



Ordinary Council Meeting Agenda

Monday 29 March 2021 at 7 PM

**Council Chamber, Malvern Town Hall
Corner Glenferrie Road & High Street 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 Kate Hely (Mayor)

Cr Melina Sehr (Deputy Mayor)

Cr Jami Klisaris

Cr Alexander Lew

Cr Polly Morgan

Cr Marcia Griffin

Cr Matthew Koce

Cr Mike Scott

Cr Nicki Batagol

Chief Executive Officer

Jacqui Weatherill

Executive Staff

Annaliese Battista – Director Planning & Place

Cath Harrod – Director Community & Wellbeing

Rick Kwasek – Director Environment & Infrastructure

Greg Curcio – Director Customer & Technology

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.

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. The role of a Council is to provide good governance in its municipal district for the benefit and wellbeing of the municipal community. These meetings are an important way to ensure that the democratically elected Councillors work for the community in a fair and transparent way. Council business is conducted in accordance with Part C – Meeting Procedure section of Council’s Governance Rules.

Councillors carry out the functions, powers, authorities and discretions vested with them under the **Local Government Act 2020**, 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 Part 6 – Council integrity, Division 2 – Conflict of Interest of the Act.

About this meeting

The agenda, as specified in Stonnington’s Governance Rules, lists of all the items to be discussed. 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 at the meeting.

Arrangements to ensure meetings are accessible to the public

Council meetings are generally held at the Malvern Town Hall, corner High Street and Glenferrie Road (entry via Glenferrie Road via the door closest to the Malvern Police Station). The Council Chamber is accessible to all. Accessible toilets are also available. If you require translation, interpreting services or a hearing loop, 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 proceedings, the meeting agenda, motions and proposed alternate resolutions (also known as ‘yellows’), are displayed on screens.

Live webcasting

Council meetings are broadcast live via Council’s website, allowing those interested to view proceedings without needing to attend the meeting. This gives people who are unable to attend, the ability to view Council decisions and debate. A recording of the meeting is available on our website after the meeting (usually within 48 hours). Only Councillors and Council officers are visible. People in the public gallery will not be filmed, but if you speak, you will be recorded.

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 (usually the Mayor) and your responsibilities under the City of Stonnington Governance Rules – Division 8 – Questions to Council from Members of the Public, Division 12 – Recording of Proceedings and Division 13 Behaviour.

Your cooperation is appreciated. We hope you enjoy the meeting.

Mayor, Deputy Mayor and Councillors, Stonnington City Council

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1 Reading of the Reconciliation Statement and Affirmation Statement

2 Introductions

3 Apologies

4 Adoption and confirmation of minutes of previous meeting(s)

4.1 Minutes of the Ordinary Council Meeting held on 15 March 2021

Officer Recommendation

That the Council confirms the Minutes of the Ordinary Council Meeting of the Stonnington City Council held on 15 March 2021 as an accurate record of the proceedings.

5 Disclosure by Councillors of any conflicts of interest

6 Questions to Council from Members of the Public

7 Correspondence (only if related to Council business)

8 Questions to Council Officers from Councillors

9 Tabling of Petitions and Joint Letters

10 Notices of Motion

Nil.

11 Reports of Special and Other Committees - Informal Meetings of Councillors

12 Reports by Delegates

13 Urgent Business

14 General Business

14.1 Planning Application 0686/20 - 11 Toorak Avenue, Toorak

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

Purpose of Report

For Council to consider a planning application for part demolition, buildings and works to a dwelling on a lot within a Heritage Overlay at 11 Toorak Avenue, Toorak.

Abstract

Proposal

The proposal seeks approval for part demolition, buildings and works to a dwelling on a lot within a Heritage Overlay, comprising a basement, ground and first floor addition at the rear of the existing dwelling.

Officer Recommendation Summary

That Council authorise Officers to issue a **Notice of Decision** subject to conditions outlined in the Officer Recommendation.

The proposal is supported for the following reasons:

- The proposal responds adequately to the relevant State and Local Planning Policy. Particularly, the proposal is generally consistent with Clause 22.04 (Heritage Policy) and Clause 43.01 (Heritage Overlay) in the Stonnington Planning Scheme.
- The built form, subject to conditions, will not have an adverse impact on the heritage significance of the place, or the heritage significance of the streetscape.

Issues

A planning permit is required under the Heritage Overlay only.

Consideration of the application is limited to the impact of the proposed additions on the heritage building and heritage streetscape.

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

- The impact of the demolition with regards to the heritage place and heritage streetscape.
- The impact of the buildings and works with regards to the heritage place and heritage streetscape.

Officer's response

The proposal will not have an adverse impact on either heritage significance of the existing dwelling, or the heritage significance of the Power Street Precinct.

The built form is largely sympathetic to the heritage place; by means of retention of the significant portion of the existing dwelling, siting of the new additions, and use of appropriate materials and colours.

Executive Summary

Applicant:	Effie Tangalakis ASK Planning Services
Ward:	North
Zone:	General Residential Zone Schedule 8
Overlay:	Heritage Overlay 180
Neighbourhood Precinct:	Garden Estate
Date Lodged:	20 August 2020
Statutory Days: (as at Council Meeting date)	147
Trigger for Referral to Council:	7 or more objections
Cultural Heritage Plan	No
Number of Objections:	10
Consultative Meeting:	Yes – held on 2 February 2021
Officer Recommendation	Notice of Decision to Grant a Permit

Background

The Proposal

The plans that form part of the basis of Council's consideration were prepared by Tom Koroneos architecture + interior design and are known as TP1 Rev. 2, TP2 Rev. 2, TP3 Rev. 2, TP4 Rev. 2, TP5 Rev. 2, TP6 Rev. 2, TP7 Rev. 2, TP8 Rev. 2, TP9 Rev. 2, TP10 Rev. 2, all received on 20 October 2020.

The applicant seeks permission for part demolition, buildings and works to a dwelling on a lot within a Heritage Overlay.

Key features of the proposal are:

Demolition

- Demolition to the existing kitchen, meals room, dining room, garage, a bathroom, and a porch and portico over the driveway on the ground floor. The porch and portico are setback approximately 3.5 metres behind the front façade, with the remaining demolition occurring a further 6.7 metres behind the front façade.
- Demolition to the existing bedroom 3, bathroom, and the staircase landing on the first floor. The first-floor demolition is occurring 5.8 metres behind the first-floor front façade.
- Demolition to the existing front fence.
- Internal demolitions.

Buildings and Works

- A basement constructed along the western boundary, with a length of 15.28 metres, comprising two bathrooms, a laundry, a home theatre, a gym, a rumpus room and cellar, accessible both by stairs and a lift.
- At ground level, the rear extension is to be setback 4.9 metres from the northern rear boundary, with boundary walls on both the western and eastern side boundaries.

- The ground floor works comprise of a new kitchen, pantry, meals room, family room, an undercover alfresco, attached double garage and a swimming pool.
- A new front fence to a maximum height of 2 metres, made of render, wrought iron pickets and brick.
- At first floor level, the extension is to be setback a minimum of 2.73 metres from the northern rear boundary, 3 metres from the western side boundary, and 2.6 metres from the eastern side boundary.
- The first floor works comprises three new bedrooms with ensuite bathrooms, with the master bedroom featuring a walk-in robe and north-facing terrace. A new sitting room with access to a roof garden is also proposed.
- The proposed materiality comprises cement grey render, grey mortar brickwork, and matt cladding, klip lock roofing, aluminum framing, wrought iron fencing and pergola posts in “monument”.
- The maximum building height of the proposal is 8.45 metres, measured from natural ground level to the highest point of the roof.

Site and Surrounds

The site is located on the northern side of Toorak Avenue. It is approximately 95 metres east of the intersection with Moonga Road and 103 metres west of the intersection with Power Avenue.

The subject land has the following significant characteristics:

- The land is rectangular in shape and has a total site area of approximately 832 square metres.
- The land provides a singular frontage towards the south of 18.3 metres to Toorak Avenue.
- The land is improved by a B-graded double-storey Interwar bungalow, originally known as “Carisbrooke”.
- A 1.35 metre high timber picket front fence is constructed along the Toorak Avenue frontage.
- Pedestrian access is provided via the driveway gates to Toorak Avenue, where vehicular access is also provided via an existing crossover, leading to a portico and single car garage beyond.
- The land gently slopes from the eastern end of the frontage to the western end, and also gently slopes from the north towards the south.

The subject land has four interfaces which are summarized as follows:

- To the immediate north is the land at the following addresses:
 - No. 12 Warra Street, a B-graded attached single-storey Interwar villa.
 - No. 14 Warra Street, a B-graded attached single-storey Interwar villa.
- To the immediate west is No. 9 Toorak Avenue, an A1-graded Prairie dwelling known as “Revell”.
- To the immediate east is No. 13 Toorak Avenue, a B-graded double-storey Interwar villa.
- To the immediate south, the subject land sits opposite the intersection of Toorak Avenue and Merriwee Crescent.

Previous Planning Applications

There is no relevant recent planning history associated with this site.

The Title

The site is described on Certificate of Title Volume 04649 Folio 683 / Lot 23 on Plan of Subdivision 006190 and contains a drainage easement along the northern boundary of the site. There are no covenants or other restrictions applicable to the land.

Planning Controls

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

Zone

Clause 32.08 General Residential Zone (Schedule 8)

Pursuant to Clause 32.08-5, a permit is not required to construct or extend one dwelling on a lot more than 500sqm.

The subject site equates to a site area of 832 square metres, therefore a permit is not required. As such, this application has not been assessed against the provisions of Clause 54 (ResCode).

Pursuant to Clause 32.08-10, a building must not be constructed for a use as a dwelling or a residential building that exceeds the maximum building height specified in a schedule to this zone in metres or storeys. Schedule 8 to the General Residential Zone specifies a maximum building height requirement of 12 metres. The proposed development will be constructed to a height of 8.45 metres, meeting the requirement.

Pursuant to 32.08-4, an application to construct or extend a dwelling on a lot must provide a minimum garden area of 35% on a lot size of over 650sqm. The application proposes to set aside 305sqm (36.7%) as garden area to meet the requirement.

Overlay

Clause 43.01 – Heritage Overlay 180

Pursuant to Clause 43.01, a planning permit is required to:

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

Relevant Planning Policies

Clause 22.04 – Heritage Policy

Clause 22.09 – Reference Documents (including the City of Stonnington Heritage Design Guidelines, July 2017)

Clause 22.18 – Stormwater Management (Water Sensitive Urban Design)

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 one (1) sign on the site). The public notification of the application has been completed satisfactorily.

The site is located in North Ward and eleven (11) objections from ten (10) different properties have been received. The grounds of objection are summarized as follows:

- Excessive building height
- Visual bulk
- Overdevelopment
- Inconsistency with the established neighbourhood character

- Inconsistency with the heritage policy
- Amenity impacts including (but not limited to) overlooking and overshadowing
- Drainage and flooding concerns
- Land subject to adverse possession claim

A Consultative Meeting was held on 2 February 2021. The meeting was attended by Mayor Hely and Councillor Koce, representatives of the applicant, objectors and two Council planning officers. The meeting resulted in the following:

- Discussion between the applicant and an objector, who agreed on conditions to be placed on any permit to be issued, with regards to visual bulk along the western boundary. Specifically, these conditions are:
- That the west boundary fence remain as is with the proposed wall on the western boundary be constructed just inside the fence line.
- That the western boundary wall be finished in a "monument grey" color.

