Dwelling 105, must be screened to a minimum height of 1.7m with a transparency level of no more than 25% in accordance with Standard B22 of Clause 55;
   i) The southern and eastern edge of the second floor balcony to Dwelling 205 must be screened to a minimum height of 1.7m with a transparency level of no more than 25% in accordance with Standard B22 of Clause 55;
   j) The second floor south facing windows to the easternmost bedroom of Dwelling 205 and the westernmost bedroom to Dwelling 204 respectively must be screened to a minimum height of 1.7m with a transparency level of no more than 25% in accordance with Standard B22 of Clause 55;
   k) All first and second floor east facing windows and balconies must be screened to a minimum height of 1.7m with a transparency level of no more than 25% in accordance with Standard B22 of Clause 55;
   l) All third floor east facing windows must be screened to a minimum height of 1.7m with a transparency of no more than 25% in accordance with the Standard B22 of Clause 55;
   m) Notation on the site and elevation plans that all overlooking screens will have a maximum transparency of 25 percent in accordance with Standard B22 of Clause 55 of the Planning Scheme;
   n) A section diagram must be provided, detailing the spacing, length, and materials of proposed louvred screening to all balconies that are required to be screened.
o) Any amendment required by Condition 3 (Sustainable Management Plan);
p) Any amendment required by Condition 6 (Landscape Plan);
q) Any amendment required by Condition 8 (Tree Management Plan);
r) Any amendment required by Condition 16 (Waste Management Plan).

All to the satisfaction of the Responsible Authority.

2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason without the prior written consent of the Responsible Authority.

Sustainable Management Plan

3. Concurrent with 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 consistent with the Sustainable Management Plan (prepared by Simpson Kotzman and Council date stamped 28 November 2018) but modified to show:

a) In the Management section, operation and maintenance of rainwater tanks, solar panels and other proposed measures should be included to ensure long term appropriate use and maintenance.
b) In the Energy section, glazing proposals for skylights and minimum insulation levels required should be noted; and outdoor clothes drying should be provided.
c) In the Indoor Environmental Quality section, the following information should be provided:
   i. 3-d views of the building and neighbouring equitable development to be provided, including information with regards to consideration of obstructions such as screening/trees etc. overhung components by building elements and neighbouring development;
   ii. Surface reflectances to be modified to show a no greater than 70% value for walls;
   iii. Internal finish reflectances for balconies must also be nominated;
   iv. All reflectance and materials assumptions utilised in the daylight model to be included on materials schedules of architectural plans;
   v. Where shading has been proposed, the depth of the shading amended to meet the 45% of window height rule.
d) In the Stormwater section, the following information should be provided:
   i. Indicative details to be included on the Site Management Plan, such as a guideline/standard to be adopted;
   ii. The size of rainwater tank in Section 7 of the Report to be corrected as per the proposed 17,500 litres;
   iii. The proposed Roof Plan / Site Management Plan to be annotated to show non-trafficable roof catchment areas to be connected to rainwater tanks.
   iv. Annotations to be included indicating whether rainwater tanks to be above or below ground. If below ground, suitable access point for maintenance to be indicated in the Report.
e) In the Transport section, a written response to Council’s Sustainable Transport Policy at Clause 22.05 to be included.

f) In the Waste section, the waste room plans to be annotated to confirm co-location of recycling bins as indicated in the Report.

g) Any amendment required by 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 written consent of the Responsible Authority.

4. The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.

5. Prior to the occupation of the 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. The report must confirm construction and demolition waste recycling of minimum of 90% has been achieved.

Landscape

6. Concurrent with the endorsement of plans, a landscape plan to be prepared by a landscape architect or suitably qualified or experienced landscape designer, must be submitted to and approved by the Responsible Authority. When approved, the landscape plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions. The landscape plan must be generally in accordance with the landscape concept plan (prepared by MemLa and Council dated stamped 28 November 2018) but modified to show:

a) Any amendment required by Condition 1;

b) The proposed Quercus rubra (Red Oak) in the front setback to be substituted with Quercus palustris (Pin Oak);

c) The proposed Hymenosporum flavum (Native Frangipani) to be substituted with suitable species to soften the built form;

d) All trees to be installed in a minimum 45L container.

All to the satisfaction of the Responsible Authority.

7. 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.
8. Concurrent with the endorsement of development plans a tree management plan prepared by a suitably qualified arborist must be submitted to and approved by the Responsible Authority. When approved, the tree management plan will form part of this permit and all works must be done in accordance with the tree management plan (AS 4970)

The tree management plan must detail measures to protect and ensure the viability of Liquidambar styraciflua (Sweet Gum) located within the front setback.

Among other things, the tree management plan it must include the following information:

a) Pre-construction – details to include a tree protection zone, height barrier around the tree protection zone, amount and type of mulch to be placed above the tree protection zone and method of cutting any roots or branches which extend beyond the tree protection zone.

b) During-construction – details to include watering regime during construction and method of protection of exposed roots.

c) Post-construction – details to include watering regime and time of final inspection when barrier can be removed and protection works and regime can cease.

Pre-construction works and any root cutting must be inspected and approved by the 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.

9. 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 $76,921.20 must be provided to the Responsible Authority as security against a failure to protect the health of a Liquidambar styraciflua (Sweet Gum) in the Wattletree Road setback to be retained.

The applicant must meet all costs associated with drafting and execution of the Deed, including those incurred by the responsible authority. Once a period of 12 months has lapsed following the completion of all works at the site the Responsible Authority may discharge the bank guarantee upon the written request of the obligor. At that time, the Responsible Authority will inspect the tree(s) and, provided they have not been detrimentally affected, the bank guarantee will be discharged.

10. Protection fencing must be afforded to the Waterhousia floribunda (Weeping Lilly Pilly) and Prunus cerasifera (Flowering Plum) street trees on the Lysterville avenue frontage of the property, and the Melaleuca linariifolia (Snow In Summer) street tree on the Wattletree Road frontage of the property at this location prior to construction works occurring. Fencing must comply with Section 4 of AS 4970 and form a 2m x 1m protection zone around the trees.
11. No vehicular or pedestrian access, trenching or soil excavation is to occur within the tree protection zone without the written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the tree protection zone.

Infrastructure

12. Prior to a building permit being issued, a report for the legal point of discharge must be obtained from Council and a drainage design for the development must be prepared by a suitably qualified Engineer in accordance with all ‘recommendations’ and requirements contained in that report. All drainage must be by means of a gravity based system with the exception of runoff from any basement ramp and agricultural drains which may be pumped. The relevant building surveyor must check and approve the drainage design and ensure that protection of the building is provided from a 1 in 100 A.R.I. rainfall event as required by the Building Regulations. (Please do not state drainage design to satisfaction of Council, that is the responsibility of the relevant building surveyor to check and approve in accordance with the report and ‘recommendations’ for the legal point of discharge).

13. 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.

14. The existing footpath levels must not be lowered or altered in any way at the property line (to facilitate the basement ramp). This is required to ensure that normal overland flow from the street is not able to enter the basement due to any lowering of the footpath at the property line.

15. The redundant vehicular crossing must be removed and the footpath, naturestrip and kerb reinstated at the owner’s cost to the satisfaction of Council.

16. There will be significant additional stormwater runoff generated by the development and there are known drainage problems and flooding downstream of the property. The applicant must at their cost provide a stormwater detention system to restrict runoff from the development to no greater than the existing runoff based on a 1 in 10 A.R.I. to the satisfaction of Council’s Infrastructure Unit. Alternatively, in lieu of the stand alone detention system, the owner may provide stormwater tanks that are in total 5,000 litres greater than those tanks required to satisfy WSUD requirements for the development. Those tanks must be connected to all toilets.
Waste Management Plan

17. 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 submitted to Council on 26 November 2018 prepared by WSS Waste Space Solutions and dated 28 November 2017 but modified to show:

   a) Any amendment required by Condition 1.

   All to the satisfaction of the Responsible Authority.

Services / maintenance

18. Prior to the occupation of the building, fixed privacy screens (not adhesive film) designed to limit overlooking as required by Standard B22 of Clause 55.04-6 in accordance with the endorsed plans must be installed to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

19. 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.

20. 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.

21. All plant and equipment (including air-conditioning units) shall be located or screened so as to minimise visibility from any of the surrounding footpaths and from overhead views and must not be located on balconies. All plant and equipment shall be baffled so as to minimise the emission of unreasonable noise to the environment in accordance with Section 48A of the Environment Protection Act 1970 to the satisfaction of the Responsible Authority.

VicRoads conditions

22. Prior to the commencement of the use of the development hereby approved, all disused or redundant vehicle crossings must be removed and the area reinstated to the satisfaction of the Responsible Authority and at no cost to VicRoads.

End of VicRoads conditions

Timeframes
23. This permit will expire if one of the following circumstances applies:

   a) The development is not started within two years of the date of this permit.
   b) The development is not completed within four years of the date of this permit.

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

NOTES:

VicRoads Notes

A. No work must be commenced in, on, under or over the road reserve without having first obtaining all necessary approval under the Road Management Act 2004, the Road Safety Act 1986, and any other relevant acts or regulations created under those Acts.

End of VicRoads Notes

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 dwelling/s hereby approved are not eligible to receive “Resident Parking Permits”.

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

   “Significant Tree” means a tree or palm:
   a) with a trunk circumference of 140 cm or greater measured at 1.4 m above its base;
   b) with a total circumference of all its trunks of 140 cm or greater measured at 1.4 m above its base;
   c) with a trunk circumference of 180 cm or greater measured at its base; or
   d) with a total circumference of all its trunks of 180 cm or greater measured at its base.

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

E. The crossover must be constructed to Council’s Standard Vehicle Crossover Guidelines unless otherwise approved by the Responsible Authority. Separate consent for crossovers is required from Council’s Building and Local Law Unit.
F. 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.
4. **PLANNING APPLICATION 0874/18 - 4A AND 4B CANBERRA ROAD, TOORAK - CONSTRUCTION OF A MULTI-DWELLING DEVELOPMENT IN A GENERAL RESIDENTIAL ZONE AND SPECIAL BUILDING OVERLAY**

**Acting Manager Statutory Planning:** Phillip Gul  
**General Manager Planning & Amenity:** Stuart Draffin

**PURPOSE**

For Council to consider a planning application for construction of a multi dwelling development in a General Residential Zone and Special Building Overlay at 4A and 4B Canberra Road, Toorak.

**Executive Summary**

- **Applicant:** Sophie Jordan Consulting  
- **Ward:** North Ward  
- **Zone:** General Residential Zone - Schedule 11  
- **Overlay:** Special Building Overlay  
- **Neighbourhood Precinct:** Garden River  
- **Date lodged:** 24 August 2018  
- **Date revised:** 24 May 2019  
- **Statutory days:** (as at council meeting date) 31  
- **Trigger for referral to Council:** Seven or more objections  
- **Number of objections:** 12  
- **Consultative Meeting:** Yes – held on 30 January 2019  
- **Officer Recommendation:** Issue a 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 Conrad Architects and are known as Drawing No.s: TP00, TP01, TP02, TP03, TP04, TP05, TP08, TP10, TP11, TP12, TP13, TP14, TP16, TP17, TP18, TP19, TP20, TP22, TP23, TP24, TP30, TP31, TP32, TP33 and TP34 all Revision D and Council date stamped 24 May 2019.

The subject site is comprised of two lots and the development will involve the demolition of the existing dwelling on each lot and subsequent construction of a three storey building incorporating five dwellings. Key features of the proposal are:

- Demolition of the existing dwellings at No. 4A and No. 4B Canberra Road (no permit is required).
Basement car parking:
- A total of 11 car parking spaces are provided.
- Two (2) car parking spaces are allocated to each apartment and one (1) visitor car parking space is provided.
- A bin storage room and a storage area associated with storage for each apartment is proposed.
- The existing crossover location is maintained.

The ground floor level includes one x three bedroom apartment and one x two bedroom apartment.
The first floor level includes one x three bedroom apartments and one x two bedroom apartment.
The second floor level includes one x three bedroom apartment. The apartment also has a study room.

Pedestrian access is via a pathway from Canberra Road along the southern boundary, leading to a lobby with one lift.

Private open space for each apartment will be provided in the form of terraces, balconies and ground floor open space varying in size between 20.7m² and 146.9m².

The building presents a contemporary architectural style. Materials and finishes include a combination of concrete and render finish and clear windows and balustrades.

The development will result in 55.2% site coverage at ground, 66.6% site coverage at basement, 37.7% garden area and 20.5% permeability.

The maximum height of the building will be 10.95 m above natural ground level.

The application was revised twice after the consultative meeting and the advertised plans have been superseded by the plans Council date stamped 24 May 2019. In summary, the amendments to the plans have been made to facilitate greater opportunity for landscaping, to ensure the development is protected from flooding and to address potential overlooking on the northern and southern side of the development. Details of the changes are included under the “Advertising” section of the report.

Site and Surrounds

The site is located on the eastern side of the road reserve on Canberra Road, approximately 90 metres north of the intersection with Bruce Street. The site has the following significant characteristics:

- The combined allotment has a rectangular shape and is comprised of two lots. The site has a frontage to Canberra Road of approximately 18.29 metres, a site depth of approximately 43.8 metres and a rear depth of 18.31 metres.
- The site has a fall from west to east (front to rear) of approximately 3 metres.
- The land at 4A Canberra Road is developed with a double storey dwelling and the land at 4B Canberra Road is also developed with a double storey dwelling.
- Vehicle access to No. 4A Canberra Road is provided via a single width crossover from Canberra Road. Vehicle access to 4B Canberra Road is provided via a crossover from the laneway on the southern side of the development.
- A 1.8 metre high metre high paling fence is located on the Canberra Road frontage.
- A 2.7 metre high paling fence is located on the southern side of the site facing the laneway.
- There are a number of established trees on the subject site that are proposed to be removed as part of the application. Significant trees are located within the abutting properties at 6-8 Canberra Road and 49 Grange Road.
The wider area is residential in nature and features a mix of dwelling types of varying architectural styles from detached dwellings on large lots, 1970’s apartment buildings constructed of brick, modern two storey dwellings and three and four storey apartment developments.

Directly to the north of the subject site at No’s 6-8 Canberra Road Toorak is a three storey rendered building with a flat roof. This building is setback 7.6 metres from Canberra Road and has habitable room windows on all levels oriented south towards the subject site.

To the south of the subject site is a 3.2 metre wide unnamed road that provides vehicular access to the garage of the existing dwellings at No. 4A and 4B Canberra Road. Abutting the unnamed road, to the south is No. 2 Canberra Road. The dwelling at No. 2 Canberra Road is a two storey rendered dwelling with a pitched roof. The dwelling has a street setback of 9.2 metres and comprises a number of habitable room windows facing north towards the subject site. The secluded private open space is located on the western side of the dwelling. Car parking is located within the front of the site.

A three storey apartment building is located to the rear (east) of the subject site at No. 49 Grange Road. The building has a number of habitable room windows oriented west, towards the subject site.

To the west of the subject site is Canberra Road. A central median strip with mature trees provides a physical separation between the two vehicular lanes with one way traffic directed on either side of the site.

Previous Planning Application(s)

A search of Council records indicates that there are no previous planning applications registered to this site.

The Title

The site is described on Certificate of Title Volume 09469 Folio 084 as unit 1 on strata plan 017657 (4A Canberra Road) and Title Volume 09469 Folio 085 as unit 2 on strata plan 017657 (4B Canberra Road) and no covenants or easements affect either lot.

Planning Controls

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

Zone

Clause 32.08 – General Residential Zone (Schedule 11)
Pursuant to Clause 32.08-2 a permit is not required to use the land for dwellings.

Pursuant to Clause 32.08-6, a permit is required to construct two or more dwellings on a lot and a front fence that exceeds a height of 1.5m. A development must meet the requirements of Clause 55.

The Zone requires that an application to construct a residential building on a lot greater than 650sqm in area must provide a minimum garden area of 35% of the site. The plans confirm 37.7% of the site will be provided as garden area.
In addition, a residential building must not exceed a height of 13m on a sloping site. The development has a height of 10.95 metres and contains 3 storeys.

Schedule 11 varies the following ResCode Standards:

<table>
<thead>
<tr>
<th>Standard</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site coverage</td>
<td>A5 and B8 Basements should not exceed 75% of the site area.</td>
</tr>
<tr>
<td>Landscaping</td>
<td>B13 In addition to the requirements of B13, at least one canopy tree should be planted on the site.</td>
</tr>
<tr>
<td>Side and rear</td>
<td>A10 and B17 For a distance of at least 5 metres behind the front facade of the building fronting the street, setback new buildings (including basements) a minimum of 2 metres from at least one side boundary and at least 1 metre from the other side boundary up to 3.6 metres in height. Where no setback is specified, standard A10 or B17 applies.</td>
</tr>
<tr>
<td>Setbacks</td>
<td>A11 and B18 Walls should not be located on side boundaries for a distance of 5 metres behind the front facade of the building fronting the street.</td>
</tr>
<tr>
<td>Walls on</td>
<td></td>
</tr>
<tr>
<td>boundaries</td>
<td></td>
</tr>
</tbody>
</table>

**Overlay**

Clause 44.05- Special Building Overlay

Pursuant to Clause 44.05-2, a permit is required to construct a building or construct or carry out works.

**Particular Provisions**

Clause 52.06 – Car Parking

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

Pursuant to Clause 52.06-5, a dwelling requires:

- 1 car space to each one or two bedroom dwelling;
- 2 car spaces to each three or more bedroom dwelling.
- 1 car space for visitors to every 5 dwellings for the development of 5 or more dwelling.

Three of the new dwellings contain 3 bedrooms and two of the dwellings contain two bedrooms. Each dwelling is provided with 2 car parking spaces. The 5 new dwellings are required to provide a total of 8 car spaces and 1 visitor car parking space. The proposal provides 11 car parking spaces, with 2 spaces allocated to each apartment and 1 visitor car parking space, exceeding the statutory requirements by 2 car parking spaces.

Clause 55 – Two dwellings on a lot and residential buildings
A development:
- Must meet all of the objectives of this clause.
- Should meet all of the standards of this clause.

Relevant Planning Policies
- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Overview
- Clause 21.03 Vision
- Clause 21.05 Housing
- Clause 21.06 Built Environment and Heritage
- Clause 22.05 Environmentally Sustainable Design
- Clause 22.18 Stormwater Management (Water Sensitive Urban Design)
- Clause 22.23 Neighbourhood Character Policy
- Clause 32.08 General Residential Zone
- Clause 44.05 Special Building Overlay
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

Advertising

The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987 by sending notices to the owners and occupiers of adjoining land and by placing three signs on the site in October 2018. The public notification of the application has been completed satisfactorily.

The site is located in North Ward and objections from 12 different properties have been received. The concerns can be summarised as follows:
- Overdevelopment of the site.
- Overlooking.
- Daylight to Existing windows.
- North facing windows.
- Overshadowing.
- Drainage.
- Car parking and Traffic.
- Construction issues.
- Building Height.
- Street setback.
- Neighbourhood Character.
- Side and rear setbacks.
- Tree removal and Landscaping.
- Visual bulk associated with the A/C plant on the rooftop.

A Consultative Meeting was held on 30 January 2019. The meeting was attended by Councillors Koce and Griffin, representatives of the applicant, objectors and a Council Planning Officer. Following the consultative meeting revised plans were submitted to Council on 02 April 2019 and 24 May 2019. The revised plans submitted on 24 May 2019 are the plans subject to Councils consideration and these plans generally include the following changes:
• The addition of tree protection zones to trees 11 and 12 located on the neighbouring property at 6-8 Canberra Road.
• An increased setback from the northern boundary of the balcony associated with Apartment 1.01 (an additional 500 millimetres) from 1.5 metres to 2.0 metres.
• The relocation of the footpath entry further north on Canberra Road and additional landscaping in the south western corner of the site.
• Modifications to the balcony at the rear of apartment 2.01 to nominate the south facing section of the balcony as a non-trafficable space and an increase in the height of the balustrade edge on the southern side of the apartment by 200 millimetres to ensure views from the bedroom, walk in robe and bathroom are restricted.
• The addition of opaque glazing to the south facing windows to a height of 1.7 metres above floor level for Apartment 2.01.
• The addition of a fixed screen to the southern edge of the front (west) balcony to Apartment 2.01.
• Fencing along the laneway on the southern side of the development modified to be a masonry fence of 1.8 metres in height with the exception of a metal picket section of 1.0 metre high fence adjacent to 49 Grange Road to address Council’s drainage engineering requirements.
• Modifications to the landscape plan to include additional landscaping on the site.

Referrals

Infrastructure

Councils Infrastructure Department has reviewed the revised plans, Council date stamped 24 May 2019. No objection was raised by Council’s Infrastructure Department, subject to the following conditions:

• An apex to the basement at a minimum level of 12.00m A.H.D. must be provided.
• All openings, doors, vents and windows to the basement must be at least 500mm above the abutting finished and existing surface levels to prevent the ingress of flooding associated with the SBO.
• A clear overland flowpath at least 2.0m wide must be provided within the Eastern boundary of the property to convey flooding through and clear of the property. This overland flowpath must be clear of all obstructions.
• The surface levels within the above overland flowpath must not be raised above the existing surface levels to ensure the flooding is not obstructed.
• The fences across the rear (Eastern) boundary and the Eastern 2.0m section of the side fences must be timber palings or similar to ensure flooding can enter and pass through the property.
• All fences and barriers being provided to protect the development from flooding must be a minimum of 500mm above the existing and finished surface levels of the development and the abutting footpath and right-of-way.
• All works including floor levels must be in accordance with the endorsed plan.
• Prior to an ‘Occupancy Permit’ being issued and prior to a ‘Statement of Compliance’ being issued for the subdivision, levels taken by a Licensed Land Surveyor must be provided on the finished floor levels of the dwellings and the required basement apex to show compliance with Council requirements relating to the ‘Special Building Overlay’.
• The existing Canberra Road footpath levels must not be lowered or altered in any way at the property line (to facilitate the basement ramp).
• The redundant vehicular crossing must be removed and the footpath, nature strip and kerb reinstated at the owner’s cost to the satisfaction of Council.
• All finished floor and site levels must be in accordance with the endorsed plans.
• All other standard conditions in regards to drainage must be included on any permit issues.

Planner Response:

Conditions will be included on any permit issued to show the requirements requested by Councils Infrastructure Engineer.

*Parks*

Councils Parks Department has reviewed the revised plans submitted to Council on 02 April 2019 and provided the following comments:

Significant Trees

• The submitted plans now recognise the locations of the adjacent significant trees to the north of the site, and list the incursion percentage into the TPZ required to construct the basement.
• A way to ensure that no additional excavation occurs within the tree protection zone of the tree to the north of the site would be to condition the existing driveway to be maintained during construction works.

Landscape Plan

• As stated previously, the space provided for landscape content along the southern and northern aspects of this site does not enable the inclusion of large landscape elements which could aid in softening the new larger built form when viewed from adjacent properties.

Planner Response:

A condition will be included on the permit requiring the existing driveway to be maintained during construction works.

*Transport and Parking*

Councils Transport and Parking Department has reviewed the advertised material and raised the following concerns:

• It appears from the ramp elevation plan that the ramp is graded downwards at the property boundary where the ramp meets the footpath. The ramp at this section is graded at 1:10, however the grade of the footpath is not provided. The TIA also raises this as a concern stating that the grade from the footpath does not specifically meet the requirements of the Planning Scheme. The applicant is to ensure that this is designed in accordance with the Planning Scheme to ensure that vehicle scraping does not occur at the entrance to the property.

• No dimensions have been included on the plans regarding the design of this bicycle loop. Based on the location of the loop, it appears that this could work sufficiently for residents/visitors however the applicant is to confirm this.
Planner Response:

Conditions will be included on any permit issued to address the outstanding issues.

Waste Management

Council’s Waste Management Department provided no objection to the proposal.

Urban Design

Council’s Urban Design Advisor reviewed the revised plans and provided the following comments:

- The subject site presents a number of challenges including the topography and the associated SBO. In my opinion, the design response strikes an acceptable balance between the range of competing objectives for this site. Following a number of discussions and revisions, the proposal in its current revised form now satisfactorily addresses the previous concerns.

Melbourne Water

- Melbourne Water, pursuant to sections 56(1) of the Planning and Environment Act 1987, does not object to the proposal.

KEY ISSUES

Strategic Context

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

Council’s Municipal Strategic Statement (MSS) identifies the site as being within an “incremental change area”. These areas (outside of the Heritage Overlay and Neighbourhood Character Overlay), are encouraged to direct multi-unit development (2-3 storeys) to lots capable of accommodating increased density. The subject site is in excess of 700sqm and is located outside the Principal Public Transport Network Area. The design represents an appropriate infill response and achieves a high degree of integration with the evolving streetscape which features a mix of dwellings and three- four storey apartment buildings.

Neighbourhood Character

The subject site is within the Garden River precinct which comprises buildings that contribute to the Yarra River and its landscaped setting, with innovative architectural styles set among Victorian, Edwardian and Interwar dwellings and well-planted, spacious gardens. New buildings of varying styles and scales are designed to complement and respect the river environs. Consistent front and side setbacks allow for substantial planting that contributes to the tree canopy, and softens the appearance of built form. Where adjoining or visible from the Yarra, buildings address both the street and the River. Low or permeable front fences provide views of building facades and front gardens.
The proposal is a contemporary design response that proposes a three storey apartment building with canopy planning around the front and rear of the building. Due to the sloping nature of the land, when viewed from Canberra Road the proposed development will largely present as a two storey building.

The architectural form is innovative and incorporates metal wall cladding, render and anodised aluminium screens. Notably, the predominant use of render reinforces the materials that are prevalent to the character of the area. The front setback aligns closely with the existing setback of the existing dwelling on the lot and allows for the establishment of canopy trees to soften the built form in the streetscape.

Positively, the car parking has been placed underground within the basement; removing the need for any visible garage structures to the street and increasing opportunities for landscaping within the front setback.

The front fencing proposed varies in height between 1.7 metres and 2.6 metres due to the slope in the land. The fencing style of rendered wall with deep planters is fitting with the front fence character along Canberra Road which comprises fences that are typically high and solid in materiality with planters.

The development is deemed to be compatible with the surrounding built form and meets the objectives of the Garden River Neighbourhood Character Precinct.

**Site Layout and Building Massing**

*Street Setback*

The setbacks to the adjoining properties are 7.6 metres to the north and 9.2 metres to the south. Therefore, the proposed development should be setback 8.4 metres from Canberra Road to comply with standard B6.

The development has been setback from Canberra Road by 7.850 metres at ground floor level, 7.4 metres at first floor level and 7.480 metres at second floor level. The dwelling currently on the site has a setback of 7.6 metres to Canberra Road.

Whilst the setbacks are less than the standard suggests, they generally reflect the setbacks of the existing dwelling on the site and the setbacks of the apartment building to the north at No. 6-8 Canberra Road. The proposal is considered to respect the existing and preferred neighbourhood character and makes efficient use of the site.

*Building Height*

The proposed maximum building height is 10.95 metres. This complies with the requirements of Schedule 11 to the General Residential Zone that allows a maximum height of 13 metres given the site has the requisite slope in ground level. The Zone allows for a building up to three storeys and Council’s Municipal Strategic Statement encourages 2-3 storey built form within incremental change areas on lots capable of accommodating it. Objections have been raised with regards to the three storey built form. Importantly the third storey is the same height of the parapet of No. 2 Canberra Road, this is considered to provide an acceptable transition in scale to the built form to the north. Also, due to the sloping nature of the land, when viewed from Canberra Road the proposed development will largely present as a two storey building.
Site Coverage and Permeability

The proposal complies with the site coverage and permeability recommendations of the Zone which calls for a maximum of 75% basement coverage, as well as Standard B8 (Site coverage) that seek a maximum 60% site coverage and Standard B9 (Permeability objective) which recommends a minimum 20% permeability. The development proposes the following:

- Site Coverage: 55.2%
- Basement coverage: 66.6%
- Permeability: 20.5%

The proposed 37.7% garden area achieves the minimum area set by the Zone, which requires 35%. The garden area as provided allows for landscaping to the front, side and rear of the new building. The setbacks and building footprint will provide satisfactory opportunities for the establishment of new trees, particularly along the front, side and rear boundaries as discussed below.

Energy Efficiency

Energy efficiency in the design of the building has been considered in conjunction with Council’s Environmentally Sustainable Development Policy (Clause 22.05). The Apartments have been designed with good access to natural light and ventilation and an acceptable level of internal amenity. All habitable rooms have an operable window to promote cross ventilation. The apartments have been oriented and designed to maximise direct sunlight and daylight access. The layout of the apartments within the development orientates the living/dining areas with both a north easterly or south westerly aspect, and large windows have been included on the eastern and western elevations to these areas. Whilst the development includes some south facing bedrooms, they are all sufficiently setback from the southern boundary to ensure that they receive a good level of daylight access. In addition, all areas of private open space will receive adequate daylight and solar access.

Clause 22.05 of the Stonnington Planning Scheme requires the development to achieve best practice in environmentally sustainable development. The applicant has submitted a Sustainable Design Assessment (SDA), detailing how the development addresses the 10 key sustainable design categories using the Built Environment Sustainability Scorecard (BESS). The submitted SDA shows that the development achieves a BESS score of 57% and a pass for each of the mandatory pass categories of Water, Energy, Stormwater and IEQ, which is satisfactory.

Landscaping

Council’s MSS and various local policies emphasise the provision of high quality landscaping and seek to ensure that landscaping forms a key consideration of development proposals. Clause 21.06-2 (Landscape Character) seeks to ‘repair and reinforce the high quality landscape character of the City’.

Further to this, Clause 22.23 (Neighbourhood Character Policy) seeks ‘to maintain and strengthen the garden settings of buildings and the tree canopy of the neighbourhood’. The policy further encourages a design response which ‘includes planting around the perimeter of the site to strengthen the garden setting’ and provides ‘setback basements from all property boundaries to allow for in-ground planting’.
As a result of the revisions to the plans after the consultative meeting, the landscape response is now considered to be satisfactory and will ensure the contemporary building is set amongst canopy trees and soft landscaping to buffer the building bulk and reflect the garden character of the wider neighbourhood. As confirmed by Councils Arborist the setbacks of the basement and ground floors from the significant trees on the adjoining properties at 6-8 Canberra Road and 49 Grange Road are also adequate.

As per the Landscape Concept Plan prepared by Jack Merlo Landscape Architects the landscape response includes the provision of 6 new canopy trees to be planted on the north, east and west sides of the new building. The trees are anticipated to reach mature heights of between 7 and 11 metres. The proposed landscape response will soften the presentation of the proposed development when viewed from the streetscape and adjoining lots.

Councils Arborist raised concerns that the planting around the southern and northern aspects of this site does not enable the inclusion of large landscape elements which could aid in softening the new larger built form when viewed from adjacent properties. However on balance it is considered that the landscape response is consistent with that of No. 2 Canberra Road and other adjoining properties and is acceptable. Furthermore Councils Urban Design Advisor does not object to the landscape response.

The landscaping response for the subject site is an appropriate response to the garden character of the area and will ensure a standard of landscape integration is achieved.

Access

The southern laneway is not being relied on for cars as part of the proposal. The proposal seeks to construct a single width crossover in the same location as the existing crossover entry for 4A Canberra Road, fronting Canberra Road. The crossover is to be 3 metres wide with 1.3 metre wide splays as required by Council’s vehicle crossover policy.

The garages within the basement will provide safe and convenient parking for the future residents of the building.

Amenity Impacts

Side and Rear Setbacks

Schedule 11 to the General Residential Zone includes the following modified B17 Standard:

For a distance of at least 5 metres behind the front facade of the building fronting the street, setback new buildings (including basements) a minimum of 2 metres from at least one side boundary and at least 1 metre from the other side boundary up to 3.6 metres in height.

The proposed development complies with the modified standard to B17 as at ground floor level the proposal is setback 4.4 metres from the northern boundary for the first five metres and 2.160 metres from the southern boundary. The southern setback also benefits by the addition presence of the 3.2m wide laneway on the southern boundary.

Standard B17 (side and rear setbacks) sets out numerical requirements for side and rear setbacks. The tables below illustrates how the proposal meets these requirements.
Setbacks to the North

<table>
<thead>
<tr>
<th>Northern setback</th>
<th>Minimum proposed setbacks</th>
<th>Setback required by Standard B17 (Side and rear setbacks)</th>
<th>Complies?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground</td>
<td>3.5</td>
<td>1.14</td>
<td>Yes</td>
</tr>
<tr>
<td>First Floor balustrade of each apartment</td>
<td>1.7 for the terrace of apartment 1.01 and 2.0 to the terrace of apartment 1.02.</td>
<td>1.63</td>
<td>Yes</td>
</tr>
<tr>
<td>First Floor wall</td>
<td>3.5 metres</td>
<td>2.48</td>
<td>Yes</td>
</tr>
<tr>
<td>Second floor balustrades of the apartment</td>
<td>3.5 to 4.4 metres measured to the balcony edge.</td>
<td>4.29</td>
<td>No</td>
</tr>
</tbody>
</table>

As outlined in the table above, a variation is required for the section of balustrade at second floor level that is setback 3.5 metres from the boundary. A variation is considered reasonable in this instance given that it is only a small section of balcony that is non-compliant with the standard. Furthermore as outlined in the assessment against daylight to existing windows, the setbacks comply with standard B19 (Daylight to existing windows) and ensure that windows on the property to the north are adequately protected.

Setbacks to the South

<table>
<thead>
<tr>
<th>Northern setback</th>
<th>Minimum proposed setbacks</th>
<th>Setback required by Standard B17 (Side and rear setbacks)</th>
<th>Complies?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground</td>
<td>2.19</td>
<td>1.17</td>
<td>Yes</td>
</tr>
<tr>
<td>First</td>
<td>2.04</td>
<td>2.44</td>
<td>No</td>
</tr>
<tr>
<td>Second</td>
<td>2.04</td>
<td>5.94</td>
<td>No</td>
</tr>
</tbody>
</table>

As outlined in the table above, there are some variations from the standard required at first and second floor where the proposal is setback from the southern boundary. As the laneway provides a further separation of 3.2 metres from the subject site to the south (No. 2 Canberra Road), the proposal will not result in any unreasonable amenity impacts to the neighbouring property. The setbacks of the development, including the laneway significantly exceed the requirements of standard B17. Furthermore, the laneway which separates the subject site with No. 2 Canberra Road will ensure that the rhythm and spacing of the building is maintained when viewed from Canberra Road.

Setbacks to the East

<table>
<thead>
<tr>
<th>Northern setback</th>
<th>Minimum proposed setbacks</th>
<th>Setback required by Standard B17 (Side and rear setbacks)</th>
<th>Complies?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground</td>
<td>3.06-3.62</td>
<td>1.14</td>
<td>Yes</td>
</tr>
<tr>
<td>First</td>
<td>2.93-3.62</td>
<td>2.47</td>
<td>Yes</td>
</tr>
<tr>
<td>Second floor-balustrade</td>
<td>4.64</td>
<td>3.61</td>
<td>Yes</td>
</tr>
<tr>
<td>Second floor wall</td>
<td>6.81</td>
<td>5.99</td>
<td>Yes</td>
</tr>
</tbody>
</table>
**Daylight to Existing Windows and North facing windows**

The proposed development is located opposite habitable room windows of the adjoining dwellings to the north, east and south. The dwellings to the south at No. 2 Canberra Road have north facing habitable room windows, however there are no north facing windows on an adjoining property within 3 metres of the common boundary with the subject site. As the laneway separates the subject site and this site the windows are located a minimum of 5.9 metres from the common boundary.

The setbacks of the proposed development from the apartments to the east achieve compliance with Standard B19 (Daylight to Existing windows). The setbacks from the existing habitable room windows of No. 6-8 Canberra Road opposite are assessed against the requirements of Standard B19 (Daylight to Existing Windows) as follows.

<table>
<thead>
<tr>
<th>Location</th>
<th>Minimum proposed setbacks to the windows of 6-8 Canberra Road.</th>
<th>Setback required by Standard B19 (Daylight to Existing Windows)</th>
<th>Complies?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground</td>
<td>8.37</td>
<td>2.05</td>
<td>Yes</td>
</tr>
<tr>
<td>First Floor balustrade of each apartment</td>
<td>5.97</td>
<td>2.85</td>
<td>Yes</td>
</tr>
<tr>
<td>First Floor Wall</td>
<td>8.67</td>
<td>3.70</td>
<td>Yes</td>
</tr>
<tr>
<td>Second floor balustrades of the apartment.</td>
<td>7.2</td>
<td>4.60</td>
<td>Yes</td>
</tr>
<tr>
<td>Second floor wall</td>
<td>9.7</td>
<td>5.45</td>
<td>Yes</td>
</tr>
</tbody>
</table>

As outlined in the table above, the proposal achieves full compliance with standard B19, therefore reasonable amenity of the apartments at No. 6.8 Canberra Road is maintained.

