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## **AGENDA**

**Planning Committee meeting to be held  
at Darebin Civic Centre,  
350 High Street Preston  
on Tuesday, 14 June 2016  
at 7.00 pm.**

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# Agenda

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## 1. MEMBERSHIP

### *Councillors*

Cr Vince Fontana (Mayor) (Chairperson)  
Cr Gaetano Greco  
Cr Tim Laurence  
Cr Bo Li  
Cr Trent McCarthy  
Cr Steven Tsitas  
Cr Angela Vilella  
Cr Oliver Walsh (Deputy Mayor)  
Cr Julie Williams

### *Council Officers*

Rasiah Dev – Chief Executive  
Steve Hamilton – Director Assets and Business Services  
Darren Rudd – Manager City Development  
Cristen Sullivan – Coordinator Statutory Planning  
Jacinta Stevens – Executive Manager Corporate Governance and Performance  
Jody Brodribb – Council Business and Governance Officer

## 2. APOLOGIES

## 3. DISCLOSURES OF CONFLICTS OF INTEREST

## 4. CONFIRMATION OF MINUTES OF THE PLANNING COMMITTEE

<b>Recommendation</b>
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**That** the Minutes of the Planning Committee meeting held on 23 May 2016 be confirmed as a correct record of business transacted.

**5. CONSIDERATION OF REPORTS**

**5.1 APPLICATION FOR PLANNING PERMIT D/980/2015**  
 160-162 Victoria Road, Northcote

**AUTHOR: Principal Planner– John Limbach**

**DIRECTOR: Director Assets and Business Services – Steve Hamilton**

**OWNER/APPLICANT/CONSULTANT:**

<b>Applicant</b>	<b>Owner</b>	<b>Consultant</b>
McWay Developments	Cameron John Leigh	Acorn Planning LAW Architects Peyton Waite Traffix Group Galbraith and Associates

**SUMMARY:**

- To use and develop the land for a double storey Child Care Centre providing for 93 children plus a basement level car park for 16 vehicles.
- Vehicle access to the site is to be gained via a proposed double crossover on Victoria Road.
- The building is to have a maximum overall height of 10 metres to the ridge of the roof, with a maximum wall height of 7 metres.
- The proposed hours of operation are 7am-7pm Monday to Friday.
- Two (2) internally illuminated business identification advertising signs are proposed. The signs are circular in shape with one (1) located on each of the northern and western elevations of the boundary fences. The signs will each have a diameter of 1.4 metres and an area of 1.5 square metres.
- The child care centre will provide employment for upwards of eight (8) childcare workers depending upon the required child to worker ratio under the national Quality Framework.
- The site is zoned General Residential Zone Schedule 2.
- There is no restrictive covenant on the title for the subject land.
- Five (5) objections were received against this application.
- The proposal is generally consistent with relevant policy contained within the Darebin Planning Scheme (the Scheme).
- It is recommended that the application be supported.

**CONSULTATION:**

- Public notice was given via two (2) signs posted on site and letters sent to surrounding owners and occupiers.
- This application was referred internally to Transport Management and Planning Unit, Darebin Parks, ESD Officer, Waste Services Unit, Capital Works Unit and Health Services Unit.
- This application was referred externally to Melbourne Water.

**Recommendation**

**That** Planning Permit Application D/980/2015 be supported and a Notice of Decision to Grant a Permit be issued subject to the following conditions:

1. Before the use starts, amended plans to the satisfaction of the Responsible Authority must be submitted to, and approved by, the Responsible Authority. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application (identified as Proposed Basement Floor Plan TP03-A dated 11.11.2015, Proposed Ground Floor Plan TP04-B, Proposed First Floor Plan TP05-B, Proposed Roof Plan TP06-B and Proposed Elevations TP07-B and TP08-B, dated 19.01.2016 and prepared by Law Architects Pty Ltd) but modified to show:
  - a) The eastern wall of Activity Room 02 drawn correctly on the floor plans.
  - b) A sign directing drivers to the area(s) set aside for car parking. The sign is to be located to the Victoria Road frontage of the property and the area of the sign must not exceed 0.3 square metres.
  - c) The provision of pedestrian visibility splays measuring 2.0 metres (width across the frontage) by 2.5 metres (depth into the site), to the north and south sides of the proposed driveway/crossover. Where within the subject site, any structures (including fences) or vegetation within these splays must be not more than 1.15 metres in height.
  - d) The crossover width reduced to 5.5 metres at the property boundary.
  - e) The location of the garage door to the basement car park (if proposed). The garage door must be located to provide a queue length in accordance with Australian Standard AS2890.1:2004. The applicant is also to demonstrate how parents will access the basement if a garage door is proposed to the satisfaction of the responsible authority.
  - f) The aisle extension adjacent to car space 7 is to be increased to 1 metre in accordance with Australian Standard AS2890.1:2004. Alternatively, a swept path assessment is to be provided demonstrating that a B85th percentile vehicle can enter and exit this space. The assessment is to be completed in accordance with the requirements of Australian Standard AS2890.1:2004 and to the satisfaction of the responsible authority.
  - g) A bollard is to be located within the shared space in accordance with Australian Standard AS2890.6-2009.
  - h) A cross-section is to be provided which demonstrates sufficient vehicle height clearance above the ramp into the basement level in accordance with Figure 5.3 of Australian Standard AS2890.1:2004.
  - i) A landscape plan in accordance with Condition No.8 of this Permit.

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- j) Removal of all notations that reference the removal of the adjacent street tree (Tree 1) to Victoria Road.
  - k) The location of the adjacent street tree (Tree 1) to Victoria Road.
  - l) Annotations detailing Tree Protection Zones and associated Tree Protection Fences with radii of 2.0 metres and 7.7 metres (measured from the outside edge of the trunk) for Tree 1 - *Lophostemon confertus* located in the naturestrip and Tree 2- *Eucalyptus nicholii* (Narrow-leafed Peppermint Gum) located at 162 Victoria Road respectively in accordance with the requirements of Condition No. 11 of this Permit.

A notation must be added to state that any works in the Tree Protection Zone must be carried out without excavation.

- m) Any modifications in accordance with the revised Waste Management Plan (WMP) (Refer to Condition No. 7 of this Permit).
- n) Any modifications in accordance with the Sustainable Design Assessment (SDA) (Refer to Condition No. 12 of this Permit).
- o) External operable shading devices (excluding roller shutters) to all west facing windows/ glazed doors. Where sun shading devices are being utilised a section diagram must be included to demonstrate their effectiveness.
- p) Window operation for all windows is to be notated on the plans. Awning windows are to be avoided wherever possible.
- q) Solar panels are to be re-located onto the north facing roof of the building.
- r) Three (3) additional bicycle parking spaces (for a total of five (5) bicycle parking spaces) are to be shown in the basement and/ or the ground floor of the development. The bicycle parking spaces are to be designed and located in accordance with Clause 52.34-4 of the Darebin Planning Scheme.
- s) Fixed external sun shading devices to all north facing windows. The shading is to extend out from the window at least the distance given below:
  - i) 450mm where window height is 900–1,200mm.
  - ii) 600mm for a window height of 1,200–1,350mm.
  - iii) 900mm for a window height of 1,350–2,100mm.
  - iv) 1000mm for a window height of 2,100–2,700mm.

Where sun shading devices are being utilised a section diagram must be included to demonstrate their effectiveness.

- t) Any modifications in accordance with an Acoustic Assessment (refer to Condition No. 13 of this Permit).
- u) Acoustic fences to the southern and eastern property boundaries in accordance with the Acoustic Assessment (refer to Condition No. 13 of this Permit).
- v) The first floor south facing window of Activity Room 04 provided with either:
  - A sill with a minimum height of 1.7 metres above finished floor level.
  - A fixed screen with a maximum permeability of 25% to a minimum height of 1.7 metres above finished floor level.
  - Fixed obscure glazing (not film) with a maximum transparency of 25% to a minimum height of 1.7 metres above finished floor level.

Where fixed screens are being utilised a section diagram must be included to demonstrate how the screens minimise overlooking of adjoining properties.

- w) The location of all plant and equipment (including air conditioners and the like). These are to be co-located where possible, screened to be minimally visible from the public realm and adjacent properties, located as far as practicable from site boundaries and integrated into the design of the building.

When approved, the plans will be endorsed and form part of this Permit.

2. This Permit will expire if either:

- The development does not start within three (3) years from the date of this Permit; or
- The development is not completed or the use is not started, within five (5) years of the date of this Permit.

As relevant, the Responsible Authority may extend the times referred to if a request is made in writing:

- Before this Permit expires;
- Within six (6) months after the expiry date; or
- Within twelve (12) months after the expiry date if the request relates to the completion of the development or a stage of the development.

3. The number of children on the premises at any one time must not exceed 93.
4. The use may operate only between the hours of 7:00 am - 7:00 pm Monday to Friday.
5. The amenity of the area must not be adversely affected by the use or development as a result of the:
- i) Transport of materials, goods or commodities to or from the land; and/or
  - ii) Appearance of any building, works, stored goods or materials; and/or
  - iii) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;

and/or in any other way, to the satisfaction of the Responsible Authority.

6. The land must be drained to the satisfaction of the Responsible Authority.
7. Before the development starts, a revised waste management plan generally in accordance with the report identified as 'Waste Management Plan for Childcare Centre at 160-162 Victoria Street Northcote' and date stamped as received by Council on 27 November 2015, must be submitted to the satisfaction of the Responsible Authority, demonstrating the operation of the garbage and recyclables storage area must be submitted to the Responsible Authority.

The plan/documentation must demonstrate the means by which garbage and recyclables will be stored on the site and must clearly detail: what waste services will be provided (ie. cardboard paper plastic and metals recycling or comingled waste, general waste and even organic waste), types of bins, types of collection vehicles, frequency of collection, times of collection, location of collection point for vehicles and any other relevant matter.

The plan must require that collection be undertaken by a private contractor and that the pick-up of bins occurs within the basement of the building.

Waste storage and collection must be undertaken in accordance with the approved management plan and must be conducted in such a manner as not to affect the amenity of the surrounding area and which does not cause any interference with the circulation and parking of vehicles on abutting streets.



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8. Before buildings and works start, a detailed Landscape Plan to the satisfaction of the Responsible Authority must be submitted to, and approved by the Responsible Authority. When the Landscape Plan is approved, it will be endorsed and will then form part of this Permit. The Landscape Plan must be prepared by a suitably qualified person and must incorporate:
- a) Details of all existing trees to be retained and all existing trees to be removed, including overhanging trees on adjoining properties and street trees within the nature strip. The genus, species, height and spread of all trees must be specified.
  - b) A planting schedule of proposed vegetation detailing the botanical name, common name, size at maturity, pot size and quantities of all plants.
  - c) A diversity of plant species and forms. All proposed planting must be to the satisfaction of the Responsible Authority.
  - d) Where the opportunity exists, an appropriate number and size of canopy trees are to be shown within the secluded private open space areas of each dwelling and within the front setback of the property, commensurate with the size of planting area available. All canopy trees are to have a minimum height of 1.6 metres in 40 litre containers at the time of installation. Canopy trees must have the following minimum widths at maturity: small canopy (4 metres), medium canopy (6 metres), large canopy (10 metres).
  - e) Annotated graphic construction details showing all landscape applications and structures including tree and shrub planting, retaining walls, raised planter bed and decking.
  - f) Type and details of all surfaces including lawns, mulched garden beds and permeable and/or hard paving (such as pavers, brick, gravel, asphalt and concrete) demonstrating a minimum site permeability of 20%. Percentage cover of permeable surfaces must be stated on the plan. Where paving is specified, material types and construction methods (including cross sections where appropriate) must be provided.
  - g) Hard paved surfaces at all entry points to dwellings.
  - h) All constructed items including letter boxes, garbage bin receptacles, lighting, clotheslines, tanks, outdoor storage etc.
  - i) Type and details of edge treatment between all changes in surface (e.g. grass (lawn), gravel, paving and garden beds).
  - j) An outline of the approved building/s including any basement, the location of entry doors, windows, gates and fences must be shown on the landscape plan. The location of both existing and proposed overhead and underground services. Conflicts of such services with the existing and proposed planting must be avoided.
  - k) Clear graphics identifying trees (deciduous and evergreen), shrubs, grasses/sedges, groundcovers and climbers.
  - l) Scale, north point and appropriate legend. Landscape plans are to be clear, legible and with graphics drawn to scale, and provide only relevant information.
9. The landscaping as shown on the endorsed Landscape Plan must be completed to the satisfaction of the Responsible Authority before the development is occupied and/or the use starts or at such later date as is approved by the Responsible Authority in writing.

No later than seven (7) days after the completion of the landscaping, the permit holder must advise Council, in writing, that the landscaping has been completed.

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10. The landscaping as shown on the endorsed Landscape Plan must be maintained, and any dead, diseased or damaged plant replaced in accordance with the endorsed Landscape Plan to the satisfaction of the Responsible Authority.
  11. Before buildings and works (including demolition) start, tree protection fences must be erected around the naturestrip tree (*Lophostemon confertus*) and the *Eucalyptus nicholii* (Narrow-leafed Peppermint Gum) located at 162 Victoria Road at radii of 2.0 metres and 7.7 metres respectively from the base of the trunk to define a 'tree protection zone' as per the approved arborist letter (identified as '160-162 Victoria Street Northcote', prepared by Galbraith and Associates Tree Consultants and Contractors and dated 13 November 2015).

These fences must be constructed of star pickets and chain mesh (or similar) to the satisfaction of the Responsible Authority.

The tree protection fences must remain in place until construction is completed.

No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Zones.

No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Zones.

The ground surface of the tree protection zones must be covered by a protective 100mm deep layer of mulch prior to the development commencing and be watered regularly to the satisfaction of the Responsible Authority.

12. Before the development starts, a Sustainable Design Assessment (SDA) detailing sustainable design strategies to be incorporated into the development to the satisfaction of the Responsible Authority must be submitted to, and approved in writing by the Responsible Authority. The SDA must outline proposed sustainable design initiatives within the development such as (but not limited to) energy efficiency, water conservation, stormwater quality, waste management and material selection. It is recommended that a Built Environment Sustainability Scorecard (BESS) report is undertaken as part of the SDA.

The development must be constructed in accordance with the requirements/recommendations of the Sustainable Design Assessment to the satisfaction of the Responsible Authority.

13. Before development starts, an Acoustic Assessment of the development and use, to the satisfaction of the Responsible Authority, must be submitted to the Responsible Authority. The assessment must be prepared by a suitably qualified acoustic engineer and must detail recommended treatments of the development and/or the adoption of appropriate measures to ensure that:
  - a) Noise emissions from the use (including the operation of plant, transmission of noise from internal and external play areas and the use of the car park) do not impact adversely on the amenity of neighbouring residential properties.
  - b) Details illustrating the effectiveness of the acoustic fencing to the southern and eastern boundaries in reducing the impact of noise generated by the use on the amenity of neighbouring residential properties.

The development must be constructed in accordance with the requirements/recommendations of the approved Acoustic Assessment to the satisfaction of the Responsible Authority.

14. The use as a childcare centre must be undertaken generally in accordance with the approved management plan (identified as 'Plan of Management' prepared by McWay Developments and dated 11 November 2015) and must be conducted in such a manner as not to affect the amenity of the surrounding area.

15. No external sound amplification equipment or loudspeakers are to be used on the land.
16. All outdoor lighting must be designed, baffled and/or located to ensure that no loss of amenity is caused to adjoining and nearby land to the satisfaction of the Responsible Authority.
17. Boundary walls facing adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.
18. Before the use starts five (5) bicycle racks must be provided on the land to the satisfaction of the Responsible Authority.
19. Before use starts areas set aside for the parking of vehicles and access lanes as shown on the endorsed plan(s) must be:
  - a) Constructed;
  - b) Properly formed to such levels that they can be used in accordance with the plans;
  - c) Surfaced with an all-weather sealcoat;
  - d) Drained;
  - e) Line-marked to indicate each car space and all access lanes;
  - f) Clearly marked to show the direction of traffic along the access lanes and driveways

to the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose.

20. A sign, to the satisfaction of the Responsible Authority, must be provided directing drivers to the area(s) set aside for car parking and must be located and maintained to the satisfaction of the Responsible Authority. The area of the sign must not exceed 0.3 square metres.
21. Before the use starts the vehicular crossing must be constructed to align with approved driveways to the satisfaction of the Responsible Authority. All redundant crossing(s), crossing opening(s) or parts thereof must be removed and replaced with footpath, naturestrip and kerb and channel to the satisfaction of the Responsible Authority.
22. Before the use starts the car parking spaces shown for staff parking on the endorsed plans must be clearly marked for use by staff only to the satisfaction of the Responsible Authority.
23. The advertising signs must not contain any flashing, intermittent or changing colour light.
24. External advertising sign lighting must be designed, baffled and/or located to the satisfaction of the Responsible Authority.
25. The advertising sign must not contain any moving parts or be animated in any manner.
26. The advertising sign(s) must be constructed and maintained to the satisfaction of the Responsible Authority.
27. The advertising sign(s) must be located wholly within the boundary of the land.
28. All signs must not be reflective, dynamic, flashing or animated and illuminated signs must be installed and maintained to ensure there is no glare towards motorists.
29. The approval for signage expires 15 years from the date of issue of the Permit.

**MELBOURNE WATER CONDITION**

30. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.

**MELBOURNE WATER FOOTNOTE:**

If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on 9679 7517, quoting Melbourne Water's reference 257660.

**NOTATIONS**

**(These notes are provided for information only and do not constitute part of this permit or conditions of this permit)**

- N1 Any failure to comply with the conditions of this permit may result in action being taken to have an Enforcement Order made against some or all persons having an interest in the land and may result in legal action or the cancellation of this permit by the Victorian Civil and Administrative Tribunal.
- N2 Nothing in the grant of this permit should be construed as granting any permission other than planning permission for the purpose described. It is the duty of the permit holder to acquaint themselves, and comply, with all other relevant legal obligations (including any obligation in relation to restrictive covenants and easements affecting the site) and to obtain other required permits, consents or approvals.
- N3 This Planning Permit represents the Planning approval for the use and/or development of the land. This Planning Permit does not represent the approval of other departments of Darebin City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria to that adopted for the approval of this Planning Permit.
- N4 The amendments specified in Condition No. 1 of this Permit and any additional modifications which are "necessary or consequential" are those that will be assessed by Council when plans are lodged to satisfy that condition. Any "necessary or consequential" amendments, in addition to those required by this condition, should be specifically brought to the attention of Council for assessment.

If any other modifications are proposed, application must also be made for their approval under the relevant Sections of the *Planning and Environment Act 1987*. They can only be approved once the required and consequential changes have been approved and the plans endorsed. It is possible to approve such modifications without notice to other parties, but they must be of limited scope. Modifications of a more significant nature may require a new permit application.

<b>Report</b>
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**INTRODUCTION AND BACKGROUND**

Council records indicate that there is no planning history for this site.

**ISSUES AND DISCUSSION****Subject site and surrounding area**

- The land comprises two (2) irregular shaped lots measuring 35.95 metres in length along the northern boundary, 33.86 metres in length along the southern boundary and 28.65 metres in width with a site area of 997 square metres.

- 
- The land is located within the General Residential Zone Schedule 2 and affected by a Development Contribution Plan Overlay and a Special Building Overlay.
  - The land is located on the south-east corner of Victoria Road and Separation Street.
  - The land comprises two (2) lots with each property occupied by a single storey dwelling with secluded private open space and outbuildings to the rear of the dwellings. Vehicle access for No. 160 is gained via a single crossover on Victoria Road at the northern edge of the site. Vehicle access for No. 162 is gained via a single crossover on Separation Street at the eastern edge of the site. There is vegetation in the front yards of each dwelling including a large tree in the front yard of No. 162.
  - To the south is a double storey weatherboard dwelling with secluded private open space (including a swimming pool against the common boundary) and outbuilding to the rear. The dwelling is set back 1.2 metres from the common boundary.
  - To the east is the Fairfield Lions Village fronting Separation Street which provides multi-dwelling, single storey aged accommodation. The dwellings are setback approximately 4.5 metres from the common boundary. A brick building at the front boundary on this site is located approximately 1.6 metres from the common boundary and houses a bus shelter and electrical transformer. An area for emergency vehicle and taxi parking is located within the front setback with direct access from Separation Street. Vehicle access to the remainder of the site is gained via a single crossover at the eastern edge of the site.
  - To the north, across Separation Street, is a convenience store/petrol filling station fronting Victoria Road. Vehicle access to the site is gained via both Victoria Road and Separation Street.
  - To the west across Victoria Road are single storey dwellings.
  - Unrestricted on-street parking is available in front of part of the subject site on Victoria Road continuing approximately 200 metres south of the subject site on the eastern side of the road. Unrestricted parking is also available on the western side of Victoria Road from diagonally opposite the subject site to approximately 190 metres to the south. Unrestricted parking is also available on the southern side of Separation Street within approximately 40 metres of the subject site to the east and west. Additional unrestricted parking is available in other nearby streets between 75 metres and 100 metres to the east and west.
  - The site is located within an extensive residential area extending from Separation Street to South Crescent to the south, High Street to the west and the Darebin Creek to the east. The Northcote Activity Centre located approximately 800 metres from the subject site.
  - The nearest public transport services to the site:
    - Bus Routes 250 (La Trobe University - City) and 251 (Northland SC - City) run along Victoria Road with a stops between 13 metres and 25 metres across the road and to the north.
    - Bus Route 508 (Alphington - Moonee Ponds) runs along Separation Street with a stop approximately 40 metres to the west.
    - Northcote Railway Station is approximately 1.5 kilometres to the west.
    - Dennis Railway Station is approximately 1.1 kilometres to the south
    - Tram Route 86 (Bundoora RMIT - Waterfront City Docklands) runs along High Street approximately 1.1 kilometres to the west.

**Proposal**

- The existing buildings on the site are to be demolished.
- It is proposed to use and develop the land for a child care centre for 93 children and to display two (2) internally-illuminated advertising signs.
- The proposed building will be double storey plus a basement car park with access from Victoria Road.
- The basement will contain parking for 16 vehicles comprising seven (7) staff spaces, eight (8) drop-off/pick-up spaces and one (1) accessible space, two (2) bike racks, bin area, lift, stairs and plant room.
- The ground floor will contain pedestrian entry, office, office, kitchen, dining room, two (2) activity rooms, team room and amenities. The first floor will contain four (4) activity rooms, two (2) sleep rooms, play space, parents' room and amenities. Ground level play spaces are provided to the west, east and north of the proposed building.
- The building is to have a maximum overall height of 10 metres to the top of the pitch, with a maximum wall height of 7 metres.
- The proposed hours of operation are 7 am-7 pm Monday - Friday.
- The proposed internally-illuminated business identification advertising signs are circular in shape with one (1) located on each of the northern and western elevations of the boundary fences. The signs will each have a diameter of 1.4 metres and an area of 1.5 square metres.

**Objections**

- Five (5) objections have been received.

**Objections summarised**

- Overdevelopment of the area.
- Increased noise.
- Increase in traffic.
- Loss of property value.
- Private car park possibly used for parking.
- Traffic report inaccurate.
- Overlooking.
- Inadequate parking.
- Damage to house from excavation and potential blasting.
- Overshadowing.
- Visual bulk.
- Composting area may attract rodents.
- Air quality affected during construction.

**Officer comment on summarised objections**Overdevelopment of the area

Notwithstanding the residential zoning of the subject site, the use and development of the land for the purpose of a child care centre is entirely consistent with the manner in which the planning scheme would contemplate the land to be used. Child care centres are an appropriate development and land use in a residential area particularly at the intersection of two main roads. The proposal incorporates appropriate setbacks to property boundaries and is of an appropriate scale and form to ensure that it sits comfortably within its surrounding context.

Increased noise

For much of the day children will be within the main building and the management plan submitted with the application, and secured by way of condition, specifies windows and doors will be closed when noisy activities are being conducted in order to reduce noise emissions.

The outdoor play spaces are positioned predominantly in areas adjacent to the road frontages at ground and first floor level. Outdoor activities will be supervised at all times and larger groups discouraged from congregating in one area. It is considered that the likely noise levels from children playing on a site in an area currently affected by significant traffic noise is unlikely to unreasonably impact on the amenity of the surrounding residential properties on adjacent and nearby sites.

Furthermore, conditions of any approval will require an acoustic assessment to be submitted and acoustic fencing to be introduced to the southern and eastern boundaries which are shared with residential uses.

Increase in traffic

See the assessment section of this report with particular focus upon Clause 52.06 of the Scheme.

Loss of property value

Fluctuations in property prices are a not relevant consideration in assessing development under the provisions of the *Planning and Environment Act 1987*, or the Scheme.

Private car park possibly used for parking

Adequate parking is provided on site for the proposed use. There are also areas of on-street parking proximate to the site. The parking area on Separation Street associated with the Fairfield Lions Village is on private land and is appropriately signed to alert drivers to the parking restrictions associated with these spaces. It is considered unlikely that vehicle associated with the proposed child care centre will be parked in these spaces.

See the assessment section of this report with particular focus upon Clause 52.06 of the Scheme.

Traffic report inaccurate

The traffic engineering assessment submitted with the application appears to be accurate in the information submitted. Council has assessed the report and does not dispute the information provided in the traffic assessment subject to condition.

Overlooking

The proposal is for a non-residential building. The decision guidelines in a General Residential Zone do not include the same consideration that would apply to a residential development such as overlooking and other amenity considerations, however screening of windows is considered reasonable to reduce overlooking into the secluded private open space of the property to the south.

Inadequate parking

See the assessment section of this report with particular focus upon Clause 52.06 of the Scheme.

Damage to house from excavation and potential blasting

As part of the building approval and construction process the permit holder/developer will be required to provide appropriate protection notices and undertake works to minimise structural impacts on neighbouring properties under the relevant Building Regulations.

Overshadowing

The proposal is for a non-residential building. The decision guidelines in a General Residential Zone do not include the same consideration that would apply to a residential development such as overshadowing and other amenity considerations. However on the architectural plans the shadow analysis shows that there will be minimal increased shadow to the property to the south of the subject site with much of the secluded private open space being unaffected by shadowing from the proposed development. It is also noted that the pool adjacent to the common boundary fence will be affected by increased shadows at the equinox however this coincides with periods of the year where the pool is less likely to be used. During the warmer months of the year when the pool and its surrounding area are more likely to be used shadow impacts will be significantly less.

Additional shadowing to the property immediately east of the subject site is across a pathway with the secluded private open space areas for the dwellings unaffected by shadowing from the proposed development.

Visual bulk

See assessment below.

Composting area may attract rodents

It is understood that there will be a small composting area as part of the outdoor play space. It is not uncommon for properties in residential areas to compost their own green waste. It is expected that given the nature of the proposed use as a child care centre attention to health considerations including control of pests and vermin would be better regulated than a purely residential land use.



Air quality affected during construction.

Construction management of this property is not a relevant planning matter and is dealt with under the relevant Building Regulations.

**PLANNING ASSESSMENT****Clause 15.01**

In assessing and determining non-residential development applications regard must be had to the urban design principles of Clause 15.01.

Context

The proposal acknowledges the site's strategic location being at the intersection of two main roads and having a residential zoning. The proposal is an appropriate land use response to this context.

The proposed building is of a double storey scale which is appropriate to the surrounding residential scale. The built form is residential in appearance including the use of pitched roof elements to again ensure the proposal responds appropriately to its context. Appropriate setbacks to all boundaries will also contribute to the proposal blending in with its surrounds.

The public realm

The proposal has its main pedestrian entry and play space to Victoria Road ensuring the proposal interacts with the public realm within this street. The main play space and the building itself also interact with the public realm in Separation Street.

Safety

The proposal actively engages with both Victoria Road and Separation Street as outlined above but also by way of first floor windows providing passive surveillance of these public spaces during the day and into the early evening thereby improving safety within these spaces.

Landmarks, Views and Vistas

The proposal will not impact on landmarks, views and vistas.

Pedestrian Spaces

The layout of the proposed child care centre with pedestrian access and play areas adjacent to pedestrian paths within adjacent road reserves will ensure the proposal actively engages with these pedestrian spaces.

Heritage

Not applicable.

Consolidation of Empty Sites

Whilst the proposal will consolidate two (2) residential blocks the design and scale of the proposed building is in keeping with the surrounding residential built forms.

### Light and Shade

The proposal will not impact on daylight within the adjacent public realm as overshadowing will tend to fall within the site. The retention of the tree in the front setback will maintain shade to the pedestrian path in Victoria Road during the warmer months of the year.

### Energy Resource and Efficiency

The proposed building has been designed to have majority of the play rooms with a northern aspect to maximise solar efficiencies. Similarly the primary areas of outdoor open space are located to the north of the site or will have excellent northern exposure again maximising solar efficiencies.

Conditions of any approval will require a Sustainable Design Assessment (SDA) and further modifications to the design of the building to ensure that it reaches an appropriate level of Environmentally Sustainable Design (ESD).

### Architectural Quality

The proposed building has been designed in such a way as to respond appropriately to its residential context through its scale, form and use of materials. It is considered that the proposal is an appropriate urban design outcome given its built form context.

### Landscape Architecture

The proposal includes the retention of a large tree within the front setback of the property ensuring the site continues to make a significant contribution to the landscape character of the area. Additional perimeter planting along the Victoria Road and Separation Street frontages will also contribute to this. A condition of any approval will require a landscape plan to be submitted.

## **Neighbourhood Character Precinct Guideline Assessment - Precinct E1**

### Existing Buildings

- The existing buildings are to be removed. The dwellings do not have heritage significance and is not within an intact group of interwar dwellings.
- Victoria Road, Separation Street and the wider area have a mix of housing styles and types including interwar and post-war dwellings, contemporary redevelopments and commercial buildings that influence the neighbourhood character of the street. The removal of the existing dwellings will not be a threat to the character of the area.

## **Complies**

### Vegetation

- The proposal will result in the loss of some vegetation from the site but none of any significance. A large tree in the front setback is to be retained thereby maintaining a significant contribution to the landscape character of the area.
- The proposed development provides opportunities for landscaping along the Victoria Road and Separation Street frontages and the southern boundary. Opportunities for landscaping will also be available on the first floor open play space in the form of planter boxes. A detailed landscaping plan will be required as a condition of approval.

## **Complies subject to condition**

Siting

- The proposed development will provide front garden area that will be used as a play space with landscaping which is considered acceptable for the neighbourhood setting. The development provides for the retention of a large tree which is a significant feature of the site and for areas of meaningful landscaping throughout the site.
- The building is setback from northern and eastern boundaries and predominantly from the southern boundary. A section of the ground level will be constructed to the southern boundary but this is setback approximately 22 metres from the front facade which will support the rhythm of spacing between buildings.
- The car parking for the proposed development is to be located at basement level and will not be visible from the street. Access to the car park will be via a double crossover on Victoria Road. An existing crossover on Victoria Road will be removed and the kerb reinstated.

**Complies**Height and Building Form

The predominant height of dwellings in the street is single storey but there are double storey dwellings proximate to the site including on the adjoining property to the south. The development has regard to neighbouring dwellings as it provides a good level of articulation through the use of materials, openings, setbacks and variations in wall surfaces. The development satisfies the objective as it does not present visual bulk to the street and will not dominate the streetscape.

**Complies**Height and Building Form/Frontage Width

The proposed development will increase the existing frontage width to Victoria Road with the consolidation of two sites. The design response discourages developments that reduce the frontage widths. It is considered the proposed frontage width is satisfactory given a single building will front the street and only one crossover is proposed.

**Complies**Materials and Design Detail

- The form and facades of the proposed building are an acceptable and contemporary response to the traditional forms of the area and are adequately articulated through the use of materials, openings, setbacks and variations in wall surfaces.
- The materials – timber cladding, express joint fibre cement and metal roof sheeting are considered appropriate within the neighbourhood context.

**Complies**Front Boundary Treatment

The proposed permeable front fence has an overall height of 1.55 metres and would allow for views into the front garden and of the building behind.

**Complies**

**Clause 32.08 - General Residential Zone**

Under the provisions of this Clause a planning permit is required to use and develop the land for a Child Care Centre. The application must be assessed against the general and non-residential decision guidelines. It is considered that the proposed use satisfies the zone provisions as follows:

- The proposed use of the land as a child care centre is consistent with State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies in that it locates a community use in an established residential area in a highly accessible location.
- The proposal is consistent with the purpose of the zone which includes:
  - *To encourage development that respects the neighbourhood character of the area.*
  - *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

The proposed building is of a scale and design that is reflective of the surrounding built form character whilst the proposed use is an important community/educational land use that will serve the needs of the local community.

- The use of land for a child care centre within a residential zone and on main roads is considered to be an appropriate use of the subject site and one that is compatible with surrounding residential uses.
- The proposed use will serve the needs of the local and wider community through the provision of child care services.
- The scale and intensity of the use is appropriate for the subject site. The proposal has been designed to be accommodated within the bounds of the site and achieves an appropriate balance between varying statutory and regulatory requirements such as provision of parking, open space requirements, setbacks and built form.

The child care use has also been structured in regard to the number of child places in order to reflect the attributes of the subject site.

- The proposed building has been designed in such a way as to respond appropriately to its residential context through its scale, form and use of materials including a pitched roof and height consistent with nearby double storey dwellings. The building has been adequately setback from side and rear boundaries to minimise visual bulk and to minimise possible negative impacts on adjacent residential properties. The section of the building constructed to the southern boundary is positioned and has a height similar to that of a typical outbuilding (garage, shed etc.) that is characteristic of this neighbourhood.

The upper level of the building has been adequately setback from side and rear boundaries to minimise its impact on the neighbouring residential properties.

- The proposed development provides adequate space for meaningful landscaping and retains the large tree in the front setback.
- Adequate car parking is provided on site for the proposed use which will be discussed in greater detail later in the report.

- The bin area for the proposed use is located in a ventilated garbage storage room in the basement. A waste management plan was submitted with the application which specifies that garbage will be collected by a private contractor twice a week between 10 am and 2 pm. A recommended condition of approval will require a revised waste management plan which stipulates that garbage must be picked up from the basement of the property.
- Vehicle access to the site will be gained via Victoria Road. The vehicle access and basement car park have been designed to allow vehicles to enter and exit the site in a forward direction. The traffic assessment submitted with the application indicate that the development will generate up to 38 vehicle movements during the AM peak hour and up to 33 vehicle movements during the PM peak period.

It is considered that the traffic generated by the proposed use will not have a significant impact on the surrounding road network.

### **Clause 52.06 - Car Parking**

The car parking has been assessed with regard to the proposed use and is considered satisfactory as follows:

- Under Clause 52.06 the standard car parking requirement for a child care centre is 0.22 spaces to each child. The maximum number of students to be on the site at any one time is 93 thereby requiring the provision of 20 car parking spaces. The proposal provides for 16 car spaces on site within the basement. The proposal requires the waiver of four (4) parking spaces.
- The subject site is well serviced by bus services. These include three (3) separate routes with stops nearby in Separation Street and Victoria Road.
- Unrestricted on-street parking is available on the east and west sides of Victoria Road in front of and in proximity of the site which is anticipated to accommodate any surplus parking demand. The traffic assessment submitted with the application submits that a total of 176 on-street parking spaces are located in a survey area which incorporates Victoria Road (north and south of the intersection with Separation Street), Separation Street (east and west of Victoria Road), Boothby Street and Lorna Avenue. They also submit that due to the narrow width of Separation Street it is not typically used for on-street parking. With the exclusion of the Separation Street parking, a total of 129 spaces are located in the survey area.

Whilst these spaces are available proximate to the site, consideration should be given as to the likely distance people will walk to drop off their children at the child care centre if basement parking is not available. The surveys submitted in the report indicate that on-street parking for any possible overflow parking could be easily be accommodated within 100 metres of the subject site (which is considered a reasonable distance) with between 6-8 spaces available during peak periods in Victoria Road alone. In addition, Boothby Street and Lorna Avenue are within this distance and there are likely to be spaces available throughout the day.

- Based on a case study of a similar sized centre detailed in the report, the likely peak parking demand generated by the proposed use is 0.18 car spaces to each child which equates to 17 spaces.
- The site is accessible via walking and cycling with a bike lane available on Victoria Road. There is opportunity within the basement car park to accommodate bicycle parking and this is to be secured by way of condition.

**Clause 52.05 – Advertising Signs**

Under the provisions of the planning scheme business identification signs and internally-illuminated signs are permitted in Category 3. The proposal complies with the decision guidelines under Clause 52.05 as follows:

- The proposed signs are compatible with existing signs in the area and with the use of the site.
- The proposed signs have been designed and positioned to have minimal impact on the neighbouring residential properties.
- The number of signs is considered suitable for its location in a residential area on main roads and for the size and scale of the building and will not result in visual disorder or clutter.
- The proposed signs are to be located on the face of the front fences to Victoria Road and Separation Street and will not extend above the fenceline and therefore will not dominate the skyline or interfere with public views.
- The size and scale of the proposed signs are compatible with the size and scale of the building and the built form of the streetscape. The signs will not dominate the building or the street.
- The proposed signs will attach to the fascia of the front fences with no structures associated with the signs. Therefore they will not interfere with significant features of the building or streetscape.
- It is considered that the sign will not impact on the safety of pedestrians and vehicles along either Victoria Road or Separation Street as a result of its illumination.
- The subject site and the proposed signs are well setback from residential properties and therefore the illumination of the signs will not interfere with residential amenity.
- The proposed signs are necessary for identification purposes and are considered appropriate in this setting.

**Clause 21.02-3 - Built Environment**

The objective of this policy in regard to signage is:

*"To ensure signage is integrated into development and streetscapes."*

The proposed application for advertising signs complies with the strategies as follows:

- The proposed signs will not result in visual clutter on the site or within its location.
- The number of signs on the premises have been minimised and contained to identification signs on the facade of the front fences.
- The proposed signs are consistent with advertising schemes in the area and are of a high quality.
- The advertising signs relate to the use on the land.
- The proposed signs are simple and clear and consistent with the corporate advertising of the business.

**Special Building Overlay**

The proposal is consistent with the purpose and decision guidelines of Clause 44.05 (Special Building Overlay) of the Scheme:

- The proposal is consistent with the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The proposed development cannot be located on any other part of the subject site that is flood-free or has a lesser flood hazard.
- The proposal has been assessed by Melbourne Water, the relevant floodplain management authority, and written consent has been provided pursuant to section 55 of the Act.
- The development will not have any adverse effects on redirecting or obstructing floodwater, stormwater or drainage water as determined by Melbourne Water. The development will not have any adverse effects on reducing flood storage and increasing flood levels and flow velocities as determined by Melbourne Water.

**REFERRAL SUMMARY**

Department/Authority	Response
Transport Management and Planning	No objection, subject to condition included in recommendation
Darebin Parks	No objection, subject to condition included in recommendation
Melbourne Water	No objection, subject to condition included in recommendation
Health Services	No objection.
ESD Officer	No objection, subject to condition included in the recommendation.
Waste Services	No objection.
Capital Works	No objection, subject to condition included in the recommendation.

**PLANNING SCHEME SUMMARY**

**Darebin Planning Scheme clauses under which a permit is required**

- Clause 32.08 (General Residential) – an "unspecified" section 2 use a Child Care Centre and buildings and works associated with a section 2 use;
- Clause 52.06 (Car Parking) – a permit is required to reduce the car parking required to be provided on site.
- Clause 52.05 (Advertising Signs) – to display business identification signs and internally-illuminated signs.
- Clause 44.05-1 (Special Building Overlay) – construction of buildings and works.

**Applicable provisions of the Darebin Planning Scheme**

<b>Section of Scheme</b>	<b>Relevant Clauses</b>
SPPF	11.02-1, 15.01-1, 17.01-1, 18.02-5, 19.03-2
LPPF	21.02-3-1, 21.04-3, 22.02
Zone	32.08
Overlay	44.05, 45.06
Particular provisions	52.05, 52.06
General provisions	65.01
Neighbourhood Character Precinct	E1

**POLICY IMPLICATIONS****Environmental Sustainability**

A condition of any approval will require a Sustainable Design Statement (SDA) to be submitted and any modifications in accordance with the report to be shown on the plans.

**Social Inclusion and Diversity**

Nil

**Other**

Nil

**FINANCIAL AND RESOURCE IMPLICATIONS**

There are no financial or resource implications as a result of the determination of this application.

**FUTURE ACTIONS**

Nil

**DISCLOSURE OF INTERESTS**

Section 80C of the *Local Government Act 1989* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any direct or indirect interest in a matter to which the advice relates.

The Manager authorising this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

**RELATED DOCUMENTS**

Darebin Planning Scheme and the *Planning and Environment Act (1987)* as amended.



**5.2 APPLICATION FOR PLANNING PERMIT D/879/2015**  
 9 Cash Street, Kingsbury

**AUTHOR:** Principal Planner – Jennifer Roche

**DIRECTOR:** Director Assets and Business Services – Steve Hamilton

**OWNER/APPLICANT/CONSULTANT:**

Applicant	Owner	Consultant
Michael Miskas - Ms Designer Living	Macedon Homes Pty Ltd	Wilfor Group (Planning Consultant)

**SUMMARY:**

- This application proposes to construct a medium density development comprising four (4) double storey dwellings as follows:
  - Unit 1 will have three (3) bedrooms and access to two (2) car parking spaces.
  - Comprising a single space garage and tandem car space.
  - Units 2 and 3 will have two (2) bedrooms and access to a single space garage.
  - Unit 4 will have three (3) bedrooms and access to a single space carport and tandem car space.
  - Vehicle access is to be gained via an existing crossover at the south-eastern edge of the site and a proposed crossover at the north-western edge of the site.
  - Secluded private open space is provided to the rear of each dwelling with areas of between 25.4 square metre and 41.4 square metre.
- The site is zoned General Residential Zone Schedule 2.
- There is a restrictive covenant on title, the proposed development will not breach the terms of the covenant.
- Fourteen (14) objections were received against this application.
- The proposal is generally consistent with the objectives and standards of Clause 55 of the Darebin Planning Scheme.
- It is recommended that the application be supported.

**CONSULTATION:**

- Public notice was given via one (1) sign posted on site and letters sent to surrounding owners and occupiers.
- This application was referred internally to Council’s Transport Management and Planning Unit; Darebin Parks Unit; and the Capital Works Unit. There were no objections to the proposal subject to conditions forming part of the recommendation.
- This application was not required to be referred to external authorities.

**Recommendation**

**That** Planning Permit Application D/879/2015 be supported and a Notice of Decision to Grant a Permit be issued subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to, and approved by, the Responsible Authority. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application (identified as Proposed Ground Floor Plans TP1/4 Revision C, Proposed First Floor Plans TP2/4 Revision C and Proposed Elevations TP3/4 Revision C, dated 15 December 2015 and prepared by MS Designer Living Architectural Design) but modified to show:
  - a) A landscape plan in accordance with Condition No. 4 of this Permit.
  - b) The southern wall of the living room and associated landscaped bed of Dwelling 2 to be set back from the southern title boundary by an additional 300mm.
  - c) The proposed landscaping along the southern boundary of the site to have a mature height not exceeding 200mm to allow for vehicle overhang when vehicles exit garages.
  - d) Annotations detailing the following:
    - i. A Tree Protection Zone and associated Tree Protection Fence with a radius of 2.0 metres (measured from the outside edge of the trunk) for the *Lophostemon confertus* located in the nature strip opposite the subject site;
    - ii. A Tree Protection Zone and associated Tree Protection Fence with a radius of 6.5 metres (measured from the outside edge of the trunk) for the *Corymbia maculata* located in the adjoining property to the north; and
    - iii. A Tree Protection Zone and associated Tree Protection Fence with a radius of 3.6 metres (measured from the outside edge of the trunk) for the *Pittosporum undulatum* located in the adjoining property to the north.in accordance with the requirements of Condition 4 of this Permit. A notation must be added to state that any works in the Tree Protection Zone must be carried out without excavation.
  - e) The south-east facing windows of Bedroom 2 for each of Units 2 and 3 be notated as "fixed obscure" to 1.7 metres above the finished floor level.
  - f) The south-west facing Bedroom 2 window of Unit 4 deleted from the elevations.
  - g) The provision of pedestrian visibility splays measuring 2.0 metres (width across the frontage) by 2.5 metres (depth into the site), to the north-western and south-eastern sides of the existing and proposed crossovers to Cash Street. Where within the subject site, any structures or vegetation within these splays must be not more than 1.15 metres in height.

When approved, the plans will be endorsed and form part of this Permit.

2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
3. This Permit will expire if either:
  - The development does not start within three (3) years from the date of this Permit; or
  - The development is not completed within five (5) years of the date of this Permit.

As relevant, the Responsible Authority may extend the times referred to if a request is made in writing:

- Before this Permit expires;
  - Within six (6) months after the expiry date; or
  - Within twelve (12) months after the expiry date if the request relates to the completion of the development or a stage of the development.
4. Before buildings and works (including demolition) start, a tree protection fence must be erected around the following trees to define a 'tree protection zone'.
- A Tree Protection Zone and associated Tree Protection Fence with a radius of 2.0 metres (measured from the outside edge of the trunk) for the *Lophostemon confertus* located in the nature strip opposite the subject site;
  - A Tree Protection Zone and associated Tree Protection Fence with a radius of 6.5 metres (measured from the outside edge of the trunk) for the *Corymbia maculata* located in the adjoining property to the north; and
  - A Tree Protection Zone and associated Tree Protection Fence with a radius of 3.6 metres (measured from the outside edge of the trunk) for the *Pittosporum undulatum* located in the adjoining property to the north.

This fence must be constructed of star pickets and chain mesh (or similar) to the satisfaction of the Responsible Authority.

The Tree Protection Fence must remain in place until construction is completed.

No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Zone.

No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Zone.

The ground surface of the tree protection zone must be covered by a protective 100mm deep layer of mulch prior to the development commencing and be watered regularly to the satisfaction of the Responsible Authority.

5. Before buildings and works start, a detailed Landscape Plan to the satisfaction of the Responsible Authority must be submitted to, and approved by the Responsible Authority. When the Landscape Plan is approved, it will be endorsed and will then form part of this Permit. The Landscape Plan must be prepared by a suitably qualified person and must incorporate:
- a) Tree protection zones and notations indicating tree protection measures in accordance with Condition No. 4 of this Permit.
  - b) A minimum of six (6) small canopy trees distributed throughout the secluded private open space areas of each dwelling and within the front setback of the property, commensurate with the size of planting area available. All canopy trees are to have a minimum height of 1.6 metres in 40 litre containers at the time of installation. Canopy trees must have a minimum width of 4 metres at maturity.
  - c) Details of all existing trees to be retained and all existing trees to be removed, including overhanging trees on adjoining properties and street trees within the nature strip. The genus, species, height and spread of all trees must be specified.
  - d) A planting schedule of proposed vegetation detailing the botanical name, common name, size at maturity, pot size and quantities of all plants.

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- e) A diversity of plant species and forms. All proposed planting must be to the satisfaction of the Responsible Authority.
  - f) Annotated graphic construction details showing all landscape applications and structures including tree and shrub planting, retaining walls, raised planter bed and decking.
  - g) Type and details of all surfaces including lawns, mulched garden beds and permeable and/or hard paving (such as pavers, brick, gravel, asphalt and concrete) demonstrating a minimum site permeability of 20%. Percentage cover of permeable surfaces must be stated on the plan. Where paving is specified, material types and construction methods (including cross sections where appropriate) must be provided.
  - h) Hard paved surfaces at all entry points to dwellings.
  - i) All constructed items including letter boxes, garbage bin receptacles, lighting, clotheslines, tanks, outdoor storage etc.
  - j) Type and details of edge treatment between all changes in surface (e.g. grass (lawn), gravel, paving and garden beds).
  - k) An outline of the approved building/s including any basement, the location of entry doors, windows, gates and fences must be shown on the landscape plan. The location of both existing and proposed overhead and underground services. Conflicts of such services with the existing and proposed planting must be avoided.
  - l) Clear graphics identifying trees (deciduous and evergreen), shrubs, grasses/sedges, groundcovers and climbers.
  - m) Scale, north point and appropriate legend. Landscape plans are to be clear, legible and with graphics drawn to scale, and provide only relevant information.
6. The landscaping as shown on the endorsed Landscape Plan must be completed to the satisfaction of the Responsible Authority before the development is occupied and/or the use starts or at such later date as is approved by the Responsible Authority in writing.
- No later than seven (7) days after the completion of the landscaping, the permit holder must advise Council, in writing, that the landscaping has been completed.
7. The landscaping as shown on the endorsed Landscape Plan must be maintained, and any dead, diseased or damaged plant replaced in accordance with the endorsed Landscape Plan to the satisfaction of the Responsible Authority.
8. Floor levels shown on the endorsed plans must be confirmed. The confirmation of the ground floor level must take place no later than at the time of the inspection of the subfloor of the development required under the *Building Act 1993* and the Building Regulations 2006. This confirmation must be in the form of a report from a licensed land surveyor and must be submitted to the Responsible Authority no later than 7 days from the date of the sub-floor inspection. The upper floor levels must be confirmed before a Certificate of Occupancy is issued, by a report from a licensed land surveyor submitted to the Responsible Authority.
9. All dwellings that share dividing walls and/or floors must be constructed to limit noise transmission in accordance with Part F(5) of the Building Code of Australia.
10. Before the dwellings are occupied, an automatic external lighting system capable of illuminating the entry to each unit, access to each garage and car parking space and all pedestrian walkways must be provided on the land to the satisfaction of the Responsible Authority.
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The external lighting must be designed, baffled and/or located to ensure that no loss of amenity is caused to adjoining and nearby land, to the satisfaction of the Responsible Authority.

11. Boundary walls facing adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.
12. The land must be drained to the satisfaction of the Responsible Authority.
13. With the exception of guttering, rainheads and downpipes, all pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
14. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the prior written consent of the Responsible Authority.
15. Provision must be made on the land for letter boxes and receptacles for newspapers to the satisfaction of the Responsible Authority.
16. Before occupation of the development, areas set aside for the parking of vehicles and access lanes as shown on the endorsed plan(s) must be:
  - a) Constructed;
  - b) Properly formed to such levels that they can be used in accordance with the plans;
  - c) Surfaced with an all-weather sealcoat; and
  - d) Drained

to the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose.

17. Before the development is occupied, vehicular crossing(s) must be constructed to align with approved driveways to the satisfaction of the Responsible Authority. All redundant crossing(s), crossing opening(s) or parts thereof must be removed and replaced with footpath, naturestrip and kerb and channel to the satisfaction of the Responsible Authority.
18. Any modification to existing infrastructure and services within the road reservation (including, but not restricted to, electricity supply, telecommunications services, gas supply, water supply, sewerage services and stormwater drainage) necessary to provide the required access to the site, must be undertaken by the applicant/developer to the satisfaction of the relevant authority. All costs associated with any such modifications must be borne by the applicant/developer.