Referrals

Heritage

- The subject building at 11 Toorak Avenue, Toorak is a B-graded double-storey interwar bungalow – originally known as Carisbrooke – located in the Power Street Precinct. The precinct is of significance for its architecturally distinguished interwar villas, interspersed with remnant buildings from the first wave of limited development during the nineteenth and early twentieth centuries.
- The proposed scheme seeks approval for partial demolition works in order to add a double storey addition to the rear of the retained portion of the existing building. A new 2m-2.3m high front fence is proposed.
- The proposed extent of demolition is limited to fabric that is either not visible from Toorak Avenue, or that is of no heritage significance. Although part of the first floor addition will be visible over the single storey section of the interwar villa, it is located deep enough within the site to appear as a recessive element.
- Any proposed front fence in a heritage overlay should be of a style appropriate to that of the building on the site.
- Although a number of the surrounding buildings have tall front fences, a visually impermeable fence to a height of 2.3 metres is excessive in a heritage precinct. Whilst it is likely that some of the neighbouring front fences pre-dated the implementation of the heritage control, previous unsympathetic change should not be used as the basis for a greater degree of unsympathetic change.
- If the proposed front fence could either be reduced in height or increased in visual permeability, the scheme could be supported.

Planning Officer's response:

It is noted that the Heritage referral comments were made with regards to the original plans (Council date stamped 20 August 2020). The assessed plans (Council date stamped 20 October 2020) show a front fence with a maximum height of 2 metres. Council's Heritage Advisor has reviewed the proposed 2 metre high front fence, and has outlined that the maximum fence height is acceptable.

Infrastructure

- The only issue of concern is the additional drainage that will be created by the extension. The existing property is connected to an easement drain at the rear and that drain will have limited capacity.

- Could you please place conditions that:
- 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 in that report prior to a building permit being issued. Protection of the building must be provided from a 1 in 100 A.R.I. event as required by the Building Regulations and all drainage must be by means of a gravity based system and not pumped.
- 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. storm to the satisfaction of Council's Infrastructure Unit. Alternatively, in lieu of the stand- alone detention system, the owner may provide stormwater tanks that are in total 2,000 litres greater than those tanks required to satisfy WSUD requirements for the development. Those tanks must be connected to all toilets.

Planning Officer's response:

The Conditions above are to be included as part of any permit to be issued.

Parks

- The submitted arboricultural report has suggested specific setbacks for the adjacent significant *Ulmus parvifolia* (Chinese Elm) tree within 13 Toorak Avenue.
- The setback recommendations have not been included in the design. The garage wall still appears to be constructed close to the trunk of the tree. If it is within the Structural Root Zone, it cannot be supported without a Non-Destructive Root Investigation which supports the construction of the garage wall directly beside the property boundary.
- The garage shown outside of the Structural Root Zone is supportable, subject to a Tree Management Plan.
- Recommended Street Tree conditions:
- Protection fencing must be afforded to the *Quercus canariensis* (Algerian Oak) street tree at this location prior to construction works occurring. Fencing must comply with Section 4 of AS 4970 and form a 3m x 3m protection zone around the tree.
- 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.

Planning Officer's response:

It is noted that the original plans (Council date stamped 20 August 2020) show the garage within the Structural Root Zone of the Chinese Elm at the adjoining property at 13 Toorak Avenue. The assessed plans (Council date stamped 20 October 2020) show the garage outside of the Structural Root Zone of the Chinese Elm at the adjoining property at 13 Toorak Avenue. Notwithstanding, the Conditions above are to be included as part of any permit to be issued, along with the submission of a Tree Management Plan.

Key Issues and Discussion

The subject site is located in a General Residential Zone and a Heritage Overlay.

Given that the subject site is greater than 500sqm, a planning permit is not required under the General Residential Zone.

Off-site amenity impacts such as overshadowing and overlooking cannot be considered during the planning permit process given that a planning permit is not required under the General Residential Zone.

Off-site amenity impacts will be considered and addressed during the Building Permit process. The Building Permit process follows the Planning Permit.

A planning permit is required pursuant to the Heritage Overlay.

Given that the only planning permit trigger is the Heritage Overlay, consideration of the application must be limited to the impact of the proposed works on the heritage building and heritage streetscape.

An assessment against Heritage is provided below.

Heritage

Demolition

The proposed demolition works of the dwelling are entirely confined to the rear of the existing ground floor and first floor; and involve the removal of the kitchen, meals room, dining room, garage, porch, portico, a bedroom, two bathrooms and internal demolition works.

Council's Heritage Policy with respect to demolition at Clause 22.04-4.1 includes the following:

- 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.

Having regard to The Stonnington Heritage Design Guidelines, part demolition of a building can be considered appropriate if the primary building volume is retained, the works are minor in scale and will not adversely affect the significance of the place.

In this proposal, as indicated on the Existing Ground and First Floor Plans, the proposed demolition works are located at the rear, a reasonable distance behind the principal façade (i.e. approximately 6.7 metres at ground floor, and 5.8 metres at first floor). Overall, the existing primary building volume and ground and first floor will be retained, therefore the proposed demolition can be supported provided that the replacement works will not adversely affect the significance of the place.

Buildings and Works

The proposed buildings and works to the dwelling comprise the construction of a basement, a ground floor rear extension with an undercover alfresco and swimming pool, a first floor addition, and a new front fence.

Council's Heritage Policy with respect to additions and alterations in residential areas at Clause 22.04 seeks to:

Ensure that all additions and alterations:

- 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.

The proposed buildings and works comprises of the following:

Basement

The proposed basement includes the rear portion of the site and comprises two bathrooms, a laundry, home theatre, gym, rumpus room and cellar, all accessible both by stairs and a lift. Form a heritage perspective, this is not opposed given that there will be no impact on the Toorak Avenue heritage streetscape.

Ground Floor

The proposed works at ground level comprise a rear extension including a new kitchen, pantry, meals room, family room, undercover alfresco, attached double garage and swimming pool.

The additions at the ground floor are supportable from a heritage perspective, given that the works are generally located behind the existing building footprint to be retained. The new works are also a reasonable distance behind the principal dwelling façade facing Toorak Avenue. Specifically, the new ground floor works are approximately 13.21 metres behind the existing front façade, and a further 26.8 metres behind the front property boundary. It is also noted the undercover alfresco and swimming pool are located behind the new works.

With regards to the new double garage, Council's Heritage Guidelines (2017) state that *hard stands or paved areas for vehicle parking should:*

- Not be located in the front setback (in front of the principle building façade)
- Be located at least 3-4 metres behind the façade of any existing or new dwelling.

The double garage is not located within the front setback between the principle building façade and Toorak Avenue. Specifically, the front of the double garage is setback 17.37 metres behind the façade of the existing dwelling. Therefore, the double garage can be supported from a heritage perspective.

First Floor

The proposed works at first floor level comprise a rear extension of three new bedrooms with ensuite bathrooms, with the master bedroom including a walk-in robe and north facing terrace; along with a sitting room and roof garden.

Council's Heritage Policy with respect to first floor additions and alterations in residential areas at Clause 22.04-4.4 seeks to:

Ensure that all upper level additions and alterations:

- Are set back behind the primary building volume (as shown in Diagram 1).
- Complement the height, scale and setbacks of any adjoining significant or contributory buildings.

- Are contained within an envelope created by projecting a sight line from 1.7 metres above ground level on the opposite side of the street (as shown in Diagram 1).
- Present minimal bulk from oblique views.
- Do not obscure vistas and view lines to significant buildings.

With regard to the above, the proposed first floor additions will have a minimal impact on the streetscape and will not adversely impact the significance of the precinct. Specifically, the first floor addition is setback 8.4 metres behind the primary dwelling façade, and a further 22 metres from the front property boundary. These distances are considered sufficient in minimising bulk from oblique views in Toorak Avenue, whilst retaining the existing primary building volume of the interwar villa as the predominant feature seen from the street.

In addition, as indicated by the Proposed East Elevation and Proposed West Elevation, the first floor works are contained within an envelope created by projecting a sight line from 1.7 metres above ground level on the opposite side of Toorak Avenue. Therefore it is considered that the proposed first floor additions can be supported from a heritage perspective.

Materials

Within the application, the proposed materials include:

- cement grey render,
- grey mortar brickwork, and
- matt cladding, klip lock roofing, aluminum framing, wrought iron fencing, and pergola posts in “monument” colour.

It is considered that the proposed materiality will ensure that the buildings and works will be readily identifiable as new works, whilst respecting and not mimicking the materials, detailing and finishes of the existing heritage place.

Front Fence

The existing 1.35 metre high timber picket fence is proposed to be demolished, and subsequently replaced by a new front fence with a maximum height of 2 metres, with an entry portico behind to a height of 2.85 metres. The demolition of the existing front fence is supportable, subject to the replacement front fence arrangement being suitable with regards to the Heritage streetscape. The materiality of the new front fence and portico is a mixture of grey render, grey mortar brickwork and wrought iron fencing in monument colour.

Clause 22.04-4.9 seeks to ensure that new front and side fences:

- Are appropriate to the architectural style and era of the building
- Are consistent with the height, form, alignment, materials of original fencing in the heritage place or precinct.
- Have a high degree of transparency to allow views to front gardens and do not obscure views to a heritage place.

As identified in the heritage referral comments, a fence to a maximum height of 2 metres is acceptable. Whilst the fence is appropriate, the entry portico to a height of 2.85 metres is not appropriate in this context. As such, conditions are recommended, requiring the deletion of the entry portico.

Sustainable Design Assessment

The applicant proposes to incorporate two 5,000L rainwater tanks, totalling a capacity of 10,000L. The Ground Floor Plan shows that the rainwater tanks will be installed underground in the rear setback and connected to all toilets, however the STORM Rating

Report states that there is only a maximum capacity of 9,000L. Therefore, a condition is recommended to ensure that Council's Stormwater Management (Water Sensitive Urban Design) Policy at Clause 22.18 is fully satisfied.

Objections

- Excessive building height

The proposal at a height of 8.45 meets the mandatory maximum building height of 12 metres, as stipulated by Schedule 8 to the General Residential Zone. The height of the development is also not considered unreasonable with regards to the Heritage significance of the dwelling.

- Visual bulk

The proposal is not considered to have unreasonable visual bulk from the oblique views considered by the Heritage Policy.

- Overdevelopment

The proposal is not considered to be an overdevelopment of the site with regards to the Heritage Policy.

- Inconsistency with the established neighbourhood character

The proposal is considered to be appropriate with regards to neighbourhood character, namely the Toorak Avenue heritage streetscape and the Power Street Heritage Precinct.

- Amenity impacts including (but not limited to) overlooking and overshadowing

Matters regarding potential amenity impacts such as overshadowing are generally assessed under Clause 54 (ResCode), which is not triggered in this instance given the subject site is greater than 500sqm. Notably, the proposal will still be subject to Part 4 of the Building Regulations and a Note will be included on the permit indicating this. The Building Permit process will address amenity impacts to neighbouring properties.

- Drainage and flooding concerns

The application has been referred to Council's Infrastructure Department who are supportive of the proposal with regards to drainage and flooding, subject to conditions. These concerns will also be further addressed at building and construction stage.

- Land subject to adverse possession claim

An objector has raised concerns regarding a land subject to adverse possession claim, and as such a condition will be placed on any permit to be issued requiring all works shown on the drawings to be confined wholly within the Title boundaries of the site.

Conclusion

It is recommended that the proposal be supported for the reasons as outlined at the Officer Recommendation Summary above (refer to the Abstract).

Governance Compliance

Conflicts of Interest Disclosure

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

Human Rights Consideration

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

Attachments

1. 0686/20 - 11 Toorak Avenue, Toorak [14.1.1 - 14 pages]

Officer Recommendation

That Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 686/20 for the land located at 11 Toorak Avenue, Toorak under the Stonnington Planning Scheme for part 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, one electronic copy 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 form part of this permit. The plans must be generally in accordance with the proposed plans Council date stamped 20 October 2020 and advertised in October 2020 but modified to show:***
 - a) The west boundary fence to remain as is with the proposed wall on the western boundary constructed inside the fence line.***
 - b) The western boundary wall finished in a “monument grey” colour.***
 - c) The portico behind the front fence removed.***
 - d) All works to be contained wholly within the Title boundaries.***
 - e) A Water Sensitive Urban Design Response in accordance with Condition 3.***
 - f) A Tree Management Plan in accordance with Condition 5.***
- 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 endorsement of plans, the applicant must provide a Water Sensitive Urban Design Response addressing the Application Requirements of the Water Sensitive Urban Design Policy to the satisfaction of the Responsible Authority. All proposed treatments included within the Water Sensitive Urban Design Response must also be indicated on the plans.***
- 4. The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.***
- 5. 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 *Ulmus parvifolia* (Chinese Elm) located at 13 Toorak Avenue.