**Overshadowing**

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

The proposal will result in increased shadow to the secluded private open spaces areas of No 2 Canberra Road and to the communal open space area of No. 49 Grange Road. The additional shadow to No. 2 Canberra Road is an additional 1.0m² at 12pm, 2.7m² at 1pm, 5.5m² at 2pm and 9.0m² at 3pm. This impact is reasonable given that at least 40 square metres with a minimum dimension of 3 metres of the secluded private open spaces receives at least five hours of sunlight between 9am and 3pm on 22 September in accordance with Standard B21.
The additional shadow to No. 49 Grange Road is to the communal open space and is not to the secluded private open space area of the apartments, therefore an assessment against standard B21 is not triggered.

Overlooking

The key assessment tool to determine unreasonable overlooking is the Overlooking Objective, including Standard B22. The standard provides a 9 metre, 45 degree angle arc that determines unreasonable overlooking, and windows or balconies that are located in such a position must be screened to a height of 1.7m above finished floor level accordingly.

At ground, first and second floor level, there are habitable room windows and areas of secluded private open space that have the potential to overlook the neighbouring habitable room windows and areas of private open space within 9 metres at the properties north, south and east of the site.

Ground Floor

A 1.8-1.9 metre high boundary fence is proposed along the north, eastern and southern side of the development. Therefore, there are no unreasonable overlooking opportunities from the proposed ground level.

First Floor

North Elevation

Obscure glazing has been proposed to habitable room windows along the north elevation of the building at first floor level to 1.7 metres from finished floor level.

The balcony to Apartment 1.01 has screening to 1.7 metres from finished floor level. A section of the proposed balustrade screening has been provided on TP20 which confirms that the screening is no more than 25% transparent to comply with standard B22. There is no screening proposed to the northern side of the balcony of apartment 1.02 and there may be some overlooking opportunities from this balcony to the secluded private open space areas of the ground floor apartments to No. 6-8 Canberra Road. Accordingly a condition will be included on any permit issued requiring screening to this area to comply with standard B22.

East Elevation

Fixed Screens have been proposed to habitable room windows and the balcony at first floor level. There is nothing on the plans to confirm that the fixed screens will be no more than 25% transparent to 1.7 metres from finished floor level. Therefore a condition will be included on any permit issued requiring ‘a section of the proposed screening on the east elevation confirming that the screen is no more than 25% transparent to comply with standard B22’.

South Elevation

Obscure glazing has been proposed to most of the habitable room windows along the south elevation of the building at first floor level to 1.7 metres from finished floor level. The windows to the dining room have fixed screens. There is nothing on the plans to confirm that the fixed screens will be no more than 25% transparent to 1.7 metres from finished floor level. Therefore a condition will be included on any permit issued requiring this.
Second Floor

North Elevation
Screening has been provided to 1.7 metres from finished floor level to part of the balcony balustrade at second floor level. As shown in the section diagrams on TP18, there are no unreasonable overlooking opportunities from the balcony on the north eastern side of the site to the habitable rooms or secluded private open space areas of No. 6-8 Canberra Road. There are concerns that there may be overlooking opportunities from the northern side of the front balcony of the apartment to the front secluded private open space area of the dwellings at No. 6-8 Canberra Road. Accordingly, a condition will be included on any permit issued requiring screening to comply with standard B22 or the provision of overlooking diagrams that show no unreasonable overlooking into the private open space of the dwellings at no. 6-8 Canberra Road.

East Elevation
The applicant has shown the overlooking diagrams on the second floor plan and section to demonstrate there are no overlooking opportunities from the terrace at second floor level. As the balcony is located over 9 metres from the closest habitable room window or balcony of No. 49 Grande Road, compliance with standard B22 is achieved.

South Elevation
Obscure glazing and fixed screens have been provided to habitable room windows along the north elevation of the building at first floor level to a minimum of 1.7 metres from finished floor level.

The applicant has submitted overlooking diagrams to demonstrate that the fixed screen to 1.350 metres from finished floor level outside the bedroom, bathroom and balcony on the south elevation restricts views to the secluded private open space area of No. 2 Canberra Road within the parameters of standard B 22. This overlooking mechanism is acceptable.

Internal views
Given the orientation and layout of the apartments, there are no areas that will result in unreasonable internal views.

Noise impacts
The proposed apartment building is not expected to generate noise above and beyond that normally associated with a residential development.

On Site Amenity and Facilities

Dwelling Entry
A common entry to the development, with pedestrian gate and delineated pedestrian path, is clearly identifiable and is directly accessible from Canberra Road. The building has been designed to provide an appropriate sense of address. Furthermore, each dwelling is clearly identifiable from the central lobby of each level within the building.

Daylight to New Windows
All proposed windows will face outdoor spaces clear to the sky with a 3 square metre light court with a minimum dimension of 1 metre and thus allow for an adequate amount of daylight into habitable rooms.
Private Open Space

Apartments G.01 and G.02 will have secluded private open space (SPOS) areas in the form of a terrace accessed via a living room. The secluded private open space area of both of these ground floor apartments meet the numerical requirements of standard B28 requiring a minimum area of 25 square metres and a minimum dimension of 3 metres.

The secluded private open space area for apartment G.01 is located within the front setback of the site, this is considered acceptable as the proposed front fence measuring 1.945 to 2.6 metres in height will allow for some privacy to this area. In addition, this arrangement will allow the front garden character to be continued in the streetscape.

The size of the balconies to apartments 1.01, 1.02 and 2.01 meets the numerical requirements of Standard B43, requiring a minimum area of 12 square metres and a minimum dimension of 2.4 metres. The proposed private open space areas to each apartment are considered sufficient to meet the recreation and service needs of future residents and all areas can be conveniently accessed from the main living areas with some apartments featuring multiple access points.

Apartment Developments

The amenity of the apartments is deemed to be of a high standard and complies with the Objectives of Clause 55.05.

Energy efficiency in the design of the building has been considered in conjunction with Council’s Environmentally Sustainable Development Policy (Clause 22.05). All apartments benefit from dual aspect and will be able to achieve cross ventilation. Overall the apartments will offer high quality amenity with large internal areas (minimum of 136.8 sq. m at ground floor level), dual aspects, natural daylight and ventilation to each room and reasonably sized areas of private open space.

No communal open space is required by Standard B36 as the development is for less than 40 dwellings.

Deep soil planting requirements are listed at Standard B38. As the lot size is 793.2 m², the minimum deep soil requirement is 5% of the site area. It is unclear as to the percentage deep soil area on the site, however the proposal could easily achieve the deep soil requirements of Standard B38. Accordingly, a condition will be included on any permit issued requiring 'The area for deep soil planting shown on the plans and any changes that are required to the plans to comply with standard B38'.

Standard B41 seeks to ensure the design of dwellings meets the needs of people with limited mobility. Notations on plans confirm that all of the dwellings will have at least one accessible bathroom. The dimensions and layout of these bathrooms has been documented on plans and meet the Standard.

The building and apartment entries are located along the southern side of the building via a lobby with one lift core. A paved foot path extends along the south side of the apartment building, surrounded by raised planters. The development is considered to provide safe and efficient movements across the site for future occupants in accordance with Standard B42.

As required by Standard B43 (Private open space above ground level), all balconies above ground floor level are in excess of 12 square metres in area and exceed the minimum dimension of 2.4 metres.
The minimum area for a balcony within this development is 20.07sq. m within apartment 1.01, while the largest area of private open space is provided to Apartment G.02 on the ground floor level at 146.9 sq. m.

The apartments will be provided with 7.0-7.3 cubic metres of storage for each dwelling within the external basement. Storage within the dwellings themselves will also be substantial given the floor area and size of rooms within each dwelling. The storage provided is in excess of the requirements of Standard B44 (Storage objective).

A comprehensive Waste Management Plan has been provided in support of this application which provides an adequate response to Council’s waste guidelines and complies with the objectives of Standard B45 (Waste and recycling objectives).

In terms of functional layout, room depth, windows and cross ventilation standards of Clause 55.07, the new dwellings are large in size with the smallest bedrooms having dimensions of 3.09m by 3.164m. The minimum living area dimensions exceed 3.6m and 12sqm in area as specified by Standard B46.

Overall, this proposal is considered to offer high quality apartment accommodation for future occupants.

Special Building Overlay

The relevant authority for the Special Building Overlay (SBO) is Melbourne Water. Melbourne Water have confirmed that they have no objection to the proposal. Council’s Infrastructure Engineer has also reviewed the proposal and provided their general support for the development subject to the conditions outlined in the referral section of the report. Importantly, no fundamental changes to the building are required as a result of these conditions.

Water Sensitive Urban Design

The Water Sensitive Urban Design Response shows that the proposed 8,000L rainwater tank within the basement and 11.0m² of raingardens would result in a STORM rating of 101% which complies with the 100% minimum required under Clause 22.18.

Car Parking and Traffic

Car Parking Provision

Each new apartment within this development will be provided 2 car parking spaces within the basement level accessed via Canberra Road. This exceeds the statutory rate by 2 space (a total of 11 spaces) and complies with the requirements of the Stonnington Planning Scheme. One (1) visitor car parking space is required and this is shown on the plans within the basement.

Car Park Design

As detailed in the “Referrals” section of this report, there are outstanding items that need to be shown on the plans with regard to the design of the car parking layout. The items relate to the gradients of the ramp being shown on the plans. This can be addressed via a condition.
Bicycle Parking

The plans confirm that 2 bicycle spaces are to be provided at ground floor level within the front of the building. The bicycle parking provision is deemed to be acceptable. As outlined in the comments from Councils Transport department, no dimensions have been included on the plans regarding the design of the bicycle loop. Therefore a condition will be included on the permit requiring the bicycle loop to be dimensioned and designed in accordance with AS2890.3.

Objections

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

- Construction issues
  
  This is a building issue that is outside the ambit of the planning assessment.

- Site subsidence and changes to the water table

  This is a building issue that is outside the ambit of the planning assessment.

Human Rights Consideration

This application has been assessed in accordance with the requirements of the Planning and Environment Act 1987 (including the Stonnington Planning Scheme), reviewed by the State Government and which complies with the Charter of Human Rights and Responsibilities Act 2006.

CONCLUSION

Having assessed the application against the relevant planning controls, it is recommended that the proposal be supported for the following reasons:

- The three storey apartment building respects and responds to the neighbourhood character of the surrounding area and is in accordance with the objectives of State and local planning policies.
- The built form and landscaping is acceptable to the site and surrounding context.
- The development will not unreasonably impact upon adjoining amenity as determined by compliance with the Clause 55 Objectives.
- The development provides adequate parking provision at the site and can be safely accessed by vehicles.

ATTACHMENTS

1. PA - 874-18 - 4A & 4B Canberra Road Toorak - Attachment 1 of 1 Plans
RECOMMENDATION

That a Notice of Decision to Grant a Planning Permit No: 874/18 for the land located at 4A and 4B Canberra Road Toorak be issued under the Stonnington Planning Scheme for construction of a multi dwelling development in a General Residential Zone and Special Building Overlay subject to the following conditions:

1. Before the commencement of the development, one (1) electronic copy of plans drawn to scale and fully dimensioned, must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the revised plans Drawing No.s: TP08, TP10, TP11, TP12, TP13, TP14, TP15, TP16, TP17, TP18, TP19, TP20, TP22, TP23, TP24, TP30, TP31, TP32, TP33, TP34 and Council date stamped 24 May 2019 but modified to show:
   a) A section of the proposed fixed screen screening on the east and south elevation at first floor and second floor level confirming that the screen is no more than 25% transparent to comply with standard B22.
   b) Screening to the first floor balcony of Apartment 1.02 on the northern elevation to comply with standard B22.
   c) Screening to the northern side of the front balcony on the second floor to comply with standard B22 or the provision of overlooking diagrams that show no unreasonable overlooking into the private open space of the dwellings at no. 6-8 Canberra Road.
   d) The ramp designed to ensure that vehicle scraping does not occur at the entrance to the property.
   e) The area for deep soil planting shown on the plans and any changes that are required to the plans to comply with standard B38.
   f) The bicycle loop to be dimensioned and designed in accordance with AS2890.3.

All to the satisfaction of the Responsible Authority.

2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason without the prior written consent of the Responsible Authority.

3. Concurrent with the endorsement of any plans, a Sustainable Design Assessment (SDA) must be approved by the Responsible Authority. Upon approval the SDA will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the SDA to the satisfaction of the Responsible Authority. The report must be generally in accordance with the plan prepared by Ark Resources dated 23 August 2018.

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

4. The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.
5. Before the development starts, 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 prepared by Jack Merlo Landscape Architects Pty Ltd (Council date stamped 24 May and 25 May 2019) but modified to show:

a) Any changes as required by condition no. 1.

All to the satisfaction of the Responsible Authority.

6. Before the occupation of the building, the landscaping works as shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority. Landscaping at ground, first and second floor including the planter boxes must then be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

7. The existing driveway is to remain intact during construction to ensure there is no addition incursion into the Tree Protection Zone of the trees located on No. 6-8 Canberra Road.

8. Concurrent with the endorsement of plans or prior to the commencement of any works at the site (including demolition and excavation whether or not a planning permit is required), whichever occurs sooner, a letter of engagement must be provided to the Responsible Authority from the project arborist selected to oversee all relevant tree protection works. The project arborist must be an appropriately experienced and qualified professional (minimum Cert IV or equivalent in experience).

9. 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.

10. An apex to the basement at a minimum level of 12.00m A.H.D. must be provided.

11. All openings, doors, vents and windows to the basement must be at least 500mm above the abutting finished and existing surface levels to prevent the ingress of flooding associated with the SBO.

12. A clear overland flowpath at least 2.0m wide must be provided within the Eastern boundary of the property to convey flooding through and clear of the property. This overland flowpath must be clear of all obstructions.

13. The surface levels within the above overland flowpath must not be raised above the existing surface levels to ensure the flooding is not obstructed.

14. The fences across the rear (Eastern) boundary and the Eastern 2.0m section of the side fences must be timber palings or similar to ensure flooding can enter and pass through the property.
15. All fences and barriers being provided to protect the development from flooding must be a minimum of 500mm above the existing and finished surface levels of the development and the abutting footpath and right-of-way.

16. All finished floor and site levels must be in accordance with the endorsed plans.

17. Prior to an ‘Occupancy Permit’ being issued and prior to a ‘Statement of Compliance’ being issued for the subdivision, levels taken by a Licensed Land Surveyor must be provided on the finished floor levels of the dwellings and the required basement apex to show compliance with Council requirements relating to the ‘Special Building Overlay’.

18. The existing Canberra Road footpath levels must not be lowered or altered in any way at the property line (to facilitate the basement ramp).

19. The redundant vehicular crossing must be removed and the footpath, naturestrip and kerb reinstated at the owner’s cost to the satisfaction of Council.

20. Prior to a building permit being issued, a report for the legal point of discharge must be obtained from Council and a drainage design for the development must be prepared by a suitably qualified Engineer in accordance with all ‘recommendations’ and requirements contained in that report. All drainage must be by means of a gravity based system with the exception of runoff from any basement ramp and agricultural drains which may be pumped. The relevant building surveyor must check and approve the drainage design and ensure that protection of the building is provided from a 1 in 100 A.R.I. rainfall event as required by the Building Regulations.

21. Prior to an ‘Occupancy Permit’ being issued, a suitably qualified Engineer must carry out a detailed inspection of the completed stormwater drainage system and associated works including all water storage tanks and detention (if applicable) to ensure that all works has been constructed in accordance with the approved design and the relevant planning permit conditions. Certification of the completed drainage from the Engineer must be provided to Council prior to a ‘Statement of Compliance’ being issued for the subdivision.

22. Prior to the occupation of the building, fixed privacy screens (not adhesive film or timber screens) designed to limit overlooking as required by Standard B22 of Clause 55.04-6 in accordance with the endorsed plans must be installed to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

23. All plant and equipment (including air-conditioning units) shall be located or screened so as to minimise visibility from any of the surrounding footpaths and from overhead views and shall be baffled so as to minimise the emission of unreasonable noise to the environment in accordance with Section 48A of the Environment Protection Act 1970 to the satisfaction of the Responsible Authority.

24. All utility services to the subject land and buildings approved as part of this permit must be provided underground to the satisfaction of the Responsible Authority by completion of the development.
25. This permit will expire if one of the following circumstances applies:

a) The development is not started within two years of the date of this permit.

b) The development is not completed within four years of the date of this permit.

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

NOTES:

I. 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.

II. Nothing in the permit hereby issued may be construed to allow the removal of, damage to or pruning of any street tree without the further written consent of the Stonnington City Council. Contact the Council Arborists on 8290 1333 for further information.

III. 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.

IV. The owners and occupiers of the dwelling/s hereby approved are not eligible to receive “Resident Parking Permits”.

V. 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.
5. **Planning Application 0964/18 - 902 Malvern Road, Armadale - Partial Demolition, Buildings and Works to an Existing Dwelling in a Heritage Overlay**

**Acting Manager Statutory Planning:** Phillip Gul  
**General Manager Planning & Amenity:** Stuart Draffin

**PURPOSE**

For Council to consider a planning application for the partial demolition, buildings and works to a dwelling in a Heritage Overlay at 902 Malvern Road, Armadale.

**Executive Summary**

<table>
<thead>
<tr>
<th><strong>Applicant:</strong></th>
<th>tUG Workshop</th>
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<tbody>
<tr>
<td><strong>Ward:</strong></td>
<td>South</td>
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<tr>
<td><strong>Zone:</strong></td>
<td>General Residential Zone – Schedule 1</td>
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<tr>
<td><strong>Overlay:</strong></td>
<td>Heritage Overlay – Schedule 130</td>
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<tr>
<td><strong>Neighbourhood Precinct:</strong></td>
<td>Garden Suburban 1</td>
</tr>
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<td><strong>Date lodged:</strong></td>
<td>19 September 2018</td>
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<tr>
<td><strong>Statutory days:</strong></td>
<td>140 stat days</td>
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<td><strong>Trigger for referral to Council:</strong></td>
<td>Councillor call up &amp; more than 7 objections</td>
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<tr>
<td><strong>Number of objections:</strong></td>
<td>9 objections</td>
</tr>
<tr>
<td><strong>Consultative Meeting:</strong></td>
<td>Yes – held on 17 April 2019</td>
</tr>
<tr>
<td><strong>Officer Recommendation:</strong></td>
<td>Issue a Notice of Decision to Grant a Planning Permit</td>
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**BACKGROUND**

**The Proposal**

The plans that form part of the basis of Council's consideration were prepared by the Markham + Steudle / tUG Workshop, are known as File No. 964/18, TRIM Ref: 19/57886, Drawing No.s A01 through A21 Rev A, and Council date stamped 12 December 2018.

Key features of the proposal are:

- Demolition of the rear (southern side) section of the existing dwelling.
- Complete demolition of the existing garage/workshop built to the southern (rear) property boundary, fronting Derby Street.
- Construction of a ground floor addition comprising a bathroom and open plan kitchen, living and dining area to the rear of the existing dwelling. The front portion of the dwelling fronting Malvern Road will be retained. The additions will be constructed to the eastern property boundary for a length of 12.57 metres.
Construction of a first floor extension to the existing dwelling comprising a gallery/hallway, two additional bedrooms and a bathroom. Additions are proposed 10 metres from the primary building façade and are completely obscured by the retained portion of the first floor fronting Malvern Road.

The dwelling additions are architecturally designed into an almost symmetrical contemporary gable form character in a reinzinc metal cladding finish.

Construction of a double storey garage/workshop with access via Derby Street, and associated studio above. The garage will be constructed to the southern boundary at ground floor and setback a minimum of 2.18 metres at first floor.

The garage/studio comprises inclined glazing on the southern side of the upper floor (fronting Derby Street) and reinzinc metal cladding along the east, west and southern sides of the structure, to match the additions at the rear of the existing dwelling.

The dwelling additions and garage/studio area are physically connected by an undercover walkway located along the eastern property boundary.

A plunge swimming pool, deck and landscaping works are also proposed as part of the application.

Site and Surrounds

The subject site is located on the southern side of Malvern Road in Armadale. It is approximately 40 metres west of the intersection with Kooyong Road. The site is located within 600 metres of Toorak Railway Station and Beatty Avenue Local Shopping Centre. The Malvern Road tramline (No. 72) runs directly outside the frontage of the subject site.

The subject site has the following significant features:

- The site is slightly irregular in shape, has a frontage of 11 metres to Malvern Road and a depth of approximately 50 metres through to Derby Street. The site steps in approximately 2 metres on the south-eastern side. The total site area is approximately 537 square metres.

- A substantial 19th century C-graded double storey Victorian Villa currently occupies the land fronting Malvern Road.

- The existing dwelling is executed with elements of late Georgian Style (notably lacks verandah and ornamental parapet), and includes a cement render finish in grey.

- The site features a 2-meter high rendered masonry fence to Malvern Road.

- Access to the site is provided from Malvern Road. Vehicle access from Derby Street to the site’s rear to an existing single-storey dual car garage, workspace, store and washroom.

- The site includes a double width crossover from Derby Street.
The subject site is located within the Armadale Precinct (Heritage Overlay 130). The area is significant for its relatively intact collection of late nineteenth century and early twentieth century buildings. The strip on Malvern Road is predominately occupied by Victorian dwellings graded B or above. The present day character of the immediate neighbourhood inclusive of Derby Street, results from gradual subdivision of the larger blocks that originally addressed Malvern Road as a frontage, and Derby Street as rear access. The subject site appears to be the only property fronting Malvern Road and having rear access to Derby Street to survive into the present day.

The site interfaces with the adjoining properties as follows:

- To the immediate east (Malvern Road) is 906 Malvern Road, comprising an A2-graded double storey Victorian dwelling with typical features including cast iron verandah, ornamental parapet, painted render finish to front façade over brickwork. The dwelling sits on a double-fronted block with private open space between the dwelling and the subject site. Vehicle access to an open car parking space is provided on the western side of the site, from Malvern Road.

- Also to the immediate east (at the Derby Street aspect) is 8 Derby Street, comprising a double-storey semi-detached pair. The building is constructed of brown brick, with a tiled roof and ornamental parapets executed in Neo-Georgian style. The frontage to Derby Street is occupied predominately with a crossover and garage at street level and a slightly setback second storey.

- To the immediate west (Malvern Road) is 900 Malvern Road, comprising a B-graded double-storey freestanding Victorian Villa. The dwelling has a painted cement render finish with ornamental parapets. Some additions at ground level include a garage structure occupying the eastern property boundary with the subject site.

- Also to the west (Derby Street) is 14 Derby Street, a recent medium density development created from subdividing the rear of 900 Malvern Road. The site includes a double storey, cream painted masonry dwelling with flat roof. The frontage to Derby Street is predominately occupied by a garage with minimal setbacks to the street. The upper storey protrudes forward of the adjoining dwellings to the west at No. 18 and No. 20 Derby Street.

Previous Planning Application(s)

A search of Council records indicates the following relevant planning history.

- Planning Permit No. 339/15 issued on 19 May 2015 and allowed for buildings and works to a dwelling on a lot within a Heritage Overlay. More specifically the buildings and works included the following:
  - The re-rendering of the north and western elevations of the building, both of which are visible from the street.
  - The re-rendering of the front fence in the same style as the building and same colour as the window elements.
  - The replacement of ‘dilapidated’ timber double hung windows and timber shitters with new windows of the same style and a colour matching the fence.
  - The front door to be replaced and side lights on the front door to be ‘reinstated’.
  - Bluestone window sills to be ‘reinstated’.
Planning Permit No. 339/15 was acted on.

The Title

The site is described on Certificate of Title Volume 04728 Folio 409 on Title Plan 745366M.

No covenants or easements affect the land.

Planning Controls

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

Zone

Clause 32.08 – General Residential Zone (Schedule 1)

Pursuant to Clause 32.08-5, a planning permit is required to construct or extend one dwelling on a lot less than 500 square metres. Given that the subject site is approximately 537 square metres in size, a permit is not required under the zone.

Pursuant to Clause 32.08-4, a lot above 400 square metres must provide minimum garden area. Given the subject site is 537 square metres, this requires a minimum garden area of 30% of the lot (158.5 square metres). The proposal includes a garden area of 51.1% (276.5 square metres) and therefore complies with the garden area requirement.

Overlays

Clause 43.01 – Heritage Overlay

Pursuant to Clause 43.01-1, a planning permit is required to demolish or remove a building. The Heritage Overlay also requires a planning permit to construct a building or construct or carry out works.

Relevant Planning Policies

Clause 15 Built Environment and Heritage
Clause 21.06 Reference Document (Heritage Guidelines & Heritage Overlay Citations)
Clause 22.04 Heritage Policy
Clause 43.01 Heritage Overlay
Clause 65 Decision Guidelines

Advertising

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

The site is located in South Ward and objections from nine different properties have been received which can be summarised as follows:

- Side setbacks along the western side;
- Overshadowing;
- Overlooking;
- Street setbacks from Derby Street;
• Integration with Derby Street;
• Built form bulk;
• Air conditioning unit and pool mechanical equipment; and
• Concerns that the studio will be used as a second dwelling.

A Consultative Meeting was held on 17 April 2019. The meeting was attended by Councillors Hindle and Stefanopoulos, a representative of the applicant, objectors and two Council Planning Officers. The meeting did not result in any changes to the plans.

Referrals

Heritage

The application was reviewed by Council’s Heritage Advisor and the following comments were provided:

• The proposed double storey addition is located at the rear of the existing dwelling, and will have a negligible impact to the Malvern Road streetscape.

• The double storey garage fronting Derby Street adopts a similar form to neighbouring dwellings, will sit comfortably within the streetscape and is supported from a heritage perspective.

• Overall, the proposed scheme is sympathetic to the heritage building and the broader heritage precinct and is supported in its current form.

KEY ISSUES

Heritage

A planning permit is only required under the Heritage Overlay, therefore consideration of the application is limited to the impact of the proposal with regards to heritage place and precinct.

The heritage place is graded C and therefore is defined in Clause 22.04-2 as a ‘contributory place’.

With respect to additions and alterations in residential areas, Clause 22.04-4 of Council’s Heritage Policy states that the following apply to the proposed demolition of ‘contributory’ buildings:

• Discourage demolition or partial demolition of contributory buildings unless it can be demonstrated that:
  o The demolition will not adversely affect the significance of the heritage precinct.
  o The replacement development is sympathetic to the scale, setback and significance of the heritage precinct.

New alterations and additions in all areas should:

• Retain and conserve the primary building volume and significant building fabric.
• Are set back behind the primary building volume.
• Respect the built form character of the place including but not limited to scale, form, height, street wall, siting and setbacks.
• Adopt a visually recessive design where the heritage place remains the dominant visual element.
• Are readily identifiable as new works while respecting and having minimal impact on the significance of the heritage place.
• Complement the materials, detailing and finishes and paint colours of the heritage place.
• Avoid new openings in the primary building volume and significant building fabric.

Demolition

As confirmed by Council’s Heritage Advisor, the extent of demolition is considered to be acceptable and is in accordance with Council’s Heritage Policy at Clause 22.04 of the Stonnington Planning Scheme. The partial demolition of the existing dwelling has been carefully considered by the applicant to ensure the original form of the dwelling’s frontage is retained. The proposed works are limited to the rear of the existing dwelling and the proposal retains the two front rooms (some 10 metres) of the dwelling.

The demolition of the proposed garage to the rear of the lot (fronting Derby Street) is not considered to affect the significance of the heritage place or precinct.

Buildings and Works

The proposed two-storey additions to the dwelling are setback 10 metres from the primary building façade of the dwelling and approximately 17 metres from the northern property boundary (Malvern Road). The proposed additions are proposed at a lower height to that of the existing dwelling, retain similar setbacks at first floor to the existing dwelling and will be completely obscured from the Malvern Road frontage.

While the proposed double storey garage/studio will be readily visible from the Derby Street frontage, it is considered that the streetscape will be largely improved from its existing condition. The double storey built form will integrate with the substantial neighbouring properties on the street, consisting of double-storey built form with minimum front setbacks.

It is considered that the new additions to heritage buildings can be supported where they are sympathetically integrated to provide clear delineation between the old and the new fabric. The proposal uses distinctly modern materials and architectural forms to both the dwelling extension and the garage/studio. Whilst the proposed zinc cladding and inclined glazing differ to the existing materials on the site, they can be supported for providing a separate and modern approach which can easily be distinguished from the existing house, without interrupting the presentation of the property to the precinct. Overall, the additions are not considered to dominant or detract from the original heritage place of wider precinct.

The significance of Heritage Overlay 130 is derived from the Malvern Road streetscape, however it is noted that Derby Street also contributes to the heritage precinct. Derby Street is significant in its own right and as such it is considered that the proposed garage/studio should be setback 1 meter off the southern property boundary to better integrate with the existing setbacks of the adjoining properties.

Water Sensitive Urban Design – Clause 22.18

The Water Sensitive Urban Design response submitted in response to Clause 22.18 details a storm rating of 102%
The stormwater treatment method proposed is one raingarden with a total area of 8.8m² and two rainwater tanks with capacities of 5,500 and 3,000 litres. The location of the rainwater tanks and the raingarden are required to be shown on the site plans. This will be requested by way of conditions on any permit to issue. A condition will also require a cross-section of the proposed raingarden to be submitted.

This satisfactorily addresses Council’s WSUD Policy.

Objections

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

- **Side setbacks/overshadowing/overlooking** – it is noted that the permit trigger relates to the Heritage Overlay only. Those matters ordinarily considered via Clause 54 (ResCode) such as side setbacks, overlooking and overshadowing are not triggered in this instance and do not form part of the assessment against the heritage policy. Matters such as building siting will be considered as part of the building permit application, and a permit note will be included to this effect.

- **Street setback** – concerns have been raised from neighbouring properties with regards to the street setbacks from Derby Street. While an assessment against such matters are not required in this instance by the Heritage Overlay or policy, it should be noted that the proposed garage is to replace the existing garage/workspace with no alterations to the street setbacks. The first floor of the studio is located a distance of two metres from the front boundary and is in line with the first floor of No. 8 Derby Street and ground floor of No. 14 Derby Street.

- **Built form bulk** – the proposal presents a modern and recessive architectural design. It is considered that the double storey built form to the dwelling and the garage/studio is in keeping with the character and appearance of the adjoining buildings and heritage place.

- **Air conditioning unit and pool mechanical equipment** – a planning permit is not required for services normal to a dwelling (including air conditioning units) and the construction of a swimming pool and associated mechanical/safety equipment. As such these are not a consideration under the Heritage Overlay, in this instance.

- **Integration with Derby Street** – concerns have been raised with regards to the presentation of the double storey garage/studio fronting Derby Street. At ground level the proposed garage is set hard on the southern property boundary as per the existing garage. At first floor, the proposed studio is setback a minimum of 2.1 metres at the top of the ridge from the Derby Street and in line with the façade of the upper storey of No. 8 Derby Street. It is considered that the proposed addition to Derby Street will suitably integrate with the double storey built form that already exists on the street. The lots directly adjoining the subject site along Derby Street are characterised by wide crossovers, dwelling entrances located to the side and double storey built form within close proximity to the property boundaries. It is considered that the built form of the garage/studio emulates the existing character of Derby Street.

In order to remedy the concerns of the objectors, a condition will be placed on the permit to issue, requesting the building fronting Derby Street to be setback at least one meter from the southern property boundary.
Second Dwelling – concerns have been raised with regards to the use of the proposed double storey garage/studio fronting Derby Street. Pursuant to Clause 74 (Land Use Terms) of the Stonnington Planning Scheme, a dwelling is defined as:

A building used as a self-contained residence which must include:

i) A kitchen sink;
ii) Food preparations facilities;
iii) A bath/shower; and
iv) A closet pan and wash basin.

It includes out-buildings and works normal to a dwelling.

While the proposal includes all the elements of a ‘dwelling’ as specified in Clause 74, it should be noted that this definition cannot capture all scenarios in which an additional building meets the requirements of a ‘dwelling’. A ‘dwelling’ use should not automatically be assumed by the mere presence of the four elements outlined above. This view was recently accepted by the Tribunal in Riley & Bosevski v Stonnington CC [2014] VCAT 327 at [29] where VCAT Member Code states “A building or part of a building that includes the four physical elements is not necessarily a dwelling. It is necessary that the building or part be ‘used’ as a ‘self-contained residence’.

A ‘self-contained residence’ is not defined in the Planning Scheme, however its ordinary meaning and in relation to accommodation, the term means having a ‘kitchen, bathroom and lavatory [and] not necessitating sharing’ (Riley & Bosevski v Stonnington CC [2014] at [31]). Previous Tribunal decisions held factors such as ‘street address, floor area and nature of kitchen facilities’ as factors relevant to whether a residence was self-contained.

The garage/studio building is largely detached from the main part of the dwelling. It is separated by a private open space area and a swimming pool. However there is an undercover walkway, running along the eastern property boundary, between the main dwelling and the garage/studio building. It is unreasonable to assume the proposed garage and studio will be used as a second dwelling, particularly when the buildings are physically connected by this walkway.

The existing conditions of the site provide a car parking arrangement in a rear building fronting Derby Street to service the main dwelling. In the proposed scheme, the existing dwelling will continue to benefit from a similar parking scenario. No alternative parking arrangement has been provided for the main dwelling, should the proposed building become a second dwelling. The proposed garage will continue to service the residents of the main dwelling.

Assessing whether the proposal constitutes a second dwelling also comes down to the intent of the owner to use it as such. It should be noted that the purpose of this building has been made clear to Council on a number of occasions and that it will not serve as a second dwelling. The purpose of this building is to safely house two cars and to provide for a workshop/storage space at ground floor. The first floor will be used as a tandem hobby space/home office and can also act as a guest suite for guests of the residents of the main dwelling.

While Council Officers are satisfied that the building will not act as a second dwelling, in order to remedy the concerns raised by objectors, a condition will be placed on the permit to issue restricting the use to a habitable outbuilding.
Human Rights Consideration

This application has been assessed in accordance with the requirements of the Planning and Environment Act 1987 (including the Stonnington Planning Scheme), reviewed by the State Government and which complies with the Charter of Human Rights and Responsibilities Act 2006.

CONCLUSION

Having assessed the application against the relevant planning controls, it is recommended that the proposal be supported for the following reasons:

- The proposed additions are appropriate in the context of the broader heritage precinct.

ATTACHMENTS

1. PA - 964-18 - 902 Malvern Road Armadale - Attachment 1 of 1 Plans

RECOMMENDATION

That a Notice of Decision to Grant a Planning Permit No. 964/18 for the land located at 902 Malvern Road, Armadale be issued under the Stonnington Planning Scheme for the partial demolition, buildings and works to a dwelling on a lot within a Heritage Overlay, 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 date stamped 12 December 2018 but modified to show:

   a) Setback the proposed ground floor of the garage/studio building by at least one meter from the southern property boundary.

   b) Amended Site Plan showing the location of proposed stormwater treatment measures, and the location and area (square metres) of impermeable surfaces that drain to each treatment measure.

   c) A Roof Catchment Plan to be submitted, accurately showing the details of stormwater catchment, the stormwater treatment measures and their locations.

   d) Cross-sectional diagram of the proposed raingarden.

   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. The garage/studio building must not be used as a second dwelling or a workshop for business, or commercial purposes, except in accordance with the home occupation provisions of the Planning Scheme.
4. The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.

5. Prior to the occupation of the building, the walls on boundary of the adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.

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

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

NOTES

I. 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.

II. This property is located in a Heritage Overlay and planning permission may be required to demolish or otherwise externally alter any existing structures. External alterations include paint removal and any other forms of decoration and works, but does not include re-painting an already painted surface.

III. This permit application was not assessed against the provisions of Clause 54 – One Dwelling on a Lot (ResCode) of the Stonnington Planning Scheme. As such, it is the responsibility of the applicant/owner to appoint a Registered Building Surveyor to determine compliance of the endorsed plans associated with the issue of this Planning Permit against Part 4 of the Building Regulations 2006. Non-compliance with any Regulation will require dispensation from Council's Building Control Services Department.

IV. 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.
6. **PLANNING APPLICATION 0004/19 - 3 ASHE GROVE, TOORAK - EXTENSION OF TWO DWELLINGS ON A LOT WITHIN A GENERAL RESIDENTIAL ZONE**

**Acting Manager Statutory Planning: Phillip Gul**  
**General Manager Planning & Amenity: Stuart Draffin**

**PURPOSE**

For Council to consider a planning application for an extension of two dwellings on a lot within a General Residential Zone at 3 Ashe Grove, Toorak.

**Executive Summary**

<table>
<thead>
<tr>
<th>Applicant:</th>
<th>Paula Hanley Building Designer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ward:</td>
<td>North</td>
</tr>
<tr>
<td>Zone:</td>
<td>General Residential Zone – Schedule 10</td>
</tr>
<tr>
<td>Overlay:</td>
<td>None</td>
</tr>
<tr>
<td>Neighbourhood Precinct:</td>
<td>Garden Suburban 1</td>
</tr>
<tr>
<td>Date lodged:</td>
<td>07 January 2019</td>
</tr>
<tr>
<td>Statutory days: (as at council meeting date)</td>
<td>69</td>
</tr>
<tr>
<td>Trigger for referral to Council:</td>
<td>Councillor Call Up</td>
</tr>
<tr>
<td>Number of objections:</td>
<td>Two (2)</td>
</tr>
<tr>
<td>Consultative Meeting:</td>
<td>Yes – held on 1 May 2019</td>
</tr>
<tr>
<td>Officer Recommendation:</td>
<td>Notice of Decision to Grant a Planning Permit</td>
</tr>
</tbody>
</table>

**BACKGROUND**

**The Proposal**

The plans that form part of the basis of Council's consideration were prepared by Paula Hanley Building Designer and are known as Drawing No's: 1804-P01B, 1804-P02B, 1804-P03B, 1804-P04B, 1804-P05B, 1804-P06B and 1804-P07B and Council date stamped 26 March 2019.