#### **NOTATIONS**

**(These notes are provided for information only and do not constitute part of this permit or conditions of this permit)**

- N1 Any failure to comply with the conditions of this permit may result in action being taken to have an Enforcement Order made against some or all persons having an interest in the land and may result in legal action or the cancellation of this permit by the Victorian Civil and Administrative Tribunal.
- N2 Nothing in the grant of this permit should be construed as granting any permission other than planning permission for the purpose described. It is the duty of the permit holder to acquaint themselves, and comply, with all other relevant legal obligations (including any obligation in relation to restrictive covenants and easements affecting the site) and to obtain other required permits, consents or approvals.

N3 The amendments specified in Condition 1 of this Permit and any additional modifications which are “necessary or consequential” are those that will be assessed by Council when plans are lodged to satisfy that condition. Any “necessary or consequential” amendments, in addition to those required by this condition, should be specifically brought to the attention of Council for assessment.

If any other modifications are proposed, application must also be made for their approval under the relevant sections of the *Planning and Environment Act 1987*. They can only be approved once the required and consequential changes have been approved and the plans endorsed. It is possible to approve such modifications without notice to other parties, but they must be of limited scope. Modifications of a more significant nature may require a new permit application.

N4 This Planning Permit represents the Planning approval for the use and/or development of the land. This Planning Permit does not represent the approval of other departments of Darebin City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria to that adopted for the approval of this Planning Permit.

<b>Report</b>
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## **INTRODUCTION AND BACKGROUND**

Council records indicate that there is no planning history for this site.

## **ISSUES AND DISCUSSION**

### **Subject site and surrounding area**

- The land is regular in shape and measures 45.72 metres in length and 16.76 metres in width with a site area of 766.67 square metres.
- The land is located within the General Residential Zone Schedule 2 and affected by a Development Contribution Plan Overlay.
- The land is located on the south-west side of Cash Street between Plenty Road to the south-east and Ellerslie Street to the north-west.
- The site is occupied by a single storey brick veneer dwelling with secluded private open space and outbuildings to the rear. Vehicle access is gained via an existing crossover at the south-eastern edge of the site. There are trees and shrubs throughout the site but no significant vegetation. The site is relatively flat. A 3.05 metre easement extends the width of the rear (south-western) boundary.
- To the south-east is a medium density development, comprising two (2) single storey dwellings. The dwellings are setback approximately 1.8 metres from the common boundary with the carport for the front dwelling constructed to the boundary for approximately 8% of its length. The development has a front setback of 7.4 metres.
- To the north-west is a medium density development, comprising three (3) single storey dwellings. The dwellings are setback between 1.25 metres and 5.0 metres from the common boundary with the garages constructed to the boundary for a total of 28% of its length. The front dwelling is setback 4.5 metres from the front boundary with its garage setback 5.0 metres.

- 
- To the south-west (rear) is a single storey dwelling fronting Dunne Street. The dwelling is setback in excess of 22 metres from the common boundary with outbuildings approximately 10 metres from the boundary.
  - To the north-east across Cash Street are single storey detached dwellings and medium density housing development.
  - Unrestricted on-street parking is available in front of the subject site on the south-western side of Cash Street between Plenty Road to the south-east and Eilerslie Street to the north-west. Restricted on-street parking (1hr from 8:00 am - 6:00 pm Monday to Saturday) is available on the north-eastern side of Cash Street between Plenty Road and Eilerslie Street.
  - The site is located within an extensive residential area extending to Curtain Street to the north-east, Plenty Road to the south-east and the Darebin Creek to the north-west and south-west. The Summerhill Shopping Centre is located approximately 2km from the subject site and Latrobe University approximately 450 metres to the north-east. There are several parks in proximity of the site including Barling and Hardiman Reserves approximately 1.5km from the subject site, Bundoora Park Golf Course approximately 850 metres from the subject site and the Darebin Creek Track approximately 1km from the subject site.
  - The nearest public transport services to the site:
    - Tram Route 86 (Bundoora RMIT - Waterfront City Docklands) runs along Plenty Road approximately 230 metres to the south-east.
    - Bus Route 562 (Northland Shopping Centre-Whittlesea) runs along Plenty Road with a stop approximately 150 metres to the east.
    - Bus Route 566 (Lalor-Northland) runs along Plenty Road with a stop approximately 150 metres to the east.
    - Bus Route 561 (Macleod - Pascoe Vale) runs along Dunne Street with a stop approximately 280 metres to the west.

## Proposal

The applicant proposes the following:

- The existing buildings on the site are to be demolished.
- It is proposed to construct four (4) double storey dwellings. Unit 1 will have three (3) bedrooms and access to two (2) car parking spaces comprising a single space garage and tandem car space. Units 2 and 3 will have two (2) bedrooms and access to a single space garage. Unit 4 will have three (3) bedrooms and access to a single space carport and tandem car space. No visitor parking is provided on site.
- Vehicle access is to be gained via an existing crossover at the south-eastern edge of the site and a proposed crossover at the north-western edge of the site.
- The maximum height of the dwellings is to be 7.6 metres.
- The proposed private open space is provided as follows:
  - Unit 1 – 74.3 square metres including 27.8 square metres of secluded private open space.
  - Unit 2 – 41.4 square metres of secluded private open space.
  - Unit 3 – 40.2 square metres including 32.7 square metres of secluded private open space.

- Unit 4 – 52.6 square metres including 25.4square metres of secluded private open space.

### **Objections**

Fourteen (14) objections have been received against the application.

### **Objections summarised**

- Oversupply of 1 and 2 bedroom apartments.
- Inconsistent with neighbourhood.
- Not sustainable.
- Increased parking and traffic congestion.
- Overdevelopment of the site.
- Visual bulk.
- Does not add net value to the community.
- Negative social effect on community.
- Does not meet standards in the Darebin Planning Scheme.
- Will not provide affordable housing.

### **Officer comment on summarised objections**

The Planning Committee Charter (the Charter) identifies that its scope of activity is to consider and determine planning applications which receive five or more objections. For the purpose of the Charter, multiple objections from the same property address are counted as a single objection as is a petition or letter with multiple signatories. It is noted that all the objections are identical pro-forma letters however these letters comprise neither a petition nor a single letter with multiple signatories and as such the matter is being reported to Planning Committee.

#### Oversupply of 1 and 2 bedroom apartments

Dwellings 1 and 4 will each have three (3) bedrooms. Dwellings 2 and 3 each contain two (2) bedrooms and the objection relating to the oversupply of one (1) and two (2) bedroom dwellings is addressed as follows:

Clause 21.02-2 of the Municipal Strategic Statement (MSS) sets out the following key influence with respect to population growth and change:

*“Ageing families and declining household sizes are placing pressure on housing supply as fewer people occupy more housing.”*

The MSS continues with the following future housing issue at 21.01-4:

*“Facilitation of well-designed housing to meet anticipated housing needs, both in terms of number and diversity.”*



The policy guidance with respect to housing is contained in Clause 21.03. While there is strong policy support for appropriate medium density in-fill in well serviced locations, it is Clause 21.03-3 (Housing Diversity and Equity) that is of particular relevance to the objectors' concerns. The overview sets out (extracted as relevant):

*"Housing affordability is a particular housing issue in Darebin. Lack of affordable housing and high rental prices can aggravate housing stress and homelessness. Housing affordability, income levels and demand for social and public housing are highly correlated. An increase in the supply of affordable housing could ease housing stress of low income earners and can decrease the demand for social housing."*

This informs the following objectives (extracted as relevant):

*"To ensure that housing diversity is increased to better meet the needs of the local community and reflect demographic changes and trends."*

*"To increase the supply of affordable and social housing."*

An oversupply of one (1) and two (2) bedroom dwellings is therefore not substantiated by any statistical data and is contrary to the demographic issues and housing objectives contained in Council's MSS. Indeed, the proposal contributes significantly to housing supply and diversity in accordance with the stated objectives and therefore has strong policy support.

#### Inconsistent with neighbourhood

The test of neighbourhood character under the Scheme is for development to respect the existing character or to contribute to a preferred future character. Having regard to the relevant policies within the Scheme (including Clause 22.02) relative to the physical context of the site itself.

A detailed assessment of the development against the neighbourhood character considerations is provided in the body of the report.

#### Not sustainable

The environmental sustainability of the development is considered under the provisions of Clause 55.03-5 (Energy Efficiency) in the report below.

#### Increased parking and traffic congestion

The proposed development provides the requisite number of on-site car parking spaces in accordance with the requirements of Clause 52.06-5 of the Scheme.

The proposal will result in a modest increase to the number of daily vehicle movements which can easily be absorbed by the local road network. A detailed assessment of traffic and car parking matters is provided below.

#### Overdevelopment of the site

Compliance with Clause 55 is an established tool for determining whether a development is of an appropriate scale relative to the site and its specific context and characteristics. The proposal has a high level of compliance with the objectives and Standards of Clause 55 and is therefore not considered to be an overdevelopment of the site.

Visual bulk

The upper storeys of each dwelling are massed towards existing outbuildings (for example, the garage to the east of Dwelling 3) and the adjoining concrete driveway. The driveway along the western boundary creates additional separation from the backyards of the properties to the west, therefore minimising visual bulk. It is noted that the proposal complies with setback and site coverage requirements of Clause 55.

Does not add net value to the community

This ground is unsubstantiated. The proposal does add net value to the community through the provision of additional housing and housing diversity within the neighbourhood. The proposal also results in the more efficient use of underutilised urban land and existing investment in infrastructure, both of which are considered to contribute to net community value.

Negative social effect on community

The proposal is for dwellings on residentially zoned land. It is reasonable to anticipate that this land would be developed for the purpose of a dwelling. The development of residential land for residential purposes is entirely consistent with expected land use and therefore the proposal will not have any negative social effects on the surrounding and wider community.

Does not meet standards in the Darebin Planning Scheme

An assessment of the proposal against the requirements of Clause 55 of the Scheme is contained in the body of the report below.

Will not provide affordable housing

A general principle established in Green v Hobsons Bay CC (Red Dot) [2013] VCAT 2091 ('Green') in relation to affordable housing is thus:

- That in the absence of specific statutory controls in the Planning Scheme, the provision of smaller dwellings, commanding lower prices on the open market than other comparable housing types, sufficiently achieves the intent of general planning policy which encourages affordable housing.

Local policy guidance with respect to housing is contained in Clause 21.03 of the Scheme. While there is strong policy support for appropriate medium density in-fill in well serviced locations, it is Clause 21.03-3 (Housing Diversity and Equity) that is of particular relevance to the objectors' concerns. The overview sets out (extracted as relevant):

*"Housing affordability is a particular housing issue in Darebin. Lack of affordable housing and high rental prices can aggravate housing stress and homelessness. Housing affordability, income levels and demand for social and public housing are highly correlated. An increase in the supply of affordable housing could ease housing stress of low income earners and can decrease the demand for social housing."*

Objective 4 of Clause 21.03-3 includes the following strategies:

*"Ensure housing in the municipality is sufficiently diverse to provide more affordable and appropriate choices and opportunities."*

*“Facilitate the provision of affordable housing in terms of purchase price as well as lower ongoing operational costs, by promoting housing growth in areas with good access to services and public transport and encouraging best practice environmentally sustainable housing design to minimise ongoing utility costs”*

The proposed development incorporates two (2) smaller dwellings and improves the diversity of housing choice on the open market. The proposal therefore accords with the principles established in *Green* and the objectives of the relevant local policy.

## **PLANNING ASSESSMENT**

### **Neighbourhood Character Precinct Guideline Assessment - Precinct F6**

#### **Vegetation**

The proposal will result in the loss of vegetation from the site.

Nonetheless the development provides adequate space for vegetation in the front yard and the yards of each dwelling, including space for the provision of canopy trees. A detailed landscape plan will be required to be submitted as a condition of any approval.

#### **Complies subject to condition**

##### **Siting**

- The proposal provides for a front garden that is large enough for planting of vegetation to enable the continuation of the garden setting in this area. There are landscaping opportunities to the rear of each of the dwellings. A condition of approval will require a landscape plan to be submitted to, and approved by, the responsible authority.
- The proposed dwellings will be setback from the side boundaries in keeping with the detached character of the neighbourhood. The garage for Unit 1 is constructed to the side (north-western) boundary and sits 0.4 metres forward of the front wall of the dwelling. The garage will abut an existing garage on the neighbouring property which will sit forward of the proposed garage.
- It is considered that the proposed development will not detract from the streetscape given that boundary construction contributes to part of the existing neighbourhood character. It is noted that the garage is integrated into the design of the building. All remaining car parking is located behind Dwellings 1 and 2 thereby minimising the amount of front garden area devoted to paving and the dominance of car parking facilities as viewed from the street.
- While two (2) driveways are proposed, the total width of the access ways complies with Standard B14. The access ways are separated by a front garden and do not dominate the frontage.

#### **Complies**

##### **Height and Building Form**

The height of dwellings in the neighbourhood is predominantly single storey but there are double-storey dwellings proximate to the subject site. The double storey form is acceptable given that the upper floors are designed to be smaller than the ground floors, and the double storey represents a nominal increase in height compared to the surrounding properties. Double storey dwellings are evident in the streetscape and form part of an emerging neighbourhood character.

#### **Complies**

**Materials and Design Detail**

- The form and facades of the proposed dwellings are adequately articulated through the materials, openings and setbacks and appropriately address the traditional designs of dwellings in the area.
- The dwellings are to be constructed of brick, cladding, panelling and roof tiles which are recognisably domestic construction materials found elsewhere in the streetscape. They are appropriate given the neighbourhood context.

**Complies****Front Boundary Treatment**

No front fence is proposed allowing views to the front garden and dwellings.

**Complies****Clause 55 Assessment**

The following sections provide discussion on fundamental areas of Clause 55 including variations of standards and matters informing conditions of the recommendation above.

Clause 55.03-1 B6 Street Setback

- The front setbacks of the adjoining dwellings are 4.5 metres and 7.4 metres. The standard therefore requires a setback of 5.95 metres. The proposed front setback of 5.57 metres does not comply with the standard, however the design response is considered to be acceptable due to the following:
- The setback addresses the relevant requirements of the Neighbourhood Character Study, in that it allows adequate provision for landscaping.
- The design provides a graduated and staggered setback leading from the lesser setback to the north-west where the proposed garage will abut an existing garage on the neighbouring property that will sit further forward than it to the greater setback of 7 Cash Street.
- Unit 1's front façade is appropriately articulated.
- The front setback will not result in unreasonable visual bulk when viewed from the street or adjoining properties.
- The proposed setback results in efficient use of the site.
- The existing streetscape is not consistent and provides for varied setbacks.

**Complies with objective**Clause 55.04-6 B22 Overlooking

- The ground levels of each proposed dwelling do not exceed 0.8 metres above the natural ground level at the boundary. The existing and proposed boundary fencing of 1.9 metres high will sufficiently limit overlooking.
- Most upper storey windows are appropriately designed and/or screened to ensure no overlooking. A condition of approval is recommended to require the south-east facing Bedroom 2 windows of Units 2 and 3 to be constructed of 'fixed obscure' glazing.

- The elevations show a south-west facing upper level Bedroom 2 window to Unit 4 but this does not appear on the floor plans. A condition of approval is recommended to require the removal of this window from the elevations.

**Complies subject to condition**

Clause 55.05-4 B28 Private Open Space

- The development provides adequate private open space (pos) for the reasonable recreation and service needs of residents.
- This is achieved through the provision of 40 square metres of secluded private open space at the side or rear of the dwelling with a minimum area of 25 square metres, a minimum dimension of 3 metres and convenient access from a living room.

	<b>Total POS</b>	<b>Secluded POS</b>	<b>Minimum dimension of secluded POS</b>
Unit 1	74.3 square metres	27.8 square metres	4.0 metres
Unit 2	41.4 square metres	41.4 square metres	4.0 metres
Unit 3	40.21 square metres	32.7 square metres	4.7 metres
Unit 4	52.6 square metres	25.4 square metres	3.0 metres

All secluded private open space areas have direct access to a living room.

**Complies**

**Clause 52.06 Car Parking**

Number of Parking Spaces Required

- One car parking space is provided for each of the two bedroom dwellings.
- Two car parking spaces are provided for each of the three bedroom dwellings with one space under cover.
- No visitor car parking is required to be provided.

Design Standards for Car parking

- The car parking spaces, the carport, the garaging and the accessways have appropriate dimensions to enable efficient use and management.
- The car parking facilities are designed, surfaced and graded to reduce run-off and allow stormwater to drain into the site.
- Unit 2 and 3s' open studies cannot reasonably be used as a bedroom.
- Garage and carport dimensions of 6.0 metres length x 3.5 metres width comply with the minimum requirements of the standard.
- Access dimensions to the car spaces comply with the standard.

- A condition of approval will require amendments to landscaping and the setback of Dwelling 2 along the accessway to ensure that access is unimpeded.

**CLAUSE 55 COMPLIANCE SUMMARY**

Clause	Std		Compliance	
			Std	Obj
<b>55.02-1</b>	<b>B1</b>	<b>Neighbourhood character</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.02-2</b>	<b>B2</b>	<b>Residential policy</b>		
		The proposal complies with the relevant residential policies outlined in the Darebin Planning Scheme.	Y	Y
<b>55.02-3</b>	<b>B3</b>	<b>Dwelling diversity</b>		
		N/A as development contains less than 10 dwellings	N/A	N/A
<b>55.02-4</b>	<b>B4</b>	<b>Infrastructure</b>		
		Adequate infrastructure exists to support new development	Y	Y
<b>55.02-5</b>	<b>B5</b>	<b>Integration with the street</b>		
		Unit 1 appropriately integrates with the Street.	Y	Y
<b>55.03-1</b>	<b>B6</b>	<b>Street setback</b>		
		Please see assessment in the body of this report.	N	Y
<b>55.03-2</b>	<b>B7</b>	<b>Building height</b>		
		7.6 metres	Y	Y
<b>55.03-3</b>	<b>B8</b>	<b>Site coverage</b>		
		46%	Y	Y
<b>55.03-4</b>	<b>B9</b>	<b>Permeability</b>		
		32.1%	Y	Y
<b>55.03-5</b>	<b>B10</b>	<b>Energy efficiency</b>		
		Dwellings are considered to be generally energy efficient and will not unreasonably impact adjoining properties.	Y	Y
<b>55.03-6</b>	<b>B11</b>	<b>Open space</b>		
		N/A as the site does not abut public open space.	N/A	N/A
<b>55.03-7</b>	<b>B12</b>	<b>Safety</b>		
		The proposed development is secure and the creation of unsafe spaces has been avoided.	Y	Y
<b>55.03-8</b>	<b>B13</b>	<b>Landscaping</b>		
		Adequate areas are provided for appropriate landscaping and a landscape plan has been required as a condition of approval.	Y	Y

Clause	Std		Compliance	
			Std	Obj
<b>55.03-9</b>	<b>B14</b>	<b>Access</b>		
		Access is sufficient and respects the character of the area.	Y	Y
<b>55.03-10</b>	<b>B15</b>	<b>Parking location</b>		
		Parking facilities are proximate to the dwellings they serve, the access is observable, habitable room windows are sufficiently set back from access ways.	Y	Y
<b>55.04-1</b>	<b>B17</b>	<b>Side and rear setbacks</b>		
		Dwellings are set back in accordance with the requirements of this standard.	Y	Y
<b>55.04-2</b>	<b>B18</b>	<b>Walls on boundaries</b>		
		Length: 6.5 metres Height: 3.2 metres avg. Walls on boundaries comply with the requirements of this standard.	Y	Y
<b>55.04-3</b>	<b>B19</b>	<b>Daylight to existing windows</b>		
		Sufficient setbacks exist to allow adequate daylight	Y	Y
<b>55.04-4</b>	<b>B20</b>	<b>North-facing windows</b>		
		Development is set back in accordance with the standard.	Y	Y
<b>55.04-5</b>	<b>B21</b>	<b>Overshadowing open space</b>		
		Shadow cast by the development is within the parameters set out by the standard.	Y	Y
<b>55.04-6</b>	<b>B22</b>	<b>Overlooking</b>		
		Please see assessment in the body of this report and note compliance can be achieved through a condition of approval.	N	Y
<b>55.04-7</b>	<b>B23</b>	<b>Internal views</b>		
		There are no internal views	Y	Y
<b>55.04-8</b>	<b>B24</b>	<b>Noise impacts</b>		
		Noise impacts are consistent with those in a residential zone.	Y	Y
<b>55.05-1</b>	<b>B25</b>	<b>Accessibility</b>		
		The ground levels of the proposal can be made accessible for people with limited mobility.	Y	Y
<b>55.05-2</b>	<b>B26</b>	<b>Dwelling entry</b>		
		Entries to the dwellings are identifiable and provide an adequate area for transition.	Y	Y

Clause	Std		Compliance	
			Std	Obj
<b>55.05-3</b>	<b>B27</b>	<b>Daylight to new windows</b>		
		Adequate setbacks are proposed to allow appropriate daylight access.	Y	Y
<b>55.05-4</b>	<b>B28</b>	<b>Private open space</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.05-5</b>	<b>B29</b>	<b>Solar access to open space</b>		
		Sufficient depth is provided for adequate solar access.	Y	Y
<b>55.05-6</b>	<b>B30</b>	<b>Storage</b>		
		Sufficient storage areas are provided.	Y	Y
<b>55.06-1</b>	<b>B31</b>	<b>Design detail</b>		
		Design detail of dwellings is appropriate in the neighbourhood setting.	Y	Y
<b>55.06-2</b>	<b>B32</b>	<b>Front fences</b>		
		No front fence is proposed which is acceptable.	Y	Y
<b>55.06-3</b>	<b>B33</b>	<b>Common property</b>		
		Common property areas are appropriate and manageable.	Y	Y
<b>55.06-4</b>	<b>B34</b>	<b>Site services</b>		
		Sufficient areas for site services are provided.	Y	Y

**REFERRAL SUMMARY**

Department/Authority	Response
Capital Works	No objection, subject to condition included in recommendation
Transport Management and Planning	No objection, subject to condition included in recommendation
Darebin Parks	No objection, subject to condition included in recommendation
Melbourne Water	No objection, subject to condition included in recommendation
VicRoads	No objection, subject to condition included in recommendation

**PLANNING SCHEME SUMMARY**

**Darebin Planning Scheme clauses under which a permit is required**

- Clause 32.08-4 (General Residential Zone) – construction of two or more dwellings on a lot.
- The subject land is encumbered by a Development Contributions Plan Overlay however the approved plan expired on 30 June 2014.



**Applicable provisions of the Darebin Planning Scheme**

Section of Scheme	Relevant Clauses
SPPF	11.02-1, 15.01-1, 15.01-5, 15.02, 16.01, 19.03-1
LPPF	21.05-1, 21.05-2, 21.05-3, 22.02
Zone	32.08
Overlay	45.06
Particular provisions	52.06, 55
General provisions	65.01
Neighbourhood Character Precinct	F6

**POLICY IMPLICATIONS**

**Environmental Sustainability**

All new dwellings are required to achieve a minimum six (6) star energy rating under the relevant building controls.

**Social Inclusion and Diversity**

Nil

**Other**

Nil

**FINANCIAL AND RESOURCE IMPLICATIONS**

There are no financial or resource implications as a result of the determination of this application.

**FUTURE ACTIONS**

Nil

**DISCLOSURE OF INTERESTS**

Section 80C of the *Local Government Act 1989* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any direct or indirect interest in a matter to which the advice relates.

The Manager authorising this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

**RELATED DOCUMENTS**

Darebin Planning Scheme and the *Planning and Environment Act (1987)* as amended.

**5.3 APPLICATION FOR PLANNING PERMIT D/1011/2015**  
 14 Birdwood Street Reservoir

**AUTHOR:** Statutory Planner – Daniel Murphy

**DIRECTOR:** Director Assets and Business Services – Steve Hamilton

**OWNER/APPLICANT/CONSULTANT:**

Applicant	Owner	Consultant
Archsign Pty Ltd	Exors Francis Leo Weir and Marie Jean Weir	N/A

- It is proposed to construct a medium density development comprising four (4) double storey dwellings.
- The site is zoned General Residential Zone – Schedule 2 (GRZ2).
- There is a restrictive covenant on title. The covenant restricts the excavation, removal or carrying away of earth, clay, gravel etc. save for the purpose of building foundations. The proposed development will not breach the terms of the covenant.
- Sixteen (16) objections were received against this application.
- The proposal is generally consistent with the objectives and standards of Clause 55 of the Darebin Planning Scheme (the Scheme).
- It is recommended that the application be supported.

**CONSULTATION:**

- Public notice was given via one (1) sign posted on site and letters sent to surrounding owners and occupiers.
- This application was referred internally to Darebin Parks and Council’s Capital Works and Transport Management and Planning Units.
- This application was not required to be referred to external authorities.

**Recommendation**

**That** Planning Permit Application D/1011/2015 be supported and a Notice of Decision to Grant a Permit be issued subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to, and approved by, the Responsible Authority. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application (identified as Drawing Nos. TP1.0, TP2.0 and TP3.0, Job No. 15257, prepared by Archsign and dated November 2015) but modified to show:
  - a) The front boundary fence, if any, to be noted on the Ground Floor Plan (TP1.0). The fence must not exceed 1.2 metres in height. If no fence is proposed, this must be noted on the plans.

- b) The location of all plant and equipment (including air conditioners, solar hot water panels and the like). These are to be co-located where possible, screened to be minimally visible from the public realm and adjacent properties, located as far as practicable from site boundaries and integrated into the design of the building.
- c) The ground floor street (western) setback of Dwelling 1 increased to a minimum distance of 8 metres. This must be achieved without reducing any other boundary setbacks.
- d) The window sill height of the living rooms of Dwelling 2 and Dwelling 3 are to be 1.4 metres above the accessway in accordance with Clause 55.03-10 (Standard B15) of the Scheme.
- e) The northern boundary first floor setback of Dwelling 2 and Dwelling 3 increased to a minimum of 3 metres. This must be achieved without altering setbacks to any other boundaries.
- f) The En-suite and Walk-in-robe of Dwelling 4 to be deleted. This must be achieved without altering the boundary setbacks of Bedroom 1 of Dwelling 4.
- g) The southern boundary setbacks increased or the building height reduced, or a combination of both, so that the development does not cast shadows on the areas of secluded private open space to the south beyond the existing overshadowing of the southern boundary fence.
- h) A roof plan depicting the location of solar hot water panels.
- i) Annotations detailing a Tree Protection Zone and associated Tree Protection Fence with a radius of 4.7 metres (measured from the outside edge of the trunk) for the *Melaleuca styphelioides* located in the nature strip in front of the subject site within the confines the nature strip in accordance with the requirements of Condition 7 of this Permit.
- j) Any modifications as identified by the Arborist Report required by Condition No. 8 of this permit.
- k) A landscape plan in accordance with Condition No. 4 of this Permit.
- l) The canopy trees along the internal accessway to be deleted.
- m) The garage wall of Dwelling 1, located on the northern boundary to be reduced in height or set back to comply with Clause 55.04-3 (Standard B19) of the Scheme.
- n) The provision of at least 6 cubic metres of externally accessible storage to Dwelling 4.
- o) The following windows:
  - Dwelling 3: south-facing Bedroom 1 and Bedroom 2.
  - Dwelling 4: south-facing Bedroom 3.

These windows may be provided with either:

- A sill with a minimum height of 1.7 metres above finished floor level;
- A fixed screen with a maximum permeability of 25% to a minimum height of 1.7 metres above finished floor level; or
- Fixed obscure glazing (not film) with a maximum transparency of 25% to a minimum height of 1.7 metres above finished floor level.

Where fixed screens are being utilised a section diagram must be included to demonstrate how the screens minimise overlooking of adjoining properties.

2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

3. This Permit will expire if either:
- The development does not start within three (3) years from the date of this Permit; or
  - The development is not completed within five (5) years of the date of this Permit.

As relevant, the Responsible Authority may extend the times referred to if a request is made in writing:

- Before this Permit expires;
  - Within six (6) months after the expiry date; or
  - Within twelve (12) months after the expiry date if the request relates to the completion of the development or a stage of the development.
4. Before buildings and works start, a detailed Landscape Plan to the satisfaction of the Responsible Authority must be submitted to, and approved by the Responsible Authority. When the Landscape Plan is approved, it will be endorsed and will then form part of this Permit. The Landscape Plan must be prepared by a suitably qualified person and must incorporate:
- a) Details of all existing trees to be retained and all existing trees to be removed, including overhanging trees on adjoining properties and street trees within the nature strip. The genus, species, height and spread of all trees must be specified.
  - b) Any tree protection measures required by Condition 1(i) and condition 1(j).
  - c) A planting schedule of proposed vegetation detailing the botanical name, common name, size at maturity, pot size and quantities of all plants.
  - d) A diversity of plant species and forms. All proposed planting must be to the satisfaction of the Responsible Authority.
  - e) Where the opportunity exists, an appropriate number and size of canopy trees are to be shown within the secluded private open space areas of each dwelling and within the front setback of the property, commensurate with the size of planting area available. All canopy trees are to have a minimum height of 1.6 metres in 40 litre containers at the time of installation. Canopy trees must have the following minimum widths at maturity: small canopy (4 metres), medium canopy (6 metres), large canopy (10 metres).
  - f) Annotated graphic construction details showing all landscape applications and structures including tree and shrub planting, retaining walls, raised planter bed and decking.
  - g) Type and details of all surfaces including lawns, mulched garden beds and permeable and/or hard paving (such as pavers, brick, gravel, asphalt and concrete) demonstrating a minimum site permeability of 20%. Percentage cover of permeable surfaces must be stated on the plan. Where paving is specified, material types and construction methods (including cross sections where appropriate) must be provided.
  - h) Hard paved surfaces at all entry points to dwellings.
  - i) All constructed items including letter boxes, garbage bin receptacles, lighting, clotheslines, tanks, outdoor storage etc.
  - j) Type and details of edge treatment between all changes in surface (e.g. grass (lawn), gravel, paving and garden beds).
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- k) An outline of the approved building/s including any basement, the location of entry doors, windows, gates and fences must be shown on the landscape plan. The location of both existing and proposed overhead and underground services. Conflicts of such services with the existing and proposed planting must be avoided.
  - l) Clear graphics identifying trees (deciduous and evergreen), shrubs, grasses/sedges, groundcovers and climbers.
  - m) Scale, north point and appropriate legend. Landscape plans are to be clear, legible and with graphics drawn to scale, and provide only relevant information.

5. The landscaping as shown on the endorsed Landscape Plan must be completed to the satisfaction of the Responsible Authority before the development is occupied and/or the use starts or at such later date as is approved by the Responsible Authority in writing.

No later than seven (7) days after the completion of the landscaping, the permit holder must advise Council, in writing, that the landscaping has been completed.

6. The landscaping as shown on the endorsed Landscape Plan must be maintained, and any dead, diseased or damaged plant replaced in accordance with the endorsed Landscape Plan to the satisfaction of the Responsible Authority.

7. Before buildings and works (including demolition) start, a tree protection fence must be erected around the tree located in the nature strip of No. 14 Birdwood Street at a radius of 4.7 metres from the base of the trunk to define a 'Tree Protection Zone'.

This fence must be constructed of star pickets and chain mesh (or similar) to the satisfaction of the Responsible Authority.

The Tree Protection Fence must remain in place until construction is completed.

No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Zone.

No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Zone.

The ground surface of the tree protection zone must be covered by a protective 100mm deep layer of mulch prior to the development commencing and be watered regularly to the satisfaction of the Responsible Authority.

8. Before the development starts, a report prepared by a suitably qualified arborist must be submitted to and approved by the Responsible Authority.

The report must assess all significant vegetation on adjoining properties which may be affected by the proposed works and provide recommendations which ensure the health and structure of any affected vegetation is protected.

Any recommendations contained within the report relating to the protection of vegetation or modifications to the proposed works must be shown on any plans endorsed as part of this permit.

The development must be constructed in accordance with the requirements/recommendations of the approved Arborist report to the satisfaction of the Responsible Authority.

9. Floor levels shown on the endorsed plans must be confirmed. The confirmation of the ground floor level must take place no later than at the time of the inspection of the subfloor of the development required under the *Building Act 1993* and the Building Regulations 2006. This confirmation must be in the form of a report from a licensed land surveyor and must be submitted to the Responsible Authority no later than 7 days from the date of the sub-floor inspection. The upper floor levels must be confirmed before a Certificate of Occupancy is issued, by a report from a licensed land surveyor submitted to the Responsible Authority.
  10. All dwellings that share dividing walls and/or floors must be constructed to limit noise transmission in accordance with Part F(5) of the Building Code of Australia.
  11. Before the dwellings are occupied, an automatic external lighting system capable of illuminating the entry to each unit, access to each garage and car parking space and all pedestrian walkways must be provided on the land to the satisfaction of the Responsible Authority.

The external lighting must be designed, baffled and/or located to ensure that no loss of amenity is caused to adjoining and nearby land, to the satisfaction of the Responsible Authority.
  12. Boundary walls facing adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.
  13. The land must be drained to the satisfaction of the Responsible Authority.
  14. With the exception of guttering, rainheads and downpipes, all pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
  15. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the prior written consent of the Responsible Authority.
  16. Provision must be made on the land for letter boxes and receptacles for newspapers to the satisfaction of the Responsible Authority.
  17. Before occupation of the development, areas set aside for the parking of vehicles and access lanes as shown on the endorsed plan(s) must be:
    - a) Constructed;
    - b) Properly formed to such levels that they can be used in accordance with the plans;
    - c) Surfaced with an all-weather sealcoat; and
    - d) Drainedto the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose.
  18. Before the development is occupied, vehicular crossing(s) must be constructed to align with approved driveways to the satisfaction of the Responsible Authority. All redundant crossing(s), crossing opening(s) or parts thereof must be removed and replaced with footpath, naturestrip and kerb and channel to the satisfaction of the Responsible Authority.
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**NOTATIONS**

**(These notes are provided for information only and do not constitute part of this permit or conditions of this permit)**

- N1 Any failure to comply with the conditions of this permit may result in action being taken to have an Enforcement Order made against some or all persons having an interest in the land and may result in legal action or the cancellation of this permit by the Victorian Civil and Administrative Tribunal.
- N2 Nothing in the grant of this permit should be construed as granting any permission other than planning permission for the purpose described. It is the duty of the permit holder to acquaint themselves, and comply, with all other relevant legal obligations (including any obligation in relation to restrictive covenants and easements affecting the site) and to obtain other required permits, consents or approvals.
- N3 The amendments specified in Condition 1 of this Permit and any additional modifications which are “necessary or consequential” are those that will be assessed by Council when plans are lodged to satisfy that condition. Any “necessary or consequential” amendments, in addition to those required by this condition, should be specifically brought to the attention of Council for assessment.
- If any other modifications are proposed, application must also be made for their approval under the relevant sections of the *Planning and Environment Act 1987*. They can only be approved once the required and consequential changes have been approved and the plans endorsed.
- It is possible to approve such modifications without notice to other parties, but they must be of limited scope. Modifications of a more significant nature may require a new permit application.
- N4 This Planning Permit represents the Planning approval for the use and/or development of the land. This Planning Permit does not represent the approval of other departments of Darebin City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria to that adopted for the approval of this Planning Permit.
- N5 No building or works may be built over any easement on the land except with the written consent of the relevant authority.

<b>Report</b>
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**INTRODUCTION AND BACKGROUND**

Council’s records do not show any previous planning permit applications that are applicable to the site.

**ISSUES AND DISCUSSION****Subject site and surrounding area**

- The land is regular in shape and measures 64.96 metres in length and 13.64 metres in width with a site area of 886.05 square metres.
- The land is located within the GRZ2 and is affected by the Development Contributions Plan Overlay (noting that the approved plan has expired).
- The land is located on the eastern side of Birdwood Street, which runs in a north-south direction between Haig Street and Regent Street.

- The site is currently occupied by a single storey detached weatherboard dwelling with hipped tile roof.
- To the north is a single storey detached weatherboard dwelling with a hipped tile roof.
- To the south is a medium density development comprising three (3) double storey dwellings.
- To the west, located on the opposite side of Birdwood Street, is a detached double storey dwelling with a hipped tile roof.
- To the east are two (2) detached dwellings fronting Maritana Street. No. 9 Maritana Street is a single storey weatherboard dwelling with a gable roof. No 11 Maritana Street is a double storey weatherboard dwelling with a gable roof.
- On-street car parking within the vicinity of the subject site is available on both sides of Birdwood Street and is unrestricted.
- The subject site is located within an area of Incremental Housing Change and is located within the residential hinterland of Reservoir, north of Regent Street.

**Proposal**

- Construction of four (4) double storey dwellings.
- The proposal comprises two (2), three (3)-bedroom dwellings and two (2), two (2)-bedroom dwellings.
- Each dwelling is provided with an area of secluded private open space in excess of 25 square metres at ground floor level and is directly accessible from the main living area.
- The maximum overall height of the development is 7.25 metres. Typical floor heights of each dwelling are in the order of 2.7 metres at ground floor level and 2.7 metres at first floor level.
- Each two (2) bedroom dwelling is serviced by one (1) car parking space and each three (3) bedroom dwelling is serviced by two (2) car parking spaces.
- Vehicle access to the site is obtained via the existing crossover.

**Objections**

- Sixteen (16) objections have been received.

**Objections summarised**

- The development provides an inappropriate colour scheme for the area.
- Cantilevering is an eye-sore.
- Trees along internal driveway are inappropriate.
- Trees in secluded private open space are inappropriate.
- Proposed toilet/bathroom is located too close to existing secluded private open space of an adjoining property.
- Overlooking.
- Overshadowing.
- Dwelling 2 and 3 provide uncovered car parking spaces.
- Vehicle sweeping paths not shown.
- Dimensions of car parking not shown.



- Drainage issues.
- Unclear if fences will remain.
- Oversupply of one (1) and two (2) bedroom dwellings within the municipality.
- Contrary to neighbourhood character of the area.
- Not environmentally sustainable.
- Traffic impacts and insufficient car parking.
- Overdevelopment.
- Visual bulk.
- No net value to the community.

**Officer comment on summarised objections**The development provides an inappropriate colour scheme for the area.

Noting that there are no external paint controls that apply in this area and having regard to the stated design objectives of the preferred neighbourhood character of Precinct F9, the proposed colour scheme of the development is considered appropriate and provides a generally muted response which is consistent with the surrounding setting.

Although the proposal includes trim to the cladding which will be blue and gold, the use of these colours will be minimal and will not be a dominant feature of the development. These colours will be more apparent at the rear of the development.

Cantilevering is an eyesore.

While the development incorporates the use of minimal cantilevering of the first floor, this is generally contained to the rear of the dwellings and will be minimally visible from the public realm. Furthermore, the proposed cantilevered sections of the first floor are generally presented in a way that they are an architectural feature of the development. As such, the cantilevering is considered appropriate and is not symptomatic of an excessive first floor building footprint.

Trees along internal driveway are inappropriate.

The trees shown along the internal driveway are not considered necessary to fulfil neighbourhood character objectives or as a requirement of Clause 55.03-8 (Landscaping) of the Scheme, and therefore do not serve any relevant purpose to the development. These trees will be required to be deleted as a condition of permit.

Trees in secluded private open space are inappropriate.

The trees shown in the areas of secluded private open space are considered necessary for internal amenity and for shading, given the northern aspect of the secluded private open space areas. While there is no reasonable basis for the removal of these trees entirely, a condition of permit will require the submission of a landscape plan to ensure that the species of tree(s) are appropriate for this location.

Proposed toilet/bathroom is located too close to existing secluded private open space of an adjoining property

A toilet/bathroom is typical to a dwelling and there is no reasonable basis for requiring the relocation of this room.

Overlooking

While there are a number of habitable room windows with an outlook to adjoining properties, these windows comply with the requirements of Clause 55.04-6 (Overlooking) of the Scheme. Further assessment against Standard B22 is provided below.

Overshadowing

Shadow diagrams accompanying the application indicate a small increase in overshadowing will occur to the secluded private open space of adjoining properties to the south. As these areas of secluded private open space appear to have an area of 40 square metres or less, the Clause 55.04-5 of the Scheme stipulates that the extent of overshadowing to these areas should not be increased. A condition of approval will require changes so that compliance with Standard B21 is achieved. Further assessment is provided below.

Dwelling 2 and 3 provide uncovered car parking spaces.

The car spaces provided to Dwelling 2 and 3 are designed in accordance with the requirements of Clause 52.06-8 (Design standards for car parking) of the Scheme and are considered appropriate.

Vehicle sweeping paths not shown

A turning template assessment undertaken by Council's Transport Management and Planning Unit indicates that appropriate manoeuvrability and clearance has been provided for B85th percentile vehicles to access the car parking spaces and garages of dwellings. It is not considered necessary to show swept path diagrams on the plans accompanying the application as the car parking layout is considered satisfactory.

Dimensions of car parking not shown

Contrary to this concern, the dimensions of car parking spaces are provided on the plans. The dimensions comply with the requirements of Clause 52.06-8 (Design standards for car parking) of the Scheme.

Drainage issues

While not specifically a planning related issue, the proposal has been internally referred to Council's Capital Works Unit who did not object to the development subject to a condition included within the recommendation. No other drainage matters are require a planning permit or are assessable at the planning permit stage of the development process.

Unclear if fences will remain

While matters relating to boundary fences are a civil issue which is addressed under the provisions of the *Fences Act 1968*; it is noted that the plans indicate a new northern boundary fence, and the retention of the southern and eastern boundary fences.

Oversupply of one (1) and two (2) bedroom dwellings within the municipality

Key issues outlined in State Planning Policy and the Municipal Strategic Statement acknowledge the increased need for urban consolidation, issues relating to housing affordability and an increasing need to provide dwelling diversity to accommodate changing household compositions. The scope of these issues is generally addressed by the proposal which provides dwelling diversity in an established area proximate to services, which is otherwise characterised by detached dwellings.

Contrary to neighbourhood character of the area

A test of neighbourhood character as outlined at Clause 22.02 (Neighbourhood Character) of the Scheme is whether a development respects the existing character or contributes to the preferred character of the area.

The proposal is considered consistent with the existing and preferred character of the area, having regard to the Neighbourhood Character Precinct Guidelines for Precinct F9. Further assessment against neighbourhood character considerations are provided below.

Not environmentally sustainable

The proposal has been assessed against Clause 55.03-5 (Energy Efficiency) of the Scheme and is considered in accordance with the requirements of this clause. Key design features contributing to the sustainability of the development include:

- Attached construction.
- Cross ventilation is available in the design.
- The development does not unreasonably affect the solar access and energy efficiency of neighbouring dwellings.
- Open space and living areas with access to north light.
- Space for outdoor clothes drying facilities.

Traffic impacts and insufficient car parking

The proposed development provides the required number of car parking spaces to each dwelling in accordance with the requirements of Clause 52.06-5 of the Scheme. Although the proposal will result in a minor increase in local traffic within the vicinity of the site, it can be easily absorbed by the local road network. A detailed assessment of traffic and car parking matters is provided below.

Overdevelopment

A reasonable test of whether the proposal is an overdevelopment of the site is Clause 55 of the Scheme. As noted below, the proposal fully complies with the standards and objectives of Clause 55. Therefore, there is no reasonable basis to consider the proposal as an overdevelopment of the site.

Visual bulk

The proposal complies with relevant standards relating to setbacks and heights and provides adequate articulation to address visual bulk.

No net value to the community

As noted above, the development is consistent with state and local planning policies which seeks to increase urban consolidation, housing diversity and address housing affordability issues. In essence, by addressing these issues the proposal demonstrates net community value.

**PLANNING ASSESSMENT****Neighbourhood Character Precinct Guideline Assessment - Precinct F9**Vegetation

The existing dwelling contains a number of small trees and shrubs located in the front setback and private open space area, which are proposed to be removed. These will be replaced by canopy planting within the front setback and secluded private open space of each dwelling. The proposed floor plan indicates that there will be sufficient room to accommodate landscaping. A landscape plan will be required as a condition of permit.

**Complies subject to condition**Siting

- The proposal provides sufficient space within the front setback to accommodate landscaping and canopy planting. The front setback and areas of secluded private open space provide sufficient opportunities for landscaping.
- The proposal is generally sited along the northern side of the site and adopts spacing to the adjoining properties which is consistent with the existing pattern of development within the street.
- All car parking areas are located behind the front dwelling and will have minimal impact on the existing streetscape.

**Complies**Height and building form

- The proposed development provides an appropriate transition in height from the adjoining single storey dwelling to the north.
- The proposal respects the existing height and form of the street which is a mixture of single and double storey dwellings.

**Complies**Materials and design detail

- The proposal uses a mixed palette of materials (generally comprise of face brick at ground floor and render/horizontal cladding at first floor) which are sympathetic to the existing streetscape and provides articulation between floors.
- Although some blue and gold coloured trim is noted within the development which is alien to the existing streetscape, overall the predominant colours used are the muted greys and browns of the cladding, face brick and render. On balance, the proposed materials and design details comply with this objective.

**Complies**

Front boundary treatment

The plans provided do not show a front fence. A condition of permit will require the front boundary treatment to be clearly notated on plans.

**Complies subject to condition**

**Clause 55 Assessment**

The following sections provide discussion on fundamental areas of Clause 55 including variations of standards and matters informing conditions of the recommendation above.

Clause 55.03-1 B6 Street Setback

- The front setbacks of the adjoining dwellings are 7.6 metres and 8.4 metres. The standard therefore requires a setback of 8 metres.
- The proposed front setback of 7.9 metres does not comply with the standard. A condition of approval will require the street setback to be increased to 8 metres in order to comply with the standard.

**Complies subject to condition**

Clause 55.03-10 B15 Parking Location

- Parking facilities will be proximate to the dwellings they serve.
- The proposed garages are an adequately secure form of parking.
- The access is observable.
- Noting that the living rooms of Dwelling Nos. 2 and 3 are located 1m from the accessway, the window sill will be required to be 1.4m above the accessway as a condition of permit.

**Complies subject to condition**

Clause 55.04-1 B17 Side and Rear Setbacks

Ground floor

<b>Boundary</b>	<b>Wall height</b>	<b>Required Setback</b>	<b>Proposed setback</b>
Eastern – Dwelling 1	2.695 metres	1 metre	3 metres
Western – Dwelling 1	2.626 metres	1 metre	4.6 metres
Eastern – Dwelling 2	2.695 metres	1 metre	4.5 metres
Western – Dwelling 2	3.2 metres	1 metre	4.6 metres
Eastern – Dwelling 3	2.925 metres	1 metre	1.4 metres
Western – Dwelling 3	2.880 metres	1 metre	4.77 metres
Southern – Dwelling 3	3.2 metres	1 metre	3.1 metres

First Floor

<b>Boundary</b>	<b>Wall height</b>	<b>Required Setback</b>	<b>Proposed setback</b>
Eastern – Dwelling 1	6.65 metres	1.915 metres	3.66 metres
Western – Dwelling 1	6.475 metres	1.86 metres	4.66 metres
Eastern – Dwelling 2	6.475 metres	1.86 metres	4.66 metres
Western – Dwelling 2	6.475 metres	1.86 metres	5.55 metres

The proposed northern boundary setbacks of dwelling Nos. 2, 3 and 4 are considered to have the potential to cause unacceptable amenity and visual bulk issues where they are adjacent to the private open space of the adjoining dwelling at No. 16, and therefore do not meet the objective of Standard B17. Two separate permit conditions will require the deletion of the En-suite and Walk-In-Robe of Bedroom 1 of Dwelling 4 and an increased first floor northern boundary setback of 3 metres to be provided to Dwelling 2 and Dwelling 3.

**Complies subject to condition**

Clause 55.04-3 B19 Daylight to Existing Windows

- An area of at least 3 square metres with a minimum dimension of 1 metre clear to the sky is provided opposite all existing habitable room windows, which complies with the standard.
- The development allows adequate daylight to neighbouring existing habitable room windows.
- The garage wall on boundary of Dwelling 1 requires a setback of 1.6 metres (i.e. 50% the height of the wall) to the adjacent habitable room windows at No. 16 Birdwood Street. The proposal therefore seeks a variation of 0.575 metres. A condition of permit will require the proposal building height to be reduced or the wall to be setback to comply with the standard.

**Complies subject to condition**

Clause 55.04-5 B21 Overshadowing

- Shadow diagrams accompanying the application indicate a slight increase in overshadowing of adjoining properties to the south. As these areas of secluded private open space appear to have an area of 40 square metres or less, the standard stipulates that overshadowing to these areas should not be further increased.
- A condition of approval will require compliance with Standard B21 to be achieved via increased southern boundary setbacks or reducing the overall height of the development.

**Complies subject to condition**

Clause 55.04-6 B22 Overlooking

- The development is designed to limit views into neighbouring secluded private open space and habitable room windows.
- It is noted that no notation indicating screening in accordance with this standard has been provided to the south-facing habitable room windows of Bedroom 1 and 2 of Dwelling 3, or Bedroom 3 of Dwelling 4. A condition of permit will ensure that these windows are screened in accordance with the standard.

- All other upper storey habitable room windows are appropriately designed and/or noted as being screened to ensure no overlooking.

**Complies subject to condition**

Clause 55.05-4 B28 Private Open Space

- The development provides adequate private open space (pos) for the reasonable recreation and service needs of residents.
- This is achieved through the provision of 40 square metres of secluded private open space at the side or rear of the dwelling with a minimum area of 25 square metres, a minimum dimension of 3 metres and convenient access from a living room or

	<b>Total POS</b>	<b>Secluded POS</b>	<b>Minimum dimension of secluded POS</b>
Dwelling 1	115.58 square metres	35 square metres	3.85 metres
Dwelling 2	40 square metres	40 square metres	3.3 metres
Dwelling 3	40 square metres	40 square metres	3.3 metres
Dwelling 4	40 square metres	40 square metres	4 metres

- All secluded private open space areas have direct access to a living room.

**Complies**

Clause 55.05-6 B30 Storage

- A condition of permit will require to provision of 6 cubic metres of storage to be provided to Dwelling 4 in accordance with this standard.
- All other dwellings have been provided with 6 cubic metres of externally accessible, which is conveniently accessible.

**Complies subject to condition**

**Clause 52.06 Car Parking**

Number of Parking Spaces Required

- One (1) car parking space is provided for each of the one and two (2) bedroom dwellings.
- Two (2) car parking spaces are provided for each of the three (3) or more bedroom dwellings with one space under cover.