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

- a) **Pre-construction (including demolition) – details to include a tree protection zone, height barrier around the tree protection zone, amount and type of mulch to be placed above the tree protection zone and method of cutting any roots or branches which extend beyond the tree protection zone. A plan must be submitted detailing any tree protection fencing, where the fencing is clearly identified and dimensioned.**
- b) **During-construction – details to include watering regime during construction and method of protection of exposed roots.**
- c) **Post-construction – details to include watering regime and time of final inspection when barrier can be removed and protection works and regime can cease.**

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

6. **Prior to the 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.**
7. **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 in that report prior to a building permit being issued. Protection of the building must be provided from a 1 in 100 A.R.I. event as required by the Building Regulations and all drainage must be by means of a gravity based system and not pumped.**
8. **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. storm to the satisfaction of Council's Infrastructure Unit. Alternatively, in lieu of the stand-alone detention system, the owner may provide stormwater tanks that are in total 2,000 litres greater than those tanks required to satisfy WSUD requirements for the development. Those tanks must be connected to all toilets.**
9. **Protection fencing must be afforded to the *Quercus canariensis* (Algerian Oak) street tree at this location prior to construction works occurring. Fencing must comply with Section 4 of AS 4970 and form a 3m x 3m protection zone around the tree.**
10. **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.**

Notes:

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

- B. 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 form of decoration and works, but does not include re-painting an already painted surface.**
- C. 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.**
- D. Nothing in the permit hereby issued may be construed to allow the removal of, damage to or pruning of any street tree without the further written consent of the Stonnington City Council. Contact the Council Arborists on 8290 1333 for further information.**
- E. Nothing in this permit hereby issued shall be construed to allow the removal of, damage to or pruning of a significant tree (including the roots) without the further written approval of Council.**

“Significant Tree” means a tree or palm:

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

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

- F. 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.**

14.2 Planning Amendment 1155/17 - 485-487 Toorak Road, Toorak

Manager Statutory Planning: Alex Kastaniotis

Director Planning & Place: Annaliese Battista

Purpose of Report

For Council to consider an application to amend Planning Permit 1155/17 pursuant to Section 72 of the *Planning and Environment Act 1987* at 485-487 Toorak Road, Toorak.

Abstract

Proposal

The proposal seeks to make the following changes to the existing Planning Permit:

- Vary Condition 4 of the planning permit to allow for extended hours of operation to 24 hours a day, seven days a week;
- Vary Condition 3 to limit patron numbers to no more than 15 patrons between the hours of 10pm to 5:45am;
- No pedestrian access from the rear car park to the north between the hours of 8:30pm to 6:00am.

The existing hours of operation are:

- Monday to Thursday: 6:00am to 8:30pm
- Friday: 6:00am to 6:30pm
- Saturday: 7:00am to 1:00pm
- Sunday 8:00am to 1:00pm

Condition 3 of the permit currently permits a maximum number of 30 patrons that may be on the premises at any one time.

Officer Recommendation Summary

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

- The subject site is located within a Commercial 1 Zone and an activity centre making it an appropriate location for an indoor recreational facility which provides an additional community facility which can cater to the surrounding residential area.
- Subject to the inclusion of additional conditions complemented by the existing conditions of permit, the proposed amendment will have no unreasonable detriment to the adjoining residential properties.

Issues

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

- Whether the proposal is consistent with the purpose of the Commercial 1 Zone (refer to Strategic Context assessment);
- Amenity impacts on the adjoining properties (refer to Noise, Security, Lighting and Car Parking assessment).

Officer's response

The proposal will enhance the existing service provided to meet the needs of the local community and will add to the viability and variety of uses within the activity centre as encouraged by the Commercial 1 zoning of the land.

Subject to conditions relating to restricting the number of patrons within the premises, restricting rear access to the premises and prohibiting the provision of music and group classes in the extended hours of operation, it is considered that amenity impacts on the surrounding residential properties can be appropriately managed.

Executive Summary

Applicant:	Mark Hall CHM Corporate Health Management
Ward:	North
Zone:	Commercial 1 Zone
Overlay:	Design and Development Overlay- Schedule 9
Neighbourhood Precinct:	Toorak Village
Date Lodged:	28 May 2020
Statutory Days: (as at Council Meeting date)	32
Trigger for Referral to Council:	Councillor Call Up
Patron Numbers	30 maximum (no change from existing planning permit)
Cultural Heritage Plan	No
Number of Objections:	1
Consultative Meeting:	No
Officer Recommendation	Issue a Notice of Decision to Grant and Amended Planning Permit subject to conditions

Background

Planning Permit No.1155/17 was issued by Council on 5 January 2018. The permit allowed for part use of the land as an indoor recreation facility in a Commercial 1 Zone. Condition 4 of the current permit restricts the hours of operation to:

- Monday to Thursday: 6:00am to 8:30pm
- Friday: 6:00am to 6:30pm
- Saturday: 7:00am to 1:00pm
- Sunday 8:00am to 1:00pm

Condition 3 of the permit currently permits a maximum number of 30 patrons that may be on the premises at any one time.

The gym has been operating since January 2019 and therefore the permit is valid.

This is the first amendment to the permit.

The Proposal

The amendment application originally proposed to operate 24 hours a day 7 days week with a maximum of 30 patrons.

The amendment also included pedestrian access from the car park to the north during the extended hours of operation.

The application was amended pursuant to section 57A of the *Planning and Environment Act 1987* on 25 February 2021 after advertising in an attempt to address objector and Officer concerns.

The application proposes the following changes to the existing Planning Permit:

- Amendment to Condition 3 to read:
'The maximum number of patrons that may be on the premises at any one time are as follows:
 - 15 patrons between the hours of 10pm and 5:45am the following day and;
 - 30 patrons at any other time
- Amendment to Condition 4 to read:
'Without the prior written consent of the Responsible Authority, the Indoor Recreation Facility use hereby permitted is to operate 24 hours a day, seven days a week'.

The changes requested to the existing use are as follows:

- Extend the hours of operation to 24 hours a day, seven days a week.
- No music is to be provided and no group classes are to be conducted outside of existing operating hours.
- Additional security measures are to be installed within the premises.
- Limit patron numbers to no more than 15 patrons on the premises between the hours of 10pm to 5:45am.
- No pedestrian access from the rear car park to the north between the hours of 8:30pm to 6am.

The applicant does not seek any amendments to the endorsed floor plan or the permit preamble.

In support of the application the following documents have been submitted:

- Letter prepared by the applicant Council date stamped 31 July 2020, which includes operational details of the use and specifies additional security measures proposed to be installed within the premises.
- Traffic report prepared by the applicant (and ML Traffic Engineers) Council date stamped 27 July 2020.

Site and Surrounds

The subject site is located on the north side of Toorak Road, within the Toorak Village Centre. The site has the following significant characteristics:

- The site has a frontage of 10.11 metres to Toorak Road and a depth of 40.34 metres, resulting in an overall site area of 407 square metres.
- The site is currently occupied by a two storey interwar building, with a gym located at ground level (The Toorak Health Club) and an office use at the first level.
- The gym is operating with a maximum of 30 patrons as required by Condition 3 of the planning permit.
- The gym has pedestrian access from both Toorak Road and rear pedestrian access to the car park to the north accessed via Jackson Street.

Toorak Village is occupied by a variety of tenancies including boutique retailers, cafes, restaurants and other businesses.

Directly to the west of the subject site at No.481 Toorak Road is a Vintage Cellars (bottle shop) and to the east at No.493 Toorak Road is what was previously known as Maze Restaurant (the site is now currently vacant). The '*Village Way 489-505 Toorak Road, Toorak – July 2020*' incorporated document approved by the Minister for Planning via Amendment C306 authorises the use and development of the land at 489-505 Toorak Road (directly to the east of the subject site) for an 8 storey mixed use building. Vehicle access to this building is via Jackson Street. Plans are yet to be endorsed for this development.

Directly to the rear of the site is the Jackson Street car park. The site then adjoins to Jackson Street, which comprises of Geelong Grammar School amongst a small number of residential properties.

Previous Planning Application

A search of Council records indicates no relevant planning applications other than the planning permit to be amended which forms the basis of consideration for this report.

The Title

The site is described on Certificate of Title Volume 10619 Folio 068 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 34.01-1 a permit is required to use the land for an indoor recreation facility.

No building and works form part of this application.

Overlay

Clause 43.02 - Design and Development Overlay- Schedule 9 (Toorak Village Activity Centre)

Pursuant to Clause 43.02-2 a permit is required for buildings and works. Given no buildings and works are proposed, a permit is not required under this overlay.

Particular Provisions

There are no particular provisions triggered by the amendments sought to the hours of operation.

Relevant Planning Policies

Clause 11.03-1S Activity Centres
Clause 17- Economic Development
Clause 21.03- Vision
Clause 21.04- Economic Development
Clause 34.01- Commercial 1 Zone
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 one sign on the Toorak Road frontage of the site). The public notification of the application has been completed satisfactorily.

The site is located in North Ward and an objection from one (1) property has been received. The concerns are summarised as follows:

- Amenity impacts from 24 hour extended operating hours (gym should be closed between 11pm-5am).
- Concern with having pedestrian access from the rear of the site during extended hours.

As detailed above, following the advertising of the application the application was formally amended to reduce patron numbers to no more than 15 patrons on the premises between the hours of 10pm to 5:45am and to restrict pedestrian access from the rear car park to the north between the hours of 8:30pm to 6am.

This application has been lodged as an amendment pursuant to Section 72 of the *Planning and Environment Act 1987*. This assessment is limited to the elements of the proposal that represent a change from the already approved use.

Strategic Context

The subject site is located within a Commercial 1 Zone and pursuant to Clause 34.01 of the Stonnington Planning Scheme the purpose of the zone is to create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses. The subject site is located in the Toorak Village Activity Centre, which is defined as a large neighbourhood centre catering for everyday needs and wider specialty retail, office and service markets at Clause 21.04-1 (Economic Development).

State and local planning policies encourage commercial uses to locate in commercial zones and activity centres.

Clause 17.02-1S (Business) encourages, development which meets the communities' needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.

The proposal is to provide an extended commercial service (being a 24 hour gym) to meet the needs of the local community within a Commercial 1 Zone and large neighbourhood activity centre.

Some of the objectives of Clause 21.04-1 (Activity Centres) seek to:

- *Support land uses which contribute to the self-sufficiency of activity centres in the provision of daily and weekly retail goods and personal services, having regard to the role of the centre.*
- *Encourage businesses, goods and services which will enhance the viability of Stonnington's activity centres, especially small businesses and uses that are high value and low impact.*

The proposed amendment continues to meet the relevant objectives above. The proposal will enhance the existing service provided to meet the needs of the local community and will add to the viability and variety of uses within the activity centre. Based on similar uses within the municipality it is expected that patron numbers outside of normal hours will be relatively low and will not have an unreasonable impact on the nearby residential amenity. Considerations of the likely impacts are discussed in greater detail below.

Variation to the Existing Planning Permit

The application proposes to extend the hours of operation of the Toorak Health Club to 24 hours a day, seven days a week. It is also proposed to limit patron numbers to no more than 15 patrons on the premises between the hours of 10pm to 5:45am and to restrict pedestrian access from the rear car park to the north between the hours of 8:30pm to 6am.

As previously mentioned, the gym is currently permitted to operate with up to 30 patrons and to the hours as follows:

- Monday to Thursday: 6:00am to 8:30pm
- Friday: 6:00am to 6:30pm
- Saturday: 7:00am to 1:00pm
- Sunday 8:00am to 1:00pm

As already discussed, the subject site is located within a Commercial 1 Zone and within an activity centre.