The application seeks to construct a ground floor addition at the rear and deck to the first floor.

The ground floor addition will comprise of:
- A 3.9m extension to the rear, with a total area of 35 square metres, for the purpose of a larger dining/living space.
- Brick walls on the east and west and two sets of sliding glass doors to the south.
- A side setback of 1.43m to the western boundary and 1.2m from the eastern boundary.
- Sliding doors will have direct access to the rear private open space and deck.
- Minor internal reconfigurations to create an open plan living, dining and kitchen area.
The first floor deck will comprise of:

- A total area of 13 square metres to the rear.
- Timber construction.
- Direct access from the kitchen.
- Three steps, increasing in height by 0.5m from the east (service deck) to the west side (upper deck).
- Screening to 1.7m above the floor level along the western and southern edge and to 2.2m in part and 1.5m along the eastern interface.
- Screening in accordance with ResCode requirements with a maximum transparency of 25% constructed of vertical stained timber battens.

The plans, Council date stamped 26 March 2019, were formally submitted to Council as revised application plans to address objector concerns regarding the extent of overshadowing to the adjoining property at 2 Ashe Grove. The plans showed the following changes:

- Height of the west wall and part of the south wall of the proposed addition has been reduced from 3.63m to 3.43m.
- Reduction in the area of the upper deck. The deck is setback 3.26m from the western boundary.
- Configuration of the existing chimney has been corrected.
- Shadow diagrams amended to reflect amended proposal.

**Site and Surrounds**

The subject site is located on the southern side of Ashe Grove, immediately to the north of the railway line and approximately 100m east from Williams Road. The site comprises two units, Unit 1 on the ground floor and unit 2 on the first floor. The site has the following significant characteristics:

- The subject site has a frontage of approximately 11.52m to Ashe Grove, and a depth of approximately 28.03m along the western boundary and approximately 31.70m on the eastern boundary.
- The site has a total area of approximately 344qm.
- The subject site features a slight slope of approximately 1m from the southern boundary to the northern boundary of the site.
- The site is occupied by a double storey brick building with a two bedroom unit on the ground and another two bedroom unit on the first floor, with a pitch tiled roof and rendered north facing balconies.
- There is an existing double crossover to Ashe Grove and concrete driveway at the front of the property.
- At the rear of the building there is an external laundry/store and stair access to the first floor unit.
- The private open space for the ground and first floor unit is located at the rear and includes established trees.
- The two properties to the east of the subject site, 4 and 5 Ashe Grove, these sites are also occupied by double storey townhouse units, comprising of a ground and first floor unit. The buildings are of the same architectural style as the subject site with paved driveway and garages at the rear.
- To the west, at 2 Ashe Grove, is a double storey modern rendered dwelling.
- The wider area primarily comprises of single and double storey dwellings.
- Immediately to the south of the subject site is the Public Use Zone for the railway line.
Previous Planning Application(s)

A search of Council records indicates the following relevant planning applications;
- Planning application 157/11 was refused on 24 November 2011 for construction of a new dwelling on a lot less than 500 square metres. The proposal was for a 3 storey dwelling over a basement carpark. An appeal was lodged with VCAT and the application was subsequently refused by VCAT on 22 May 2012 Citation: Vaatsu Pty Ltd V Stonnington CC [2012] VCAT 667 (22 May 2012).

The Title

The site is described on Certificate of Title Volume 6602 Folio 396 / Lot 1 on TP631436D and no covenants or easements affect the land.

Planning Controls

Zone:
Clause 32.08 – General Residential Zone
Pursuant to Clause 32.08-6 a permit is required to construct or extend two or more dwellings on a lot. A development must meet the requirements of Clause 55.

Pursuant to Clause 32.08-4 the minimum garden area requirement is not applicable to this application as the site has an area of less than 400sqm.

Schedule 10 – Garden River and Garden Suburban Precincts applies to the site. The ResCode variations of schedule 10 are:

<table>
<thead>
<tr>
<th>Standard</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site coverage</td>
<td>B8 Basements should not exceed 75% of the site area.</td>
</tr>
<tr>
<td>Landscaping</td>
<td>B13 In addition to the requirements of B13, at least one canopy tree should be planted on the site.</td>
</tr>
<tr>
<td>Side and rear setbacks</td>
<td>B17 For a distance of at least 5 metres behind the front facade of the building fronting the street, setback new buildings (including basements) a minimum of 2 metres from at least one side boundary and at least 1 metre from the other side boundary up to 3.6 metres in height. Where no setback is specified, standard A10 or B17 applies.</td>
</tr>
<tr>
<td>Walls on boundaries</td>
<td>B18 Walls should not be located on side boundaries for a distance of 5 metres behind the front façade of the building fronting the street.</td>
</tr>
</tbody>
</table>

Pursuant to item 3.0 of Schedule 10 to the zone, a dwelling must not exceed a height of 9 metres unless the slope of the natural ground level at any cross section wider than 8 metres of the site of the building is 2.5 degrees or more, in which case the height of the building must not exceed 10 metres.

Pursuant to item 4.0 of Schedule 10 to the General Residential Zone, an application must include plans showing existing vegetation and any trees to be remove and plans shoeing proposed landscaping works and planting.

Overlays:
No overlays affect the subject site.

Particular Provisions:
Clause 55 – Two or more Dwellings on a lot and Residential Buildings
Relevant Planning Policies

Clause 15  Built Environment and Heritage
Clause 16  Housing
Clause 21.06  Built Environment and Heritage
Clause 22.23  Neighbourhood Character Policy
Clause 32.08  General Residential Zone
Clause 55  Two or more Dwellings on a lot and Residential Buildings
Clause 65  Decision Guidelines

Advertising

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

The site is located in North Ward and objections from two different properties have been received. The concerns raised in the objections were:

- Building over the common sewerage drain.
- Overshadowing.
- Amenity impacts due to the height, setbacks and location of the proposed deck.
- Overlooking.

In response to the objector concerns on the 26 March 2019 the applicant formally submitted a Section 57A amendment to the plans after the notice period. The amendment made a number of changes which considerably reduced the overshadowing to the adjoining property to the west of the subject site at No. 2 Ashe Grove. The objectors were advised that amended plans were available on the ePlanning Portal in correspondence dated 11 April 2019 prior to the Consultative Meeting.

A Consultative Meeting was held on 1 May 2019. The meeting was attended by Councillors Chandler, Griffin and Koce, representatives of the applicant, objectors and Council planning officers. The meeting did not result in any further changes to the plans.

Referrals

Given the nature of the proposal, no referrals were deemed necessary.

KEY ISSUES

Neighbourhood Character
The subject site is located within the Garden Suburban 1 precinct of the Neighbourhood Character Policy under Clause 22.23. The following statement of preferred neighbourhood character for the precinct is:

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

The relevant design objective for the precinct are:

- To ensure new buildings and extensions do not dominate the streetscape.
- To maintain and reinforce the rhythm of spacing between and around buildings.

The proposed extension to the rear is in keeping with the character of the area as the frontage of the dwelling is maintained. There is minimal change to the built form and massing of the dwelling. The proposed extension is appropriately setback from the boundaries and will maintain the spacing of the building as well maintaining the garden setting of the neighbourhood. The proposed extension will not be visible from the street and will integrate with the existing dwelling and neighbourhood character of the wider area.

**Built Form**

*Street setback*
No changes are proposed to the orientation or setback of the dwelling from the street.

*Building Height*
The overall building height is not proposed to be altered as part of the proposal. The current dwelling has a maximum height of 8.8m, which is less than the allowable 9m. The height of the proposed addition is 5.33m, complying with Standard B7.

*Site Coverage*
The maximum allowable site coverage under Standard B8 is 60% of the site covered by building. The proposal has approximately 42.7% site coverage, complying with the requirement.

*Permeability*
The site is to have a minimum of 20% permeable surfaces under Standard B9, the proposal has approximately 25% pervious surfaces, complying with the requirement.

**Amenity Impacts**

*Side and Rear Setbacks*
The proposed side setbacks of the addition are outlined in the tables below:
East

<table>
<thead>
<tr>
<th></th>
<th>Height</th>
<th>Required setback</th>
<th>Proposed Setback</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground floor</td>
<td>3.17m</td>
<td>1m</td>
<td>1.2m</td>
</tr>
<tr>
<td>First floor (part)</td>
<td>5.37m</td>
<td>1.531m</td>
<td>1.54m</td>
</tr>
<tr>
<td>First floor (part)</td>
<td>4.67m</td>
<td>1.321m</td>
<td>1.54m</td>
</tr>
</tbody>
</table>

West

<table>
<thead>
<tr>
<th></th>
<th>Height</th>
<th>Required setback</th>
<th>Proposed Setback</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground floor</td>
<td>3.43m</td>
<td>1m</td>
<td>1.43m</td>
</tr>
<tr>
<td>First floor</td>
<td>5.33m</td>
<td>1.519m</td>
<td>3.26m</td>
</tr>
</tbody>
</table>

The above tables demonstrate that all proposed setbacks of the proposed ground floor addition and first floor deck comply with Standard B17.

**Overshadowing**

The proposal meets the objectives of Clause 54.04-5 which is to ensure buildings do not unreasonably overshadow existing secluded private open space. The majority of shadows cast by the proposal fall within the shadows of the existing buildings and fence lines. The proposal results in approximately 5sqm of additional overshadowing at 3pm to 4 Ashe Grove, to the east of the subject site, and approximately 8sqm of overshadowing at 9am to 2 Ashe Grove, to the west of the subject site.

At 4 Ashe Grove there is approximately 120sqm of open space, however the majority of this space is occupied by a concrete driveway which provides access to the garage and parking for the residents of the units. There is a small area of garden and useable open space at the south and south-western corner of the lot.

Below is an assessment of the proposed overshadowing as per the submitted plans, Council date Stamp 26 March 2019.

<table>
<thead>
<tr>
<th>Time of Day</th>
<th>Existing area sunlight received (approximate)</th>
<th>Proposed area sunlight received (approximate)</th>
</tr>
</thead>
<tbody>
<tr>
<td>9am</td>
<td>51sqm</td>
<td>51sqm (no change)</td>
</tr>
<tr>
<td>10am</td>
<td>53sqm</td>
<td>53sqm (no change)</td>
</tr>
<tr>
<td>11am</td>
<td>52sqm</td>
<td>52sqm (no change)</td>
</tr>
<tr>
<td>12pm</td>
<td>54sqm</td>
<td>54sqm (no change)</td>
</tr>
<tr>
<td>1pm</td>
<td>54sqm</td>
<td>54sqm (no change)</td>
</tr>
<tr>
<td>2pm</td>
<td>50sqm</td>
<td>50sqm (no change)</td>
</tr>
<tr>
<td>3pm</td>
<td>38sqm</td>
<td>33sqm (-5sqm)</td>
</tr>
</tbody>
</table>

The additional 5sqm of overshadowing to 4 Ashe Grove at 3pm is not considered unreasonable as the area affected by shadowing is the driveway/parking area for the units. The additional shadow is considered a minimal acceptable change to the existing conditions, which will not adversely impact the amenity of the dwellings.

At 2 Ashe Grove there is approximately 116sqm of private open space at the rear of the dwelling, a north facing balcony on the first floor at the front of the property with an area of approximately 10sqm and a west facing deck/balcony on the first floor with an area of approximately 15sqm. Below is an assessment of the proposed overshadowing as per the submitted plans, Council date Stamp 26 March 2019.
<table>
<thead>
<tr>
<th>Time of Day</th>
<th>Existing area sunlight received (approximate)</th>
<th>Proposed area sunlight received (approximate)</th>
</tr>
</thead>
<tbody>
<tr>
<td>9am</td>
<td>37sqm</td>
<td>29sqm (-8sqm)</td>
</tr>
<tr>
<td>10am</td>
<td>28sqm</td>
<td>28sqm (no change)</td>
</tr>
<tr>
<td>11am</td>
<td>28sqm</td>
<td>28sqm (no change)</td>
</tr>
<tr>
<td>12pm</td>
<td>44sqm</td>
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<tr>
<td>1pm</td>
<td>43sqm</td>
<td>43sqm (no change)</td>
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<tr>
<td>2pm</td>
<td>56sqm</td>
<td>56sqm (no change)</td>
</tr>
<tr>
<td>3pm</td>
<td>65sqm</td>
<td>65sqm (no change)</td>
</tr>
</tbody>
</table>

The proposal results in approximately 8sqm of additional shadowing to the rear private open space at 2 Ashe Grove. The existing conditions of 2 Ashe Grove do not provide the required 5 hours of sunlight to 40sqm with a minimum dimension of 3m of the private open space as per Standard B21. This is due to the north-south orientation of the lot, the open space being located at the south of the lot and the existing siting and bulk of the dwelling.

The minor area of overshadowing as a result of the proposal is considered to meet the objectives of Clause 54.04-5 and relevant decision guidelines, as discussed below:

- The applicant has made significant changes to the design response after advertising to reduce the impacts of the proposal on the solar access to 2 Ashe Grove.
- It is considered that 8sqm of additional overshadowing at 9am will not adversely impact the amenity of the existing dwelling.
- The sunlight penetration to the secluded private open space of the existing dwelling is already compromised by the orientation of the lot, location of the private open space and design of the existing dwelling at 2 Ashe Grove.
- The open space has reasonable sunlight access from 12pm onwards and there is no additional overshadowing as a result of the proposal after 10am.
- The dwelling has additional areas of open space on the first floor that provide additional areas for sunlight penetration. It is considered that the rear garden, with an area of approximately 116sqm, in conjunction with the first floor deck, with an area of approximately 15sqm, provide the dwelling with ample areas of open space with access to sunlight.

It is considered that the minor areas of additional overshadowing as a result of the proposal is not unreasonable for the reasons outlined above and is acceptable for the site context.

**Overlooking**

Any potential overlooking from the first floor balcony has been screened in accordance with Standard B22. The proposed deck area has been screened to 1.7m high on the southern and western interface. The eastern interface is screened to 1.5m and 2.2m. It is considered that there is no potential for overlooking into neighbouring habitable rooms from the section of the deck that is proposed to be screened to 1.5m as this section of the deck has limited views to the external stairwell and driveway at 4 Ashe Grove. There is no potential for overlooking from the rear ground floor windows and deck as the floor levels are less than 0.8m above ground level and paling fence on the eastern boundary has a height of 1.9m and the western boundary 1.8m, complying with Standard B22.

**Landscaping**

A landscape plan was not deemed necessary for this application as the proposed extension is minor in nature and all the large trees at the rear of the property are proposed to be retained.
Internal Amenity

The proposed ground floor addition and first floor deck are considered to improve the amenity of both units. The ground floor will benefit from an open plan living, dining and kitchen area with large south facing windows for daylight access. Whilst the first floor unit will obtain additional private open space.

Water Sensitive Urban Design

Pursuant to Clause 22.18 Stormwater Management applies to extensions to existing buildings 50 square metre in floor area or greater. The proposed extension is less than 50sqm, therefore a water sensitive urban design response is not required.

Objections

In response to the grounds of objection not already discussed in the report, the following comments are made:
• Building over the common sewerage drain – this matter was referred to Council’s Infrastructure Department for comment. They advised that the sewers are outside the jurisdiction of Council. The applicant sought further advice on the matter from South East Water who advised that they do not have jurisdiction over the sewer as it is an internal property drain. South East Water referred the applicant to the Victorian Building Authority who advised that it is allowable to build over a combined drain as long as the drain conforms with the requirements of AS/NZS 3500.2. As the sewer is not affected by an easement on title no further investigations were made and it is considered that the matter will be resolved during the Building Permit stage.

Human Rights Consideration

This application has been assessed in accordance with the requirements of the Planning and Environment Act 1987 (including the Stonnington Planning Scheme), reviewed by the State Government and which complies with the Charter of Human Rights and Responsibilities Act 2006.

CONCLUSION

Having assessed the application against the relevant planning controls, it is recommended that the proposal be supported for the following reasons:
• The proposal will not result in any unreasonable amenity impacts on the adjoining properties and the proposal complies with all relevant objectives of Clause 55.

ATTACHMENTS

1. PA - 4-19 - 3 Ashe Grove Toorak - Attachment 1 of 1 Plans
RECOMMENDATION

That a Notice of Decision to Grant a Planning Permit No: 0004/19 for the land located at 3 Ashe Grove Toorak be issued under the Stonnington Planning Scheme for extension of two dwellings on a lot within a General Residential Zone subject to the following conditions:

1. 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.

2. Prior to the occupation of the building, fixed privacy screens (not adhesive film) designed to limit overlooking as required by B22 of Clause 55.04-6 in accordance with the endorsed plans must be installed to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

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

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

NOTES

I. 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.

II. 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.

III. 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.
7. **PLANNING APPLICATION 0811/18 - 1 CLAREMONT AVENUE, MALVERN - PART DEMOLITION OF THE EXISTING BUILDING, AND SUBSEQUENT CONSTRUCTION OF A FOUR STOREY DWELLING BEHIND WITH AT-GRADE CAR PARKING**

**Acting Manager Statutory Planning:** Phillip Gul  
**General Manager Planning & Amenity:** Stuart Draffin

**PURPOSE**

For Council to consider a planning application for part demolition, buildings and works to an existing building (office) and construction of a dwelling (both as of right) in a Commercial 1 Zone, Design and Development Overlay (Schedule 19), Heritage Overlay (Schedule 349), Special Building Overlay and a reduction in car parking requirements at 1 Claremont Avenue, Malvern.

**Executive Summary**

- **Applicant:** Catt Architects  
- **Ward:** South  
- **Zone:** Commercial 1 Zone  
- **Overlay:** Heritage Overlay (Schedule 349)  
  Design and Development Overlay (Schedule 19)  
  Special Building Overlay (Stonnington)  
- **Date lodged:** 02 August 2018  
- **Statutory days:** (as at council meeting date) 39 days (Application amended on 17 May 2019)  
- **Trigger for referral to Council:** Four storeys  
- **Number of objections:** Two  
- **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 Catt Architects and are known as Reference No. 211841 Drawing No’s: TP01 Rev A, TP02 Rev A, TP03 Rev A, TP03a, TP04 Rev A, TP05 Rev D, TP06 Rev A, TP07 Rev D, TP08 Rev D, TP09, TP10, TP11 and TP12 Rev B and Council date stamped 12 November 2018 and 17 May 2019.

A Policy Response Report, Council date stamped 12 November 2018 was also submitted with the application material.

Key features of the proposal are:
To the original built form:

- Demolition of the existing reception and surgery 2 at ground floor and room 3 at first floor level. These rooms are located to the rear of the existing building on-site.
- Awnings and render to ground floor north and west façades to be removed.
- Restoration of windows and door mouldings to the existing ground floor waiting room windows and door to match original detailing.
- Internal re-arrangement of existing office building layout to three offices at ground floor level and two offices at first floor level with bathroom facilities.

New built form:

- Construction of a four storey addition to the rear of the existing building for the purpose of one dwelling. The breakdown of each floor is outlined as follows:
  - The ground floor is to consist of the residential entry lobby with lift and staircase and two at-grade car parking spaces both accessed from Chandlers Road.
  - The first floor will contain two bedrooms, study and bathroom.
  - The second floor will feature the primary living accommodation including a kitchen and meals area and TV room. A laundry, bathroom and north facing balcony with an area of 14 square metres are also provided on this floor.
  - The third floor features a third bedroom with access to a roof deck with an area of 28 square metres.
- The building is to be a modern contemporary addition, clearly delineated from the original built form. The principle façade of this addition will present to Chandlers Road and consists of a rendered and glazed façade with the junction between the original building and the proposed addition being finished in dark grey aluminium cladding. The fourth floor level is also proposed to be treated with this cladding.
- The maximum building height of the additional built form will be 13.25 metres, stepping down to 10.21 metres and 6.84 metres at second and first floor levels adjacent to the rear laneway and residential properties in the Neighbourhood Residential Zone to the north.

The development plans for the basis of this assessment are the amended plans (date stamped 17 May 2019). These plans supersede the advertised plans (date stamped November 2018). The revised plans were submitted to respond to concerns raised by Council and involve the following key changes:

- Revision to the car parking layout to provide one enclosed space and one under-croft car parking space. These are provided to the rear of the property and accessed from Chandlers Road.
- There is a net reduction of three car parking spaces from that originally advertised. A total of two car parking spaces are proposed as part of the amended proposal.

Site and Surrounds

The site is located on the north east corner of the intersection with Claremont Avenue and Chandlers Road and diagonally opposite the road intersection with Station Street. The site is located within the wider Glenferrie Road/High Street Activity Centre and Heritage Precinct (Heritage Overlay 349). Claremont Avenue Heritage Precinct (Heritage Overlay 156) abuts the site to the north.
The site has the following significant characteristics:

- The site is rectangular in shape, has a frontage to Claremont Avenue of 5.49 metres, a frontage to Chandlers Road of 34.39 metres, and a total site area of approximately 190 square metres.
- The site is affected by a moderate slope from the south-east corner to the north-west corner to the south-east corner. The north-west corner of the site sits approximately 1 metre lower than the south-eastern corner.
- The site is currently occupied by a double storey building, last used as an office / dental practitioner until 2018. The existing building fronts Claremont Avenue and stands to a height of 9.34 metres (to the top of the parapet) with a hipped roof form and chimney behind. A splayed corner provides the primary entry to the property with a ceremonial masonry stone inscribed with “Cunningham Estate Agent & Co”. The construction year “1891” is mounted above the inscribed stone. To Chandlers Road, the building is constructed to the western title boundary for 11.5 metres before returning approximately 1.2 metres to provide a setback to the rear two rooms which are proposed to be demolished. These rooms adopt a more modest architectural expression to the streetscape and step down in height to a single storey at the rear. The remainder of the site accommodates informal surface level car parking.
- To the immediate north of the site is an unnamed laneway that runs east to its intersection with Soudan Street. The laneway is approximately 3 metres wide and provides vehicle access to properties that front Claremont Avenue. Beyond the laneway is the side elevation of 18 Chandlers Road, a three storey dwelling (two storey to the front and three to the rear of the site).
- To the immediate east of the site is a property address to 3 Claremont Avenue, an existing double storey building occupied by commercial use. Further east, lies a number of single and double storey properties within the Glenferrie Road / High Street Heritage Precinct occupied by a mix of retail and offices uses. No. 11 Claremont Avenue is currently the subject of a Section 72 Application to Amend Planning Permit 1089/14. Planning Permit 1089/14 approved partial demolition and building and works for a three storey mixed use building comprising of a ground floor food and drinks premises with two apartments above. The amendment application seeks to provide an additional floor (4 storeys total) to accommodate an additional apartment. This application is currently under assessment.
- To the immediate south of the site is Claremont Avenue which runs from Station Street in the west to Tooronga Road in the east with falling terrain. The two lane road is flanked by car parking either side. Single and double storey built forms present to the street and are also located within the Glenferrie Road / High Street Heritage Precinct. A five storey building at 63-69 Station Street provides a backdrop to these properties.
- To the south-west of the site is Claremont Avenue and its street intersection with Station Street with Malvern Railway Station and rail corridor beyond.
- To the immediate west of the site is Chandlers Road, a two way street that connects to Evandale Road to the north. Beyond this street are properties addressed to 55 and 53 Station Street, single storey built forms. Planning Permit 0878/15-1 was issued for the construction of a new four storey dwelling at 49 and 49A Station Street. The approved built form will sit directly behind the existing building to occupy the triangular shaped space at the rear of the site which is currently used as an informal car parking area. Conditions of permit require works to commence by 15 July 2020.
Previous Planning Applications

A search of Council records indicates there are no relevant historical planning applications on the subject site.

The Title

The site is described on Certificate of Title Volume 07955 Folio 153 and no covenants or easements affect the land.

Planning Controls

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

Zone
Clause 34.01 – Commercial 1 Zone
Pursuant to Clause 34.01-4 a permit is required for buildings and works
Pursuant to Clause 34.01-1 a permit is not required for the use of an office (Section 1 use and existing use established on-site) or accommodation (section 1 use).

Clause 34.01-8 notes that the responsible authority must consider as appropriate the objectives, standard and decision guidelines of Clause 54.

Overlay
Clause 43.01- Heritage Overlay (Schedule 349)
Pursuant to Clause 43.01-1 a permit is required for partial demolition and to carry out works.

The subject building is located in the Glenferrie Road/ High Street Precinct (HO349). The building is graded A2 and has individual significance as part of the Glenferrie Road/High Street Heritage Precinct and is defined as being a significant heritage place.

Clause 43.02 Design and development Overlay (Schedule 19)
Pursuant to 2.0, a planning permit is required for buildings and works.

Schedule 19 references the subject site as:

- A ‘Small Site’ as it has a street frontage (width) less than 7 metres.
- Located within Precinct A1 (Glenferrie Road) which has a preferred maximum building height of 14.5 metres 4 Storeys), a preferred street level setback of 0 metres and a preferred minimum setback above street wall of 8 metres. The latter does not apply to a side elevation on corner sites.
- The site has a Local Street interface to its west boundary.
- The site has a Rear interface to its northern boundary which states development should include a 1.5 metre rear lane offset at ground and first floor levels from the rear property boundary to facilitate the on-going function of the laneway with all vehicle access from the rear laneway.

Clause 44.05 - Special Building Overlay
Pursuant to Clause 44.05-1 a permit is required to construct a building or to construct or carry out works. The Special Building Overlay authority for this area is the City of Stonnington.

Particular Provisions
Clause 52.06 Car Parking
Pursuant to Clause 52.06-2 before a new use commences, the floor area or site area of an existing use is increased; the number of car parking spaces required under Clause 52.06-5 must be provided on the land or as approved under Clause 52.06-3 to the satisfaction of the Responsible Authority.

It is also noted that pursuant to Clause 52.06-3 a planning permit is required if the number of car parking spaces currently provided in connection with the existing use is reduced after the new use commences.

The floor area of the existing office use is 167 square metres and is proposed to be reduced to 155 square metres and one three bedroom dwelling with study is proposed. The office use requires a total of four car parking spaces based on a rate of 3 spaces per 100 square metres. The dwelling requires two car parking spaces. A total of six car parking spaces is therefore required for the proposed development.

Two car parking spaces (one DDA compliant) are provided in the form of a garage and a second under-croft space; both accessed from Chandlers Road. The enclosed space will be allocated to the dwelling and the under croft space allocated to the office use.

A total variation of four car parking spaces is sought for the proposed development which includes three to the office component and one for the proposed dwelling.

Other

Clause 54 One dwelling on a lot
The application of Clause 54 notes the requirements of this Clause do not apply to a Commercial 1 Zone. Notwithstanding this, the Decision Guidelines of the Commercial 1 Zone states the responsible authority must consider as appropriate the objectives, standard and decision guidelines of Clause 54.

Area of Aboriginal Cultural Heritage Sensitivity
The site is located within an Area of Cultural Heritage Sensitivity as described in the Aboriginal Heritage Regulations 2007. The subject site however does not require the submission of a Cultural Heritage Management Plan.

Relevant Planning Policies

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Advertising

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

The site is located in South Ward and two objections from one property has been received
- The proposed addition is overbearing to the existing buildings and does not respect the wider heritage precinct.
- Visual bulk as a result of the overall building height.
- Architectural style of rear additions.
- Impacts of car parking waiver on parking availability within the area.

As discussed in the proposal section, the applicant has revised the plans showing modifications to the car parking arrangement and crossover. Given the consistency with the advertised plans (in terms of the scale, massing and overall presentation of all façades), the revised plans were not re-advertised. Furthermore, as formal declaration has been made, the following assessment will have regard to the revised plans only and the objection to the advertised plans are still valid and will be considered further in this report.

Referrals

Heritage

In response to the original advice the applicant revised the plans. The demolition still involves the loss of the rear section of the building, but in the light of the overall design of the new structure can be accepted. The revised design of the new building has endeavoured to minimise the direct impact on the retained portions of the old building.

It creates a distinct separation (albeit only to a depth of 800mm) of the first 3 levels and sets the totality of the fourth level back to that extent. This is an improved approach to the presentation of the building to Chandlers Road and it will appear as a new and separate structure to the old building. The use of a render finish to the main structure and a dark metal cladding to the fourth floor and recessed section of the building should also assist in visually separating the two structures.

The change of the car parking arrangements at the rear of the new building have no detrimental heritage impacts. The proposed changes can be supported.

Planner notes
All matters have been addressed in the amended plans.

Urban Design

Council’s Urban Designer advised the advertised plans are generally satisfactory in terms of its form, scale, design character, and the relationship between the existing heritage building and the new rear addition, this is a well-conceived design response (subject to the satisfactory resolution of the following issue - see below).

The issue of concern relates to the excessive extent of the under-croft car-parking area. In its current form, the exposed extent of the under-croft detracts from the pedestrian experience along Chandlers Road and undermines the continuity and integrity of the streetscape.
It is suggested that the under-croft area be limited to a maximum of (say) 3 car-spaces (i.e. those three spaces adjacent to the residential entry). The remainder of the ground floor area, north of the three car-spaces, should be enclosed and utilised for an appropriate purpose (e.g. storage, or possibly linked internally to the residence above).

The north-west corner of this proposed ground-level infill should be appropriately chamfered to provide the required sight-lines for vehicular traffic utilising the rear laneway.

Subject to the satisfactory resolution of this issue, the proposal could be supported.

Updated comments from the Urban Designer on the amended plans note that the revised proposal satisfactorily addresses previous comments. The proposal is supported in its current form.

Planner notes
All matters have been addressed in the amended plans.

Strategic Planning
Generally compliant subject to Heritage concerns being addressed – refer above.

Infrastructure
It would appear that the intention is for the carport levels to match the footpath levels. This is not clearly shown on the plans. This is required as a condition of permit and require the carport levels to closely match the existing Chandlers Road footpath levels.

Planner notes
Discussed in the assessment section of this report and included as a recommended planning permit condition.

Traffic
Concerns regarding the site access, visibility splays and headroom clearances to the garage and under-croft parking space. Clarification of gradients to the accessway and parking areas are to be clarified.

Planner notes
Discussed in the assessment section of this report and concerns included as a recommended planning permit condition.

Key Issues
In considering this application, regard has been given to the State and Local Planning Policy Frameworks, the provisions of the Stonnington Planning Scheme, objections received and the individual merits of the application. Key issues are discussed below including:

- Is the proposal supported by the policy direction, in particular strategic justification?
- Does the proposal provide an acceptable outcome to heritage objectives?
- Is the built form an appropriate response to the site’s context?
- Will the development result in adverse amenity impacts to adjoining properties?
- Will the development provide an acceptable level of amenity for future residents?
- Will the proposal result in any traffic or car parking impacts?
Is the proposal supported by policy direction, in particular strategic justification?

The Planning Policy Framework directs Major Activity Centres such as Glenferrie Road, Malvern to accommodate a variety of goods and services to meet both every day and speciality needs, whilst maintaining and enhancing the character and amenity of the area. Policy directs new development to reflect the scale, character and appearance of an area. Specifically, considerations must be given to Clause 21.03 (Vision), Clause 21.04 (Economic Development), Clause 21.06 (Built Environment and Heritage), Clause 34.01 (Commercial 1 Zone), Clause 43.01 (Heritage) and Clause 43.02 (Design and Development Overlay Schedule 19).

Council’s Local Policy at Clause 21.03 seeks well-designed new built form that respects the valued, traditional built form character elements of its host precinct. The objectives of residential uses at Clause 21.04 aim to achieve the right balance of commercial and residential development and to manage the amount and location of new residential development to ensure it does not diminish future opportunities for retail and commercial expansion in core areas. The strategies and objectives at Clause 21.06 aim to ensure higher elements above street walls of 2-3 storeys are set back behind the façade to minimise impacts on the streetscape; and building heights are not significantly higher or lower than the surrounding buildings.

It is also noted that for corner sites, the policy supports development designed to address both street frontages and reflect the existing scale and character of each precinct. The purpose of the zone (at Clause 34.01) seeks to provide for vibrant mixed uses in commercial centres for retail, office, business, entertainment and community uses and residential uses at densities complementary to the role and scale of the commercial centre; and directs building and works to generally achieve the objectives of Clause 54, which aims to provide reasonable standards of amenity for existing and new residents; and seeks built form that respects existing or preferred urban context and response to features of the site. As the subject site provides frontages to Claremont Street and Chandlers Road, a design response should achieve a suitable transition from the commercial streetscape to the residential neighbourhood to the north.

Does the proposal provide an acceptable outcome to heritage objectives?

The subject building is a two-storey corner building dated 1891 located in the Glenferrie Road/ High Street Precinct (HO349). The building is graded A2, has individual significance as part of this heritage Precinct and is defined as being significant heritage place.

The Statement of Significance for the precinct states:

The major stages of development in the Glenferrie Road area can be seen today in the architecture of the buildings. From the boom years of the 1880s through to the inter-war years, the periods of development and prosperity are reflected in the architectural styles. The importance placed by the early residents and traders in this commercial area can be seen in many if the ornate buildings erected prior to the turn of the century. This trend continued into the Federation era with many buildings featuring elaborate details. In some cases earlier buildings have been replaced, but Glenferrie Road, Station Street, Claremont Avenue and east end of High Street remain substantially intact.

The area is of metropolitan significance as one of the major strip shopping centres to have retained its role into the late twentieth century, and for the quality and integrity of its Victorian, Federation and Interwar building stock, which contribute substantially to its historic character.
Pursuant to Clause 22.04-4.1, the policy states as follows (including but not limited to):

- **Discourage demolition of significant buildings.**
- **Discourage demolition of parts of significant buildings (including but not limited to significant building fabric, the primary building volume, original fences, outbuildings, gardens and other features identified in the statement of significance or heritage assessment) unless it can be demonstrated that one or more of the following apply:**
  - The demolition is minor in scale.
  - The demolition will not adversely affect the significance of the heritage place.
  - The replacement development is sympathetic to the scale, setback and significance of the heritage place.

Furthermore, as stipulated in the *City of Stonnington Heritage Design Guidelines 2017*, demolition works in commercial places should retain the primary building volume and retain significant shopfronts. Specifically, the *Guidelines* indicate that the front section (i.e. the first 8-10 metres of building behind the façade) should be retained.

In this proposal, partial demolition is proposed. The proposed demolition works are considered to meet policy objectives as the principle façades and primary building volume to both Claremont Avenue and Chandlers Road are to be retained, including all architectural detailing which contributes to the significance of this building within the wider heritage precinct. The primary building volume is largely unaltered with the demolition limited to the two rear rooms at ground floor level and one room at first floor level. This built form is recessed from the site boundary with Chandlers Road and the rear laneway and as such will not be read in the context of the highly significant Claremont Avenue streetscape. Whilst it is preferable to retain the bulk of the original fabric, this must be reasonably balanced with the objectives of the Commercial 1 Zone, potential development opportunity of the site and additional works assisting in the long-term conservation of the place.

The proposed part demolition works also comprise later additions including the deletion of awnings over the ground floor windows to the existing waiting room and entry door, which is non-original fabric. These demolition works facilitate restoration of the original facade detailing to match the existing unaltered windows. Restoration works are encouraged by policy and as such the part demolition is supported.

Policy directs that partial demolition of significant buildings for the purpose of additions is supported where the additions do not affect the heritage significant of the building and the new works are sympathetic to its scale, form and are visually recessive to the original building. It is asserted that the proposed additions achieve this test, noting it is inherently difficult to conceal any extension given the site’s prominent location on the corner of Claremont Avenue and Chandlers Road. The question then arises as to what level of visibility is acceptable.

Council’s Heritage Advisor noted the following in respect of the proposed additions:

- The revised design of the new building minimises the direct impact on the retained portions of the old building.
- It creates a distinct separation of the first three levels and sets the totality of the fourth level back to that extent.
- This is an improved approach to the presentation of the building to Chandlers Road and it will appear as a new and separate structure to the old building.
- The use of a render finish to the main structure and a dark metal cladding to the fourth floor and recessed section of the building assists in visually separating the two structures.
Council’s policy that all upper level additions and alterations should generally be contained within an envelope which is created by projecting a sight line from 1.7 metres above ground level on the opposite side of the street. It also encourages upper level additions to present minimal bulk from oblique views. Upper level additions to the subject site will be visible from oblique views along Claremont Avenue and Chandlers Road due to the adjoining lower scale built forms and its corner location. Rather than being concealed, the proposed additional built form would be visible but will read as a secondary and recessive element to the primary heritage fabric and its presentation would not undermine the presentation and significance of this highly graded building.