Design Standards for Car parking

- The car parking spaces, the carports, the garaging and the accessways have appropriate dimension to enable efficient use and management.
- The car parking facilities are designed, surfaced and graded to reduce run-off and allow stormwater to drain into the site.
- The car space dimensions of 3.5 metres width x 5.0 metres length comply with the minimum requirements of the standard.
- Garage dimensions of 5.5 metres width x 6 metres length comply with the minimum requirements of the standard.

- Access dimensions to the car spaces comply with the standard.

**CLAUSE 55 COMPLIANCE SUMMARY**

Clause	Std		Compliance	
			Std	Obj
<b>55.02-1</b>	<b>B1</b>	<b>Neighbourhood character</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.02-2</b>	<b>B2</b>	<b>Residential policy</b>		
		The proposal complies with the relevant residential policies outlined in the Darebin Planning Scheme.	Y	Y
<b>55.02-3</b>	<b>B3</b>	<b>Dwelling diversity</b>		
		N/A as development contains less than 10 dwellings.	N/A	N/A
<b>55.02-4</b>	<b>B4</b>	<b>Infrastructure</b>		
		Adequate infrastructure exists to support new development	Y	Y
<b>55.02-5</b>	<b>B5</b>	<b>Integration with the street</b>		
		Dwelling 1 appropriately integrates with the Street.	Y	Y
<b>55.03-1</b>	<b>B6</b>	<b>Street setback</b>		
		The required setback is 8 metres, the dwellings are set back 7.9 metres from the street frontage. Complies subject to a condition.	Y	Y
<b>55.03-2</b>	<b>B7</b>	<b>Building height</b>		
		7.25 metres	Y	Y
<b>55.03-3</b>	<b>B8</b>	<b>Site coverage</b>		
		34%	Y	Y
<b>55.03-4</b>	<b>B9</b>	<b>Permeability</b>		
		34%	Y	Y
<b>55.03-5</b>	<b>B10</b>	<b>Energy efficiency</b>		
		Dwellings are considered to be generally energy efficient and will not unreasonably impact adjoining properties.	Y	Y
<b>55.03-6</b>	<b>B11</b>	<b>Open space</b>		
		N/A as the site does not abut public open space.	Y	Y
<b>55.03-7</b>	<b>B12</b>	<b>Safety</b>		
		The proposed development is secure and the creation of unsafe spaces has been avoided.	Y	Y
<b>55.03-8</b>	<b>B13</b>	<b>Landscaping</b>		
		Adequate areas are provided for appropriate landscaping and a landscape plan has been required as a condition of approval.	Y	Y



Clause	Std		Compliance	
			Std	Obj
<b>55.03-9</b>	<b>B14</b>	<b>Access</b>		
		Access is sufficient and respects the character of the area.	Y	Y
<b>55.03-10</b>	<b>B15</b>	<b>Parking location</b>		
		Parking facilities are proximate to the dwellings they serve, the access is observable, habitable room windows are sufficiently set back from access ways.	Y	Y
<b>55.04-1</b>	<b>B17</b>	<b>Side and rear setbacks</b>		
		Dwellings are set back in accordance with the requirements of this standard.	Y	Y
<b>55.04-2</b>	<b>B18</b>	<b>Walls on boundaries</b>		
		Length: 12.42 metres Height: 3.2 metres Walls on boundaries comply with the requirements of this standard.	Y	Y
<b>55.04-3</b>	<b>B19</b>	<b>Daylight to existing windows</b>		
		Sufficient setbacks exist to allow adequate daylight. Complies subject to condition.	Y	Y
<b>55.04-4</b>	<b>B20</b>	<b>North-facing windows</b>		
		There are no north facing windows within 3.0 metres of the common boundary with the subject site.	Y	Y
<b>55.04-5</b>	<b>B21</b>	<b>Overshadowing open space</b>		
		Shadow cast by the development is within the parameters set out by the standard. Complies subject to condition.	Y	Y
<b>55.04-6</b>	<b>B22</b>	<b>Overlooking</b>		
		Please see assessment in the body of this report. Complies subject to condition.	Y	Y
<b>55.04-7</b>	<b>B23</b>	<b>Internal views</b>		
		There are no internal views	Y	Y
<b>55.04-8</b>	<b>B24</b>	<b>Noise impacts</b>		
		Noise impacts are consistent with those in a residential zone.	Y	Y
<b>55.05-1</b>	<b>B25</b>	<b>Accessibility</b>		
		The ground levels of the proposal can be made accessible for people with limited mobility.	Y	Y
<b>55.05-2</b>	<b>B26</b>	<b>Dwelling entry</b>		
		Entries to the dwellings are identifiable and provide an adequate area for transition.	Y	Y

Clause	Std		Compliance	
			Std	Obj
<b>55.05-3</b>	<b>B27</b>	<b>Daylight to new windows</b>		
		Adequate setbacks are proposed to allow appropriate daylight access.	Y	Y
<b>55.05-4</b>	<b>B28</b>	<b>Private open space</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.05-5</b>	<b>B29</b>	<b>Solar access to open space</b>		
		Sufficient depth is provided for adequate solar access.	Y	Y
<b>55.05-6</b>	<b>B30</b>	<b>Storage</b>		
		Sufficient storage areas are provided. Complies subject to a condition.	Y	Y
<b>55.06-1</b>	<b>B31</b>	<b>Design detail</b>		
		Design detail of dwellings is appropriate in the neighbourhood setting.	Y	Y
<b>55.06-2</b>	<b>B32</b>	<b>Front fences</b>		
		Front Fencing is not proposed. A condition of the permit will limit front fencing to a height of 1.2 metres.	Y	Y
<b>55.06-3</b>	<b>B33</b>	<b>Common property</b>		
		Common property areas are appropriate and manageable.	Y	Y
<b>55.06-4</b>	<b>B34</b>	<b>Site services</b>		
		Sufficient areas for site services are provided.	Y	Y

**REFERRAL SUMMARY**

Department/Authority	Response
Capital Works	No objection, subject to condition included in recommendation.
Transport Management and Planning	No objection, subject to condition included in recommendation.
Darebin Parks	No objection, subject to condition included in recommendation.

**PLANNING SCHEME SUMMARY**

**Darebin Planning Scheme clauses under which a permit is required**

- Clause 32.08-4 (General Residential Zone) – construction of two (2) or more dwellings on a lot.

**Applicable provisions of the Darebin Planning Scheme**

<b>Section of Scheme</b>	<b>Relevant Clauses</b>
SPPF	11.02-1, 15.01, 15.02, 16.01, 19.03
LPPF	21.03, 22.02
Zone	32.08
Overlay	45.06
Particular provisions	52.06, 55
General provisions	65.01
Neighbourhood Character Precinct	F9

**POLICY IMPLICATIONS****Environmental Sustainability**

All new dwellings are required to achieve a minimum six (6) star energy rating under the relevant building controls.

**Social Inclusion and Diversity**

Nil

**Other**

Nil

**FINANCIAL AND RESOURCE IMPLICATIONS**

There are no financial or resource implications as a result of the determination of this application.

**FUTURE ACTIONS**

Nil

**DISCLOSURE OF INTERESTS**

Section 80C of the *Local Government Act 1989* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any direct or indirect interest in a matter to which the advice relates.

The Manager authorising this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

**RELATED DOCUMENTS**

Darebin Planning Scheme and the *Planning and Environment Act (1987)* as amended.

**5.4 APPLICATION FOR PLANNING PERMIT D/1011/2012**  
 195-209 St Georges Road, Northcote

**AUTHOR: Principal Planner – Jolyon Boyle**

**DIRECTOR: Director Assets and Business Services – Steve Hamilton**

**OWNER/APPLICANT/CONSULTANT:**

Applicant	Owner	Consultant
Wortex Pty Ltd	Seventh Mirage Pty Ltd	P2 Urban Planning and Design

**SUMMARY:**

- Development of a 10-storey building comprising 168 dwellings, a supermarket (1,500 square metres) and eight (8) shops.
- Fifty two (52) one (1) bedroom and 116 two (2) bedroom dwellings are proposed.
- Two hundred and fifty one car parking spaces are provided across four (4) basement levels. This represents a reduction to the car parking requirement.
- The site is located within the Commercial 1 Zone. A Design and Development Overlay (Schedule 16) and Environmental Audit Overlay apply.
- The Design and Development Overlay applies a preferred height limit of 5 storeys, allowing for a greater height where an exemplary development outcome is demonstrated.
- There is a section 173 agreement on title that attaches a requirement to deliver social housing as part of the development. The proposed development does not breach the terms of the agreement. A covenant is contained on title and the proposed development does not breach the terms of the covenant.
- No objections were received against this application as the application was not advertised.
- The proposal fails to meet a number of objectives and standards of Clause 22.06 and 43.02 of the Darebin Planning Scheme.
- It is recommended that the application be refused.

**CONSULTATION:**

- Public notice was not given.
- This application was referred internally to the Capital Works, Transport Management and Planning Unit, ESD officer and Urban Design officer.
- This application was not required to be referred to external authorities.

**Recommendation**

**That** Planning Permit Application D/1011/2012 be refused and Notice of Refusal be issued on the following grounds:

1. The application is contrary to the aims and objectives of the following aspects of the Planning Scheme:
  - a) 15.01 Urban Design
  - b) 16.01 Residential Development
  - c) 22.06-3.1 Sustainability
  - d) 22.06-3.2 Design and Materials
  - e) 22.06-3.3 Building height
  - f) 22.06-3.4 Dwelling diversity
  - g) 22.06-3.5 Car Parking and Vehicle Access
  - h) 22.06-3.6 Street address
  - i) 22.06-3.8 Amenity impacts including Overshadowing and Overlooking
  - j) 22.06-3.9 On site amenity and facilities, including private open space
  - k) 22.06-3.10 Waste Management
  - l) 52.06 Car parking
  - m) 52.34 Bicycle parking
2. The height, design, setbacks and form of the proposal are contrary to Clause 43.02 (Design and Development Overlay – Schedule 15) of the Darebin Planning Scheme.
3. As required by Clause 43.02 (Design and Development Overlay – Schedule 15) of the Darebin Planning Scheme the development fails to demonstrate and exemplar design in proposing a height greater than five (5) storeys.
4. The development is contrary to the Higher Density Residential Development Guidelines.
5. A high portion of the dwellings provide a poor level of internal amenity as a result of their internal layout, restricted outlook, lack of daylight and or screening measures.
6. The development fails to adequately address ESD objectives, particularly as a high proportion of the dwellings are reliant on borrowed or artificial lighting, contrary to Clauses 15.01, 15.02 and 21.05 and 22.06 of the Darebin Planning Scheme.

**Report****INTRODUCTION AND BACKGROUND**

The application was lodged on 20 December 2012. This proposal has evolved across three (3) amendments to the planning application.

1. The initial proposal involved the development of a six (6) storey building (plus two (2) basement levels) comprising 114 dwellings, 157 car parking spaces, 10 retail premises and a reduction to the car parking requirement.

This application was advertised and received 261 objections.

2. A section 57a application was lodged 1 October 2013. The amended proposed involved the development of a six (6) building (plus two (2) basement levels) comprising 102 dwellings and a supermarket and reduction to the car parking requirement.
3. A further section 57a amendment was lodged 21 February 2014.  
The amended proposed involved the development of a six (6) building (plus two (2) basement levels) comprising 102 dwellings and a supermarket and reduction to the car parking requirement.

The current section 57A amendment under consideration was lodged on 17 December 2015.

The current proposal involves the development of a 10-storey building comprising 168 dwellings, a supermarket (1,500 square metres) and eight (8) shops and a reduction to the car parking requirement.

## ISSUES AND DISCUSSION

### Subject site and surrounding area

- The land is regular in shape and measures 36 metres in length and 65 metres in width with a site area of 2,347 square metres.
- The land is located within the Commercial 1 Zone.
- The site is located on the corner of St Georges, Beavers Road and Bent Street.
- A right of way (ROW) adjoins the west boundary of the site, separating the site from the consolidated residential area which extends to the west.
- The site is relatively flat.
- The site is currently vacant and devoid of any significant vegetation.
- The subject land is the former Windsor Smith factory previously used for manufacturing shoes and retail sales.
- The site is located within a Commercial 1 Zone. A Design and Development Overlay, an Environmental Audit Overlay and Development Contribution Plan Overlay apply to the land.
- St Georges Road is a Road Category 1 Road.
- The adjacent and nearby properties fronting Beavers Road and Bent Street to the west are located within a Residential 1 Zone.
- Land to the north on the west side of St Georges Road is located within a Commercial 1 Zone. Several of the properties within the Commercial 1 Zone have either been converted into residential accommodation or provide residential accommodation in addition to a commercial use.
- Land to the south on the west side of St Georges Road is located within a Residential 1 Zone.
- West of the site beyond the ROW (fronting Beavers Road) is a single storey dwelling. The dwelling presents a blank windowless façade to the development site. An area of secluded private open space is located to the rear of the dwelling.
- West of the site beyond the ROW (fronting Bent Street) is a warehouse redeveloped into four (4) dwellings. Two (2) of the four (4) proposed dwellings interface with the development. These two (2) dwellings are double storey in height and do not provide a balcony or any form of outdoor space.

- East of site on the opposite side of St Georges Road are dwellings located within the Residential 1 Zone.
- South-east of the site is Batman Park, located within the Public Park and Recreation Zone and Heritage Overlay.
- The site well served by public transport, with trams operating on St Georges Road. Northcote Train Station is located 450 east of the site.

### Proposal

- Development of a 10-storey building comprising 168 dwellings, a supermarket (1,500 square metres) and eight (8) shops.
- Fifty two one (1) bedroom and 116 two (2) bedroom dwellings are proposed.
- Two hundred and fifty one car parking spaces are provided across four (4) basement levels. This represents a reduction to the car parking requirement.

### Section 173 Agreement

The site is encumbered by a section 173 agreement dated 29 September 2011. The agreement was imposed upon the land at the agreement of Council and the former owner of the land, Seventh Mirage Pty Ltd. The agreement was entered into in conjunction with a Planning Scheme which rezoned the land from Industrial 3 Zone to a Business 2 Zone (now Commercial 1 Zone) and the application of a Design and Development Overlay guiding the delivery of a mix used residential development comprising 10% social housing.

The agreement requires the owner of the land to sell not less than 10% of all dwellings to a registered housing association or registered housing provider for a sum which does not exceed more than 80% of the market price of each dwelling to be sold.

The current application makes no reference to social housing and nor does it identify any of the proposed dwellings for the purpose of social housing. While the proposal does not breach the terms of the agreement the applicant will need to resolve and address the requirements of the agreement prior to the sale of any dwellings on the land. Alternatively the applicant could seek to amend or remove the agreement in accordance with the provisions of the *Planning Environment Act*. An application to amend or remove a 173 agreement must be made to the Minister for Planning. At this stage the applicant has not made it known as to whether they intend on delivering the 10% social housing.

## PLANNING POLICY

### State and Local Planning Policy:

State planning policies encourage new housing, including a range of housing types, in or close to activity centres and employment corridors and at other strategic redevelopment sites that offer good access to services and transport. Ensuring new housing provides a quality living environment is a further objective of the State Planning policy provisions.

The Municipal Strategic Statement (MSS) states activity centres are the focus for achieving many directions of Plan Melbourne; and opportunities for incorporating residential development in and around centres need to be identified and quantified.

While the site is not located within an activity centre, the Northcote Activity Centre is located a short distance to the east on High Street.

The housing section of the MSS at Clause 21.03-2 identifies the site for substantial housing change. *The scale and intensity of residential growth will differ across Substantial Change Areas depending on their strategic capacity to accommodate municipal growth and future housing needs as described at Clause 21.01-6. Generally, residential growth in Darebin adheres to the following hierarchy:*

- a) *Preston Central and Northland East Preston Activity Centres*
- b) *Reservoir and Northcote Activity Centres*
- c) *Neighbourhood Centres*
- d) *Strategic Corridors including Plenty Road and St Georges Road*
- e) *Other substantial change areas as identified in the Strategic Housing Framework Plan.*

The housing provision strategies in the MSS encourage a variety of housing typologies at increased densities in substantial change areas, with the scale of development appropriate to the context identified in a structure plan or Council policy and generally in accordance with the residential growth hierarchy quoted above. The St Georges Road corridor is at the lower end of this hierarchy. This means the scale and intensity of residential growth may be less than other higher order nominated activity centres.

Objective 1 (Housing Provision) of Clause 21.03 of the Darebin Planning Scheme: *to facilitate housing development that has an appropriate scale and intensity in locations across the municipality.*

Strategies to achieve the objective:

- *In Substantial Housing Change Areas, encourage a variety of housing typologies at increased densities and to discourage underdevelopment, with the scale of development appropriate to precinct characteristics and context as identified by a structure plan or adopted policy of Council, and generally in accordance with the hierarchy of residential growth identified at Clause 21.03-1 of the Darebin Planning Scheme*
- *Ensure that the design of development at interfaces between Substantial Change and Incremental or Minimal Change Areas, or between Incremental and Minimal Change Areas, provides a sensitive transition, with particular consideration given to: Design and layout which avoids unreasonable amenity impacts on adjoining sensitive residential interfaces due to overshadowing, loss of privacy and unreasonable visual intrusion; Site orientation, layout and topography in determining the appropriate built form envelope and in assessing the impact of proposed development on adjoining amenity*

In terms of the design, interface and quality of the internal living spaces, Objective 3 (Residential Amenity) of Clause 21.03-2 of the Darebin Planning Scheme seeks to *facilitate residential and mixed use developments that display a high standard of design, limit off-site amenity impacts and provide appropriate internal amenity for residents.*

Strategies to achieve this objective are:

- *Require a high standard of design (including architectural quality and environmentally sustainable design) be achieved in residential and mixed use developments through the use of design and development overlays, urban design frameworks, development plans and local policies as appropriate.*
- *Ensure non-residential use and developments in residential zones are designed to minimise negative amenity impacts on the surrounding residential neighbourhood.*



- *Ensure mixed use developments are designed to provide adequate amenity to residences on the site, minimising the need for screening and limiting unreasonable negative amenity impacts on surrounding residential uses.*
- *Ensure that housing development within and adjoining retail and employment areas is designed to minimise the potential for conflict between commercial and residential uses, including noise and operational considerations.*
- *Support the consolidation of retail and employment activities within activity centres.*

Further guidance on the quality of new housing, particularly apartments is discussed under Initiative 2.1.5 of Plan Melbourne which contains the following objective: *improve the quality and amenity of residential apartments.*

The release of the Better Apartments Discussion Paper has drawn further attention toward the issue of internal amenity. In regard to equitable development Clause 22.06 of the Planning Scheme requires new proposals to have regard to the development potential of adjoining sites so that equitable access direct sunlight is achieved.

**PLANNING ASSESSMENT**

**State and Local Planning Policy**

State and Local planning policies encourage good design that provides an acceptable level of internal amenity and a reasonable opportunity for development to be replicated on adjacent sites, which is otherwise known as equitable development.

Internal amenity is a common issue that arises in commercial precincts with rows of properties, particularly narrow properties, which can make it difficult to create an apartment layout that provides acceptable internal amenity. This is not the case with this particular development, as it occupies an island site adjacent three (3) street frontages and a right of way (ROW).

**Clause 22.06 Multi Residential and Mixed Use Development and Amendment C137**

Objectives:

- *To facilitate residential and mixed use development which promotes housing choice, displays a high standard of urban design, limits off-site amenity impacts, and provides appropriate on-site amenity for residents.*
- *To facilitate development that demonstrates the application of environmentally sustainable design principles.*
- *To facilitate a high quality street edge that relates to the public realm.*
- *To encourage efficient design outcomes that consider the development potential of adjoining sites.*
- *To encourage the consolidation of lots to facilitate better design and amenity outcomes for higher density development in locations where substantial housing change is directed.*

<b>Element</b>	<b>Comment</b>	<b>Compliance</b>
<b>Sustainability</b>	A Sustainability Management Plan was not submitted with the application. The ESD credentials of the development are therefore unknown at this stage. Arguably ESD is a key measure in ascertaining the design performance of the	Does not comply

Element	Comment	Compliance
	<p>development when exemplary design is a criteria to justify an increase above the preferred height limit expressed in the Design and Development Overlay.</p> <p>The internal amenity of a high proportion of the dwellings is substandard, which is both an internal amenity issue and a measure of poor ESD performance.</p>	
<p><b>Design and Materials</b></p>	<p>At 10 storeys, the proposal is approximately twice the scale envisaged by the Design and Development Overlay - Schedule 15 (DDO) and would be much taller than the expected scale of development on the blocks to the north and south of the site.</p> <p>The proposal is out of scale, even in the context of a strategic development site, on a wide arterial road, and does not make a suitable transition to the low-scale residential hinterland to the west.</p> <p>The street elevation appears as a sheer 10 storey form with a minor setback at the sixth level that would be barely discernable when viewed from St George's Road. The built form fails to respect the fine grain and pedestrian scale that is characteristic and desired for new development along St George's Road.</p> <p>The rear form of the proposal does not comply with the setback required by the DDO, protruding well beyond the 45 degree setback envelope. The arrangement of the rear form impedes a suitable transition of building mass toward the adjacent two (2) storey residential precinct on Bent Street and Beavers Road, greatly exceeding the two (2) storey rear scale expected by the DDO.</p> <p>The side elevations incorporate setbacks of two (2) metres from the boundary to a sheer form of five (5) storeys to the side streets, with a further 2.4 metre setback provided to the upper two (2) levels. The arrangement of massing is aggressive and is an inadequate response to the context of low-rise built forms in the side streets. The stairwell and lift elements sit forward of the façade at level five (5) and above and which exacerbates the perception of height.</p> <p>The five (5) storey podium element does not transition well to the residential forms (noting the DDO15 expectation above of a two (2) storey rear form), and at over 17 metres in height, would have an overbearing relationship to the 15 metre wide local roads and to the properties located to the rear.</p> <p>For the reasons outlined above, the form would appear excessive at the ends of these (NRZ1) residential streets.</p> <p>Detailing of the ground floor interface provides little visual interest to the streets. A continuous standard shopfront glazing system would extend around all three (3) street frontages. Given that a supermarket is proposed to the St Georges Road frontage, much of this would likely be</p>	<p>Does not comply</p>

Element	Comment	Compliance
	<p>obscured by signage or painted out. More considered street level detailing is required for this large development.</p> <p>The proposed materials palette consists of glazing, cement render, perforated metal cladding, and a minor amount of copper finish 'architectural cladding'. This palette has little relation to the environs of the site, and a more contextual response, such as the incorporation of brickwork, is preferred for this large proposal.</p>	
<p><b>Building Height</b></p>	<p>At 10 storeys, the proposal is is over twice the height envisaged under the DDO, and would be much taller than the expected scale of development on the blocks to the north and south of the site. The proposal is out of scale, even in the context of a strategic development site, on a wide arterial road, and does not make a suitable transition to the low-scale residential hinterland to the west of the site.</p> <p>The street elevation appears as a sheer 10 storey form with a minor setback at the sixth level that would be barely discernable when viewed from St George's Road. The built form fails to respect the fine grain and pedestrian scale that is characteristic and desired for new development along St George's Road.</p> <p>The rear form of the proposal does not comply with the setback required by the DDO, protruding well beyond the 45 degree setback envelope. The arrangement of the rear form impedes a suitable transition of building mass toward the adjacent two (2) storey residential precinct on Bent Street and Beavers Road, greatly exceeding the two (2) storey rear scale expected by the DDO.</p> <p>The side elevations incorporate setbacks of two (2) metres from the boundary to a sheer form of five (5) storeys to the side streets, with a further 2.4 metre setback provided to the upper two (2) levels. The arrangement of massing is aggressive and is an inadequate response to the context of low-rise built forms in the side streets. The stairwell and lift elements sit forward of the façade at level five (5) and above and which exacerbates the perception of height. The five (5) storey podium element does not transition well to the residential forms (noting the DDO15 expectation above of a two (2) storey rear form), and at over 17 metres in height, would have an overbearing relationship to the 15 metre wide local roads and to the properties located to the rear.</p> <p>The rear of the site sits within a different context. Its interface is with the single storey detached dwellings and secluded private open space areas of dwellings that form part of the consolidated residential area which extends to the west. The proposed height coupled with limited setbacks from the west boundary (which fail to achieve the setback and overshadowing requirements listed at Clauses 22.06 and the DDO), present a significant visual impact,</p>	<p>Does not comply</p>

Element	Comment	Compliance
	<p>resulting in an overbearing sense of the enclosure upon the properties to the west.</p> <p>It is acknowledged that the area will change both in form and densities as the Planning Scheme's policies are implemented. The smaller adjacent lot sizes in conjunction with the character and amenity considerations are a contextual constraint that must be responded to in an appropriate manner.</p> <p>As a result the height and scale of the proposal needs to be drastically reduced and moderated in order to satisfactorily respond to this adjoining lower scale domestic context and the street context.</p> <p>It is not considered that the support which the proposal enjoys from both State and local policy which advocates for urban consolidation is sufficient to outweigh the concerns with regard to the height, bulk, setbacks and overshadowing.</p>	
<b>Dwelling diversity</b>	<p>The development provides 52 one (1) bedroom and 116 two (2) bedroom dwellings in a diversity of layouts. A development of this scale should incorporate a greater variety of layouts, including larger dwellings with three (3) bedrooms.</p>	Does not comply
<b>Parking and vehicle access</b>	<p>Refer to the Clause 52.06 assessment below.</p>	Does not comply
<b>Street address</b>	<p>Ground floor supermarket with frontage to St Georges Road. This would be sleeved with smaller shops along the side streets (Bent Street and Beavers Road interfaces), helping to create active frontage.</p> <p>The shops are quite small in area, but have potential to be combined into larger premises. Toilet and kitchen facilities should be indicated for the shops, as well as how they would conveniently access waste storage facilities</p> <p>Pedestrian entrances and residential foyers are located, appropriately, on each of the three street fronts.</p> <p>Vehicle access is provided to basement level via a ramp from the rear laneway, as is appropriate to context.</p> <p>Detailing of the ground floor interface provides little visual interest to the streets. A continuous standard shopfront glazing system would extend around all three (3) street frontages. Given that a local supermarket is proposed to the St Georges Road frontage, much of this would likely be obscured by signage etc. A more considered street level detailing is required for this large development to provide a highly visual and transparent interface with the street at ground level.</p>	Does not comply
<b>Amenity Impacts</b>	<p>The submitted shadow diagrams illustrate that less than 75 per cent or 40 square metres with a minimum dimension of</p>	Does not comply

Element	Comment	Compliance
<p><b>Including Overshadowing and Overlooking</b></p>	<p>three (3) metre of the secluded private space serving No.117 Beavers Road will not receive a minimum of five hours of sunlight between 9am and 3pm on 22 September.</p> <p>Windows and/or balconies within nine (9) metres of adjacent habitable room windows and secluded private open space areas are required to be screened, subject to a condition of any permit that may issue.</p>	
<p><b>On-Site Amenity and Facilities, including Private Open Space</b></p>	<p>Objective 3 of Clause 21.03 (Housing) is <i>to facilitate residential and mixed use developments that display a high standard of design, limit off-site amenity impacts and provide appropriate internal amenity for residents. Strategies to achieve this objective: require a high standard of design (including architectural quality and environmentally sustainable design) be achieved in residential and mixed use developments through the use of design and development overlays, urban design frameworks, development plans and local policies as appropriate.</i></p> <p>Initiative 2.1.5 of <i>Plan Melbourne</i> is <i>to improve the quality and amenity of residential apartments.</i></p> <p>Residential accommodation is proposed as mainly single-aspect units, double-banked from a central access corridor. Corner units achieve dual aspect</p> <p>Each 'leg' of the internal corridors is able to be provided with natural light.</p> <p>A high proportion of the dwellings provide a substandard level of internal amenity.</p> <p>68 dwellings provide a depth of over eight (8) metres. A contextual design response would see single-aspect, south-facing units shallower in plan, compared to those on the other side of the site. The ideal maximum depth of single aspect apartment is eight (8) metres and five (5) metres for south facing apartments.</p> <p>Dwellings 1.5, 1.6, 2.5, 2.6, 3.5, 3.6, 4.5, 4.5, 5.4, 5.5, 6.4, 6.5, 7.4, 7.5, 8.4, 8.5, 9.4 and 9.5 have internal borrowed-light bedrooms without windows, external frontage widths of around 2.75m, and scale at over 11 metres in depth.</p> <p>Dwellings 1.14, 1.15, 1.18 and 1.19 have frontage onto the side wall of an adjacent dwelling, located three (3) metres away, with approximately only 2.75 metres of this width clear to the sky. In addition, the bedroom window of the opposing dwelling provides a windows requiring treatment to avoid overlooking. This demonstrates a flaw in the design, impacting the outlook and daylight for these dwellings, especially at lower levels. The arrangement is repeated on all levels.</p> <p>Several dwellings propose battle-axe bedrooms with 'tunnel' lengths of approximately 5.5 metres from the front face of</p>	<p>Does not comply</p>

Element	Comment	Compliance
	<p>the overhanging balconies to the inside wall of the bedroom.</p> <p>This would impact on daylight levels, especially for south-facing dwellings, increasing the reliance on artificial lighting.</p> <p>A selection of the bedrooms scale at three (3) metres x three (3) metres, which is insufficient to allow for flexibility in layout, or to allow space for additional pieces of furniture such as storage items.</p> <p>The common light court is generously sized. At approximately 21 metres width, it is large enough to avoid the need for privacy screening to facing dwellings. Some balconies within the development may require partial screening to address internal overlooking.</p>	
<b>Waste Management</b>	<p>The design of a development of this scale should be informed by a waste management plan detailing the number and size of bins required to service the development and the times, frequency and means of waste collection.</p> <p>Waste collection must be limited to one (1) collection per week per waste stream and the size of the waste collection area must be designed to achieve this outcome.</p> <p>For a development of this scale, it would be appropriate to seek details of waste management measures prior to issuing a permit. The waste storage space may need to be increased in area to achieve a maximum of one (1) waste collection per week.</p>	Does not comply
<b>Equitable Access</b>	<p>The development could be retrofitted to accommodate older people and people with disabilities.</p>	Complies

**Clause 43.02 – Design and Development Overlay**

The objectives of this Clause are:

- *To support the integrated redevelopment of the site.*
- *To encourage the creation of a high quality public realm through quality architectural design and attractive frontages.*
- *To ensure that the height, siting and design of new development does not adversely impact on the amenity of neighbouring residential properties.*
- *To ensure redevelopment provides a high level of amenity for site occupants.*
- *To limit unreasonable visual bulk of new development to the public realm and adjacent properties through appropriate scale, form and articulation.*
- *To promote environmentally sustainable design.*
- *To ensure that development does not adversely impact on local traffic conditions and promotes a safe pedestrian friendly environment.*

Clause 43.02 of the Scheme provides five (5) assessment criteria. The following table provides an assessment of the proposal against the provisions contained in the Policy.

	Comment	Compliance
<p><b>Building height and setbacks</b></p>	<p>The development provides a 10-storey height (34 metre maximum building height), where this Clause advocates a maximum building height of 16.7 metres.</p> <p>At 10 storeys, the proposal is over twice the height envisaged by DDO15, and would be much taller than the expected scale of development on the blocks to the north and south of the site. The proposal is out of scale, even in the context of a strategic development site, on a wide arterial road, and does not make a suitable transition to the low-scale residential hinterland behind. The level of articulation provided to the street facing elevations is insufficient to offset the height and perception of scale and mass.</p> <p>The rear form of the proposal does not comply with the setback required by DDO15, protruding well beyond the 45 degree setback envelope. The arrangement of the rear form impedes a suitable transition of building massing to the adjacent two (2) storey residential precinct on Bent Street and Beavers Road, greatly exceeding the two (2) storey rear scale expected by DDO15.</p> <p>Under this Clause a development which exceeds a height of 16.7 metres and the rear setback envelope must be of an exemplary design standard and demonstrate compliance with the design objectives of this Clause.</p> <p>The proposal is considered a substandard design outcome which is well in excess of the height and scale of development anticipated and emerging along the St Georges Road corridor. The design, form and materials applied to each elevation are regarded as pedestrian. The materials palette does not respond to the residential context of the site.</p> <p>The internal amenity of a high proportion of the dwellings is substandard providing poor outlook and limited access to daylight. The application is not supported by ESD assessment. This design has been delivered at time when ever increasing scrutiny from State and Local Governments and VCAT are being applied to the design and quality of apartment developments.</p> <p>The State government's Better Apartments Discussion Paper and Moreland Council's push to improve the quality of apartments through its Apartment Design Code are examples of the changing way planning proposals are assessed.</p> <p>In comparison to some recent forward thinking proposals emerging in Darebin and elsewhere this proposal is regarded as a substandard and poorly considered outcome. The level of change and degree of non-compliance with the DDO relative to the existing built form is simply too great,</p>	<p>Does not comply.</p>

	Comment	Compliance
	<p>given that the adjacent residential areas are domestic, fine grain and likely to see only minimal change as a result of their NRZ1 zoning.</p>	
<p><b>Building form</b></p>	<p><i>Development is to step down in height to the western boundary and generally comply with the Preferred Building Envelope plan forming part of this schedule to minimise impacts on adjacent residential properties. Development should be designed to avoid unreasonable impacts on the amenity of adjoining residential properties in terms of visual bulk, overshadowing, overlooking and noise.</i></p> <p>This is an 'island' site with interfaces to St Georges Rd (east), Bent St (south), Beavers Rd (north), and a rear laneway (west).</p> <p>The proposal is a 10 storey development, with four (4) basement levels of parking and ground floor retail uses including a 1,500 square metre supermarket.</p> <p>Nine (9) residential levels above formed into a C-shape are located around a central courtyard adjacent to the rear laneway.</p> <p>The 10 storey height and the rear form of the proposal does not comply with the height and setback required by DDO15, protruding well beyond 16.7 metre height control the 45 degree setback envelope. The arrangement of the rear form impedes a suitable transition of building massing to the adjacent two (2) storey residential precinct on Bent Street and Beavers Road, greatly exceeding the two (2) storey rear scale expected by DDO15.</p> <p>Detailing of the ground floor interface provides little visual interest to the streets. A continuous standard shopfront glazing system would extend around all three (3) street frontages. Given that a local supermarket is proposed to the St Georges Road frontage, much of this would likely be obscured by signage etc. A more considered street level detailing is required for this large development.</p> <p>The proposed materials palette has little relation to the environs of the site. A more contextual response, such as the incorporation of brickwork, is preferred for this large proposal.</p>	<p>Does not comply</p>
<p><b>Pedestrian access and movement</b></p>	<p>One (1) residential entry is provided to each street frontage.</p>	<p>Complies</p>
<p><b>Car parking and vehicle access</b></p>	<p>Car parking does not dominate the streetscape or building design. All car parking is located at basement level and is accessed via the ROW.</p> <p>No new vehicle access points are created by the development. A more thorough assessment of car parking is provided against Clause 52.06.</p>	<p>Complies</p>



	Comment	Compliance
<b>Environmentally sustainable design</b>	<p><i>The development should incorporate innovative design attributes including:</i></p> <p><i>Passive solar design, natural ventilation and cooling, natural lighting, integrated water management and water sensitive urban design principles are strongly encouraged to be incorporated into any new development.</i></p> <p>A Sustainability Management Plan was not submitted with the application. The ESD credentials of the development are therefore unknown at this stage.</p> <p>The internal amenity of a high proportion of the dwellings is substandard, which is both an internal amenity issue as much as it is an ESD issue</p>	Does not comply

**Clause 52.06 Car Parking**

Number of Parking Spaces Required

The development comprises 168 dwellings, a 1,500 square metre supermarket and eight (8) shops. A breakdown of the car parking required under clause 52.06 of the scheme is set out below:

Use	Rate	Number / Area	Requirement
Dwelling	1 / 1and2 bedroom dwelling	168	168
Dwelling Visitor	1 space / 5 dwellings	168	33
Shop	4 spaces / 100m <sup>2</sup> floor area	395.9m <sup>2</sup>	15
Supermarket	5 spaces / 100m <sup>2</sup> of the site	1477.2m <sup>2</sup>	73
<b>Total</b>			289

The applicant has proposed to provide 251 car parking spaces and is therefore seeking a waiver of 38 car parking spaces.

No information in support of the proposed car parking waiver is provided. Under Clause 52.06-6 of the Planning Scheme, before a requirement for car parking is reduced (including reducing to zero), the applicant must satisfy the responsible authority that the provision of car parking is justified having regard requirements of this Clause.

As no such assessment against Clause 52.06 has been submitted in support of the application, the proposed car parking arrangements are considered unsatisfactory. It is recommended that the applicant provide a car parking assessment to assess the likely car parking requirements of the proposed use, and address the requirements of Clause 52.06.

Design Standards for Car Parking (Clause 52.06-8)

A car parking plan must be prepared to the satisfaction of the responsible authority as per Clause 52.06-7 of the Planning Scheme. The proposed car parking plan has been assessed under the design standards of Clause 52.06-8.

### Design Standard 2 – Car Parking Spaces

Across basement parking levels 2-4 the applicant proposes to provide a total of 12 tandem parking spaces. These spaces have been allocated for residential parking, however based on the area analysis plan; each one (1) and two (2) bedroom dwelling will be allocated one (1) parking space only. Consequently these spaces cannot be independently accessed and must therefore be removed.

No facilities to protect pedestrians near the basement lifts have been provided. This is especially important given the reduced aisle width in these locations to 5.5 metres. In addition the basement level one (1) plan does not appear to provide trolley storage areas which would be expected within the public car park to support the proposed supermarket use.

### Access and Manoeuvrability

Access and manoeuvrability is generally acceptable however swept-path assessments must be provided around the parking spaces opposite the lift core due to the reduced aisle width of 5550mm and for the last parking spaces in a parking aisle, given no aisle extension has been provided. Swept path assessments must be provided demonstrating that B85th percentile vehicles can enter and exit in accordance with the requirements of AS2890.1:2004 to the satisfaction of the responsible authority.

### Headroom

The minimum headroom to be provided above a car parking space is 2.2 metres as per the AS2890.1:2004. A cross-section should be provided which demonstrates sufficient vehicle height clearance above the ramp into the basement level.

### Additional Design Requirements

#### *1. Columns – Design Standard 2 of Clause 52.06-8*

Parking aisles have not been extended 1.0m beyond the last parking space as per 2.4.2(c) of AS2890.1:2004. Consequently the applicant must extend the parking aisle in accordance with AS2890.1:2004 or prepare swept-path assessments as detailed under the 'Access and Manoeuvrability' section.

### Design Standard 3 – Gradients

The design requirements for ramps and grades within a site are specified as follows:

An accurate assessment of the ramp gradients could not be undertaken. Further information is requested from the applicant in terms of the 'accurate' grades given the gradients specified on the development plans differ from those specified within the 'Ramp Section' on TPA05.

**Clause 52.07 - Loading and Unloading of Vehicles**

Clause 52.07 of the Planning Scheme applies to land uses for the manufacture, servicing, storage or sale of goods or materials. For such uses, loading areas are to be provided as per the below table:

FLOOR AREA OF BUILDING	MINIMUM LOADING BAY DIMENSIONS	
2,600 sq m or less in single occupation	Area	27.4 sq m
	Length	7.6 m
	Width	3.6 m
	Height clearance	4.0 m
For every additional 1,800 sq m or part	Additional 18 sq m	

The driveway to a loading zone must be at least 3.6 metres wide.

It appears that a loading bay is proposed towards the rear of the site located off the Right-of-Way. It is unclear how bins and goods will be transferred from the loading bay to the shops/supermarket as no service lift has been provided in this location.

It is recommended that the applicant prepare a waste management plan to the satisfaction of the Responsible Authority.

**Clause 52.34 Bicycle Parking**

<i>Use</i>	<i>Rate</i>		<i>Employee / Resident Requirement</i>	<i>Visitor / Shopper Requirement</i>
	<i>Employee / Resident</i>	<i>Visitor / Shopper</i>		
Dwelling (four or more storeys)	1 resident space / 5 dwellings	1 visitor space / 10 dwellings	34	17
Total Requirement - <b>51</b>				

The above bicycle parking assessment has considered the requirements for 'Dwellings' only, due to the proposed 'shops' having a combined floor area less than 1,000 square metres. 'Supermarkets' do not have a statutory bicycle parking requirement under Clause 52.34-3 of the Planning Scheme.

The applicant has proposed to provide a total of 207 bicycle parking spaces, including 184 employee / resident spaces and 23 visitor / shopper spaces. This is in excess of the bicycle parking requirements stipulated within Clause 52.34-3 of the Planning Scheme and is consistent with the requirements of Clause 22.06-5, where, in the case of mixed use developments, the number of bicycle spaces should exceed the requirements of Clause 52.34 of the Darebin Planning Scheme to reflect high level of ridership in Darebin.

As per Clause 52.34, a bicycle space for an employee or resident must be provided either in a bicycle locker or at a bicycle rail in a lockable compound. The applicant proposes to provide 36 bicycle spaces on Basement Level 1 and 49 bicycle spaces each across Levels 2-4.

Australian Standard 2890.3:2015 recommends bicycle parking facilities within a multi-storey or underground car park should be located within one level of street access points, where practicable, to alleviate issues associated with riders manoeuvring around parking motor vehicles and other safety issues related to visibility constraints inherent in these locations.

Further, the minimum clearance between a parked bicycle and the edge of a motor vehicle traffic lane, parking lane or roadway is 500mm.

It is unclear what cycling parking the applicant intends to provide within the basement parking level. The Basement Level three (3) plan (TPA03) provides specification data on the 'Cora Bikerack' and 'Ned Kelly' hanging racks however it appears only Cora bicycle racks have been proposed within the basement level. This must be clarified by the applicant. Moreover in accordance with Australian Standard 2890.3:2015 bike parking facilities shall be designed to include a minimum of 20% of ground level (horizontal) BPDs (Bike Parking Devices) in any bicycle parking facility. This is to provide for those riders unable to lift a bicycle to a hanging BPD, and for parking of non-standard bicycles.

Clause 52.34 of the Planning Scheme also requires that a bicycle space for a visitor or shopper must be provided at an external bicycle rail near the main entrance to the development. The applicant's Ground Floor Plan (TPA 06) specifies 23 bicycle parking spaces are provided for visitors however the plan has only been annotated with 13 spaces. This must be clarified by the applicant.

**REFERRAL SUMMARY**

<b>Department/Authority</b>	<b>Response</b>
Capital Works	No objection.
Transport Management and Planning	No objection, subject to conditions.
ESD officer	Objection based on the ESD measures and internal amenity. See body of report for details.
Urban Design officer	Objection based on the design and internal amenity. See body of report for details.

**PLANNING SCHEME SUMMARY**

**Darebin Planning Scheme clauses under which a permit is required**

- Clause 34.01 (Commercial 1 Zone) - Construction of more than one dwelling
- Clause 52.06 (Car Parking) - A reduction to the car parking requirement
- Clause 52.07 (Loading and Unloading) - A variation to the loading/unloading requirement

**Applicable provisions of the Darebin Planning Scheme**

<b>Section of Scheme</b>	<b>Relevant Clauses</b>
SPPF	11.02-1, 15.01-1, 15.01-5, 15.02, 16.01, 19.03-1
LPPF	21.05-1, 21.05-2, 21.05-3, 22.06
Zone	34.01

Section of Scheme	Relevant Clauses
Overlay	43.02, 45.03, 45.06
Particular provisions	52.06, 52.07, 52.34
General provisions	65.01
Neighbourhood Character Precinct	B1

**POLICY IMPLICATIONS**

**Environmental Sustainability**

All new dwellings are required to achieve a minimum six (6) star energy rating under the

**Social Inclusion and Diversity**

Nil

**Other**

Nil

**FINANCIAL AND RESOURCE IMPLICATIONS**

There are no financial or resource implications as a result of the determination of this application.

**FUTURE ACTIONS**

Nil

**DISCLOSURE OF INTERESTS**

Section 80C of the *Local Government Act 1989* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any direct or indirect interest in a matter to which the advice relates.

The Manager authorising this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

**RELATED DOCUMENTS**

Darebin Planning Scheme and the *Planning and Environment Act (1987)* as amended.

**5.5 APPLICATION FOR PLANNING PERMIT D/600/2015**  
 2 Loddon Avenue, Reservoir

**AUTHOR:** Principal Planner – Jennifer Roche

**DIRECTOR:** Director Assets and Business Services – Steve Hamilton

**OWNER/APPLICANT/CONSULTANT:**

Applicant	Owner	Consultant
J Catanzariti c/- Ikonomidis Reid	Descending Provider Pty Ltd	Lachlan Williams , Tree Response p/l.

**SUMMARY:**

- It is proposed to demolish the existing dwelling and construct four (4) double storey two (2) bedroom dwellings with a single garage each. 40 square metres of secluded private open space is provided for the three (3) rear dwellings while 25 square metres is provided for the front dwelling.
- The site is zoned General Residential Zone Schedule 2.
- There is no restrictive covenant on the title for the subject land.
- Fifteen objections were received against this application.
- The proposal is generally consistent with the objectives and standards of Clause 55 of the Darebin Planning Scheme.
- It is recommended that the application be supported.

**CONSULTATION:**

- Public notice was given a sign posted on site and letters sent to surrounding owners and occupiers.
- This application was referred internally to Capital Works, Transport Management and Planning Unit, and the Darebin Parks Unit.
- This application was not required to be referred to external authorities.

**Recommendation**

**That** Planning Permit Application D600/2015 be supported and a Notice of Decision to Grant a Permit be issued subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to, and approved by, the Responsible Authority. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application (identified as Proposed Ground Floor and First Floor Plans TP03 Revision C and Proposed Elevations TP04 Revision C, received by Council on 20 January 2016 and prepared by Ikonomidis Reid) but modified to show:
  - a) A landscape plan in accordance with Condition No. 4 of this Permit.

- b) Annotations detailing Tree Protection Zones and associated Tree Protection Fences for Trees 1, 4, 5, 6 and 7 in accordance with the recommendations contained in the Arboricultural Report approved under Condition No. 5 of this Permit.

A notation must be added to state that any works in the Tree Protection Zone must be carried out without excavation.

- c) The provision of pedestrian visibility splays measuring 2.0 metres (width across the frontage) by 2.5 metres (depth into the site), to the north-western and south-eastern sides of the existing and proposed crossovers to Cash Street. Where within the subject site, any structures or vegetation within these splays must be not more than 1.15 metres in height.

When approved, the plans will be endorsed and form part of this Permit.

2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
3. This Permit will expire if either:

- The development does not start within three (3) years from the date of this Permit; or
- The development is not completed within five (5) years of the date of this Permit.

As relevant, the Responsible Authority may extend the times referred to if a request is made in writing:

- Before this Permit expires;
- Within six (6) months after the expiry date; or
- Within twelve (12) months after the expiry date if the request relates to the completion of the development or a stage of the development.

4. Before buildings and works start, a detailed Landscape Plan to the satisfaction of the Responsible Authority must be submitted to, and approved by the Responsible Authority. When the Landscape Plan is approved, it will be endorsed and will then form part of this Permit. The Landscape Plan must be prepared by a suitably qualified person and must incorporate:

- a) The provision of a minimum of one (1) medium canopy tree and five (5) small canopy trees distributed throughout the subject site. All canopy trees are to have a minimum height of 1.6 metres in 40 litre containers at the time of installation. Canopy trees must have the following minimum widths at maturity: small canopy (4 metres) and medium canopy (6 metres).
- b) Dimensioned Tree Protection Zones and notations specifying tree protection measures in accordance with Condition No. 5 of this Permit.
- c) Details of all existing trees to be retained and all existing trees to be removed, including overhanging trees on adjoining properties and street trees within the nature strip. The genus, species, height and spread of all trees must be specified.
- d) A planting schedule of proposed vegetation detailing the botanical name, common name, size at maturity, pot size and quantities of all plants.
- e) A diversity of plant species and forms. All proposed planting must be to the satisfaction of the Responsible Authority.

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- f) Annotated graphic construction details showing all landscape applications and structures including tree and shrub planting, retaining walls, raised planter bed and decking.
  - g) Type and details of all surfaces including lawns, mulched garden beds and permeable and/or hard paving (such as pavers, brick, gravel, asphalt and concrete) demonstrating a minimum site permeability of 20%. Percentage cover of permeable surfaces must be stated on the plan. Where paving is specified, material types and construction methods (including cross sections where appropriate) must be provided.
  - h) Hard paved surfaces at all entry points to dwellings.
  - i) All constructed items including letter boxes, garbage bin receptacles, lighting, clotheslines, tanks, outdoor storage etc.
  - j) Type and details of edge treatment between all changes in surface (e.g. grass (lawn), gravel, paving and garden beds).
  - k) An outline of the approved building/s including any basement, the location of entry doors, windows, gates and fences must be shown on the landscape plan. The location of both existing and proposed overhead and underground services. Conflicts of such services with the existing and proposed planting must be avoided.
  - l) Clear graphics identifying trees (deciduous and evergreen), shrubs, grasses/sedges, groundcovers and climbers.
  - m) Scale, north point and appropriate legend. Landscape plans are to be clear, legible and with graphics drawn to scale, and provide only relevant information.
5. All works undertaken on site are to be in accordance with the recommendations contained in the Arboricultural Report, dated December 4 2015, prepared by Tree Response. All works within nominated Tree Protection Zones must be carried out without excavation.
6. The landscaping as shown on the endorsed Landscape Plan must be completed to the satisfaction of the Responsible Authority before the development is occupied and/or the use starts or at such later date as is approved by the Responsible Authority in writing.
- No later than seven (7) days after the completion of the landscaping, the permit holder must advise Council, in writing, that the landscaping has been completed.
7. The landscaping as shown on the endorsed Landscape Plan must be maintained, and any dead, diseased or damaged plant replaced in accordance with the endorsed Landscape Plan to the satisfaction of the Responsible Authority.
8. Floor levels shown on the endorsed plans must be confirmed. The confirmation of the ground floor level must take place no later than at the time of the inspection of the subfloor of the development required under the *Building Act 1993* and the Building Regulations 2006. This confirmation must be in the form of a report from a licensed land surveyor and must be submitted to the Responsible Authority no later than 7 days from the date of the sub-floor inspection. The upper floor levels must be confirmed before a Certificate of Occupancy is issued, by a report from a licensed land surveyor submitted to the Responsible Authority.
9. All dwellings that share dividing walls and/or floors must be constructed to limit noise transmission in accordance with Part F(5) of the Building Code of Australia.
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10. Before the dwellings are occupied, an automatic external lighting system capable of illuminating the entry to each unit, access to each garage and car parking space and all pedestrian walkways must be provided on the land to the satisfaction of the Responsible Authority.