The surrounds comprise a wide range of commercial activities, including retail, food and drink premises and offices. The nearest residentially zoned land is located approximately 60 metres from the rear of the subject site and is separated by the large Jackson Street carpark associated with the centre. Residentially zoned land is also located approximately 60 metres from the Toorak Road frontage of the site, and is separated by Toorak Road and other tenancies along Toorak Road of a commercial nature. Sufficient separation is afforded between the gym and residential areas and therefore the extended operating hours are not considered to have a significant impact on the amenity of the residential area.

The closest residential properties are within the mixed use seven level retirement village located to the north-east of the subject site, located within the Commercial 1 Zone. This building is again separated by the large Jackson Street carpark as well as the Village Way site at 489-505 Toorak Road. These properties are located approximately 30m from the rear corner of the subject site and do not directly interface with the subject site. These dwellings are located within and abutting a Commercial Zone and therefore, cannot expect the same level of amenity as would normally be enjoyed in established residential areas.

Notwithstanding, any intensified use on the subject site needs to ensure measures are in place to address off-site amenity impacts, particularly with regard to noise, security, lighting and car parking and traffic. Council must be satisfied that the intensified use will continue to ensure a reasonable level of amenity to the surrounding residences. These issues are discussed in greater detail below.

Ultimately, the proposed extended hours of the Toorak Health Club are considered to contribute to the further enhancement of this commercial service provided within the Toorak Village.

Noise

The current permit requires that music be limited to background music only and all noise emissions must comply with the State Environment Protection Policy N-2 (Control of Music Noise from Public Premises) to the satisfaction of the Responsible Authority. This will provide Council with the ability to effectively manage any potentially excessive noise emissions outside acceptable levels in accordance with SEPP N-2, as prescribed by the Environment Protection Authority (EPA).

To further ensure noise emissions are reduced, the applicant has voluntarily submitted that no music will be provided and no group classes will be offered outside the existing operating hours. This means that access to the facility will be generally spread out rather than a larger

number of people arriving over a short concentrated period. The existing operating hours are 6:00am to 8:30pm Monday to Thursday, 6:00am to 6:30pm Friday, 7:00am to 1:00pm Saturday and 8:00am to 1:00pm Sunday.

While the applicant has submitted that no music will be provided and no group classes will be offered 'outside the existing operating hours', given the sites location on a main road and commercial zoning, permit conditions will allow for background music and group classes to be provided on a Friday and weekends until 8:30pm (as per the current closing time on Monday to Thursday) to provide the business with greater flexibility and avoid the need for future amendments to the permitted hours. These requirements will form new conditions of the permit.

Considering that no group classes will be offered and no music will be provided after 8:30pm or outside of the existing morning opening hours, this combined with the limited patron numbers sought after hours (being 15 patrons between 10pm and 5:45am) will ensure that any noise disturbance to the residential properties surrounding the site is minimised and can be effectively managed. It is expected that usage will continue to occur generally during the day with fewer members accessing the facility overnight. As noted above, sufficient separation is afforded between the gym and residential area and therefore the extended operating hours are not considered to have an unreasonable impact on the amenity of the residential area by way of noise.

Security

Outside of the staffed hours, the tenancy will only be accessible by members via a proxy card reader system. The applicant describes this as a sophisticated automated entry system that can be programmed with a number of variables including limiting the number of patrons allowed in the premises.

The gym is proposed to be equipped with security cameras and safety/duress alarms to protect patrons' safety. The applicant submits that the duress call station is a two way intercom that if activated, connects the member with a trained operator at the premises' monitoring station 24 hours a day 7 days a week. The applicant further submits that an important component of their automation system is a feature called 'visual verification'. This means that for any alert that is sent from the gym, an operator at the monitoring station will dial into the cameras in the gym to check the cause of the alarm, before calling key holders. This will help to eliminate false alarms and can better assist the member in the gym by dispatching the emergency services immediately. As this alarm is visually verified, the emergency services are required to attend the site immediately. Once the emergency services have been dispatched, the operator will contact the gym staff to inform them of the incident and the actions taken. The letter prepared by the applicant Council date stamped 31 July 2020, which specifies these additional security measures, will be endorsed to form part of the permit and a permit condition will require that the use must operate in accordance with the security measures as outlined in this letter.

The new security system will be permanently monitored by an external security company to ensure the safety of the members and to also monitor any anti-social behaviour. The applicant has also voluntarily submitted that no pedestrian access will be permitted from the rear car park to the north between the hours of 8:30pm to 6am. This draws pedestrian activity to the non-sensitive Toorak Road frontage of the premises and this combined with the limited patron numbers sought after hours is not anticipated to be of detriment to the safety of the surrounding residential area. Restricting access to the premises after hours to the Toorak Road entrance will form a new condition of the permit.

In terms of safety and security outside the tenancy, it is considered that the 24 hour operating hours as proposed will provide improved safety to the immediate surrounds as the use will provide prolonged hours of passive surveillance to Toorak Road at any time of the day and any day of the week.

Lighting

The Toorak Road frontage of the premises does not contain any external illuminated lighting. The rear of the premises contains three flood lit external lights mounted to the roof. These lights are orientated toward the premises (to illuminate the existing 'Toorak Health Club' signage) rather than projecting out toward the Jackson Street car park. Given the nearest residential zone is located approximately 60 metres from the rear of the subject site and is separated by the large Jackson Street carpark, sufficient separation is afforded between the gym and residential area (noting the Geelong Grammar School is located directly opposite the Jackson Street car park) which will mitigate amenity impacts by way of lighting.

The residential properties within the mixed use development located to the north-east of the subject site are again separated by the large Jackson Street carpark as well as the Village Way site at 489-505 Toorak Road. It is also noted that the rear of the premises is recessed behind the built form at 489-505 Toorak Road. The gym does not directly interface with this building and these properties are located approximately 30m from the rear corner of the subject site.

Considering that pedestrian access from the rear of the premises will be prohibited between 8:30pm and 6am, lighting to the rear of the premises is not required during this time and as such, a permit condition will require that the external floodlit lights located to the rear of the premises must be switched off between the hours of 8:30pm and 6am. A new permit condition will also require that external lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land.

Car Parking

It is worth noting that the use of the site as an indoor recreation facility is not listed in the table under Clause 52.06-5, therefore, in accordance with Clause 52.06-5, the provision of car spaces must be to the satisfaction of the Responsible Authority.

The subject site currently does not provide for any car parking and the amendment does not seek to provide any car parking. There is no alteration to the number of staff or maximum number of patrons on the site as part of the current amendment. The use allows for 3 staff and up to 30 patrons to be on the premises at any one time.

Clients attending the gym outside of normal trading hours will access the gym via a personal swipe card and the applicant submits during this time there will be no group fitness classes. Furthermore, the applicant proposes a maximum of 15 patrons only during the hours of 10pm-5:45am.

The site is located on the Toorak Road where there is a tram stop within reasonable distance (i.e. less than 100m proximity) and a frequent bus service. The site is also located approximately 1km from Hawksburn Station and the existing Jackson Street car park is located to the rear of the site.

Furthermore, public car parking is available along Toorak Road and there is convenient pedestrian and cyclist access to the site. Given the sites location within a retail /commercial complex, parking demand for the gym is likely to be complimentary to nearby businesses.

In the late night and early morning hours, the usage of the facility will be minimal with a maximum of 15 patrons and there will be greater availability of parking.

It is therefore considered that the proposed extended operating hours will not result in unreasonable material detriment to the immediate surrounds from a car parking perspective.

Conclusion

It is recommended that the proposal be supported as the proposed amendment will have no unreasonable detriment to the adjoining residential properties subject to conditions.

Governance Compliance

Conflicts of Interest Disclosure

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

Human Rights Consideration

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

Attachments

1. 1155/17 - 485-487 Toorak Road, Toorak [**14.2.1** - 7 pages]

Officer Recommendation

That Council AUTHORISE Officers to issue a Notice of Decision to Grant an Amendment to Planning Permit No: 1155/17 for the land located at 485-487 Toorak Road, Toorak under the Stonnington Planning Scheme for part use of the land as an indoor recreation facility in a Commercial 1 Zone subject to the following amended conditions (amendments shown in bold and italics):

1. The plans endorsed to accompany the permit must not be amended without the written consent of the Responsible Authority.
2. A maximum number of three (3) staff may be on the premises at any one time to the satisfaction of the Responsible Authority.
3. ***The maximum number of patrons that may be on the premises at any one time are as follows:***
 - ***15 patrons between the hours of 10pm and 5:45am the following day and;***
 - ***30 patrons at any other time******to the satisfaction of the Responsible Authority.***
4. ***Without the prior written consent of the Responsible Authority, the Indoor Recreation Facility use hereby permitted is to operate 24 hours a day, seven days a week.***
5. ***No group fitness classes are permitted between the following hours:***
 - ***8:30pm to 6am Monday to Friday;***
 - ***8:30pm to 7:00am Saturday and;***
 - ***8:30pm to 8:00am Sunday.***

6. ***Pedestrian access from the rear of the premises must not be permitted between 8:30pm and 6am the following day, 7 days a week.***
 7. Noise emanating from the subject land must comply with State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2, to the satisfaction of the Responsible Authority. Any works required to ensure and maintain the noise levels are in compliance with this policy must be completed prior to the commencement of the use or occupation of the site and maintained thereafter, all to the satisfaction of the Responsible Authority.
 8. The provision of music on the premises must be limited to background music ***and no music is to be provided:***
 - ***After 8:30pm and not before 6am Monday to Friday;***
 - ***After 8:30pm and not before 7:00am Saturday and;***
 - ***After 8:30pm and not before 8:00am Sunday***
- unless with the written consent of the Responsible Authority.
9. The use must be managed so that the amenity of the area is not detrimentally affected through the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
 10. ***The external floodlit lights located to the rear of the premises must be switched off between the hours of 8:30pm and 6am, 7 days a week.***
 11. ***External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.***
 12. ***The security measures as outlined in the letter prepared by the applicant Council date stamped 31 July 2020 forms part of the permit and the use must operate in accordance with these measures to the satisfaction of the Responsible Authority.***
 13. This permit will expire if one of the following circumstances applies:
 - a) The use is not started within two years from the date of this permit.
 - b) The use is discontinued for a period of two years or more.

The Responsible Authority may extend the periods if a request is made in writing before the permit expires or within the timeframe specified in Section 69 of the *Planning and Environment Act 1987*.

NOTES

- 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
- 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.
- Car parking consent is given for the proposal allowed by the above permit subject to the conditions on the above permit being implemented.
- 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.

14.3 Planning Amendment 0460/16 - 280 Waverley Road, Malvern East

Manager Statutory Planning: Alex Kastaniotis

Director Planning & Place: Annaliese Battista

Purpose of Report

For Council to consider an application to amend Planning Permit 460/16 pursuant to Section 72 of the *Planning and Environment Act 1987* at 280 Waverley Road, Malvern East.

Abstract

Proposal

The proposal seeks to alter the approved design, by increasing the height of the building by 91 centimetres.

Officer Recommendation Summary

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

- The proposed height increase of approximately 91 centimetres is relatively inconsequential having regard to the existing and emerging physical context.
- The site currently has approval for a four-storey building.

Issues

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

- Building height and massing (refer to Built Form assessment).
- Amenity impacts on the adjoining properties (refer to Overshadowing assessment).

Officer's response

The proposal continues to appropriately respond to the emerging built form in the area and will not result in unreasonable visual bulk or mass. The additional height will improve internal amenity for the apartments by increasing the floor to ceiling levels, with little impact to adjoining properties.