It is noted that the proposal presents an overall building height of 13.25 metres. Built form of similar heights have been approved within the streetscape, including a three storey rear addition at 11 Claremont Avenue to the east and directly opposite the subject site to the west at 49 and 49a Station Street where a four storey development has been approved. Notably, immediately to the rear of the subject site, beyond the rear laneway, a three dwelling at 18 Chandlers Road has been constructed. The proposed built form is therefore considered to be generally in accordance with the emerging built form of the area and can be supported. As the proposal incorporates recesses to the upper levels and provides a comparable building height, it will not read as a dominant feature within its immediate context.

The proposed presentation to Claremont Avenue remains unaltered but for the removal of the awning over the south facing window to the office and associated reinstatement of the original window. Above the existing roof form, only the outline of the third floor protrudes above the existing roof form. The roof profile is flat but for a hipped element to a depth of 1 metre closest to the junction with the original roof form. The built form is therefore visually recessive in the Claremont Avenue streetscape. Specifically, the third floor is set back 12.2 (measured from the principal facade) which exceeds the setback requirements of City of Stonnington Heritage Design Guidelines 2017.

A four-storey building fronting Chandlers Road increases the length of built form to this streetscape and activates the remainder of the secondary site frontage at ground floor level. The ground level of the building presents a section of the existing façade for 12.2 metres before a clear building break with the original heritage building is introduced. The junction with the original built form comprises a 0.9 metre wide by 0.8 metre deep setback which is further punctuated with the proposed dark grey aluminium cladding. Glazing with a vertical emphasis adjacent to the break in the built form also assists in adding a clear differentiation between the old and new built forms.

A pedestrian entry to the dwelling and 6 metres of garaging is proposed to be constructed to the site boundary with an under-croft car parking space beyond. This presentation is generally consistent with other corner sites in where such elements are frequently incorporated. It is noted that the west elevation plan whilst denoting the dark material has not been specified and as such this is included as a recommended condition of permit.

Above the ground level, the proposal incorporates a number of windows within a light grey rendered facade which subtly emphasise the window proportions and solid to void ratio of the original heritage building. Due to its street orientation, there is sufficient distance from any sensitive use in the form of a habitable room window and/or secluded private open space of neighbouring residences; and thus screening is not required. The increased street wall setback at third floor level by 0.8 metres and change in materiality to a dark grey aluminium cladding ensures that additional built form above the height of the existing parapet of the heritage building is recessive. The proposed street wall will also read as being consistent with the line of the parapet of the heritage building, maintaining the street rhythm and massing of the built form.
A range of materials are proposed to the west elevation, comprising a light grey render, aluminium panel cladding and aluminium window surrounds with glazing which offer a marked but complementary contrast to the original heritage building, articulates the façade and breaks up the scale and massing of the proposed additions.

To the rear of the site at second and third floor levels the provision of a 4.5 metre and 13.1 metre setback (with balcony) respectively, provides for a suitable transition to the lower scale residential development beyond the laneway; this is generally in accordance with the Stonnington Heritage Design Guidelines 2017 and Design and Development Overlay (Schedule 19).

As an additional length of street wall is to be provided along Chandlers Road, the proposal will contribute to the vitality and safety of the Commercial Precinct. The proposed layout reduces the extend of vehicular crossovers and introduces activation to the street with an additional entry and sense of address to this facade, the pedestrian experience along Chandlers Road will improve as a result of the proposed development.

Overall, it is concluded that the visibility of the proposed additions when viewed from the adjoining streets should not be the isolated test as to the acceptability of the proposed partial demolition and additions; and ultimately, an appropriate development should be an outcome arising from the balance of policies and the site context. Given the proposal meets the suggested setbacks in the Guidelines, policy support for more intensive development in and near the activity centre (which is already emerging in the area), the proposal accords with the prevailing policy direction whilst minimising the potential impacts on the heritage values. The combination of the design features of the building will result in a building that is respectful of the prevailing streetscape character of the heritage and commercial centre.

Is the built form an appropriate response to the site’s context?

The subject site is located within Design and Development Overlay (Schedule 19) (DDO19) for the Glenferrie Road and High Street Activity Centre, specifically, Built Form Precinct A1 which as a preferred maximum building height 14.5 metres (4 storeys).

Policy requires new development to:

- Encourage a modest scale of development which complements the existing heritage fabric.
- Incorporate a street wall height to respond to the predominant street wall of existing heritage places.
- Street wall height should be continued along the extent of the Local Street Interface.
- Preferred minimum setback above street wall – 8 metres (does not apply to a side elevation on a corner site)
- Development along a Local Street Interface, should provide upper level setbacks above the street wall for the extent of the Local Street Interface.
- Balconies, terraces and decks should be contained within the building envelope.
- Development should include a minimum 1.5 metre rear lane offset at ground and first floor.
- Interface and setback provision – Rear Laneway Interface

The proposed development retains a significant portion of the original building. The upper level setback of 12.2 metres from the Claremont Avenue streetscape and exceeds preferred upper level setback of 8 – 10 metres, as stipulated in the City of Stonnington Heritage Design Guidelines.
At the fourth floor level, the hipped roof form and dark grey aluminium cladding assists in ensuring the additional built form presents a recessive element to both streetscapes and provides a dark backdrop to the finer grain architectural qualities of the heritage property.

The original heritage street wall along Chandlers Road is retained. The street wall height of the proposed development along Chandlers Road (RL 59.47) is generally consistent with the height of the decorative parapet of the original fabric (RL 59.52). The height of the street wall of the new development at 10.21 metres and 6.84 metres (towards the rear boundary) is considered acceptable and appropriately transitions in height to the adjoining residential development to the north of the laneway. Given the proposed street wall height is generally consistent with the existing street wall height of the original fabric, the proposal is considered to be a site responsive design which appropriately steps down in height with the falling terrain to the rear of the site.

The 0.8 metres setback to the top level above the street wall on Chandlers Road combined with a stark change in materiality provides adequate separation and a clear differentiation between the proposed development and the original heritage fabric and is consistent with the adopted policy which seeks upper level setbacks along the full extent of the Local Street Interface.

The rear interface requirements of Design and Development Overlay (Schedule 19) (Rear Laneway Interface Diagram 2) direct that built forms should include a minimum 1.5 metre rear laneway offset at ground and first floor and 4.5 metres at second floor level and above. These setbacks are encouraged to facilitate the ongoing function of the laneway. At ground level and first floor level, a rear laneway offset of 1.5 metres has been provided. Above first floor, the proposed development is setback 4.5 metres and 13.1 metres from the property boundary. A balcony at second floor level is considered an allowable encroachment and continues to provide a suitable transition in building heights and mitigate any perception of visual bulk to adjoining properties.

As detailed in the heritage assessment above, the proposed scale and massing of the building is considered appropriate and with a maximum height of 13.25 metres is compliant with the preferred maximum building height of the area of 14.5 metres.

Will the development result in adverse amenity impacts to adjoining properties?

Given the current physical setting, the only interface that warrants attention is the north of the subject site, where a part two and three storey residential dwelling is constructed at 18 Chandlers Road and to the east of the subject site at 3 Claremont Avenue which includes a split level dwelling at ground and first floor level. Key aspects are examined below:

(Note: as Clause 54 does not apply to a Commercial 1 Zone, the assessment will rely on the objectives of Clause 54 to assist).

Daylight Access

As shown on the survey plan (submitted by the application), one north-facing habitable room window is located at first floor to the neighbouring property at 3 Claremont Avenue. The proposal will not unreasonably compromise daylight access to existing habitable room window.
Overshadowing

As demonstrated on the shadow diagrams, additional overshadowing will result to the adjoining land to the east at 3 and 5 Claremont Avenue in the afternoon.

The proposed extent of overshadowing to these areas is considered acceptable as these largely appear to be utilised as service areas. It is therefore considered that the proposal will not result in unreasonable shadow onto any sensitive private open space of the surrounding land.

Overlooking

On the northern elevation, the balcony balustrade at second floor level is proposed to be treated with obscure glass with a maximum transparency of 25% to a height of 1.7 metres. At third floor level, a setback of 6.7 metres is proposed from the balcony to the title boundary, this increases to 9.7 metres to the northern side of the laneway. It is noted that the southern elevation of 18 Chandlers Road features one highlight window to a dining room and a second vertical slit window across three floors which is obscured. The proposed third level balcony is located in excess of 9 metres from the habitable room window and downward view lines are restricted by the edge of lower floor levels and it is considered the proposed development will not give rise to any unreasonable overlooking opportunities to the north.

On the eastern elevation, the balcony edge at second floor level is constructed to a height of 1.7 metres and restricts views to any habitable room windows or areas of secluded private open spaces within 9 metres of the eastern property boundary. At third floor level the provision of a 1 metre high balcony and 0.9 metre planter depth will limit downward views to roof forms of the adjoining properties within a 45 degree, 9 metre distance. Notwithstanding this, it is considered reasonable that future development potential within the area should be considered and as such it appropriate to include a condition requiring this balcony to be screened in accordance with the Standard A15 (Overlooking).

Overall, the proposal will not result in any unreasonable off-site amenity impacts subject to conditions. It is noted that no windows are proposed to the east elevation. It will therefore afford equitable development rights should adjoining land to the east seek to be developed in the future.

Will the development provide an acceptable level of amenity for future residents?

The proposed development is considered to provide future residents with a high level of internal amenity for the reasons outlined below.

Daylight to new windows

All habitable rooms and internal circulation areas benefit from access to daylight and are primarily north and west facing. The bedrooms within the proposed dwelling generally have single aspect windows fronting Chandlers Road but these rooms are of a depth that will provide a suitable level of solar access. Primary living areas, including the kitchen and dining areas, have dual aspects with windows to the north and west elevations. Awnings over the second and third floor north facing windows provide for suitable weather protection to these windows.

The floor plans do not detail the operation of windows to confirm an appropriate level of cross ventilation is achieved. A condition of permit has been included requiring the applicant to provide details of operable windows.
Private open space

The dwelling is provided with two balconies, both with a northern orientation. The second floor level balcony will provide a total area of 14 square metres with a minimum depth of 2.4 metres. At third floor level, a total area of 28 square metres is proposed with a minimum depth of 6.5 metres. The proposed areas are considered to provide a generous and functional level of secluded private open space for future residents. Due to the orientation of these spaces, a retractable awning provides weather protection to this area and north-facing windows and doors.

Storage

Whilst not explicitly detailed on the floor plans, there is sufficient space to provide for the storage requirements of the dwelling within this area. It is considered reasonable to require the waste bins associated with the office to be provided within the undercroft car parking space for the convenience of the office occupants.

Environmental Sustainable Design

The proposed building design responds to Council’s sustainability objectives as required by the local policy at Clause 22.05.

The submitted Water Sensitive Urban Design Response (STORM Rating Report) indicates that the development will meet best practice requirements with the provision of a 4,700 litre rainwater tank. The rainwater tank is proposed to be located beneath the undercroft car parking space. A plan detailing the roof and toilet connections has not been provided and as such is included as a recommended condition of permit.

Will the proposal result in any traffic or car parking impacts?

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<th>Rate</th>
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<td>Office</td>
<td>3 spaces per 100 square metres of leasable floor area</td>
<td>4 (based on 155 square metres, rounded down to nearest whole number)</td>
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<td>-3</td>
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<tr>
<td>Dwelling</td>
<td>2 spaces per 3 + bedroom</td>
<td>2</td>
<td>1</td>
<td>-1</td>
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<tr>
<td>Total</td>
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<td>2</td>
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- The proposal includes two car parking spaces provided on-site with one secure space in the garage allocated to the residential use and one space allocated in the undercroft car parking space allocated to the office. This represents a shortfall of four parking spaces for the development.
- The office use is most readily adaptable to other modes of transport. Employees in this area have the option to use alternative modes of transport rather than drive. On-street parking in the area is highly restricted with short term parking restrictions operating in the majority of the road networks. The desired long term on-street parking for office employees has limited availability in the area. The residential streets in close proximity to the development have existing parking restrictions installed, which would assist in minimising the impact to on-street parking. Chandlers Road for example is permit parking only on the western side, and no-standing on the eastern side. As such, employees not allocated a
parking space may be deterred from driving to the development due to the above and will prefer to use alternative modes of transport that are available in the area due to its access to alternative modes of transport. As such, the shortfall in parking associated with the office use can be accepted.

- As a shortfall of parking for the development is proposed a condition of permit requires the installation of bicycle facilities on-site to promote cycling as another option to the site.
- The traffic impact of this development, considering the number of parking spaces provided on site, is anticipated to be negligible. The reduced number of vehicular movements to and from the site are considered to improve pedestrian safety along Chandlers Road.
- Proposed car parking space design, access entry and exit diagrams are noted as acceptable subject to conditions requiring the minimum gradients of the parking area and crossovers, these requirements are included as a recommended condition of permit.

**Human Rights Consideration**

This application has been assessed in accordance with the requirements of the *Planning and Environment Act 1987* (including the Stonnington Planning Scheme), reviewed by the State Government and which complies with the *Charter of Human Rights and Responsibilities Act 2006*.

**CONCLUSION**

Having assessed the application against the relevant planning controls, it is recommended that the proposal be supported for the following reasons:

- The proposed development is consistent with the objective of the Planning Policy Framework and the Local Planning Policy Framework.
- The proposed demolition and additions will not affect the heritage significance of the building and wider precinct, the proposed additions are sympathetic to its scale and from and does not compete with the host building as it presents a distinctly contemporary and distinguishable built form to the original fabric.
- The proposal provides a site responsive built form with regard to the existing and emerging character of this area of the Glenferrie Road / High Street Activity Centre.
- The proposal will not result in unreasonable amenity impacts to the neighbouring properties.
- Given the site’s location within a commercial centre, which is well served by public transport, the waiver of the required parking spaces, is considered appropriate and would not adversely affect the surrounding area.
- The proposal results in acceptable access arrangements, subject to conditions.

**ATTACHMENTS**

[*1. PA - 811-18 - 1 Claremont Avenue Malvern - Attachment 1 of 1 Plans*]
RECOMMENDATION

That a Notice of Decision to Grant a Planning Permit No: 0811/18 for the land located at 1 Claremont Avenue, Malvern be issued under the Stonnington Planning Scheme for part demolition, buildings and works to an existing building (office) and construction of a dwelling (both as of right) in a Commercial 1 Zone, Design and Development Overlay (Schedule 19), Heritage Overlay (Schedule 349), Special Building Overlay and a reduction in car parking requirements subject to the following conditions:

1. Before the development starts, one (1) electronic copy of amended plans drawn to scale and fully dimensioned, must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the plans prepared by Catt Architects and are known as Reference No. 211841 Drawing No’s: TP01 Rev A, TP02 Rev A, TP03 Rev A, TP03a, TP04 Rev A, TP05 Rev D, TP06 Rev A, TP07 Rev D, TP08 Rev D, TP09, TP10, TP11 and TP12 Rev B and Council date stamped 12 November 2018 and 17 May 2019 but modified to show:

a) Garage door to be metal panels (Colorbond or powder coat finish).

b) Third floor balcony to be screened in accordance with the requirements to Standard A15 to prevent overlooking to habitable room windows and areas of secluded private open space within 9 metres of the eastern edge of the balcony.

c) Details of operable windows provided.

d) Before the development starts, a schedule of construction materials, external finishes and colours to the satisfaction of the Responsible Authority must be submitted and approved. When approved, the schedule will be endorsed and will form part of the permit.

e) A minimum of two bicycle parking rails (providing no less than 4 bicycle parking spaces) provided with the south-west corner of the under-croft car parking space and outside the visibility splays.

f) Indicative location of waste bin storage associated with the office to be detailed on the floor plan to the under-croft car parking area, clear of visibility splays.

g) A minimum headroom clearance of 2.1 metres provided from the finished floor level of the under-croft car parking space and the cantilevering first floor level.

h) A longitudinal section from the far side of the footpath to the parking floor area that shows all proposed grades, all lengths of grades and all levels to demonstrate appropriate access. Under-croft parking space / garage finished floor levels to match the footpath levels and to be clearly denoted on the floor plans, elevations and site sections.

i) Floor plans and sectional diagrams detailing the gradient of the parking areas to be a minimum of 1 in 200 (0.5%) for covered areas to allow for adequate drainage as per AS2890.1.

j) Details of surface materials of the under-croft car parking space to be constructed in a different surface to the laneway to differentiate the two areas.

k) A Water Sensitive Urban Design (WSUD) 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 including connections to / from the roof area and toilets.
1) Storm Rating Report (TP11) updated to reflect correct car parking arrangements.

All to the satisfaction of the Responsible Authority.

2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason without the prior written consent of the Responsible Authority.

3. Prior to the occupation of the building, fixed privacy screens (not adhesive film) designed to limit overlooking as required Standard A15 (Overlooking) in accordance with the endorsed plans must be installed to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

4. 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.

5. Prior to a building permit being issued, a report for the legal point of discharge must be obtained from Council and a drainage design for the development must be prepared by a suitably qualified Engineer in accordance with all ‘recommendations’ and requirements contained in that report. All drainage must be by means of a gravity based system with the exception of runoff from any basement ramp and agricultural drains which may be pumped. The relevant building surveyor must check and approve the drainage design and ensure that protection of the building is provided from a 1 in 100 A.R.I. rainfall event as required by the Building Regulations.

6. The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.

7. 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.

8. 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.

9. 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.

10. The level of the laneway must not be lowered or altered in any way to facilitate access to the site unless without the prior written consent of the Responsible Authority.

11. Prior to occupation of the building or commencement of use, any existing vehicular crossing made redundant by the building and works hereby permitted must be broken out and re-instated as standard footpath and kerb and channel at the permit holders cost to the approval and satisfaction of the Responsible Authority.
12. All plant and equipment (including air-conditioning units) must be located or screened so as not to be visible from any of the surrounding footpaths and adjoining properties and shall be baffled so as to minimise the emission of unreasonable noise to the environment in accordance with Section 48A of the Environment Protection Act 1970 to the satisfaction of the Responsible Authority.

13. Before the development (including excavation and demolition) starts, a tree protection fence must be erected around the street tree on Chandlers Road. Fencing is to be compliant with Section 4 of AS 4970.

14. This permit will expire if one of the following circumstances applies:

   a) The development is not started within two years of the date of this permit.
   b) The development is not completed within four years of the date of this permit.

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

NOTES:

I. 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.

II. Nothing in the permit hereby issued may be construed to allow the removal of, damage to or pruning of any street tree without the further written consent of the Stonnington City Council. Contact the Council Arborists on 8290 1333 for further information.

III. 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.

IV. The owners and occupiers of the dwelling hereby approved are not eligible to receive “Resident Parking Permits”.

V. 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. **AMENDMENT C272 - PLANNING CONTROLS FOR HAWKSBURN VILLAGE**

**Acting Manager City Strategy: Anthony De Pasquale**
**General Manager Planning & Amenity: Stuart Draffin**

**PURPOSE**

The purpose of this report is for Council to:

- Be updated on analysis undertaken to inform the preparation of planning controls for Hawksburn Village.
- Endorse the draft Schedule to the Design and Development Overlay and authorise officers to seek authorisation from the Minister for Planning to prepare and publically exhibit Amendment C272.
- Consider requesting the Minister for Planning to introduce the Design and Development Overlay (DDO) as an interim Planning Scheme provision until a permanent DDO has been prepared and approved through Amendment C272.

**BACKGROUND**

**Hawksburn Village Structure Plan**

In November 2014 Council appointed David Lock Associates (DLA) to prepare the Hawksburn Village Structure Plan. Three rounds of public consultation were run during the development of the Structure Plan. Consultation helped to establish a vision for Hawksburn Village, better understand the key issues and opportunities affecting future growth of Hawksburn and receive feedback on the draft Structure Plan.

At its meeting on 22 August 2016, Council resolved to adopt the Hawksburn Village Structure Plan (Attachment 1). Council also requested that further work be undertaken to inform the preparation of a new planning control to manage built form outcomes (a new Schedule to the Design and Development Overlay). The resolution required the following key actions:

1. Update the Structure Plan to nominate Malvern Road as the preferred primary vehicle access to Woolworths supermarket and May Road car park.
2. Update the Structure Plan to strengthen objectives to ensure that commercial delivery vehicles do not have an adverse impact on amenity, traffic flow and road safety.
3. Test the impact of the upper level setbacks, proposed by the Structure Plan, on adjoining residential land.
4. Investigate opportunities for reduced heights and greater setbacks in the area west of Williams Road.

Reflecting the Council resolution additional work and analysis has been undertaken. Together with the Structure Plan, these have informed the drafting of Schedule 21 to the Design and Development Overlay (DDO21). The outcomes of items 1 to 4 above and additional assessments are detailed in the discussion section below.
DISCUSSION

Responding to Council’s resolutions

Updates to the Structure Plan in response to resolution items 1 and 2 above were completed by DLA.

Additional planning and urban design assessments were undertaken to test and investigate resolution items 3 and 4 above. This work highlighted where impacts on amenity might occur and proposed changes to the Structure Plan’s built form guidelines at specific locations.

This feedback was reviewed and balanced against the need for achieving growth and continued vibrancy/success in Hawksburn Village, whilst preserving an appropriate level of amenity for adjoining residentially zoned land. To strike this balance it was considered that:

- Objectives and standards within the Planning Scheme already provide mitigation measures that manage the amenity impacts associated with visual bulk, overlooking and overshadowing.
- The proposed DDO21 for Hawksburn Village can be drafted to provide specific objectives and design requirements that will also assist in protecting amenity of adjacent residential areas.

On this basis, and in the context of the protection provided by the Planning Scheme and the new planning controls (DDO21) it is considered that a change to the Structure Plan document itself is not necessary.

Additional consultant work

Since the adoption of the Structure Plan it became evident that additional work was required to refine and further develop design responses for certain circumstances within the centre. This requirement came from the consideration of:

- Planning permit applications that exceed the built form guidelines of the Structure Plan;
- The exercise of translating the Structure Plan’s built form guidelines into DDO21; and
- The need for a consistent and appropriate approach for front upper level setbacks on heritage buildings in neighbourhood activity centres.

In response, a suite of urban design and heritage consultant advice (Attachment 4) was sought and included:

1. A design approach for sites with a frontage to a residential street, including corner sites.

   In summary this work concluded that there should be greater street setbacks and responsive street wall heights at residential street interfaces (in most circumstances). On narrow corner sites, the upper level setback (at the residential street interface) can be reduced to support more viable upper level development.

2. Reviewing the preferred upper level front setback/s for heritage buildings.

   In summary this work concluded that the upper level front setback for heritage buildings set out in the Structure Plan should be reduced generally from 8m to 5m.
This reduced setback is considered reasonable because Hawksburn Village is of a more mixed and robust heritage character. There is already new development within or contingent to heritage buildings within the centre. Therefore a lesser upper level setback would not be out of character.

Please refer to confidential Attachment 2, draft DDO21, for more detail.

Amendment C272

Amendment C272 proposes to make changes to the Stonnington Planning Scheme in relation to certain sites and areas within Hawksburn Village. Specifically Amendment C272:

- Introduces DDO21 into the Planning Scheme. This will apply to the majority of the activity centre, including the Woolworths supermarket at 559-565 Malvern Road. DDO21 draws upon the built form guidelines of the Structure Plan and the additional urban design and heritage advice described above.

The Woolworths site, which includes 28-44 May Road (also known as the May Road car park) was identified in the Structure Plan as a “Strategic Opportunity Site”, however the future use and possible configuration of the site has not yet been fully determined by the relevant landowners, which includes Council. The site requires further strategic analysis as it presents several complex and interrelated considerations including a complicated land ownership pattern, sloped typography, an interface with the residential area to the north and a Heritage Overlay to the east, vehicular access and loading, and the important retail function the supermarket provides to the activity centre.

It is acknowledged that this may take some time to resolve, and it is considered important to progress Amendment C272 in the meantime, whilst a future outcome for the larger Woolworths site is deliberated. As such, and at this stage, it is proposed that DDO21 will only apply to the commercially zoned land at 559-565 Malvern Road to better manage the design of any future development at this location in the context of the broader ‘village’ character of Hawksburn.

- Rezones part of the land at:
  - 333 Malvern Road from General Residential Zone (GRZ) to Residential Growth Zone (RGZ). This will ensure that the whole site is within the RGZ.
  - 442-446 and 448-450 Malvern Road from GRZ to Commercial 1 Zone (C1Z). This will ensure that both sites are entirely within the C1Z.

- Rezones all of the land at:
  - 365 Malvern Road from RGZ to Public Park and Recreation Zone (PPRZ) to better reflect the current use of the site as an area of public open space.
  - 7 Hobson Street from GRZ to PPRZ to better reflect the future of this site which will be transferred into a public park. 7 Hobson Street was recently purchased under Strategies for Creating Open Space.
  - 48 Westbourne Street from C1Z to Neighbourhood Residential Zone to better reflect the current and ongoing use of the site as a private residence and its local neighbourhood residential context.

- Extends the existing Environmental Audit Overlay (EAO) at 442-446 and 448-450 Malvern Road in a southerly direction so that the EAO covers the entire area of the sites.

Please refer to Attachment 3 for a map indicating where the above changes are proposed.

**Proposed mandatory design requirements within DDO21**

In September 2018 the Department of Environment, Land, Water and Planning (DELWP) updated its Practice Note no. 60 on *Height and Setback Controls in Activity Centres* to outline instances where mandatory building height and setback controls can be considered in activity centres subject to the fulfilment of clear criteria. Advice from DELWP representatives is that mandatory controls could be considered as part of DDO21. As such, it is proposed that mandatory controls be incorporated into the DDO21 and these focus on:

- Respecting heritage;
- Responding to the existing streetscape scale of Hawksburn Village; and
- Responding to residential streetscapes and preserving an appropriate level of residential amenity.

Please refer to confidential Attachment 2, draft DDO21, for more detail.

**Interim Design and Development Overlay Schedule**

Since the adoption of the Structure Plan there has been a number of planning permit applications and decisions that have exceeded some of the design guidelines set out in the Structure Plan.

A recent VCAT order (November 2018) highlighted that the Structure Plan on its own has some limitations in the weight that can be given to it when assessing and deciding on an application in Hawksburn Village:

*The weakness in the council’s case is its reliance on the Hawksburn Village Structure Plan. This plan does not warrant the weight that the council has given it as it is in the early stages of being considered a seriously entertained planning proposal.* (VCAT Member, Michael Nelthorpe in *Malvern Road Project Pty Ltd v Stonnington CC*)

To strengthen the policy basis on which Council can rely at VCAT and Planning Panels it is considered timely and appropriate that Council request the Minister for Planning to intervene. To do this the Minister would prepare a Ministerial Amendment, in accordance with Sections 8(1)(b) and 20(4) of the *Planning and Environment Act 1987*, and introduce an interim DDO schedule into the Planning Scheme. The adoption of an interim DDO schedule will provide statutory authority to the policy whilst Amendment C272 is formally prepared, exhibited and progressed.

**Policy Implications**

Amendment C272 responds to and assists in implementing the following policies and strategies of Plan Melbourne, the Council Plan and the Stonnington Planning Scheme.

**Plan Melbourne 2017-2050**

*Policy 2.1.2 Facilitate an increased percentage of new housing in established areas to create a city of 20-minute neighbourhoods close to existing services, jobs and public transport.*
Policy 4.3.1 *Promote urban design excellence in every aspect of the built environment.*

Policy 4.4.1 *Recognise the value of heritage when managing growth and change.*

Policy 5.1.2 *Support a network of vibrant neighbourhood activity centres.*

**Council Plan 2017–2021**

Strategy L 4 *Preserve Stonnington’s heritage architecture and balance its existing character with complementary and sustainable development.*

Strategy L 3 *Balance the competing demands of maintaining residential amenity and population growth through appropriate planning.*

Strategy E1 *Develop long-term plans to ensure sustainability of Stonnington’s activity centres.*

**Stonnington Planning Scheme: Clause 21.04-1 – Activity Centres**

Objectives 1 *To maintain and enhance a network of sustainable and viable activity centres.*

**FINANCIAL AND RESOURCES IMPLICATIONS**

Preparation of Amendment C272 is incorporated within the allocated budget for the City Strategy department. The indicative timeline for Amendment C272 is:

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<td>C272 authorisation</td>
<td>Public exhibition</td>
<td>Panel Hearing</td>
<td>Panel Report</td>
<td>Council adoption</td>
<td>Ministerial approval</td>
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**LEGAL ADVICE & IMPLICATIONS**

Advice will be sought as required.

**CONCLUSION**

Since the Hawksburn Village Structure Plan was adopted, additional work and analysis has been undertaken to better inform the preparation of DDO21. DDO21 is required to implement the built form guidelines of the Structure Plan. Amendment C272 proposes a range of planning scheme changes, including DDO21, and it is recommended that Council agree to these changes so that Amendment C272 can be formally prepared and progressed.

Given there has been a number of applications and planning permits issued for the centre, that exceed the built form guidelines of the Structure Plan, it is considered desirable and appropriate to seek Ministerial intervention to include an interim DDO21 whilst C272 is progressed.

**HUMAN RIGHTS CONSIDERATION**

This recommendation complies with the Charter of Human Rights and Responsibilities Act 2006.
ATTACHMENTS

2. Attachment 2 - Confidential
3. Attachment 3 - Proposed Planning Scheme Changes
4. Attachment 4 - Confidential

RECOMMENDATION

That Council:

1. Endorse the draft Schedule 21 to the Design and Development Overlay (included confidentially in Attachment 2) for the purpose of exhibition.

2. Apply to the Minister for Planning in accordance with Section (9)(3) of the Planning and Environment Act 1987 to obtain authorisation to prepare Amendment C272 which will provide new planning controls for Hawksburn Village.

3. Authorises Council officers to prepare the Amendment C272 documents.

4. Authorises Council officers to make changes to Schedule 21 to the Design and Development Overlay (included confidentially in Attachment 2) that do not change the intent of the schedule.

5. Following authorisation from the Minister, exhibit Amendment C272 in accordance with Sections 17-19 of the Planning and Environment Act 1987.

6. Request the Minister for Planning introduce an interim Schedule to the Design and Development Overlay by way of a Ministerial Amendment in accordance with Sections 8(1) (b) and 20 (4) of the Planning and Environment Act 1987 to provide the required design guidance whilst Amendment C272 is progressed.
9. **DECLARATION OF SPECIAL RATE SCHEME - TOORAK ROAD SOUTH YARRA**

Revenue Coordinator: Robert Smart  
Acting General Manager Corporate Services: Jon Gorst

**PURPOSE**

To declare a new Special Rate Scheme (Proposed Scheme) for the marketing and promotion of the Toorak Road South Yarra Shopping Precinct (Precinct) and business engagement and business development of the members in the Toorak Road South Yarra Business Association (TRSYBA).

**BACKGROUND**

A Special Rate Scheme for the Toorak Road South Yarra Shopping Precinct has been in operation for the past 4 years and concludes on 30 June 2019. There have been six (6) Special Rate Schemes in this precinct since 1994 including the current one. The proposed scheme would be the seventh. With the support of the previous and current schemes, the Toorak Road South Yarra Business Association has undertaken a wide range of activities associated with the promotion and marketing of the Precinct.

Council has received a request from the Toorak Road South Yarra Business Association Inc. (TRSYBA) to introduce a new Special Rate Scheme to commence on 1 July 2019, for the purpose of raising funds for marketing and promotion of the precinct and business engagement and business development of their members in the Precinct.

The Proposed Scheme would remain in force for a period of four years, commencing on 1 July 2019 and ending on 30 June 2023.

It is proposed that the Scheme would raise approximately $225,000 per annum (with an increase equivalent to the annual State Government declared rate cap for general rates for each subsequent year), with maximum amounts set per property by means of the special rate levied on each commercial property within the precinct, as detailed in the property schedule (Attachment 1). The Precinct is contained within the western boundary of Punt Road and eastern boundary of Rockley Road and Surrey Road North. A map showing the Precinct and the properties to be covered by the Proposed Scheme is found at (Attachment 2). Council officers have assessed the current boundaries of the Scheme and consider that they cover the Toorak Road South Yarra Precinct.

If the Proposed Scheme is declared, an agreement will be entered into between the TRSYBA and Council, to govern the implementation of the Scheme and expenditure of Scheme funds. This continues the arrangement under the current Scheme.

The TRSYBA will be required to adhere strictly to its obligations in the funding agreement in order for Council to approve instalment payments to the TRSYBA. Among other things, the agreement will require TRSYBA to submit various documents to Council, including business plans, audited financial statements and minutes of meetings, and compliance with legislative requirements.
DISCUSSION
The TRSYBA has indicated to Council officers that there is support among traders to continue the marketing and promotion of the shopping precinct and re-introduce the Special Rate Scheme. A Strategic Plan has been submitted to Council from the TRSYBA to outline its objectives and proposed activities for the duration of the Proposed Scheme and how it intends to spend funds raised from the Proposed Scheme. Council officers have reviewed the Strategic Plan and provided feedback to the TRSYBA as to its contents. A copy of the submitted Strategic Plan is attached (Attachment #3).

Council has considered all submissions and objections received.

POLICY IMPLICATIONS

The City of Stonnington Council Plan 2017-2021 Economy Pillar promotes “A City that will grow its premier status as a vibrant, innovative and creative business community”. Four key strategies support this with E4 being “promote Stonnington’s premier vibrant precincts, employment clusters and cultural assets as hubs for shopping, hospitality, entertainment and culture”.

FINANCIAL AND RESOURCES IMPLICATIONS

Council will incur costs to undertake the statutory process of declaring the Proposed Scheme, in particular costs for the giving of public notice, notifying those affected by the Proposed Scheme, as well as fees for having all objections counted by an independent firm. If the Proposed Scheme is declared, Council will incur the expenses involved with entering into a contract with the TRSYBA and overseeing the administration of the Proposed Scheme. This expenditure is cost neutral to Council, as it is proposed that Council retain 5% of the total Scheme funds raised to cover the costs of declaring and administering the Proposed Scheme.

If declared the Proposed Scheme (as requested by the TRSYBA) will raise approximately $225,000 in the 2019/2020 financial year. Council officers have considered the TRSYBA’s submitted draft Strategic Plan and have provided feedback to TRSYBA. Council officers have now assessed the amount of Scheme funds to be levied as reasonable and appropriate for carrying out the purposes of the Scheme.

It is proposed subject to approval, that the total annual special rate raised be increased by the amount equivalent to the annual State Government declared cap for general rates for each subsequent year after declaration, if the special rate is declared.

Subject to meeting its obligations under the agreement with Council, ninety five percent (95%) of total scheme funds will be forwarded to the TRSYBA for the association to conduct activities and functions to achieve the Scheme's objectives.

The remaining five (5%) of the total Proposed Scheme funds will be retained by Council to offset the estimated costs of administering the Proposed Scheme. Consideration has been given to the quantum of Council's costs in declaring and administering the Proposed Scheme and Council officers consider the amount of five percent (5%) of total scheme funds to be an appropriate amount to cover these costs.

Where Council’s costs are less than five percent (5%) of annual Proposed Scheme Funds, excess funds will be paid to the TRSYBA in accordance with the agreement.
Council's declaration of the Proposed Scheme may be challenged at the Victorian Civil and Administrative Tribunal. If an appeal is lodged, Council will incur legal costs which cannot be funded by the Proposed Scheme.

**LEGAL ADVICE & IMPLICATIONS**

When declaring a Special Rate Scheme, Council must comply with certain requirements under the Local Government Act 1989 (Act).

As required by the Act, Council has given public notice and notified all owners and occupiers of properties within the Precinct.

In accordance with section 163A of the Act, Council has received objections to the proposed special rate. As the Proposed Scheme will levy a total amount that exceeds two thirds of the total cost, affected ratepayers have the right to object. Council has now received objections within the statutory period. Council did not receive a majority of valid objections from those who are liable to pay, and as such Council may now declare the Proposed Scheme.

In accordance with section 223 of the Act Council has received all submissions made to the Proposed Scheme.

These submissions were heard by a Committee of Council and it is the opinion of Council that all properties will receive a special benefit from the proposed special rate and as such will remain as properties liable to pay the special rate.

After considering all submissions and objections received by those properties liable to pay the special rate, Council is satisfied that the Proposed Scheme will be provide special benefit to the persons required to pay the Special Rate.

If Council proceeds to declare the Proposed Scheme, it must include certain details regarding the Special Rate in its declaration, in accordance with section 163 of the Act.

Under section 185 of the Act, a person who is aggrieved by Council's imposition of a special rate (being a person liable to pay the special rate) may apply to the Victorian Civil and Administrative Tribunal (VCAT) for review of the decision. Applications must be made within 30 days after the date of issue of the notice of the special rate and are limited to certain grounds as set out in the Act. The VCAT may vary or quash the special rate/special charge or dismiss the application and confirm the special rate/special charge.

Additionally, any person may apply to VCAT to challenge the validity of the declaration of a special rate. This application, under section 185AA of the Act, may be made at any time.

**Benefit Ratio**

The Act requires Council to determine a benefit ratio when proposing to declare a Special Rate. The ratio is the estimated proportion of the total benefits of the Scheme (including special benefits and community benefits) that will accrue as special benefits to all the persons who are liable to pay the Special Rate.