The external lighting must be designed, baffled and/or located to ensure that no loss of amenity is caused to adjoining and nearby land, to the satisfaction of the Responsible Authority.

11. Boundary walls facing adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.
12. The land must be drained to the satisfaction of the Responsible Authority.
13. With the exception of guttering, rainheads and downpipes, all pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
14. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the prior written consent of the Responsible Authority.
15. Provision must be made on the land for letter boxes and receptacles for newspapers to the satisfaction of the Responsible Authority.
16. Before occupation of the development, areas set aside for the parking of vehicles and access lanes as shown on the endorsed plan(s) must be:
- a) Constructed;
  - b) Properly formed to such levels that they can be used in accordance with the plans;
  - c) Surfaced with an all-weather sealcoat; and
  - d) Drained

to the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose.

15. Before the development is occupied, vehicular crossing(s) must be constructed to align with approved driveways to the satisfaction of the Responsible Authority. All redundant crossing(s), crossing opening(s) or parts thereof must be removed and replaced with footpath, naturestrip and kerb and channel to the satisfaction of the Responsible Authority.

#### **NOTATIONS**

**(These notes are provided for information only and do not constitute part of this permit or conditions of this permit)**

- N1 Any failure to comply with the conditions of this permit may result in action being taken to have an Enforcement Order made against some or all persons having an interest in the land and may result in legal action or the cancellation of this permit by the Victorian Civil and Administrative Tribunal.
- N2 Nothing in the grant of this permit should be construed as granting any permission other than planning permission for the purpose described. It is the duty of the permit holder to acquaint themselves, and comply, with all other relevant legal obligations (including any obligation in relation to restrictive covenants and easements affecting the site) and to obtain other required permits, consents or approvals.

N3 The amendments specified in Condition 1 of this Permit and any additional modifications which are “necessary or consequential” are those that will be assessed by Council when plans are lodged to satisfy that condition. Any “necessary or consequential” amendments, in addition to those required by this condition, should be specifically brought to the attention of Council for assessment.

If any other modifications are proposed, application must also be made for their approval under the relevant sections of the *Planning and Environment Act 1987*. They can only be approved once the required and consequential changes have been approved and the plans endorsed. It is possible to approve such modifications without notice to other parties, but they must be of limited scope. Modifications of a more significant nature may require a new permit application.

N4 This Planning Permit represents the Planning approval for the use and/or development of the land. This Planning Permit does not represent the approval of other departments of Darebin City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria to that adopted for the approval of this Planning Permit.

<b>Report</b>
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## **INTRODUCTION AND BACKGROUND**

Planning Permit D412/2011 was issued on 5 September 2011 for a medium density housing development comprising the construction of five (5) single storey dwellings. This permit has expired.

## **ISSUES AND DISCUSSION**

### **Subject site and surrounding area**

- Loddon Avenue is oriented in a north-westerly/south-easterly direction. The subject site is located on the north-eastern side of the street. It is regular in shape. The site has a frontage of 16.15 metres, a depth of 49.21 metres and an area of approximately 764.4 square metres. The site contains a single storey brick dwelling, with vehicle access to a garage at the rear along the south east boundary. The site has a fall of approximately 2.92 metres from the south west corner to the north.
- The land is located within the General Residential Zone Schedule 2. The subject land is encumbered by a Development Contributions Plan Overlay however the approved plan expired on 30 June 2014.
- To the east is single storey clad weatherboard dwelling facing Nicholson Ave. The dwelling is set back more than 20 metres from the common boundary.
- To the west are single storey brick dwellings on the opposite side of Loddon Avenue.
- To the north is a single storey weatherboard dwelling facing Loddon Avenue. The dwelling is setback 1 metres from the common boundary.
- To the south are the side of two (2) units (of a complex of four (4) dwellings) facing Plenty Road. These dwellings are a minimum of 3 metres from the common boundary. To the west of these units, also adjoining the subject site, is a single storey weatherboard dwelling facing Plenty Road. The dwelling is setback more than 27 metres from the common boundary.

- Unrestricted on-street parking is available in Loddon Avenue between Plenty Road and North Road.
- The site is located within an extensive residential area.
- The site is around 70 metres from Plenty Road and the 86 tram line.

### Proposal

- It is proposed to demolish the existing dwelling and construct four (4) double storey dwellings along the length of the property.
- The dwellings are to each have two (2) bedrooms with associated kitchen/living areas and a single car space each.
- Vehicle access to the dwellings is along the south east boundary utilising the existing crossover from Loddon Avenue.
- A minimum of 40 square metres of secluded private open space is provided for the three rear dwellings while 25 square metres is provided for the front dwelling.
- The dwellings will have a contemporary design with a mix of face brickwork at the lower level and lightweight cladding at the upper level. The roof form is significantly hidden behind parapet walls.

### Objections

- Fifteen (15) objections have been received. Fourteen of these are an identical pro-forma letter.

### Objections summarised

- Oversupply of one (1) and two (2) bedroom apartments.
- Inconsistent with neighbourhood character and liveability.
- Not sustainable.
- Increased parking and traffic congestion.
- Overdevelopment of the site.
- Visual bulk.
- Does not add net value to the community.
- Negative social effect on community.
- Does not meet standards in the Darebin Planning Scheme.
- Will not provide affordable housing.

### Officer comment on summarised objections

#### Oversupply of one (1) and two (2) bedroom apartments

The dwellings each contain two (2) bedrooms and the objection relating to the oversupply of one (1) and two (2) bedroom dwellings is addressed as follows:

Clause 21.02-2 of the Municipal Strategic Statement (MSS) sets out the following key influence with respect to population growth and change:

*“Ageing families and declining household sizes are placing pressure on housing supply as fewer people occupy more housing.”*

The MSS continues with the following future housing issue at 21.01-4:

*“Facilitation of well-designed housing to meet anticipated housing needs, both in terms of number and diversity.”*

Policy guidance with respect to housing is contained in Clause 21.03. While there is strong policy support for appropriate medium density in-fill in well serviced locations, it is Clause 21.03-3 (Housing Diversity and Equity) that is of particular relevance to the objectors' concerns. The overview sets out (extracted as relevant):

*“Housing affordability is a particular housing issue in Darebin. Lack of affordable housing and high rental prices can aggravate housing stress and homelessness. Housing affordability, income levels and demand for social and public housing are highly correlated. An increase in the supply of affordable housing could ease housing stress of low income earners and can decrease the demand for social housing.”*

This informs the following objectives (extracted as relevant):

*“To ensure that housing diversity is increased to better meet the needs of the local community and reflect demographic changes and trends.”*

*“To increase the supply of affordable and social housing.”*

An oversupply of one (1) and two (2) bedroom dwellings is therefore not substantiated by any statistical data and is contrary to the demographic issues and housing objectives contained in Council's MSS. Indeed, the proposal contributes significantly to housing supply and diversity in accordance with the stated objectives and therefore has strong policy support.

#### Inconsistent with neighbourhood character

The test of neighbourhood character under the Scheme is for development to respect the existing character or to contribute to a preferred future character. Having regard to the relevant policies within the Darebin Planning Scheme (including Clause 22.02) relative to the physical context of the site itself.

A detailed assessment of the development against the neighbourhood character considerations is provided in the body of the report.

State and Local Planning Policy encourages appropriate medium density housing in well serviced areas such as this. As a result the appearance of streets will change. Whilst the predominant character of Loddon Street is formed by single storey detached dwellings and medium density developments there are double storey dwellings in proximity of the site. The proposed double storey dwellings have been designed to have minimal impact on the streetscape with a good level of articulation.

#### Not sustainable

The environmental sustainability of the development is considered under the provisions of Clause 55.03-5 of the Darebin Planning Scheme (Energy Efficiency) in the report below.

Increased parking and traffic congestion

Car parking has been provided on site in accordance with the provisions of Clause 52.06 of the Darebin Planning Scheme. It is considered that any overflow parking resulting from the development would be within reasonable limits and will not negatively impact on the surrounding streets.

The increase in traffic movements in the abutting streets, arising from the additional dwellings is considered to be an increment that will not affect local traffic conditions.

Overdevelopment of the site

Clause 55 of the Darebin Planning Scheme is an established tool for determining whether a development is of an appropriate scale relative to the site and its specific context and characteristics. The proposal has a high level of compliance with the objectives and Standards of Clause 55 and is demonstrably not an overdevelopment of the site.

Visual bulk

The upper storeys of each dwelling are massed towards existing outbuildings (for example, the garage to the east of Dwelling 3) and the adjoining concrete driveway. The driveway along the western boundary creates additional separation from the backyards of the properties to the west, therefore minimising visual bulk. It is noted that the proposal complies with setback and site coverage requirements of Clause 55 of the Darebin Planning Scheme.

Does not add net value to the community

This ground is unsubstantiated. There have been no demonstrated dis-benefits associated with development. The proposal does add net value to the community through the provision of additional housing and housing diversity within the neighbourhood. The proposal also results in the more efficient use of underutilised urban land and existing investment in infrastructure, both of which are considered to contribute to net community value.

Negative social effect on community

The proposal is for dwellings on residentially zoned land. It is reasonable to anticipate that this land would be developed for the purpose of a dwelling. The development of residential land for residential purposes is entirely consistent with expected land use and therefore the proposal will not have any negative social effects on the surrounding and wider community.

Does not meet standards in the Darebin Planning Scheme

The proposal is highly compliant with the Standards and objectives of Clause 55 of the Darebin Planning Scheme. See the body of the report for details of the assessment.

Will not provide affordable housing

A general principle established in Green v Hobsons Bay CC (Red Dot) [2013] VCAT 2091 ('Green') in relation to affordable housing is thus:

- *That in the absence of specific statutory controls in the Planning Scheme, the provision of smaller dwellings, commanding lower prices on the open market than other comparable housing types, sufficiently achieves the intent of general planning policy which encourages affordable housing.*

Local policy guidance with respect to housing is contained in Clause 21.03 of the Scheme. While there is strong policy support for appropriate medium density in-fill in well serviced locations, it is Clause 21.03-3 (Housing Diversity and Equity) that is of particular relevance to the objectors' concerns. The overview sets out (extracted as relevant):

*"Housing affordability is a particular housing issue in Darebin. Lack of affordable housing and high rental prices can aggravate housing stress and homelessness. Housing affordability, income levels and demand for social and public housing are highly correlated. An increase in the supply of affordable housing could ease housing stress of low income earners and can decrease the demand for social housing."*

Objective 4 of Clause 21.03-3 includes the following strategies:

*"Ensure housing in the municipality is sufficiently diverse to provide more affordable and appropriate choices and opportunities."*

*"Facilitate the provision of affordable housing in terms of purchase price as well as lower ongoing operational costs, by promoting housing growth in areas with good access to services and public transport and encouraging best practice environmentally sustainable housing design to minimise ongoing utility costs"*

The proposed development incorporates smaller dwellings and improves the diversity of housing choice on the open market. The proposal therefore accords with the principles established in *Green* and the objectives of the relevant local policy.

## PLANNING ASSESSMENT

### Neighbourhood Character Precinct Guideline Assessment (F5)

#### Vegetation

- There are no significant trees on the site. The proposal provides an acceptable amount of front garden space, to maintain appropriate landscaping and the garden setting of the dwellings within the street scene. An established tree in the front setback of Dwelling 1 is to be retained and conditions of approval will require trees on the adjoining sites to be protected during construction.
- There is no accompanying landscape concept plan (to be required as a condition on any approval), however, the proposal is appropriately sited and designed to incorporate space for the planting of vegetation, such as canopy trees.
- The site does not abut the creek environs.

#### **Complies**

#### Siting

- The front garden is large enough to enable planting of vegetation to enable the continuation of the garden setting in this area. The proposal allows sufficient rear garden space for landscaping.
- Although Dwelling 4 is constructed to the common boundary to the east for a length of 2.5 metres, this is acceptable, as it is set back from the main façade. The appearance of separation between dwellings in the streetscape is therefore maintained.
- Car spaces are located to the rear of the front dwelling. Only one (1) crossover is provided to the street. Parking areas do not dominate the front façade.

#### **Complies**

### Height and Building Form

The proposed dwellings are double storey and it is acknowledged that the predominant scale and form of nearby dwellings is single storey. Nonetheless, a transition in height from single to double storey built form will not dominate the adjoining built form. In particular the design seeks to minimise height and bulk by incorporating a flat roof, and setting upper storeys well back from adjoining title boundaries. Finally it is noted that double storey construction is not unusual in a suburban neighbourhood context, and the proposal complies with the relevant Standards in relation to height and setbacks.

### **Complies**

#### Materials and Design Detail

- Loddon Street is predominantly made up of post-war housing stock typified by detached brick and weatherboard houses with tiled hip and gable roofs, and side driveways.
- While the proposed development employs contemporary design - a departure from the traditional surrounding built form – it is acknowledged that responsiveness to neighbourhood character does not necessarily involve the mimicry of existing design.
- Recognisably domestic materials, found in the surrounding buildings (for example, brick, aluminium windows and cladding) are employed in the façade. Additionally, the façade is composed of different materials, contributing to visual interest.
- The ground floor is strongly delineated from the upper storey through the use of different building materials for each floor. Upper floor setbacks and the inclusion of a porch contribute to the articulation of the building.
- The building is set back from either side boundary to respect the rhythm and spacing of dwellings in the streetscape. The building's height is minimised so as not to contribute to building bulk.
- In short, the proposal contributes positively to the streetscape without replicating existing design. The design is visually interesting and sufficiently articulated. It does not overwhelm the streetscape with unreasonable bulk.
- The proposal does not abut the creek environs.

### **Complies**

#### Front Boundary Treatment

A 1.1 metre high fence is proposed which allows views to and from the property.

### **Complies subject to condition**

#### **Clause 55 Assessment**

The following sections provide discussion on fundamental areas of Clause 55 of the Darebin Planning Scheme including variations of standards and matters informing conditions of the recommendation above.

Clause 55.04-6 B22 Overlooking

- The ground levels of the proposed dwellings have finished floor levels less than 0.8 metres above natural ground level at the boundary. Existing 1.8 metre high boundary fence on the north-west boundary, and proposed 1.9 metre high fences on the south-eastern and south-western boundaries, will sufficiently limit overlooking.
- Upper storey habitable room windows are appropriately designed and/or screened to ensure no overlooking in compliance with the Standard.

**Complies**

Clause 55.05-4 B28 Private Open Space

- The development provides adequate private open space (pos) for the reasonable recreation and service needs of residents.
- This is achieved through the provision of 40 square metres of secluded private open space at the side or rear of the dwelling with a minimum area of 25 square metres, a minimum dimension of 3 metres and convenient access from a living room.

	<b>Total POS</b>	<b>Secluded POS</b>	<b>Minimum dimension of secluded POS</b>
Unit 1	98 square metres	26 square metres	3.0 metres
Unit 2	41 square metres	41 square metres	3.0 metres
Unit 3	40 square metres	40 square metres	3.0 metres
Unit 4	47 square metres	25.4 square metres	3.0 metres

- All secluded private open space areas have direct access to a living room.

**Complies**

**Clause 52.06 Car Parking**

Number of Parking Spaces Required

- One car parking space is provided for each of the two (2) bedroom dwellings.
- No visitor car parking is required to be provided.

Design Standards for Car parking

- The car parking spaces, the carport, the garaging and the access ways have appropriate dimension to enable efficient use and management.
- The car parking facilities are designed, surfaced and graded to reduce run-off and allow stormwater to drain into the site.
- The open upper level retreat/TV areas of Dwellings 1, 3 and 4 cannot reasonably be used as a bedroom.
- Garage and carport dimensions of 6.0 metres length x 3.5 metres width comply with the minimum requirements of the standard.



- Access dimensions to the car spaces comply with the standard.

**CLAUSE 55 COMPLIANCE SUMMARY**

Clause	Std		Compliance	
			Std	Obj
<b>55.02-1</b>	<b>B1</b>	<b>Neighbourhood character</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.02-2</b>	<b>B2</b>	<b>Residential policy</b>		
		The proposal complies with the relevant residential policies outlined in the Darebin Planning Scheme.	Y	Y
<b>55.02-3</b>	<b>B3</b>	<b>Dwelling diversity</b>		
		N/A as development contains less than 10 dwellings	N/A	N/A
<b>55.02-4</b>	<b>B4</b>	<b>Infrastructure</b>		
		Adequate infrastructure exists to support new development	Y	Y
<b>55.02-5</b>	<b>B5</b>	<b>Integration with the street</b>		
		Unit 1 appropriately integrates with the Street.	Y	Y
<b>55.03-1</b>	<b>B6</b>	<b>Street setback</b>		
		The required setback is 5.71 metres. The dwellings are set back 6.02 metres from the street frontage.	Y	Y
<b>55.03-2</b>	<b>B7</b>	<b>Building height</b>		
		6.7 metres	Y	Y
<b>55.03-3</b>	<b>B8</b>	<b>Site coverage</b>		
		43%	Y	Y
<b>55.03-4</b>	<b>B9</b>	<b>Permeability</b>		
		32%	Y	Y
<b>55.03-5</b>	<b>B10</b>	<b>Energy efficiency</b>		
		Dwellings are considered to be generally energy efficient and will not unreasonably impact adjoining properties.	Y	Y
<b>55.03-6</b>	<b>B11</b>	<b>Open space</b>		
		N/A as the site does not abut public open space.	N/A	N/A
<b>55.03-7</b>	<b>B12</b>	<b>Safety</b>		
		The proposed development is secure and the creation of unsafe spaces has been avoided.	Y	Y
<b>55.03-8</b>	<b>B13</b>	<b>Landscaping</b>		
		Adequate areas are provided for appropriate landscaping and a landscape plan has been required as a condition of approval.	Y	Y

Clause	Std		Compliance	
			Std	Obj
<b>55.03-9</b>	<b>B14</b>	<b>Access</b>		
		Access is sufficient and respects the character of the area.	Y	Y
<b>55.03-10</b>	<b>B15</b>	<b>Parking location</b>		
		Parking facilities are proximate to the dwellings they serve, the access is observable, habitable room windows are sufficiently set back from accessways.	Y	Y
<b>55.04-1</b>	<b>B17</b>	<b>Side and rear setbacks</b>		
		Dwellings are set back in accordance with the requirements of this standard.	Y	Y
<b>55.04-2</b>	<b>B18</b>	<b>Walls on boundaries</b>		
		Northern boundary: Length: 2.9 metres Height: 3.0 metres avg Walls on boundaries comply with the requirements of this standard.	Y	Y
<b>55.04-3</b>	<b>B19</b>	<b>Daylight to existing windows</b>		
		Sufficient setbacks exist to allow adequate daylight	Y	Y
<b>55.04-4</b>	<b>B20</b>	<b>North-facing windows</b>		
		Development is set back in accordance with the standard.	Y	Y
<b>55.04-5</b>	<b>B21</b>	<b>Overshadowing open space</b>		
		Shadow cast by the development is within the parameters set out by the standard.	Y	Y
<b>55.04-6</b>	<b>B22</b>	<b>Overlooking</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.04-7</b>	<b>B23</b>	<b>Internal views</b>		
		There are no internal views	Y	Y
<b>55.04-8</b>	<b>B24</b>	<b>Noise impacts</b>		
		Noise impacts are consistent with those in a residential zone.	Y	Y
<b>55.05-1</b>	<b>B25</b>	<b>Accessibility</b>		
		The ground levels of the proposal can be made accessible for people with limited mobility.	Y	Y
<b>55.05-2</b>	<b>B26</b>	<b>Dwelling entry</b>		
		Entries to the dwellings are identifiable and provide an adequate area for transition.	Y	Y
<b>55.05-3</b>	<b>B27</b>	<b>Daylight to new windows</b>		
		Adequate setbacks are proposed to allow appropriate daylight access.	Y	Y

Clause	Std		Compliance	
			Std	Obj
<b>55.05-4</b>	<b>B28</b>	<b>Private open space</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.05-5</b>	<b>B29</b>	<b>Solar access to open space</b>		
		Sufficient depth is provided for adequate solar access.	Y	Y
<b>55.05-6</b>	<b>B30</b>	<b>Storage</b>		
		Sufficient storage areas are provided.	Y	Y
<b>55.06-1</b>	<b>B31</b>	<b>Design detail</b>		
		Design detail of dwellings is appropriate in the neighbourhood setting.	Y	Y
<b>55.06-2</b>	<b>B32</b>	<b>Front fences</b>		
		No front fence is proposed which is acceptable.	Y	Y
<b>55.06-3</b>	<b>B33</b>	<b>Common property</b>		
		Common property areas are appropriate and manageable.	Y	Y
<b>55.06-4</b>	<b>B34</b>	<b>Site services</b>		
		Sufficient areas for site services are provided.	Y	Y

**REFERRAL SUMMARY**

Department/Authority	Response
Capital Works	No objection, subject to condition included in recommendation
Transport Management and Planning	No objection, subject to condition included in recommendation
Darebin Parks	No objection, subject to condition included in recommendation

**PLANNING SCHEME SUMMARY**

**Darebin Planning Scheme clauses under which a permit is required**

- Clause 32.08-4 (General Residential Zone) – construction of two or more dwellings on a lot.

**Applicable provisions of the Darebin Planning Scheme**

Section of Scheme	Relevant Clauses
SPPF	11.02-1, 15.01-1, 15.01-5, 15.02, 16.01, 19.03-1
LPPF	21.05-1, 21.05-2, 21.05-3, 22.02

Section of Scheme	Relevant Clauses
Zone	32.08
Overlay	45.06
Particular provisions	52.06, 55
General provisions	65.01
Neighbourhood Character Precinct	F6

## POLICY IMPLICATIONS

### Environmental Sustainability

All new dwellings are required to achieve a minimum six (6) star energy rating under the relevant building controls.

### Social Inclusion and Diversity

Nil

### Other

Nil

## FINANCIAL AND RESOURCE IMPLICATIONS

There are no financial or resource implications as a result of the determination of this application.

## FUTURE ACTIONS

Nil

## DISCLOSURE OF INTERESTS

Section 80C of the *Local Government Act 1989* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any direct or indirect interest in a matter to which the advice relates.

The Manager authorising this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

## RELATED DOCUMENTS

Darebin Planning Scheme and the *Planning and Environment Act (1987)* as amended.

**5.6 APPLICATION FOR PLANNING PERMIT D/1067/2015**  
 24 Lucille Avenue, Reservoir

**AUTHOR: Urban Planner – Caroline Dixon**

**DIRECTOR: Director Assets and Business Services – Steve Hamilton**

**OWNER/APPLICANT/CONSULTANT:**

Applicant	Owner	Consultant
Archsign Pty Ltd	Shadi Khalil	N/A

**SUMMARY:**

- The proposed development application is for three (3) double storey dwellings. Dwelling 1 has three (3) bedrooms and a single covered car port, with a tandem car space. Dwelling 2 and 3 each have two (2) bedrooms and one (1) covered car space. Each dwelling has been provided with sufficient private open space accessible from living areas and with a northern orientation.
- The site is zoned General Residential Zone Schedule 2.
- There is no restrictive covenant on the title for the subject land.
- Eleven objections were received against this application.
- The proposal is generally consistent with the Objectives and Standards of Clause 55 of the Darebin Planning Scheme.
- It is recommended that the application be supported.

**CONSULTATION:**

- Public notice was given via one (1) sign posted on site and letters sent to surrounding owners and occupiers.
- This application was referred internally to Capital Works Unit. Councils Transport Management Unit provided verbal comment.
- This application was not required to be referred to external authorities.

**Recommendation**

**That** Planning Permit Application D/1067/2015 be supported and a Notice of Decision to Grant a Permit be issued subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to, and approved by, the Responsible Authority. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application (identified as TP-04, TP05 and TP-06 Revision B, prepared by Ikonmidis Reid received by Council on 22 January 2016) but modified to show:
  - a) The fixed obscure glazing on the first floor must be noted as having a maximum 25% transparency.
  - b) The private open space of Dwelling 2 increased to a minimum of 40 square metres. This must be achieved by reducing the building footprint, no setbacks can be reduced.
  - c) The location and design layout of site services, including metres, hydrants and pumps as required.
  - d) A landscape plan in accordance with Condition No. 4 of this Permit.
  - e) A comprehensive schedule of construction materials, external finishes and colours (including colour samples).

When approved, the plans will be endorsed and form part of this Permit.

2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
3. This Permit will expire if either:
  - The development does not start within three (3) years from the date of this Permit; or
  - The development is not completed within five (5) years of the date of this Permit.

As relevant, the Responsible Authority may extend the times referred to if a request is made in writing:

- Before this Permit expires;
  - Within six (6) months after the expiry date; or
  - Within twelve (12) months after the expiry date if the request relates to the completion of the development or a stage of the development.
4. Before buildings and works start, a detailed Landscape Plan to the satisfaction of the Responsible Authority must be submitted to, and approved by the Responsible Authority. When the Landscape Plan is approved, it will be endorsed and will then form part of this Permit. The Landscape Plan must be prepared by a suitably qualified person and must incorporate:
    - a) Details of all existing trees to be retained and all existing trees to be removed, including overhanging trees on adjoining properties and street trees within the nature strip. The genus, species, height and spread of all trees must be specified.
    - b) A planting schedule of proposed vegetation detailing the botanical name, common name, size at maturity, pot size and quantities of all plants.

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- c) A diversity of plant species and forms. All proposed planting must be to the satisfaction of the Responsible Authority.
  - d) Where the opportunity exists, an appropriate number and size of canopy trees are to be shown within the secluded private open space areas of each dwelling and within the front setback of the property, commensurate with the size of planting area available. All canopy trees are to have a minimum height of 1.6 metres in 40 litre containers at the time of installation. Canopy trees must have the following minimum widths at maturity: small canopy (4 metres), medium canopy (6 metres), large canopy (10 metres).
  - e) Annotated graphic construction details showing all landscape applications and structures including tree and shrub planting, retaining walls, raised planter bed and decking.
  - f) Type and details of all surfaces including lawns, mulched garden beds and permeable and/or hard paving (such as pavers, brick, gravel, asphalt and concrete) demonstrating a minimum site permeability of 20%. Percentage cover of permeable surfaces must be stated on the plan. Where paving is specified, material types and construction methods (including cross sections where appropriate) must be provided.
  - g) Hard paved surfaces at all entry points to dwellings.
  - h) All constructed items including letter boxes, garbage bin receptacles, lighting, clotheslines, tanks, outdoor storage etc.
  - i) Type and details of edge treatment between all changes in surface (e.g. grass (lawn), gravel, paving and garden beds).
  - j) An outline of the approved building/s including any basement, the location of entry doors, windows, gates and fences must be shown on the landscape plan. The location of both existing and proposed overhead and underground services. Conflicts of such services with the existing and proposed planting must be avoided.
  - k) Clear graphics identifying trees (deciduous and evergreen), shrubs, grasses/sedges, groundcovers and climbers.
  - l) Scale, north point and appropriate legend. Landscape plans are to be clear, legible and with graphics drawn to scale, and provide only relevant information.
5. The landscaping as shown on the endorsed Landscape Plan must be completed to the satisfaction of the Responsible Authority before the development is occupied and/or the use starts or at such later date as is approved by the Responsible Authority in writing.
- No later than seven (7) days after the completion of the landscaping, the permit holder must advise Council, in writing, that the landscaping has been completed.
6. The landscaping as shown on the endorsed Landscape Plan must be maintained, and any dead, diseased or damaged plant replaced in accordance with the endorsed Landscape Plan to the satisfaction of the Responsible Authority.
7. Floor levels shown on the endorsed plans must be confirmed. The confirmation of the ground floor level must take place no later than at the time of the inspection of the subfloor of the development required under the *Building Act 1993* and the Building Regulations 2006. This confirmation must be in the form of a report from a licensed land surveyor and must be submitted to the Responsible Authority no later than 7 days from the date of the sub-floor inspection. The upper floor levels must be confirmed before a Certificate of Occupancy is issued, by a report from a licensed land surveyor submitted to the Responsible Authority.
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8. Before the dwellings are occupied, an automatic external lighting system capable of illuminating the entry to each unit, access to each garage and car parking space and all pedestrian walkways must be provided on the land to the satisfaction of the Responsible Authority.

The external lighting must be designed, baffled and/or located to ensure that no loss of amenity is caused to adjoining and nearby land, to the satisfaction of the Responsible Authority.

9. Boundary walls facing adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.
10. The land must be drained to the satisfaction of the Responsible Authority.
11. With the exception of guttering, rainheads and downpipes, all pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
12. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the prior written consent of the Responsible Authority.
13. Before occupation of the development, areas set aside for the parking of vehicles and access lanes as shown on the endorsed plan(s) must be:
  - a) Constructed;
  - b) Properly formed to such levels that they can be used in accordance with the plans;
  - c) Surfaced with an all-weather sealcoat; and
  - d) Drained

to the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose.

14. Before the development is occupied, vehicular crossing(s) must be constructed to align with approved driveways to the satisfaction of the Responsible Authority. All redundant crossing(s), crossing opening(s) or parts thereof must be removed and replaced with footpath, naturestrip and kerb and channel to the satisfaction of the Responsible Authority.

## NOTATIONS

**(These notes are provided for information only and do not constitute part of this permit or conditions of this permit)**

- N1 Any failure to comply with the conditions of this permit may result in action being taken to have an Enforcement Order made against some or all persons having an interest in the land and may result in legal action or the cancellation of this permit by the Victorian Civil and Administrative Tribunal.
- N2 Nothing in the grant of this permit should be construed as granting any permission other than planning permission for the purpose described. It is the duty of the permit holder to acquaint themselves, and comply, with all other relevant legal obligations (including any obligation in relation to restrictive covenants and easements affecting the site) and to obtain other required permits, consents or approvals.



N3 The amendments specified in Condition 1 of this Permit and any additional modifications which are “necessary or consequential” are those that will be assessed by Council when plans are lodged to satisfy that condition. Any “necessary or consequential” amendments, in addition to those required by this condition, should be specifically brought to the attention of Council for assessment.

If any other modifications are proposed, application must also be made for their approval under the relevant sections of the *Planning and Environment Act 1987*. They can only be approved once the required and consequential changes have been approved and the plans endorsed. It is possible to approve such modifications without notice to other parties, but they must be of limited scope. Modifications of a more significant nature may require a new permit application.

N4 This Planning Permit represents the Planning approval for the use and/or development of the land. This Planning Permit does not represent the approval of other departments of Darebin City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria to that adopted for the approval of this Planning Permit

<b>Report</b>
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## INTRODUCTION AND BACKGROUND

There is no planning history associated with this site.

## ISSUES AND DISCUSSION

### Subject site and surrounding area

- The land is regular in shape and measures 38.4 metres in length and 15.27 metres in width with an overall site area of 586.37 square metres.
- The land is located within the General Residential Zone 2 and affected by the Development Contributions Plan Overlay. Currently, Council’s ability to request the levy expired with the Schedule in June 2014.
- The land is located on the south side of Lucille Avenue, to the west of Lochner Avenue and east of Daleglen Street.
- The existing dwelling on the site is a single storey weatherboard dwelling with pitched, tiled roofing. There are two (2) shed outbuildings located to the rear (south) of the site. The dwelling is serviced by an existing vehicle crossover located on the eastern property boundary. There is a sewerage and drainage easement located along the rear (south) boundary at an approximate width of 1.83 metres.
- To the east of the site is a single storey brick veneer dwelling with hipped tiled roofing. A galvanised iron garage is located in the private open space, serviced by a crossover to the eastern property boundary. The dwelling is setback from the subject sites common boundary by approximately 1.2 metres.
- To the west of the site is a single storey weatherboard dwelling with hipped tile roofing. There is a galvanised iron garage with a flat roof located to the rear of the site. The garage is approximately 0.1 metres from the subject sites common boundary and is serviced by a vehicle crossover located on the subject sites common boundary. The dwelling is setback approximately 3.3 metres from the subject sites common boundary.

- To the north across Lucille Avenue is the side elevation of 2 Daleglen Street. The dwelling is a single storey brick veneer dwelling with hipped tile roofing. There is a garage located to the sites rear (eastern) boundary, serviced by a vehicle crossover from Lucille Avenue.
- To the south is a single storey brick veneer dwelling with hipped tile roofing. There are no outbuildings located on the site. The properties private open space abuts the subject sites common boundary. The dwelling is setback 9.5 metres from the subject sites common boundary.
- Parking directly in front of the site on both sides of Lucille Avenue is unrestricted. Surrounding streets are also characterised by unrestricted parking.
- Public transport (bus) is available along Cheddar Road, within 300 metres of the subject site. There is also the pipeline bike path within 200 metres of the subject site. Keon Park Children's Hub is also located within 400 metres to the south of the site. North of the site is the Thomastown Industrial Park.

**Proposal**

- The proposal includes demolition of the existing dwelling and outbuildings and construction of three (3) double storey dwellings.
- Dwelling 1 fronts Lucille Avenue and provides a traditional design and layout. The ground floor level has an open plan living/kitchen/meals area with access to the north-facing private open space. A carport and tandem car space is provided for the dwelling. The first floor area has three (3) bedrooms.
- Dwellings 2 and 3 are to the rear of the site and have a similar design and layout, with ground floor open plan living/kitchen/meals area with access to north-facing private open space. The first floor areas will each have two (2) bedrooms. Dwelling 2 is provided with a single garage and Dwelling 3 with a single car port.
- The dwellings propose face brickwork at ground level to complement the existing neighbourhood character and feature cladding to the walls at the first floor. The roof forms are pitched and have architectural features such as window proportions and eaves which are respectful of the neighbourhood.

**Objections**

- Eleven objections have been received against the application.

**Objections summarised**

- Over supply of one (1) and two (2) bedrooms apartments / under supply of three (2) bedroom dwellings.
- Neighbourhood character
- Car parking / safety of vehicle movement
- Overdevelopment
- Application requires review by the Darebin Planning Committee
- Visual impact and bulk
- Net value and social impact
- Lack of affordable accommodation

**Officer comment on summarised objections**Over supply of one (1) and two (2) bedrooms apartments / under supply of family accommodation

The development comprises one (1) dwelling with three (3) bedrooms and two (2) dwellings with two (2) bedrooms. The objection refers to apartments which is not relevant to the proposed development. The objection also refers to an undersupply of three (3) or more bedroom developments. The proposal incorporates a mix of three (3) and two (2) bedroom dwellings which is considered acceptable.

Neighbourhood character

Neighbourhood character, design, form and materials are addressed within the assessment section of this report with particular focus on Clause 55 of the Darebin Planning Scheme and the relevant Neighbourhood Character Precinct Guidelines.

Sustainability

Dwellings are considered to be generally energy efficient and will not unreasonably impact adjoining properties. The development is an attached form of construction and orientated to maximise northern aspect and solar penetration.

Car parking / safety of vehicle movement

The proposal achieves the planning scheme requirements in relation to the provision of on-site car parking and accessway requirements. The objection states that tandem parking is inappropriate. The proposed application meets the requirements of Clause 52.06 of the Darebin Planning Scheme by providing an additional 0.5 metres between spaces, allowing for tandem parking where the relevant requirements and dimensions have been met. The proposed second crossover also meets the requirements of Standard B14 of Clause 55.03-9 of the Darebin Planning Scheme with only 39% of the street frontage utilised for crossovers.

Over development

*Plan Melbourne* sets targets for established areas of Melbourne to absorb a high proportion of Melbourne's expected growth. State and Local Planning Policy envisage an increase in housing density in well serviced areas such as this. While any increase in population density will likely increase the level of activity around the site and area, it is not envisioned that such an increase would be detrimental or substantially more intensive than what is currently experienced.

Application requires review by the Darebin Planning Committee

The application has been assessed against the requirements of Clause 55 and is considered to be an appropriate design response for the subject site. Review by Darebin Planning Committee is triggered by the number of objections received.

Visual impact

The development provides a height of two (2) storeys which is consistent with the current and emerging character of the area. The siting and setbacks incorporated into the design of the development ensures the proposal does not impose an unreasonable visual impact upon neighbouring sites.

Net value and social impact

This ground is unsubstantiated. There have been no demonstrated dis-benefits associated with the development. The proposal provides dwellings resulting in community benefit. This ground is clearly contrary to the objectives of planning in Victoria.

In *Backman and Company Pty Ltd v Boroondara City Council* the following was noted:

*33. As I have highlighted, parties seeking to rely on Sections 60(1B) and 84(2)(jb) of the Planning and Environment Act face a significant task in order to substantiate a significant social effect in relation to a housing proposal on residentially zoned land. That significant task extends much further than just garnering a significant level of opposition to a proposed development. Firstly, parties alleging a significant social effect have to ascertain what the actual significant social effect is, in the framework of a zoning regime where one does not need a permit to use residentially zoned land for residential purposes.*

*The mere identification of significant community opposition to a proposal is not a significant social effect of itself. Secondly, the significant social effect will need to be sufficiently documented with evidentiary material to demonstrate the likelihood, probability and severity of the social effect. The identification of a social effect is not sufficient, as it also needs to be demonstrated that the social effect will be significant. Thirdly, as identified in the Rutherford decision, it will need to be demonstrated that any significant social effect outweighs any social benefits that might result from a balanced assessment of a development proposal.*

Lack of affordable accommodation

The development comprises a variety of dwelling sizes. The proposal does add to the mix of housing types in the immediate area, which includes apartments and other more recent multi-unit developments.

**PLANNING ASSESSMENT****Council's Housing Strategy**

The proposed development is located within an area affected by Amendment C156 which proposes to apply the Neighbourhood Residential Zone (NRZ1) to the site. The amendment is currently with the Minister for consideration. As the proposed amendment is not a seriously entertained document, the planning assessment has been undertaken against Council's Housing Strategy which provides the strategic direction of the area.

Council's Housing Strategy designates the area for incremental change, guiding development towards a moderate level of change over time. An incremental change level as prescribed in the Housing Strategy includes 2-3 storey townhouses and medium density housing in selected locations, considering site context. It is considered that the proposed development responds to the lot dimensions, through relevant setbacks, provision of private open space and accessibility. The design and form of the development respects the neighbourhood character through roof form, materials, colours, windows and doors proportion. Overall, it is considered that the proposed development provides sufficient response to the requirements of Clause 55 of the Darebin Planning Scheme and is appropriate for the site.

**Neighbourhood Character Precinct Guideline Assessment - Precinct F7**Vegetation

The applicant seeks to remove the limited vegetation from the subject site to accommodate the proposed development. There is limited vegetation on adjoining properties and no street tree which would be impacted by the proposal.

Sufficient space is available at the front and rear of the site for the provision of landscaping and the limited on boundary construction ensures sufficient space provides adequate opportunities for future landscaping throughout the site. A landscape plan is included as a condition of the approval.

**Complies subject to condition**Siting

Adequate area is provided within the proposed front setback for front garden planting and landscaping. A landscape plan is included as a condition of the approval. The front setback does not meet the requirements of Standard B6 of Clause 55.03-1 of the Darebin Planning Scheme. It is considered appropriate due to the variety of setbacks prevalent in the street. There is also sufficient articulation to the façade of Dwelling 1 to limit visual bulk. The encroachment into the front setback will not result in unreasonable visual bulk when viewed from the street or adjoining properties

**Complies**Height and building form

The proposed double storey height is consistent with development in the surrounding area, and does not result in a visually dominant form. The proposed first storey is sufficiently setback from the ground floor of Dwelling 1, and will appear recessive due to the prominent form of the porch. The building form is well composed and articulated with a variety of materials, colours and textures to provide visual interest and reduce the perception of bulk.

**Complies**Materials and design detail

The architectural detailing is generally neutral and understated. The scale, form and height of the development is consistent with the surrounding single and double storey dwellings and more recent medium density housing. Materials, colours and textures will be a conditioned requirement of the development plans. The upper levels include a number of recesses to provide articulation.

**Complies subject to condition**Front boundary treatment

No front fencing is proposed.

**Complies**

**Clause 55 Assessment**

The following sections provide discussion on fundamental areas of Clause 55 including variations of standards and matters informing conditions of the recommendation above.

Clause 55.03-1 B6 Street Setback

- The front setbacks of the adjoining dwellings are 7.6 metres and 8.7 metres. The standard therefore requires a setback of 8.15 metres.
- The proposed front setback of 7.6 metres does not comply with the standard, however the design response is considered to be acceptable due to the following:
  - The setback addresses the relevant requirements of the Neighbourhood Character Study, in that it allows adequate provision for landscaping.
  - The angular shape of the lot fronting Lucille Avenue creates an inconsistent streetscape setback pattern and provides varied street setbacks.
  - Dwelling 1’s front façade is appropriately articulated.
  - The front setback will not result in unreasonable visual bulk when viewed from the street or adjoining properties.
  - The proposed setback results in efficient use of the site.

**Complies with objective**

Clause 55.04-6 B22 Overlooking

- The proposed dwellings are double storey. The ground finished floor levels less than 0.8 metres above natural ground level at the boundary. Existing 2 metre high boundary fences on the west and north boundaries and a 2.1 metres high boundary fence on the southern boundary will sufficiently limit overlooking.
- The development is designed to limit views into neighbouring secluded private open space and habitable room windows.
- Sufficient screening is provided for the upper floor windows to limit overlooking. An additional note is required to state that the fixed obscured glazing on the first floor must have a maximum 25% transparency.

**Complies subject to condition**

Clause 55.05-4 B28 Private Open Space

- The development provides adequate private open space (pos) for the reasonable recreation and service needs of residents.
- This is achieved through the provision of 40 square metres of secluded private open space at the side or rear of the dwelling with a minimum area of 25 square metres, a minimum dimension of 3 metres and convenient access from a living room.

	<b>Total POS</b>	<b>Secluded POS</b>	<b>Minimum dimension of secluded POS</b>
Dwelling 1	85.4 square metres	32.9 square metres	4.7 metres
Dwelling 2	38.75 square metres	38.75 square metres	3.9 metres
Dwelling 3	53.85 square metres	36.28 square metres	4.55 metres

- Dwelling 2 does not meet the required private open space provision, providing a deficit of 1.25 square metres. A condition of any approval will state that the private open space of Dwelling 2 is increased to a minimum of 40 square metres. This must be achieved by reducing the building footprint, no setbacks can be reduced.
- All secluded private open space areas have direct access to a living room.

**Complies subject to condition**

Clause 55.06-4 B34 Site Services

Sufficient area is provided to allow for the installation and the maintenance of site services. The location and design layout of site services, including metres, hydrants and pumps (as required) must be shown on the plans.

**Complies subject to condition**

**Clause 52.06 Car Parking**

Number of Parking Spaces Required

One (1) car parking space is provided for each of the two (2) bedroom dwellings, and two (2) car parking spaces are provided for the three (3) bedroom dwelling, with one (1) space undercover.

Design Standards for Car parking

- The car parking spaces, the carports, the garaging and the accessways have appropriate dimension to enable efficient use and management.
- The car parking facilities are designed, surfaced and graded to reduce run-off and allow stormwater to drain into the site.
- Garage and car port dimensions of 6.0 metres length x 3.5 metres width comply with the minimum requirements of the standard.
- Access dimensions to the car spaces comply with the standard.
- Visibility splays have been provided at the accessway interface with the footpath to protect pedestrians.

**CLAUSE 55 COMPLIANCE SUMMARY**

Clause	Std		Compliance	
			Std	Obj
<b>55.02-1</b>	<b>B1</b>	<b>Neighbourhood character</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.02-2</b>	<b>B2</b>	<b>Residential policy</b>		
		The proposal complies with the relevant residential policies outlined in the Darebin Planning Scheme.	Y	Y
<b>55.02-3</b>	<b>B3</b>	<b>Dwelling diversity</b>		
		N/A as development contains less than 10 dwellings	Y	Y

Clause	Std		Compliance	
			Std	Obj
<b>55.02-4</b>	<b>B4</b>	<b>Infrastructure</b>		
		Adequate infrastructure exists to support new development	Y	Y
<b>55.02-5</b>	<b>B5</b>	<b>Integration with the street</b>		
		Dwelling 1 appropriately integrates with the Street.	Y	Y
<b>55.03-1</b>	<b>B6</b>	<b>Street setback</b>		
		The required setback is 8.15 metres, the dwellings are set back 7.6 metres from the street frontage.	N	Y
<b>55.03-2</b>	<b>B7</b>	<b>Building height</b>		
		7.29 metres	Y	Y
<b>55.03-3</b>	<b>B8</b>	<b>Site coverage</b>		
		39.4%	Y	Y
<b>55.03-4</b>	<b>B9</b>	<b>Permeability</b>		
		37.9%	Y	Y
<b>55.03-5</b>	<b>B10</b>	<b>Energy efficiency</b>		
		Dwellings are considered to be generally energy efficient and will not unreasonably impact adjoining properties.	Y	Y
<b>55.03-6</b>	<b>B11</b>	<b>Open space</b>		
		N/A as the site does not abut public open space.	N/A	N/A
<b>55.03-7</b>	<b>B12</b>	<b>Safety</b>		
		The proposed development is secure and the creation of unsafe spaces has been avoided.	Y	Y
<b>55.03-8</b>	<b>B13</b>	<b>Landscaping</b>		
		Adequate areas are provided for appropriate landscaping and a landscape plan has been required as a condition of approval.	Y	Y
<b>55.03-9</b>	<b>B14</b>	<b>Access</b>		
		Access is sufficient and respects the character of the area.	Y	Y
<b>55.03-10</b>	<b>B15</b>	<b>Parking location</b>		
		Parking facilities are proximate to the dwellings they serve, the access is observable, habitable room windows are sufficiently set back from accessways.	Y	Y
<b>55.04-1</b>	<b>B17</b>	<b>Side and rear setbacks</b>		
		Dwellings are set back in accordance with the requirements of this standard.	Y	Y



Clause	Std		Compliance	
			Std	Obj
<b>55.04-2</b>	<b>B18</b>	<b>Walls on boundaries</b>		
		Length: 6.00 metres Height: 3.03 metres Walls on boundaries comply with the requirements of this standard.	Y	Y
<b>55.04-3</b>	<b>B19</b>	<b>Daylight to existing windows</b>		
		Sufficient setbacks exist to allow adequate daylight	Y	Y
<b>55.04-4</b>	<b>B20</b>	<b>North-facing windows</b>		
		There are no north facing windows within 3.0 metres of the common boundary with the subject site.	N/A	N/A
<b>55.04-5</b>	<b>B21</b>	<b>Overshadowing open space</b>		
		Shadow cast by the development is within the parameters set out by the standard.	Y	Y
<b>55.04-6</b>	<b>B22</b>	<b>Overlooking</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.04-7</b>	<b>B23</b>	<b>Internal views</b>		
		There are no internal views	Y	Y
<b>55.04-8</b>	<b>B24</b>	<b>Noise impacts</b>		
		Noise impacts are consistent with those in a residential zone.	Y	Y
<b>55.05-1</b>	<b>B25</b>	<b>Accessibility</b>		
		The ground levels of the proposal can be made accessible for people with limited mobility.	Y	Y
<b>55.05-2</b>	<b>B26</b>	<b>Dwelling entry</b>		
		Entries to the dwellings are identifiable and provide an adequate area for transition.	Y	Y
<b>55.05-3</b>	<b>B27</b>	<b>Daylight to new windows</b>		
		Adequate setbacks are proposed to allow appropriate daylight access.	Y	Y
<b>55.05-4</b>	<b>B28</b>	<b>Private open space</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.05-5</b>	<b>B29</b>	<b>Solar access to open space</b>		
		Sufficient depth is provided for adequate solar access.	Y	Y
<b>55.05-6</b>	<b>B30</b>	<b>Storage</b>		
		Sufficient storage areas are provided.	Y	Y
<b>55.06-1</b>	<b>B31</b>	<b>Design detail</b>		
		Design detail of dwellings is appropriate in the	Y	Y

Clause	Std		Compliance	
			Std	Obj
		neighbourhood setting.		
<b>55.06-2</b>	<b>B32</b>	<b>Front fences</b>		
		No front fence is proposed which is acceptable.	Y	Y
<b>55.06-3</b>	<b>B33</b>	<b>Common property</b>		
		Common property areas are appropriate and manageable.	Y	Y
<b>55.06-4</b>	<b>B34</b>	<b>Site services</b>		
		Sufficient areas for site services are provided.	Y	Y

**REFERRAL SUMMARY**

Department/Authority	Response
Capital Works	No objection, subject to condition included in recommendation
Transport Management and Planning	No objection

**PLANNING SCHEME SUMMARY**

**Darebin Planning Scheme clauses under which a permit is required**

- 32.08-4 – Construction of two (2) or more dwellings on a lot

**Applicable provisions of the Darebin Planning Scheme**

Section of Scheme	Relevant Clauses
SPPF	11.02-1, 15.01-1, 15.01-5, 15.02, 16.01, 19.03-1
LPPF	21.02-3, 21.03, 21.03-2, 21.03-3, 21.03-4
Zone	32.08
Overlay	45.06
Particular provisions	52.06, 55
General provisions	65.01
Neighbourhood Character Precinct	F7

**POLICY IMPLICATIONS**

**Environmental Sustainability**

All new dwellings are required to achieve a minimum six (6) star energy rating under the relevant building controls.

**Social Inclusion and Diversity**

There are no social inclusion or diversity implications as a result of the determination of this application.

**Other**

There are no other implications as a result of the determination of this application.

**FINANCIAL AND RESOURCE IMPLICATIONS**

There are no financial or resource implications as a result of the determination of this application.

**FUTURE ACTIONS**

Nil

**DISCLOSURE OF INTERESTS**

Section 80C of the *Local Government Act 1989* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any direct or indirect interest in a matter to which the advice relates.

The Manager authorising this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

**RELATED DOCUMENTS**

Darebin Planning Scheme and the *Planning and Environment Act (1987)* as amended.

**5.7 APPLICATION FOR PLANNING PERMIT D/838/2015**  
 25 Loddon Avenue, Reservoir

**AUTHOR:** Principal Planner– Jacquie Payne

**DIRECTOR:** Director Assets and Business Services – Steve Hamilton

**OWNER/APPLICANT/CONSULTANT:**

Applicant	Owner	Consultant
Ikonomidis Reid Pty Ltd	Eldina Pty Ltd and Elio D'Ercole	

**SUMMARY:**

- It is proposed to construct a medium density housing development comprising four (4) double storey dwellings. Each dwelling has two (2) bedrooms and access to a single space garage. Vehicle access is to be gained via an existing crossover at the south-eastern edge of the site. Secluded private open space is provided to the rear of each dwelling with areas of between 28 square metres and 44.6 square metres.
- The site is zoned General Residential Zone Schedule 2.
- There is a restrictive covenant on the Certificate of Title. The proposed development will not breach the terms of the covenant which prohibits the excavation and removal of earth clay gravel or sand from the land except for the excavation for the foundations of a building. The proposed development will not breach the terms of the covenant.
- Eleven objections were received against this application.
- The proposal is generally consistent with the objectives and standards of Clause 55 of the Darebin Planning Scheme.
- It is recommended that the application be supported.