Executive Summary

Applicant:	Ratio Consultants Pty Ltd
Ward:	East
Zone:	Commercial 1 Zone
Overlay:	Heritage Overlay (HO354) and Special Building Overlay (SBO2)
Date Lodged:	22 December 2020
Statutory Days:	98
Trigger for Referral to Council:	Four or more storeys
Number of Objections:	One

Consultative Meeting:	Not required
Officer Recommendation:	Notice of Decision to Amend a Planning Permit subject to conditions

Background

The Proposal

The plans that form part of the basis of Council's consideration were advertised in January 2021, prepared by Cheah Saw Architecture and are known as Drawing No.s: TP01-TP05, TP09-TP15, TP20-TP21, TP25-TP28, TP30-TP31, TP40, TP60-TP61, and all Council date stamped 22 December 2021.

Key features of the proposal are:

- An increase in the floor to ceiling heights as follows:
 - Ground Floor – 3.6 metres to 4.1 metres (+500 millimetres).
 - First Floor – 2.9 metres (unchanged).
 - Second Floor – 2.9 metres (unchanged).
 - Third (top) Floor – 2.7 metres to 3 metres (+300 millimetres).
- The remainder of the increase is attributed to changes to the party structure (between floors).
- Increasing the overall building height by 91 centimetres (14.01 metres to 14.92 metres).

Site and Surrounds

The site is located on the southern side of Waverley Road, between Hughes Street to the west and Fisher Street to the east. The site is a rectangular shaped lot with a frontage to Waverley Road of 15.39 metres and a depth of 45.72 metres, providing an overall site area of 704 square metres.

Currently occupying the site is a single-storey commercial building. Vehicular access to the site is obtained via Terminus Lane, which runs east to west along the rear of the property.

The site is located within a Commercial 1 Zone with surrounding land use being a mix of commercial and residential uses. North-west of the site at 253 Waverley Road is a contemporary, four storey mixed use building containing retail on the ground floor and apartments above. Directly opposite the subject site at 267-271 Waverley Road is a two storey mixed-use building above the existing shopfronts. The site comprises three ground floor retail shops with 6 dwellings above and is currently under construction.

Previous Planning Applications

A search of Council records indicates the following relevant planning applications

- Planning Permit No. 460/16 was issued by VCAT on 18 May 2017 for demolition and buildings and works in a Commercial 1 Zone and Heritage Overlay, comprising restaurant and dwellings in a four-level building, and car parking reduction and waiver of loading requirement on the land at 280 Waverley Road, Malvern East.
- On 31 January 2018 a combined amendment pursuant to Section 72 of the *Planning and Environment Act 1987* and submission to address the condition 1, 3 and 4 requirements of the permit was approved. The amendment allowed a number of modifications to conditions.
- On 14 August 2018 an extension of time was granted for the permit allowing the development to have a new commencement date of 18 May 2021, a completion date of 18 May 2023, with the use requiring to be commenced by 18 May 2024.
- On 18 December 2020 a Section 72 amendment was approved which made a number of design alterations including (but not limited to) deletion of the car stacker system,

replacement of the restaurant with two retail tenancies, expansion of the carpark, variations to setbacks, a reduction in apartments from 15 to 14 and modifications to permit conditions.

The Title

The site is described on Certificate of Title Volume 09506 Folio 765 as land in Plan of Consolidation 155077.

Covenant 1123187 affects the land and states:

Shall not at any time hereafter erect or permit or allow to be erected upon the said Lot fifty nine or any part thereof more than one dwelling house and also that the roof of any dwelling house erected on the said Lot fifty nine or any part thereof shall not be of iron and that such building shall not be used for the business of a licensed victualler and that (...) shall not at any time hereafter erect or permit or allow to be erected upon the said Lots eleven and twelve or any part thereof any building to be used for the business of licensed victualler.

However, the single dwelling covenant restriction only applies to lot 59 on LP6201, noting that the property located at 280-282 Waverley Road (i.e. the subject site) is made up of lots 11 and 12 on LP6201 only.

Planning Controls

Note: Only the proposed amendments to the approved proposal are considered as part of this application.

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.

Overlay

Clause 43.01 – Heritage Overlay

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

Overlay

Clause 44.05 – Special Building Overlay

A Planning Permit is not required pursuant to the provisions of the Special Building Overlay noting that the proposal is generally in line with what was recently approved.

Relevant Planning Policies

Clause 21.06 – Built Environment and Heritage

Clause 22.04 – Heritage Policy

Clause 22.23 – Neighbourhood Character Policy

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 East Ward and objections from one property located opposite the site has been received. The concerns raised are summarised as follows:

- Overlooking
- Visual bulk/height
- Neighbourhood character
- Noise
- Traffic and parking

Referrals

Council's Urban Design Advisor noted that the marginal additional height was not significant in this context.

Key Issues and Discussion

As noted previously, this application has been lodged as an amendment pursuant to Section 72 of the *Planning and Environment Act 1987*. Council's consideration is limited to the amendments to the permit and plans, which must be assessed against the relevant planning controls affecting the proposal.

Built form

The proposed height increase of approximately 91 centimetres is inconsequential having regard to the existing and emerging physical context of the surrounding area which comprises retail, shop top housing and apartments. Given the existing front and rear setbacks of the upper level and existing four storey approval on site, this increase is considered relatively imperceptible, noting that the top floor continues to be setback 8 metres from Waverley Road as demonstrated on the endorsed plans.

A section diagram submitted with the application contained sight lines taken from the opposite side of the footpath along Waverley Road. These diagrams confirm that the top most storey will not be visible and that the development presents as a three-storey building. The continued placement of planter boxes which present to the streetscape and Terminus Lane will continue to help soften the appearance of the development.

From a heritage perspective, the original façade has already been approved for demolition, and the overall structure will be distinctly modern. The increase in height is not considered to have unreasonable impacts on the heritage precinct noting that the subject site is an un-graded building which contributes little to the broader heritage precinct.

Overshadowing

The application has been assessed against the overshadowing requirements of the planning scheme and continues to present an acceptable outcome with regard to impacts on adjoining secluded private open space.

The most sensitive interface is to the south at the rear where the secluded private open space associated with 62 Hughes Street and 75 Fisher Street is located. Terminus Lane acts as a 3 metre wide buffer between the development and these two properties which reduces the extent of shadow falling onto these areas.

- 75 Fisher Street

The shadow diagrams demonstrate that no overshadowing will fall onto 75 Fisher Street at 9am.

At 11am, this increases to 10 square metres, however, this is limited to the north-west corner of the secluded private open space over some shrubs/trees. This is away from the primary space where the secluded private open space is used which is to the centre and where the verandah is located.

At 1pm, overshadowing by the development increases to approximately 19 square metres but is limited to the northern portion of the secluded private open space, just beyond the existing shadow cast by the boundary fence that runs along the laneway.

By 3pm, additional overshadowing reduces to no more than 6 square metres.

Noting that the secluded private open space of 75 Fisher Street is approximately 260 square metres, the amenity of the occupants in being able to enjoy the use of their backyard with high levels of solar access is maintained and is compliant with Standard B21.

- 62 Hughes Street

At 9am, less than 7 square metres of overshadowing of the secluded private open space will be caused by the proposed development at 280 Waverley Road. This will be limited to an area between the rear carport and the dwelling which is not the primary area used by the occupants.

Throughout the rest of the day until 3pm, there will be no additional shadow cast by the proposal. Noting that the rear equates to at least 190 square metres, there will be no unreasonable overshadowing impacts in accordance with the requirements of Standard B21 of Clause 55.04-5 (Overshadowing open space).

Objections

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

- Overlooking

No new or modified windows are proposed. An assessment against the relevant overlooking requirements was considered as part of the original approval for this site and most recent amendment.

- Neighbourhood character

The development of a multi-storey, mixed use development has already been approved. The amendment to increase the height by 91 centimetres is not considered to adversely affect neighbourhood character, which is not solely derived from the height of a building. Neighbourhood character is derived from setbacks, landscaping, roof form, site coverage amongst other elements. It is further noted that Council's Urban Design Advisor has reviewed the amendment and supports the proposal.

- Noise

It is not considered an increase in the height of the building will have subsequent impacts to noise levels.

- Traffic and parking

Car parking and traffic is not a consideration of this amendment which is limited to the 91 centimetres height increase.

Conclusion

It is recommended that the proposal be supported as the proposed height increase will not have a negative impact on the amenity of adjoining properties and is an appropriate response to the neighbouring character.

Governance Compliance

Conflicts of Interest Disclosure

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

Human Rights Consideration

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

Attachments

1. 0460/16 - 280 Waverley Road, Malvern East [14.3.1 - 7 pages]

Officer Recommendation

That Council AUTHORISE Officers to issue a Notice of Decision to Amend Planning Permit No: 460/16 for the land located at 280 Waverley Road, Malvern East under the Stonnington Planning Scheme for demolition and buildings and works in a Commercial 1 Zone and Heritage Overlay, comprising retail (as-of-right use) and dwellings in a four-level building and car parking reduction and waiver of loading requirements subject to the existing conditions on the planning permit.

Changes to the plans:

- ***An increase in the floor to ceiling heights of the building.***
- ***Increasing the overall building height by 91 centimetres (14.01 metres to 14.92 metres).***

14.4 Ferrie Oval Floodlighting Proposal

Manager Active Communities: James Rouse

Director Community & Wellbeing: Cath Harrod

Linkage to Council Plan

Community: An inclusive City that enhances the health and wellbeing of all residents, where people can feel safe, socially connected and engaged.

- C2** Strengthen Council's commitment to support our diverse and inclusive communities.
- C3** Implement community safety initiatives and fair compliance processes to address community safety issues.
- C4** Enhance community engagement to ensure Council makes long-term decisions in the best interests of the community.
- C5** Increase participation in physical activity through long-term recreation planning and service delivery.
- C7** Support local community organisations with equitable access to facilities, training and resources.

Liveability: The most desirable place to live, work and visit.

- L1** Strategically invest in open spaces, sporting fields and community facilities, and optimise use according to community needs.
- L3** Balance the competing demands of maintaining residential amenity and population growth through appropriate planning.
- L4** Enhance the design outcomes of public spaces, places and buildings.

Purpose of Report

To inform Council of the results of the community consultation process for the Ferrie Oval floodlighting proposal and seek endorsement of the recommended lighting design option.

Officer Recommendation

That Council:

- 1. NOTE the feedback from the community consultation process for the Ferrie Oval floodlighting proposal;**
- 2. APPROVE the recommended floodlighting design for Ferrie Oval (Option 3 - four x 15m high light poles);**
- 3. ENDORSE the usage schedule for formal sport and active recreation as outlined in the body of this report.**
- 4. AUTHORISE the CEO to develop and execute a 10-year license agreement with the Glen Iris Junior Football Club in return for their \$100,000 capital contribution.**
- 5. APPROVE Officers to consult abutting properties on the following proposals:**
 - a. Install Permit Zone restrictions operating 8am to 8pm Wednesday to Sunday, March to September, on the west side of Elizabeth Street from Talbot Crescent to the dead end.**

- b. Install Permit Zone restrictions operating 8am to 8pm Wednesday to Sunday, March to September, on the north side of Talbot Crescent, between 45 Talbot Crescent to 99 Talbot Crescent.***
- 6. NOTE that the results of both parking consultations will be reported back to Council for decision.***
- 7. NOTE the proposed planting of 10 new large trees on the western side of the oval.***

Executive Summary

The installation of floodlighting is a proposed component of the Ferrie Oval redevelopment plan, following occupation of the oval by the Victorian Government for the Toorak Road Level Crossing Removal Project in 2019-2020. Ferrie Oval is a junior-sized sports ground and has previously not been floodlit, meaning that usage during the winter season is limited to daylight hours. Stonnington's sports grounds are at capacity in the winter sports seasons, with the demand from clubs for training use exceeding availability.

Council Officers have carried out an extensive community consultation process to ensure local residents are informed, engaged and have been listened to through the planning and design stage of the project. Feedback received has helped to shape the proposed lighting design options and schedule of use.