The formula used to determine the benefits ratio is:

\[
\frac{TSB (in)}{TSB (in) + TSB (out) + TCB} = R
\]
TSB (in) is the estimated total special benefit of those properties that the Council has decided to include in the scheme.

TSB (out) is the estimated total special benefit of those properties with an identified special benefit that the Council does not propose to include in the scheme.

TCB is the estimated total community benefit. R is the benefit ratio.

The estimated benefit ratio to be applied to the special rate/special charge is 1.00 because it is considered that there will be no community benefit. That is, the total special benefit will be only to those persons required to pay the Proposed Special Rate.

The Proposed Scheme is to apply to all rateable properties used for non-residential purposes located within the Precinct. The Proposed Scheme will affect a total of 431 properties.

Council has used the Australian Property Valuation Classification Code (AVPCC) as the basis for determining the appropriate property types to be included in the special rate scheme and will receive special benefit.

In previous declarations of former Special Rate Schemes and the Current Scheme, Council has decided that the following rateable occupancies do not derive special benefit from the Scheme and therefore have been excluded from the Schemes - Automatic Teller Machines (AVPCC 274), Advertising Roof Signs (AVPCC 290, 291), Carparks (AVPCC 282), Mobile Phone Towers (AVPCC 694), Vacant Land (200, 202, 300) and Carwash Areas (AVPCC 283). It is proposed that these items are excluded from the Proposed Scheme, on the basis that they will not derive a special benefit from the Proposed Scheme.

It is proposed that the Special Rate will be assessed and levied as follows:

a. 0.0492 cents in the dollar (0.000492) of the Capital Improved Value of each property in the Precinct allocated Australian Property Valuation Classification Code 210, 211, 212, 213, 214, 215, 216, 217, 218, 230, 232, 235, 240, 241, 242, 243, 245, 246 or 251 and has a Toorak Road South Yarra property address (primary benefit);

b. $2,000.00 being the maximum amount levied upon any property on the primary benefit level within the Proposed Scheme.

c. $200.00 being the minimum amount levied upon any one primary benefit property within the Proposed Scheme.

d. 0.0246 cents in the dollar (0.000246) of the Capital Improved Value of each rateable property in the Precinct allocated Australian Property Valuation Classification Code 219, 220, 221, 222, 223, 270, 271, 272, 283, 284, 285, 310, 312 or 320 secondary benefit); and

e. $1,000.00 being the maximum amount levied upon any one secondary benefit property within the Proposed Scheme.

f. $100.00 being the minimum amount levied upon any one secondary benefit property within the Proposed Scheme.

CONCLUSION

The Special Rate Scheme for the marketing and promotion of the Precinct is a business association initiative that has been supported by Council since 1994.

Similar Special Rate schemes have proven beneficial to this Precinct to date. Council officers have formed the view that the Proposed Scheme will deliver a special benefit to those properties covered by the Proposed Scheme.
On the basis of Officers' assessment it is recommended that the status quo remain in respect to the area covered by the scheme, the 4 year term of the scheme and the 5% administration fee. Given this, it is recommended that Council proceed with the statutory process for declaring the Proposed Scheme.

**HUMAN RIGHTS CONSIDERATION**

The special rate/special charge declaration process has been prepared in accordance with the provisions of the *Local Government Act 1989* and it is considered that the recommendation has met the obligations of the Charter of Human Rights and Responsibilities Act 2006.

**ATTACHMENTS**

1. Attachment 1 - Toorak Road South Yarra - special rate property schedule
2. Attachment 2 - Toorak Road South Yarra - special rate geographic region map
3. Attachment 3 Toorak Road South Yarra Special Rates Strategic Plan

**RECOMMENDATION**

*That Council resolves to make the following declaration:*

1. *That Council declares a Special Rate for the purpose of defraying expenses relating to the encouragement of commerce in the Toorak Road South Yarra Shopping Precinct (“Precinct”) on the basis that it considers that the Special Rate Scheme will deliver a special benefit to the persons required to pay the Special Rate.*

2. *The Special Rate is declared for four years, commencing on 1 July 2019 and concluding on 30 June 2023.*

3. *The properties to which the Special Rate Scheme applies are all rateable properties within the area identified on the attached geographic region plan and in the property schedule and which are primarily used or adapted to be used for non-residential purposes as determined by Australian Property Valuation Classification Code.*

4. *The Special Rate will be levied on properties within the Precinct as follows:*

   - 0.0492 cents in the dollar (0.000492) of the Capital Improved Value of each rateable property in the Precinct allocated Australian Property Valuation Classification Code 210, 211, 212, 213, 214, 215, 216, 217, 218, 230, 232, 235, 240, 241, 242, 243, 245, 246 or 251 and has a Toorak Road South Yarra property address (primary benefit);

   - $2,000 being the maximum amount levied upon any property on the primary benefit level within the Proposed Scheme.

   - $200.00 being the minimum amount levied upon any one primary benefit property within the Proposed Scheme.
0.0246 cents in the dollar (0.000246) of the Capital Improved Value of each rateable property in the Precinct allocated Australian Property Valuation Classification Code 219, 220, 221, 222, 223, 270, 271, 272, 283, 284, 285, 310, 312 or 320 (secondary benefit); and

- $1,000 being the maximum amount levied upon any one secondary benefit property within the Proposed Scheme.

- $100.00 being the minimum amount levied upon any one secondary benefit property within the Proposed Scheme.

5. Subject to any further Council resolution, the persons required to pay the Special Rate must pay the Special Rate in the same manner and by the same due date as Council’s general rates.

6. Council will, subject to the Local Government Act 1989, require a person to pay interest on any Special Rate amount which that person is liable to pay and has not paid by the date specified for payment.

7. The Strategic Plan lodged Toorak Road South Yarra Business Association (TRSYBA) be noted.

8. The Interim Chief Executive Officer is directed to give notice of the declaration, in accordance with Sections 163 and 185 of the Local Government Act 1989.
10. DECLARATION OF SPECIAL RATE SCHEME - TOORAK VILLAGE

Revenue Coordinator: Robert Smart
Acting General Manager Corporate Services: Jon Gorst

PURPOSE
To declare a new Special Rate Scheme (Proposed Scheme) for the marketing and promotion of the Toorak Village Shopping Precinct (Precinct) and business engagement and business development of the members in the Toorak Village Traders Association [TVTA].

BACKGROUND
A Special Rate Scheme for the Toorak Village Shopping Precinct has been in operation for the past 4 years and concludes on 30 June 2019. There have been six (6) Special Rate Schemes in this precinct since 1994 including the current one. The proposed scheme would be the seventh. With the support of the previous and current schemes, the Toorak Village Traders Association has undertaken a wide range of activities associated with the promotion and marketing of the Precinct.

Council has received a request from the Toorak Village Traders Association Inc. (TVTA) to introduce a new Special Rate Scheme to commence on 1 July 2019, for the purpose of raising funds for marketing and promotion of the precinct and business engagement and business development of their members in the Precinct.

The Proposed Scheme would remain in force for a period of four years, commencing on 1 July 2019 and ending on 30 June 2023.

It is proposed that the Scheme would raise approximately $145,000 per annum (with an increase equivalent to the annual State Government declared rate cap for general rates for each subsequent year), with maximum amounts set per property by means of the special rate levied on each commercial property within the precinct, as detailed in the property schedule (Attachment 1). The Precinct is contained within the western boundary of Wallace Avenue and Tintern Avenue, eastern boundary of Canterbury Road and Grange Road, northern boundary Jackson Street and southern boundary Ross Street and Ormsby Grove. A map showing the Precinct and the properties to be covered by the Proposed Scheme is found at (Attachment 2). Council officers have assessed the current boundaries of the Scheme and consider that they cover the Toorak Village Precinct.

If the Proposed Scheme is declared, an agreement will be entered into between the TVTA and Council, to govern the implementation of the Scheme and expenditure of Scheme funds. This continues the arrangement under the current Scheme.

The TVTA will be required to adhere strictly to its obligations in the funding agreement in order for Council to approve instalment payments to the TVTA. Among other things, the agreement will require TVTA to submit various documents to Council, including strategic plan, audited financial statements and minutes of meetings, and compliance with legislative requirements.
DISCUSSION
The TVTA has indicated to Council officers that there is support among traders to continue the marketing and promotion of the shopping precinct and re-introduce the Special Rate Scheme. A Business Plan has been submitted to Council from the TVTA to outline its objectives and proposed activities for the duration of the Proposed Scheme and how it intends to spend funds raised from the Proposed Scheme. Council officers have reviewed the Business Plan and provided feedback to the TVTA as to its contents. A copy of the submitted Strategic Plan is attached (Attachment #3).

Council has considered all submissions and objections received.

POLICY IMPLICATIONS
The City of Stonnington Council Plan 2017-2021 Economy Pillar promotes “A City that will grow its premier status as a vibrant, innovative and creative business community”. Four key strategies support this with E4 being “promote Stonnington’s premier vibrant precincts, employment clusters and cultural assets as hubs for shopping, hospitality, entertainment and culture”.

FINANCIAL AND RESOURCES IMPLICATIONS
Council will incur costs to undertake the statutory process of declaring the Proposed Scheme, in particular costs for the giving of public notice, notifying those affected by the Proposed Scheme, as well as fees for having all objections counted by an independent firm. If the Proposed Scheme is declared, Council will incur the expenses involved with entering into a contract with the TVTA and overseeing the administration of the Proposed Scheme. This expenditure is cost neutral to Council, as it is proposed that Council retain 5% of the total Scheme funds raised to cover the costs of declaring and administering the Proposed Scheme.

If declared the Proposed Scheme (as requested by the TVTA) will raise approximately $145,000 in the 2019/2020 financial year. Council officers have considered the TVTA’s submitted draft strategic plan and have provided feedback to TVTA. Council officers have now assessed the amount of Scheme funds to be levied as reasonable and appropriate for carrying out the purposes of the Scheme.

It is proposed subject to approval, that the total annual special rate raised be increased by the amount equivalent to the annual State Government declared cap for general rates for each subsequent year after declaration, if the special rate is declared.

Subject to meeting its obligations under the agreement with Council, ninety five percent (95%) of total scheme funds will be forwarded to the TVTA for the association to conduct activities and functions to achieve the Scheme’s objectives.

The remaining five (5%) of the total Proposed Scheme funds will be retained by Council to offset the estimated costs of administering the Proposed Scheme. Consideration has been given to the quantum of Council's costs in declaring and administering the Proposed Scheme and Council officers consider the amount of five percent (5%) of total scheme funds to be an appropriate amount to cover these costs.

Where Council’s costs are less than five percent (5%) of annual Proposed Scheme Funds, excess funds will be paid to the TVTA in accordance with the agreement.
Council's declaration of the Proposed Scheme may be challenged at the Victorian Civil and Administrative Tribunal. If an appeal is lodged, Council will incur legal costs which cannot be funded by the Proposed Scheme.

**LEGAL ADVICE & IMPLICATIONS**

When declaring a Special Rate Scheme, Council must comply with certain requirements under the Local Government Act 1989 (Act).

As required by the Act, Council has given public notice and notified all owners and occupiers of properties within the Precinct.

In accordance with section 163A of the Act, Council has received objections to the proposed special rate. As the Proposed Scheme will levy a total amount that exceeds two thirds of the total cost, affected ratepayers have the right to object. Council has now received objections within the statutory period. Council did not receive a majority of valid objections from those who are liable to pay, and as such Council may now declare the Proposed Scheme.

In accordance with section 223 of the Act Council has received all submissions made to the Proposed Scheme.

These submissions were heard by a Committee of Council and it is the opinion of Council that all properties will receive a special benefit from the proposed special rate and as such will remain as properties liable to pay the special rate.

After considering all submissions and objections received by those properties liable to pay the special rate, Council is satisfied that the Proposed Scheme will be provide special benefit to the persons required to pay the Special Rate.

If Council proceeds to declare the Proposed Scheme, it must include certain details regarding the Special Rate in its declaration, in accordance with section 163 of the Act.

Under section 185 of the Act, a person who is aggrieved by Council’s imposition of a special rate (being a person liable to pay the special rate) may apply to the Victorian Civil and Administrative Tribunal (VCAT) for review of the decision. Applications must be made within 30 days after the date of issue of the notice of the special rate and are limited to certain grounds as set out in the Act. The VCAT may vary or quash the special rate/special charge or dismiss the application and confirm the special rate/special charge.

Additionally, any person may apply to VCAT to challenge the validity of the declaration of a special rate. This application, under section 185AA of the Act, may be made at any time.

**Benefit Ratio**

The Act requires Council to determine a benefit ratio when proposing to declare a Special Rate. The ratio is the estimated proportion of the total benefits of the Scheme (including special benefits and community benefits) that will accrue as special benefits to all the persons who are liable to pay the Special Rate.
The formula used to determine the benefits ratio is:

\[
\text{TSA (in)} = \frac{\text{TSA (in)} + \text{TSA (out)} + \text{TCB}}{\text{R}}
\]

\(\text{TSA (in)}\) is the estimated total special benefit of those properties that the Council has decided to include in the scheme.

\(\text{TSA (out)}\) is the estimated total special benefit of those properties with an identified special benefit that the Council does not propose to include in the scheme.

\(\text{TCB}\) is the estimated total community benefit. \(\text{R}\) is the benefit ratio.

The estimated benefit ratio to be applied to the special rate/special charge is 1.00 because it is considered that there will be no community benefit. That is, the total special benefit will be only to those persons required to pay the Proposed Special Rate.

The Proposed Scheme is to apply to all rateable properties used for non-residential purposes located within the Precinct. The Proposed Scheme will affect a total of 299 properties.

Council has used the Australian Property Valuation Classification Code (AVPCC) as the basis for determining the appropriate property types to be included in the special rate scheme and will receive special benefit.

In previous declarations of former Special Rate Schemes and the Current Scheme, Council has decided that the following rateable occupancies do not derive special benefit from the Scheme and therefore have been excluded from the Schemes - Automatic Teller Machines (AVPCC 274), Advertising Roof Signs (AVPCC 290, 291), Carparks (AVPCC 282), Mobile Phone Towers (AVPCC 694), Vacant Land (200, 202, 300) and Carwash Areas (AVPCC 283). It is proposed that these items are excluded from the Proposed Scheme, on the basis that they will not derive a special benefit from the Proposed Scheme.

It is proposed that the Special Rate will be assessed and levied as follows:

1. 0.0532 cents in the dollar (0.000532) of the Capital Improved Value of each property in the Precinct allocated Australian Property Valuation Classification Code 210, 211, 212, 213, 214, 215, 216, 217, 218, 230, 232, 235, 240, 241, 242, 243, 245, 246 or 251 and has a Toorak Road Toorak property address (primary benefit);

2. $2,500.00 being the maximum amount levied upon any property on the primary benefit level within the Proposed Scheme.

3. 0.0266 cents in the dollar (0.000266) of the Capital Improved Value of each rateable property in the Precinct allocated Australian Property Valuation Classification Code 219, 220, 221, 222, 223, 270, 271, 272, 283, 284, 285, 310, 312 or 320 (secondary benefit);

4. $1,250.00 being the maximum amount levied upon any one secondary benefit property within the Proposed Scheme; and

5. minimum special rate payable for primary and secondary benefit levels $50.00.
CONCLUSION

The Special Rate Scheme for the marketing and promotion of the Precinct is a traders’ association initiative that has been supported by Council since 1994. Similar Special Rate schemes have proven beneficial to this Precinct to date. Council has considered all submissions and objections received and Council officers have formed the view that the Proposed Scheme will deliver a special benefit to those properties covered by the Proposed Scheme. On the basis of Officers assessment it is recommended that the status quo remain in respect to the area covered by the scheme, the 4 year term of the scheme and the 5% administration fee. Given this, it is recommended that Council proceed with the statutory process for declaring the Proposed Scheme.

HUMAN RIGHTS CONSIDERATION

The special rate/special charge declaration process has been prepared in accordance with the provisions of the Local Government Act 1989 and it is considered that the recommendation has met the obligations of the Charter of Human Rights and Responsibilities Act 2006

ATTACHMENTS

1. Attachment #1 - Toorak Village - Special rate property schedule
2. Attachment #2 - Toorak Village - special rate geographic region map
3. Attachment #3 - Toorak Village - Special rate strategic plan

RECOMMENDATION

That Council resolves to make the following declaration:-:

1. That Council declares a Special Rate for the purpose of defraying expenses relating to the encouragement of commerce in the Toorak Village Shopping Precinct (“Precinct”) on the basis that it considers that the Special Rate Scheme will deliver a special benefit to the persons required to pay the Special Rate.

2. The Special Rate is declared for four years, commencing on 1 July 2019 and concluding on 30 June 2023.

3. The properties to which the Special Rate Scheme applies are all rateable properties within the area identified on the attached geographic region plan and in the property schedule and which are primarily used or adapted to be used for non-residential purposes as determined by Australian Property Valuation Classification Code.

4. The Special Rate will be levied on properties within the Precinct as follows:

- 0.0532 cents in the dollar (0.000532) of the Capital Improved Value of each rateable property in the Precinct allocated Australian Property Valuation Classification Code 210, 211, 212, 213, 214, 215, 216, 217, 218, 230, 232, 235, 240, 241, 242, 243, 245, 246 or 251 and has a Toorak Road Toorak property address (primary benefit);
• $2,500.00 being the maximum amount levied upon any property on the primary benefit level within the Proposed Scheme.

• 0.0266 cents in the dollar (0.000266) of the Capital Improved Value of each rateable property in the Precinct allocated Australian Property Valuation Classification Code 219, 220, 221, 222, 223, 270, 271, 272, 283, 284, 285, 310, 312 or 320 (secondary benefit);

• $1,250.00 being the maximum amount levied upon any one secondary benefit property within the Proposed Scheme.

• $50.00 being the minimum special rate payable for primary and secondary benefit levels.

5. Subject to any further Council resolution, the persons required to pay the Special Rate must pay the Special Rate in the same manner and by the same due date as Council’s general rates.

6. Council will, subject to the Local Government Act 1989, require a person to pay interest on any Special Rate amount which that person is liable to pay and has not paid by the date specified for payment.

7. The Strategic Plan lodged by Toorak Village Traders Association [TVTA] be noted.

8. The Interim Chief Executive Officer is directed to give notice of the declaration, in accordance with Sections 163 and 185 of the Local Government Act 1989.
11. **Declaration of Special Rate Scheme- Glenferrie Road Malvern**

**Revenue Coordinator:** Robert Smart  
**Acting General Manager Corporate Services:** Jon Gorst

**Purpose**  
To declare a new Special Rate Scheme (Proposed Scheme) for the marketing and promotion of the Glenferrie Road Malvern Shopping Precinct (Precinct) and business engagement and business development of the members in the Glenferrie Road Malvern Business Association Inc. (GRMBA).

**Background**  
A Special Rate Scheme for the Glenferrie Road Malvern Shopping Precinct has been in operation for the past 4 years and concludes on 30 June 2019. There have been six (6) Special Rate Schemes in this precinct since 1994 including the current one. The proposed scheme would be the seventh. With the support of the previous and current schemes, the Glenferrie Road Malvern Business Association has undertaken a wide range of activities associated with the promotion and marketing of the Precinct.

Council has received a request from the Glenferrie Road Malvern Business Association Inc. (GRMBA) to introduce a new Special Rate Scheme to commence on 1 July 2019, for the purpose of raising funds for marketing and promotion of the Precinct and business engagement and business development of their members in the Precinct.

The Proposed Scheme would remain in force for a period of four years, commencing on 1 July 2019 and ending on 30 June 2023.

It is proposed that the Scheme would raise approximately $240,000 per annum (with an increase equivalent to CPI for each subsequent year), with minimum and maximum amounts set per property by means of the special rate levied on each commercial property within the Precinct, as detailed in the property schedule (Attachment 1). A map showing the Precinct and the properties to be covered by the Proposed Scheme is attached (Attachment 2). Council officers have assessed the current boundaries of the Scheme and consider that they cover the Glenferrie Road Malvern Shopping Precinct.

If the Proposed Scheme is declared, an agreement will be entered into between the GRMBA and Council, to govern the implementation of the Scheme and expenditure of Scheme funds. This continues the arrangement under the current Scheme.

The GRMBA will be required to adhere strictly to its obligations in the funding agreement in order for Council to approve instalment payments to the GRMBA. Among other things, the agreement will require GRMBA to submit various documents to Council, including strategic plan, audited financial statements and minutes of meetings, and compliance with legislative requirements.

**Discussion**  
The GRMBA has indicated to Council officers that there is support among traders to continue the marketing and promotion of the shopping precinct and re-introduce the Special Rate Scheme.

A Strategic Plan has been submitted to Council from the GRMBA to outline its objectives and proposed activities for the duration of the Proposed Scheme and how it intends to spend funds raised from the Proposed Scheme.
Council officers have reviewed the Strategic Plan and provided feedback to the GRMBA as to its contents. A copy of the submitted Strategic Plan is attached (Attachment #3). Council has considered all submissions and objections received.

**POLICY IMPLICATIONS**

The City of Stonnington Council Plan 2017-2021 Economy Pillar promotes “A City that will grow its premier status as a vibrant, innovative and creative business community”. Four key strategies support this with E4 being “promote Stonnington’s premier vibrant precincts, employment clusters and cultural assets as hubs for shopping, hospitality, entertainment and culture”.

**FINANCIAL AND RESOURCES IMPLICATIONS**

Council will incur costs to undertake the statutory process of declaring the Proposed Scheme, in particular costs for the giving of public notice, notifying those affected by the Proposed Scheme, as well as fees for having all objections counted by an independent firm. If the Proposed Scheme is declared, Council will incur the expenses involved with entering into a contract with the GRMBA and overseeing the administration of the Proposed Scheme. This expenditure is cost neutral to Council, as it is proposed that Council retain 5% of the total Scheme funds raised to cover the costs of declaring and administering the Proposed Scheme.

If declared the Proposed Scheme (as requested by the GRMBA) will raise approximately $240,000 in the 2019/2020 financial year. Council Officers have considered the GRMBA's submitted draft strategic plan and has provided feedback to GRMBA. Council officers have now assessed the amount of Scheme funds to be levied as reasonable and appropriate for carrying out the purposes of the Scheme.

If the special rate is declared it is proposed that the total annual special rate raised be increased by the amount equivalent to the annual State Government declared rate cap for general rates for each subsequent year if the special rate is declared.

Subject to meeting its obligations under the agreement with Council, ninety five percent (95%) of total scheme funds will be forwarded to the GRMBA for the association to conduct activities and functions to achieve the Scheme’s objectives.

The remaining five (5%) of the total Proposed Scheme funds will be retained by Council to offset the estimated costs of administering the Proposed Scheme. Consideration has been given to the quantum of Council’s costs in declaring and administering the Proposed Scheme and Council officers consider the amount of five percent (5%) of total scheme funds to be an appropriate amount to cover these costs.

Where Council's costs are less than five percent (5%) of annual Proposed Scheme Funds, excess funds will be paid to the GRMBA in accordance with the agreement.

Council's declaration of the Proposed Scheme may be challenged at the Victorian Civil and Administrative Tribunal. If an appeal is lodged, Council will incur legal costs which cannot be funded by the Proposed Scheme.
LEGAL ADVICE & IMPLICATIONS

When declaring a Special Rate Scheme, Council must comply with certain requirements under the Local Government Act 1989 (Act).

As required by the Act, Council has given public notice and notified all owners and occupiers of properties within the Precinct.

In accordance with section 163A of the Act, Council has received objections to the proposed special rate. As the Proposed Scheme will levy a total amount that exceeds two thirds of the total cost, affected ratepayers have the right to object. Council has now received objections within the statutory period. Council did not receive a majority of valid objections from those who are liable to pay, and as such Council may now declare the Proposed Scheme.

In accordance with section 223 of the Act Council has received all submissions made to the Proposed Scheme.

These submissions were heard by a Committee of Council and it is the opinion of Council that all properties will receive a special benefit from the proposed special rate and as such will remain as properties liable to pay the special rate.

After considering all submissions and objections received by those properties liable to pay the special rate, Council is satisfied that the Proposed Scheme will be provide special benefit to the persons required to pay the Special Rate.

If Council proceeds to declare the Proposed Scheme, it must include certain details regarding the Special Rate in its declaration, in accordance with section 163 of the Act.

Under section 185 of the Act, a person who is aggrieved by Council’s imposition of a special rate (being a person liable to pay the special rate) may apply to the Victorian Civil and Administrative Tribunal (VCAT) for review of the decision. Applications must be made within 30 days after the date of issue of the notice of the special rate and are limited to certain grounds as set out in the Act. The VCAT may vary or quash the special rate/special charge or dismiss the application and confirm the special rate/special charge.

Additionally, any person may apply to VCAT to challenge the validity of the declaration of a special rate. This application, under section 185AA of the Act, may be made at any time.

Benefit Ratio

The Act requires Council to determine a benefit ratio when proposing to declare a Special Rate. The ratio is the estimated proportion of the total benefits of the Scheme (including special benefits and community benefits) that will accrue as special benefits to all the persons who are liable to pay the Special Rate.

The formula used to determine the benefits ratio is:

\[
\text{TSB } (\text{in}) = \frac{\text{TSB } (\text{in}) + \text{TSB } (\text{out}) + \text{TCB}}{R}
\]

\text{TSB } (\text{in}) \text{ is the estimated total special benefit of those properties that the Council has decided to include in the scheme.}
TSB (out) is the estimated total special benefit of those properties with an identified special benefit that the Council does not propose to include in the scheme.

TCB is the estimated total community benefit. R is the benefit ratio.

The estimated benefit ratio to be applied to the special rate/special charge is 1.00 because it is considered that there will be no community benefit. That is, the total special benefit will be only to those persons required to pay the Proposed Special Rate.

The Proposed Scheme is to apply to all rateable properties used for non-residential purposes located within the Precinct. The Proposed Scheme will affect a total of 520 properties.

Council has used the Australian Property Valuation Classification Code (AVPCC) as the basis for determining the appropriate property types to be included in the special rate scheme and will receive special benefit.

In previous declarations of former Special Rate Schemes and the Current Scheme, Council has determined that the following rateable occupancies do not derive special benefit from the Scheme and therefore have been excluded from the Schemes - Automatic Teller Machines (AVPCC 274), Advertising Roof Signs (AVPCC 290, 291), Carparks (AVPCC 282), Mobile Phone Towers (AVPCC 694), Vacant Land (200, 202, 300) and Carwash Areas (AVPCC 283). It is proposed that these items are excluded from the Proposed Scheme, on the basis that they will not derive a special benefit from the Proposed Scheme.

It is proposed that the Special Rate will be assessed and levied as follows:

1. 0.03855 cents in the dollar (0.0003855) of the Capital Improved Value of each property in the Precinct allocated Australian Property Valuation Classification Code 210, 211, 212, 213, 214, 215, 216, 217, 218, 232, 240, 241, 242, 245, 246 or 251 and has a Glenferrie Road Malvern property address (primary benefit);

2. $3,500.00 being the maximum amount levied upon any property on the primary benefit level within the Proposed Scheme.

3. 0.019275 cents in the dollar (0.00019275) of the Capital Improved Value of each rateable property in the Precinct allocated Australian Property Valuation Classification Code 219, 220, 221, 222, 223, 270, 271, 272, 283, 284, 285, 310, 312 or 320) secondary benefit); and

4. $1,750.00 being the maximum amount levied upon any one secondary benefit property within the Proposed Scheme.

5. $200.00 flat charge for all Malvern Central stores with the exception of Woolworths and David Jones (tertiary benefit).

6. $175.00 flat charge for all rateable properties within Station Street, Claremont Avenue Malvern (quaternary benefit).
CONCLUSION
The Special Rate Scheme for the marketing and promotion of the Precinct is a traders' association initiative that has been supported by Council since 1994.

Similar Special Rate schemes have proven beneficial to this Precinct to date. Council has considered all submissions and objections received and Council officers have formed the view that the Proposed Scheme will deliver a special benefit to those properties covered by the Proposed Scheme. On the basis of Officers assessment it is recommended that the status quo remain in respect to the area covered by the scheme, the 4 year term of the scheme and the 5% administration fee. Given this, it is recommended that Council proceed with the statutory process for declaring the Proposed Scheme.

HUMAN RIGHTS CONSIDERATION
The special rate/special charge declaration process has been prepared in accordance with the provisions of the Local Government Act 1989 and complies with the Victorian Charter of Human Rights and Responsibilities Act 2006.

ATTACHMENTS
1. Attachment 1 - Glenferrie Road Malvern - special rate property schedule Excluded
2. Attachment 2 - Glenferrie Road Malvern - special rate geographic region map Excluded
3. Attachment 3 - Glenferrie Road Malvern - special rate strategic plan Confidential Excluded

RECOMMENDATION
That Council resolves to make the following declaration:-

1. That Council declares a Special Rate for the purpose of defraying expenses relating to the encouragement of commerce in the Glenferrie Road Malvern Shopping Precinct ("Precinct") on the basis that it considers that the Special Rate Scheme will deliver a special benefit to the persons required to pay the Special Rate.

2. The Special Rate is declared for four years, commencing on 1 July 2019 and concluding on 30 June 2023.

3. The properties to which the Special Rate Scheme applies are all rateable properties within the area identified on the attached geographic region plan and in the property schedule and which are primarily used or adapted to be used for non-residential purposes as determined by Australian Property Valuation Classification Code.
4. The Special Rate will be levied on properties within the Precinct as follows:

- 0.03855 cents in the dollar (0.0003855) of the Capital Improved Value of each rateable property in the Precinct allocated Australian Property Valuation Classification Code 210, 211, 212, 213, 214, 215, 216, 217, 218, 232, 240, 241, 242, 245, 246 or 251 and has a Glenferrie Road Malvern property address (primary benefit);

- $3,500.00 being the maximum amount levied upon any property on the primary benefit level within the Proposed Scheme.

- 0.019275 cents in the dollar (0.00019275) of the Capital Improved Value of each rateable property in the Precinct allocated Australian Property Valuation Classification Code 219, 220, 221, 222, 223, 270, 271, 272, 283, 284, 285, 310, 312 or 320) (secondary benefit); and

- $1,750.00 being the maximum amount levied upon any one secondary benefit property within the Proposed Scheme.

- $200.00 flat charge for all Malvern Central stores with the exception of Woolworths and David Jones (tertiary benefit).

- $175.00 flat charge for all rateable properties within Station Street and Claremont Avenue Malvern (quaternary benefit).

5. Subject to any further Council resolution, the persons required to pay the Special Rate must pay the Special Rate in the same manner and by the same due date as Council’s general rates.

6. Council will, subject to the Local Government Act 1989, require a person to pay interest on any Special Rate amount which that person is liable to pay and has not paid by the date specified for payment.

7. The Strategic Plan lodged by Glenferrie Road Malvern Business Association Inc. (GRMBA) be noted.

8. The Interim Chief Executive Officer is directed to give notice of the declaration, in accordance with Sections 163 and 185 of the Local Government Act 1989.
12. DECLARATION OF SPECIAL RATE SCHEME - HIGH STREET ARMADEALE

Revenue Coordinator: Robert Smart  
Acting General Manager Corporate Services: Jon Gorst

PURPOSE
To declare a new Special Rate Scheme (Proposed Scheme) for the marketing and promotion of the High Street Armadale Shopping Precinct (Precinct) and business engagement and business development of the members in the High Street Armadale Business Association Inc. [HSABA].

BACKGROUND
A Special Rate Scheme for the High Street Armadale Shopping Precinct has been in operation for the past 4 years and concludes on 30 June 2019. Previous to the current Scheme, previous Special Rate Schemes have been in place since 1994. With the support of the previous and current schemes, the High Street Armadale Business Association (HSABA) has undertaken a wide range of activities associated with the promotion and marketing of the Precinct.

Council has received a request from the High Street Armadale Business Association Inc. (HSABA) to introduce a new Special Rate Scheme to commence on 1 July 2019, for the purpose of raising funds for marketing and promotion of the precinct and business engagement and business development of their members in the Precinct.

The Proposed Scheme would remain in force for a period of four years, commencing on 1 July 2019 and ending on 30 June 2023.

It is proposed that the Scheme would raise approximately $233,000 per annum (with an increase equivalent to CPI for each subsequent year), with minimum and maximum amounts set per property by means of the special rate levied on each commercial property within the precinct, as detailed in the property schedule (Attachment 1). A map showing the Precinct and the properties to be covered by the Proposed Scheme is attached (Attachment 2). Council officers have assessed the current boundaries of the Scheme and consider that they encompass the High Street Armadale Shopping Precinct.

If the Proposed Scheme is declared, an agreement will be entered into between the HSABA and Council, to govern the implementation of the Scheme and expenditure of Scheme funds. This continues the arrangement under the current Scheme.

The HSABA will be required to adhere strictly to its obligations in the funding agreement in order for Council to approve instalment payments to the HSABA. Among other things, the agreement will require HSABA to submit various documents to Council, including strategic plan, audited financial statements and minutes of meetings, and compliance with legislative requirements.

DISCUSSION
The HSABA has indicated to Council officers that there is support among traders to continue the marketing and promotion of the shopping precinct and re-introduce the Special Rate Scheme. A Strategic Plan has been submitted to Council from the HSABA to outline its objectives and proposed activities for the duration of the Proposed Scheme and how it intends to spend funds raised from the Proposed Scheme.
Council officers have reviewed the Business Plan and provided feedback to the HSABA as to its contents. A copy of the submitted Strategic Plan is attached (Attachment #3).

Council has considered all submissions and objections received.

**POLICY IMPLICATIONS**

The City of Stonnington Council Plan 2017-2021 Economy Pillar promotes “A City that will grow its premier status as a vibrant, innovative and creative business community”. Four key strategies support this with E4 being “promote Stonnington’s premier vibrant precincts, employment clusters and cultural assets as hubs for shopping, hospitality, entertainment and culture”.

**FINANCIAL AND RESOURCES IMPLICATIONS**

Council will incur costs to undertake the statutory process of declaring the Proposed Scheme, in particular costs for the giving of public notice, notifying those affected by the Proposed Scheme, as well as fees for having all objections counted by an independent firm. If the Proposed Scheme is declared, Council will incur the expenses involved with entering into a contract with the HSABA and overseeing the administration of the Proposed Scheme. This expenditure is cost neutral to Council, as it is proposed that Council retain 5% of the total Scheme funds raised to cover the costs of declaring and administering the Proposed Scheme.

If declared the Proposed Scheme (as requested by the HSABA) will raise approximately $233,000 in the 2019/2020 financial year. Council officers have considered the HSABA’s submitted draft strategic plan and have provided feedback to HSABA. Council officers have now assessed the amount of Scheme funds to be levied as reasonable and appropriate for carrying out the purposes of the Scheme.

It is proposed subject to approval, that the total annual special rate raised be increased by the amount equivalent to the annual State Government declared cap for general rates for each subsequent year after declaration, if the special rate is declared.

Subject to meeting its obligations under the agreement with Council, ninety five percent (95%) of total scheme funds will be forwarded to the HSABA for the association to conduct activities and functions to achieve the Scheme's objectives.

The remaining five (5%) of the total Proposed Scheme funds will be retained by Council to offset the estimated costs of administering the Proposed Scheme. Consideration has been given to the quantum of Council's costs in declaring and administering the Proposed Scheme and Council officers consider the amount of five percent (5%) of total scheme funds to be an appropriate amount to cover these costs.

Where Council's costs are less than five percent (5%) of annual Proposed Scheme Funds, excess funds will be paid to the HSABA in accordance with the agreement.

Council's declaration of the Proposed Scheme may be challenged at the Victorian Civil and Administrative Tribunal. If an appeal is lodged, Council will incur legal costs which cannot be funded by the Proposed Scheme.

**LEGAL ADVICE & IMPLICATIONS**

When declaring a Special Rate Scheme, Council must comply with certain requirements under the Local Government Act 1989 (Act).
As required by the Act, Council has given public notice and notified all owners and occupiers of properties within the Precinct.

In accordance with section 163A of the Act, Council has received objections to the proposed special rate. As the Proposed Scheme will levy a total amount that exceeds two thirds of the total cost, affected ratepayers have the right to object. Council has now received objections within the statutory period. Council did not receive a majority of valid objections from those who are liable to pay, and as such Council may now declare the Proposed Scheme.

In accordance with section 223 of the Act Council has received all submissions made to the Proposed Scheme.

These submissions were heard by a Committee of Council and it is the opinion of Council that all properties will receive a special benefit from the proposed special rate and as such will remain as properties liable to pay the special rate.

After considering all submissions and objections received by those properties liable to pay the special rate, Council is satisfied that the Proposed Scheme will be provide special benefit to the persons required to pay the Special Rate.

If Council proceeds to declare the Proposed Scheme, it must include certain details regarding the Special Rate in its declaration, in accordance with section 163 of the Act.

Under section 185 of the Act, a person who is aggrieved by Council's imposition of a special rate (being a person liable to pay the special rate) may apply to the Victorian Civil and Administrative Tribunal (VCAT) for review of the decision. Applications must be made within 30 days after the date of issue of the notice of the special rate and are limited to certain grounds as set out in the Act. The VCAT may vary or quash the special rate/special charge or dismiss the application and confirm the special rate/special charge.