**CONSULTATION:**

- Public notice was given via one (1) sign posted on site and letters sent to surrounding owners and occupiers.
- This application was referred internally to the following units in Council: Capital Works; Transport Management and Planning and Darebin Parks.
- This application was not required to be referred to external authorities.

**Recommendation**

**That** Planning Permit Application D/838/2015 be supported and a Notice of Decision to Grant a Permit be issued subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to, and approved by, the Responsible Authority. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application (identified as Ground Floor Plan TP04C, First Floor Plan TO05C and Elevations TP06C, dated March 2016, Job No. 8696, prepared by Ikonomidis Reid and received by Council on the 22 March 2016) but modified to show:
  - a) A landscape plan in accordance with Condition No. 4 of this Permit. The plan must include at least two (2) suitable medium sized canopy trees within the front setback to Loddon Avenue and four (4) suitable small sized canopy trees planted within the secluded private open space (SPOS) areas of each dwelling.
  - b) The south-east facing kitchen window of Dwelling 1 treated with either double glazing or glazing that is a minimum of 6mm thick.
  - c) A schedule of construction materials, finishes and colours (including colour samples).
  - d) External retractable shading devices over the ground floor south-west facing kitchen and bedroom 1 windows of Dwelling 4.
  - e) The open pergola alfresco areas of Dwellings 2, 3 and 4 shown as partially roofed for a minimum depth of 1 metre for that part of the roof which abuts the dwelling and extends over the doorway.
  - f) A swept path assessment demonstrating that B85th percentile vehicles can enter and exit garage 4 in accordance with the requirements of AS2890.1:2004 to the satisfaction of the responsible authority. This may involve the reduction of floor space of dwelling 4 without reducing any setbacks to the property boundaries.
  - g) The height of the south-eastern property boundary fence increased to a minimum height of 1.8 metres as measured above natural ground level (NGL) for that part where it is only 1.7 metres high above NGL.

Where necessary, the fence height may be increased by raising the height of the fence or by the provision of free-standing, self-supporting trellis adjacent the fence to the required height. If utilised, such trellis must be a maximum of 25% open and be fixed, permanent, durable and coloured or painted to blend with the development.
  - h) Annotations detailing a Tree Protection Zone and associated Tree Protection Fence with a radius in accordance with Australian Standard AS4970 - 2009: Protection of trees on development sites (measured from the outside edge of the trunk) for the nature strip tree in accordance with the requirements of Condition of this Permit.

A notation must be added to state that any works in the Tree Protection Zone must be carried out without excavation.
- When approved, the plans will be endorsed and form part of this Permit.
2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

3. This Permit will expire if either:
- The development does not start within three (3) years from the date of this Permit; or
  - The development is not completed within five (5) years of the date of this Permit.

As relevant, the Responsible Authority may extend the times referred to if a request is made in writing:

- Before this Permit expires;
  - Within six (6) months after the expiry date; or
  - Within twelve (12) months after the expiry date if the request relates to the completion of the development or a stage of the development.
4. Before buildings and works start, a detailed Landscape Plan to the satisfaction of the Responsible Authority must be submitted to, and approved by the Responsible Authority. When the Landscape Plan is approved, it will be endorsed and will then form part of this Permit. The Landscape Plan must be prepared by a suitably qualified person and must incorporate:
- a) Annotations detailing a Tree Protection Zone and associated Tree Protection Fence with a radius in accordance with Australian Standard AS4970 - 2009: Protection of trees on development sites (measured from the outside edge of the trunk) for the nature strip tree in accordance with the requirements of Condition of this Permit.  

A notation must be added to state that any works in the Tree Protection Zone must be carried out without excavation.
  - b) Details of all existing trees to be retained and all existing trees to be removed, including overhanging trees on adjoining properties and street trees within the nature strip. The genus, species, height and spread of all trees must be specified.
  - c) A planting schedule of proposed vegetation detailing the botanical name, common name, size at maturity, pot size and quantities of all plants.
  - d) a diversity of plant species and forms. All proposed planting must be to the satisfaction of the Responsible Authority.
  - e) Two (2) medium sized canopy trees to be shown within the front setback to Loddon Avenue and four (4) small sized canopy trees to be shown, one (1) each to be located in the SPOS of all dwellings commensurate with the size of planting area available. All canopy trees are to have a minimum height of 1.6 metres in 40 litre containers at the time of installation. Canopy trees must have the following minimum widths at maturity: small canopy (4 metres), medium canopy (6 metres), large canopy (10 metres).
  - f) Annotated graphic construction details showing all landscape applications and structures including tree and shrub planting, retaining walls, raised planter bed and decking.
  - g) Type and details of all surfaces including lawns, mulched garden beds and permeable and/or hard paving (such as pavers, brick, gravel, asphalt and concrete) demonstrating a minimum site permeability of 20%. Percentage cover of permeable surfaces must be stated on the plan. Where paving is specified, material types and construction methods (including cross sections where appropriate) must be provided.
  - h) Hard paved surfaces at all entry points to dwellings.
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- i) All constructed items including letter boxes, garbage bin receptacles, lighting, clotheslines, tanks, outdoor storage etc.
  - j) Type and details of edge treatment between all changes in surface (e.g. grass (lawn), gravel, paving and garden beds).
  - k) An outline of the approved building/s including any basement, the location of entry doors, windows, gates and fences must be shown on the landscape plan. The location of both existing and proposed overhead and underground services. Conflicts of such services with the existing and proposed planting must be avoided.
  - l) Clear graphics identifying trees (deciduous and evergreen), shrubs, grasses/sedges, groundcovers and climbers.
  - m) Scale, north point and appropriate legend. Landscape plans are to be clear, legible and with graphics drawn to scale, and provide only relevant information.
5. The landscaping as shown on the endorsed Landscape Plan must be completed to the satisfaction of the Responsible Authority before the development is occupied and/or the use starts or at such later date as is approved by the Responsible Authority in writing.
- No later than seven (7) days after the completion of the landscaping, the permit holder must advise Council, in writing, that the landscaping has been completed.
6. The landscaping as shown on the endorsed Landscape Plan must be maintained, and any dead, diseased or damaged plant replaced in accordance with the endorsed Landscape Plan to the satisfaction of the Responsible Authority.
7. Before buildings and works (including demolition) start, a tree protection fence must be erected around the naturestrip tree at a radius in accordance with Australian Standard AS4970 - 2009: Protection of trees on development sites from the base of the trunk to define a 'Tree Protection Zone'.
- This fence must be constructed of star pickets and chain mesh (or similar) to the satisfaction of the Responsible Authority.
- The tree protection fence must remain in place until construction is completed.
- No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Zone.
- No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Zone.
- The ground surface of the tree protection zone must be covered by a protective 100mm deep layer of mulch prior to the development commencing and be watered regularly to the satisfaction of the Responsible Authority.
8. Floor levels shown on the endorsed plans must be confirmed. The confirmation of the ground floor level must take place no later than at the time of the inspection of the subfloor of the development required under the *Building Act 1993* and the Building Regulations 2006. This confirmation must be in the form of a report from a licensed land surveyor and must be submitted to the Responsible Authority no later than 7 days from the date of the sub-floor inspection. The upper floor levels must be confirmed before a Certificate of Occupancy is issued, by a report from a licensed land surveyor submitted to the Responsible Authority.
9. All dwellings that share dividing walls and/or floors must be constructed to limit noise transmission in accordance with Part F(5) of the Building Code of Australia.
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10. Before the dwellings are occupied, an automatic external lighting system capable of illuminating the entry to each unit, access to each garage and car parking space and all pedestrian walkways must be provided on the land to the satisfaction of the Responsible Authority.

The external lighting must be designed, baffled and/or located to ensure that no loss of amenity is caused to adjoining and nearby land, to the satisfaction of the Responsible Authority.

11. Boundary walls facing adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.
12. The land must be drained to the satisfaction of the Responsible Authority.
13. With the exception of guttering, rainheads and downpipes, all pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
14. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the prior written consent of the Responsible Authority.
15. Provision must be made on the land for letter boxes and receptacles for newspapers to the satisfaction of the Responsible Authority.
16. Before occupation of the development, areas set aside for the parking of vehicles and access lanes as shown on the endorsed plan(s) must be:
- a) Constructed;
  - b) Properly formed to such levels that they can be used in accordance with the plans;
  - c) Surfaced with an all-weather sealcoat; and
  - d) Drained

to the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose.

## NOTATIONS

**(These notes are provided for information only and do not constitute part of this permit or conditions of this permit)**

- N1 Any failure to comply with the conditions of this permit may result in action being taken to have an Enforcement Order made against some or all persons having an interest in the land and may result in legal action or the cancellation of this permit by the Victorian Civil and Administrative Tribunal.
- N2 Nothing in the grant of this permit should be construed as granting any permission other than planning permission for the purpose described. It is the duty of the permit holder to acquaint themselves, and comply, with all other relevant legal obligations (including any obligation in relation to restrictive covenants and easements affecting the site) and to obtain other required permits, consents or approvals.
- N3 The amendments specified in Condition 1 of this Permit and any additional modifications which are "necessary or consequential" are those that will be assessed by Council when plans are lodged to satisfy that condition. Any "necessary or consequential" amendments, in addition to those required by this condition, should be specifically brought to the attention of Council for assessment.



If any other modifications are proposed, application must also be made for their approval under the relevant sections of the *Planning and Environment Act 1987*. They can only be approved once the required and consequential changes have been approved and the plans endorsed. It is possible to approve such modifications without notice to other parties, but they must be of limited scope. Modifications of a more significant nature may require a new permit application.

- N4 This Planning Permit represents the Planning approval for the use and/or development of the land. This Planning Permit does not represent the approval of other departments of Darebin City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria to that adopted for the approval of this Planning Permit.
- N5 This planning permit must be attached to the “statement of matters affecting land being sold”, under section 32 of the *Sale of the Land Act 1962* and any tenancy agreement or other agreement under the *Residential Tenancies Act 1997*, for all purchasers, tenants and residents of any dwelling shown on this planning permit, and all prospective purchasers, tenants and residents of any such dwelling are to be advised that they will not be eligible for on-street parking permits pursuant to the Darebin Residential Parking Permit Scheme.

## Report

### INTRODUCTION AND BACKGROUND

Council records indicate there is no planning history for this site.

### ISSUES AND DISCUSSION

#### Subject site and surrounding area

- The land is slightly irregular in shape and measures 46.08 metres in length along the north-western boundary and 46.55 metres along the south-eastern boundary and 15.24 metres in width with a site area of 705.5 square metres.
- The land is located within the General Residential Zone Schedule 2 and affected by a Development Contribution Plan Overlay. Currently Council’s ability to request the levy has expired as the Schedule to the Clause expired on the 30 June 2014.
- The land is located on the south-western side of Loddon Avenue between Plenty Road to the south-east and North Road to the north-west. Boldrewood Parade runs parallel to Loddon Avenue 250 metres to the south-west.
- The site is occupied by a single storey brick veneer dwelling with secluded private open space and outbuildings to the rear. Vehicle access is gained via an existing crossover at the south-eastern edge of the site. There are trees and shrubs throughout the site but no significant vegetation. The site is relatively flat.
- To the south-east at No. 23 Loddon Avenue is a single storey brick dwelling with secluded private open space and outbuilding to the rear. The dwelling is setback 2.6 metres from the common boundary with a garage constructed along the boundary for approximately 15% of its length. The dwelling has a front setback of 7.8 metres.
- To the north-west at No. 27 Loddon Avenue is a single storey brick dwelling with secluded private open space and outbuildings to the rear. The dwelling is setback 1.4 metres from the common boundary and has a front setback of 7.7 metres.

- To the south-west (rear) is a single storey dwelling fronting Erskine Street. The dwelling is setback in excess of 18 metres of the common boundary with outbuildings setback in excess of 6 metres.
- To the north-east across Loddon Avenue are single storey weatherboard dwellings.
- Unrestricted on-street parking is available in front of the subject site and on the south-western and north-eastern side of Loddon Avenue between Plenty Road and North Road.
- The site is located within an extensive residential area extending to the Darebin Creek to the north-east, Plenty Road to the south-east and Boldrewood Parade to the south-west and north-west. The Summerhill Shopping Centre is located approximately 400 metres from the subject site and Reservoir Activity Centre approximately 2.1km to the west. There are several parks in proximity of the site including C T Barling Reserve approximately 700 metres to the east and the Darebin Creek Trail approximately 1km to the east. The Darebin Community Sports Stadium is located 600 metres to the north-east.
- The nearest public transport services to the site:
  - Tram Route 86 (Bundoora RMIT - Waterfront City Docklands) runs along Plenty Road approximately 280 metres to the south-east.
  - Bus Route 562 (Northland Shopping Centre-Whittlesea) runs along Plenty Road with a stop approximately 400 metres to the south-east.
  - Bus Route 556 (Epping Plaza SC - Northland SC) runs along Boldrewood Parade with a stop approximately 400 metres to the south-east.

### **Proposal**

- It is proposed to construct four (4) double storey dwellings. Each dwelling has two (2) bedrooms and access to a single space garage.
- Vehicle access is to be gained via an existing crossover at the south-eastern edge of the site.
- The maximum height of the dwellings is to be 7.5 metres.
- The proposed private open space is provided as follows:
  - Unit 1 – 106.5 square metres including 28 square metres of secluded private open space;
  - Unit 2 – 44.6 square metres of secluded private open space;
  - Unit 3 – 42.6 square metres of secluded private open space;
  - Unit 4 – 40.7 square metres including 28.9 square metres of secluded private open space.

### **Objections**

- Eleven (11) objections have been received.

### **Objections summarised**

- There is an oversupply of 1 and 2 bedroom apartments in Darebin and an undersupply of 3 or more bedroom detached housing for families. This development adds to the imbalance by removing a family home and adding 4 x 2 bedroom flats.
- Neighbourhood character – Inappropriate double storey development.
- The development provides poor internal amenity with small living spaces.

- The proposed development will remove a number of significant canopy trees and does not show adequate planting of replacement vegetation.
- Building height/size is inappropriate/visual bulk.
- Decreased pedestrian safety.
- Parking – Traffic congestion.
- Overdevelopment of the site – inappropriate double storey development.
- The proposed development does not add net value to the community.
- The number of objections indicates the scale of the negative social effect on the community.
- The proposed development does not meet the standards set in the Darebin Planning Scheme.
- The proposed development will not provide affordable accommodation.

**Officer comment on summarised objections**

There is an oversupply of 1 and 2 bedroom apartments in Darebin and an undersupply of 3 or more bedroom separate housing for families. This development adds to the imbalance by removing a family home and adding 3 x 2 bedroom flats

The proposed development provides diverse housing options for people who do not, or cannot, maintain a freestanding three (3) bedroom home.

Neighbourhood character – Inappropriate double storey development

The proposed development has been assessed against Council's neighbourhood character guidelines for precinct F5 and is shown to be compliant with all aspects contained within these guidelines. The double storey nature of the dwellings is an appropriate transition in height over existing single storey dwellings.

The proposed double storey dwellings have been designed to have minimal impact on the streetscape with a good level of articulation.

The proposal is for dwellings on residentially zoned land. It is reasonable to anticipate that this land would be developed for the purpose of a residential development. The development of residential land for residential purposes is entirely consistent with expected land use and the character of the area.

The development provides poor internal amenity with small living spaces

Each dwelling has north facing windows to habitable rooms and rooms that are well dimensioned and have good access to light and ventilation. It is considered that the room sizes are sufficient and will provide a good level of amenity for the residents.

The proposed development will remove a number of significant canopy trees and does not show adequate planting of replacement vegetation

The application will result in the loss of canopy trees from the site but these have been identified by Darebin Parks to have low retention value. A condition of the approval will require the planting of six (6) canopy trees to support the canopy coverage and amenity of the area.

Building height/size is inappropriate/visual bulk

The proposed dwellings are to have a maximum height of 7.5 metres which is under the 9 metre maximum as required by Standard B7. Double storey construction is an acceptable design outcome in a suburban residential setting and provides an appropriate transition in height above adjoining single storey dwellings.

The size of the development is appropriate with recessed upper levels, small upper floor footprints and ample space for vegetation.

The proposal is not considered bulky to the street or adjoining lots with generous setbacks provided from the property boundaries, combined with varied materials and modest wall heights (approximately 5.8 metres).

Decreased pedestrian safety

The proposed development is not considered to increase the risk of pedestrian accidents as the existing crossover is to be utilised for all dwellings. Pedestrian visibility splays have also been shown on the plans.

Parking – Traffic congestion

The increase in traffic movements in the street, arising from three (3) additional dwellings is considered to be an increment that will not affect local traffic conditions. The development provides the requisite number of car spaces on site for the number of bedrooms each dwelling has. This complies numerically with the Scheme under Clause 52.06. The access-way has a width of between 3 metres and 4.8 metres. This satisfies the standards of the Darebin Planning Scheme. See assessment below for further discussion.

Overdevelopment of the site- Inappropriate double storey development

The site is of medium size, well proportioned (with an overall site area of 705 square metres) and located in the General Residential Zone – Schedule 2 where residential development at a range of densities and varieties is allowed.

The consideration of a medium density development is based on its compliance with a set of criteria outlined in the Scheme and not based on a subjective concern of 'too many units'. In fact, the Victorian State Government has a clear policy on urban consolidation which is heavily dependent on medium density housing development.

The proposal will provide diverse housing in an area that is serviced and close to the central business district (CBD). The composition of housing types should be mixed to provide greater choice, as not everyone can afford or wants to live in a freestanding home or maintain a yard.

The proposed development does not add net value to the community

There have been no demonstrated dis-benefits associated with the development. The proposal provides dwellings resulting in community benefit. This ground is clearly contrary to the objectives of planning in Victoria.

In Backman and Company Pty Ltd v Boroondara City Council the following was noted:

*33. As I have highlighted, parties seeking to rely on Sections 60(1B) and 84(2)(jb) of the Planning and Environment Act face a significant task in order to substantiate a significant social effect in relation to a housing proposal on residentially zoned land. That significant task extends much further than just garnering a significant level of opposition to a proposed development. Firstly, parties alleging a significant social effect have to ascertain what the actual significant social effect is, in the framework of a zoning regime where one does not need a permit to use residentially zoned land for residential purposes. The mere identification of significant community opposition to a proposal is not a significant social effect of itself.*

*Secondly, the significant social effect will need to be sufficiently documented with evidentiary material to demonstrate the likelihood, probability and severity of the social effect. The identification of a social effect is not sufficient, as it also needs to be demonstrated that the social effect will be significant. Thirdly, as identified in the Rutherford decision, it will need to be demonstrated that any significant social effect outweighs any social benefits that might result from a balanced assessment of a development proposal.*

The number of objections indicates the scale of the negative social effect on the community

The number of objections does not indicate whether a development will have a negative social effect on the community. Non-compliance with the Scheme would indicate this. Conversely, the proposed development complies with most elements of Clause 55 and other relevant policy contained within the Scheme.

The proposed development does not meet standards set in the Darebin Planning Scheme

The proposed development complies with most elements of Clause 55 of the Scheme and is considered appropriate within the context of the streetscape.

The proposed development will not provide affordable accommodation

The Darebin Planning Scheme does not mandate that all residential development must be affordable housing in monetary terms. The notion of affordable housing also includes the provision of additional housing opportunities in locations that are well served by existing infrastructure, the functions and services of nearby activity centres and available public transport.

## **PLANNING ASSESSMENT**

### **Clause 21.03 Housing**

The site and wider area has been identified as one for incremental change, where a moderate level of development over time is permitted. The land is well located with respect to schools, shops and public transport all within an 800 metre radius of the site.

The area is also starting to exhibit a modest degree of residential infill development, as evidenced at No's. 5, 6, 8, 9, 17 and 32 Loddon Avenue, Reservoir.

**Neighbourhood Character Precinct Guideline Assessment - Precinct F5**Vegetation

There are no trees on-site worthy of retention or require planning permission for removal. A condition of approval will require the provision of six (6) canopy trees of varying size. These additional canopy trees will enhance the garden landscape of the wider area.

**Complies subject to condition**Siting

The proposal provides for a front garden that is large enough for the planting of vegetation to enable the continuation of the garden setting in this area. There are landscaping opportunities to the rear of each of the dwellings.

The proposed front three (3) dwellings (Units 1-3) will be setback from the side boundaries in keeping with the detached character of the neighbourhood. The rear dwelling (Unit 4) will be constructed to the south-eastern boundary. Given this is located to the rear of the site it will not significantly impact on the appearance of the development to the street. It is considered that the proposed development will not detract from the streetscape.

**Complies**Height and Building Form

The height of dwellings in the neighbourhood is predominantly single storey but there are double-storey dwellings in proximity of the site (at no. 32 Loddon Avenue and other infill development sites). The upper levels of the dwellings have been setback from the front wall of the dwellings but not the width of a room. Given the recessive design of the upper levels, use of different materials and good articulation the development will not present visual bulk to the street or adjoining areas of private open space.

**Complies**Materials and Design Detail

The modest design approach adopted here respects both the existing and preferred neighbourhood character of the area and is considered appropriate. The use of varying materials and wall surfaces (brick, render, and various feature cladding) window openings and a combination of pitched and parapet walls ensure the proposed building is articulated. A materials and colours schedule would need to be submitted as a condition of approval.

**Complies subject to condition**Front Boundary Treatment

No front fence is proposed allowing views to the front garden and dwellings.

**Complies****Clause 55 Assessment**

The following sections provide discussion on fundamental areas of Clause 55 including variations of standards and matters informing conditions of the recommendation above.

Clause 55.02-4 B4 Infrastructure

The development is to be located in an established area where there is adequate infrastructure and the proposal will not exceed the capacity of local infrastructure. Council's Capital Works Unit has commented that drainage is available to the site subject to conditions.

**Complies subject to condition**Clause 55.03-2 B7 Building Height

The proposed dwellings are to have a maximum height of 7.5 metres which complies with the standard requiring a maximum height not exceeding 9 metres.

**Complies**Clause 55.03-5 B10 Energy Efficiency

The proposal is considered to be generally energy efficient due to the following:

- Attached construction.
- Cross ventilation is available in the design.
- The development does not unreasonably affect the solar access and energy efficiency of neighbouring dwellings.
- Open space and living areas with access to north light.
- Space for outdoor clothes drying facilities.
- Use of eaves.
- A condition of approval will require that the south-west facing kitchen and bedroom 1 window of dwelling 4 is treated with retractable shading devices and that the open pergola alfresco areas of Dwellings 2 to 4 are partially shaded to protect these rooms from the afternoon western sun.

**Complies subject to condition**Clause 55.03-8 B13 Landscaping

- The surrounding landscape character is generally semi mature and informal with large open spaces and spacious setbacks.
- The open spaces and setbacks are generally large enough to provide sufficient landscaping.
- A detailed landscape plan will be required as a condition of any approval along with the inclusion of a minimum of six (6) canopy trees varying between small and medium size.

**Complies subject to condition**Clause 55.03-9 B14 Access

- Vehicle access to and from the site is safe, manageable and convenient with the existing crossover to be utilised as part of this application.
- The width of the access-way is 3 metres.

- The single crossover to the street, taking up 19% of the frontage, is acceptable given that the standard requires that no more than 40% of the frontage should be taken up by vehicle access-ways.
- Turning areas are provided to allow vehicles to enter and exit the site in a forwards direction, however to confirm adequate manoeuvrability a condition of approval will require the plans show a swept path assessment demonstrating a B85th percentile vehicle can enter and exit the site in accordance with the requirements of AS2890.1:2004 to the satisfaction of the responsible authority.

**Complies subject to condition**Clause 55.03-10 B15 Parking Location

- Parking facilities will be proximate to the dwellings they serve.
- The proposed garages are an adequately secure form of parking. The access is observable.
- The south-east-facing kitchen window of Unit 1 is set back from the access-way by 0.5 metres and does not have sill heights of at least 1.4 metres above the access-way. A condition of approval will require that this window is treated with thick glazing to limit vehicle noise into the room.
- The south-east facing living room windows of Units 2 and 3 and the north-east facing bedroom window of Unit 4 have setbacks and sill heights in accordance with the standard.

**Complies subject to condition**Clause 55.04-6 B22 Overlooking

- The ground levels of the proposed dwellings have finished floor levels less than 0.8 metres above NGL at the boundary. Existing 2 metre high boundary fences on the north-western, south-western and part of the south-eastern boundaries will sufficiently limit overlooking. A condition of approval will require that the south-eastern property boundary fence is increased to 1.8 metres high above NGL for that part where it is only 1.7 metres high above NGL.
- The development is designed to limit views into neighbouring secluded private open space and habitable room windows.
- All upper storey windows are appropriately designed and/or screened to ensure no overlooking, provided that a section of the external screen is shown on the plans.

**Complies subject to condition**Clause 55.05-4 B28 Private Open Space

- The development provides adequate private open space (pos) for the reasonable recreation and service needs of residents.
- This is achieved through the provision of 40 square metres of private open space, of which 25 square metres is deemed secluded, located at the side or rear of the dwelling, with a minimum dimension of 3 metres and conveniently accessed from a living room.



	Total POS	Secluded POS	Minimum dimension of secluded POS
Unit 1	106.5 square metres	28 square metres	3.5 metres
Unit 2		44.6 square metres	3.5 metres
Unit 3		42.6 square metres	3.5 metres
Unit 4	40.7 square metres	28.9 square metres	3.1 metres

- All secluded private open space areas have direct access to a living room.

**Complies**

**Clause 52.06 Car Parking**

Number of Parking Spaces Required

One (1) car parking space is provided for each of the two (2) bedroom dwellings.

Design Standards for Car parking

- The garaging and the access-ways have appropriate dimensions to enable efficient use and management. A condition of approval will require that a swept path assessment is provided demonstrating that B85th percentile vehicles can enter and exit garage 4 in accordance with the requirements of AS2890.1:2004 to the satisfaction of the responsible authority.
- The car parking facilities are designed, surfaced and graded to reduce run-off and allow stormwater to drain into the site.
- Garage dimensions of 6 metres length x 3.5 metres width comply with the minimum requirements of the standard.
- Access dimensions to the car spaces comply with the standard.

**CLAUSE 55 COMPLIANCE SUMMARY**

Clause	Std		Compliance	
			Std	Obj
<b>55.02-1</b>	<b>B1</b>	<b>Neighbourhood character</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.02-2</b>	<b>B2</b>	<b>Residential policy</b>		
		The proposal complies with the relevant residential policies outlined in the Darebin Planning Scheme.	Y	Y
<b>55.02-3</b>	<b>B3</b>	<b>Dwelling diversity</b>		
		N/A as development contains less than 10 dwellings	N/A	N/A
<b>55.02-4</b>	<b>B4</b>	<b>Infrastructure</b>		
		Adequate infrastructure exists to support new development	Y	Y

Clause	Std		Compliance	
			Std	Obj
<b>55.02-5</b>	<b>B5</b>	<b>Integration with the street</b>		
		Unit 1 appropriately integrates with the Street.	Y	Y
<b>55.03-1</b>	<b>B6</b>	<b>Street setback</b>		
		The required setback is 7.6 metres, the dwellings are set back 7.7 metres from the street frontage.	Y	Y
<b>55.03-2</b>	<b>B7</b>	<b>Building height</b>		
		7.5 metres	Y	Y
<b>55.03-3</b>	<b>B8</b>	<b>Site coverage</b>		
		41.5%	Y	Y
<b>55.03-4</b>	<b>B9</b>	<b>Permeability</b>		
		36.7%	Y	Y
<b>55.03-5</b>	<b>B10</b>	<b>Energy efficiency</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.03-6</b>	<b>B11</b>	<b>Open space</b>		
		N/A as the site does not abut public open space.	N/A	N/A
<b>55.03-7</b>	<b>B12</b>	<b>Safety</b>		
		The proposed development is secure and the creation of unsafe spaces has been avoided.	Y	Y
<b>55.03-8</b>	<b>B13</b>	<b>Landscaping</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.03-9</b>	<b>B14</b>	<b>Access</b>		
		Please see assessment in the body of this report.	N	Y
<b>55.03-10</b>	<b>B15</b>	<b>Parking location</b>		
		Please see assessment in the body of this report.	N	Y
<b>55.04-1</b>	<b>B17</b>	<b>Side and rear setbacks</b>		
		Dwellings are set back in accordance with the requirements of this standard.	Y	Y
<b>55.04-2</b>	<b>B18</b>	<b>Walls on boundaries</b>		
		Length: 3.5 metres Height: 2.8 metres avg. Walls on boundaries comply with the requirements of this standard.	Y	Y
<b>55.04-3</b>	<b>B19</b>	<b>Daylight to existing windows</b>		
		Sufficient setbacks exist to allow adequate daylight	Y	Y
<b>55.04-4</b>	<b>B20</b>	<b>North-facing windows</b>		
		Development is set back in accordance with the	Y	Y

Clause	Std		Compliance	
			Std	Obj
		standard.		
<b>55.04-5</b>	<b>B21</b>	<b>Overshadowing open space</b>		
		Shadow cast by the development is within the parameters set out by the standard.	Y	Y
<b>55.04-6</b>	<b>B22</b>	<b>Overlooking</b>		
		Please see assessment in the body of this report.	N	Y
<b>55.04-7</b>	<b>B23</b>	<b>Internal views</b>		
		There are no internal views	Y	Y
<b>55.04-8</b>	<b>B24</b>	<b>Noise impacts</b>		
		Noise impacts are consistent with those in a residential zone.	Y	Y
<b>55.05-1</b>	<b>B25</b>	<b>Accessibility</b>		
		The ground levels of the proposal can be made accessible for people with limited mobility.	Y	Y
<b>55.05-2</b>	<b>B26</b>	<b>Dwelling entry</b>		
		Entries to the dwellings are identifiable and provide an adequate area for transition.	Y	Y
<b>55.05-3</b>	<b>B27</b>	<b>Daylight to new windows</b>		
		Adequate setbacks are proposed to allow appropriate daylight access.	Y	Y
<b>55.05-4</b>	<b>B28</b>	<b>Private open space</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.05-5</b>	<b>B29</b>	<b>Solar access to open space</b>		
		Sufficient depth is provided for adequate solar access.	Y	Y
<b>55.05-6</b>	<b>B30</b>	<b>Storage</b>		
		Sufficient storage areas are provided.	Y	Y
<b>55.06-1</b>	<b>B31</b>	<b>Design detail</b>		
		Design detail of dwellings is appropriate in the neighbourhood setting.	Y	Y
<b>55.06-2</b>	<b>B32</b>	<b>Front fences</b>		
		No front fence is proposed which is acceptable	Y	Y
<b>55.06-3</b>	<b>B33</b>	<b>Common property</b>		
		Common property areas are appropriate and manageable.	Y	Y
<b>55.06-4</b>	<b>B34</b>	<b>Site services</b>		
		Sufficient areas for site services are provided.	Y	Y

**REFERRAL SUMMARY**

Department/Authority	Response
Capital Works	No objection, subject to condition included in recommendation.
Transport Management and Planning	No objection, subject to condition included in recommendation
Darebin Parks	No objection, subject to condition included in recommendation

**PLANNING SCHEME SUMMARY**

**Darebin Planning Scheme clauses under which a permit is required**

Zoning Controls

- Clause 32.08-4 (General Residential Zone) – Construction of two (2) or more dwellings on a lot.

**Applicable provisions of the Darebin Planning Scheme**

Section of Scheme	Relevant Clauses
SPPF	11.02-1, 15.01-1, 15.01-5, 15.02, 16.01, 19.03-1
LPPF	21.02-3, 21.03, 21.03-2, 21.03-3, 21.03-4, 22.02
Zone	32.08
Overlay	45.06*
Particular provisions	52.06, 55
General provisions	65.01
Neighbourhood Character Precinct	F5

\*Currently Council's ability to request the levy has expired as the Schedule to the Clause expired on the 30 June 2014.

**POLICY IMPLICATIONS**

**Environmental Sustainability**

All new dwellings are required to achieve a minimum six (6) star energy rating under the relevant building controls.

**Social Inclusion and Diversity**

Nil

**Other**

Nil

**FINANCIAL AND RESOURCE IMPLICATIONS**

There are no financial or resource implications as a result of the determination of this application.

**FUTURE ACTIONS**

Nil

**DISCLOSURE OF INTERESTS**

Section 80C of the *Local Government Act 1989* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any direct or indirect interest in a matter to which the advice relates.

The Manager authorising this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

**RELATED DOCUMENTS**

Darebin Planning Scheme and the *Planning and Environment Act (1987)* as amended.

**5.8 APPLICATION FOR PLANNING PERMIT D/724/2015**  
 27-29 Loddon Avenue, Reservoir

**AUTHOR:** Principal Statutory Planner – John Limbach

**DIRECTOR:** Director Assets and Business Services – Steve Hamilton

**OWNER/APPLICANT/CONSULTANT:**

Applicant	Owner	Consultant
C. Kairouz Architects	Jian Xin Chen and Thi Da Wai	C. Kairouz Architects Melbourne Planning Solutions

**SUMMARY:**

- It is proposed to demolish the existing dwellings and construct seven (7) double storey dwellings.
- It is important to note that the site does not have a true north-south orientation as the elevation labels appear to make out; however the report and recommendation have adopted the applicant’s orientation as labelled for clarity.
- The site is zoned General Residential Zone Schedule 2.
- There is a covenant registered on title that restricts excavation, other than for the purpose of erecting buildings, and the manufacturing and winning of bricks. The proposed development will not breach the terms of the covenant.
- 15 objections were received against this application.
- The proposal is generally consistent with the objectives and standards of Clause 55 of the Darebin Planning Scheme (the Scheme).
- It is recommended that the application be supported.

**CONSULTATION:**

- Public notice was given via two (2) signs posted on site and letters sent to surrounding owners and occupiers.
- This application was referred internally to the Transport Management and Planning Unit, ESD Officer and the Capital Works Unit.
- This application was not required to be referred to external authorities.

**Recommendation**

**That** Planning Permit Application D/724/2015 be supported and a Notice of Decision to Grant a Permit be issued subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to, and approved by, the Responsible Authority. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application (identified as drawing nos A8, A9, A10, A11, A12, Revision TP05, dated 15 April 2016, job no. CKA15-054 and prepared by C. Kairouz Architects) but modified to show:
  - a) The height of fences on the northern boundary (except within 7.789 metres of the front boundary of the land) to be a minimum height of 1.8 metres as measured above natural ground level.

Where necessary, the fence height may be increased by raising the height of the fence or by the provision of free-standing, self-supporting trellis adjacent the fence to the required height. If utilised, such trellis must be a maximum of 25% open and be fixed, permanent, durable and coloured or painted to blend with the development.
  - b) Dimensions illustrating that the garages are to have minimum internal dimensions of 3.5 metres in width and 6 metres in length, clear of any obstructions, such as storage areas (Dwelling 7).
  - c) Minimum tandem car space dimensions of 4.9 metres length x 2.6 metres are to be shown with an additional 0.5 metres in length provided between each tandem space and garage.
  - d) Revised swept path diagrams and any alterations required to illustrate that vehicles are able to conveniently enter and exit garages located to the rear of tandem spaces.
  - e) The crossover reduced to a maximum width of 3.5 metres at the front boundary of the site.
  - f) The driveway, where located adjacent to Dwellings 1 and 7 (including their front garden areas), to be decreased in width to 3 metres by way of increasing the width of the landscaping strips.
  - g) Full details including elevation(s) and materials of the front boundary fence, showing a maximum height of 0.9 metres.
  - h) The south-facing kitchen windows of Dwellings 2 and 3 and the north-facing living room window of Dwelling 6 are to have minimum sill heights of 1.4 metres above the adjacent accessway level.
  - i) Full dimensions of all private open space showing the provision of a minimum of 40 square metres of private open space at the side or rear of the dwelling, with a minimum area of 25 square metres of secluded private open space, a minimum dimension of 3 metres and convenient access from a living room. Any alterations required achieve these areas must not result in reduced setbacks to the property boundaries nor a reduction in landscaping to the common driveway area.
  - j) Provision of 6 cubic metres of externally accessible secure storage for Dwellings 4, 6 and 7.
  - k) The notations relating to measures to reduce overlooking on the first floor plans altered to reflect the measures shown on the elevation plans.

- l) Dimensions to elevations illustrating that all highlight windows (including to stair ways and landings) have sill heights a minimum of 1.7 metres above finished floor level.
- m) Removal of the words 'or similar' from the 'obscure glazing' notation in the materials schedule.
- n) The garage wall of Dwelling 7 to the southern common boundary is to be shown to comply with Standard B19 of Clause 55.04-3 (Daylight to existing windows) of the Scheme, illustrating an area of at least 3.0 square metres with a minimum dimension of 1.0 metre clear to the sky, taking into account the adjoining eaves and ensuring the wall is set back a minimum of 50% of the height of the wall opposite the adjoining existing habitable room windows.
- o) The provision of pedestrian visibility splays measuring 2.0 metres (width across the frontage) by 2.5 metres (depth into the site), to the sides of the proposed crossover. Where within the subject site, any structures or vegetation within these splays must be not more than 1.15 metres in height.
- p) The location of all plant and equipment (including air conditioners and the like). These are to be co-located where possible, screened to be minimally visible from the public realm and adjacent properties, located as far as practicable from site boundaries and integrated into the design of the building.
- q) Any modifications in accordance with the Sustainable Design Assessment (Refer to Condition No. 7 of this Permit).
- r) External, operable sun shading devices to all east and west facing habitable room windows. Where sun shading devices are being utilised a section diagram must be included to demonstrate their effectiveness.
- s) All garage doors are to include windows or openings for natural light access.
- t) A Landscape Plan in accordance with Condition No.4 of this Permit.
- u) Any modifications in accordance with the Waste Management Plan (Refer to Condition No. 8 of this Permit).

When approved, the plans will be endorsed and form part of this Permit.

2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
3. This Permit will expire if either:
  - The development does not start within three (3) years from the date of this Permit; or
  - The development is not completed within five (5) years of the date of this Permit.

As relevant, the Responsible Authority may extend the times referred to if a request is made in writing:

- Before this Permit expires;
- Within six (6) months after the expiry date; or
- Within twelve (12) months after the expiry date if the request relates to the completion of the development or a stage of the development.



4. Before buildings and works start, a detailed Landscape Plan to the satisfaction of the Responsible Authority must be submitted to, and approved by the Responsible Authority. When the Landscape Plan is approved, it will be endorsed and will then form part of this Permit. The Landscape Plan must be prepared by a suitably qualified person and must incorporate:
- a) Details of all existing trees to be retained and all existing trees to be removed, including overhanging trees on adjoining properties and street trees within the nature strip. The genus, species, height and spread of all trees must be specified.
  - b) A planting schedule of proposed vegetation detailing the botanical name, common name, size at maturity, pot size and quantities of all plants.
  - c) A diversity of plant species and forms. All proposed planting must be to the satisfaction of the Responsible Authority.
  - d) Where the opportunity exists, an appropriate number and size of canopy trees are to be shown within the secluded private open space areas of each dwelling and within the front setback of the property, commensurate with the size of planting area available. All canopy trees are to have a minimum height of 1.6 metres in 40 litre containers at the time of installation. Canopy trees must have the following minimum widths at maturity: small canopy (4 metres), medium canopy (6 metres), large canopy (10 metres).
  - e) Annotated graphic construction details showing all landscape applications and structures including tree and shrub planting, retaining walls, raised planter bed and decking.
  - f) Type and details of all surfaces including lawns, mulched garden beds and permeable and/or hard paving (such as pavers, brick, gravel, asphalt and concrete) demonstrating a minimum site permeability of 20%. Percentage cover of permeable surfaces must be stated on the plan. Where paving is specified, material types and construction methods (including cross sections where appropriate) must be provided.
  - g) Hard paved surfaces at all entry points to dwellings.
  - h) All constructed items including letter boxes, garbage bin receptacles, lighting, clotheslines, tanks, outdoor storage etc.
  - i) Type and details of edge treatment between all changes in surface (e.g. grass (lawn), gravel, paving and garden beds).
  - j) An outline of the approved building/s including any basement, the location of entry doors, windows, gates and fences must be shown on the landscape plan. The location of both existing and proposed overhead and underground services. Conflicts of such services with the existing and proposed planting must be avoided.
  - k) Clear graphics identifying trees (deciduous and evergreen), shrubs, grasses/sedges, groundcovers and climbers.
  - l) Scale, north point and appropriate legend. Landscape plans are to be clear, legible and with graphics drawn to scale, and provide only relevant information.
5. The landscaping as shown on the endorsed Landscape Plan must be completed to the satisfaction of the Responsible Authority before the development is occupied and/or the use starts or at such later date as is approved by the Responsible Authority in writing.

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No later than seven (7) days after the completion of the landscaping, the permit holder must advise Council, in writing, that the landscaping has been completed.

6. The landscaping as shown on the endorsed Landscape Plan must be maintained, and any dead, diseased or damaged plant replaced in accordance with the endorsed Landscape Plan to the satisfaction of the Responsible Authority.
7. Before the development starts, a Sustainable Design Assessment (SDA) detailing sustainable design strategies to be incorporated into the development to the satisfaction of the Responsible Authority must be submitted to, and approved in writing by the Responsible Authority. The SDA must outline proposed sustainable design initiatives within the development such as (but not limited to) energy efficiency, water conservation, stormwater quality, waste management and material selection. It is recommended that a Built Environment Sustainability Scorecard (BESS) report is undertaken as part of the SDA.

The development must be constructed in accordance with the requirements/recommendations of the Sustainable Design Assessment to the satisfaction of the Responsible Authority.

8. Before the development starts, a waste management plan, to the satisfaction of the Responsible Authority, demonstrating the operation of the garbage and recyclables storage area must be submitted to the Responsible Authority.

The plan/documentation must demonstrate the means by which garbage and recyclables will be stored on the site and must clearly detail: what waste services will be provided (ie. cardboard paper plastic and metals recycling or comingled waste, general waste and even organic waste), types of bins, types of collection vehicles, frequency of collection, times of collection, location of collection point for vehicles, location of bins for collection and any other relevant matter.

The plan may require bin sharing or that collection be undertaken by a private contractor if it cannot be demonstrated to the satisfaction of the Responsible Authority that the kerb-side collection of individual bins will not cause car parking and/ or amenity issues.

Waste storage and collection must be undertaken in accordance with the approved management plan and must be conducted in such a manner as not to affect the amenity of the surrounding area and which does not cause any interference with the circulation and parking of vehicles on abutting streets.

9. Floor levels shown on the endorsed plans must be confirmed. The confirmation of the ground floor level must take place no later than at the time of the inspection of the subfloor of the development required under the *Building Act 1993* and the Building Regulations 2010. This confirmation must be in the form of a report from a licensed land surveyor and must be submitted to the Responsible Authority no later than 7 days from the date of the sub-floor inspection. The upper floor levels must be confirmed before a Certificate of Occupancy is issued, by a report from a licensed land surveyor submitted to the Responsible Authority.
10. All dwellings that share dividing walls and floors must be constructed to limit noise transmission in accordance with Part F (5) of the Building Code of Australia.
11. Before the dwellings are occupied, an automatic external lighting system capable of illuminating the entry to each unit, access to each garage and car parking space and all pedestrian walkways must be provided on the land to the satisfaction of the Responsible Authority.

The external lighting must be designed, baffled and/or located to ensure that no loss of amenity is caused to adjoining and nearby land, to the satisfaction of the Responsible Authority.

12. Boundary walls facing adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.
13. The land must be drained to the satisfaction of the Responsible Authority.
14. With the exception of guttering, rainheads and downpipes, all pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
15. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the prior written consent of the Responsible Authority.
16. Provision must be made on the land for letter boxes and receptacles for newspapers to the satisfaction of the Responsible Authority.
17. Before occupation of the development areas set aside for the parking of vehicles and access lanes as shown on the endorsed plan(s) must be:
  - a) Constructed;
  - b) Properly formed to such levels that they can be used in accordance with the plans;
  - c) Surfaced;
  - d) Drained;to the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose.
18. Before the development is occupied vehicular crossing(s) must be constructed to align with approved driveways to the satisfaction of the Responsible Authority. All redundant crossing(s), crossing opening(s) or parts thereof must be removed and replaced with footpath, naturestrip and kerb and channel to the satisfaction of the Responsible Authority.

## NOTATIONS

**(These notes are provided for information only and do not constitute part of this permit or conditions of this permit)**

- N1 Any failure to comply with the conditions of this permit may result in action being taken to have an Enforcement Order made against some or all persons having an interest in the land and may result in legal action or the cancellation of this permit by the Victorian Civil and Administrative Tribunal.
- N2 Nothing in the grant of this permit should be construed as granting any permission other than planning permission for the purpose described. It is the duty of the permit holder to acquaint themselves, and comply, with all other relevant legal obligations (including any obligation in relation to restrictive covenants and easements affecting the site) and to obtain other required permits, consents or approvals.
- N3 The amendments specified in Condition 1 of this Permit and any additional modifications which are "necessary or consequential" are those that will be assessed by Council when plans are lodged to satisfy that condition. Any "necessary or consequential" amendments, in addition to those required by this condition, should be specifically brought to the attention of Council for assessment.

If any other modifications are proposed, application must also be made for their approval under the relevant Sections of the *Planning and Environment Act 1987*. They can only be approved once the required and consequential changes have been approved and the plans endorsed. It is possible to approve such modifications without

notice to other parties, but they must be of limited scope. Modifications of a more significant nature may require a new permit application.

- N4 This Planning Permit represents the Planning approval for the use and/or development of the land. This Planning Permit does not represent the approval of other departments of Darebin City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria to that adopted for the approval of this Planning Permit.
- N5 To complete a satisfactory Sustainable Design Assessment (SDA) the Responsible Authority recommends the use of the Built Environment Sustainability Scorecard (BESS) to assess the developments environmental performance against appropriate standards.

## Report

### INTRODUCTION AND BACKGROUND

Council issued Planning Permit D660/14 for 'A medium density housing development comprising the construction of five (5) double storey dwellings and a reduction of visitor car parking (one (1) space) in accordance with the endorsed plans' on 9 January 2016.

### ISSUES AND DISCUSSION

#### Subject site and surrounding area

- The land is irregular in shape and is comprised of two (2) allotments. It measures 45.13 to 46.08 metres in length and 30.46 to 30.48 metres in width with a site area of 1,389.30 square metres.
- The land is located within the General Residential Zone 2 and is affected by the Development Contribution Plan Overlay; however the ability to collect development contribution levies has expired.
- The land is located on the west side of the street, approximately 230 metres to the north of the intersection with Plenty Road.
- Each of the lots contains a single storey brick dwelling, with pitched and gabled tiled roof. There is a double crossover serving both sites to the centre of the overall frontage. The site has a fall of approximately 3.3 metres from the front (north east) corner to the rear (south west) corner.
- To the east, on the opposite side of the street are a number of single storey detached dwellings, with a double storey medium density development to the north east.
- To the west are the rear yards and outbuildings of dwellings fronting Erskine Avenue.
- To the north of the site is a single storey dwelling, with setbacks of 1.4 metres from the common boundary and 11 metres to the street.
- To the south is a single storey brick dwelling, with a setback of 9.1 metres from the street and 1.2 metres from the common boundary.
- The area is residential in character with mainly single storey detached dwellings, noting a number of medium density developments and double storey dwellings nearby.

- The site is located approximately 300 metres to the north of the Summerhill Village Activity Centre and approximately 20 metres from the No.86 tram route. Reservoir Activity Centre is approximately 1.3 kilometres to the west and Reservoir Railway Station is approximately 1.7 kilometres to the west.
- Reservoir East Primary School is approximately 250 metres to the north and Reservoir High School is approximately 150 metres to the east. K.P. Hardiman Reserve and C.T. Barling Park are approximately 400 metres to the east.
- No parking restrictions apply to the street in the vicinity of the site.

**Proposal**

- It is proposed to construct seven (7) double storey dwellings, with two (2) and three (3) bedrooms (5x3 bedroom and 2x2 bedroom dwellings).
- Dwellings 1 and 7 are located to the front of the site and Dwellings 2-6 are along the site towards the rear. Dwellings 1-4 are to the north of the site and separated from Dwellings 5-7 (located to the south), by the proposed central common accessway.
- Dwellings 1, 5, 6 and 7 are to have an open plan kitchen/dining/living area at ground level with three (3) bedrooms to the first floor. They are each to have a single garage, with a tandem car space.
- Dwelling 4 (to the rear) is to have a bedroom and an open plan kitchen/dining/living area at ground level with two (2) bedrooms to the first floor. This dwelling is to have a single garage, with a tandem car space.
- Dwellings 2 and 3 are to have an open plan kitchen/dining/living area at ground level with two (2) bedrooms to the first floor. They are each to have a single garage.
- Vehicle access is via a common driveway to the centre of the site for Dwellings 1-6 and along the south eastern common boundary for Dwelling 7.
- The dwellings, although modern in appearance, will have a traditional form with brick walls to the ground level, render and timber cladding to the first floor and pitched and hipped roofs.
- The private open space of the dwellings will be between 40 square metres and 140 square metres (Dwelling 1).
- The proposal will have a maximum height of approximately 8.1 metres to the ridge of Dwelling 1.

**Objections**

- 15 objections have been received.

**Objections summarised**

- Oversupply of one (1) and two (2) bedroom dwellings in the municipality
- Neighbourhood character
- Environmental sustainability
- Traffic and car parking
- Overdevelopment relative to existing single storey housing
- Visual bulk presented to the neighbouring properties
- Proposal fails to provide net community benefit

- The high number of objections indicates the scale of negative social effect on the community
- Compliance with relevant standards set in the Scheme.
- The proposed development will not provide affordable accommodation.