Background

Ferrie Oval was occupied by the Victorian Government for the Toorak Road Level Crossing Removal Project in 2019-2020 and handed back to Council in late 2020. The sports ground redevelopment plan, which included a proposal for floodlighting, was presented to the Council Meeting on 7 September 2020. At this meeting, Council resolved to note the floodlighting proposal for Ferrie Oval, including design, configuration and days/hours of operation. The oval redevelopment was approved; however, the installation of floodlighting was deferred for consideration pending further investigation and engagement with local residents. It was also requested that an independent review of the sports lighting designs be carried out, which has been undertaken by Webb Australia.

The tenant sports clubs at Ferrie Oval are the Glen Iris Junior Football Club (GIJFC) in the winter season, and the Malvern Junior Cricket Club and Toorak Prahran Cricket Club in the summer season. The GIJFC has been a tenant of Ferrie Oval and Muir Pavilion for the past 30 years and is one of Stonnington's largest sports clubs, with 720 junior footballers, including 200 females, across 31 teams.

The GIJFC play weekend matches at Ferrie Oval, however due to an absence of floodlighting the club is required to train across five different floodlit grounds. The addition of floodlighting on Ferrie Oval would allow the club to have a central training base and free up additional capacity (7 hours per week) across four other sports grounds (Righetti Oval, Birrell Reserve, TH King Reserve & Gardiner Park). The club has pledged a financial contribution of \$100,000 towards the lighting costs, conditional upon the provision of a 10-year license agreement for use of Ferrie Oval, Righetti Oval and Muir Pavilion, commencing in 2022.

Key Issues and Discussion

Optimising sports grounds to meet demand

Ferrie Oval is one of three unlit sports grounds in Stonnington, which are the top priorities in the floodlighting capital works program. Stonnington's sports grounds are at capacity in the winter sports season, with the demand from clubs for training use exceeding availability. AFL Victoria has advised that the City of Stonnington is four (4) sports grounds below the number required to accommodate its football participation numbers. By optimising existing open space and assets, the capacity of sports grounds can be increased in order to accommodate the demand for winter sports participation.

Lighting Design Options

Three low-spill LED lighting designs were developed by sports lighting consultants, BRT:

- Option 1 (Attachment 1.1): two x 24m high light towers, positioned on the western side of the ground. The intention of this design was to provide a solution that is sensitive to nearby residents, with the light direction facing away from households.
- Option 2 (Attachment 1.2): a traditional oval lighting design of four x 20m high light towers (two on each side of the oval), with 6 light fittings in total.
- Option 3 (Attachment 1.3): four x 15m poles, with 8 light fittings in total.

All three designs comply with the required Australian Standards: AS2560.2.3 (Sports Lighting Part 2.3: Specific applications - Lighting for football (all codes)). The designs also ensure the illuminance (lux) and uniformity (evenness of light) are at the required level to ensure players can see the ball well, judge the flight of the ball, and that there is no discomfort caused by glare.

Both AS2560.2.3 and the AFL Preferred Facility Guidelines set the minimum lux level for 'Match Practice' as 100 lux, and the minimum level for 'Ball and Physical Training' at 50 lux. Ball and Physical Training is defined as a controlled environment that involves two to four participants. As such, the lighting options have been designed based upon 100 lux due to the nature of Australian Rules Football training, which includes match practice, and upon the recommendation of AFL Victoria and the lighting design consultant, BRT.

- AS4282 (Control of the obtrusive effects of outdoor lighting)

The obtrusive lighting levels (spill light) on each of the design options are well within the level required by Australian Standard AS4282 (below 10 lux). This is measured at the resident boundary to the west and the Monash Freeway to the east.

The light calculations at the resident fence line for the three options are:

- Option 1 (2 x 24m poles) – 6.2 lux
- Option 2 (4 x 20m poles) – 0.3 lux
- Option 3 (4 x 15m poles) – 1.6 lux

An action arising from the Council Meeting on 7 September 2020 was for design Options 1 and 2 to be reviewed by an independent consultant. Lighting engineers Webb Australia carried out the review, which verified that both designs comply with Australian Standards, and that the pole heights for Option 2 could be reduced. BRT were able to subsequently reduce the pole height in the Option 2 design from 22m to 20m.

Option 3 (four x 15m poles) was prepared following further consultation with residents, several of whom believe that by lowering the pole height, the light fittings will be shielded

from view of households by the tree canopy on the west side of the oval. Option 3 is the preferred option for Council as it achieves adequate light coverage with minimal light spill, complies with Australian Standards and is also the most supported option of the residents that have provided feedback.

Dimmed lighting for active recreational use

In addition to increasing capacity for organised sport, it's proposed that controls will be fitted to provide dimmed lighting (25 lux) to increase opportunities for broader recreation use. The practice of lighting sports fields after dark during winter was successfully rolled out across other locations, and was particularly beneficial during COVID restrictions, enabling the community to use the fields for exercise, dog walking, running etc.

Community Engagement

Council Officers have conducted an extensive community consultation process, between June 2020 – March 2021, to ensure local residents are informed, engaged and listened to through the planning and design stage of the project. This has included:

- An online survey (completed by 405 respondents)
- On-site information sessions
- A Connect Stonnington project webpage, provided project information & designs
- Resident letters
- 280 flyers distributed (152 via letterbox drop and 125 to park users).
- Two on-site resident information sessions at Ferrie Oval.
- Door-knocking along Elizabeth St and Talbot Crescent.
- Ongoing, open communication with local residents.
- Regular meetings and communication with the Glen Iris Junior Football Club
- Consultation with all other sports clubs based at Sir Zelman Cowen Park.
- Receipt and acknowledgement of a submission from local residents, which provided additional feedback on the lighting design and usage preferences.

The online survey results (refer **Attachment 2**) indicate that 97% of 405 respondents supported the proposal to introduce lighting on Ferrie Oval. Key themes within the feedback included how lighting would support junior and female participation, improve safety, encourage casual recreational use, and support the recovery of community sport post COVID-19. The comments from respondents opposed to the floodlighting were, 'Low spill lighting facing away from residents' homes is a misnomer,' and 'New Righetti Oval floodlights have had very little use to date.'

In March Council Officers door-knocked households in Elizabeth St and Talbot Crescent to seek their individual feedback on the three lighting design options. Of the five households who wished to provide feedback, three households were in favour of the 4 x 15m pole design, one was in favour of the 4 x 20m pole design, and one was in favour of the 2 x 24m pole design. None of the residents had any objections to the installation of lighting, or the proposed illuminance of 100 lux (required for football training as per Australian Standard AS2560.2.3). Several indicated their strong support for junior sport on Ferrie Oval, and to proceed as necessary in order to achieve the best quality outcome for participants.

Local residents undertook their own survey (refer **Attachment 3**). Feedback included:

- 17 residents opposed, 15 supportive, and 1 impartial to the addition of floodlighting.

- 14 residents preferred the Option 3 design (4 x 15m poles), 9 preferred Option 1 (2 x 24m poles) and 10 had no preference.
- The preferred floodlight hours of use (70% of residents) are between 5pm – 8pm.
- Support for the lights operating on an automatic timer system (91%).

AFL Victoria and Yarra Junior Football League both support floodlighting of the Ferrie Oval. AFL Victoria provided a letter of support and cited that based on AFL football participation numbers in Stonnington, the municipality is four (4) sportsgrounds below the optimal number required to accommodate demand.

Community feedback received has helped to shape the following aspects of the proposal:

- Development of 4 x 15m light pole design, the most preferred option of residents.
- Restricted hours of use for training from 5:00pm - 7:30pm, and dimmed recreation lighting no later than 9pm.
- A proposed schedule of use three (3) days per week for training, and active recreation schedule of three (3) days per week (two (2) following football training).
- Black powder-coated poles.
- Inclusion of an automatic timer to ensure the lights switch off at the permitted times.
- Addition of security/ safety lighting through the car park.
- Commitment to carry out an investigation into whether changes to Parking Permit restrictions on Elizabeth Street and Talbot Crescent are necessary, pending endorsement of the proposal.

Car Parking

Some residents requested that Council investigate whether parking permit restrictions on Elizabeth Street and Talbot Crescent should be increased, retained or removed as a result of the changed parking conditions through increased visitation to Ferrie Oval on weeknights. There are 51 car spaces across the Righetti Oval and Ferrie Oval car parks. On GIJFC training nights, demand for parking could potentially exceed supply, and as such participants may park in nearby streets including Elizabeth Street and Talbot Crescent. Pending the outcome of this Report, Council's Transport and Parking team will conduct a formal investigation into parking restrictions in these streets, and report back to Council.

Tree Planting

Some residents requested additional tall trees to be planted along the western side of Ferrie Oval, to provide additional screening between the lights and households. Council Officers identified suitable locations for ten additional trees to be planted in open areas along the western side of the oval. Species will include Algerian Oak, Rose Gum, Sydney Bluegum and Japanese Elm, and grow to a mature height of approximately 20m.

Proposed usage schedule (winter season)

The proposed usage schedule is as follows:

Day	Time	Type of Use
Monday	5.00pm - 9.00pm	Active Recreation (dimmed lighting level)
Tuesday	No lighting	No lighting
Wednesday	5.00pm - 7.30pm	Junior Football Training

	7.30pm - 9.00pm	Active Recreation (dimmed lighting level)
Thursday	5.00pm - 7.30pm	Junior Football Training
	7.30pm - 9.00pm	Active Recreation (dimmed lighting level)
Friday	5.00pm - 7.30pm	Junior Football Training

This would increase GIJFC's weekly training hours on Ferrie Oval from 2 hours to 9 hours. Residents indicated a preference for two nights of junior football training per week, while the GIJFC had requested four nights training per week. The proposed compromise position is three nights of training per week.

The proposed dimmed lighting schedule for active recreation is three nights per week, with Tuesdays having no floodlit use. This schedule creates 7 hours of usable time per week for active recreation purposes. Officers will monitor and evaluate the active recreational use of the ground during the first winter season of use and may amend the usage hours based on evaluation of data. Local residents will be engaged regarding any proposed change of hours prior to a report being tabled to Council for consideration.

Conclusion

With one of the lowest amounts of public open space in Victoria, and a growing population, activating existing open space and assets is needed to ensure sufficient opportunities exist for the community to participate in organised and casual sport and physical activity. The addition of floodlighting on Ferrie Oval aligns with Council's goals of supporting growth in sport and physical activity participation for children, females and the wider community, including 700 junior GIFC members.

Council officers have explored a range of design options and engaged with all stakeholders regarding the most preferred option. Based upon all feedback, the recommendation of Council officers is to proceed with Option 3 (four x 15m poles).

Governance Compliance

Policy Implications

The installation of floodlighting on Ferrie Oval supports a number of objectives within Council's Recreation Strategy 2014-2024, Municipal Public Health and Wellbeing Plan 2017-2021 and Strategies for Creating Open Space.

Ferrie Oval is one of three unlit sports grounds prioritised for development within Council's sportsground floodlighting development program.

Financial and Resource Implications

The cost estimate for the proposed floodlighting is \$325,000. The GIJFC have committed \$100,000 towards the cost of the project. The balance of the project cost is available within Council's adopted capital works budget item X9598 - Floodlighting Development Program (\$349,000).

Conflicts of Interest Disclosure

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

Legal / Risk Implications

The contribution of \$100,000 from GIJFC towards the cost of the floodlighting is conditional upon entering into a 10-year license agreement with the GIJFC for the use of Ferrie Oval and Muir Pavilion.

Stakeholder Consultation

- GIJFC initiated conversation with Council in 2019 on their need for floodlighting at Ferrie Oval.
- Sports facility and infrastructure planning meetings were held with all sports clubs based in Sir Zelman Cowen Park in early 2020. Council officers have liaised closely with the GIJFC through the planning stage for the Ferrie Oval redevelopment, including the floodlighting proposal.
- Council officers have maintained ongoing, open dialogue with local residents. A range of queries on the lighting design and other issues have been discussed and responded to.
- Yarra Junior Football League and AFL Victoria have provided support for the project.