Additionally, any person may apply to VCAT to challenge the validity of the declaration of a special rate. This application, under section 185AA of the Act, may be made at any time.

**Benefit Ratio**

The Act requires Council to determine a benefit ratio when proposing to declare a Special Rate. The ratio is the estimated proportion of the total benefits of the Scheme (including special benefits and community benefits) that will accrue as special benefits to all the persons who are liable to pay the Special Rate.

The formula used to determine the benefits ratio is:

\[
\frac{T_{\text{SB}} \text{(in)}}{T_{\text{SB}} \text{(in)}} + T_{\text{SB}} \text{(out)} + T_{\text{CB}} = R
\]

\(T_{\text{SB}} \text{(in)}\) is the estimated total special benefit of those properties that the Council has decided to include in the scheme.

\(T_{\text{SB}} \text{(out)}\) is the estimated total special benefit of those properties with an identified special benefit that the Council does not propose to include in the scheme.

\(T_{\text{CB}}\) is the estimated total community benefit. \(R\) is the benefit ratio.
The estimated benefit ratio to be applied to the special rate/special charge is 1.00 because it is considered that there will be no community benefit. That is, the total special benefit will be only to those persons required to pay the Proposed Special Rate.

The Proposed Scheme is to apply to all rateable properties used for non-residential purposes located within the Precinct. The Proposed Scheme will affect a total of 370 properties.

Council has used the Australian Property Valuation Classification Code (AVPCC) as the basis for determining the appropriate property types to be included in the special rate scheme and will receive special benefit.

In previous declarations of former Special Rate Schemes and the Current Scheme, Council has decided that the following rateable occupancies do not derive special benefit from the Scheme and therefore have been excluded from the Schemes - Automatic Teller Machines (AVPCC 274), Advertising Roof Signs (AVPCC 290, 291), Carparks (AVPCC 282), Mobile Phone Towers (AVPCC 694), Vacant Land (200, 202, 300) and Carwash Areas (AVPCC 283). It is proposed that these items are excluded from the Proposed Scheme, on the basis that they will not derive a special benefit from the Proposed Scheme.

It is proposed that the Special Rate will be assessed and levied as follows:

1. 0.0385 cents in the dollar (0.000385) of the Capital Improved Value of each property in the Precinct allocated Australian Property Valuation Classification Code 210, 211, 212, 213, 214, 215, 216, 217, 218, 232, 240, 241, 242, 245, 246 or 251 and has a High Street property address (primary benefit);
2. $3,000.00 being the maximum amount levied upon any property on the primary benefit level within the Proposed Scheme.
3. 0.01925 cents in the dollar (0.0001925) of the Capital Improved Value of each rateable property in the Precinct allocated Australian Property Valuation Classification Code 219, 220, 221, 222, 223, 270, 271, 272, 283, 284, 285, 310, 312 or 320) secondary benefit); and
4. $1,500.00 being the maximum amount levied upon any one secondary benefit property within the Proposed Scheme.

CONCLUSION

The Special Rate Scheme for the marketing and promotion of the Precinct is a business association initiative that has been supported by Council since 1994.

Similar Special Rate schemes have proven beneficial to this Precinct to date. Council officers have formed the view that the Proposed Scheme will deliver a special benefit to those properties covered by the Proposed Scheme. On the basis of Officers assessment it is recommended that the status quo remain in respect to the area covered by the scheme, the 4 year term of the scheme and the 5% administration fee. Given this, it is recommended that Council proceed with the statutory process for declaring the Proposed Scheme.

HUMAN RIGHTS CONSIDERATION

The special rate/special charge declaration process has been prepared in accordance with the provisions of the Local Government Act 1989 and it is considered that the recommendation has met the obligations of the Charter of Human Rights and Responsibilities Act 2006.
ATTACHMENTS

1. Attachment 1 - High Street Armadale - special rate property schedule Excluded
2. Attachment 2 - High Street Armadale - special rate geographic region map Excluded
3. Attachment 3 - High Street Armadale - special rate strategic plan Confidential Excluded

RECOMMENDATION

That Council resolves to make the following declaration:-

1. That Council declares a Special Rate for the purpose of defraying expenses relating to the encouragement of commerce in the High Street Armadale Shopping Precinct (“Precinct”) on the basis that it considers that the Special Rate Scheme will deliver a special benefit to the persons required to pay the Special Rate.

2. The Special Rate is declared for four years, commencing on 1 July 2019 and concluding on 30 June 2023.

3. The properties to which the Special Rate Scheme applies are all rateable properties within the area identified on the attached geographic region plan and in the property schedule and which are primarily used or adapted to be used for non-residential purposes as determined by Australian Property Valuation Classification Code.

4. The Special Rate will be levied on properties within the Precinct as follows:

   - 0.0385 cents in the dollar (0.000385) of the Capital Improved Value of each rateable property in the Precinct allocated Australian Property Valuation Classification Code 210, 211, 212, 213, 214, 215, 216, 217, 218, 232, 240, 241, 242, 245, 246 or 251 and has a High Street property address (primary benefit);
   - $3,000.00 being the maximum amount levied upon any property on the primary benefit level within the Proposed Scheme.
   - 0.01925 cents in the dollar (0.0001925) of the Capital Improved Value of each rateable property in the Precinct allocated Australian Property Valuation Classification Code 219, 220, 221, 222, 223, 270, 271, 272, 283, 284, 285, 310, 312 or 320 (secondary benefit); and
   - $1,500.00 being the maximum amount levied upon any one secondary benefit property within the Proposed Scheme.
5. Subject to any further Council resolution, the persons required to pay the Special Rate must pay the Special Rate in the same manner and by the same due date as Council’s general rates.

6. Council will, subject to the Local Government Act 1989, require a person to pay interest on any Special Rate amount which that person is liable to pay and has not paid by the date specified for payment.

7. The Strategic Plan lodged by High Street Armadale Business Association Inc. [HSABA] be noted.

8. The Interim Chief Executive Officer is directed to give notice of the declaration, in accordance with Sections 163 and 185 of the Local Government Act 1989.
13. DECLARATION OF SPECIAL RATE SCHEME - CHAPEL STREET SHOPPING PRECINCT

Revenue Coordinator: Robert Smart
Acting General Manager Corporate Services: Jon Gorst

PURPOSE
To declare a new Special Rate Scheme (Proposed Scheme) for the marketing and promotion of the Chapel Street Shopping Precinct (Precinct) and business engagement and business development of the members in the Chapel Street Precinct Association Inc. [CSPA].

BACKGROUND
A Special Rate Scheme for the Chapel Street Shopping Precinct has been in operation for the past 4 years and concludes on 30 June 2019. Previous to the current Scheme, previous Special Rate Schemes have been in place since 1994. With the support of the previous and current schemes, the Chapel Street Precinct Association (CSPA) has undertaken a wide range of activities associated with the promotion and marketing of the Precinct.

Council has received a request from the Chapel Street Precinct Association Inc. (CSPA) to introduce a new Special Rate Scheme to commence on 1 July 2019, for the purpose of raising funds for marketing and promotion of the precinct and business engagement and business development of their members in the Precinct.

The Proposed Scheme would remain in force for a period of four years, commencing on 1 July 2019 and ending on 30 June 2023.

It is proposed that the Scheme would raise approximately $1,164,000 per annum (with an increase equivalent to the State Government rate cap for general rates each subsequent year), with minimum and maximum amounts set per property by means of the special rate levied on each commercial property within the precinct, as detailed in the property schedule (Attachment 1). The Precinct is contained within the northern boundary of Alexandra Avenue, eastern boundary of Sandringham railway line (properties to the east) and Vine Street, southern boundary of Dandenong Road and western boundary of River Street, Forster Street, Bray Street, Little Chapel Street, Mount Street and Bray Street. A map showing the Precinct and the properties to be covered by the Proposed Scheme is found at (Attachment 2). Council officers have assessed the current boundaries of the Scheme and consider that they encompass the Chapel Street Precinct.

If the Proposed Scheme is declared, an agreement will be entered into between the CSPA and Council, to govern the implementation of the Scheme and expenditure of Scheme funds. This continues the arrangement under the current Scheme.

The CSPA will be required to adhere strictly to its obligations in the funding agreement in order for Council to approve instalment payments to the CSPA. Among other things, the agreement will require CSPA to submit various documents to Council, including strategic plan, audited financial statements and minutes of meetings, and compliance with legislative requirements.
DISCUSSION
The CSPA has indicated to Council officers that there is support among traders to continue the marketing and promotion of the shopping precinct and re-introduce the Special Rate Scheme. A Strategic Plan has been submitted to Council from the CSPA to outline its objectives and proposed activities for the duration of the Proposed Scheme and how it intends to spend funds raised from the Proposed Scheme. Council officers have reviewed the Strategic Plan and provided feedback to the CPSA as to its contents. A copy of the Strategic Plan is attached (Attachment #3).

Council has considered all submissions and objections received.

POLICY IMPLICATIONS

The City of Stonnington Council Plan 2017-2021 Economy Pillar promotes “A City that will grow its premier status as a vibrant, innovative and creative business community”. Four key strategies support this with E4 being “promote Stonnington’s premier vibrant precincts, employment clusters and cultural assets as hubs for shopping, hospitality, entertainment and culture”.

FINANCIAL AND RESOURCES IMPLICATIONS

Council will incur costs to undertake the statutory process of declaring the Proposed Scheme, in particular costs for the giving of public notice, notifying those affected by the Proposed Scheme, as well as fees for having all objections counted by an independent firm. If the Proposed Scheme is declared, Council will incur the expenses involved with entering into a contract with the CSPA and overseeing the administration of the Proposed Scheme. This expenditure is cost neutral to Council, as it is proposed that Council retain 5% of the total Scheme funds raised to cover the costs of declaring and administering the Proposed Scheme.

If declared the Proposed Scheme (as requested by the CSPA) will raise approximately $1,164,000 in the 2019/2020 financial year. Council officers have considered the CSPA’s submitted draft strategic plan and have provided feedback to CSPA. Council officers have now assessed the amount of Scheme funds to be levied as reasonable and appropriate for carrying out the purposes of the Scheme.

It is proposed subject to approval, that the total annual special rate raised be increased by the amount equivalent to the annual State Government declared cap for general rates for each subsequent year after declaration, if the special rate is declared.

Subject to meeting its obligations under the agreement with Council, ninety five percent (95%) of total scheme funds will be forwarded to the CSPA for the association to conduct activities and functions to achieve the Scheme’s objectives.

The remaining five (5%) of the total Proposed Scheme funds will be retained by Council to offset the estimated costs of administering the Proposed Scheme. Consideration has been given to the quantum of Council’s costs in declaring and administering the Proposed Scheme and Council officers consider the amount of five percent (5%) of total scheme funds to be an appropriate amount to cover these costs.

Where Council’s costs are less than five percent (5%) of annual Proposed Scheme Funds, excess funds will be paid to the CSPA in accordance with the agreement.
Council's declaration of the Proposed Scheme may be challenged at the Victorian Civil and Administrative Tribunal. If an appeal is lodged, Council will incur legal costs which cannot be funded by the Proposed Scheme.

LEGAL ADVICE & IMPLICATIONS

When declaring a Special Rate Scheme, Council must comply with certain requirements under the Local Government Act 1989 (Act).

As required by the Act, Council has given public notice and notified all owners and occupiers of properties within the Precinct.

In accordance with section 163A of the Act, Council has received objections to the proposed special rate. As the Proposed Scheme will levy a total amount that exceeds two thirds of the total cost, affected ratepayers have the right to object. Council has now received objections within the statutory period. Council did not receive a majority of valid objections from those who are liable to pay, and as such Council may now declare the Proposed Scheme.

In accordance with section 223 of the Act Council has received all submissions made to the Proposed Scheme. These submissions were heard by a Committee of Council and it is the opinion of Council that all properties will receive a special benefit from the proposed special rate and as such will remain as properties liable to pay the special rate.

After considering all submissions and objections received by those properties liable to pay the special rate, Council is satisfied that the Proposed Scheme will be provide special benefit to the persons required to pay the Special Rate.

If Council proceeds to declare the Proposed Scheme, it must include certain details regarding the Special Rate in its declaration, in accordance with section 163 of the Act.

Under section 185 of the Act, a person who is aggrieved by Council’s imposition of a special rate (being a person liable to pay the special rate) may apply to the Victorian Civil and Administrative Tribunal (VCAT) for review of the decision. Applications must be made within 30 days after the date of issue of the notice of the special rate and are limited to certain grounds as set out in the Act. The VCAT may vary or quash the special rate/special charge or dismiss the application and confirm the special rate/special charge.

Additionally, any person may apply to VCAT to challenge the validity of the declaration of a special rate. This application, under section 185AA of the Act, may be made at any time.

Benefit Ratio

The Act requires Council to determine a benefit ratio when proposing to declare a Special Rate. The ratio is the estimated proportion of the total benefits of the Scheme (including special benefits and community benefits) that will accrue as special benefits to all the persons who are liable to pay the Special Rate.
The formula used to determine the benefits ratio is:

\[
\text{TSB (in)} + \text{TSB (out)} + \text{TCB} = R
\]

**TSB (in)** is the estimated total special benefit of those properties that the Council has decided to include in the scheme.

**TSB (out)** is the estimated total special benefit of those properties with an identified special benefit that the Council does not propose to include in the scheme.

**TCB** is the estimated total community benefit. \( R \) is the benefit ratio.

The estimated benefit ratio to be applied to the special rate/special charge is 1.00 because it is considered that there will be no community benefit. That is, the total special benefit will be only to those persons required to pay the Proposed Special Rate.

The Proposed Scheme is to apply to all rateable properties used for non-residential purposes located within the Precinct. The Proposed Scheme will affect a total of 2,078 properties.

Council has used the Australian Property Valuation Classification Code (AVPCC) as the basis for determining the appropriate property types to be included in the special rate scheme and will receive special benefit.

In previous declarations of former Special Rate Schemes and the Current Scheme, Council has determined that the following rateable occupancies do not derive special benefit from the Scheme and therefore have been excluded from the Schemes - Automatic Teller Machines (AVPCC 274), Advertising Roof Signs (AVPCC 290, 291), Carparks (AVPCC 282), Mobile Phone Towers (AVPCC 694), Vacant Land (200, 202, 300) and Carwash Areas (AVPCC 283). It is proposed that these items are excluded from the Proposed Scheme, on the basis that they will not derive a special benefit from the Proposed Scheme.

It is proposed that the Special Rate will be assessed and levied as follows:

a. **0.0457 cents in the dollar (0.000457) of the Capital Improved Value of each property in the Precinct allocated Australian Property Valuation Classification Code 210, 211, 212, 213, 214, 215, 216, 217, 218, 232, 240, 241, 242, 245, 246 or 251 (primary benefit);**

b. **$300.00 being the minimum amount levied upon any one primary benefit property within the Proposed Scheme.**

c. **$5,000 being the maximum amount levied upon any property on the primary benefit level within the Proposed Scheme.**

d. **0.02285 cents in the dollar (0.0002285) of the Capital Improved Value of each rateable property in the Precinct allocated Australian Property Valuation Classification Code 219, 220, 221, 222, 223, 270, 271, 272, 283, 284, 285, 310, 312 or 320) secondary benefit); and**

e. **$150.00 being the minimum amount levied upon any one secondary benefit property within the Proposed Scheme.**
f. $2,500 being the maximum amount levied upon any one secondary benefit property within the Proposed Scheme.

CONCLUSION
The Special Rate Scheme for the marketing and promotion of the Precinct is a business association initiative that has been supported by Council since 1994.

Similar Special Rate schemes have proven beneficial to this Precinct to date. Council officers have formed the view that the Proposed Scheme will deliver a special benefit to those properties covered by the Proposed Scheme. On the basis of Officers assessment it is recommended that the status quo remain in respect to the area covered by the scheme, the 4 year term of the scheme and the 5% administration fee. Given this, it is recommended that Council proceed with the statutory process for declaring the Proposed Scheme.

HUMAN RIGHTS CONSIDERATION
The special rate/special charge declaration process has been prepared in accordance with the provisions of the Local Government Act 1989 and it is considered that the recommendation has met the obligations of the Charter of Human Rights and Responsibilities Act 2006.

ATTACHMENTS

1. Attachment 1 - Chapel Street Precinct - special rate property schedule
2. Attachment 2 - Chapel Street Precinct - special rate geographic region map
3. Attachment 3 - Chapel Street Precinct - special rate strategic plan

RECOMMENDATION

That Council resolves to make the following declaration:-

1. That Council declares a Special Rate for the purpose of defraying expenses relating to the encouragement of commerce in the Chapel Street Windsor, Prahran, South Yarra Shopping Precinct (“Precinct”) on the basis that it considers that the Special Rate Scheme will deliver a special benefit to the persons required to pay the Special Rate.

2. The Special Rate is declared for four years, commencing on 1 July 2019 and concluding on 30 June 2023.

3. The properties to which the Special Rate Scheme applies are all rateable properties within the area identified on the attached geographic region plan and in the property schedule and which are primarily used or adapted to be used for non-residential purposes as determined by Australian Property Valuation Classification Code.
4. The Special Rate will be levied on properties within the Precinct as follows:

- 0.0457 cents in the dollar (0.000457) of the Capital Improved Value of each rateable property in the Precinct allocated Australian Property Valuation Classification Code 210, 211, 212, 213, 214, 215, 216, 217, 218, 232, 240, 241, 242, 245, 246 or 251 (primary benefit);

- $300.00 being the minimum amount levied upon any one primary benefit property within the Proposed Scheme.

- $5,000 being the maximum amount levied upon any property on the primary benefit level within the Proposed Scheme.

- 0.02285 cents in the dollar (0.0002285) of the Capital Improved Value of each rateable property in the Precinct allocated Australian Property Valuation Classification Code 219, 220, 221, 222, 223, 270, 271, 272, 283, 284, 285, 310, 312 or 320 (secondary benefit); and

- $150.00 being the minimum amount levied upon any one secondary benefit property within the Proposed Scheme.

- $2,500 being the maximum amount levied upon any one secondary benefit property within the Proposed Scheme.

5. Subject to any further Council resolution, the persons required to pay the Special Rate must pay the Special Rate in the same manner and by the same due date as Council’s general rates.

6. Council will, subject to the Local Government Act 1989, require a person to pay interest on any Special Rate amount which that person is liable to pay and has not paid by the date specified for payment.

7. The Strategic Plan lodged by Chapel Street Precinct Association Inc. [CSPA] be noted.

8. The Interim Chief Executive Officer is directed to give notice of the declaration, in accordance with Sections 163 and 185 of the Local Government Act 1989.
14. LOCAL PARKING RESTRICTIONS SURVEY IN STREETS IN THE VICINITY OF CHADSTONE ROAD

Student Traffic Engineer: Mark Thomason  
Manager Transport & Parking: Ian McLauchlan  
Acting General Manager Assets & Services: Rick Kwasek

PURPOSE
To seek approval to finalise consultation on a detailed proposal for parking restrictions in the local streets in the vicinity of Chadstone Road. To seek approval to incorporate Chadstone Road into a detailed proposal for parking restrictions named above and to seek approval to abandon the proposal to install parking restrictions in Rowena Road, Malvern East

BACKGROUND
At the Council meeting 4 February 2019 regarding the Percy Treyvaud Memorial – Park Draft Masterplan it was motioned that

“5. Consultation be undertaken with residents of Abbotsford Avenue, Rob Roy Road, Armstrong Court, Quentin Road, Durward Road, Rebecca Road, Rowena Road, Bowen Street, Alma Street and Gauntlet Road regarding the possible introduction of parking restrictions in accordance with the recommendations of the traffic works report.”

In accordance with this Council direction, Council officers undertook the first stage of a two-stage consultation process. Consultation was also undertaken with Fenwick Street, Malvern East and Gordon Street, Malvern East as it was expected that any restrictions in the surrounding streets would push parking onto these smaller local streets.

A circular letter was distributed to all above mentioned streets on 21 March 2019. (See Attachment A & B) This consultation gave the residents the opportunity to not only state whether they supported restrictions or not, but also what type of parking restriction, time of day, and days of operation they support. This letter was drafted by Transport and Parking, and was reviewed by Communications and Ward Councillors.

There were five (5) questions asked in the consultation, as well as a comments section.

The five (5) questions were as follows:

“Do you support parking restrictions in your street?”  [Yes]  [No]

“Type of Restriction Preferred”  [PERMIT ZONE]  [1-HOUR]  [2-HOUR]  [Other]

“Restriction Coverage”  [One side of the street]  [Both sides of the street (if possible)]

“Day of Restriction”  [Mon-Fri]  [Sat, Sun, Public Holidays]  [All Days]

“Time of Restriction”  [9am-6pm]  [9am-9pm]  [All Times]

The purpose of the 1st stage of the consultation process was to establish whether residents had an appetite for restrictions being installed in their street and the type of restriction considered suitable as outlined above.
DISCUSSION

Consultation results are attached. In some street responses were varied and inconsistent with some residents preferring timed restrictions rather than permit parking. Days of restrictions and time of restriction were also varied between resident responses. Given the first stage of consultation did not elicit responses from the majority of the community it is also considered necessary to seek community feedback on the specific parking proposal. In the 2nd stage of the consultation it was proposed to consult all property occupiers on a single proposal which was determined from the results of the initial consultation. This 2nd stage consultation would outline restriction details, sign locations together with the conditions of issue of parking permits, to enable a more informed response to a definitive proposal.

Typically when considering responses to circulars, if at least two-thirds (67%) of respondents are unconditionally in favour of a proposal and the response rate is greater than 20%, barring any objections of merit, the proposal would usually be considered further.

As outlined in the initial survey and in light of the survey results, it is considered appropriate to proceed with the second round of consultation which will outline the specific parking proposal for each street together with the parking permits conditions under the scheme.

Officers undertook detailed investigation into the responses received for each street and produced a recommendation for each street respectively. Recommendations can be found in the summary table below. Plans for recommended restrictions in all streets can be found in Attachment C - Proposed Restrictions.

Detailed analysis of the responses received by each street can be found in Attachment D - Response Analysis.

<table>
<thead>
<tr>
<th>Street Name</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abbotsford Avenue, Malvern East</td>
<td>Proceed to consult on detailed proposal to install PERMIT ZONE restrictions operating all days at all times on both sides of Abbotsford Avenue where possible. Restrictions are only being considered abutting residential properties. Therefore, restrictions are not considered for the section of Abbotsford Avenue which abuts Malvern Valley Primary School.</td>
</tr>
<tr>
<td>Alma Street, Malvern East</td>
<td>Due to the length of Alma Street, it was reasonable to install a separate restriction on the north and south sections of Alma Street, separated at Fenwick Street. Officers assessed each section individually to come to the below recommendation. Proceed to consult on detailed proposal to install PERMIT ZONE restrictions operating all days between 9am-6pm on both sides of Alma Street between Waverley Road and Fenwick Street. Proceed to consult on detailed proposal to install PERMIT ZONE restrictions operating all days at all times on both sides of Alma Street between Fenwick Street and Dandenong Road.</td>
</tr>
<tr>
<td>Street Name</td>
<td>Recommendation</td>
</tr>
<tr>
<td>---------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Armstrong Court, Malvern East</td>
<td>Proceed to consult on detailed proposal to install PERMIT ZONE restrictions operating all days at all times on the north side of Armstrong Court. Restrictions are only being considered abutting residential properties. Therefore, restrictions are not considered on the south side of Armstrong Court which abuts commercial properties and Richard Moss Reserve.</td>
</tr>
<tr>
<td>Bowen Street, Malvern East</td>
<td>Due to the length of Bowen Street, it could be considered reasonable to install a separate restriction on the north and south sections of Bowen Street, separated at Fenwick Street. Officers assessed each section individually to come to the below recommendation. Proceed to consult on detailed proposal to install PERMIT ZONE restrictions operating all days at all times on the east side, and NO STOPPING restrictions operating all days and all times on the west side of Bowen Street between Fenwick Street and Dandenong Road. Proceed to consult on detailed proposal to install PERMIT ZONE restrictions operating all days at all times on both sides of Bowen Street where possible. Restrictions are only being considered abutting residential properties. Therefore, restrictions are not considered on part of the east section of Bowen Street which abuts Richard Moss Reserve.</td>
</tr>
<tr>
<td>Chadstone Road, Malvern East (not included in original decision)</td>
<td>Proceed to consult on detailed proposal to install PERMIT ZONE restrictions operating all days at all times on both sides of Chadstone Road north of Abbotsford Avenue.</td>
</tr>
<tr>
<td>Durward Road, Malvern East</td>
<td>Proceed to consult on detailed proposal to install PERMIT ZONE restrictions operating all days at all times on both sides of Durward Road.</td>
</tr>
<tr>
<td>Fenwick Street, Malvern East</td>
<td>Proceed to consult on detailed proposal to install PERMIT ZONE restrictions operating all days at all times on both sides of Fenwick Street west of Bowen Street. Restrictions are only being considered abutting residential properties. Therefore, restrictions are not considered on the east section of Fenwick Street which abuts Richard Moss Reserve.</td>
</tr>
<tr>
<td>Gauntlet Road, Malvern East</td>
<td>Proceed to consult on detailed proposal to install PERMIT ZONE restrictions operating all days at all times on both sides of Gauntlet Road.</td>
</tr>
<tr>
<td>Gordon Street, Malvern East</td>
<td>Proceed to consult on detailed proposal to install PERMIT ZONE restrictions operating all days between 9am-9pm on the north side of Gordon Street, and NO STOPPING restrictions operating all days at all times on the south side of Gordon Street.</td>
</tr>
</tbody>
</table>
**Street Name** | **Recommendation**
--- | ---
Quentin Road, Malvern East | Proceed to consult on detailed proposal to install PERMIT ZONE restrictions operating all days at all times on the east side of Quentin Road where possible. Restrictions are only being considered abutting residential properties. Therefore, restrictions are not considered on part of the west side of Quentin Road which abuts Malvern Valley Primary School and Phoenix Park. As there is an existing NO STOPPING restriction in Quentin Road in place surrounding a school crossing, this section would be subject to PERMIT ZONE operating ALL OTHER TIMES.

Rebecca Road, Malvern East | Proceed to consult on detailed proposal to install PERMIT ZONE restrictions operating all days at all times on both sides of Rebecca Road.

Rob Roy Road, Malvern East | Proceed to consult on detailed proposal to install PERMIT ZONE restrictions operating all days at all times on both sides of Rob Roy Road where possible. Restrictions are only being considered abutting residential properties. Therefore, restrictions are not considered on part of the east section of Rob Roy Road which abuts Malvern Valley Primary School and Phoenix Park.

Rowena Road, Malvern East | Abandon the proposal to install restrictions in Rowena Road due to the overwhelmingly negative response received from the first consultation.

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**Chadstone Road**

Chadstone Road was not included in the initial consultation as it was not identified in the Council resolution. In addition to this, the Residential Permit Parking Scheme states that PERMIT ZONE restrictions are not to be installed on arterial roads. Following a request to install PERMIT ZONE restrictions in the currently unrestricted section of Chadstone Road north of Abbotsford Avenue a survey of residents will be undertaken on the proposed introduction of restrictions. Any parking south of Abbotsford Avenue on Chadstone Road is either already subjected to legacy PERMIT ZONE restrictions operating all days at all times, or is abutting commercial properties or Percy Treyvaud Memorial Park.

Given:

- the legacy Permit Zone restrictions operating at the southern end of the road (installed by the former Malvern City Council as part of an earlier Chadstone Shopping Centre approval); and,

- the likely impact of PERMIT ZONE restrictions being installed in abutting side-streets to Chadstone Road;

It is therefore considered appropriate to consult Chadstone Road residents on PERMIT ZONE restrictions in front of residential property in this instance, with permit exemptions applying. If the restrictions proceed, they would match the scheme in place at the southern end of Chadstone Road.
Summary
The majority of respondents did not leave a comment. Of those who did, many were not relevant to the circular and focussed on the proposed sports stadium itself or some other transport related matter.

Responses received which related to this proposal are tabulated below, along with an officer response.

<table>
<thead>
<tr>
<th>Respondents Comments</th>
<th>Officer Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parking is only an issue on busy Chadstone shopping days (Such as Boxing Day)</td>
<td>Noted. Council has no way to install restrictions only on these busy days.</td>
</tr>
<tr>
<td>Restrictions only required if/once stadium is built</td>
<td>Noted. This consultation was undertaken pre-emptively under direction from Council. If restrictions are not installed they may be reassessed in the future.</td>
</tr>
<tr>
<td>Residents should receive more permits</td>
<td>Permits will/would be issued in accordance with the Residential Parking Permit Scheme and in line with appropriate guidelines. No modification will be made for this situation.</td>
</tr>
<tr>
<td>Residents should receive all permits free of charge</td>
<td></td>
</tr>
<tr>
<td>Resident believes fewer permits are required</td>
<td></td>
</tr>
<tr>
<td>Marked parking bays required to manage traffic</td>
<td>Marked parking bays are typically not supported on residential streets as they generally result in a loss of parking spaces.</td>
</tr>
<tr>
<td>Restrictions would impose on visitor parking</td>
<td>Noted. Visitor parking can be lost with the installation of certain parking restrictions. Residents are to determine their priorities before submitting a response to the circular.</td>
</tr>
<tr>
<td>Resident recommends NO STOPPING restrictions near street corners</td>
<td>All streets with parking restrictions will have NO STOPPING restrictions installed near intersections.</td>
</tr>
<tr>
<td>Resident believes restrictions should be installed on all streets if stadium goes ahead, to ensure problem not pushed to other streets</td>
<td>Restrictions can only be installed in streets which show support for restrictions. All streets surrounding stadium were given the opportunity to receive restrictions if desired.</td>
</tr>
</tbody>
</table>

CONCLUSION
As outlined in the consultation letter it is recommended that consultation be undertaken on the proposed parking restrictions in the following streets with a detailed proposal for the installation of parking restrictions:

- Abbosford Avenue, Malvern East;
- Alma Street, Malvern East;
- Armstrong Court, Malvern East;
- Bowen Street, Malvern East;
- Durward Road, Malvern East;
- Fenwick Street, Malvern East;
- Gauntlet Road, Malvern East;
- Gordon Street, Malvern East;
- Quentin Road, Malvern East;
- Rebecca Road, Malvern East; and
- Rob Roy Road, Malvern East.

The 2\textsuperscript{nd} stage of consultation will outline restriction details, sign locations together with the conditions of issue of parking permits, to enable a more informed response to an ultimate proposal.

Following community feedback, it is recommended that Chadstone Road, Malvern East also be consulted with a detailed proposal for the installation of parking restrictions.

It is recommended that based on the feedback received, existing conditions be maintained in

- Rowena Road, Malvern East.

While restrictions are not proposed in Rowena Road at this stage due to resident feedback, the flow on effect of the surrounding restrictions and the potential impact on Rowena Road will need to be monitored.

**HUMAN RIGHTS CONSIDERATION**

This recommendation complies with the Charter of Human Rights and Responsibilities Act 2006.

**ATTACHMENTS**

\[1\] Attachment A - Survey Letter East of Chadstone Road Excluded
\[2\] Attachment B - Survey Letter West of Chadstone Road Excluded
\[3\] Attachment C - Proposed Restriction Plan Excluded
\[4\] Attachment D - Response Analysis Excluded

**RECOMMENDATION**

That Council:

1. In Abbotsford Avenue, consult directly abutting properties on proposal to install PERMIT ZONE operating all days at all times on both sides of Abbotsford Avenue where possible;

2. In Alma Street north of Fenwick Street, consult directly abutting properties on proposal to install PERMIT ZONE operating all days at all times on both sides of Alma Street;

3. In Alma Street south of Fenwick Street, consult directly abutting properties on proposal to install PERMIT ZONE operating all days between 9am-6pm on both sides of Alma Street;

4. In Armstrong Court, consult directly abutting properties on proposal to install PERMIT ZONE operating all days at all times on north side Armstrong Court;

5. In Bowen Street north of Fenwick Street, consult directly abutting properties on proposal to install PERMIT ZONE operating all days at all times on both sides of Bowen where possible;

6. In Bowen Street south of Fenwick Street, consult directly abutting properties on proposal to install PERMIT ZONE operating all days at all times on the east side of Bowen Street;
7. In Chadstone Road north of Abbotsford Avenue, consult directly abutting properties on proposal to install PERMIT ZONE operating all days at all times on both sides of Chadstone Road.

8. In Durward Road, consult directly abutting properties on proposal to install PERMIT ZONE operating all days at all times on both sides of Durward Road;

9. In Fenwick Street, consult directly abutting properties on proposal to install PERMIT ZONE operating all days at all times on both sides of Fenwick Street west of Bowen Street;

10. In Gauntlet Road, consult directly abutting properties on proposal to install PERMIT ZONE operating all days at all times on both sides of Gauntlet Road;

11. In Gordon Street, consult directly abutting properties on proposal to install PERMIT ZONE operating all days between 9am-9pm on the north side of Gordon Street;

12. In Quentin Road north of Abbotsford Avenue, consult directly abutting properties on proposal to install PERMIT ZONE operating all days at all times, where possible, on the east side of Quentin Road.

13. In Rebecca Road, consult directly abutting properties on proposal to install PERMIT ZONE operating all days at all times on both sides of Rebecca Road;

14. In Rob Roy Road, consult directly abutting properties on proposal to install PERMIT ZONE operating all days at all times on both sides of Rob Roy Road where possible;

15. In Rowena Road, notify directly abutting properties that the proposal to install parking restrictions has been abandoned in this street.

16. Continue to monitor the flow on effect of the precinct parking restrictions on Rowena Road
15. PROPOSED DISCONTINUANCE OF ROADS WITHIN PERCY TREYVAUD MEMORIAL PARK-32A CHADSTONE ROAD MALVERN EAST

Property Coordinator: Peter Angwin  
Corporate Counsel: Kate O’Connor  
Acting General Manager Assets & Services: Rick Kwasek  
Acting General Manager Corporate Services: Jon Gorst

PURPOSE

The purpose of this report is for Council to consider the proposed discontinuance of part of the roads known as Rob Roy Road and Sherwood Road, Malvern East, shown hatched on the plan contained in Attachment 1 to this Report, being part of the land remaining in certificate of title volume 4883 folio 573 (Road).

BACKGROUND

The roads proposed to be discontinued are contained within Percy Treyvaud Memorial Park. The proposed discontinuance forms part of the various administrative processes required to be undertaken with respect to the consolidation of titles within Percy Treyvaud Memorial Park.

In accordance with section 223 of the LGA, Council published a public notice of the proposed discontinuance in the Stonnington Leader on 19 February 2019. The public notice submission period ended on 21 March 2019, with only one submission being received by Council. A copy of the public notice is contained in Attachment 2 to this Report.

DISCUSSION

This Report summarises and comments on the single submission made in response to Council’s public notice.

The submission received by Council on 25 February 2019 (Submission) queried the accuracy of the plan of the Road contained in Council’s public notice. A copy of the Submission was provided in full to the Council when considering the matter in accordance with section 223 of the LGA. A copy of the Submission is contained in Attachment 3 to this Report.

Council wrote to the submitter in a letter dated 13 March 2019 by enclosing an aerial photograph of the property which superimposed the boundaries of the Road. A copy of the letter dated 13 March 2019 is contained in Attachment 4 to this Report.

The plan in Council’s public notice was prepared by Taylors, being Council’s qualified land surveyor, after carrying out a site inspection of the Road.

On 27 May 2019, Council mailed a letter to the submitter informing of the time and location of Council’s meeting to hear submissions made in respect of the proposed discontinuance under section 223 of the LGA. Council also informed the submitter by phone and a letter that the venue of the Council meeting was changed to a meeting room across the road from the original location.
Section 223 Hearing

The section 223 hearing was held on 6.30pm on 11 June 2019 at 311 Glenferrie Road Malvern. Documents were provided to the Councillors as background prior to the section 223 hearing. The submitter did not attend the section 223 hearing. Council considered the Submission and subsequently determined to proceed to consider whether the Road should be discontinued.

Public Authorities

The following statutory authorities have been advised of the proposed discontinuance of the Road and have been asked to respond to the question of whether they have any existing assets in the Road, which should be saved under section 207C of the LGA:

- Yarra Valley Water, Melbourne Water, CitiPower, United Energy, Multinet Gas, Telstra, Optus, APA, Stonnington City Council and NBN.

Melbourne Water, Multinet Gas and Telstra advised that they have assets in the vicinity of the Road, and/or they service the area in which the Road is located, but they do not have any objection to the proposed discontinuance of the Road.

Yarra Valley Water, CitiPower, United Energy, Optus, APA, Stonnington City Council and NBN advised that they do not have any assets in the vicinity of the Road.

FINANCIAL AND RESOURCES IMPLICATIONS

Council will be responsible for the cost of the discontinuance process.

LEGAL ADVICE & IMPLICATIONS

Council’s solicitors for this matter, Maddocks, will prepare and review relevant documentation in relation to this matter.