### **Officer comment on summarised objections**

#### Oversupply of one (1) and two (2) bedroom dwellings in the municipality

Council's new Municipal Strategic Statement (MSS) was gazetted into the Scheme in October 2015 and sets out the key strategic planning, land use and development objectives for the municipality and the strategies and actions for achieving the objectives. Relevantly, Clause 21.02-2 sets out the following key influence with respect to population growth and change:

*“Ageing families and declining household sizes are placing pressure on housing supply as fewer people occupy more housing.”*

The MSS continues with the following future housing issue at 21.01-4:

*“Facilitation of well-designed housing to meet anticipated housing needs, both in terms of number and diversity.”*

The policy guidance with respect to housing is contained in Clause 21.03. While there is strong policy support for appropriate medium density in-fill in well serviced locations, it is Clause 21.03-3 (Housing Diversity and Equity) that is of particular relevant to the objectors' concerns. The overview sets out (extracted as relevant):

*“Housing affordability is a particular housing issue in Darebin. Lack of affordable housing and high rental prices can aggravate housing stress and homelessness. Housing affordability, income levels and demand for social and public housing are highly correlated. An increase in the supply of affordable housing could ease housing stress of low income earners and can decrease the demand for social housing.”*

This informs the following objectives (extracted as relevant):

*“To ensure that housing diversity is increased to better meet the needs of the local community and reflect demographic changes and trends.”*

*“To increase the supply of affordable and social housing.”*

An oversupply of one (1) and two (2) bedroom dwellings is unsubstantiated by any statistical data and further goes contrary to the demographic issues and housing objectives contained in Council's MSS. Furthermore, five (5) of the dwellings have three (3) bedrooms and so contribute to dwelling diversity.

#### Neighbourhood character

The test of neighbourhood character under the Darebin Planning Scheme is for development to respect the existing character or to contribute to a preferred future character. This is considered having regard to the relevant policies within the Scheme (including Clause 22.02) relative to the physical context of the site itself. A detailed assessment of the development against the neighbourhood character considerations is provided below.

Environmental sustainability

The environmental sustainability of the development is considered under the provisions of Clause 55.03-5 (Energy Efficiency). In summary the attached construction, availability of cross ventilation, outdoor clothes drying facilities and solar access to open space provide for an energy efficient form of housing. The siting of the dwellings will not unreasonably impact the energy characteristics of neighbouring properties.

Traffic and car parking

The application proposes a reduction of one (1) car parking space as per the requirements of Clause 52.06-5 of the Darebin Planning Scheme. The proposal will result in a modest increase to the number of daily vehicle movements which can easily be absorbed by the local road network.

A detailed assessment of traffic and car parking matters is provided below.

Overdevelopment relative to existing single storey housing

The development proposes a modest rise from the single storey buildings on the subject and adjoining properties, noting that there are other double storey dwellings in the surrounding area. The development is also respectful of the prevailing scale of housing stock in the area.

Visual bulk presented to the neighbouring properties

Substantial and varied first floor setbacks are provided from the common boundaries, and along with the minimal overall height and mix of materials limit the unreasonable presentation of bulk to neighbouring properties.

Proposal fails to provide net community benefit

The objectors concerns about net community benefit cannot be substantiated. Firstly, the proposal contributes to State and local policy objectives to consolidate housing in well located, established residential areas. As set out above, the type and form of housing provided responds to demographic changes and housing needs in the municipality.

Combined with the high level of compliance (subject to conditions) with Clause 55, the proposal will provide a consolidated form of housing which minimises impacts on neighbouring land and provides net benefit to the community.

The high number of objections indicates the scale of negative social effect on the community

Section 60(1) (f) of the Act deals with significant social effects. This section states:

- (1) *Before deciding on an application, the responsible authority must consider-*
  - (f) *any significant social effects and economic effects which the responsible authority considers the use or development may have.*
- (1B) *For the purposes of subsection (1)(f), the responsible authority must (where appropriate) have regard to the number of objectors in considering whether the use or development may have a significant social effect.*

In *Backman and Company Pty Ltd v Boroondara City Council* the following was noted:

*“33. As I have highlighted, parties seeking to rely on Sections 60(1B) and 84(2)(jb) of the Planning and Environment Act face a significant task in order to substantiate a significant social effect in relation to a housing proposal on residentially zoned land. That significant task extends much further than just garnering a significant level of opposition to a proposed development.*

*Firstly, parties alleging a significant social effect have to ascertain what the actual significant social effect is, in the framework of a zoning regime where one does not need a permit to use residentially zoned land for residential purposes. The mere identification of significant community opposition to a proposal is not a significant social effect of itself.*

*Secondly, the significant social effect will need to be sufficiently documented with evidentiary material to demonstrate the likelihood, probability and severity of the social effect. The identification of a social effect is not sufficient, as it also needs to be demonstrated that the social effect will be significant.*

*Thirdly, as identified in the Rutherford decision, it will need to be demonstrated that any significant social effect outweighs any social benefits that might result from a balanced assessment of a development proposal”.*

In *Hoskin v Greater Bendigo City Council [2015] VSCA 350 (16 December 2015)* The Supreme Court of Appeal made the following observations about section 60(1)(f):

- 1. Section 60(1) describes matters which the responsible authority and, in turn, the Tribunal must consider. It does not stipulate that a particular matter should necessarily be determinative of the decision as to whether a permit be granted or refused.*
- 2. It is for the responsible authority and, in turn, for the Tribunal on review to determine whether something constitutes a significant social effect and what weight it should be given in reaching a decision whether to grant or refuse a permit.*

It is considered that the receipt of 15 objections, in itself, is not a determining factor as to whether a permit should be granted or refused in this instance. A medium density development in an area designated as an area of Incremental Change in the Darebin Housing Strategy is not considered to be likely to cause significant social effects for residents or visitors to the area.

#### Compliance with relevant standards set in the Scheme

The proposal has been assessed against relevant standards contained within the Scheme with particular focus on Clauses 52.06 and 55 and the Darebin Neighbourhood Character Guidelines, and has been found to generally comply with the standards and objectives.

#### The proposed development will not provide affordable accommodation

There is no policy requirement for affordable accommodation to be included as part of this development. It is, however, arguable that providing a range of relatively smaller dwellings on a site that would historically only have supported one (1) dwelling on each lot is likely to contribute to housing affordability.



**PLANNING ASSESSMENT****Neighbourhood Character Precinct Guideline Assessment – Precinct F5**Vegetation

- The proposal will not result in the loss of significant trees from the site. There is no accompanying landscape concept plan; however, this may be required by condition. Notwithstanding the above, it is considered that the design will allow the development to provide adequate setbacks and sufficient space for landscaping and appropriate canopy planting to the front, sides and rear. In addition, the wide frontage and provision of only two (2) access points, separated by a landscaped front yard area, limits impervious surfaces.
- Therefore, it is considered that sufficient measures have been undertaken to ensure the development complies with the overall landscape character.
- A condition of any approval will require a landscape plan.

**Complies subject to condition**Siting

- The front garden is ample for planting of vegetation, to enable the continuation of the garden setting in this area. The proposal also allows large enough garden space to the sides and rear for appropriate landscaping.
- Although Dwelling 7 is constructed to the side boundary, the proposal maintains an appropriate detached rhythm of dwelling spacing to the street in that: Dwelling 1 is set back from the northern common boundary; the dwellings to the front are separated by the central common accessway; the adjoining dwelling to the south is set back from the common boundary; the boundary construction for Dwelling 7 is a garage that is set back from the façade; and often garages are constructed to boundaries. Therefore, adequate separation is maintained in building forms to the street, respecting the rhythm of dwelling spacing.
- There are to be two (2) crossovers provided to the street, with all car spaces located behind the façade or at the rear, so that parking areas do not dominate the front façade. The site has a wide frontage of 30.48 metres, there is ample space to plant in the front garden and there are no significant areas of paving to the frontage.

**Complies**Height and building form

- The heights of buildings in the area are predominantly single storey; however, there are double storey buildings nearby. The upper floors are set back adequately from the ground floor façade and articulated by way of varied setbacks and the use of materials. This is an appropriate design response with a strong single storey element to the streetscape façade. The first floor areas are also separated to the streetscape.
- The dwellings have been largely designed to minimise bulk, with first floor areas smaller than the ground floor envelope.
- The development is not out of scale with the adjoining buildings and does not dominate the streetscape. It matches the height of nearby double storey buildings and it presents a graduated increase in height over nearby single storey buildings.

**Complies**

Materials and design detail

- Articulation in the façade is achieved through the use of brick and lightweight surfaces to the walls, as well as setbacks and varied fenestrations in windows and door openings. The pitched roof design is a traditional element that reflects the pitched roofs forms of dwellings in the area.
- The design and materials appropriately respect the character dwellings in the area.

**Complies**Front boundary treatment

There is to be a 0.9 metre front boundary fence, which allows views from the street to the front façade and is appropriate. However, details of the fence are required by way of condition.

**Complies subject to condition****Clause 55 Assessment**

The following sections provide discussion on fundamental areas of Clause 55 including variations of standards and matters informing conditions of the recommendation above.

Clause 55.02-3 B3 Dwelling Diversity

This standard applies to developments of 10 or more dwellings and is not applicable to the subject application; however the application provides a mix of two (2) and three (3) bedroom dwellings and therefore contributes to diversity in Darebin's housing stock.

**Not applicable**Clause 55.03-1 B6 Street Setback

- The front setbacks of the adjoining dwellings are 11 metres and 9.1 metres to the north and south respectively. The standard therefore requires a setback of 9 metres.
- The proposed front setback of 7.789 metres does not comply with the standard, however the design response is considered to be acceptable due to the following:
  - The setback addresses the relevant requirements of the Neighbourhood Character Study, in that it allows adequate provision for landscaping. In addition, the Neighbourhood Character Study notes that *'Front setbacks are generally between 5 and 7 metres and ... Some streetscapes of public housing have varied setbacks between 5 and 9 metres'* The proposed setback is appropriately within this range.
  - The façades are appropriately articulated.
  - The front setback will not result in unreasonable visual bulk when viewed from the street or adjoining properties.
  - The proposed setback results in efficient use of the site.
  - The existing streetscape is not consistent and provides for varied setbacks of between 6.7 metres and 11 metres.

**Complies with objective**

Clause 55.03-2 B7 Building Height

The proposed dwellings are to have a maximum height of 8.10 metres which complies with the standard requiring a maximum height not exceeding 9.0 metres.

**Complies**Clause 55.03-5 B10 Energy Efficiency

The proposal is considered to be generally energy efficient due to the following:

- Attached construction.
- Cross ventilation is available in the design.
- The development does not unreasonably affect the solar access and energy efficiency of neighbouring dwellings.
- Open space and living areas with access to north light.
- Space for outdoor clothes drying facilities.
- A condition of any approval will require any modifications required in accordance with a Sustainable Design Assessment.
- A condition of any approval will require natural light to garages.
- A condition of any approval will require sun shading devices to east and west facing windows and glazed doors.

**Complies subject to condition**Clause 55.03-8 B13 Landscaping

- The surrounding landscape character is generally semi mature and informal with large open spaces and spacious setbacks.
- The open spaces and setbacks are generally large enough to provide sufficient landscaping.
- A detailed landscape plan will be required as a condition of any approval.

**Complies subject to condition**Clause 55.03-10 B15 Parking Location

- Parking facilities will be proximate to the dwellings they serve.
- The proposed garages are an adequately secure form of parking.
- The access is observable.
- A number of habitable room windows face the accessway: the south facing kitchen windows of Dwellings 2 and 3 and the north-facing living room window of Dwelling 6. These should have sills to 1.4 metres and this may be addressed by condition.

**Complies subject to condition**

Clause 55.04-3 B19 Daylight to Existing Windows

It is unclear if the proposal allows adequate daylight to 25 Loddon Avenue (to the south east), with an area of at least 3.0 square metres with a minimum dimension of 1.0 metre clear to the sky (given the adjoining eaves, site fall and raised floor level of the adjoining dwelling) and so this must be addressed by condition.

**Complies subject to condition**

Clause 55.04-6 B22 Overlooking

- The ground floor levels of the proposed dwellings have finished floor levels less than 0.8 metres above natural ground level at the boundary. Existing 1.9 and 1.95 metre high boundary fences on the south and part of the west boundaries, will sufficiently limit overlooking. It is not considered that the 1.5 metre high fence to the south west is required to be increased, due to the significant site cut in this area. Nevertheless, the boundary fence to the north must be increased by condition to a minimum height of 1.8 metres by condition.
- The development is designed to limit views into neighbouring secluded private open space and habitable room windows.
- All upper storey windows appear to be appropriately designed and/or screened to ensure no overlooking. However further clarification is required on the elevations and floor plans which will be addressed via condition.

**Complies subject to condition**

Clause 55.05-4 B28 Private Open Space

- The development provides adequate private open space (pos) for the reasonable recreation and service needs of residents.
- This is achieved through the provision of 40 square metres of secluded private open space at the side or rear of the dwelling with a minimum area of 25 square metres, a minimum dimension of 3 metres and convenient access from a living room.

	<b>Total POS</b>	<b>Secluded POS</b>	<b>Minimum dimension of secluded POS</b>
Dwelling 1	120 square metres	<i>18 square metres</i>	3.3 metres
Dwelling 2	40 square metres	40 square metres	4.8 metres
Dwelling 3	40 square metres	40 square metres	4.8 metres
Dwelling 4	57 square metres	<i>21.96 square metres</i>	3 metres
Dwelling 5	68 square metres	32 square metres	3.5 metres
Dwelling 6	45 square metres	33 square metres	3.25 metres
Dwelling 7	140 square metres	<i>16.32 square metres</i>	<i>2.72 metres</i>

- A number of private open space areas are less than the standard requirement as shown in italics in the table above. These must be increased in area and dimension to meet the minimum standard.
- All secluded private open space areas have direct access to a living room.

**Complies subject to condition**

Clause 55.05-6 B30 Storage

Adequate storage facilities are provided for most the dwellings. This is provided in the form of 6 cubic metres of externally accessible secure storage. Details of the storage areas for Dwellings 4 and 6 and the relocation of Dwelling 7's will be required by condition.

**Complies subject to condition**Clause 55.06-2 B32 Front Fences

There is to be a 0.9 metre front boundary fence, which allows views from the street to the front façade and is appropriate. However, details of the fence are required by way of condition.

**Complies subject to condition**Clause 55.06-4 B34 Site Services

A condition of any approval will require a waste management plan to be submitted. If the waste management plan cannot demonstrate that kerbside collection will not cause car parking and/ or amenity issues, it may require private collection or bin sharing.

**Complies subject to condition****Clause 52.06 Car Parking**Number of Parking Spaces Required

- One (1) car parking space is provided for each of the one (1) and two (2) bedroom dwellings.
- Two (2) car parking spaces are provided for each of the three (3) or more bedroom dwellings with one space under cover.
- No visitor car parking space is provided. Nevertheless, this is considered to be acceptable, given that the intermittent demand of one (1) visitor car space is not expected to cause unreasonable impact on parking availability in the area.

Design Standards for Car parking

- The car parking spaces, the carports, the garaging and the accessways have appropriate dimension to enable efficient use and management.
- The car parking facilities are designed, surfaced and graded to reduce run-off and allow stormwater to drain into the site.
- The garage dimensions are generally 6.0 metres length x 3.5 metres width and comply with the minimum requirements of the standard. However, some garages do not have dimensions shown, which can be remedied via condition.
- Tandem car space dimensions of 4.9 metres length x 2.6 metres width comply with the standard. However, the standard requires that where parking spaces are provided in tandem an additional 0.5 metres in length must be provided between each space. This must be addressed by condition.
- Access dimensions to the car spaces comply with the standard.

- Vehicles are able to enter and exit the common accessway in a forward direction, however swept path diagrams will be required given the changes required to the plans.
- Visibility splays are required at the accessway interface with the footpath to protect pedestrians. This has been requested as a condition of approval.

**CLAUSE 55 COMPLIANCE SUMMARY**

Clause	Std		Compliance	
			Std	Obj
<b>55.02-1</b>	<b>B1</b>	<b>Neighbourhood character</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.02-2</b>	<b>B2</b>	<b>Residential policy</b>		
		The proposal complies with the relevant residential policies outlined in the Darebin Planning Scheme.	Y	Y
<b>55.02-3</b>	<b>B3</b>	<b>Dwelling diversity</b>		
		Please see assessment in the body of this report.	N/A	N/A
<b>55.02-4</b>	<b>B4</b>	<b>Infrastructure</b>		
		Adequate infrastructure exists to support new development	Y	Y
<b>55.02-5</b>	<b>B5</b>	<b>Integration with the street</b>		
		Dwellings 1 and 7 are appropriately integrated with the Street.	Y	Y
<b>55.03-1</b>	<b>B6</b>	<b>Street setback</b>		
		Please see assessment in the body of this report.	N	Y
<b>55.03-2</b>	<b>B7</b>	<b>Building height</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.03-3</b>	<b>B8</b>	<b>Site coverage</b>		
		41%	Y	Y
<b>55.03-4</b>	<b>B9</b>	<b>Permeability</b>		
		47%	Y	Y
<b>55.03-5</b>	<b>B10</b>	<b>Energy efficiency</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.03-6</b>	<b>B11</b>	<b>Open space</b>		
		N/A as the site does not abut public open space.	N/A	N/A
<b>55.03-7</b>	<b>B12</b>	<b>Safety</b>		
		The proposed development is secure and the creation of unsafe spaces has been avoided.	Y	Y
<b>55.03-8</b>	<b>B13</b>	<b>Landscaping</b>		
		Please see assessment in the body of this report.	Y	Y

Clause	Std		Compliance	
			Std	Obj
<b>55.03-9</b>	<b>B14</b>	<b>Access</b>		
		Access is sufficient and respects the character of the area.	Y	Y
<b>55.03-10</b>	<b>B15</b>	<b>Parking location</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.04-1</b>	<b>B17</b>	<b>Side and rear setbacks</b>		
		Dwellings are set back in accordance with the requirements of this standard.	Y	Y
<b>55.04-2</b>	<b>B18</b>	<b>Walls on boundaries</b>		
		North: <ul style="list-style-type: none"> <li>Length: 4 metres (18.78 metres allowed)</li> <li>Height: less than an average of 3.2 metres</li> </ul> South: <ul style="list-style-type: none"> <li>Length: 15.05 metres (19.02 metres allowed)</li> <li>Height: less than an average of 3.2 metres</li> </ul> Walls on boundaries comply with the requirements of this standard.	Y	Y
<b>55.04-3</b>	<b>B19</b>	<b>Daylight to existing windows</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.04-4</b>	<b>B20</b>	<b>North-facing windows</b>		
		There are no north facing windows within 3.0 metres of the common boundary with the subject site. It is noted that the subject site is oriented in a north-easterly/south-westerly direction, so that the habitable room windows of the adjoining dwelling are not within 20 degrees west and 30 degrees east of north.	Y	Y
<b>55.04-5</b>	<b>B21</b>	<b>Overshadowing open space</b>		
		Shadow cast by the development is within the parameters set out by the standard.	Y	Y
<b>55.04-6</b>	<b>B22</b>	<b>Overlooking</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.04-7</b>	<b>B23</b>	<b>Internal views</b>		
		There are no internal views	Y	Y
<b>55.04-8</b>	<b>B24</b>	<b>Noise impacts</b>		
		Noise impacts are consistent with those in a residential zone.	Y	Y
<b>55.05-1</b>	<b>B25</b>	<b>Accessibility</b>		
		The ground levels of the proposal can be made accessible for people with limited mobility.	Y	Y

Clause	Std		Compliance	
			Std	Obj
<b>55.05-2</b>	<b>B26</b>	<b>Dwelling entry</b>		
		Entries to the dwellings are identifiable and provide an adequate area for transition.	Y	Y
<b>55.05-3</b>	<b>B27</b>	<b>Daylight to new windows</b>		
		Adequate setbacks are proposed to allow appropriate daylight access.	Y	Y
<b>55.05-4</b>	<b>B28</b>	<b>Private open space</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.05-5</b>	<b>B29</b>	<b>Solar access to open space</b>		
		Sufficient depth is provided for adequate solar access.	Y	Y
<b>55.05-6</b>	<b>B30</b>	<b>Storage</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.06-1</b>	<b>B31</b>	<b>Design detail</b>		
		Design detail of dwellings is appropriate in the neighbourhood setting.	Y	Y
<b>55.06-2</b>	<b>B32</b>	<b>Front fences</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.06-3</b>	<b>B33</b>	<b>Common property</b>		
		Common property areas are appropriate and manageable.	Y	Y
<b>55.06-4</b>	<b>B34</b>	<b>Site services</b>		
		Please see assessment in the body of this report.	Y	Y

**REFERRAL SUMMARY**

Department/Authority	Response
Capital Works	No objection, subject to condition included in recommendation.
Transport Management and Planning	No objection, subject to condition included in recommendation.
ESD Officer	No objection, subject to condition included in recommendation.

**PLANNING SCHEME SUMMARY**

**Darebin Planning Scheme clauses under which a permit is required**

- Clause 32.08-4 – Construct two (2) or more dwellings on a lot



**Applicable provisions of the Darebin Planning Scheme**

<b>Section of Scheme</b>	<b>Relevant Clauses</b>
SPPF	11.02-1, 15.01-1, 15.01-5, 15.02, 16.01, 19.03-1
LPPF	21.02-3, 21.02-6, 21.03-2, 21.03-3, 21.03-4, 21.05-1, 21.05-2, 21.05-3, 22.02
Zone	32.08
Overlay	45.06
Particular provisions	52.06, 55
General provisions	65.01
Neighbourhood Character Precinct	F5

**POLICY IMPLICATIONS****Environmental Sustainability**

All new dwellings are required to achieve a minimum six (6) star energy rating under the relevant building controls.

**Social Inclusion and Diversity**

Nil

**Other**

Nil

**FINANCIAL AND RESOURCE IMPLICATIONS**

There are no financial or resource implications as a result of the determination of this application.

**FUTURE ACTIONS**

Nil

**DISCLOSURE OF INTERESTS**

Section 80C of the *Local Government Act 1989* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any direct or indirect interest in a matter to which the advice relates.

The Manager authorising this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

**RELATED DOCUMENTS**

Darebin Planning Scheme and the *Planning and Environment Act (1987)* as amended.

**5.9 APPLICATION FOR PLANNING PERMIT D/1114/2015**  
 33 Wilson Boulevard, Reservoir

**AUTHOR:** Statutory Planner - Alexia Paterson

**DIRECTOR:** Director Assets and Business Services – Steve Hamilton

**OWNER/APPLICANT/CONSULTANT:**

Applicant	Owner	Consultant
Tessie Margo	Anthony Scicluna and Giovanna Scicluna	Melbourne legal Chambers

**SUMMARY:**

- The applicant seeks to vary Covenant A554128 registered on Certificate of Title of 33 Wilson Boulevard, Reservoir (Lot 3 on Plan of Subdivision 052219, Certificate of Title Vol. 08285 Folio 503) to allow for more than one (1) dwelling to be constructed on the land.
- The subject site is zoned General Residential Zone Schedule 1 (GRZ1).
- The subject site has been earmarked under C156 Planning Amendment to be zoned as Neighbourhood Residential (NRZ1).
- Thirteen objections were received against this application.
- No objections were received from the owners of land benefited by the Covenant.
- No development plans have accompanied this application.
- It is recommended that the application be refused.

**CONSULTATION:**

- In accordance with section 52(1) of the *Planning and Environment Act 1987*, the application was advertised by sending planning notices to the adjoining owners and occupiers of the land as well as the owners and occupiers of the land benefiting from the covenant.
- In accordance with section 52 (1AA) of the *Planning and Environment Act 1987*, a notice on site was also required to be displayed.
- Pursuant to section 52(1AA) of the Act, a notice of the application was required to be published in the Preston leader in two (2) consecutive editions.
- Thirteen objections have been received to date of which none were from an owner of land benefited by the Covenant.
- The application was not required to be referred externally under section 55 of the Act.
- This application was not required to be referred to other Council units

**Recommendation**

**That** Planning Permit Application D/1114/2015 be refused and Notice of Refusal be issued on the following grounds:

1. Council is not satisfied that the owners of the land benefited by the restriction contained in Certificate of Title Volume 08285 Folio 503 (Instrument No. A554128) will be unlikely to suffer any detriment of any kind as a consequence of the variation of the restriction, in accordance with section 60(5) of the *Planning and Environment Act 1987*.
2. Council is satisfied that ‘affected people’ in accordance to Clause 52.02 of Darebin Planning Scheme would likely suffer detriment as a consequence of the variation of the restriction.

**Report**

**INTRODUCTION AND BACKGROUND**

Council records indicate that no previous planning permit applications are applicable to the subject land. In the surrounding area, the following planning applications to either remove or vary a restrictive covenant or ‘medium density’ developments have been considered by Council in the recent past:

Property Address	Planning Application No.	Proposal	Decision
9-11 Wilson Blvd, Reservoir	D/485/2001	Construction of nine (9) dwellings  (Not subject to a restrictive covenant)	Approved 5/02/2002
1 Wilson Blvd, Reservoir	D/514/2008	Covenant removal and construction of three (3) dwellings	Approved 11/06/2009 by the direction of VCAT
16 Elliot Street, Reservoir	D/599/2010	Covenant removal	Refused 14/10/2011
‘As above’	D/350/2012	Variation to Covenant	Refused 12/10/2012
18 Elliot Street, Reservoir	D/598/2010	Covenant removal	Refused 01/03/2012
13 Elliot Street Reservoir	D/467/2014	Variation to Covenant to allow for four (4) dwellings	Refused 19/12/2014
6 Elliot Street Reservoir	D/953/2012	Variation to Covenant	Refused 28/05/2013
‘As above’	D/16/2016	Variation to Covenant to allow for three (3) dwellings	Pending decision
7 Tivey Street, Reservoir	D/596/2011	Covenant removal	Withdrawn
‘As above’	D/752/2012	Variation to Covenant to allow for three (3) dwellings	Approved 05/04/2013

## ISSUES AND DISCUSSION

### Subject site and surrounding area

- The subject site is located within the General Residential Zone Schedule 1 (GRZ1) with Land Subject to Inundation Overlay (LSIO) and Development Contributions Plan Overlay (DCPO) – expired in 2014.
- The subject site is located on the west side of Wilson Boulevard between Broadhurst Avenue and Glasgow Avenue. The site is adjacent to T- intersection between Wilson Avenue and Elliot Street.
- The subject site is irregular in shape with a 17.2 metre street frontage, measuring 1,546 square metres in size. The subject site interfaces with Edgers Creek corridor to the west.
- The site has an existing modest single storey dwelling with a street setback of approximately 7 metres with a few ancillary outbuildings. Rear of the building footprint is a generous size yard that provides a vegetation corridor between Edgers Creek and building footprint.
- The land known as 35 and 37 Wilson Blvd are encumbered by this covenant Instrument no. A554128. These parcels of land have the same characteristics to the subject site but their land sizes are 1,371 square metres and 1,295 square metres, respectively.
- Directly south of the site are 12 single storey dwellings
- The subject site is a partially within 60 metres of a major electricity transmission line (220 kilovolts or more) or an electricity transmission easement.
- The subject site is identified as having aboriginal heritage significance in accordance with the *Aboriginal Heritage Act 2006*.
- Housing stock along Wilson Street is generally comprised of single storey detached houses, constructed between the 1960s and 1980s. These are often constructed of brick, with tiled, hipped roofs. Housing lots are generally large and low fencing and landscaped front setbacks are typical of the streetscape. Backyards include numerous outbuildings.
- Lots in the vicinity adjacent to Edgars Creek corridor are relatively generous with land sizes ranging from approximately 850 square metres to 3,800 square metres.
- It is noted, 9-11 Wilson Street received approval in 2002 for medium density housing comprising of three (3) double storey front dwellings and six (6) single storey rear dwellings on a lot size of 850 square metres. Was not subject to a restrictive covenant.
- There are no parking restrictions on Wilson Street.
- Closest public transport is a bus running east-west along Broadhurst Avenue approx. 280 metres south of site.

**Proposal**

Planning Permit D/1114/2015 Seeks to vary Covenant A554128 registered on Certificate of Title of 33 Wilson Boulevard, Reservoir (Lot 3 on Plan of Subdivision 052219, Certificate of Title Vol. 08285 Folio 503) by deleting the following text from part (c):

*... and not more than one dwelling house shall be erected on each of the three lots into which the said lots are subdivided by Plan of Subdivision 052219 lodged in the Office of Titles and the cost of constructing such house shall not be less than four hundred pounds (inclusive of all architects fees and the cost of erecting any outbuildings or fences)... ”*

By removing part of (c), to allow for more than one (1) dwelling to be constructed on the land.

**Objections**

Thirteen objections have been received.

**Objections summarised**

The objections orient around the possible future development to the site. There is no development application submitted in conjunction to this application.

- Will allow for overdevelopment of the site.
- Inconsistent with neighbourhood character of the area which is predominantly single storey free standing houses.
- Oversupply of one (1) and (two) 2 bedroom apartments in Darebin.
- Undersupply of three (3) bedrooms separate housing for families.
- Does not respect sustainability characteristics.

**Officer comment on summarised objections**Will allow for overdevelopment of the site

It is emphasised the current application does not seek permission for redevelopment of the land and that there is no application lodged with Council to develop the land for medium density housing.

Inconsistent with neighbourhood character of the area which is predominantly single storey free standing houses

The restrictive covenant plays a role in preserving the neighbourhood character of the area by restricting the development of the subject land and other surrounding neighbourhood properties that are burdened by the covenant.

Variation of the covenant will allow more than one (1) dwelling to be constructed on the land, which could impact on the existing character of the area, residential amenity, and municipal housing strategic direction. These issues are discussed further below.

Oversupply of one (1) and (two) 2 bedroom apartments in Darebin. Undersupply of three (3) bedrooms separate housing for families

Dwelling diversity is not a relevant consideration for this application as there is no coinciding development application to consider.

Does not respect sustainability characteristics

The objectors' use of term "sustainability characteristics" is unclear. "Sustainability" is multiple facet term that asserts competing interests. In the planning realm 'sustainability' can be generally described as achieving optimization of the physical, social and natural resources with minimal externalities.

It is determined the objectors concern can be translated to '*does not respect the current development pattern of large lots with modest building footprints, and generous sized front and rear yards which dominate the neighbourhood. The development pattern respects the balance of built and natural environments*'. The objector's concern appears to have two untuned factors; potential increase in housing densification to the site/area and loss of generous vegetation spaces that exist as a result of the one (1) dwelling per lot restriction in the neighbourhood.

When considering sustainability in terms of housing densification, on a land parcel scale, the very notion of the housing densification can be considered sustainable as building infrastructure and land resources are optimised. However, on a municipality scale, the location of housing densification becomes more important as factors/resources, such as, but not limited to: transportation, mobility, access to services and natural environment need to be considered. Council's adopted 'Darebin Housing Strategy 2013-2033' in 2014 which outlines the level of housing growth to areas to best manage the impacts of housing change and growth in Darebin. The subject site is located in an area of *minimal* change, discouraging medium to high levels housing densification. This policy will be discussed further below.

It is emphasised the current application does not seek permission for redevelopment of the land and that there is no application lodged with Council to develop the land for medium density housing.

Of the 13 objections considered, none were received from the owners of land benefited by the Covenant.

**PLANNING ASSESSMENT**

Pursuant to Clause 52.02 of the Darebin Planning Scheme, a planning permit is required before a person proceeds under Section 23 of the Subdivision Act 1988 to create vary or remove a restriction.

The land is burdened by a restrictive covenant contained in Instrument of Transfer No. A554128 and the operative terms of the covenant are as follows:

*"...that –*

- a) No hoarding for advertisement purposes shall be erected on the said lot hereby transferred.*
- b) No quarrying operations shall at any time hereafter be carried on in or upon the said lot hereby transferred and no stone earth clay gravel or sand shall at any time hereafter be carried away or removed from the said lot hereby transferred except for the purpose of excavating for the foundations of any building to be erected thereon or use or allow or permit the said land to be used for the manufacture or winning of bricks tiles or pottery ware.*
- c) No shops laundries factories or works shall be erected on the said lot hereby transferred and not more than one dwelling house shall be erected on the said lot hereby transferred and the cost of constructing such house shall not be less than Four hundred pounds (inclusive of all architects fees and the cost of erecting any outbuildings or fences)."*

The applicant seeks to remove the words:

“c)... and not more than one dwelling house shall be erected on the said lot hereby transferred and the cost of constructing such house shall not be less than Four hundred pounds (inclusive of all architects fees and the cost of erecting any outbuildings or fences).”

The Covenant was created on 25 June 1958. Relevantly, section 60(5) of the *Planning and Environment Act 1987* provides:

- (5) The responsible authority **must not grant a permit** which allows the removal or variation of a restriction referred to in subsection (4) unless it is satisfied that—
- (a) the owner of any land benefited by the restriction (other than an owner who, before or after the making of the application for the permit but not more than three months before its making, has consented in writing to the grant of the permit) will be **unlikely to suffer any detriment of any kind (including any perceived detriment)** as a consequence of the removal or variation of the restriction; and
- (b) if that owner has objected to the grant of the permit, the objection is vexatious or not made in good faith.

[emphasis added]

This test imposes a legal barrier preventing the grant of a permit unless the responsible authority is affirmatively satisfied of the things specified in paragraph (a) and (b).

Where a proposal is not barred by section 60(5), a question then arises under Clause 52.02 of the Darebin City council Planning Scheme as to whether, as a matter of discretion and on the basis of the planning merits in relation to Clause 52.02, a permit should be granted.

This two part test was described by VCAT Member Helen Gibson Deputy President in the Red Dot case *Hill v Campaspe SC (Red Dot)* [2011] VCAT 949 (19 May 2011). Deputy President Gibson stated:

63... the scheme established by the legislation provides that there are two matters to be considered in relation to a restrictive covenant case. Firstly, there is a question of whether the requirements of clause 60(5) are satisfied. Second, **where the proposal is not barred by section 60(5), a question arises under clause 52.02** as to whether, as a matter of discretion and on the basis of the planning merits in relation to clause 52.02, a permit should be granted.

64. The first of these matters under section 60(5) is not a matter of discretion. Sub-section (5), ... impose legal barriers that prevent any decision being made to grant a permit for the removal or modification of a restrictive covenant... the proposal is either barred or not barred. There is no discretion. It is a legal barrier. **Discretion and planning merits do not enter in relation to section 60(5)**. They arise though, if section 60(5) does not bar the proposal, under clause 52.02. The purposes of that clause and its decision guidelines refer to “affected” people<sup>1</sup>

[emphasis added]

Consequently, the responsible authority first needs to be satisfied that the owners of land benefiting from the Covenant will be unlikely to suffer any detriment of any kind (including perceived detriment) as a result of the Covenant variation. Even if no objections are received from owners of land benefited by the covenant, their interests must still be considered within the terms of section 60(5)(a). Any detriment of any kind in relation to land with the benefit of the Covenant must be considered.

<sup>1</sup> *Hill v Campaspe SC (Red Dot)* [2011] VCAT 949 (19 May 2011) VCAT reference no P1175/2010

No written consents to the grant of the permit sought has been given by the owners of land with the benefit of the Covenant.

The purpose of this covenant is to maintain a low density of residential development pattern by restricting the amount of the dwellings to one on each lot. And by doing so, protecting the amenity and neighbourhood character of the area, and the Edgers Creek corridor.

In the absence of any development proposal the responsible authority must consider every possible detriment of every possible development.<sup>2</sup>

In *Slaveski v Darebin CC* [2006] VCAT 593, the Tribunal member, the (then) Acting Deputy President Russell Byard said:

31. *...It has generally been thought, and correctly in my view, that it is more difficult to obtain the complete removal of a restrictive covenant than it would be to obtain a modification to accommodate a specific development. In the latter circumstance an assessment can be made of the affect of the proposed development, including any detriments it might occasion, so that an assessment can be made as to the detriment that might be consequential on granting the modification. In other words, the scope of possible detriment is limited down to that attributable to the proposed development to which the modification would be tied.*
32. *However, a complete removal puts in issue, not only the potential detriments that relate to a particular proposed development, but every possible detriment of every possible development enabled by the complete removal of the covenant...*<sup>3</sup>

Varying the covenant to allow more than one (1) dwelling, puts in issue every possible detriment of every possible development enabled by the removal of that part of the covenant. If this proposal is granted, the site's full development potential could potentially include "medium density" given the lot size is approximately 1546.46 square metres. The potential increase in density could be substantial given the lot size and current zoning of the land and would alter the prevailing neighbourhood character of area dominated by single dwellings to a lot. Therefore allowing more than one dwelling to be constructed on the land could impact on the existing character of the area and the residential amenity enjoyed by the owners of the land benefited by the covenant.

Accordingly, the owners of land benefited by the restriction are likely to suffer detriment (including perceived detriment) by allowing more than one dwelling on the land. It is considered the degree of the detriment is not matter of the question; rather there is to be detriment is sufficient to refuse this proposal.<sup>4</sup>

Furthermore, the removal of Part (C) of the Covenant could have a flow on effect, or precedent for further intensification of development to the area, which will likely bring about some change to the character of the neighbourhood that is perceived unwelcome.

The proposal, therefore, is contrary to section 60(5) of the *Planning and Environment Act 1987* and a permit must not be granted.

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<sup>2</sup> *Liu v Darebin CC (Red Dot)* [2015] VCAT (30 November 2015) VCAT reference no. P972/2015

<sup>3</sup> *Slaveski v Darebin CC* [2006] VCAT 593 (11 April 2006) VCAT reference no. P2876/2006

<sup>4</sup> *Hill v Campaspe SC (Red Dot)* [2011] VCAT 949 (19 May 2011) VCAT reference no P1175/2010

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Owners of land not benefited by the covenant

Since it is determined detriment would likely be suffered by owners of land that are beneficiaries of the covenant, an assessment against clause 52.02 is not necessarily required, however, is provided below for the purposes of completeness.

The thirteen objectors to the application are clearly potentially affected by the variation of the covenant and must be considered - reference is made to Hill Vs Campaspe SC 2011 affirming this view as follows:

71. .... *purpose and decision guidelines of clause 52.02 too narrowly to confine "the interests of affected people" to a consideration only of property law rights and to exclude any consideration of planning interests. Rather, I consider that the interests of affected people encompass the effects or consequences that will flow from the removal or variation of a covenant. What they may be will depend on the facts and circumstances of each case. They will be affected by nature of the covenant in question, the type of variation proposed and the planning framework that will govern the consequences of any removal or variation.*<sup>5</sup>

Currently, the subject site and surrounding area is covered by General Residential Zone which provides no minimum/maximum dwellings limitation to a lot. However, Amendment C156 Request for Ministerial Amendment Neighbourhood Residential Zone is currently been considered by the Minister which if approved would limit the subject site and surrounding area to a maximum of two (2) dwellings per lot. Despite this proposed zoning change, the application must be considered on the basis of the existing zoning provisions.

When considering appropriate locations for housing densification, Council's adopted Housing Strategy 2014 policy outlines the level of housing growth to areas to best manage the impacts of housing change and growth in Darebin. The document identifies the subject site (33 Wilson Blvd) and surrounding area should be encouraged to have minimal level of housing changed. Minimal change may include an addition dwelling on a lot, a new storey addition, semi-detached housing and low scale unit development with design strongly dependant on prevailing neighbourhood character. Medium density housing should not be encouraged in this area.

In the absence of any development application to date, the potential increase in housing density to the site with the existing zoning provisions could be substantial given the lot size and would likely alter the prevailing neighbourhood character of area dominated by single dwellings to a lot.

Having regard to the Local and State Planning Policies, in particular, Clause 15.01-Built Environment and Heritage, Clause 21.03-Housing, 22.02-Neighbourhood Character of the Darebin Planning Scheme, and Planning Amendment C156 and Council's approved Housing Strategy policy the residents in the surrounding area and those who enjoy the Edgers Creek corridor would have their amenity greatly affected if the potential development of site is fully exhausted in the absence of the covenant restriction.

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<sup>5</sup> Hill v Campaspe SC (Red Dot) [2011] VCAT 949 (19 May 2011) VCAT reference no P1175/2010

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**PLANNING SCHEME SUMMARY**
**Darebin Planning Scheme clauses under which a permit is required**

Pursuant to Clause 52.02 of the Darebin City Council Planning Scheme, a planning permit is required before a person proceeds under section 23 of the *Subdivision Act 1988* to create vary or remove a restriction.

**Applicable provisions of the Darebin Planning Scheme**

Section of Scheme	Relevant Clauses
SPPF	15.01
LPPF	22.02
Zone	32.08
Overlay	44.04
Particular provisions	52.02
General provisions	65.01
Neighbourhood Character Precinct	G4

**POLICY IMPLICATIONS****Environmental Sustainability**

Nil

**Social Inclusion and Diversity**

Nil

**Other**

Nil

**FINANCIAL AND RESOURCE IMPLICATIONS**

There are no financial or resource implications as a result of the determination of this application.

**FUTURE ACTIONS**

Nil

**DISCLOSURE OF INTERESTS**

Section 80C of the *Local Government Act 1989* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any direct or indirect interest in a matter to which the advice relates.

The Manager authorising this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

**RELATED DOCUMENTS**

Darebin Planning Scheme

*Planning and Environment Act (1987)* as amended

Darebin Housing Strategy 2013-2033 – adopted 2014

**5.10 APPLICATION FOR PLANNING PERMIT D/690/2015**  
 45-47 Victoria Road, Northcote

**AUTHOR: Senior Planner – Chris Lelliott**

**DIRECTOR: Director Assets and Business Services – Steve Hamilton**

**OWNER/APPLICANT/CONSULTANT:**

<b>Applicant</b> Archsign Pty Ltd	<b>Owner</b> Kav Nominees Pty Ltd
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**SUMMARY:**

- This application seeks approval to construct a (single) double storey dwelling to the rear of two (2) existing dwellings, alterations and additions to the existing dwellings and to reduce the standard car parking requirement by one (1) car space.
- The site is zoned General Residential Zone Schedule 2.
- There is no restrictive covenant on the title for the subject land.
- 17 objections were received against this application.
- The proposal is generally consistent with the objectives and standards of Clause 55 of the Darebin Planning Scheme.
- It is recommended that the application be supported.

**CONSULTATION:**

- Public notice was given via two (2) signs posted on site and letters sent to surrounding owners and occupiers.
- This application was referred internally to Transport Management and Planning and Capital Works Unit.
- This application was not required to be referred to external authorities.

**Recommendation**

**That** Planning Permit Application D/690/2015 be supported and a Notice of Decision to Grant a Permit be issued subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to, and approved by, the Responsible Authority. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application (identified as Ground Floor Plan – TP1.0, First Floor Plan – TP2.0 and Elevation Plan – TP3.0, dated November 2015 and prepared by Archsign) but modified to show:
  - a) First floor window to bedroom 2 of the proposed dwelling shown on the west elevation deleted.

- b) Where fixed screens are being utilised a section diagram must be included to demonstrate how the screens minimise overlooking of adjoining properties in accordance with ResCode Standard B22. This must be clearly detailed on the plans.
- c) The height of the fence on the west boundary fences (except within 2 metres of the front (south) boundary of the land (to allow for visibility for vehicles)) to be a minimum height of 1.8 metres as measured above natural ground level. The height of the fence within the front 2 metres shall not exceed a height of 1.15 metres.
- Where necessary, the fence height may be increased by raising the height of the fence or by the provision of free-standing, self-supporting trellis adjacent the fence to the required height. If utilised, such trellis must be a maximum of 25% open and be fixed, permanent, durable and coloured or painted to blend with the development.
- d) A landscape plan in accordance with Condition No. 4 of this Permit. The landscape plan must include the provision of at least 1 medium sized canopy trees within the front setback and one medium sized canopy tree within each of the secluded private open space areas for each dwelling.
- e) The provision of pedestrian visibility splays measuring 2.0 metres (width across the frontage) by 2.5 metres (depth into the site), to the east and west sides of the proposed crossover. Where within the subject site, any structures or vegetation within these splays must be not more than 1.15 metres in height.
- f) Ground floor living room of Unit 3 setback a minimum of 1.5 metres from the north boundary. This must be achieved by reducing the footprint of the building and not by reducing any other setback.

When approved, the plans will be endorsed and form part of this Permit.

2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
3. This Permit will expire if either:
  - The development does not start within three (3) years from the date of this Permit; or
  - The development is not completed within five (5) years of the date of this Permit.

As relevant, the Responsible Authority may extend the times referred to if a request is made in writing:

- Before this Permit expires;
  - Within six (6) months after the expiry date; or
  - Within twelve (12) months after the expiry date if the request relates to the completion of the development or a stage of the development.
4. Before buildings and works start, a detailed Landscape Plan to the satisfaction of the Responsible Authority must be submitted to, and approved by the Responsible Authority. When the Landscape Plan is approved, it will be endorsed and will then form part of this Permit. The Landscape Plan must be prepared by a suitably qualified person and must incorporate:
    - a) Details of all existing trees to be retained and all existing trees to be removed, including overhanging trees on adjoining properties and street trees within the nature strip. The genus, species, height and spread of all trees must be specified.

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- b) A planting schedule of proposed vegetation detailing the botanical name, common name, size at maturity, pot size and quantities of all plants.
  - c) A diversity of plant species and forms. All proposed planting must be to the satisfaction of the Responsible Authority.
  - d) Where the opportunity exists, an appropriate number and size of canopy trees are to be shown within the secluded private open space areas of each dwelling and within the front setback of the property, commensurate with the size of planting area available. All canopy trees are to have a minimum height of 1.6 metres in 40 litre containers at the time of installation. Canopy trees must have the following minimum widths at maturity: small canopy (4 metres), medium canopy (6 metres), large canopy (10 metres).
  - e) Annotated graphic construction details showing all landscape applications and structures including tree and shrub planting, retaining walls, raised planter bed and decking.
  - f) Type and details of all surfaces including lawns, mulched garden beds and permeable and/or hard paving (such as pavers, brick, gravel, asphalt and concrete) demonstrating a minimum site permeability of 20%. Percentage cover of permeable surfaces must be stated on the plan. Where paving is specified, material types and construction methods (including cross sections where appropriate) must be provided.
  - g) Hard paved surfaces at all entry points to dwellings.
  - h) All constructed items including letter boxes, garbage bin receptacles, lighting, clotheslines, tanks, outdoor storage etc.
  - i) Type and details of edge treatment between all changes in surface (e.g. grass (lawn), gravel, paving and garden beds).
  - j) An outline of the approved building/s including any basement, the location of entry doors, windows, gates and fences must be shown on the landscape plan. The location of both existing and proposed overhead and underground services. Conflicts of such services with the existing and proposed planting must be avoided.
  - k) Clear graphics identifying trees (deciduous and evergreen), shrubs, grasses/sedges, groundcovers and climbers.
  - l) Scale, north point and appropriate legend. Landscape plans are to be clear, legible and with graphics drawn to scale, and provide only relevant information.
5. The landscaping as shown on the endorsed Landscape Plan must be completed to the satisfaction of the Responsible Authority before the development is occupied and/or the use starts or at such later date as is approved by the Responsible Authority in writing.
- No later than seven (7) days after the completion of the landscaping, the permit holder must advise Council, in writing, that the landscaping has been completed.
6. The landscaping as shown on the endorsed Landscape Plan must be maintained, and any dead, diseased or damaged plant replaced in accordance with the endorsed Landscape Plan to the satisfaction of the Responsible Authority.
7. Floor levels shown on the endorsed plans must be confirmed. The confirmation of the ground floor level must take place no later than at the time of the inspection of the subfloor of the development required under the *Building Act 1993* and the Building Regulations 2006. This confirmation must be in the form of a report from a licensed land surveyor and must be submitted to the Responsible Authority no later than 7 days from the date of the sub-floor inspection. The upper floor levels must be confirmed before a Certificate of Occupancy is issued, by a report from a licensed land surveyor submitted to the Responsible Authority.
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8. All dwellings that share dividing walls and/or floors must be constructed to limit noise transmission in accordance with Part F(5) of the Building Code of Australia.
  9. Before the dwellings are occupied, an automatic external lighting system capable of illuminating the entry to each unit, access to each garage and car parking space and all pedestrian walkways must be provided on the land to the satisfaction of the Responsible Authority.

The external lighting must be designed, baffled and/or located to ensure that no loss of amenity is caused to adjoining and nearby land, to the satisfaction of the Responsible Authority.
  10. The land must be drained to the satisfaction of the Responsible Authority.
  11. With the exception of guttering, rainheads and downpipes, all pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
  12. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the prior written consent of the Responsible Authority.
  13. Before occupation of the development, areas set aside for the parking of vehicles and access lanes as shown on the endorsed plan(s) must be:
    - a) Constructed;
    - b) Properly formed to such levels that they can be used in accordance with the plans;
    - c) Surfaced with an all-weather sealcoat; and
    - d) Drainedto the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose.
  14. Before the development is occupied, vehicular crossing(s) must be constructed to align with approved driveways to the satisfaction of the Responsible Authority. All redundant crossing(s), crossing opening(s) or parts thereof must be removed and replaced with footpath, naturestrip and kerb and channel to the satisfaction of the Responsible Authority.

## NOTATIONS

**(These notes are provided for information only and do not constitute part of this permit or conditions of this permit)**

- N1 Any failure to comply with the conditions of this permit may result in action being taken to have an Enforcement Order made against some or all persons having an interest in the land and may result in legal action or the cancellation of this permit by the Victorian Civil and Administrative Tribunal.
- N2 Nothing in the grant of this permit should be construed as granting any permission other than planning permission for the purpose described. It is the duty of the permit holder to acquaint themselves, and comply, with all other relevant legal obligations (including any obligation in relation to restrictive covenants and easements affecting the site) and to obtain other required permits, consents or approvals.

N3 The amendments specified in Condition 1 of this Permit and any additional modifications which are “necessary or consequential” are those that will be assessed by Council when plans are lodged to satisfy that condition. Any “necessary or consequential” amendments, in addition to those required by this condition, should be specifically brought to the attention of Council for assessment.

If any other modifications are proposed, application must also be made for their approval under the relevant sections of the *Planning and Environment Act 1987*. They can only be approved once the required and consequential changes have been approved and the plans endorsed. It is possible to approve such modifications without notice to other parties, but they must be of limited scope. Modifications of a more significant nature may require a new permit application.

N4 This Planning Permit represents the Planning approval for the use and/or development of the land. This Planning Permit does not represent the approval of other departments of Darebin City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria to that adopted for the approval of this Planning Permit.

<b>Report</b>
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## INTRODUCTION AND BACKGROUND

Planning application D/484/2014 was submitted on 14 June 2014 for the construction of a double storey dwelling to the rear of the existing two (2) dwellings, alterations and additions to the existing dwellings and to reduce the standard car parking requirement. Council refused the application and the application was appealed by the applicant to the Victorian Civil and Administrative Tribunal (VCAT).

VCAT upheld Council’s decision to refuse the application however some clear parameters were set out to assist in any subsequent application being lodged and considered. The order was received by Council on 18 May 2015 and a notice of refusal was issued.