Human Rights Consideration

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

Attachments

1. Lighting Design Options.pdf [14.4.1 - 11 pages]
2. Ferrie Oval floodlighting community engagement report [14.4.2 - 7 pages]
3. Ferrie Oval Redevelopment Submission from local residents [14.4.3 - 10 pages]

14.5 Victory Square Off-Lead Dog Park - Fencing

Manager Project Management & Delivery: Madelyn Eads-Dorsey

Director Environment & Infrastructure: Rick Kwasek

Linkage to Council Plan

Community: An inclusive City that enhances the health and wellbeing of all residents, where people can feel safe, socially connected and engaged.

C7 Support local community organisations with equitable access to facilities, training and resources.

Purpose of Report

To provide Council with an overview of the options considered by Council officers in an assessment of fully fenced versus part fenced park at Victory Square in Armadale. Fully fencing the park was requested by members of the local community, in response to the recent removal of temporary fencing associated with a nearby construction project. Having examined the options for fencing, Council officers do not support any increase to the current extensive fencing of Victory Square due to the various safety concerns relating to dog off leash areas within shared open space and recreation reserves across Stonnington.

Officer Recommendation

That Council:

- 1. NOTE the assessment of a fully fenced option versus part fenced option for Victory Square based on the community feedback;**
- 2. NOTE the various safety, accessibility, compliance and maintenance issues with creating a fully enclosed park for dog off leash activity;**
- 3. DOES NOT ENDORSE the full enclosure of Victory Square for specific dog off leash activities;**
- 4. NOTE that planting density will be increased in the area of the path where Victory Square meets Toorak Park; and**
- 5. NOTE that officers will engage with the Cricket Club to arrange for the maintenance and pedestrian access gates be moved closer to the maintenance sheds so as they don't align with the walking path into Victory Square to discourage unwanted access.**

Executive Summary

Victory Square, Armadale is a park which provides various open space amenities for the local community in an inclusive environment. The park currently allows for dog off leash activities in compliance with Council's local laws.

Following completion of the most recent stage of the Toorak Park Masterplan, numerous requests have been received from dog owners to change the historic conditions of the park and create a fully enclosed dog off leash area. In consideration of the request to fully fence that park it is recommended that the park is not fully fenced due to the increased risk and access implications and so as not to set unwarranted precedents.

Key Issues and Discussion

The provision of fencing within Stonnington's many parks and open spaces varies across all parks. Installing additional fencing within any of these parks must take into consideration various implications a fence may have within a park. This includes addressing existing issues of safety, creating new and different safety issues within a park, creating environments that are less inclusive and accessible for all park users and increasing on-going maintenance and compliance requirements for Council.

Safety

There are 27 dog off leash parks within the City of Stonnington, all of which allow dogs to be off leash in a shared environment with all other park users. Except for Malvern Cricket Ground, none of these parks are fully enclosed with fencing. Where fencing exists within each of these parks, it has been installed to address specific public safety concerns rather than specific protection of an animal. For example, the intent of fencing along a park adjoining a road is to reduce the chances of a car accident. The intent of fencing around playgrounds and sports ovals is to ensure animals do not interfere with these activities taking place in a safe way. Fully enclosed parks which allow for dog off leash activities are generally more problematic from a community perspective as owners generally have less control and oversight of their dog. Animals and people have more opportunities to become trapped when attacked and there is an increased perception of ownership of a park, discouraging other users to visit the space (Lesley Humphrys, LMH Consulting).

On average, Council have recorded 95 individual dog attacks or incidents each year over the past five years and around half of these occur in Council's parks. It is also noted that dog attacks are under reported by an estimated 80% within Victoria. Statistically, dog attacks are likely to increase within spaces that are fully enclosed by around 20% (Lesley Humphrys, LMH Consulting) as it creates an environment where dogs or people are trapped without an area to escape. There is a significant risk for Council in retrofitting fencing within dog off leash parks without the appropriate consideration to the overall layout and function of the park.

Not only does Fencing off Victory Square increased risk for general community but sets a precedent which will make management of other dog off lead areas more challenging.

Accessibility

Council has a commitment to creating public spaces which are accessible and inclusive for all communities and users, including the elderly and those with a disability. Stonnington's Access and Inclusion Plan (2019-2022) seeks to '*advance outcomes for people with a disability and build a community which is inclusive for all.... Opportunities to address barriers and improve access should be prioritised*'. Best design practice incorporates a universal design approach by applying the least restrictive outcomes to ensure all people, regardless of age, sex, size, ability or disability can participate in community life. Whilst fences and gates within parks can improve safety, they also create physical barriers and challenges for the most vulnerable community members wanting to access the park. Lesley Humphrys also argues that due to the relatively unpredictable nature of dogs, unsupervised children should be restricted from entering fully enclosed dog off leash parks or designated dog parks. This is considered to be in contradiction to many objectives within Council's access and Inclusion plan to create inclusive, accessible and safe public spaces across Stonnington.

Creating a fully enclosed dog off leash area could also create a level of ownership within the park, significantly increase the number of dogs within the park and in turn discourage other park users to use the park for passive recreation, exercise and relaxing.

Maintenance and enforcement

Due to the nature of dog running, playing and digging, dog off leash parks generally have a much higher maintenance program. Lawn areas require more frequent replacement, irrigation systems are more frequently damaged and vegetation in garden beds does not survive well. Resources to enforce the local laws identified within *Council's Animal Management Plan (2016-2021)* are also higher within dog off leash parks.

Fully fencing dog off leash areas could create an environment where dog owners are more comfortable to let their dogs run freely under less supervision than in unfenced areas. This would in turn increase Council's resource requirement for an increased maintenance and a local laws enforcement program and also increase the risk to other park users.

Victory Square

Council have recently invested significant funds to improve the amenity of Victory Square to create a new public space that is as inclusive and accessible for all park users. These works have included a new playground, new paths connecting residents from the South to Victory Square, park lighting, DDA compliant public toilets, publicly accessible cricket practice nets, park furniture and large lawn and garden bed areas.

As part of these works, a previously existing road (Potter Street) which adjoined Victory Square from the South was demolished and converted into open space. This has shifted the closest road from being 30 metres to now 90 metres.

Fencing within Victory Square currently exists on the North, East and South boundaries of Victory Square (where the park adjoins a road or private property) as well as around the new playground and Toorak Park Oval. This fencing is consistent with addressing the safety concerns discussed above and no real safety concerns have been identified within the current layout of the park.

Responsibility of dog owners

It is estimated that only 15% of dog owners attend formal dog training or obedience school (Lesley Humphrys, LMH Consulting). When considering the significantly increasing number of dogs within Stonnington (currently 8,000 registered dogs), untrained dogs within Councils designated off leash areas has the potential of creating issues with confrontation, conflict and attacks. Stonnington's *Domestic Animal Management Plan (2016-2021)* states that a dog may be exercised off a chain, cord or lead in a Designated Area or Designated Reserve if the person is in apparent control of the dog.... 'Apparent Control' means:

- *Capable of being controlled if the dog behaves in a manner which threatens or worries any person or animal*
- *Capable of being controlled to such an extent that no damage or injury could be or is caused to any person or animal*
- *Is under effective voice and or hand control and within constraint sight*
- *Is restrained and prevented from digging, burrowing or otherwise disturbing turf, grassed areas or the earth in any way*
- *Is restrained and prevented from damaging property or Council assets*

The argument that there is a need to install a fence to enclose dogs within Victory Square is considered to be in contradiction to these requirements of dog owners.

Conclusion

Council officers have considered the request from dog owners to fully enclose Victory Square from a safety, accessibility, maintenance, and enforcement perspective and do not recommend installing additional fencing to this park. Fencing currently exists within the park to address safety concerns and restrict dogs from entering other facilities and the current proximity to the nearest unfenced road is not considered to create a safety issue providing dog owners control their dog in accordance with the *Domestic Animal Management Plan (2016-2021)*.

The current issues of dog control within the park can be addressed through addition buffer planting between Victory Square and Toorak Park, additional signage at key locations and relocating the Toorak Park maintenance and pedestrian gates away from the alignment of Victory Square. These modifications will be undertaken in consultation with the Prahran Cricket Club and are considered an adequate response to addressing the perceived safety concerns of dog owners within Victory Square.

Governance Compliance

Policy Implications

There are no policy implications associated with this report.

Financial and Resource Implications

Should Council choose to install a fence within Victory Square, it is estimated that an additional capital cost would be in the order of \$15,000 to \$20,000. Additional and ongoing maintenance and enforcement costs would also be incurred.

Additional planting, relocating of existing gates and new signage will be a similar cost and could be absorbed within Council's relevant Capital Works budget.

Conflicts of Interest Disclosure

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

Legal / Risk Implications

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

Stakeholder Consultation

A significant community engagement process was undertaken throughout the development of the Toorak Park and Victory Square Masterplan, which ultimately did not propose to fully enclose Victory Square with a fence. Council have received numerous requests from dog owners to install a fence, however no other user groups of the park have been consulted as part of this process.

Human Rights Consideration

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

Attachments

1. Victory Fence Options [**14.5.1** - 6 pages]

14.6 Central Park Playground Upgrades

Manager Open Space & Environment: Simon Holloway

Director Environment & Infrastructure: Rick Kwasek

Linkage to Council Plan

Liveability: The most desirable place to live, work and visit.

- L1 Strategically invest in open spaces, sporting fields and community facilities, and optimise use according to community needs.
- L4 Enhance the design outcomes of public spaces, places and buildings.

Purpose of Report

To provide Council with an update on the consultation process undertaken for the proposed playground upgrades at Central Park, Malvern East and to seek endorsement of the draft concept plans prior for the purposes of further community consultation.

Officer Recommendation

That Council:

1. **NOTE the community consultation feedback received in relation to the proposed All Abilities playground upgrade at Central Park, Malvern East;**
2. **NOTE Council's continued commitment to provide inclusive, accessible play spaces; and**
3. **ENDORSE the draft concept plans for an All Abilities Playground upgrade at Central Park, Malvern East for the purposes of further community consultation.**

Executive Summary

Central Park, Malvern East provides a range of open space facilities and amenities for the local community and various sporting groups. The existing playground, located on the park's Western boundary is highly used, however many of the elements within this play space have reached the end of their life expectancy and as such have been identified for renewal as part of Council's playground renewal program.

Background

Council's draft inclusive play strategy has audited the condition and functionality of all of Council's 55 existing play spaces with the objective to *'identify opportunities and priorities for making the city's network of play spaces more inclusive of everyone'*.

The draft play strategy has categorised each play space:

- 1 regional scale play space; (3 additional required)
- 20 district scale play spaces and
- 34 local play spaces
-
- The hierarchy of play spaces are determined by set criteria, and generally; **local play spaces** are small scale containing a limited range of activities; **district play spaces** are medium to large spaces, providing a broader range of play activities catering for a greater range of age groups (and user ability); and **regional play spaces** are large prominent spaces which provide a wide range of abilities and age groups and are well equipped for large number of visitors. Regional play spaces also have provision of other facilities, such as

DDA carpark and close access to public transport to encourage a higher use. The Phoenix Park play space is currently Council's only regional scale play space.

The draft strategy has identified Central Park as currently being a district level play space, however the site meets several specific criteria for a regional play space including;

- being in a prominent location
- co-located with other recreation or community facilities
- free unrestricted access
- accessible via public transport, and
- has a high provision of available car parking.

This play space has been identified as one of four opportunities to become a regional scale play space. As such, an opportunity exists to extend the footprint of the play space to significantly improve accessibility for all abilities and create a play space catering for a regional scale catchment.

Key Issues and Discussion

Council is committed to making our city an inclusive, welcoming and supportive environment for all. Stonnington's *Inclusion Plan 2019-2022* identifies key focus areas for improving access, equity and increasing participation in public life. Council's public space improvements employ universal design principals including equitable and flexible use, simple and intuitive design, low physical effort, reduction of hazards, perceptible information and size and space for approach. The new play space will be an inclusive, accessible and interactive facility for all user abilities.