CONCLUSION

It is recommended that Council discontinue the Road as the Road is no longer reasonably required for general public use.

HUMAN RIGHTS CONSIDERATION

This recommendation complies with the *Charter of Human Rights and Responsibilities Act 2006*.

ATTACHMENTS

1. Att 1 - Proposed Road Discontinuance Percy Treyvaud Memorial Park - Plan of Roads
2. Att 2 - Proposed Road Discontinuance Percy Treyvaud Memorial Park - Public Notice
3. Att 3 - Proposed Road Discontinuance Percy Treyvaud Memorial Park - Submission dated 25 February 2019
4. Att 4 - Proposed Road Discontinuance Percy Treyvaud Memorial Park - SCC Letter 13 March 2019

Excluded
RECOMMENDATION

That Council:

1. having followed the required statutory procedures pursuant to sections 207A and 223 of the Local Government Act, and pursuant to its power under schedule 10 clause 3 of the Act, and having considered all submissions received in response to the public notice regarding Council’s proposal to discontinue the part of the roads known as Rob Roy Road and Sherwood Road, Malvern East, shown hatched on the plan contained in Attachment 1 to this Report (Road):

   1.1 is of the opinion that the Road is no longer reasonably required for public use;

   1.2 resolves to discontinue the Road and retain the land; and

   1.3 directs that a notice pursuant to the provisions of clause 3(a) of Schedule 10 of the Act is to be published in the Victorian Government Gazette.
16. **Sydare Avenue, Malvern East - Street Tree Planting Following Completion of the Murrumbeena Main Drain Duplication Project**

Senior Arborist: Mark Phillips  
Manager Parks & Environment : Simon Holloway  
Acting General Manager Assets & Services: Rick Kwasek

**PURPOSE**

The purpose of this report is to seek a Council resolution on the proposed street tree planting in Sydare Avenue, Malvern East.

This street tree planting is required to replace street trees removed as part of the Murrumbeena Main Drain Duplication Project undertaken by Melbourne Water. Melbourne Water is funding the tree replacement plantings.

This report has been prepared in response to ongoing resident concerns about the proposed street tree planting and considerable community engagement on the matter.

The issue of park tree planting within Sydare Reserve is to be addressed separately.

**BACKGROUND**

**The street**

The subject section of Sydare Avenue that this report relates to runs from Dandenong Road to Alvie Street in Malvern East and is approximately 320 metres in length. The street is residential with 25 properties on the east side and abuts Sydare Reserve on the west side and is close to the Urban Forest.
Street trees

The street trees on the western (park) side have all been removed by Melbourne Water as part of its Murrumbeena Main Drain Duplication Project. The removed trees were primarily mature Grevillea robusta (Silky Oak) with a smaller number of mature Hesperocyparis arizonica (Arizona Cypress).

The street trees on the eastern (residential) side have not been affected by the project. There are currently 32 street trees of mixed species as follows:

- 22 x Ulmus parvifolia (Upright Chinese Elm) – young to semi-mature
- 3 x Leptospermum sp. (Tea-tree) – semi-mature
- 2 x Acer sp. (Maple) – young
- 2 x Eucalyptus caesia (Gungurru) – semi-mature
- 1 x Lophostemon confertus (Queensland Brush Box) – mature
- 1 x Melaleuca linariifolia (Snow in Summer) – mature
- 1 x Prunus persica (Peach) – semi-mature

Street tree replacement

Following completion of the Murrumbeena Main Drain Duplication Project, all street trees on the western (park) side of Sydare Avenue require replacement.

Council agreed with Melbourne Water to plan and coordinate the tree replacement program in Sydare Avenue and Sydare Reserve at Melbourne Water’s cost. This enables Council to ensure that the planting delivers on its Urban Forest Strategy objectives and is implemented to Council's specification, while the cost is covered by the project.

Melbourne Water agreed to cover all costs (tree stock, tree planting and maintenance for 2 years) at a ratio of 2 trees for every tree removed. A portion of the replacement trees will be planted as street trees in Sydare Avenue, whilst the remainder will be planted as park trees throughout the public open space areas impacted by the project.

In considering which species to plant as replacement street trees from the western (park) side of Sydare Avenue, Council has taken into account:

- The existing character and amenity of Sydare Avenue streetscape
- The differing land use environments on either side of the road: residential and park.
- The presence of relatively low hanging high voltage power lines on the western (park) side that must be kept clear of vegetation under the Electric Line Clearance Regulations.
- The offset required from the new drainage alignment.
- The intention to plant back into the roadway, with parking provision between the trees.
- The objectives of the Urban Forest Strategy, including those relating to species suitability and resilience, species diversification across the municipality, avoiding conflict with surrounding infrastructure, uniformity of street tree plantings and the opportunity to create feature boulevard plantings.
Replacing the removed trees on the western (park) side of Sydare Avenue with the previous species was not considered a suitable option due to size and future conflict with the overhead power lines.

Over recent years, Council has continued to replace any removed trees on the eastern (residential) side with its preferred species for the street, *Ulmus parvifolia* (Chinese Elm). This species has been considered by Council’s arboriculture unit as being a suitable feature tree for this location and supports the dominant existing planting palette.

**Initial tree replacement species proposal**

In light of this approach to recent tree planting on the eastern (residential) side of Sydare Avenue, Council’s initial preference and proposal for a replacement tree species on the western (park) side was *Ulmus parvifolia* (Chinese Elm).

It was considered that planting the western (park) side of Sydare Avenue with *Ulmus parvifolia* (Chinese Elm) presented an opportunity to create a feature avenue planting with matching species on both sides of the road and complement the existing planting on the eastern (residential) side. This species was deemed suitable for this environment and met the objectives of the Urban Forest Strategy.

On this basis, Council wrote to Sydare Avenue residents located between Dandenong Road to Alvie Street in June 2018 proposing:

> 'As part of the re-vegetation of Sydare Avenue, the City of Stonnington is proposing to plant a row of street trees along the western side of Sydare Avenue. The tree chosen for this planting is *Ulmus parvifolia* (Upright Chinese Elm), the same tree species that has previously been planted in front of properties along the eastern side of Sydare Avenue.

>  *This tree planting will complement the street trees on the eastern side of the street and will develop into a significant avenue.*'

Included with the letter were indicative tree planting plans showing the trees being planted at 8 metre centres between the edge of the road pavement and the reserve fence and information about the chosen tree species.

**Resident response to the initial tree replacement species proposal**

A number of residents contacted Council expressing concern about the choice of proposed street tree species for the replacement planting and also indicated there was considerable unhappiness with the street trees on the eastern (residential) side and in particular the *Ulmus parvifolia* (Upright Chinese Elm).

On the 15 June 2018, Senior Arborist Mark Phillips met in Sydare Avenue with a group of residents to discuss the proposal.
The residents indicated:

1. They didn’t want *Ulmus parvifolia* (Upright Chinese Elm) planted along the western (park) side of the street;
2. They wanted the street trees on the eastern (residential) side of the street replaced at the same time as new trees were being planted on the west side; and
3. They wanted to have input into the choice of tree species for the street.

It was agreed at the meeting that:

1. Council was open to review the proposed replacement tree species, taking into account residents’ views;
2. The residents would be given time to consult with one another; and
3. That a resident spokesperson would then provide a resident proposal to Council officers.

**Resident representative response**

As agreed at the street meeting, the group of Sydare Avenue residents subsequently provided Council with a written response in relation to the proposed tree replacement species.

The response indicated residents had met twice and were not happy about the proposed species, *Ulmus parvifolia* (Upright Chinese Elm). The primary reasons being:

1. It is not a native tree species and therefore doesn’t fit with the nearby Urban Forest and doesn’t encourage local fauna; and
2. It is semi-deciduous and the leaves are fairly small and parking beneath them would be problematic.

The written response from residents proposed the planting of a native species that had seasonal colour. The specific species suggested was *Corymbia ficifolia* (Red Flowering Gum), with the option suggested of planting various grafted cultivars to achieve a mix of colours.

The resident response requested that the new planting remain in the same alignment as the previous trees, under the power lines, between the road pavement and the reserve fence.

**Discussion with resident representative**

Acknowledging the clear preference of Sydare Avenue residents, as conveyed through their written response, to have the removed street trees on the western (park) side of the street replaced with a native species and not *Ulmus parvifolia* (Upright Chinese Elm), Council further proposed two species options that were considered appropriate for the location:

- Grafted *Corymbia ficifolia* (Flowering Gum).
- *Eucalyptus leucoxylon* ‘Euky Dwarf’ (Dwarf Yellow Gum)
The resident representative responded indicating that the resident consensus was that they would like a native tree which attracts birds, flowers and has a compact appearance.

**Split of resident opinion and survey**

During these discussions with residents, Council officers became aware that there were still a number of residents in the street requesting different tree species be planted. The suggested species from these residents included:

- Large, exotic, deciduous species such as *Fraxinus oxycarpa* ‘Raywoodii’ (Claret Ash) or *Quercus palustris* (Pin Oak).
- Large, native species such as *Corymbia maculate* (Spotted Gum).

A number of the suggested species would not be appropriate for this site due to size and future conflict with the high voltage power lines.

In light of the clear split in resident opinion on preferred replacement tree species, it was determined by Council officers to formally survey residents in the subject section of Sydare Avenue.

The aim of the survey was to determine a majority preference for a tree species to plant on the western (park) side of Sydare Avenue. Council would present a number of species options that were assessed by Council arborists to be suitable for the site, yet covered the range of species types / attributes sought from residents.

At the same time, Council sought resident views about species preference for planting vacant sites on the eastern (residential) side of the street and potentially replacing small and poorly performing trees along this side.

Two tree species were offered to residents for their consideration. The tree species were:

- *Corymbia ‘Wildfire’* (Red Flowering Gum), and
- *Zelkova serrata* ‘Green Vase’ (Japanese Zelkova).

The *Corymbia ‘Wildfire’* (Red Flowering Gum) fitted with the resident representative requested criteria while the *Zelkova serrata* ‘Green Vase’ (Japanese Zelkova), a larger, exotic deciduous species with good autumn colour was offered as an option for residents wanting something other than a native tree species.

**Survey results**

In total, 17 responses to the survey were received.

The results for the western (park) park side of the street were:

<table>
<thead>
<tr>
<th>Western (park) side of Sydare Avenue</th>
<th>Preferred species</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Corymbia ‘Wildfire’</em> (Red Flowering Gum)</td>
<td>11</td>
</tr>
<tr>
<td><em>Zelkova serrata</em> ‘Green Vase’ (Japanese Zelkova)</td>
<td>6</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>17</strong></td>
</tr>
</tbody>
</table>
Survey respondent indicated a clear preference (65%) for the *Corymbia* ‘Wildfire’ (Red Flowering Gum) to be planted on the western (park) park side of the street.

The results for the eastern (residential) side of the street were:

<table>
<thead>
<tr>
<th>Eastern (residential) side of Sydare Avenue</th>
<th>Preferred species</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Corymbia</em> ‘Wildfire’ (Red Flowering Gum)</td>
<td>12</td>
</tr>
<tr>
<td><em>Zelkova serrata</em> ‘Green Vase’ (Japanese Zelkova)</td>
<td>5</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>17</strong></td>
</tr>
</tbody>
</table>

Survey respondent indicated a clear preference (71%) for the *Corymbia* ‘Wildfire’ (Red Flowering Gum) to be planted on the eastern (residential) side of the street for tree replacements as required over time.

Three respondents also requested the planting of a uniform row of trees along the residential side of the street. That is, the removal and replacement of all existing trees.

An additional response to the survey was received that indicated dissatisfaction with both species offered and no preference was marked.

On this basis, the resident survey was conclusive in that the majority preference was for Council to plant *Corymbia* ‘Wildfire’ (Red Flowering Gum) as the replacement tree species on the western (park) park side of the street and also as the species for any replacement of small and poorly performing trees on the eastern (residential) side of the street.

**Ongoing community dissatisfaction**

Subsequent to the resident survey being distributed, a number of residents of Sydare Avenue continued to express considerable dissatisfaction with Council over the consideration of replacement tree species for the street following the completion of the Melbourne Water drainage works.

While the results of the first resident survey were conclusive in finding a majority preference for the native *Corymbia* ‘Wildfire’ (Red Flowering Gum), and with this a very clear and strong preference for a native species, a number of residents raised concerns about Council only offering one native species to choose from. A number of alternative species were suggested by residents.

In light of the ongoing disharmony about the tree planting proposal and the Melbourne Water project more broadly, and in an effort to convey good will and a willingness to listen to concerned residents, it was agreed by Council officers to conduct one further and final consultation.
A final survey was to be conducted offering three different native tree species deemed arboriculturally suitable for the site conditions and capturing community suggestions. The findings of this survey would be the final determinant of Council’s decision on replacement tree species. The three species offered included:

- *Corymbia* ‘Wildfire’ (Red Flowering Gum) - as previously offered.
- *Eucalyptus leucoxylon* (Dwarf Yellow Gum) - as planted along park side of northern section of Sydare Avenue.
- *Angophora hispida* (Dwarf Apple) - as planted along park side of Hyslop Parade.

**Final survey results**

In total, 12 responses to the survey were received. Residents were invited to list in order of preference their preferred species. Not all respondents indicated a second and third preference.

The results for the western (park) park side of the street were:

<table>
<thead>
<tr>
<th>Western (park) side of Sydare Avenue</th>
<th>1&lt;sup&gt;st&lt;/sup&gt; preference</th>
<th>2&lt;sup&gt;nd&lt;/sup&gt; preference</th>
<th>3&lt;sup&gt;rd&lt;/sup&gt; preference</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Corymbia</em> ‘Wildfire’ (Red Flowering Gum)</td>
<td>7</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td><em>Eucalyptus leucoxylon</em> (Dwarf Yellow Gum)</td>
<td>4</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td><em>Angophora hispida</em> (Dwarf Apple)</td>
<td>1</td>
<td>4</td>
<td>5</td>
</tr>
</tbody>
</table>

Applying a scaled score to each preference (3 for 1<sup>st</sup> preference, 2 for 2<sup>nd</sup> preference and 1 for 3<sup>rd</sup> preference), the final results for this side of the street are:

- *Corymbia* ‘Wildfire’ (Red Flowering Gum) - 28
- *Eucalyptus leucoxylon* (Dwarf Yellow Gum) - 19
- *Angophora hispida* (Dwarf Apple) - 16

Survey respondents again indicated a clear preference for the *Corymbia* ‘Wildfire’ (Red Flowering Gum) to be planted on the western (park) side of the street.

The results for the eastern (residential) side of the street were:

<table>
<thead>
<tr>
<th>Eastern (residential) side of Sydare Avenue</th>
<th>1&lt;sup&gt;st&lt;/sup&gt; preference</th>
<th>2&lt;sup&gt;nd&lt;/sup&gt; preference</th>
<th>3&lt;sup&gt;rd&lt;/sup&gt; preference</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Corymbia</em> ‘Wildfire’ (Red Flowering Gum)</td>
<td>7</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td><em>Eucalyptus leucoxylon</em> (Dwarf Yellow Gum)</td>
<td>3</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td><em>Angophora hispida</em> (Dwarf Apple)</td>
<td>1</td>
<td>2</td>
<td>6</td>
</tr>
</tbody>
</table>

Applying a scaled score to each preference (3 for 1<sup>st</sup> preference, 2 for 2<sup>nd</sup> preference and 1 for 3<sup>rd</sup> preference), the final results for this side of the street are:

- *Corymbia* ‘Wildfire’ (Red Flowering Gum) - 27
- *Eucalyptus leucoxylon* (Dwarf Yellow Gum) - 17
- *Angophora hispida* (Dwarf Apple) - 13
Survey respondents again also indicated a clear preference for the *Corymbia* ‘Wildfire’ (Red Flowering Gum) to be planted on the eastern (residential) side of the street.

An additional response to the survey was received that indicated considerable dissatisfaction with both species offered and no preference was marked.

On this basis, the final resident survey was conclusive and consistent with the first resident survey, in that the clear majority preference was for Council to plant *Corymbia* ‘Wildfire’ (Red Flowering Gum) as the replacement tree species on the western (park) park side of the street and also as the species for any replacement of small and poorly performing trees on the eastern (residential) side of the street.

It is therefore recommended that Council endorse this as the species for tree replacement on both sides of Sydare Avenue, where applicable.

**DISCUSSION**

The Melbourne Water Murrumbeena Main Drain Duplication Project has created the need to replace a large number of removed trees along Sydare Avenue.

Council has agreed to facilitate and deliver the tree replacement process at Melbourne Water’s cost.

Council has engaged extensively with local residents on their preference for replacement species. Within the constraints of determining suitable species for the site from an arboricultural and urban forest planning perspective, Council has been accommodating of resident views and preferences.

Whilst unable to satisfy each resident’s preference, the process has enabled a number of different species to be offered and considered by residents.

The two resident survey exercises have delivered a clear and consistent result of community preference for a particular species to be selected as the replacement tree species on the western (park) park side of the street and also as the species for any replacement of small and poorly performing trees on the eastern (residential) side of the street.

The selected species, *Corymbia* ‘Wildfire’ (Red Flowering Gum), has been assessed as suitable for the site, given the site constraints and objectives of Council’s Urban Forest Strategy.

**POLICY IMPLICATIONS**

Council’s Urban Forest Strategy provides clear direction for the protection, management and planting of trees on public and private land across Stonnington and addresses the key challenges facing Stonnington’s urban forest.

The Urban Forest Strategy seeks to achieve the following outcomes:

- Increased vegetation cover
- Improved health and quality of the urban forest
• Greater resilience to a changing climate
• Reduced urban heat island effect
• Enhanced amenity and liveability

While the Urban Forest Strategy seeks to prioritise the retention of existing trees across the landscape to the extent possible, it also notes the value and importance of developing unique, attractive and distinguishing avenues of feature trees to increase canopy cover, enhance public amenity and liveability and provide a unique sense of place for the community to enjoy.

The proposed street tree replacement program for Sydare Avenue, following completion of the Melbourne Water Murrumbeena Main Drain Duplication Project, is consistent with Council’s Urban Forest Strategy.

FINANCIAL AND RESOURCES IMPLICATIONS

Melbourne Water is funding the replacement of street trees removed on Sydare Avenue as part of the main drain upgrade project. Funding provided to Council covers all costs including tree stock, tree planting and maintenance for a period of two years.

Any replacement of small and poorly performing trees on the eastern (residential) side of the street will be delivered under Council’s annual tree planting program, which is funded from existing capital accounts.

LEGAL ADVICE & IMPLICATIONS

None

CONCLUSION

The Melbourne Water Murrumbeena Main Drain Duplication Project has created the need to replace a large number of removed street trees along Sydare Avenue.

Council has agreed to facilitate and deliver the tree replacement process at Melbourne Water’s cost.

This has involved considerable engagement with the residents of Sydare Avenue over a period of approximately 11 months to identify a majority preference for a replacement tree species.

Two resident surveys have been conducted, offering the community a range of tree species options that were assessed as being suitable for the site and reflecting community suggestions.

The two resident survey exercises have delivered a clear and consistent result of community preference for a particular species to be selected as the replacement tree species on the western (park) park side of the street and also as the species for any replacement of small and poorly performing trees on the eastern (residential) side of the street.

The selected species, *Corymbia* ‘Wildfire’ (Red Flowering Gum), has been assessed as suitable for the site, given the site constraints and objectives of Council’s Urban Forest Strategy.
Unfortunately, the process to determine a suitable and preferred tree species to replace removed trees has been complicated by strong community frustration and disappointment with the implementation of the Murrumbeena Main Drain Duplication Project by Melbourne Water.

Council has made every effort to engage thoroughly with residents on the selection of a replacement tree species for Sydare Avenue. Whilst unable to satisfy each resident’s preference, the process has enabled a number of different species to be offered and considered by residents and a clear majority preference to be identified.

In addition to replacing the removed trees on the western (park) side of Sydare Avenue, a number of local residents requested Council remove and replace all existing street trees on the eastern (residential) side of the street with the new tree species.

Council generally does not support such requests to remove / replace trees in light of its commitment to protect and value existing trees. Council is committed to only support the removal of healthy, established trees where there is a compelling arboricultural, community safety or public value reason to do so.

Having assessed the existing mix of trees on the residential side of the street, the majority of which are considered worthy of retention, Council will remove and replace a limited number of small and poorly performing trees on the residential side of the street with the preferred new species and replace any removed trees in the future with this species.

**HUMAN RIGHTS CONSIDERATION**

This recommendation complies with the Charter of Human Rights and Responsibilities Act 2006.

**RECOMMENDATION**

*That Council:*

1. Replaces removed street trees on the western (park) side of Sydare Avenue with the residents’ preferred species, Corymbia ‘Wildfire’ (Red Flowering Gum).

2. Removes and replaces a limited number of street trees on the eastern (residential) side of Sydare Avenue with the residents’ preferred species, Corymbia ‘Wildfire’ (Red Flowering Gum), tree removal as follows:
   a. Small Ulmus parvifolia (Upright Chinese Elm)
   b. 3 x Leptospermum sp. (Tea-tree)
   c. Prunus persica (Peach)

3. Plants any vacant sites on the eastern (residential) side of Sydare Avenue with the residents’ preferred species, Corymbia ‘Wildfire’ (Red Flowering Gum).

4. Undertakes tree removal and replacement as part of the annual tree planting program over winter months 2019.

5. Subsequently replants any street tree removed in Sydare Avenue in the future with the residents’ preferred species, Corymbia ‘Wildfire’ (Red Flowering Gum).

6. Notifies the residents of Sydare Avenue of the Council decision.
17. **Hyslop Parade, Malvern East - Outer Separator Closure Section 223**

**Acting Coordinator Transport & Parking:** Jordan Allan  
**Manager Transport & Parking:** Ian McLauchlan  
**Acting General Manager Assets & Services:** Rick Kwasek

**PURPOSE**
To seek approval to close the Dandenong Road outer separator at Hyslop Parade.

**BACKGROUND**
The Council considered a report at its meeting on 17 December 2018 concerning a community request to close the Dandenong Road outer separator at Hyslop Parade in response to an increase in cut-through traffic using the street.

The report summarised the results of direct consultation with residents of Hyslop Parade and Lang Court (a cul-de-sac with access via Hyslop Parade), which indicated strong support for the closure of the outer separator as the preferred treatment to address the traffic concerns raised.

At the meeting Council resolved to:

1. **Adopt the closure of the Dandenong Road outer separator closure as the preferred treatment option for Hyslop Parade;**

2. **That wider consultation of the outer separator closure conforming to the requirements of Section 223 of the Local Government Act occur in February/March 2019;**

3. **Those previously consulted be notified of this decision.**

In accordance with this decision, a notification letter was distributed on 21 December 2018, to those previously consulted, advising of the decision.

To briefly summarise the issues raised in the previous report, the volume of traffic in Hyslop Parade had increased from 783 vehicles per day in 2015 to 1,655 vehicles per day in 2018.  
An Origin-Destination survey revealed that the majority of traffic using the street was travelling through (no origin or destination within Hyslop Parade/Lang Court). The most popular through movements were right turns in from Dandenong Road with a left turn out at Waverley Road, and the left turn in at Waverley Road with a right turn out at Dandenong Road.

The alignment of the centre median opening, outer separator opening, and Hyslop Parade appears to be the driver of this additional traffic, as this is the only location between Chadstone Road and Belgrave Road where the median openings align with a local street. Residents advised that navigation apps have been directing motorists to this street as a through route.
Below is an image of Hyslop Parade with the key movements highlighted.

In response, in order to treat the concern residents were offered a choice of either speed humps or closure of the outer separator opening to be taken forward as a preferred option. Residents voted overwhelmingly for the outer separator closure. As this treatment would affect other nearby residents, it was deemed appropriate to undertake consultation in accordance with Section 223 of the Local Government Act.

Section 223 of the Local Government Act governs the right to make a submission to the Council, and sets the provisions which apply. The Council must publish a public notice which:

- details the matter for consideration;
- specifies the right to make a submission;
- sets a closing date for submissions (not less than 28 days after the date of the public notice); and
state that a person may be heard in respect to the submission.

The public notice was published on Tuesday 19 February 2019 in the Leader newspaper in both Stonnington and Glen Eira. In addition, a letter was distributed to residents in the area bounded by Dandenong Road, Belgrave Road, Chadstone Road, and Waverley Road, which advised of the upcoming public notice, and included a copy of the notice. The letter (with the attached notice) was distributed on Friday 15 February 2019, and is included as Attachment 1.

**DISCUSSION**

*Written Submissions*

A total of 32 submissions were received in response to the Section 223 advertisement. The format of the Section 223 advertisement process solicits feedback without structure, and as such in some cases it was not immediately clear whether the respondent is in favour or opposed to the proposal. As such, the responses have been reviewed and grouped as generally in favour of the proposal, generally opposed to the proposal, or as not stated. The not stated category has been used for submissions that do not appear to be either in favour or opposed. The breakdown is outlined in the table below.

<table>
<thead>
<tr>
<th>In Favour</th>
<th>Opposed</th>
<th>Not Stated</th>
</tr>
</thead>
<tbody>
<tr>
<td>17 (53%)</td>
<td>11 (34%)</td>
<td>4 (13%)</td>
</tr>
</tbody>
</table>

A copy of the submissions (with identifying details redacted) is included as Attachment 2.

The tables below show a summary of the comments provided and issues raised, the number of responses that raised the issue, and an officer’s response. The issues are listed in order of frequency raised.

The following table is those comments from respondents in support of the proposal.

<table>
<thead>
<tr>
<th>Comment</th>
<th>#</th>
<th>Officer’s Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic uses Hyslop Parade as a short cut to avoid arterial congestion.</td>
<td>8</td>
<td>This is the key concern raised by residents which has driven the process to this point. Closure of the outer separator would address this concern.</td>
</tr>
<tr>
<td>Vehicles queue across the service lane trying to turn into Dandenong Road (left or right) and block the service lane.</td>
<td>5</td>
<td>This is another key concern raised by residents, and closure of the outer separator would address this concern.</td>
</tr>
<tr>
<td>There are crashes and near-misses occurring at the outer separator.</td>
<td>5</td>
<td>This is another key concern raised by residents, and closure of the outer separator would address this concern.</td>
</tr>
<tr>
<td>If the closure proceeds, it may mean more traffic uses Sutherland Street, Goode Street, or Sycamore Street.</td>
<td>4</td>
<td>In order to address this concern, speed and volume counts have been undertaken in Sutherland Street, Goode Street, and Sycamore Street to determine the level of traffic prior to any closure taking place. In the event that the closure proceeds, counts could be completed after the fact to determine if there has been a noticeable change in traffic pattern.</td>
</tr>
<tr>
<td>Vehicles travelling in opposing directions at the separator create confusion</td>
<td>3</td>
<td>This is another key concern raised by residents, and closure of the outer separator would address this concern.</td>
</tr>
</tbody>
</table>
Please also consider closure of the Millewa Avenue/Alma Street outer separator opening.

1 The outer separator opening in this location does not align with a local street, and as such does not carry the same concerns as the opening at Hyslop Parade. Further closures are not necessary at this time.

If the closure proceeds, it may mean more traffic uses Sydare Avenue or Millewa Avenue.

1 Traffic travelling northbound would be unlikely to use these streets as a shortcut as the travel distance may be longer. Traffic travelling southbound could use this street, but all streets between Waverley Road and Dandenong Road would provide a similar short cut, so it is unlikely to affect one street more than any other.

Some submitters simply indicated support for the proposal with no comments.
Those opposed to the proposal also provided comments in their feedback, and these are summarised in the table below.

<table>
<thead>
<tr>
<th>Comment</th>
<th>#</th>
<th>Officer’s Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Closure of the outer separator would mean a longer journey home, may</td>
<td>7</td>
<td>The closure of the outer separator would mean a longer journey for residents located in Sydare Avenue and Millewa Avenue if they are travelling westbound on Dandenong Road. There is a median opening to the west which could be used, and this would add approximately 640m of travel distance to the journey. The possibility of traffic being redirected will be discussed below.</td>
</tr>
<tr>
<td>direct more through traffic to streets east of Hyslop Parade, and would</td>
<td></td>
<td></td>
</tr>
<tr>
<td>disadvantage residents east of Hyslop Parade</td>
<td></td>
<td></td>
</tr>
<tr>
<td>If the closure proceeds, it may mean more traffic uses Sutherland</td>
<td>5</td>
<td>In order to address this concern, speed and volume counts have been undertaken in Sutherland Street, Goode Street, and Sycamore Street to determine the level of traffic prior to any closure taking place. In the event that the closure proceeds, counts could be completed after the fact to determine if there has been a noticeable change in traffic pattern.</td>
</tr>
<tr>
<td>Street, Goode Street, or Sycamore Street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A much wider suite of treatments is needed, not just action at one</td>
<td>2</td>
<td>Hyslop Parade is unique in this local area, as it is the only location where the centre median opening, outer separator opening, and the street itself are aligned. This makes it an attractive through route in both directions. If this is closed then some traffic may still seek to cut through, but it is unlikely the same street would be used for each movement. If further treatments on other streets are desired then these can be considered, however any treatment will require loss of mobility, and in most cases residents do not support this. Hyslop Parade has this support due to the marked increase in through traffic in recent years (demonstrated by survey results).</td>
</tr>
<tr>
<td>location</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Instead of closing the outer separator, move the opening further east</td>
<td>2</td>
<td>The differences in levels between Dandenong Road through traffic lanes and the service lane mean that this is not possible.</td>
</tr>
<tr>
<td>A turn ban at the Waverley Road end of Hyslop Parade would be a simpler</td>
<td>1</td>
<td>Residents in Hyslop Parade specifically sought the closure of the outer separator. Further, turn bans are rarely installed in the City of Stonnington at present, as they can only be enforced by the Victoria Police, and experience has indicated that enforcement undertaken does not match resident expectation. Turn bans are now only used for specific issues where other treatments would not be appropriate.</td>
</tr>
</tbody>
</table>
Instead of closing the outer separator, move the opening further west

1

This could be considered, however it would need to be moved a sufficient distance to the west to ensure that motorists are not tempted to travel in the opposite direction on Dandenong Road to make a turn, or travel against the flow direction in the service lane to access the opening.

The only benefit of shifting the opening to the west would be to allow those travelling on Dandenong Road to stay on the main carriageway longer (compared to the conditions if the proposal is implemented) before exiting to the service lane to access Hyslop Parade, Millewa Avenue, or Sydare Avenue. The additional travel distance in the service lane if this opening is not created is not considered unreasonable.

Notwithstanding, the closure of the outer separator now would not prevent this being explored at a later date if necessary.

Instead of closing the outer separator, close Hyslop Parade at the outer separator

1

This would turn Hyslop Parade into a very long dead end street. This would benefit those in Sydare Avenue and Millewa Avenue potentially, but would significantly impact those in Hyslop Parade and Lang Court. This was not a preferred option of Hyslop Parade/Lang Court residents.

The closure may impact emergency services

1

Comment has been sought from the emergency services, and no issues were raised.

The comments of those whose position on the proposal is not clear are summarised in the table below.

<table>
<thead>
<tr>
<th>Comment</th>
<th>#</th>
<th>Officer’s Response</th>
</tr>
</thead>
</table>
| Instead of closing the outer separator, move the opening further west  | 1  | This could be considered, however it would need to be moved a sufficient distance to the west to ensure that motorists are not tempted to travel in the opposite direction on Dandenong Road to make a turn, or travel against the flow direction in the service lane to access the opening.

The only benefit of shifting the opening to the west would be to allow those travelling on Dandenong Road to stay on the main carriageway longer (compared to the conditions if the proposal is implemented) before exiting to the service lane to access Hyslop Parade, Millewa Avenue, or Sydare Avenue. The additional travel distance in the service lane if this opening is not created is not considered unreasonable.

Notwithstanding, the closure of the outer separator now would not prevent this being explored at a later date if necessary.                                                                                                                                                                                                                                                                                                                                                                                                 |
| If the closure proceeds, it may mean more traffic uses Sutherland Street, Goode Street, or Sycamore Street. | 1  | In order to address this concern, speed and volume counts have been undertaken in Sutherland Street, Goode Street, and Sycamore Street to determine the level of traffic prior to any closure taking place. In the event that the closure proceeds, counts could be completed after the fact to determine if there has been a noticeable change in traffic pattern.                                                                                                                                                                                                 |
The closure could be implemented as a trial and tested

| The residents of Hyslop Parade/Lang Court who have championed the cause of the outer separator closure are understood to be expecting this to be a permanent measure and it has been advertised as a treatment with no intention of a trial. A trial could be conducted, but it is unclear what metrics could be used to demonstrate success. If volumes are reduced in Hyslop Parade and increased in other streets, it would likely mean the need for treatment in those streets, rather than a re-opening of the outer separator opening. At the conclusion of any trial, it could be argued that a further S223 consultation process would be required to decide to implement the trial permanently. In this case there is relatively little downside risk of implementing the measure as permanent, and then addressing any future concerns raised as separate issues. This could include reopening the outer separator if requested by the community (the capital costs associated are anticipated to be relatively modest).

Closure of the outer separator would mean a longer journey home, may direct more through traffic to streets east of Hyslop Parade, and disadvantages residents east of Hyslop Parade

| The closure of the outer separator would mean a longer journey for residents located in Sydare Avenue and Millewa Avenue if they are travelling westbound on Dandenong Road. There is a median opening to the west which could be used, and this would add approximately 640m of travel distance to the journey. The possibility of traffic being redirected will be discussed below.

A much wider suite of treatments is needed, not just action at one location

| Hyslop Parade is unique in this local area, as it is the only location where the centre median opening, outer separator opening, and the street itself are aligned. This makes it an attractive through route in both directions. If this is closed then some traffic may still seek to cut through, but it is unlikely the same street would be used for each movement. If further treatments on other streets are desired then these can be considered, however any treatment will require loss of mobility, and in most cases residents do not support this. Hyslop Parade has this support due to the marked increase in through traffic in recent years (demonstrated by survey results).

I don’t think the proposal will solve the short cut problem through Hyslop Parade

| The proposal is likely to be effective, as the location where the alignment of the centre median opening, outer separator opening, and the local street will no longer exist.

**Network Traffic Reassignment**

A key concern raised through the consultation was the possibility that the closure of the outer separator will redistribute the traffic to other parallel routes in the local network.

An analysis of the data suggests that this may not be the case, at least not in full.

Firstly, it should be noted that the 2 key cut through movements using Hyslop Parade are as follows:

- Right turn in from Dandenong Road with a left turn out at Waverley Road; and
- Left turn in from Waverley Road with a right turn out at Dandenong Road.

Each of these movements relies on the alignment of the local street, outer separator opening, and centre median opening. Other through movements which could use Hyslop Parade but do not require this alignment are already more evenly distributed to other streets.
The possible reassignment routes for these movements if the outer separator was to be closed are shown below.

These alternatives have been selected as the next most likely based on access and travel distance.

There are 2 possible replacement routes for the northbound traffic, and in each case there is a section of the travel distance in the opposite direction to the ultimately desired direction.

In the case of southbound traffic there is only one possible alternative route, and again this requires some travel in the opposite direction to the ultimately desired direction.

Each of the alternative routes is on a separate street, and it is therefore highly unlikely that all through traffic would be shifted to a single street. Instead, it appears that even if all the traffic currently cutting through continues to do so, it would be more evenly distributed across several streets.
Ideally the traffic which could no longer cut through would instead stay on the arterial road network. This is the purpose of the arterial road network. Practically this is difficult to "force" to occur without severe restrictions on the movement of residents (an example would be to turn each street into a dead-end, which would stop all cut-through traffic, but would mean access would be restricted to one end only).

Traffic counts have been completed on Sutherland Street (as well as Goode Street and Sycamore Street) in response to concerns raised by submitters. The current 2-way volume of traffic on Sutherland Street between Dandenong Road and Goode Street is 869 vehicles per day.

The street most commonly raised as a concern in the resident submissions was Sutherland Street, and the survey results show that the volume is currently approximately half of that of Hyslop Parade.

Surveys are being undertaken on Millewa Avenue and Alma Street to ensure baseline data is available with the outer separator open on these other streets which are possible alternative routes for through traffic as identified above.

In the event that traffic is redistributed to other streets, measures could be considered to mitigate this, provided residents are supportive of this occurring.

Therefore, if Council does proceed with the closure of the outer separator at Hyslop Parade, after traffic patterns have stabilised in the area (suggest at least 12 weeks after installation), that those local streets which may be used as alternative routes to Hyslop Parade, would again be surveyed. Following an assessment of whether any material changes to traffic volumes have occurred, a further report would be submitted to Council, if required.

Emergency Services

In parallel with the Section 223 advertisement process, comment was also sought from representatives of each of the emergency services; police, fire, and ambulance. Each responded stating that their organisations had no concerns with the proposal.

Hearing

Under Section 223 Clause (1) (iv) of the Local Government Act, responders are given the opportunity to be heard in support of their submissions. In this instance, 3 submitters made presentations to the Council. The hearing occurred on 13 May 2019 at 6:30pm.