The current application was lodged on 2 September 2015 and the application was for four (4) double storey dwellings with additional roof terraces and a basement car park. The Council wrote to the applicant on 10 October 2015 advising that the design response was inappropriate and would not be supported.

On 29 December 2015 the applicant lodged a Section 50 amendment for a development comprising a double storey dwelling to the rear of the existing two (2) dwellings, alterations and additions to the existing dwellings and to reduce the standard car parking requirement by one car space. The plans associated with this amendment are the plans advertised and detail the development considered in this report.

## ISSUES AND DISCUSSION

### Subject site and surrounding area

- The subject site is located on the north-west corner of the intersection of Thomson Street and Victoria Road, in Northcote.
- The subject site is rectangular in shape, with a width of 16.43 metres to Victoria Road, a width at the rear of the site of 16.38 metres, and a frontage to Thomson Street of 36.58 metres. The site has a total area of approximately 601.1 square metres.



- The site has a 0.91 metre wide drainage easement along the western boundary. The site has a marginal fall of approximately 0.75 metres from the north-east corner to the south-west corner of the site.
- The site is currently occupied by two (2) single storey semi-detached dwellings with associated outbuildings. Access to the site is currently via a single crossover from Thomson Street to the south-west corner of the site. A second crossover is located to the north-east corner of the site, to provide access to a car space within the front setback.
- The surrounding area is characterised by Edwardian and Interwar architectural styles, with many streets demonstrating intact rows of dwellings from within these eras. Isolated Victorian dwellings are often found isolated within pockets of Edwardian and interwar dwellings. Streetscapes are characterised by low permeable fences, established street trees and leafy gardens softening the built form.
- Thomson Street has off street angled and parallel parking spaces and no car parking restrictions exist in proximity to the site.
- The nearest public transport services to the site are:
  - Dennis train station approximately 250 metres to the north-west of the site.
  - Busses to the front of the site along Victoria Road.

**Proposal**

- It is proposed to construct a double storey dwelling to the rear of the existing dwellings fronting Thomson Street. The Unit would have an open plan, kitchen/living/dining, laundry and toilet at the ground level and three (3) bedrooms, a bathroom and ensuite at the first floor.
- The proposed dwelling would have two (2) car spaces comprising a single garage and a tandem car space.
- Secluded private open space for the proposed unit would be to the rear of the unit (north).
- The rear of the existing dwellings would be modified by removing the existing sunrooms and laundries. The rear of the dwellings would be remodelled. The secluded private open space would be located to the rear of each unit (west).
- Unit 1 would retain an existing single car space within the front setback whilst Unit 2 would not have any car parking allocated.
- The maximum height of the new dwelling is to be 7.7 metres.
- The proposed secluded private open space is provided as follows:

	<b>Total POS</b>	<b>Secluded POS</b>	<b>Minimum dimension of secluded POS</b>
Dwelling 1 (existing)	78.45 square metres	50.95 square metres	3.50 metres
Dwelling 2 (existing)	93.30 square metres	49.30 square metres	3.50 metres
Dwelling 3 (proposed)	50.00 square metres	30.00 square metres	4.52 metres

- The proposed dwelling is modern in appearance and utilises modern materials and finishes. The materials proposed are; red and brown brick, grey colourbond steel roof, aluminium windows, a variety concrete renders and metal cladding.

### **Objections**

- 17 Objections were received to the application.

### **Objections summarised**

- Overlooking/loss of privacy.
- Visual impact of development.
- Noise.
- Boundary fence design.
- Error on plans for window to bedroom 2.
- Height of storage shed and rainwater tank.
- Car parking reduction.
- The proposal is of sufficient concern to warrant review by the Planning Committee.
- The development would result in negative social effect.
- The proposal does not meet standards set in the Darebin Planning Scheme amendments appropriate in this street.
- The proposed development will not guarantee affordable accommodation.
- The development would negatively affect the liveability of the street and the community. It would destroy the amenity currently enjoyed by surrounding residents and visitors to the area.

### **Officer comment on summarised objections**

#### Overlooking/loss of privacy

The proposed unit has been designed to limit overlooking at the ground and first floors by appropriate fence heights and screening of upper level windows. This element is assessed in detail below.

#### Visual impact of development

The proposal provides adequate boundary setbacks in accordance with ResCode Standard B17. The massing of the building is considered to respect the neighbourhood character.

#### Noise

The proposed use is residential and will have noise impacts consistent with those normal to a residential zone. Noise during construction is outside the scope of the Darebin Planning Scheme.

#### Boundary fence design

The neighbours concern regarding the height of the boundary fence has been balanced with pedestrian sightlines for the safety when vehicles are exiting the driveways to Thomson Street. A condition is recommended to provide a balance between the objectors fencing design preference and pedestrian safety.

Error on plans for window to bedroom 2

The error is noted and will be corrected via a condition of any approval.

Height of storage shed and rainwater tank

The height of these elements is not detailed on the plans. It is not considered that these elements would be unreasonably intrusive.

Car parking reduction

Car parking provision is considered acceptable. See assessment below.

The proposal is of sufficient concern to warrant review by the Planning Committee

Noted.

The development would result in negative social effect

There is no evidence to suggest that this development in isolation would lead to a negative social effect on the community.

The proposal does not meet standards set in the Darebin Planning Scheme amendments appropriate in this street

The assessment of the proposal below indicates that the development as a whole does appropriately respond to the standards and objectives of Clause 55. It is not considered that the proposal would contravene any Planning Scheme currently being considered.

The proposed development will not guarantee affordable accommodation

There is no requirement in the Darebin Planning Scheme to provide affordable accommodation. It could be argued that the proposed smaller units would provide some more affordable housing options.

The development would negatively affect the liveability of the street and the community. It would destroy the amenity currently enjoyed by surrounding residents and visitors to the area

There is no evidence provided to demonstrate that the proposed development would adversely impact the liveability of the street and community. Issues relating to amenity are considered in Clause 55 and detailed in the planning assessment below. The planning assessment below indicates. It is not considered the development would unreasonably affect amenity for residents or visitors given the relevant planning policy considerations.

**PLANNING ASSESSMENT****Neighbourhood Character Precinct Guideline Assessment - Precinct B3**Existing Buildings

- The proposal seeks to retain the existing two dwellings on the site, with the demolition of a small portion to the rear of the dwellings. The retention of these dwellings ensures the development retains its streetscape character to Victoria Road and to the corner of Thomson Street.

**Complies**

Vegetation

- The two existing dwellings on the site are being retained, thus maintaining the front garden to Victoria Road. Unit 2 has lost a portion of the front setback with the inclusion of a car space in the north-east corner of the site however this is an existing condition and was considered appropriate in the previous VCAT decision as appropriate.
- The rear gardens of the existing dwellings and proposed new unit are large enough to provide for sufficient landscaping.
- The proposed dwelling to the rear has a street setback of 3 metres. This allows for a small garden to the front of the site which is appropriate given the immediate site context.
- It is noted that the nature strip to the adjacent the site is large and is planted with some medium sized trees which assists with the garden setting of the proposed dwelling.

**Complies**Siting

- A front garden has been provided for the proposed dwelling.
- The existing dwellings maintain their respective front gardens.
- The proposed dwelling is sited to provide a rear garden adjacent to the neighbouring garden.
- The proposed dwelling is setback from the west boundary to maintain the rhythm of spacing for dwellings in the street.

**Complies**Height and building form

- The proposed building is considered respectful and consistent with of the height and form of the buildings in the streetscape. The proposed first floor is adequately setback from the ground level façade to ensure that the upper level is appropriately articulated and would be read as a recessive element. It is considered that the height and form would be acceptable within the neighbourhood context.

**Complies**Materials and design detail

- The surrounding area demonstrates a mixture of building materials, with predominately brick and weatherboard dwellings with pitched roof forms.
- The ground floor walls of the proposed dwelling are brick with the upper level constructed with cladding.
- The proposed façade is modern with a sloped roof and is considered acceptable within the Thomson Street, streetscape.

**Complies**Front boundary treatment

- A 1.5 metre aluminium picket fence is proposed. The fence detailed on the elevation plan is significantly transparent and as such the proposed design is acceptable.

**Complies**

**Clause 55 Assessment**

The following sections provide discussion on fundamental areas of Clause 55 including variations of standards and matters informing conditions of the recommendation above.

Clause 55.02-1 B1 Neighbourhood Character

This element has been considered above in the Neighbourhood Character Guidelines Assessment. Importantly, it is considered that a number of issues are raised with regard to visual bulk, heights, landscaping and setbacks.

**Does not comply**Clause 55.03-1 B6 Street Setback

- The front setback of the proposed dwelling is 3 metres which accords with the standard.
- The front porch of the proposed dwelling encroaches on the front setback 1.2 metres and is 3 metres in height which complies with the standard.
- The setbacks of the existing dwellings would not change which is acceptable.

**Complies**Clause 55.04-1 B10 Energy Efficiency

The following is noted in regards to energy efficiency:

- Cross ventilation is available in the design of all dwellings.
- The development does not unreasonably affect the solar access and energy efficiency of neighbouring dwellings.
- Living areas and open spaces have good access to north light.
- A clothesline for outdoor clothes drying is provided.

**Complies**Clause 55.03-8 B13 Landscaping

- The surrounding landscape character is generally semi mature and informal, with good sized open spaces and acceptable setbacks.
- The front and side setbacks are maintained for the existing dwellings and good sized secluded private open spaces are provided to allow for sufficient landscaping.
- The proposed dwelling has a good sized rear yard in excess of Rescode requirements. The front yard would allow for some vegetation and the planting of a medium sized tree which is acceptable given the corner location.
- Measures have been undertaken to ensure the development complies with the overall landscape character. The proposal provides sufficient space for landscaping to reduce the impact of the visual bulk of the development.
- A condition will require a landscape plan to be prepared for the development.

Clause 55.03-5 B17 Side and Rear Setbacks

Proposed dwelling:

Ground Floor

Boundary	Wall height	Required Setback	Proposed setback
West	3.70 metres	1.03 metres	1.18 metres
North	3.40 metres	1.04 metres	1.00 metres

First Floor

Boundary	Wall height	Required Setback	Proposed setback
West	6.20 metres	1.78 metres	1.92 metres
North	5.77 metres	1.65 metres	2.80 metres

- It is considered that the living area should be additionally setback from the north boundary to comply with the objective, allowing for better access to north light, providing additional space for the adjustable louver and to allow further opportunities for landscaping.
- A setback of 1.5 metres for the living room from the north boundary will be required as a condition of approval.
- ResCode does not specifically detail a setback for a proposed dwelling from the existing dwellings or secluded private on the same site. However the impact of the proposed dwelling on the proposed secluded private open spaces for Units 1 and 2 needs to be considered in terms of potential amenity impacts. In this instance the ground level boundary wall of the proposed dwelling should not exceed a height of 3.2 metres in order to meet the Rescode requirement for a boundary wall.

The first floor wall is recommended through a condition to be setback an additional distance of 1.35 metres and would extend for 9 metres across the 16.38 metre site width. The elevation is well articulated through the building form and mixed materials. It's considered an acceptable design response and would not unreasonably impact the secluded private open spaces of the existing dwellings. The previous VCAT decision made note of this interface which was previously a sheer unarticulated 7.5 metre brick wall extending all the way to the front boundary of the site. It is considered the design response in the current application is an acceptable design response.

**Complies subject to condition**

Clause 55.04-6 B22 Overlooking

- The ground level of the proposed dwellings appears to have finished floor levels of less than 0.8m above natural ground level at the boundary. As such the proposed 1.8 – 2.0 metre high fences to the west, east and north boundaries would sufficiently limit ground level overlooking.
- All east, west and north facing upper storey windows appear to be appropriately designed and/or screened to ensure overlooking is appropriately limited.
- A condition will require details of the proposed external screen to ensure overlooking is appropriately restricted.

- A first floor window is shown in the west elevation which appears to be an error. This will be deleted via a condition.

**Complies subject to condition**

Clause 55.05-4 B28 Private Open Space

Private open space for the development is provided through:

- The provision of 40 square metres of secluded private open space at the side or rear of the dwelling with a minimum area of 25 square metres, a minimum dimension of 3 metres and convenient access from a living room.

	<b>Total POS</b>	<b>Secluded POS</b>	<b>Minimum dimension of secluded POS</b>
Dwelling 1 (existing)	78.45 square metres	50.95 square metres	3.50 metres
Dwelling 2 (existing)	93.30 square metres	49.30 square metres	3.50 metres
Dwelling 3 (proposed)	50.00 square metres	30.00 square metres	4.52 metres

- All secluded private open space areas have direct access to a living room.

**Complies**

**Clause 52.06 Car Parking**

Number of Parking Spaces Required

- The proposed dwelling has three (3) bedrooms and provides a single garage and a tandem car space.
- Unit 1 (existing) has two (2) bedrooms and provides a car space to the front of the site.
- Unit 2 (existing) has two (2) bedrooms and does not provide any on site car parking.
- The development seeks to reduce the standard car parking by one (1) space.
- In considering the car parking reduction sought the following is noted:
  - Units 1 and 3 provide the required on-site car parking.
  - There are no car parking restrictions in the street.
  - Abutting the site to the south, on Thomson Street there are 5 angles on street car parking spaces.
  - The construction of an additional crossover to provide the additional on site car parking would result in the loss of some of the on street angled spaces.
  - There is adequate public transport in the area.
  - The issue of onside car parking was discussed in detail in the previous VCAT decision. In regards to the topic of car parking, it is considered that the development proposed in the current application and the car parking considerations previously considered are consistent. The previous VCAT decision detailed the reduction of one space was appropriate given the extent of development and context.

- Given the above it is considered appropriate in this instance to reduce the standard car parking requirement by one (1) space.

Design Standards for Car parking

- The car parking spaces, the garaging and the accessways have appropriate dimension to enable efficient use and management.
- The car parking facilities are designed, surfaced and graded to reduce run-off and allow stormwater to drain into the site.
- Garage dimensions of 6.0 metres length x 3.5 metres width complies with the minimum requirements of the standard.
- Access dimensions to the car spaces comply with the standard.
- Visibility splays are required at the accessway interface with the footpath to protect pedestrians. This has been requested as a condition of approval.

**CLAUSE 55 COMPLIANCE SUMMARY**

Clause	Std		Compliance	
			Std	Obj
<b>55.02-1</b>	<b>B1</b>	<b>Neighbourhood character</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.02-2</b>	<b>B2</b>	<b>Residential policy</b>		
		The proposal complies with the relevant residential policies outlined in the Darebin Planning Scheme.	Y	Y
<b>55.02-3</b>	<b>B3</b>	<b>Dwelling diversity</b>		
		N/A as development contains less than 10 dwellings	N/A	N/A
<b>55.02-4</b>	<b>B4</b>	<b>Infrastructure</b>		
		Adequate infrastructure exists to support new development	Y	Y
<b>55.02-5</b>	<b>B5</b>	<b>Integration with the street</b>		
		The pedestrian links are existing and acceptable for the existing dwellings. The proposed dwelling fronts Thomson Street and has good integration with the street. Transparent front fencing is proposed.	Y	Y
<b>55.03-1</b>	<b>B6</b>	<b>Street setback</b>		
		Setbacks for the existing dwellings are maintained and are acceptable. The setback for the proposed dwelling is 3 metres and complies with the standard.	Y	Y
		The front porch of the proposed dwelling encroaches on the front setback 1.2 metres and is 3 metres in height which complies with the standard.		
<b>55.03-2</b>	<b>B7</b>	<b>Building height</b>		
		7.7 metres (maximum)	Y	Y



Clause	Std		Compliance	
			Std	Obj
<b>55.03-3</b>	<b>B8</b>	<b>Site coverage</b>		
		48%	Y	Y
<b>55.03-4</b>	<b>B9</b>	<b>Permeability</b>		
		43%	Y	Y
<b>55.03-5</b>	<b>B10</b>	<b>Energy efficiency</b>		
		Dwellings are considered to be generally energy efficient and would not unreasonably impact the energy efficiency of adjoining properties.	Y	Y
<b>55.03-6</b>	<b>B11</b>	<b>Open space</b>		
		The site does not abut public open space.	N/A	N/A
<b>55.03-7</b>	<b>B12</b>	<b>Safety</b>		
		Entrances to dwellings are prominent to the street and good surveillance is provided. The proposed development is secure and the creation of unsafe spaces has been avoided.	Y	Y
<b>55.03-8</b>	<b>B13</b>	<b>Landscaping</b>		
		Adequate areas are provided for appropriate landscaping and a landscape plan has been required as a condition.	Y	Y
<b>55.03-9</b>	<b>B14</b>	<b>Access</b>		
		Access is sufficient and respects the character of the area. There is one crossover to each of the street frontages which is acceptable.	Y	Y
<b>55.03-10</b>	<b>B15</b>	<b>Parking location</b>		
		Parking facilities are proximate to the dwellings they serve, the access is observable.	Y	Y
<b>55.04-1</b>	<b>B17</b>	<b>Side and rear setbacks</b>		
		Dwellings are set back in accordance with the requirements of this standard. See assessment in the body of this report.	Y	Y
<b>55.04-2</b>	<b>B18</b>	<b>Walls on boundaries</b>		
		No boundary walls are proposed.	N/A	N/A
<b>55.04-3</b>	<b>B19</b>	<b>Daylight to existing windows</b>		
		Sufficient setbacks exist to allow adequate daylight	Y	Y
<b>55.04-4</b>	<b>B20</b>	<b>North-facing windows</b>		
		There are no north facing windows within 3.0 metres of the common boundary with the subject site.	N/A	N/A
<b>55.04-5</b>	<b>B21</b>	<b>Overshadowing open space</b>		
		Shadow cast by the development is within the	Y	Y

Clause	Std		Compliance	
			Std	Obj
		parameters set out by the standard.		
<b>55.04-6</b>	<b>B22</b>	<b>Overlooking</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.04-7</b>	<b>B23</b>	<b>Internal views</b>		
		There are no unreasonable internal views	Y	Y
<b>55.04-8</b>	<b>B24</b>	<b>Noise impacts</b>		
		Noise impacts are consistent with those in a residential zone.	Y	Y
<b>55.05-1</b>	<b>B25</b>	<b>Accessibility</b>		
		The ground levels of the proposal can be made accessible for people with limited mobility.	Y	Y
<b>55.05-2</b>	<b>B26</b>	<b>Dwelling entry</b>		
		Entries to the dwellings are identifiable and provide an adequate area for transition.	Y	Y
<b>55.05-3</b>	<b>B27</b>	<b>Daylight to new windows</b>		
		Adequate setbacks are proposed to allow appropriate daylight access.	Y	Y
<b>55.05-4</b>	<b>B28</b>	<b>Private open space</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.05-5</b>	<b>B29</b>	<b>Solar access to open space</b>		
		Adequate solar access is provided.	Y	Y
<b>55.05-6</b>	<b>B30</b>	<b>Storage</b>		
		Sufficient storage areas are provided.	Y	Y
<b>55.06-1</b>	<b>B31</b>	<b>Design detail</b>		
		Design detail of dwellings is appropriate in the neighbourhood setting.	Y	Y
<b>55.06-2</b>	<b>B32</b>	<b>Front fences</b>		
		A 1.5 metre high front fence is proposed which is significantly transparent. This is considered appropriate in the neighbourhood context.	Y	Y
<b>55.06-3</b>	<b>B33</b>	<b>Common property</b>		
		No common property would be provided.	Y	Y
<b>55.06-4</b>	<b>B34</b>	<b>Site services</b>		
		Sufficient areas for site services are provided.	Y	Y

**REFERRAL SUMMARY**

<b>Department/Authority</b>	<b>Response</b>
Capital Works	No objection, subject to condition included in recommendation.
Transport Management and Planning	No objection.

**PLANNING SCHEME SUMMARY****Darebin Planning Scheme clauses under which a permit is required**

- Clause 32.01-4 –development of the land for two or more dwellings.

**Applicable provisions of the Darebin Planning Scheme**

<b>Section of Scheme</b>	<b>Relevant Clauses</b>
SPPF	11.02, 15.01, 15.02, 16.01, 19.03
LPPF	21.03, 22.02
Zone	32.08
Overlay	45.06
Particular provisions	52.06, 55
General provisions	65.01
Neighbourhood Character Precinct	B3

**POLICY IMPLICATIONS****Environmental Sustainability**

All new dwellings are required to achieve a minimum six (6) star energy rating under the relevant building controls.

**Social Inclusion and Diversity**

Nil

**Other**

Nil

**FINANCIAL AND RESOURCE IMPLICATIONS**

There are no financial or resource implications as a result of the determination of this application.

**FUTURE ACTIONS**

Nil

## **DISCLOSURE OF INTERESTS**

Section 80C of the *Local Government Act 1989* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any direct or indirect interest in a matter to which the advice relates.

The Manager authorising this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

## **RELATED DOCUMENTS**

Darebin Planning Scheme and the *Planning and Environment Act (1987)* as amended.

**5.11 APPLICATION FOR PLANNING PERMIT D/708/2015**  
56 James Street, Preston

**AUTHOR:** Principal Planner – Marisia Hammerton

**DIRECTOR:** Director Assets and Business Services – Steve Hamilton

**OWNER/APPLICANT/CONSULTANT:**

Applicant	Owner	Consultant
Archiphor Pty Ltd	Mr Jim Theodoropoulos and Simela Ignatidis	Archiphor, JRL Land Surveyors, Justin Hutchinson Landscape Design

**SUMMARY:**

- The proposal is for a medium density housing development comprising of three (3) double storey dwellings. The dwellings will each have three (3) bedrooms.
- The site is zoned General Residential Zone Schedule 2.
- There is a restrictive covenant on title, prohibiting quarrying and the removal or dirt etc from the land, except for the purpose of laying foundations for dwellings, the proposed development will not breach the terms of the covenant.
- Fourteen objections were received against this application (it is noted that an additional objection was received, which was subsequently withdrawn).
- The proposal is generally consistent with the objectives and standards of Clause 55 of the Darebin Planning Scheme.
- It is recommended that the application be supported.

**CONSULTATION:**

- Public notice was given via 1 sign posted on site and letters sent to surrounding owners and occupiers.
- This application was referred internally to the Capital Works Unit and the Transport Management and Planning Unit.
- This application was not required to be referred to external authorities.

<b>Recommendation</b>
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**That** Planning Permit Application D/708/2015 be supported and a Notice of Decision to Grant a Permit be issued subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to, and approved by, the Responsible Authority. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application (identified as drawing nos TP04, TP05, TP06, TP07, Revision B, dated April 2016, job no. 1501 and prepared by Archiphor) but modified to show:
  - a) The south facing kitchen window to Dwelling 2 dimensioned to show a minimum sill height of 1,400mm above the accessway.
  - b) The location of all plant and equipment (including air conditioners and the like). These are to be co-located where possible, screened to be minimally visible from the public realm and adjacent properties, located as far as practicable from site boundaries and integrated into the design of the building.
  - c) A comprehensive schedule of construction materials, external finishes and colours (including colour samples).
  - d) A Landscape Plan in accordance with Condition No.5 of this Permit.

When approved, the plans will be endorsed and form part of this Permit.

2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
3. This Permit will expire if either:
  - The development does not start within three (3) years from the date of this Permit; or
  - The development is not completed within five (5) years of the date of this Permit.

As relevant, the Responsible Authority may extend the times referred to if a request is made in writing:

- Before this Permit expires;
  - Within six (6) months after the expiry date; or
  - Within twelve (12) months after the expiry date if the request relates to the completion of the development or a stage of the development.
4. Once commenced, the development must be continued and completed to the satisfaction of the Responsible Authority.
  5. Before buildings and works start, a detailed Landscape Plan to the satisfaction of the Responsible Authority must be submitted to, and approved by the Responsible Authority. When the Landscape Plan is approved, it will be endorsed and will then form part of this Permit. The Landscape Plan must be prepared by a suitably qualified person and must incorporate:
    - a) Details of all existing trees to be retained and all existing trees to be removed, including overhanging trees on adjoining properties and street trees within the nature strip. The genus, species, height and spread of all trees must be specified.
    - b) A planting schedule of proposed vegetation detailing the botanical name, common name, size at maturity, pot size and quantities of all plants.

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- c) A diversity of plant species and forms. All proposed planting must be to the satisfaction of the Responsible Authority.
  - d) Where the opportunity exists, an appropriate number and size of canopy trees are to be shown within the secluded private open space areas of each dwelling and within the front setback of the property, commensurate with the size of planting area available. All canopy trees are to have a minimum height of 1.6 metres in 40 litre containers at the time of installation. Canopy trees must have the following minimum widths at maturity: small canopy (4 metres), medium canopy (6 metres), large canopy (10 metres).
  - e) Annotated graphic construction details showing all landscape applications and structures including tree and shrub planting, retaining walls, raised planter bed and decking.
  - f) Type and details of all surfaces including lawns, mulched garden beds and permeable and/or hard paving (such as pavers, brick, gravel, asphalt and concrete) demonstrating a minimum site permeability of 20%. Percentage cover of permeable surfaces must be stated on the plan. Where paving is specified, material types and construction methods (including cross sections where appropriate) must be provided.
  - g) Hard paved surfaces at all entry points to dwellings.
  - h) All constructed items including letter boxes, garbage bin receptacles, lighting, clotheslines, tanks, outdoor storage etc.
  - i) Type and details of edge treatment between all changes in surface (e.g. grass (lawn), gravel, paving and garden beds).
  - j) An outline of the approved building/s including any basement, the location of entry doors, windows, gates and fences must be shown on the landscape plan. The location of both existing and proposed overhead and underground services. Conflicts of such services with the existing and proposed planting must be avoided.
  - k) Clear graphics identifying trees (deciduous and evergreen), shrubs, grasses/sedges, groundcovers and climbers.
  - l) Scale, north point and appropriate legend. Landscape plans are to be clear, legible and with graphics drawn to scale, and provide only relevant information.
6. The landscaping as shown on the endorsed Landscape Plan must be completed to the satisfaction of the Responsible Authority before the development is occupied and/or the use starts or at such later date as is approved by the Responsible Authority in writing.
- No later than seven (7) days after the completion of the landscaping, the permit holder must advise Council, in writing, that the landscaping has been completed.
7. The landscaping as shown on the endorsed Landscape Plan must be maintained, and any dead, diseased or damaged plant replaced in accordance with the endorsed Landscape Plan to the satisfaction of the Responsible Authority.
8. Floor levels shown on the endorsed plans must be confirmed. The confirmation of the ground floor level must take place no later than at the time of the inspection of the subfloor of the development required under the *Building Act 1993* and the Building Regulations 2010. This confirmation must be in the form of a report from a licensed land surveyor and must be submitted to the Responsible Authority no later than 7 days from the date of the sub-floor inspection. The upper floor levels must be confirmed before a Certificate of Occupancy is issued, by a report from a licensed land surveyor submitted to the Responsible Authority.
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9. All dwellings that share dividing walls and floors must be constructed to limit noise transmission in accordance with Part F(5) of the Building Code of Australia.
  10. Before the dwellings are occupied, an automatic external lighting system capable of illuminating the entry to each unit, access to each garage and car parking space and all pedestrian walkways must be provided on the land to the satisfaction of the Responsible Authority.

The external lighting must be designed, baffled and/or located to ensure that no loss of amenity is caused to adjoining and nearby land, to the satisfaction of the Responsible Authority.
  11. Boundary walls facing adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.
  12. The land must be drained to the satisfaction of the Responsible Authority.
  13. With the exception of guttering, rainheads and downpipes, all pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
  14. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the prior written consent of the Responsible Authority.
  15. Provision must be made on the land for letter boxes and receptacles for newspapers to the satisfaction of the Responsible Authority.
  16. Before occupation of the development areas set aside for the parking of vehicles and access lanes as shown on the endorsed plan(s) must be:
    - a) Constructed;
    - b) Properly formed to such levels that they can be used in accordance with the plans;
    - c) Surfaced with an all-weather sealcoat;
    - d) Drained;
    - e) Line-marked to indicate each car space and all access lanes;
    - f) Clearly marked to show the direction of traffic along the access lanes and driveways

to the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose.

17. Before the development is occupied vehicular crossing(s) must be constructed to align with approved driveways to the satisfaction of the Responsible Authority. All redundant crossing(s), crossing opening(s) or parts thereof must be removed and replaced with footpath, naturestrip and kerb and channel to the satisfaction of the Responsible Authority.

## NOTATIONS

**(These notes are provided for information only and do not constitute part of this permit or conditions of this permit)**

- N1 Any failure to comply with the conditions of this permit may result in action being taken to have an Enforcement Order made against some or all persons having an interest in the land and may result in legal action or the cancellation of this permit by the Victorian Civil and Administrative Tribunal.



- N2 Nothing in the grant of this permit should be construed as granting any permission other than planning permission for the purpose described. It is the duty of the permit holder to acquaint themselves, and comply, with all other relevant legal obligations (including any obligation in relation to restrictive covenants and easements affecting the site) and to obtain other required permits, consents or approvals.
- N3 The amendments specified in Condition 1 of this Permit and any additional modifications which are “necessary or consequential” are those that will be assessed by Council when plans are lodged to satisfy that condition. Any “necessary or consequential” amendments, in addition to those required by this condition, should be specifically brought to the attention of Council for assessment.
- If any other modifications are proposed, application must also be made for their approval under the relevant Sections of the *Planning and Environment Act 1987*. They can only be approved once the required and consequential changes have been approved and the plans endorsed. It is possible to approve such modifications without notice to other parties, but they must be of limited scope. Modifications of a more significant nature may require a new permit application.
- N4 This Planning Permit represents the Planning approval for the use and/or development of the land. This Planning Permit does not represent the approval of other departments of Darebin City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria to that adopted for the approval of this Planning Permit.

<b>Report</b>
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## INTRODUCTION AND BACKGROUND

There is no known planning history for the site.

## ISSUES AND DISCUSSION

### Subject site and surrounding area

- The land is regular in shape and measures 14.63 metres across the frontage, a depth of 43.42 metres, with a site area of 634 square metres.
- The land is located within the General Residential 2 zone and the Development Contributions Plan Overlay 1 (expired).
- The land is located on the west side of James Street, approximately 60 metres to the south of the intersection with Murray Road.
- The site contains a single storey weatherboard dwelling, with a pitched and hipped tile roof. The dwelling has vehicle access to a garage at the rear adjacent to the northern common boundary. The site has a fall of approximately 3.15 metres from the rear (south east) corner to the front (north-west) and does not contain any significant vegetation.
- To the east are the rear yards and outbuildings of dwellings fronting Grandview Road. The allotment to the immediate east has an outbuilding abutting the common boundary.
- To the west, on the opposite side of the street, are single and double storey attached dwellings and medium density developments.

- To the north of the site is an allotment containing a single storey weatherboard dwelling, with vehicle access leading to a garage at the rear along the bulk of the common boundary. The dwelling is set back 10.9 metres from the street and approximately 2.7 metres from the common boundary.
- To the south is an allotment containing a single storey brick dwelling, with vehicle access leading to a garage abutting a large part of the rear common boundary. The dwelling is set back 9.3 metres from the street and 2.4 metres from the common boundary.
- The area is residential in character, with mainly single storey modest detached dwellings, noting a number of medium density double storey developments nearby. The site is located approximately 500 metres to the west of the activity centre to the intersection of Murray and Gilbert Roads and the #11 tram route. F Cox Reserve is 350 metres to the west. Preston West Primary School is approximately 800 metres to the east. Preston Railway Station is approximately 1.3km to the east.
- There are no parking restrictions to the eastern side of the street, in the vicinity of the subject site. There is a no stopping area to the west.

### **Proposal**

- It is proposed to demolish the existing dwelling and construct three (3) double storey dwellings.
- Dwelling 1 is located to the front (west), Dwelling 2 to the centre and Dwelling 3 to the east (rear). The dwellings are to each have three (3) bedrooms. The ground floor levels are each to have a kitchen/meals/living area, with Dwelling 3 also having a bedroom at ground level. The first floor levels of Dwellings 1 and 2 are to have three (3) bedrooms. The first floor of Dwelling 3 will have two (2) bedrooms.
- Dwelling 1 is to have a single garage and a tandem car space, accessed via the existing crossover along the northern common boundary. Dwelling 2 is to have a double garage and Dwelling 3 is to have a single garage and a tandem car space. Access to Dwellings 2 and 3 is via a proposed crossover and shared driveway along the southern common boundary.
- Ground level private open space areas are provided to the north and east, with areas of 25 square metres of secluded private open space for Dwelling 1, 40 square metres of private open space for Dwelling 2 and 40 square metres of private open space for Dwelling 3. Each dwelling will have at least 25 square metres of secluded private open space.
- The dwellings will have a traditional design, with brick walls at the ground floor, render to the first floor walls and pitched tiled roofs.
- The overall height of approximately 8 metres to the ridge.

### **57A amendment**

The applicant amended the plans (as a result of discussions with their next door neighbour) to show:

- All south facing first floor habitable room windows with obscure glazing to a height of 1.7 metres above finished floor level.
- 1.8 metre high paling fencing with 600mm trellis on the southern boundary of the property.

The amended plans were not re-advertised as, given their minor nature, it is considered that they will not result in any further detriment to any person.

### **Objections**

- Fourteen objections were received against this application (it is noted that an additional objection was received, which was subsequent withdrawn).

### **Objections summarised**

- Over supply of 1 and 2 bedroom dwellings / under supply of family accommodation.
- Inconsistent with neighbourhood character
- The proposal does not respect sustainability characteristics of the area
- Impact on traffic and car parking
- Impact on traffic safety
- Overdevelopment
- Excessive bulk and scale
- The proposal does not add net value to the community
- Negative social effect
- Does not meet the standards in the Planning Scheme.
- Will not provide affordable accommodation.

### **Officer comment on summarised objections**

#### Oversupply of 1 and 2 bedroom dwellings / undersupply of family accommodation

The development comprises three (3) x three (3) bedroom dwellings and therefore provides an appropriate level of three (3) bedroom accommodation. It also adds to the mix and diversity of housing types in the immediate area.

#### Inconsistent with neighbourhood character

The proposed development has been assessed against Council's Neighbourhood Character Study below. It is considered that the development would be generally consistent with the existing and preferred neighbourhood character.

#### The proposal does not respect sustainability characteristics of the area

Energy efficiency is assessed below in the ResCode assessment. It is considered that the dwellings would be generally energy efficient.

#### Impact on traffic and car parking

Car parking has been provided on site in accordance with the provisions of Clause 52.06 of the Darebin Planning Scheme (2 car parking spaces for each of the three (3) bedroom dwellings). Any overflow parking resulting from the development would be within reasonable limits and will not negatively impact on the surrounding streets.

It has been assessed that the increase in traffic movements in the abutting streets, arising from the additional dwellings is considered to be incremental and would not unreasonably affect local traffic conditions.

### Impact on traffic safety

It has been assessed that no unreasonable transport safety issues would arise by the addition of the three dwellings. Pedestrian visibility splays are provided to the existing crossovers.

### Overdevelopment

*Plan Melbourne* sets targets for established areas of Melbourne to absorb a high proportion of Melbourne's expected growth. State and Local Planning Policy envisage an increase in housing density in well serviced areas such as this.

While any increase in population density will likely increase the level of activity around the site and area, it is not envisioned that such an increase would be detrimental or substantially more intensive than what is currently experienced.

The consideration of a medium density development is based on its compliance with a set of criteria outlined in the Darebin Planning Scheme and not based on a subjective concern of 'too many units'. The Victorian State Government has a clear policy on urban consolidation which is heavily dependent on medium density housing development.

### Excessive bulk and scale

Issues surrounding the bulk and scale of the development are assessed below in the Clause 55 assessment and the Neighbourhood Character Study Assessment. Whilst the proposed units are double storey, acceptable boundary setbacks are provided.

Although the development is double storey, Council must assess the proposal on its merits, in the context of the site and area. It is noted that there are other double storey buildings in the immediate neighbourhood and that it is a generally held planning principle that a gradual increase in height is acceptable (i.e. a 1-2 storey mix is generally acceptable). It is also noted that a double storey height is considered to be low-scale and that it is reasonable to expect double storey heights in an established residential areas in Melbourne.

### The proposal does not add net value to the community

At a planning application level it is difficult to quantify the concerns surrounding this reason for objection, particularly as no ground have been offered that substantiate this objection. It is necessary for a development to meet the State and Local planning policy objectives and it is considered that the proposed development generally meets these objectives.

### Negative social effect

This ground is unsubstantiated. There are no demonstrated dis-benefits associated with the development. The proposal provides dwellings resulting in community benefit. This ground is clearly contrary to the objectives of planning in Victoria.

In *Backman and Company Pty Ltd v Boroondara City Council* the following was noted:

*"33. As I have highlighted, parties seeking to rely on Sections 60(1B) and 84(2)(jb) of the Planning and Environment Act face a significant task in order to substantiate a significant social effect in relation to a housing proposal on residentially zoned land. That significant task extends much further than just garnering a significant level of opposition to a proposed development.*

*Firstly, parties alleging a significant social effect have to ascertain what the actual significant social effect is, in the framework of a zoning regime where one does not need a permit to use residentially zoned land for residential purposes. The mere identification of significant community opposition to a proposal is not a significant social effect of itself.*

*Secondly, the significant social effect will need to be sufficiently documented with evidentiary material to demonstrate the likelihood, probability and severity of the social effect. The identification of a social effect is not sufficient, as it also needs to be demonstrated that the social effect will be significant.*

*Thirdly, as identified in the Rutherford decision, it will need to be demonstrated that any significant social effect outweighs any social benefits that might result from a balanced assessment of a development proposal”.*

#### Does not meet the standards in the Planning Scheme

As can be seen in the assessment below, the proposal has a high level of compliance with the relevant aspects of the Planning Scheme. Other than those grounds addressed above, this ground of objection is not specific as to what are the purported areas of non-compliance.

#### Will not provide affordable accommodation

A general principle established in Green v Hobsons Bay CC (Red Dot) [2013] VCAT 2091 ('Green') in relation to affordable housing is thus:

- That in the absence of specific statutory controls in the Planning Scheme, the provision of smaller dwellings, commanding lower prices on the open market than other comparable housing types, sufficiently achieves the intent of general planning policy which encourages affordable housing.

Local policy guidance with respect to housing is contained in Clause 21.03 of the Scheme. While there is strong policy support for appropriate medium density in-fill in well serviced locations, it is Clause 21.03-3 (Housing Diversity and Equity) that is of particular relevance to the objectors' concerns. The overview sets out (extracted as relevant):

*“Housing affordability is a particular housing issue in Darebin. Lack of affordable housing and high rental prices can aggravate housing stress and homelessness. Housing affordability, income levels and demand for social and public housing are highly correlated. An increase in the supply of affordable housing could ease housing stress of low income earners and can decrease the demand for social housing.”*

Objective 4 of Clause 21.03-3 includes the following strategies:

*“Ensure housing in the municipality is sufficiently diverse to provide more affordable and appropriate choices and opportunities.”*

*“Facilitate the provision of affordable housing in terms of purchase price as well as lower ongoing operational costs, by promoting housing growth in areas with good access to services and public transport and encouraging best practice environmentally sustainable housing design to minimise ongoing utility costs”*

The proposed development incorporates three (3) smaller dwellings and improves the diversity of housing choice on the open market. The proposal therefore accords with the principles established in *Green* and the objectives of the relevant local policy.

## PLANNING ASSESSMENT

### Neighbourhood Character Precinct Guideline Assessment - Precinct E3

#### Existing Buildings

- The proposal includes the demolition of the existing building on site, however the site is not affected by a Heritage Overlay and no Permit is required for demolition. In addition, the site is not located in an intact streetscape, with a number of infill developments in the area.
- Given the assessment below, it is considered that the replacement buildings are respectful to the scale and character of the neighbourhood and the demolition of the building on site is acceptable.

#### **Complies**

#### Vegetation

- The proposal will not result in the loss of significant trees from the site. The application is accompanied by a landscape concept plan, which is considered to be acceptable and provides sufficient space for canopy tree planting in the front and rear yards, as well as vegetation along the accessway. These measures will ensure the development provides adequate space for landscaping.
- It is considered that sufficient measures have been undertaken to ensure the development complies with the overall landscape character.

#### **Complies**

#### Siting

- The front garden is sufficient for planting of vegetation, to enable the continuation of the garden setting in this area. The proposal also allows large enough garden space to the side and rear for appropriate landscaping.
- The garage of Dwelling 1 is constructed to the northern side boundary. This is considered to be an acceptable design response, as the adjoining dwelling is well set back from the common boundary, so that there is some separation in built forms to the street. In addition, the garage is set back from the façade and front porch, so that it is not a dominant feature. Therefore, the proposal is considered to appropriately respect the rhythm of dwelling spacing.
- There are to be two (2) crossovers provided to the street; however, these are to be separated and allow ample space to plant in the front garden and there are no significant areas of paving to the frontage. Additionally, the garage to Dwelling 1 is a single garage and is set behind the façade line, so that car parking structures and access do not dominate the street frontage. The access is therefore considered to be acceptable and does not unreasonably impact on the streetscape or dominate the front façade.

#### **Complies**

Height and Building Form / Frontage Width

- Dwellings in the area are largely single storey; however, there are double storey dwellings nearby. The dwelling at the front is double storey and the upper floor is set back adequately from the ground floor façade. This is an appropriate design response, as adequate articulation is provided, with a strong single storey element to the streetscape façade. The dwellings have been largely designed to minimise bulk, with first floor areas smaller than the ground floor envelope.
- The development is not out of scale with the adjoining buildings and does not dominate the streetscape, as it presents a graduated increase in height over nearby single storey buildings and matches the height of the nearby double storey dwellings.
- There is no lengthways subdivision to the street frontage. The design maintains the detached character and rhythm of dwelling spacing.

**Complies**Materials and design detail

The development has a traditional design and presents an appropriate architectural response with a visually interesting facade. Articulation in the façade is achieved through the use of varied materials and colours to the walls, as well as fenestration in windows and door openings. The use of brick and render to the walls appropriately respect the character dwellings in the area. The pitched roof design is a traditional element that reflects the pitched roofs forms of dwellings in the area.

**Complies**Front boundary treatment

There is a low proposed front boundary fence of 1.15 metres, which allows views from the street to the front façade and is appropriate.

**Complies****Clause 55 Assessment**

The following sections provide discussion on fundamental areas of Clause 55 including variations of standards and matters informing conditions of the recommendation above.

Clause 55.03-1 B6 Street Setback

- The front setbacks of the adjoining dwellings are 10.9 metres and 9.3 metres to the north and south respectively. The standard therefore requires a setback of 9 metres.
- The proposed front setback of 8.365 metres does not comply with the standard, however the design response is considered to be acceptable due to the following:
- The Planning Scheme does not require a particular front setback for development.
- The setback addresses the relevant requirements of the Neighbourhood Character Study, in that it allows adequate provision for landscaping. In addition, the Neighbourhood Character Study notes that Buildings are set back 5 - 7 metres from the front. The proposed setback is greater than this.
- The adjoining dwelling to the north has is of an Inter-war design with a strong porch element that gives the appearance of a reduced front setback of 8.74 metres.

- Dwelling 1's front façade is appropriately articulated.
- The front setback will not result in unreasonable visual bulk when viewed from the street or adjoining properties.
- The proposed setback results in efficient use of the site.
- The existing streetscape is not consistent and provides for varied setbacks of between 4 metres and 10 metres.

**Complies with objective**Clause 55.03-9 B14 Access

- Vehicle access to and from the site is safe, manageable and convenient. The number and design of the vehicle crossover(s) respects the neighbourhood character.
- The width of the accessway is 3.0 metres.
- The two (2) crossovers to the street, take up 41% of the frontage. Although this exceeds the standard, which requires that no more than 40% of the frontage should be taken up by vehicle access ways, it is considered to be acceptable in that:
  - The discrepancy of 1% (i.e. 146mm) is minor and would not be discernible.
  - The crossovers are separated and ample landscaping is provided to the street frontage, so that paved surfaces do not dominate.
- The proposal will not adversely affect the neighbourhood character.

**Complies with objective**Clause 55.03-10 B15 Parking Location

- Parking facilities will be proximate to the dwellings they serve.
- The proposed garages are an adequately secure form of parking.
- The access is observable.
- A number of habitable room windows face the accessway:
  - The south facing living area of Dwelling 1 is set back 0.8-1 metre from the accessway. This window appears to have sills of greater than 1.4 metres and is acceptable.
  - The south facing kitchen window to Dwelling 2 faces the accessway and the adjoining entry to Dwelling 3 and should have sills to 1,400mm. This may be addressed by condition.

**Complies subject to condition**Clause 55.04-1 B17 Side and Rear Setbacks

All walls except for one comply with this standard. It is unclear if the north west corner of the first floor of Dwellings 1 (ensuite wall) complies with the standard. The wall height appears to be 6.35 metres and is set back 1.82 metres, whereas a setback of 1.825 metres is required. Due to the site fall, the remainder of the wall complies with the standard.

This corner abuts the adjoining driveway and front porch and the discrepancy is minor, it is considered to be acceptable and no adverse amenity impacts will result.

**Complies with objective**



Clause 55.04-6 B22 Overlooking

- The proposed dwellings are single storey and have finished floor levels less than 0.8 metres above natural ground level at the boundary. Existing and proposed 1.8 metre high boundary fences on the north, south and east boundaries, will sufficiently limit overlooking.
- The development is designed to limit views into neighbouring secluded private open space and habitable room windows.
- All upper storey windows to the north have fixed obscure glass to a minimum height of 1.7 metres and are appropriately designed to ensure no unreasonable overlooking.

**Complies**

Clause 55.05-4 B28 Private Open Space

- The development provides adequate private open space (pos) for the reasonable recreation and service needs of residents.
- This is achieved through the provision of 40 square metres of secluded private open space at the side or rear of the dwelling with a minimum area of 25 square metres, a minimum dimension of 3 metres and convenient access from a living room

	<b>Total POS</b>	<b>Secluded POS</b>	<b>Minimum dimension of secluded POS</b>
Dwelling 1	53 square metres	25 square metres	4.69 metres
Dwelling 2	40 square metres	35 square metres	3.51 metres
Dwelling 3	40 square metres	33 square metres	3.05 metres

All secluded private open space areas have direct access to a living room.

**Complies**

**Clause 52.06 Car Parking**

Number of Parking Spaces Required

- Two (2) car parking spaces are provided for each of the three (3) bedroom dwellings with at least one (1) space under cover.
- No visitor car parking is required.

Design Standards for Car parking

- The car parking spaces, the carports, the garaging and the access ways have appropriate dimension to enable efficient use and management.
- The car parking facilities are designed, surfaced and graded to reduce run-off and allow stormwater to drain into the site.
- The double garage dimensions of 6.0 metres length x 5.5 metres width comply with the minimum requirements of the standard.
- Garage and carport dimensions of 6.0 metres length x 3.5 metres width comply with the minimum requirements of the standard.

- Access dimensions to the car spaces comply with the standard.
- Pedestrian visibility splays have been provided.

**CLAUSE 55 COMPLIANCE SUMMARY**

Clause	Std		Compliance	
			Std	Obj
<b>55.02-1</b>	<b>B1</b>	<b>Neighbourhood character</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.02-2</b>	<b>B2</b>	<b>Residential policy</b>		
		The proposal complies with the relevant residential policies outlined in the Darebin Planning Scheme.	Y	Y
<b>55.02-3</b>	<b>B3</b>	<b>Dwelling diversity</b>		
		N/A as development contains less than 10 dwellings	N/A	N/A
<b>55.02-4</b>	<b>B4</b>	<b>Infrastructure</b>		
		Adequate infrastructure exists to support new development	Y	Y
<b>55.02-5</b>	<b>B5</b>	<b>Integration with the street</b>		
		Dwelling 1 appropriately integrates with the Street.	Y	Y
<b>55.03-1</b>	<b>B6</b>	<b>Street setback</b>		
		The required setback is 9 metres, the dwellings are set back 8.365 metres from the street frontage. Please see assessment in the body of this report.	N	Y
<b>55.03-2</b>	<b>B7</b>	<b>Building height</b>		
		8 metres	Y	Y
<b>55.03-3</b>	<b>B8</b>	<b>Site coverage</b>		
		49.6%	Y	Y
<b>55.03-4</b>	<b>B9</b>	<b>Permeability</b>		
		24.52%	Y	Y
<b>55.03-5</b>	<b>B10</b>	<b>Energy efficiency</b>		
		Dwellings are considered to be generally energy efficient and will not unreasonably impact adjoining properties.	Y	Y
<b>55.03-6</b>	<b>B11</b>	<b>Open space</b>		
		N/A as the site does not abut public open space	N/A	N/A
<b>55.03-7</b>	<b>B12</b>	<b>Safety</b>		
		The proposed development is secure and the creation of unsafe spaces has been avoided.	Y	Y
<b>55.03-8</b>	<b>B13</b>	<b>Landscaping</b>		
		Adequate areas are provided for appropriate landscaping and a landscape plan has been	Y	Y

Clause	Std		Compliance	
			Std	Obj
		provided.		
<b>55.03-9</b>	<b>B14</b>	<b>Access</b>		
		Access is sufficient and respects the character of the area. Please see assessment in the body of this report.	N	Y
<b>55.03-10</b>	<b>B15</b>	<b>Parking location</b>		
		Parking facilities are proximate to the dwellings they serve, the access is observable. Some habitable room windows may be affected by the accessways. Please see assessment in the body of this report.	N	Y
<b>55.04-1</b>	<b>B17</b>	<b>Side and rear setbacks</b>		
		Dwellings generally are set back in accordance with the requirements of this standard. Please see assessment in the body of this report.	N	Y
<b>55.04-2</b>	<b>B18</b>	<b>Walls on boundaries</b>		
		North: <ul style="list-style-type: none"> <li>Length: 12.5 metres (18.355 metres allowed)</li> <li>Height:</li> </ul> South: <ul style="list-style-type: none"> <li>Length: 6.2 metres (18.323 metres allowed)</li> <li>Height:</li> </ul> East: <ul style="list-style-type: none"> <li>Length: 3.7 metres (11.158 metres allowed)</li> <li>Height:</li> </ul> Walls on boundaries comply with the requirements of this standard.	Y	Y
<b>55.04-3</b>	<b>B19</b>	<b>Daylight to existing windows</b>		
		Sufficient setbacks exist to allow adequate daylight	Y	Y
<b>55.04-4</b>	<b>B20</b>	<b>North-facing windows</b>		
		Development is set back in accordance with the standard.	Y	Y
<b>55.04-5</b>	<b>B21</b>	<b>Overshadowing open space</b>		
		Shadow cast by the development is within the parameters set out by the standard.	Y	Y
<b>55.04-6</b>	<b>B22</b>	<b>Overlooking</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.04-7</b>	<b>B23</b>	<b>Internal views</b>		
		There are no internal views	Y	Y
<b>55.04-8</b>	<b>B24</b>	<b>Noise impacts</b>		
		Noise impacts are consistent with those in a residential zone.	Y	Y

Clause	Std		Compliance	
			Std	Obj
<b>55.05-1</b>	<b>B25</b>	<b>Accessibility</b>		
		The ground levels of the proposal can be made accessible for people with limited mobility.	Y	Y
<b>55.05-2</b>	<b>B26</b>	<b>Dwelling entry</b>		
		Entries to the dwellings are identifiable and provide an adequate area for transition.	Y	Y
<b>55.05-3</b>	<b>B27</b>	<b>Daylight to new windows</b>		
		Adequate setbacks are proposed to allow appropriate daylight access.	Y	Y
<b>55.05-4</b>	<b>B28</b>	<b>Private open space</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.05-5</b>	<b>B29</b>	<b>Solar access to open space</b>		
		Sufficient depth is provided for adequate solar access.	Y	Y
<b>55.05-6</b>	<b>B30</b>	<b>Storage</b>		
		Sufficient storage areas are provided.	Y	Y
<b>55.06-1</b>	<b>B31</b>	<b>Design detail</b>		
		Design detail of dwellings is appropriate in the neighbourhood setting.	Y	Y
<b>55.06-2</b>	<b>B32</b>	<b>Front fences</b>		
		A 1.15 metre high front fence is proposed which is appropriate in the neighbourhood context.	Y	Y
<b>55.06-3</b>	<b>B33</b>	<b>Common property</b>		
		Common property areas are appropriate and manageable.	Y	Y
<b>55.06-4</b>	<b>B34</b>	<b>Site services</b>		
		Sufficient areas for site services are provided.	Y	Y

**REFERRAL SUMMARY**

Department/Authority	Response
Capital Works	No objection, subject to condition included in recommendation.
Transport Management and Planning	No objection.