In order to inform the design process and to ensure the redevelopment reflects the expectations of the various stakeholders, Council officers underwent an engagement process for the project in February 2021. 846 postcards were sent to surrounding residents and 6 posters were installed within Central Park inviting residents to attend an on-site workshop or complete the online survey on Council's Connect Stonnington page. Targeted meetings were also held with specific stakeholder groups including the *Malvern Special Needs Play Group*, the *Stonnington Disability Access Committee* and *Council's Access and Inclusion Committee* to gain an understanding of the specific needs and requirements of each of the user groups.

Consultation material included a range of imagery and examples of other local and international play spaces to gather feedback on the new play space and to gain an understanding of what people liked about the existing facilities.

In summary, 76 individuals completed the survey, and 12 residents attended the on-site workshop (**Attachment 1**). Importantly, of the questions asked relating to the existing play facilities (accessibility, creating a social environment, safety, shade, play equipment, garden beds and seating) the highest responses were all either 'average' or 'good' indicating a need to significantly improve these facilities.

Playground footprint

As part of the initial design process, an assessment of the playground's existing footprint was undertaken to determine the ability of the site to accommodate a regional scale play facility. The assessment identified a range of challenges including current size to cater for an increasing user demand and the limited ability to create a more inclusive and accessible play space. Following this, two zoning options (**Attachment 2**) were developed with new play space footprints that better accommodated for the criteria of a regional scale play space.

Both options propose to increase the footprint of the current play space and are discussed below:

Option 1 - extended play space footprint

Opportunities

This option makes greater use of relatively unused open space to the south, allowing for a significantly expanded play space footprint. This would allow for a broader range of play activities with better circulation and movement within and around the play space. The larger footprint, which can include a vegetated buffer along Kingston Street will create more opportunities for parent/carer supervision and a more inclusive play space for all abilities and ages. The more generous space allows for better locations of accessible paths outside of tree root zones, reducing the need for ramps, retaining walls and footings. This option can also better accommodate the proposed public toilet within the park setting as opposed to fronting onto properties along Kingston Street.

Constraints

There are some significant trees within the Southern footprint of this option and design consideration will need to incorporate protecting these trees. Additional DDA car space will also need to be provided in the southern area of the park to provide access to this portion of the play space.

Option 2 - reduced play space footprint:

Opportunities

This option maintains a connection with the nearby sports oval and creates a 'hub' around the existing water fountain and conservatory building. The proposed toilet location is also more accessible for users of the sports facilities.

Constraints

Whilst this option provides more space than the existing play space, there are still some constraints in providing a variety of accessible play equipment which generally require larger footprints. The densely planted trees in this area also create design complexities as additional retaining walls, footings and mounds would be required to provide accessible paths and ramps and avoid tree roots. There is also existing conflict between joggers using the adjoining path and children using the playground which would not be addressed within this footprint.

Draft Concept designs

Following a review of both zoning options, it was determined that *Option 1- extended play space footprint* better aligned with the criteria of a regional scale playground and would accommodate for the expected increase in usage of the play space.

The draft concept designs (**Attachment 3**) were developed based on the Zoning Option 1 footprint and responded to the feedback received through the initial consultation process. The draft concept designs incorporate inclusive design considerations including wider and DDA compliant entry points, accessible internal paths and observation areas for parents and carers, play elements that encourage participation for a range of experiences for all ages and abilities as well as hard, soft and sensory landscape treatments that encourage social interactions, intrigue and inclusiveness. The designs also propose appropriately scaled fencing and barriers along Kingston Street to protect users. The draft concept designs will ensure the new facilities meet the anticipated increased usage and create a play space that aligns to a regional scale facility.

The draft concept design references the indigenous, native and colonial history of the site through interpretations of seeds and vegetation as play elements, tying back to the conservatory building adjacent to the play space. The existing established trees are integrated into the new play space to encourage a connection to the natural environment. Interpretive play elements include a 'secret garden', 'sensory fencing' to the playground edge and 'wobble path' to encourage informal play and exploration. The play space also incorporates a series of formal play elements typical of a playground which are challenging for a variety of user groups and ages including climbing ropes/ frames, swings, slides and a volume of seating options identified within the 'active play zone' of the concept plans.

Conclusion

The existing playground in Central Park, Malvern East is currently categorised as one of Council's 20 district scale playgrounds. The redevelopment of this playground has identified the potential to invest in these facilities to become one of Council's 4 regional scale playgrounds and significantly contribute to the network of inclusive play spaces. In order to achieve this an increased footprint is required to ensure the new play space responds to an increasing usage demand as well as ensuring the new play space is an inclusive, accessible and interactive facility for all user abilities.

The draft concept designs for the Central Park Playground have been developed to align with the criteria for a regional play space as well as feedback gained through the initial consultation process.

Subject to endorsement, Council officers will undertake further consultation on the draft concept designs which will be amended accordingly and reported back to Council for endorsement prior to delivery.

Governance Compliance

Policy Implications

Council has a number of key strategies and plans which provide the strategic direction for Council's management of public open space and play facilities. The proposed new play space at Central Park aligns with objectives within the *Council Plan 2017-2021*, *Municipal Public Health and Wellbeing Plan 2017-2021*, *Inclusion Plan 2019-2022* and the *Public Realm Strategy 2010*.

The *Council Plan 2017-2021* articulates the city's vision for an '*inclusive, healthy, creative, sustainable and smart community*' and the *Municipal Health and Wellbeing Plan 2017-2021* makes specific reference to the development of a play space strategy as a key action for '*supporting healthy and active lifestyles across all stages of life*'.

Financial and Resource Implications

Construction costs for the draft concept design have indicatively been estimated at \$600,000 (Excluding GST). Funding of this project has been allocated within Council's existing 2020/21 and 2021/22 capital works budget

Conflicts of Interest Disclosure

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

Legal / Risk Implications

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

Stakeholder Consultation

As discussed above, initial consultation on the redevelopment of the playground was undertaken in February 2021. Feedback from this consultation process, along with input from design consultants has been used to inform the draft concept designs. Subject to endorsement of the draft concept designs, further community consultation will be undertaken to gather feedback and community sentiment towards the new play facilities and the extended footprint of the play space. The final concept plan will be amended in accordance with feedback received and reported back to Council for endorsement prior to delivery of the project.

Discussions will also be held with traditional owner representatives to involve traditional land owners in decision making through the design process of this project.

Human Rights Consideration

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

Attachments

1. Central Park Playground Upgrade Consultation Summary [**14.6.1** - 21 pages]
2. Zoning Options [**14.6.2** - 5 pages]
3. Draft Concept Plan [**14.6.3** - 12 pages]

14.7 Contract MWRRG 2020-23 Provision of Landfill Services

Manager City Operations: Noel Kiernan

Director Environment & Infrastructure : Rick Kwasek

Linkage to Council Plan

Community: An inclusive City that enhances the health and wellbeing of all residents, where people can feel safe, socially connected and engaged.

- C1** Enhance community health and wellbeing outcomes through quality service delivery and strategic partnerships.

Environment: A cleaner, safer and better environment for current and future generations to enjoy.

- E5** Deliver best practice waste management services to minimise waste generation and maximise resource recovery and recycling.

Purpose of Report

To seek Council approval to award Contract MWRRG 2020-23, Provision of Landfill Services, to Cleanaway Pty Ltd, Suez Recycling and Recovery Pty Ltd, and Hanson Landfill Services Pty Ltd.

Officer Recommendation

That Council;

1. **APPROVE Contract No. MWRRG 2020 - 23 - Provision of Landfill Services, for a period of 4 years from 1 April 2021 to 1 April 2025, to the following tenderers at the prices referred to in the attached confidential documentation pertaining to this contract:**
 - a. **Cleanaway Pty Ltd (ABN 79 000 164 938) for the provision of Landfill Services at Melbourne Regional Landfill (MRL) on a four-year guaranteed basis for a four-year term commencing on 1 April 2021**
 - b. **Cleanaway Pty Ltd (ABN 79 000 164 938) and Suez Recycling and Recovery Pty Ltd (ABN 70 002 902 650) for the provision of Landfill and Transfer Station Services on a Guaranteed Tier 1 basis for a 4-year period under a common gate fee arrangement, for a four-year term commencing 1 April 2021**
 - c. **Hanson Landfill Services Pty Ltd (ABN 59 006 299 832) for the provision of backup Landfill Services at the Wollert landfill facility non-guaranteed basis for a four-year term commencing on 1 April 2021**
2. **AUTHORISE the Chief Executive Officer to execute the contract agreements.**
3. **NOTE that expenditure under this contract is in accordance with Council's Budget for Financial Year 2020-21, and provisions will be made for future budget periods.**
4. **NOTE that the initial estimated financial value is approximately \$5.9M (excluding GST and State Government Landfill Levy) and equates to \$640,000 in savings over the initial four year contract term when compared to current contract rates.**
5. **NOTE that further consideration of alternative options to landfill will be addressed in a report to Council in May 2021.**

Executive Summary

Council has a number of landfill contracts that will expire over the next two (2) years.

A comprehensive tender process was undertaken by Metropolitan Waste and Resource Recovery Group (MWRRG) with 30 other Councils. Stonnington participated in this joint procurement process to provide a best value outcome for Council. It should be noted that Council has historically utilised joint procurement for landfill services in order to achieve best value outcomes.

These new contracts will cost Council approximately \$160,000 per annum less than the current comparable contracts. This equates to a 10% saving per annum or \$640,000 savings over the initial four-year contract term.

Background

The contracts required by Council are:

- Landfill services
- Back up landfill services
- Transfer station services

The four-year initial term and two further two-year options provide the ideal contractual periods to enable a transition to AWT at the appropriate time.

The contracts that will expire over this period are:

Contract Reference	Provider	Location	Expiry date
MWRRG 2010/1 (Landfill Operations)	Cleanaway	South East Melbourne Transfer Station (SEMTS)	31 March 2021
MWRRG 2010/1 (MRL)	Cleanaway	Melbourne Regional Landfill (MRL)	31 March 2021
MWRRG 2010/1 (Hanson)	Hanson	Wollert (landfill)	31 March 2021
CRLJV 2-2007	Cleanaway	Melbourne Regional Landfill (MRL)	30 June 2022

Key Issues and Discussion

The proposed landfill contracts will provide the appropriate security for landfill services and sites including a sufficient period for Alternative Waste Technologies (AWT) facilities to develop, and for appropriate AWT procurement processes to be further investigated and considered by Council.

A further consideration of AWT opportunities will be presented to Council for consideration in May 2021.

Conclusion

The assessment has been thoroughly considered against Council's landfill service needs and falls in line with council's procurement policy and guidelines.

The four-year initial term and two further two-year options provides the contractual transition timeframe to consider alternatives to landfill at the appropriate time in line with Councils future Waste Strategy.

Service	Supplier	Location
Landfill Services	Cleanaway	Melbourne Regional Landfill (MRL)
Backup Landfill Services	Hanson	Wollert
Transfer Station Services	Cleanaway	South East Melbourne Transfer Station (SEMTS)

Governance Compliance

Policy Implications

“Resources and waste management” is a strategic priority area in Council’s Sustainable Environment Strategy 2018-2023. The proposed actions in this report are consistent with the strategy, aiming to reduce waste to landfill and maximise recovery of resources.

Financial and Resource Implications

The estimated financial value of this suite of contracts is approximately \$5.9M, equating to \$640,000 savings over the initial four-year contract term. The expenditure under this contract is in accordance with Council’s Budget for Financial Year 2020-21, and provisions will be made for future budget periods.

Conflicts of Interest Disclosure

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

Legal / Risk Implications

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

Stakeholder Consultation

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

Human Rights Consideration

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

Attachments

1. CONFIDENTIAL REDACTED - Landfill Services Procurement Report - Additional Information [14.7.1 - 5 pages]
2. CONFIDENTIAL REDACTED - Tender Evaluation Report (Summary) [14.7.2 - 37 pages]
3. CONFIDENTIAL REDACTED - Proposed Transition Plan (002) [14.7.3 - 1 page]

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

15 Confidential Business