The comments of presenter 1 are summarised below:

- I support the closure.
- In the past 12 months the stream of traffic going down Hyslop Parade has increased, with vehicles propping in the median strip and obscuring sight lines.
- These propped vehicles also block access.
- Navigation apps are indicating this route to through traffic.
- I no longer use this area due to the traffic and the safety risks.
- The minor inconvenience of the closure is ok, however the navigation apps will adjust and use nearby parallel routes. Another closure may be necessary near Millewa Avenue, and I suggest it be the centre median in this location, not the outer separator.

The comments of presenter 2 are summarised below:

- I live in Sutherland Street, and many vehicles already cut through from Dandenong Road on this street. The proposed closure would make this worse.
- Much of this traffic is not local.
- A speed hump is required in Sutherland Street already.
- Traffic is already banking up in Dandenong Road at the median openings.
- Belgrave Road, Sycamore Street, Goode Street, and Sutherland Street all have existing issues.
- The parks in the area are inter-connected, with pedestrians and cyclists using them, and crossing the roads.
- The installation of an island and STOP sign would assist.
- Cars travel in the wrong direction in the Dandenong Road service lane to make short cuts, which is dangerous.
- Traffic increased in Sutherland Street during the closures for the water main works in Sydare Street, and this volume has remained. Extra traffic is also being experienced since the De La Salle School opened.
- I am in two minds about the proposed outer separator closure.

The comments of presenter 3 are summarised below:

- I also live in Sutherland Street, and want to know what is planned for other streets in the local area, as traffic may be redirected.
- Traffic banks up at the Waverley Road/Belgrave Road intersection, possibly due to signal phase changes.
- I want to know if this is a permanent measure, or a trial (for example, 6 months duration).
- Some traffic currently exits the East Malvern Station car park and cuts across Waverley Road to Bruce Street or Hyslop Parade. This may increase in other streets if the closure proceeds, and turn bans could be considered for these streets.

In addition to the response elicited through the Section 223 process, some consideration should be given to the initial consultation response from Hyslop Parade and Lang Court residents. Although these residents were provided the opportunity to make a submission under the Section 223 provisions, it appears some may have considered their previous response to be sufficient, and elected not to make a formal submission to the Section 223 process.

The consultation with directly affected residents solicited the response in the table below.

<table>
<thead>
<tr>
<th></th>
<th>Option 1 Speed cushions</th>
<th>Option 2 Outer separator closure</th>
<th>Both</th>
<th>Neither</th>
<th>Did Not Respond</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 0%</td>
<td>27 50%</td>
<td>5 9%</td>
<td>0 0%</td>
<td>22 41%</td>
<td></td>
</tr>
</tbody>
</table>

This shows a strong level of support from those directly affected for the closure of the outer separator.

**Summary**

The response to the advertisement under Section 223 of the Local Government Act indicated that 53% of respondents supported the proposal, 34% opposed the proposal, and 13% did not clearly indicate support or opposition. In addition, when the directly affected streets
(Hyslop Parade and Lang Court) were previously consulted, there was strong support expressed.

Those opposed to the proposal were generally concerned with the possibility of traffic being transferred to other streets. While this is possible, other streets are less attractive than Hyslop Parade is currently, and the likely routes are more spread out. Baseline counts have been arranged with the outer separator open, so that if there is redistributed traffic, it can be quantified.

Based on the response received, it is recommended that the outer separator closure proposal proceed.

**FINANCIAL AND RESOURCES IMPLICATIONS**

The closure of the outer separator will require some capital works expenditure. This is proposed to be funded from the 19/20 financial year budget, from account X9249 – Road Safety Minor Works Implementation and will be subject to budget approval.

**CONCLUSION**

In response to resident concerns, a consultation process in accordance with Section 223 of the Local Government Act was undertaken for the proposed closure of the Dandenong Road outer separator at Hyslop Parade.

There were 32 responses received, of which 53% were supportive of the closure, 34% were opposed to the closure, and 13% provided a submission which did not clearly state support or opposition.

In consideration of the response received, as well as the previous consultation with the directly affected residents of Hyslop Parade and Lang Court which drew strong support for the closure, it is recommended that the closure proceed.

At least 12 weeks after installation of the closure, traffic surveys would again be conducted in streets potentially used as alternative routes to Hyslop Parade, to determine and changes and report to Council if required.

**HUMAN RIGHTS CONSIDERATION**

This recommendation complies with the Charter of Human Rights and Responsibilities Act 2006.

**ATTACHMENTS**

1. Attachment 1 - Letter and Public Notice
2. Attachment 2 - Section 223 Submissions
**RECOMMENDATION**

*That Council:*

1. Close the Dandenong Road outer separator at Hyslop Parade;

2. Notify those who made a submission for the Section 223 process, and also all properties abutting Hyslop Parade and Lang Court.

3. Conduct traffic surveys in the local streets which may be used as alternative routes to Hyslop Parade at least 12 weeks after installation of the closure.

4. A subsequent report be prepared on any further actions if required.
18. MERCER ROAD, ARMADALE - LAURISTON GIRLS’ SCHOOL - PROPOSAL TO RELOCATE EXISTING SCHOOL CROSSING

Student Traffic Engineer: Mark Thomason
Manager Transport & Parking: Ian McLauchlan
Acting General Manager Assets & Services: Rick Kwasek

PURPOSE
To consider a proposal from the Lauriston Girls’ School’s to relocate an existing school crossing in Mercer Road, Armadale following consultation with nearby residents.

BACKGROUND

Street Characteristics
Mercer Road is a local road which has a north-south orientation and runs between Malvern Road and High Street.
There are both single dwellings and multi-unit developments in Mercer Road, as well as a large frontage for Lauriston Girls’ School (school). All abutting residential properties are currently eligible to participate in Council’s Residential Parking Permit Scheme.
There is currently a raised school crossing on Mercer Road abutting 30 Mercer Road.

Existing Parking Restrictions
Mercer Road is subject to a range of parking restrictions on both sides of the street. The subject section is between Malvern Road and 18 Mercer Road.
The section of Mercer road being discussed and the associated parking restrictions are shown in the plan below.
Lauriston Girls’ School Renovations

The school was issued a planning permit by VCAT to renovate their Huntingtower Road/Mercer Road site including the construction of a “kiss and drop” area inside the property. On the endorsed plan, the existing school crossing is proposed to be relocated to accommodate a new access point to the “kiss and drop” area.

The permit was issued by VCAT following a Failure to Determine appeal, but officers in the Planning Department noted that had an appeal not been lodged for the school’s initial planning permit, a Refusal to Grant a Planning Permit would have been issued. One of the issues cited was that “the traffic and parking impacts of the proposal are unresolved”.

In the Planning report, it notes the following regarding the crossing location:

“It is proposed to relocate the existing school crossing and concrete kerbing on Mercer Road. The relocation of existing treatments is not a straight-forward process and typically require an act of Council. From a Transport and Parking perspective, the location of the crossing was selected to assist the school but also to minimise impact to the surrounding community. Changes would be subject to consultation with the surrounding community. This process is unlikely to occur quickly, due to the consultation and reporting required. The process is separate from the Planning process, and is not specifically related to securing a Planning permit. Please note that the granting of a Planning permit does not mean that the relocation of the crossing is approved. This is an entirely separate process as the treatment is located outside the property boundary.”

The planning permit only considers design elements within the property boundary. Therefore, Council approval is separately required to relocate the school crossing, as outlined in the above advice.

In providing the above advice, it is considered that the school was forewarned of the risks associated with proceeding with a design that is predicated on changes which are separate from the decision of VCAT.

On 18 January 2019, GTA consultants formally requested the relocation of the school crossing on behalf of the school.

As the relocation would ultimately result in changes to on-road infrastructure and on-street parking, it was considered appropriate to consult the nearby community. This is normal practice for road infrastructure changes.

Works Summary

The works involved if this proposal were to proceed would include:

- The removal of the existing crossing;
- The removal of the footpath connections on both the residential side and the school side of Mercer Road;
- Reinstatement of the kerb at the current location of the school crossing;
- The construction of a new raised crossing;
- The construction of new footpath connections on both the residential and the school side of Mercer Road; and
- The installation of advisory signage surrounding the crossing.

All parking restrictions surrounding the existing school crossing are proposed to be shifted south to be located surrounding the proposed school crossing. Any parking spaces lost due the proposed crossing location will be gained with the removal of the existing crossing location.
Details of the works included in this proposal can be found in the concept plan Attachment A. As the parking bays and sign locations indicated on the concept plan are indicative only (Page 1 of Attachment A), officers prepared a separate parking signage plan for consultation (Page 2 of Attachment A.)

The applicant’s submitted Car Parking and Traffic Management Plan advises that in relation the “Kiss & Drop” facility:

- Access to the facility will be gated and closed outside of the school pickup/set-down hours
- The facility will be monitored by a trained staff member during normal operation
- CCTV will be installed to allow the facility to be monitored at all times

Consultation Undertaken

A circular was distributed on 15 March 2019 to Mercer Road properties between Malvern Road and 18 Mercer Road with the following proposal:

- Relocate existing raised school crossing on Mercer Road, Armadale, approximately 30m south from current location.

An image was included in the consultation, and this is provided as Attachment A, page 2.

Consultation was undertaken with residents north of the proposed crossing location to Malvern Road, as this was the length of the school frontage. Residents were consulted an equivalent distance south of the proposed location as this was deemed fair. It was deemed unnecessary to consult the entire length of Mercer Road, as properties further south would not likely be impacted by the proposal.

Officers conducted a street meeting on Tuesday 26 March 2019 at the current school crossing to provide information. The meeting was not compulsory, and no voting occurred at the meeting. A single resident attended.

Discussion

Consultation Result

A total of 100 properties were distributed the circular with 19 replies received, equating to a 19% response rate. The responses received are shown in Table 1 below.
table 1: Resident Response Total

<table>
<thead>
<tr>
<th>Proposal</th>
<th>Agree</th>
<th>Disagree</th>
<th>Responded, But Opinion Not Stated</th>
<th>Did Not Respond</th>
</tr>
</thead>
<tbody>
<tr>
<td>Relocate Existing School Crossing</td>
<td>8</td>
<td>11</td>
<td>0</td>
<td>81</td>
</tr>
<tr>
<td></td>
<td>(8%)</td>
<td>(11%)</td>
<td>(0%)</td>
<td>(81%)</td>
</tr>
</tbody>
</table>

Respondents Comments and Officer Response

A table of respondent’s comments and officers responses to each has been included as Attachment B.

Those who supported the installation provided very little comment. The most common comment from residents who supported the proposal was that more PERMIT ZONE parking spaces were required in Mercer Road.

Common comments from residents who were opposed to the installation were a dislike of the noise generated from vehicles traversing the hump closer to their residence and noises included in construction. Multiple comments were received describing the proposal as a waste of tax payer money, which is not accurate as the costs would be paid by Lauriston Girls’ School, as is described below, and as was stated in the consultation letter.

One resident who opposed the proposed location of the school crossing is opposed to the proposal and has obtained legal representation. Two e-mails were received on behalf of this resident, one before consultation and one in response to the consultation letter, stating that the resident will fight the proposal by all legal means.

Consultation Analysis

The response rate was 19%. This response rate is low (less than 20%), and the proposal could be abandoned on this basis under the current Transport consultation policy. However, this was not a resident driven request, so such an action is not likely to be considered reasonable.

Of those that responded, the majority was opposed to the proposal. A total of 11% of those consulted were opposed, 8% were in favour, and 81% did not respond.
Options for Council

In considering the community feedback, it needs to be considered that the proposed facility, as outlined, has the potential to improve safety for students to be picked up/dropped off on site rather than in Mercer Road. There is the potential less students have to cross Mercer Road to access the school or alight from a vehicle with passing traffic adjacent.

Conversely there is the potential for greater turning movements to/from the site across students walking on footpaths or increased obstructions in Mercer Road due to vehicles waiting to access the “Kiss and Drop” area, resulting in other more hazardous pick-ups/drop offs occurring.

This success of the facility will likely depend on whether it operates as intended and has sufficient capacity to accommodate the likely demand for the parking required in the pick-up/set-down times.

Given the above the following options seem possible:

• **Approve the proposal.** The proposal received 8% support of those consulted (or 42% of respondents). However it would be difficult to defend this position when more respondents voted in opposition. There was also significant opposition from one resident who has indicated they will challenge any decision to proceed.

• **Reject the proposal.** The proposal could be rejected based on the opposition received. One resident who is opposed has indicated they will challenge any decision to proceed. If Council did proceed down this path, the school could consider further legal action or seek an alternative arrangement. This would be rejecting a potential safety benefit but is consistent with the advice provided as during the development assessment process as outlined above.

• **Modify the Proposal to avoid relocation of the School Crossing.** The proposed “Kiss 'N' Drop” area could be redesigned by the school to either be extended or relocated south to avoid removal of the school crossing. This would include relocating the southern vehicle crossing south by approximately 20 metres. An extended “Kiss & Drop” facility would improve the capacity and mitigate potential problems identified above. While relocating the proposed vehicle crossing further south would require the removal of a small tree, Council’s Arboriculture Unit has advised this could be considered, however would incur a financial burden with the proposed tree replacement. Council arborists also indicated that the vehicle crossing would receive greater support from the Arboriculture Unit if the northern vehicle crossing were also relocated south by approximately 15 metres. This would also require the removal of a second small tree, however would situate the crossing in a larger gap between two mature trees. Council arborists have also indicated that the establishment of trees within the school grounds would be viewed favourably. Any vehicle crossing proposed by the school would be subject to approval.

**Officer Assessment**

It is recommended that in light of the community response and the potential safety improvements possible with the provision of an on-site “Kiss & Ride” facility Council should seek to modify the proposal rather than approve or reject at this stage.

**FINANCIAL AND RESOURCES IMPLICATIONS**

Lauriston Girls’ School have agreed to cover the costs which would be associated with the relocation of the school crossing, were it to go ahead.
LEGAL ADVICE & IMPLICATIONS

There is significant opposition by a resident of Mercer Road who feels that they will be severely negatively impacted by the proposal. The resident has engaged legal representation regarding the matter, and Council has received correspondence from a legal representative on two occasions stating that the resident will object to the proposed change via all legal means.

Council’s Corporate Counsel has advised that this opposition should be treated the same as opposition from any affected resident, and not be given any more weight due to the presence of a lawyer.

CONCLUSION

In response to the feedback from the community, it is recommended that Lauriston be requested to consider modification of the proposal to avoid relocation of the school crossing.

HUMAN RIGHTS CONSIDERATION

This recommendation complies with the Charter of Human Rights and Responsibilities Act 2006.

ATTACHMENTS

1. Attachment A - Concept & Sign Plans
2. Attachment B - Respondents Comments and Officer Response

RECOMMENDATION

That Council:

1. Advise Lauriston Girls’ School of the consultation result obtained and request them to develop an alternative proposal which avoids relocation of the school crossing.
2. Note that those previously consulted will be notified of the decision.
19. Delivery of Stage One of the Toorak Park and Victory Square Masterplan

Acting Manager Urban & Infrastructure Projects: Simon McKenzie - McHarg
Acting General Manager Assets & Services: Rick Kwasek

Council at its meeting on 20 May 2019 resolved that the matter be deferred to the meeting to be held on 03 June 2019.

Purpose

To provide Council with an update on the community engagement process undertaken for the implementation of the first stage of the Toorak Park Masterplan, Victory Square play space and landscape improvements, and to seek endorsement on the final scope prior to commencing construction.

Background

Council previously considered a report on the Toorak Park and Victory Square Masterplan which was adopted on 3 December, 2018. The report summarised feedback on the proposed masterplan consultation process and presented a masterplan which responded to feedback received. Below is a summary of the feedback as part of the earlier report.

Of the 358 responses received to the online survey:

- 55% believed the Master Plan proposes the right balance and scope of improvements and a further 33% believed the Master Plan sets the right direction for Toorak Park and Victory Square.

- 67% identified that they would only make minor changes to the Draft Master Plan and a further 22% said they would not make any changes to the Draft Master Plan.

- 76% identified that they would visit Toorak Park or Victory Square more often if the Draft Master Plan was implemented.

- 62% identified that they were very satisfied and a further 24% said they were satisfied with the Draft Master Plan.

- A total of 89% of respondents endorsed the proposed Draft Master Plan.

Victory Square

Feedback received from community submissions and drop-in sessions identified the need to maintain Victory Square as an improved yet not over-developed space, where dogs are allowed to be off-leash.

Support was expressed for improvements and expansion of the playground area, as well as a new range of equipment that appealed to a broader range of ages.

Across all forms of consultation and community engagement, elements that were not well supported within Victory Square included:
- Lack of fencing to provide a fenced dog park area
- The location of the proposed barbeque and shelter at the Ashleigh Street entry
- Removal of existing trees and screen planting along the northern side
- Provision of a path and access gate into 590 Orrong Road.

**Final Masterplan**

In response to consultation feedback, the final masterplan (refer attachment 1) included the following changes:

- Enhanced security and lighting throughout the site and provision of additional user amenities including drinking and dog water fountains
- Revised pathway design in Victory Square to lessen the overall encroachment on open space
- Moving the ball catch nets closer to Toorak Park thereby minimising the loss of open space in Victory Square
- Creating a raised retaining / seating wall to help secure dogs within Victory Square without the need for fences and gates
- Retention of the existing trees within Victory Square
- Relocation of the barbeque and shelter from the Ashleigh Road entry to the northern end of the playground
- Expanding the footprint of the existing playground in Victory Square and ensuring it provides for a broader age group
- Consideration for the inclusion of additional recreational infrastructure such as a basketball/netball ring and a tennis hit-up wall within the cricket practice net area
- Reshaping the mound that separates Toorak Park and Victory Square
- Adding an additional level of terracing around the sportsground to accommodate further reshaping of the spectator mounds and minimise the need to dispose of excess soil off-site.

The final adopted masterplan, incorporated the above changes, along with the deliverable to provide 'new accessible playground and picnic area with BBQ and shelter to be located along the Ashleigh Road boundary of Victory Square' (Objective 2, Toorak Park Masterplan, page 2). Following Council adoption, further design documentation, was developed for Victory Square in accordance with the masterplan.

**DISCUSSION**

**Draft Victory Square Concept Plan**

Due to the relatively broad level of detail provided within the Masterplan, Council officers developed a draft concept design for Stage 1 of the Masterplan, Victory Square (refer to attachment 2). These concept plans included an overall plan for Victory Square, precedent images of planting types, furniture, materials and play equipment as well as two different options for the layout of the playground. The designs were based on the functional layout and general arrangement of the endorsed masterplan and incorporated all facilities within this proposal. Specifically, the concept designs included:

- Concrete path running along the Southern boundary of Victory Square
- Park lighting
- Advanced tree planting on the Southern boundary and more garden beds throughout the park
- New DDA compliant playground with various interpretative and traditional play elements
- An improved pedestrian entrance from Ashleigh Road
- Park benches, bins and picnic settings
- Timber post fencing to separate the playground from dog off leash area and
- Two barbeques and a shelter relocated further North from Ashleigh Road

**Consultation**

Consultation on these plans was undertaken for three weeks in March 2019. 743 postcards were posted to surrounding residents and posters were installed on site providing information on how people could contribute and provide feedback. A survey inviting comment and feedback on the concept designs was uploaded to Councils dedicated web page and an on-site workshop was held to discuss the plans in more detail. The survey asked a series of questions seeking support or opposition to various elements within the design. Specifically, survey questions related to proposed surface materials, planting character, locations of footpaths, lighting and various furniture elements, which of the two playground options was preferred and the quantity of barbeques and materials for shelters.

35 on-line surveys were received and there was a strong attendance at the on-site workshop, which received around 50 individual comments. Below is a summary of feedback received (refer to attachment 3 for the consultation report):

**Park Usage**
- 29% of people use the park for dog walking
- 29% use the playground
- 14% use the park for sitting / relaxing
- 10% use the park for ball sports / games and
- 9% use the park for socialising

**Open space**
- 71% support the proposal to convert the synthetic pitch for more lawn area
- 56% preferred native trees over exotic species along the southern border
- 90% support trees along the northern boundary
- 91% supported planting more ground covers and shrubs

**Furniture and Materials**
- 90% supported installing more lighting
- 81% supported replacing asphalt paths with exposed aggregate concrete paths
- 81% supported installing more seats on the northern and southern boundaries of the park

**Playground, barbeque and shelter**
- 72% would prefer more than two barbeques
- 66% would like a shelter to be made from timber
- 76% supported incorporating more traditional elements, such as swings and multi-play units
- 75% supported incorporating more natural play elements, such as boulders, timber grass and dried creek beds

As shown above all components of within the concept designs were generally well supported

**Local petition**

Following the conclusion of the consultation period a petition of local residents with 119 signatures was tabled at a Council meeting on the 15 April 2019. The petition ‘…opposed the installation of barbeques, built shelters and other such structures’ and requested that ‘these items be removed from the proposed concept plan and, instead, Council focus on beautifying the square…’
Council officers held a meeting with five of the petitioners and one Councillor on the 31 May to discuss the design proposal in more detail and to identify specific concerns. The main concerns of the five members from the petition group were:

- Shelter does not fit in with the character of the park and could encourage anti-social behaviour
- Barbeques would encourage use of the park from outside of the local area
- Playground facilities were over designed and would encourage park use from outside of the local area
- Excessive use of concrete within the proposed designs
- Design of entry arbour needs to be further refined
- Black PVC coated chain mesh fence is not visually appealing
- New vegetation should not screen views into the park

**Final Victory Square Concept Plan**

In order to find a balance between those in support of the barbeque and shelter facilities and those in opposition, concept plans were amended as outlined below:(refer to attachment 4):

- Removal of all barbeques within the park
- Relocation of the shelter further away from Ashleigh Road to address noise concerns
- Reduction in the size and height of shelter to have less visual impact within the park
- Change in shelter material to timber to be more fitting with the natural surroundings
- Reduction in width of concrete paths from three to two meters
- Replacement of perimeter fencing with higher quality fence style
- Increasing spacing of shrub layer vegetation to retain views into the park

- The design amendments are considered appropriate and find a middle ground between those in support the designs those who had some concerns and allows the delivery of the objective within the endorsed Masterplan. It should be noted that the shelter facilities will provide park users with a shelter for playground users and the general community and would form a valuable addition to the park for use in inclement weather as well as provision of shade in the summer. Other minor changes to the designs will be incorporated into the detailed documentation.

**POLICY IMPLICATIONS**

There are no policy implications associated with this Council decision

**FINANCIAL AND RESOURCES IMPLICATIONS**

Council has allocated budget for delivery of the Victory Square component of the masterplan within the current financial year. There are no significant financial or resource implications associated with this decision.

**LEGAL ADVICE & IMPLICATIONS**

There is no know legal advice associated with this Council decision.
CONCLUSION

Significant stakeholder engagement has previously been undertaken for the Toorak Park and Victory Square Masterplan. The final masterplan report, adopted by Council on the 3 December, included a deliverable to provide a ‘new accessible playground and picnic area with BBQ and shelter to be located along the Ashleigh Road boundary of Victory Square’.

In line with the adopted masterplan, concept plans were further developed for stage one, Victory Square. The concept designs included all components of the masterplan, including two barbeques and a shelter facility within the park.

Further consultation on these plans was undertaken in March, 2019 for a period of three weeks which included postcards to over 740 residents and on site posters. The community were invited to provide feedback via an on-line survey or attending a workshop. 35 on-line surveys were completed and around 50 individual comments were received at the workshop. During the formal consultation period, strong support for the majority of components of the Victory Square was received through all formats of this process.

More recently and subsequent to the formal consultation, a petition with 119 signatures opposing the installation of barbeques and built shelters was tabled at Council on the 15 April 2019.

In response to this petition, the designs have been amended by removing the barbeque facilities and reducing the size and height of the shelter, changing the material to timber and relocating the shelter further away from Ashleigh Road. Other various material changes discussed above have made to the designs and these amendments are considered to reasonably address the concerns raised by the petition whilst providing adequate facilities for those in support of the designs within Victory Square. Providing a shelter within the park also responds to the deliverable stated within the Council adopted Masterplan while provide shade and amenity for all park users.

HUMAN RIGHTS CONSIDERATION

This recommendation complies with the Charter of Human Rights and Responsibilities Act 2006.

ATTACHMENTS

1. Attachment 1 - Council endorsed Toorak Park and Victory Square Masterplan
2. Attachment 2 - Victory Square Draft Concept plans
3. Attachment 3 - Consultation Summary Report
4. Attachment 4 - Victory Amended Concept Plan
RECOMMENDATION

That Council:

1. Endorses the amendments made to the Victory Square play space concept plan following the engagement and recent petition, including the removal of the bbq and the modification and retention of a shelter within the scope of works.

2. The lead petitioner be notified of the proposed amendments to the concept plans
20. 61-63 Lansell Road Toorak - Vehicle Crossing Application

Manager Amenity & Compliance: Madeleine Grove
General Manager Planning & Amenity: Stuart Draffin

PURPOSE

The purpose of this report is to determine a Vehicle Crossing Application for 61-63 Lansell Road, Toorak.

Consideration of this application has been ‘called up’ by Councillors.

On 4 June 2018 Council received an application from the builder at 61-63 Lansell Road to construct a new vehicle crossing. The application was received as part of works to build a new dwelling on the site. Due to the site area being greater than 500 square metres, a Planning Permit was not required prior to the development works commencing.

The building permit for consideration of the dwelling was issued by PWJ Building Surveying Services (private building surveyor) on 7 June 2017. The building layout plan including the location of the proposed on site car parking facilities are shown in Attachment 1.

BACKGROUND

The proposal seeks approval for a 3m wide vehicle crossing on the Yarradale Road frontage of the property, with 1.3m splays either side of the crossing as per Council’s Vehicle Crossing Policy. The applicant proposes to locate the crossing between a power pole to the left of the crossing and a Council street tree, to the right of the proposed crossing.

The application was referred to Council’s Arborist as the proposed crossing location was in close proximity to an established, mature Golden Ash street tree. Council’s Arborist requested the applicant to conduct a Non-Destructive Root Investigation (NDRI) to ascertain the risk of damage to the nearby street tree.

The NDRI Report determined that the Golden Ash street tree would require removal in order to facilitate the construction of the new vehicle crossing.

The application was also referred to Council’s Infrastructure Department due to the proximity of the power pole to the proposed crossing location in the location proposed.

VEHICLE CROSSING POLICY

Council’s Vehicle Crossing Policy was adopted by Council on 17 September 2007. One of the key objectives of the policy is to prevent inappropriate loss of significant street trees, vegetation and landscaping. This objective is linked to other Council policies such as the Urban Forest Strategy which aims to provide clear direction for the protection, management and planting of trees on public and private land across Stonnington.

In protecting public street trees, a minimum clearance of 2 metres or 10 times the diameter of the tree trunk at its base (whichever is greater) must be provided between the trunk of any street tree and the edge of the crossover unless Council’s Arborist allows otherwise.
DISCUSSION

Site context/ responsive design

The design of the proposed vehicle crossing relies on either the removal of a power pole or the street tree. While consultation on the design process was not required until the applicant lodged an application for the vehicle crossing, a considered design would have incorporated Council feedback at the concept stage.

Removal of a Healthy Street Tree

The applicant is proposing to remove a 30 - 50 year old Golden Ash tree from its present location in the naturestrip on the Yarradale Road frontage of the property so as to enable access to the onsite car parking facilities.

The relevant objectives are considered to be:

- To prevent inappropriate loss of significant street trees, vegetation and landscaping;
- To control the impact of crossings on utility infrastructure, street furniture and other assets.

While the tree is not part of an avenue of Golden Ash trees, it contributes significantly to the streetscape of Yarradale Road.

Council’s Arborist is of the view that a successful relocation of such a substantial tree is not possible with existing equipment. Additionally, the NDRI has confirmed that the tree will require removal if the crossover is to be constructed in the proposed location at the base of tree, as the proposal will result in significant root loss that will considerably affect the future health and stability of the tree. As a consequence, the choice is either to retain a healthy street tree or to remove the tree or relocate the power pole to allow for the construction of the proposed vehicle crossing.

Relocation of the power pole

The applicant has investigated the possible relocation of the power pole. Council is advised that Citipower, who are the responsible power authority, have advised that an alternative location for the pole could not be established. Citipower advised:

*Please note that CitiPower will not be able to relocate the poles to the proposed location until the Council can confirm the removal of both trees.*

*Also from my photo below, the span which is 41.2m cannot shift much more without having to replace the poles. The longer the span, the more sag on the conductors therefore you will likely need to raise the poles, leading to additional costs. Furthermore, depending on how far you would like to move the pole. we need to take into consideration where the pole still requires the stay wire and whether it will be under the tree drip line (generally, we will not be able to excavate underneath tree drip lines)*

*An alternate option is to go underground but this would be an expensive option as our trenching rate is approximately $3.5k per meter (depending on the category of contaminated soil identified). We would expect a minimum of 100m of trenching required.*
If the power pole was to remain in situ, Council’s Infrastructure Department has confirmed that the applicant would require appropriate consent from Citipower to construct the proposed vehicle crossing adjacent to the aforementioned power pole, should a vehicle crossing permit be approved. The applicant would be responsible for seeking this approval.

*Design of a substandard vehicle crossing*

In response to NDRI findings and Citipower advice, the applicant amended their proposal to construct a 2.3m wide crossing, so as to provide the necessary clearance from the street tree. However the amended proposal would result in a sub-standard crossing design, unlikely to appropriately service all current road vehicle types.

**CONCLUSION**

The Vehicle Crossing application for 61-63 Lansell Road has been considered by Officers in consultation with relevant Council Departments.

It is considered that the application fails to meet Council’s Vehicle Crossing Policy objectives, namely to prevent inappropriate loss of significant street trees, vegetation and landscaping.

The vehicle crossing application is not supported as the crossing cannot be constructed on the Yarradale Road frontage of 61-63 Lansell Road without the destruction of the established mature street tree.

An alternate 2.3m wide vehicle crossing design was submitted for consideration, however it would not service all vehicle types. Infrastructure Officers have suggested alternative locations for the crossing, however as the basement garage is well advanced in construction, the applicant has limited options.

The applicant can avoid the removal of the street tree by directing the power underground, albeit at a considerable cost.

**HUMAN RIGHTS CONSIDERATION**

This recommendation complies with the Charter of Human Rights and Responsibilities Act 2006.

**ATTACHMENTS**

1. PA - 61-63 Lansell Road Toorak - Attachment 1 of 1 Excluded

**RECOMMENDATION**

*That:*

1. **Council Refuse the Vehicle Crossing Application for 61-63 Lansell Road on the basis of non-compliance with Council’s Vehicle Crossing Policy and the Urban Forest Strategy objective to prevent inappropriate loss of significant street trees, vegetation and landscaping;**

2. **The Applicant be advised of Council’s decision.**
21. **Cato Street Car Park Development Site - Results of Naming Poll**

Senior Communications and Stakeholder Advisor: Jane Lovell  
Manager Communications : Matt Clear  
Acting General Manager Assets & Services: Rick Kwasek

**PURPOSE** To advise Council the outcome of a community poll on a preferred name from the two shortlisted for the Cato Street car park development site, namely Cato Square and Prahran Square.  
To seek a Council decision on a permanent name for the site.

**BACKGROUND**  

At the 6 May meeting Council resolved that:

1. *Council endorse for consultation the two shortlisted names for the new urban parkland and two-level underground car park currently under construction in Prahran as:*
   
   (i) **Cato Square**  
   (ii) **Prahran Square**;

2. *Community engagement on the shortlisted names be undertaken; and*

3. *Following community engagement on the shortlisted names, a further report be presented to Council for council consideration on the permanent name for the square."

**DISCUSSION**  
Following the 6 May Council meeting a community consultation program was prepared to inform the community of the two names shortlisted, and to seek their feedback via an online poll.

The channels for community consultation included:

- Direct mail postcard to 5,920 residents and ratepayers in the vicinity of the site;
- Email to key stakeholder who were involved in the initial round of consultation in 2018, namely Reconciliation Stonnington, Lyons Architects, the Boon Wurrung Foundation and the Chapel Street Precinct Association;
- Quarter page advertisement in the 21 May edition of the Stonnington Leader;
- Email to 28 schools in the City of Stonnington area;
- Email to 82 respondents of the initial Cato naming consultation in 2018;
- Two-hundred postcard distributed via Stonnington Customer Services, Prahran Library and businesses surrounding the development site.

The online poll on the connectstonnington community engagement website was open for three weeks from 10 to 31 May 2019.

At the close of the poll 1,229 responses were received, with 59 per cent of respondents stating their preference for the name Prahran Square, and 41 per cent for Cato Square.
POLICY IMPLICATIONS

The community engagement process and associated communications to decide a permanent name for the Cato Street car park redevelopment site is in accordance with Council’s Media and Communications Policy.

FINANCIAL AND RESOURCES IMPLICATIONS

The budget for the project provides for communication and engagement activities associated with the project.

LEGAL ADVICE & IMPLICATIONS

There are no legal implications associated with the naming process for the Cato Street car park development site.

CONCLUSION

At its 6 May 2019 meeting Council considered report on a shortlist of names for the Cato Street car park development site and decided that:

1. Council endorse for consultation the two shortlisted names for the new urban parkland and two-level underground car park currently under construction in Prahran as:
   (i) Cato Square
   (ii) Prahran Square;

2. Community engagement on the shortlisted names be undertaken; and

3. Following community engagement on the shortlisted names, a further report be presented to Council for council consideration on the permanent name for the square.”

Following the meeting a three week community poll was conducted to establish a preferred name from the two shortlisted, Cato Square and Prahran Square.

At the close of the poll 1,229 responses were received, with 59 per cent of respondents stating their preference for the name Prahran Square, and 41 per cent for Cato Square.

HUMAN RIGHTS CONSIDERATION

This recommendation complies with the Charter of Human Rights and Responsibilities Act 2006.

RECOMMENDATION

That Council:

1. Note the results of the community poll on a preferred name for the Cato Street car park development site;

2. Resolve that the permanent name for the Cato Street car park development site be Prahran Square.
22. **SUBDIVISION REVIEW OF STONNINGTON COUNCIL**

Activity General Manager Corporate Services: Jon Gorst  
Interim Chief Executive Officer: Simon Thomas

**PURPOSE**

The purpose of this report is inform Council that the Minister for Local Government has given notice pursuant to S219K of the *Local Government Act 1989* (LGA) that a Subdivision Review is required.

**BACKGROUND**

Under the LGA a subdivision review is required to be conducted to consider the location of ward boundaries so that the number of voters per councillor in each area is within plus/minus ten per cent of the average number of voters per councillor across the local council area.

**DISCUSSION**

The Victorian Electoral Commission (VEC) is required to undertake the review. In a subdivision review, the VEC only recommends adjustments to internal ward boundaries to correct, as far as possible, any disproportionality between wards. The electoral structure, including the number of councillors, number of wards, and number of councillors in each ward as well as external local council boundaries are outside the scope of the review.

This review is required to be undertaken early in 2020 with the timetable as follows:

a) Preparation of proposed boundary modification by VEC  
b) Release of preliminary report; Wednesday 19 February 2020  
c) Close of response submissions: 5.00pm Wednesday 18 March 2020  
d) Hearing of Submissions (if required): anticipate Wednesday 25 March 2020  
e) Release of final report: Wednesday 15 April 2020 (week immediately following Easter)

The VEC’s role is as the independent reviewer with the Electoral Commissioner responsible for the conduct of the review and the Deputy Electoral Commissioner Chair of the Subdivision Review Panel.

These are all tight timelines as any necessary changes will need to be coded into both the VEC and Council systems in advance of the Council General Election period. (Entitlement date will be 28 August 2020 – being 57 days out from the general election on 24 October 2020.

Initial discussions have been held with VEC Officers who have advised on media and communications material that will be made available – this has been requested to be provided at earliest opportunity so the community can be informed.

When open, submissions will be able to be made to the VEC by post, by email or on-line to a dedicated Stonnington review site.

Council Officers will also have access under the GIS system to the voter numbers by Collector Districts to assist in the preparation of a Council submission.
POLICY IMPLICATIONS
While the electoral structure framework is being reviewed under the Local Government Bill the VEC is required to conduct this review in accordance with the existing legislation in place at the time. Should this change Council will be advised of any change of status for this review.

FINANCIAL AND RESOURCES IMPLICATIONS
Funds have been provided in the 2019-20 Annual Budget in anticipation of this review.

CONCLUSION
This report is to inform Councillors of this coming review with further information as and when it is received and to enable the community information to commence.

HUMAN RIGHTS CONSIDERATION
This report and recommendation meets the obligations required under the Charter of Human Rights and Responsibilities Act 2006.

RECOMMENDATION
That Council receive and note this report.
1. **SOUTH YARRA - OPEN SPACE AND HERITAGE**  
   Senior Strategic Planner: Becky Taylor  
   Confidential report circulated separately.

2. **POTENTIAL PROPERTY PURCHASE**  
   Property Coordinator: Peter Angwin  
   Confidential report circulated separately.

3. **LIQUOR LICENCE FREEZE REVIEW UPDATE**  
   Principal Social Planner: Lisa Stafford  
   Confidential report circulated separately.