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**PLANNING SCHEME SUMMARY**
**Darebin Planning Scheme clauses under which a permit is required**

- Clause 32.08-4 – Construct two (2) or more dwellings on a lot

**Applicable provisions of the Darebin Planning Scheme**

Section of Scheme	Relevant Clauses
SPPF	11.02-1, 15.01-1, 15.01-5, 15.02, 16.01, 19.03-1
LPPF	21.02-3; 21.03-2; 21.03-3; 21.03-4;21.05; 22.02
Zone	32.08
Overlay	45.06
Particular provisions	52.06, 55
General provisions	65.01
Neighbourhood Character Precinct	E3

**POLICY IMPLICATIONS****Environmental Sustainability**

All new dwellings are required to achieve a minimum six (6) star energy rating under the relevant building controls.

**Social Inclusion and Diversity**

Nil

**Other**

Nil

**FINANCIAL AND RESOURCE IMPLICATIONS**

There are no financial or resource implications as a result of the determination of this application.

**FUTURE ACTIONS**

Nil

**DISCLOSURE OF INTERESTS**

Section 80C of the *Local Government Act 1989* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any direct or indirect interest in a matter to which the advice relates.

The Manager authorising this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

**RELATED DOCUMENTS**

Darebin Planning Scheme and the *Planning and Environment Act (1987)* as amended.

**5.12 APPLICATION FOR PLANNING PERMIT D/1065/2015**  
 9 Smith Street, Reservoir

**AUTHOR:** Principal Planner – Deniz Yener-Korematsu

**DIRECTOR:** Director Assets and Business Services – Steve Hamilton

**OWNER/APPLICANT/CONSULTANT:**

<b>Applicant</b>	<b>Owner</b>	<b>Consultant</b>
SGAR Group P/L c/o Cornetta Partners Architects	SGAR Group Pty Ltd	Cornetta Partners Architects Glossop Town Planning Tree Response

**SUMMARY:**

- It is proposed to demolish the existing dwelling on the site and construct five (5) dwellings comprised of four (4) double storey dwellings and one (1) single storey dwelling. Dwellings 1 and 2 are side-by-side attached dwellings facing Smith Street; Dwellings 3 and 4 are located to the centre of the site and are double storey; Dwelling 5 is to be located to the rear and is single storey. The dwellings provide a mix of two (2) and three (3) bedroom accommodation and provide a mix of reverse and traditional living arrangements.
- Private and secluded open space for the dwellings is provided in the form of ground floor open areas or first floor terraces.
- The dwellings provide car parking on site in the form of single garages for Dwellings 1, 2, 3 and 4 and a single carport for Dwelling 5. Dwelling 1 will have a tandem parking space to the front of its garage.
- The existing crossover to the south side of the site’s frontage is to be retained to provide access to Dwelling 2, 3, 4 and 5’s garage; a new single crossover is proposed to the north side of the frontage to provide access to Dwelling 1’s garage.
- The dwellings will have a contemporary design, with brick walls at the ground floor, render to the first floor walls and pitched Colourbond roofs.
- The overall maximum height of the development is to be 8.315 metres to the ridge.
- The site is zoned General Residential Zone Schedule 2 (GRZ2).
- There is no restrictive covenant registered on the title for the subject land.
- 16 objections have been received against this application.
- The proposal is generally consistent with the objectives and standards of Clause 55 of the Darebin Planning Scheme.
- It is recommended that the application be supported.

**CONSULTATION:**

- Public notice was given via one (1) sign posted on site and letters sent to surrounding owners and occupiers.

- This application was referred internally to Darebin Parks, Transport Management and Planning Unit and the Capital Works Unit.
- This application was not required to be referred to external authorities.

### Recommendation

**That** Planning Permit Application D/1065/2015 be supported and a Notice of Decision to Grant a Permit be issued subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to, and approved by, the Responsible Authority. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application (identified as drawings TPA03, TPA04, TPA05, Revision A, dated 12 February 2016, job no. 15-34 and prepared by Cornetta Partners Architects and received by Council on 24 February 2016) but modified to show:
  - a) The proposed crossover with a width of 3 metres at the property boundary.
  - b) Clear delineation of an area in the garages and carport showing minimum internal dimensions of 3.5 metres in width and 6 metres in length, clear of any obstructions, such as door swings, storage and bin areas.
  - c) The provision of 1 x 80 litre and 1 x 240 litre bin for each dwelling. Bin storage areas must be located so that they are not visible from the street and public areas.
  - d) No pedestrian doors opening into parking areas, parking aisles, or circulation roadways.
  - e) The ground floor of Dwelling 2 rearranged to show:
    - Bedroom 2 repositioned to the east adjacent to the staircase wall; and
    - The laundry/bathroom area repositioned to the west adjacent to the Garage 2 wall and the manoeuvring area of the garage.
    - The southern wall of Bedroom 2 setback 1.0 metre from the accessway; the 1.0 metre setback must be used to provide a landscape bed adjacent to this wall.
    - Bedroom 2 provided with a south-facing window that has a sill height at least 1.4 metres above the level of the accessway. A dimension must be provided on the south elevation to confirm this.The above changes are to be carried out without a reduction in any other setback.
  - f) The first floor north and west windows to Bedroom 3 of Dwelling 1 are to be shown with fixed obscure glazing (not film) with a maximum transparency of 25% to a minimum height of 1.7 metres above finished floor level.
  - g) The first floor south-facing kitchen window of Dwelling 3 and west-facing edge of the terrace of Dwelling 4 (to limit views within 9 metres and a 45 degree angle to the private open space to the north west) are to be provided with either:
    - A sill with a minimum height of 1.7 metres above finished floor level;
    - A fixed screen with a maximum permeability of 25% to a minimum height of 1.7 metres above finished floor level; or



- Fixed obscure glazing (not film) with a maximum transparency of 25% to a minimum height of 1.7 metres above finished floor level.

Where fixed screens are being utilised a section diagram must be included to demonstrate how the screens minimise overlooking of adjoining properties.

- h) Full details of the proposed screens 1.7 metre high fixed louvre screens to first floor north-facing sitting room windows of Dwellings 2 and 3. A section diagram must be provided to demonstrate how the screens minimise overlooking of adjoining properties.
- i) Full details of the metal screening 'F5' specified in the external materials and finishes schedule on Sheet TPA05 demonstrating that this product/material will achieve a maximum permeability of 25%.
- j) Annotations detailing a Tree Protection Zone (TPZ) and associated Tree Protection Fence (as identified in the Arboricultural Report prepared by *Tree Response* dated 15 December 2014) measured from the outside edge of the tree trunk, in accordance with Condition No.8 of this Permit:
  - i. Tree No.4 (the *Prunus cerasifera* 'nigra' located in the property to the west) with a radius of 3.6 metres
  - ii. Tree No.6 (the *Lophostemon confertus* located in the naturestrip) with a radius of 4.2 metres

A notation must be added to state that any works in the Tree Protection Zone of these trees must be carried out without excavation and that any new boundary fencing within TPZs must be of light timber construction with manually excavated stump holes (i.e. no strip footing). Tree Protection Fencing must remain in place for the duration of construction and be installed in accordance with Australian Standard AS4970 – 2009: Protection of trees on development sites.

- k) Provision of notations on the plan to state:
  - i. The Tree Protection Zones (TPZ) for Trees 4, 6 and 8 must remain at existing grade and designed to be permeable.
  - ii. The carport for Dwelling 4 must be constructed above grade, with manually excavated post holes. Excavation works within the TPZs must be supervised by a suitably qualified arborist and any roots uncovered are to be pruned with sharp and sterile hand tools.
- l) The provision of pedestrian visibility splays measuring 2.0 metres (width across the frontage) by 2.5 metres (depth into the site), to the sides of the proposed crossover. Where within the subject site, any structures or vegetation within these splays must be not more than 1.15 metres in height.
- m) The location of all plant and equipment (including air conditioners, gas metres, water metres, hydrants and the like). The location of each of these services is to be individually identified on the plans. Services are to be co-located where possible, screened to be minimally visible from the public realm and adjacent properties, located as far as practicable from site boundaries and integrated into the design of the building. Services must not be a visually dominant element in the front setback of the site.
- n) A comprehensive schedule of construction materials, external finishes and colours (including colour samples).
- o) Any modifications in accordance with the Sustainable Design Assessment (Refer to Condition 10 of this Permit).
- p) A Landscape Plan in accordance with Condition No.5 of this Permit.

When approved, the plans will be endorsed and form part of this Permit.

2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
3. This Permit will expire if either:
  - The development does not start within three (3) years from the date of this Permit; or
  - The development is not completed within five (5) years of the date of this Permit.

As relevant, the Responsible Authority may extend the times referred to if a request is made in writing:

- Before this Permit expires;
  - Within six (6) months after the expiry date; or
  - Within twelve (12) months after the expiry date if the request relates to the completion of the development or a stage of the development.
4. Once commenced, the development must be continued and completed to the satisfaction of the Responsible Authority.
  5. Before buildings and works start, a detailed Landscape Plan to the satisfaction of the Responsible Authority must be submitted to, and approved by the Responsible Authority. When the Landscape Plan is approved, it will be endorsed and will then form part of this Permit. The Landscape Plan must be prepared by a suitably qualified person and must incorporate:
    - a) Details of all existing trees to be retained and all existing trees to be removed, including overhanging trees on adjoining properties and street trees within the nature strip. The genus, species, height and spread of all trees must be specified.
    - b) A planting schedule of proposed vegetation detailing the botanical name, common name, size at maturity, pot size and quantities of all plants.
    - c) A diversity of plant species and forms. All proposed planting must be to the satisfaction of the Responsible Authority.
    - d) Provision of a minimum of two (2) suitable medium canopy trees (in the front setback of Dwellings 1 and 2) and a minimum of three (3) suitable small canopy trees (in the rear secluded private open space areas). All canopy trees are to have a minimum height of 1.6 metres in 40 litre containers at the time of installation. Canopy trees must have the following minimum widths at maturity: small canopy (4 metres), medium canopy (6 metres), large canopy (10 metres).
    - e) Annotated graphic construction details showing all landscape applications and structures including tree and shrub planting, retaining walls, raised planter bed and decking.
    - f) Type and details of all surfaces including lawns, mulched garden beds and permeable and/or hard paving (such as pavers, brick, gravel, asphalt and concrete) demonstrating a minimum site permeability of 20%. Percentage cover of permeable surfaces must be stated on the plan. Where paving is specified, material types and construction methods (including cross sections where appropriate) must be provided.
    - g) Hard paved surfaces at all entry points to dwellings.

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- h) All constructed items including letter boxes, garbage bin receptacles, lighting, clotheslines, tanks, outdoor storage etc.
  - i) Type and details of edge treatment between all changes in surface (e.g. grass (lawn), gravel, paving and garden beds).
  - j) An outline of the approved building/s including any basement, the location of entry doors, windows, gates and fences must be shown on the landscape plan. The location of both existing and proposed overhead and underground services. Conflicts of such services with the existing and proposed planting must be avoided.
  - k) Clear graphics identifying trees (deciduous and evergreen), shrubs, grasses/sedges, groundcovers and climbers.
  - l) Scale, north point and appropriate legend. Landscape plans are to be clear, legible and with graphics drawn to scale, and provide only relevant information.
  - m) Specification or tree protection measures in accordance with the requirements of Condition No.8 of this Permit.
6. The landscaping as shown on the endorsed Landscape Plan must be completed to the satisfaction of the Responsible Authority before the development is occupied and/or the use starts or at such later date as is approved by the Responsible Authority in writing.
- No later than seven (7) days after the completion of the landscaping, the permit holder must advise Council, in writing, that the landscaping has been completed.
7. The landscaping as shown on the endorsed Landscape Plan must be maintained, and any dead, diseased or damaged plant replaced in accordance with the endorsed Landscape Plan to the satisfaction of the Responsible Authority.
8. Before buildings and works (including demolition) start, a tree protection fence must be erected around the following trees (identified in the Arboricultural Report prepared by *Tree Response* dated 15 December 2014) to define a 'tree protection zone' (TPZ) measured from the outside edge of the tree trunk
- i. Tree No.4 (the *Prunus cerasifera* 'nigra' located in the property to the west) with a radius of 3.6 metres
  - ii. Tree No.6 (the *Lophostemon confertus* located in the naturestrip) with a radius of 4.2 metres

Any works in the Tree Protection Zone of these trees must be carried out without excavation and any new boundary fencing within the TPZs must be of light timber construction with manually excavated stump holes (i.e. no strip footing). Tree Protection Fencing must remain in place for the duration of construction and be installed in accordance with Australian Standard AS4970 – 2009: Protection of trees on development sites.

This fence must be constructed of star pickets and chain mesh (or similar) to the satisfaction of the Responsible Authority.

The Tree Protection Fence must remain in place until construction is completed.

No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Zone.

No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Zone.

The ground surface of the tree protection zone must be covered by a protective 100mm deep layer of mulch prior to the development commencing and be watered regularly to the satisfaction of the Responsible Authority.

The Tree Protection Zone (TPZ) for Trees 4, 6 and 8 must remain at existing grade and designed to be permeable.

The carport for Dwelling 4 must be constructed above grade, with manually excavated post holes. Excavation works within the TPZs must be supervised by a suitably qualified arborist and any roots uncovered pruned with sharp and sterile hand tools.

9. Before the development starts, a Sustainable Design Assessment (SDA) detailing sustainable design strategies to be incorporated into the development to the satisfaction of the Responsible Authority must be submitted to, and approved in writing by the Responsible Authority. The SDA must outline proposed sustainable design initiatives within the development such as (but not limited to) energy efficiency, water conservation, stormwater quality, waste management and material selection. It is recommended that a Built Environment Sustainability Scorecard (BESS) report is undertaken as part of the SDA.

The development must be constructed in accordance with the requirements/recommendations of the Sustainable Design Assessment to the satisfaction of the Responsible Authority.

10. Floor levels shown on the endorsed plans must be confirmed. The confirmation of the ground floor level must take place no later than at the time of the inspection of the subfloor of the development required under the *Building Act 1993* and the Building Regulations 2010. This confirmation must be in the form of a report from a licensed land surveyor and must be submitted to the Responsible Authority no later than 7 days from the date of the sub-floor inspection. The upper floor levels must be confirmed before a Certificate of Occupancy is issued, by a report from a licensed land surveyor submitted to the Responsible Authority.
11. All dwellings that share dividing walls and floors must be constructed to limit noise transmission in accordance with Part F(5) of the Building Code of Australia.
12. Before the dwellings are occupied, an automatic external lighting system capable of illuminating the entry to each unit, access to each garage and car parking space and all pedestrian walkways must be provided on the land to the satisfaction of the Responsible Authority.

The external lighting must be designed, baffled and/or located to ensure that no loss of amenity is caused to adjoining and nearby land, to the satisfaction of the Responsible Authority.
13. Boundary walls facing adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.
14. The land must be drained to the satisfaction of the Responsible Authority.
15. With the exception of guttering, rainheads and downpipes, all pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
16. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the prior written consent of the Responsible Authority.
17. Provision must be made on the land for letter boxes and receptacles for newspapers to the satisfaction of the Responsible Authority.

18. Before occupation of the development areas set aside for the parking of vehicles and access lanes as shown on the endorsed plan(s) must be:
- a) Constructed;
  - b) Properly formed to such levels that they can be used in accordance with the plans;
  - c) Surfaced with an all-weather sealcoat;
  - d) Drained;
  - e) Line-marked to indicate each car space and all access lanes;
  - f) Clearly marked to show the direction of traffic along the access lanes and driveways

to the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose.

19. Before the development is occupied vehicular crossing(s) must be constructed to align with approved driveways to the satisfaction of the Responsible Authority. All redundant crossing(s), crossing opening(s) or parts thereof must be removed and replaced with footpath, naturestrip and kerb and channel to the satisfaction of the Responsible Authority.
20. The area in front of Garage 4 and the carport of Dwelling 5 are to be kept clear at all times for vehicle manoeuvrability. No vehicles may be left parked at any time in the identified manoeuvring areas.

## NOTATIONS

**(These notes are provided for information only and do not constitute part of this permit or conditions of this permit)**

- N1 Any failure to comply with the conditions of this permit may result in action being taken to have an Enforcement Order made against some or all persons having an interest in the land and may result in legal action or the cancellation of this permit by the Victorian Civil and Administrative Tribunal.
- N2 Nothing in the grant of this permit should be construed as granting any permission other than planning permission for the purpose described. It is the duty of the permit holder to acquaint themselves, and comply, with all other relevant legal obligations (including any obligation in relation to restrictive covenants and easements affecting the site) and to obtain other required permits, consents or approvals.
- N3 The amendments specified in Condition 1 of this Permit and any additional modifications which are "necessary or consequential" are those that will be assessed by Council when plans are lodged to satisfy that condition. Any "necessary or consequential" amendments, in addition to those required by this condition, should be specifically brought to the attention of Council for assessment.

If any other modifications are proposed, application must also be made for their approval under the relevant Sections of the *Planning and Environment Act 1987*. They can only be approved once the required and consequential changes have been approved and the plans endorsed. It is possible to approve such modifications without notice to other parties, but they must be of limited scope. Modifications of a more significant nature may require a new permit application.

- N4 This Planning Permit represents the Planning approval for the use and/or development of the land. This Planning Permit does not represent the approval of other departments of Darebin City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria to that adopted for the approval of this Planning Permit.
- N5 To complete a satisfactory Sustainable Design Assessment (SDA) the Responsible Authority recommends the use of the Built Environment Sustainability Scorecard (BESS) to assess the developments environmental performance against appropriate standards.
- N6 This planning permit must be attached to the “statement of matters affecting land being sold”, under section 32 of the *Sale of Land Act 1962* and any tenancy agreement or other agreement under the *Residential Tenancies Act 1997*, for all purchasers, tenants and residents of any dwelling shown on this planning permit, and all prospective purchasers, tenants and residents of any such dwelling are to be advised that they will not be eligible for on-street parking permits pursuant to the Darebin Residential Parking Permit Scheme.

<b>Report</b>
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## INTRODUCTION AND BACKGROUND

A search of Council records revealed the following planning history for the site:

- D/901/2010 for a five (5) double storey unit development lapsed on 4 April 2011.
- D/239/2011 for five (5) double-storey dwellings was supported by Planning Committee resulting in the issuing of a Notice of Decision to Grant a Permit on 3 October 2011. Council’s decision was overturned at the Victorian Civil and Administrative Tribunal (VCAT) on 19 April 2012. VCAT directed that the application be refused (refer to discussion in later sections of this report).
- D/371/2012 for three (3) double storey dwellings and one (1) single storey dwelling was approved at the direction of VCAT on 29 July 2013. This Permit was amended by Council on 30/4/2015 (minor amendments). This Permit is still valid until 29/7/2016.

## ISSUES AND DISCUSSION

### Subject site and surrounding area

- The land is regular in shape and measures 48.77 metres in length and 18.29 metres in width, with a site area of 892 square metres.
- The land is located within the General Residential Zone Schedule 2 and is covered by the Development Contributions Plan Overlay (DCPO). The plan associated with the DCPO has expired.
- The land is located on the western side of Smith Street, approximately 120 metres to the south of the intersection with Hickford Street.
- The subject site comprises an existing residential lot accommodating a single storey weatherboard dwelling. The dwelling has vehicle access to a garage side accessed via an existing crossover along the southern boundary.
- The site has a fall of approximately 600mm from the north-east (front) corner to the south-west (rear).

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- To the east of the site, on the opposite side of the street are a number of single storey in-fill developments comprised of two (2) to four (4) dwellings per lot.
  - To the west of the site is the rear yard area and outbuildings of a single storey dwelling fronting Johnson Street. To the north-west and south-west are medium density developments including single storey and double storey dwellings in the rear yard area.
  - To the north is a medium density development of three (3) single storey brick dwellings, with vehicle access along the common boundary. The front dwelling is set back 7.6 metres from the street frontage and the dwellings are set back 3.2 metres to 6.3 metres from the common boundary.
  - To the south is a recent medium density development of two (2) single storey side-by-side attached dwellings. The dwelling abutting the common boundary is set back 7 metres from the front and approximately 1.4 metres from the common boundary.
  - No parking restrictions apply to the street in the vicinity of the site.
  - The area is residential in character, with mainly single storey detached dwellings, noting a number of medium density developments and double storey dwellings do exist nearby. The site is located approximately 650 metres to the south of the Johnson Street Shopping Centre, with Keon Park Railway Station on the west side of the shops. Ruthven Railway Station is 600 metres to the south.

The site also has access to bus services No.902 (Chelsea-Airport West) along Keon Parade and Route No.555 (Epping-Northland) along High Street. JC Donath Reserve is approximately 160 metres to the north. Reservoir Views Primary School is approximately 850 metres to the east. William Ruthven Secondary College is 500 metres to the north-west. Reservoir Activity Centre is 1.2 kilometres to the south.

### Proposal

- It is proposed to demolish the existing dwelling and construct five (5) dwellings (four (4) double storey dwellings and one (1) single storey dwelling).
- Dwellings 1 and 2 are attached and located to the front of the site; Dwellings 3 and 4 are located to the centre of the site and are to be double storey. Dwelling 5 is located to the rear and is to be single storey.
- Dwelling 1 is to have an open plan kitchen/meals/living area at ground level, with three (3) bedrooms on the first floor. A single garage and tandem car space are located to the north, accessed via a proposed crossover. This dwelling is to have a secluded private open space area of 27 square metres, plus the front yard area.
- Dwellings 2, 3 and 4 are to have two (2) bedrooms at ground level, with an open plan kitchen/meals/living area on the first floor. These dwellings are to have first floor terraces of 22 square metres (Dwelling 2), 24 square metres (Dwelling 3) and 21 square metres (Dwelling 4).  
Dwellings 3 and 4 also have additional ground level service yard areas of 14 square metres and 9 square metres respectively and Dwelling 2 has an additional front yard area for private open space. These dwellings will all have single garages.
- Dwelling 5 will have two (2) bedrooms an open plan kitchen/meals/living area. It is to have ground level secluded private open space area to the west and north of 56 square metres as well as a service yard area. This dwelling has a carport to its south.
- Dwellings 2-5 will have vehicle access via the existing crossover to a driveway along the southern common boundary.
- Each dwelling is provided with a single garage or carport with the application seeking a waiver of a single visitor car space.

- The dwellings will have a traditional design, with brick walls at the ground floor, render to the first floor walls and pitched Colourbond roofs.

**Objections**

- 16 objections have been received.

**Objections summarised**

- Over supply of 1 and 2 bedroom dwellings / under supply of family accommodation.
- Inconsistent with neighbourhood character.
- Reverse living arrangements result in poor private open space at ground level.
- Dwelling 5 has poor internal amenity.
- No space on site for garbage bins.
- Removal of significant tree.
- Impact on traffic and car parking.
- Parking reduction is contrary to the Planning Scheme.
- Waiving visitor parking will affect parking for emergency vehicles.
- Overdevelopment and excessive bulk and scale.
- Visual bulk presented to the neighbouring properties.
- The proposal does not add net value to the community.
- Number of objections indicates negative social effects.
- Does not meet the standards in the Planning Scheme.
- Will not provide affordable accommodation.
- Blocking of sunlight to windows.
- Overlooking.
- Two (2) crossovers will reduce on-street parking.
- Inadequate landscaping.

**Officer comment on summarised objections**Oversupply of one (1) and two (2) bedroom dwellings in the municipality

The proposal provides appropriate dwelling diversity in an area that is largely characterised by single dwellings. Additionally, the population of Darebin and the metropolitan area is increasing with household sizes decreasing, indicating that smaller dwellings are required to cater to the demand of smaller households. The Darebin Housing Strategy and evidence in support of the strategy directs Council to facilitate through its planning decisions an increased provision of all housing types with the data showing the greatest supply requirement being 1 and 2 bedroom dwellings. Furthermore, one (1) of the dwellings is a three (3) bedroom dwelling and provides larger accommodation. The proposal contributes to dwelling diversity.



Inconsistent with neighbourhood character

The test of neighbourhood character under the Darebin Planning Scheme is for development to respect the existing character or to contribute to a preferred future character. This is considered having regard to the relevant policies within the Scheme (including Clause 22.02) relative to the physical context of the site itself. The development is considered to be appropriate within the context of the neighbourhood setting and will not appear out of place given that two-storey buildings are part of the neighbourhood fabric.

A detailed assessment of the development against the neighbourhood character considerations is provided in later sections of this report.

Reverse living arrangements result in poor private open space at ground level

Clause 55 allows the provision of secluded private open space in the form of balconies, roof terraces and/or open space at ground level. The dwellings will be provided adequate secluded private open space, in accordance with Standard B28 of Clause 55 (as can be seen in the assessment below) and is considered to be an appropriate design response.

The reverse living arrangement is an acceptable dwelling layout provided other considerations such as landscaping objectives are met. Landscaping is discussed further in later sections of this report.

Dwelling 5 has poor internal amenity

This objection is unsubstantiated and it is considered that Dwelling 5 will have an acceptable level of internal amenity, with ample secluded private open space, daylight and living areas.

No space on site for garbage bins

The proposal does not show the location of waste and recycle bins. These may be located in the service yards and may be addressed by condition of any approval given.

It is not considered that locating the waste and recycle bins to the street frontage would pose any issues, given the width of the street frontage is sufficient to locate 5 x 80 litre hard rubbish and 5 x 240 litre recyclable waste bins associated with the five (5) dwellings.

Removal of significant tree

Referral comments from Council's Planning Arborist indicate that the trees on adjoining sites may be retained and can be addressed by conditions on any approval. In addition, the vegetation to be removed from the site is identified as having of low retention value and may be replaced by two (2) suitable 'medium' canopy trees (in the front setback of Dwellings 1 and 2) and three (3) small canopy trees in rear private open space areas. The nature-strip tree will not be affected by the development.

Traffic and car parking

The application proposes a reduction of one (1) visitor car parking space under the provisions of Clause 52.06-5 of the Darebin Planning Scheme. The reduction of one (1) visitor car space and the intermittent demand associated with this is considered to be an acceptable increment that can be accommodated on Smith Street and surrounding street networks.

A detailed assessment of traffic and car parking matters is provided in later sections of this report.

Waiving visitor parking will affect parking for emergency vehicles

As noted above, the reduction of one (1) visitor car space is considered to be acceptable and the intermittent demand associated with this reduction is not likely to significantly impact on-street parking and emergency vehicle access/parking. Any emergency vehicle would be able to utilise the driveway for temporary access and parking.

Overdevelopment relative to existing single storey housing

State and Local Planning Policy envisage an increase in housing density in well serviced areas such as this. While any increase in population density will likely increase the level of activity around the site and area, it is not considered that the proposed development would be detrimental or substantially more intensive than what is currently experienced. The development proposes a modest increase in density and a modest rise from the single storey building on the subject land and adjoining properties, noting that there are already other double storey dwellings in the surrounding area and on the adjoining property to the north and well as north-west where two (2) dwellings are of double-storey height in the rear yard area.

The development is respectful of the prevailing scale of housing stock in the area and double-storey construction is considered to be an acceptable height transition to single-storey scale buildings.

Visual bulk presented to the neighbouring properties

Issues surrounding the bulk and scale of the development are assessed below in the Clause 55 assessment and the Neighbourhood Character Study Assessment. Whilst the proposed dwellings are double storey, substantial and varied first floor setbacks are provided from the north, south and west boundaries and the rear dwelling is single storey. Along with the minimal overall height and mix of materials, staggered walls and modulation the proposal limits the unreasonable presentation of bulk to neighbouring properties.

The proposal does not add net value to the community

The development accords with acknowledged policy for urban consolidation and increased densities and in this sense provides a community benefit with affordable and diverse housing.

Number of objections indicates negative social effects

Section 60(1)(f) of the Act, deals with significant social effects. This section states:

- (1) *Before deciding on an application, the responsible authority must consider-*
  - (f) *Any significant social effects and economic effects which the responsible authority considers the use or development may have.*
- (1B) *For the purposes of subsection (1)(f), the responsible authority must (where appropriate) have regard to the number of objectors in considering whether the use or development may have a significant social effect.*

In *Backman and Company Pty Ltd v Boroondara City Council* the following was noted:

*“33. As I have highlighted, parties seeking to rely on Sections 60(1B) and 84(2)(jb) of the Planning and Environment Act face a significant task in order to substantiate a significant social effect in relation to a housing proposal on residentially zoned land. That significant task extends much further than just garnering a significant level of opposition to a proposed development.*

*Firstly, parties alleging a significant social effect have to ascertain what the actual significant social effect is, in the framework of a zoning regime where one does not need a permit to use residentially zoned land for residential purposes. The mere identification of significant community opposition to a proposal is not a significant social effect of itself.*

*Secondly, the significant social effect will need to be sufficiently documented with evidentiary material to demonstrate the likelihood, probability and severity of the social effect. The identification of a social effect is not sufficient, as it also needs to be demonstrated that the social effect will be significant.*

*Thirdly, as identified in the Rutherford decision, it will need to be demonstrated that any significant social effect outweighs any social benefits that might result from a balanced assessment of a development proposal”.*

In *Hoskin v Greater Bendigo City Council [2015] VSCA 350 (16 December 2015)* The Supreme Court of Appeal made the following observations about Section 60(1)(f):

3. *Section 60(1) describes matters which the responsible authority and, in turn, the Tribunal must consider. It does not stipulate that a particular matter should necessarily be determinative of the decision as to whether a permit be granted or refused.*
4. *It is for the responsible authority and, in turn, for the Tribunal on review to determine whether something constitutes a significant social effect and what weight it should be given in reaching a decision whether to grant or refuse a permit.*

This ground is considered to be unsubstantiated. The receipt of 16 objections, in itself, is not a determining factor as to whether a permit should be granted or refused on the basis of social effects. A five (5) dwelling development in an area designated as an area of Incremental Change in the Darebin Housing Strategy 2013 (amended 2015) is not considered to be likely to cause significant social effects for residents or visitors to the area. The proposal provides increased densities and results in an overall community benefit. This ground is contrary to the objectives of planning in Victoria.

#### Does not meet the standards in the Planning Scheme

The proposal has been assessed against relevant standards contained within the Scheme with particular focus on Clauses 52.06 and 55 and the Darebin Neighbourhood Character Guidelines, and has been found to generally comply with the standards and objectives. Other than those grounds addressed above, this ground of objection is not specific as to what are the purported areas of non-compliance.

#### Will not provide affordable accommodation

The proposal will provide five (5) dwellings on a site where there is only one (1) dwelling at present and thus provide a level of choice, affordability and diversity in housing in compliance with relevant State and Local policies.

Blocking of sunlight to windows

The proposal has in excess of minimum setbacks to the common boundaries so that daylight to adjoining habitable room windows will not be unreasonably affected. The height and setbacks of the development are in accordance with the parameters that protect daylight to existing windows under Standard B19 of Clause 55 of the Scheme.

Overlooking

Overlooking of private open spaces of adjoining properties may be addressed via conditions requiring appropriate screening measures in accordance with the requirements of Standard B22 of Clause 55 of the Scheme. See discussion in later sections of this report.

Two (2) crossovers will reduce on-street parking

The proposal provides two (2) crossovers to the street. However, the width of the crossovers is in compliance with Standard B14 (i.e. 32% of the frontage is taken up by crossovers, whereas 40% is allowed under the Standard). It is not considered that the proposal will unreasonably affect on-street parking in this instance.

Inadequate landscaping

The proposal will provide adequate opportunities for landscaping to the front, sides and rear. In addition, referral comments from Darebin Parks indicate that the vegetation to be removed from the site may be offset with replacement trees in the new development. A landscape plan showing replacement trees can be addressed via conditions of any approval.

**PLANNING ASSESSMENT****Neighbourhood Character Precinct Guideline Assessment - Precinct F7**Vegetation

The proposal will not result in the loss of significant trees from the site and retention of trees on adjoining sites may be addressed by conditions requiring tree protection measures be implemented during the construction phase. Although the application has not been accompanied by a landscape concept plan (which may be required by condition), the design and site layout allows adequate setbacks and sufficient space for landscaping including canopy planting to the front, sides and rear of the site.

In addition, the wide frontage and provision of only two (2) access points separated by a landscaped front yard area limits impervious surfaces. Therefore, it is considered that sufficient measures have been undertaken to ensure the development complies with the overall landscape character.

**Complies subject to conditions**Siting

The proposed front setback is sufficient to provide a front garden for planting of vegetation, to enable the continuation of the garden setting in this area. The proposal also allows sufficient landscape areas to the sides and rear for of the site.

Although Dwelling 1 is constructed to the side boundary, the proposal maintains an appropriate detached rhythm of dwelling spacing to the street in that the boundary construction for Dwelling 1 is a garage that is set back from the façade and often garages are constructed to boundaries (as can be seen with the development to the south); the recess of the garage create a sense of space to the side boundary; Dwelling 2 is set back from the southern common boundary; the adjoining dwellings to the north are well set back from the common boundary;. Therefore, adequate separation is maintained in building forms to the street, respecting the rhythm of dwelling spacing.

There are to be two (2) crossovers provided to the street; however, the site has a wide frontage of 18.29 metres, so that there is ample space to plant in the front garden and there are no significant areas of paving to the frontage. All garaging structures are located behind the façade or at the rear, so that parking areas do not dominate the front façade.

### **Complies with objective**

#### Height and building form

The height of buildings in the area is predominantly single storey; however, there are double storey buildings nearby. The proposed upper floors of Dwellings 1 and 2 oriented to the street are not set back a '*substantial distance*' from the façade (i.e. set back of one (1) room from the ground floor façade). Nevertheless, the upper floors are set back adequately from the ground floor façade and the facades are articulated and modulated to create an acceptable street presentation and height transition to adjoining buildings. This is an appropriate design response, as adequate articulation is provided, with a strong single storey element to the streetscape façade.

The dwellings have been largely designed to minimise bulk, with first floor areas smaller than the ground floor envelope.

It is also important to note that the rear dwelling is single storey and the first floor levels of the proposed double storey dwellings are set back from the common boundaries, so that the proposal does not adversely affect the rear yard/garden character and allows an appropriate transition to adjoining dwellings.

### **Complies with objective**

#### Materials and design detail

Articulation in the façade is achieved through the use of brick and lightweight surfaces to the walls, as well as setbacks and varied fenestrations in windows and door openings. The pitched roof design is a traditional element that reflects the pitched roofs forms of dwellings in the area.

The design and materials appropriately respect the character dwellings in the area.

### **Complies**

#### Front boundary treatment

There is to be a 1 metre front boundary fence, which allows views from the street to the front façade and is appropriate.

### **Complies**

**Clause 55 Assessment**

The following sections provide discussion on fundamental areas of Clause 55 including variations of standards and matters informing conditions of the recommendation above.

**Clause 55.03-1 B6 Street Setback**

- The front setbacks of the adjoining dwellings are 7.71 metres and 7 metres (to the north and south respectively). The standard therefore requires a setback of 7.355 metres.
- The proposed front setback of 8.002 metres for Dwelling 2 exceeds the requirement however the setback of 7.174 metres for Dwelling 1 does not comply with the standard. The design response to have a staggered front setback is considered to be acceptable due to the following:
- The setback addresses the relevant requirements of the Neighbourhood Character Study, in that it allows adequate provision for landscaping. In addition, the Neighbourhood Character Study notes that '*Front setbacks are generally 7 metres (occasionally less)*'. The proposed setback exceeds this.
- The design provides a graduated and staggered setback from 7.174 metres of Dwelling 1, to 8.002 metres for Dwelling 2.
- The discrepancy between the proposed front setback and that required by the standard is minor (i.e. 181mm) and would not be discernible.
- The front façades are appropriately articulated.
- The front setback will not result in unreasonable visual bulk when viewed from the street or adjoining properties.
- The proposed setback results in efficient use of the site.
- The existing streetscape is not consistent and provides for varied setbacks.

**Complies with objective****Clause 55.03-10 B15 Parking Location**

- Parking facilities will be proximate to the dwellings they serve.
- The proposed garages are an adequately secure form of parking.
- The access is observable.
- The east-facing bedroom windows of Dwellings 3 and 4 are set back 2.195 metres from the accessway and are acceptable. The bedroom 1 window of Dwelling 2 is set back approximately 400mm from the accessway and has a sill height of 1,700mm; this bedroom has a second window facing east toward the front garden. The non-compliance of the secondary window to the south which does not achieve a setback of 1 metre minimum from the accessway is therefore considered acceptable as this is a highlight window only and is not the only source of daylight for the bedroom.
- The bedroom 2 window of Dwelling 2 abuts the accessway and has a sill height of 1,500mm. However, this is adjacent to the access point to the garage of this dwelling. This is considered to be an inappropriate design response in terms of amenity impacts on the bedroom due to the window's proximity to the garage entry point.

- There is scope to rearrange the layout of the ground floor of this dwelling so that Bedroom 2 is repositioned adjacent to the staircase in place of the laundry/bathroom and these service areas are located adjacent to the access and garage wall. A 1 metre setback can in this way be maintained to the south wall of Bedroom 2 with a south-facing window having a sill height of 1.4 metres above the accessway that meets the standard.

**Complies with objective and subject to conditions**

Clause 55.04-6 B22 Overlooking

- The ground floor areas of the proposed dwellings have finished floor levels less than 0.8 metres above natural ground level at the boundary. Existing 1.9 metre and 2 metre high boundary fences on the north and south boundaries, and a proposed 1.8 metre high fence on the west boundary will sufficiently limit overlooking into adjoining properties.
- The following windows and terraces will be required to be screened to limit views in to adjoining residential properties:
  - Dwelling 1: Bedroom 3 should have ‘fixed’ obscure glass to the north and west windows (currently just noted as obscure glass).
  - Dwellings 2 and 3: North-facing sitting room windows screen detailing is required to be provided.
  - Dwelling 3: South-facing kitchen window to be screened.
  - Dwelling 4: West-facing terrace to be screened to 1,700mm to limit views within 9 metres and a 45-degree angle to the private open space to the north-west.
  - In addition, details of material ‘F5’ (Metalart Industries vertical metal screening) are required to ensure maximum 25% transparency.

**Complies subject to conditions**

Clause 55.05-4 B28 Private Open Space

- The development provides adequate private open space (pos) for the reasonable recreation and service needs of residents.
- This is achieved through the provision of 40 square metres of secluded private open space at the side or rear of the dwelling with a minimum area of 25 square metres, a minimum dimension of 3 metres and convenient access from a living room or
- This is achieved through the provision of 8 square metres with a minimum width of 1.6 metres and convenient access from a living room or
- This is achieved through the provision of a roof top area of 10 square metres with a minimum width of 2 metres and convenient access from a living room.

	<b>Total POS</b>	<b>Secluded POS</b>	<b>Minimum dimension of secluded POS</b>
Dwelling 1	60 square metres	27 square metres	3.6 metres
Dwelling 2	22 square metres balcony (52 square metres overall)	22 square metres (balcony)	3.78 metres

	Total POS	Secluded POS	Minimum dimension of secluded POS
Dwelling 3	16 square metres balcony (38 square metres overall)	16 square metres (balcony)	3.62 metres
Dwelling 4	21 square metres balcony (31 square metres overall)	21 square metres (balcony)	3.62 metres
Dwelling 5	62 square metres	56 square metres	3.3 metres

- All secluded private open space areas have direct access from a living room.

**Complies**

Clause 55.06-4 B34 Site Services

Sufficient area is provided to allow for the installation and the maintenance of site services. However, bin storage areas must be shown on the plans.

**Complies subject to condition**

**Clause 52.06 Car Parking**

Number of Parking Spaces Required

- One (1) car parking space in the form of a garage is provided for each of the two (2) bedroom dwellings.
- Two (2) car parking spaces are provided for the three (3) bedroom dwelling with one (1) space under cover.
- No visitor car parking space is provided whereas the Table to Clause 52.06-5 of the Darebin Planning Scheme requires one (1) visitor car parking space for every five (5) dwellings. The application seeks a waiver of one (1) visitor car parking space.
- The applicant has submitted an assessment of the car parking demand and concludes that the proposed provision of car parking and waiver of one (1) visitor space is satisfactory based on the following:
  - The availability of on-street car parking in the vicinity of the site.
  - Public transport accessibility including bus and train. It is noted that the nearest train station Keon Park is approximately 650 metres to the north of the site.
- On consideration of the above and the decision guidelines contained within Clause 52.06-6 of the Planning Scheme, the proposed car parking waiver is considered satisfactory in this instance, noting the following:
  - One (1) visitor car space can be accommodated on the site’s frontage to Smith Street.
  - Ruthven Railway station is located 650 metres north of the site. Bus services also operate on Cheddar Road, High Street and Keon Parade.



Design Standards for Car parking

- The car parking spaces, the carports, the garages and the accessways have appropriate dimension to enable efficient use and management.
- The car parking facilities are designed, surfaced and graded to reduce run-off and allow stormwater to drain into the site.
- The garage dimensions are 6.0 metres length x 3.5 metres width and comply with the minimum requirements of the standard. However, these must be confirmed to be clear of any storage or bin areas and the doorway to the garage of Dwelling 1 must not open into the garage.
- Tandem car space dimensions of 4.9 metres length x 2.6 metres width comply with the standard.
- Access dimensions to the car spaces comply with the standard.
- Vehicles are able to enter and exit the common accessway in a forward direction.
- Visibility splays are required at the accessway interface with the footpath to protect pedestrians. This can be requested as a condition of any approval.

**Comment on the previous VCAT Decision on application D/239/2011**

It is noted that the application proposed five (5) double-storey dwellings which was refused by VCAT on 19 April 2012. This proposal included traditional floor plates with living areas on the ground floor and bedrooms at the first floor level. VCAT cited the following grounds in refusing to grant a permit:

- The two (2) storey form at the rear of the site considered inappropriate.
- Landscaping and neighbourhood character.
- Insufficient garaging dimensions.
- Poor internal amenity due to excessive screening at first floor.
- Non-compliance with Clause 55 requirements.

The current application addresses the above grounds in the following manner:

- The dwelling to the rear is to be single-storey.
- Council considers there are sufficient setbacks to include canopy planting along the side and rear boundaries of the site.
- Car parking and manoeuvrability is considered to be satisfactory, subject to conditions
- Whilst living areas and terraces on the first floor areas require screening to prevent overlooking, the method of screening proposed will allow distant views. The terraces are of generous dimensions to ensure that screening measures would not result in a cramped enclosed area.
- Subject to conditions, the development is considered to be compliant with Clause 55 of the Darebin Planning Scheme.

It is also noted that the majority of non-compliance cited by VCAT for D/239/20 stemmed from the design response to provide five (5) dwellings with traditional living arrangements wherein the requirement for 40 square metres of private open space impacted on the ability of the development to comply with Clause 55. The current application proposes a mix of traditional and reverse living arrangements, balancing the need for open space on the site with dwelling yield. The development provides a combination of double-storey and single-storey dwellings, as well as ensuring that two (2) out of the five (5) dwellings provide living areas and private open space at ground level.

Three (3) dwellings provide reverse living with living areas and terraces on the first floor level, which is an acceptable form of accommodation, provided this does not result in an obvious lack of open space for planting of trees on the site. There is adequate space on site to plant small-medium size trees and the building setbacks to side and rear boundaries are commensurate with medium density developments in the area.

Further to the above, with regard to the 'reverse living' arrangement it is important to note relevant cases that have stood before the Victorian Administrative Appeals Tribunal (VCAT) such as *Catania Investments P L v Darebin CC [2015]* where Member Cimino stated:

*The Council submits that the proposal presents poor internal amenity for future residents given the 'reverse' living arrangements for 7 of the proposed dwellings. The Council says that this type of arrangement is typically associated with intense housing development close to activity centres. The Council submits that there is no strategic imperative for more intense development on this site as it is not within 400m of an activity centre.*

*These arguments would be applicable to a ground of refusal asserting that there is a lack of strategic support for the proposed development. However, the Council's arguments fail to show why there would be adverse impacts on the amenity of future residents.*

*As conceded in the Council's submission, the 'reverse' living arrangement is now becoming commonplace. It is not unusual within townhouse style developments. Indeed, it is a layout that is often applied to the design of much larger dwellings and conventional residential lots, particularly in areas where there is opportunity for views, such as along Beach Road and other coastline areas where residents seek to maximise opportunities for views.*

*In some situations, the 'reverse' layout provides better amenity than if the traditional layout was employed. This is because first floor level living areas are elevated, thus providing better access to daylight, sunlight and opportunities for long distance views. All of these work to enhancing rather than detracting from amenity for future residents.*

*In some cases, the provision of upper level living can give rise to potential for overlooking of neighbours and the need for substantial screening. This can detract from internal amenity. However, in this case, limited screening of balconies and windows is required to protect the amenity of surrounding properties such as the neighbour to the north at 85 Spring Street.*

*The proposed reverse living dwellings provide good standard of amenity, with good daylight and sunlight access, appropriate open space and functional internal layouts.*

It is also noted that a level of change in the urban context of the neighbourhood needs to be considered in the time that has lapsed since the VCAT decision in 2012.

**CLAUSE 55 COMPLIANCE SUMMARY**

Clause	Std		Compliance	
			Std	Obj
<b>55.02-1</b>	<b>B1</b>	<b>Neighbourhood character</b>		
		Please see assessment in the body of this report.	Y	Y

Clause	Std		Compliance	
			Std	Obj
<b>55.02-2</b>	<b>B2</b>	<b>Residential policy</b>		
		The proposal complies with the relevant residential policies outlined in the Darebin Planning Scheme.	Y	Y
<b>55.02-3</b>	<b>B3</b>	<b>Dwelling diversity</b>		
		N/A as development contains less than 10 dwellings.	N/A	N/A
<b>55.02-4</b>	<b>B4</b>	<b>Infrastructure</b>		
		Adequate infrastructure exists to support new development	Y	Y
<b>55.02-5</b>	<b>B5</b>	<b>Integration with the street</b>		
		Dwellings 1 and 2 are appropriately integrated with the Street.	Y	Y
<b>55.03-1</b>	<b>B6</b>	<b>Street setback</b>		
		Refer to discussion in the body of this report.	N	Y
<b>55.03-2</b>	<b>B7</b>	<b>Building height</b>		
		The maximum allowable building height is 9.0 metres. The proposed maximum height of the development is 8.315 metres	Y	Y
<b>55.03-3</b>	<b>B8</b>	<b>Site coverage</b>		
		The maximum allowable site coverage is 60%. The proposed site coverage is 52.11%	Y	Y
<b>55.03-4</b>	<b>B9</b>	<b>Permeability</b>		
		A minimum site permeability of 20% is required. The proposed site permeability is 21.07%. Stormwater discharge from the site will also be addressed as part of the Sustainable Design Assessment to be requested via conditions.	Y	Y
<b>55.03-5</b>	<b>B10</b>	<b>Energy efficiency</b>		
		Dwellings are considered to be generally energy efficient and will not unreasonably impact adjoining properties. A Sustainable Design Assessment is to be requested via conditions.	Y	Y
<b>55.03-6</b>	<b>B11</b>	<b>Open space</b>		
		N/A as the site does not abut public open space.	N/A	N/A
<b>55.03-7</b>	<b>B12</b>	<b>Safety</b>		
		The proposed development is secure and the creation of unsafe spaces has been avoided.	Y	Y
<b>55.03-8</b>	<b>B13</b>	<b>Landscaping</b>		
		Adequate areas are provided for appropriate landscaping and a landscape plan has been required as a condition of approval.	Y	Y

Clause	Std		Compliance	
			Std	Obj
<b>55.03-9</b>	<b>B14</b>	<b>Access</b>		
		Access is sufficient and respects the character of the area.	Y	Y
<b>55.03-10</b>	<b>B15</b>	<b>Parking location</b>		
		Refer to discussion in the body of this report.	Y	Y
<b>55.04-1</b>	<b>B17</b>	<b>Side and rear setbacks</b>		
		Dwellings are set back in accordance with the requirements of this standard.	Y	Y
<b>55.04-2</b>	<b>B18</b>	<b>Walls on boundaries</b>		
		Length: 14.98 metres (19.7 metres allowable) Height: 3.2 metres average Walls on boundaries comply with the requirements of this standard.	Y	Y
<b>55.04-3</b>	<b>B19</b>	<b>Daylight to existing windows</b>		
		Sufficient setbacks exist to allow adequate daylight	Y	Y
<b>55.04-4</b>	<b>B20</b>	<b>North-facing windows</b>		
		Development is set back in accordance with the standard.	Y	Y
<b>55.04-5</b>	<b>B21</b>	<b>Overshadowing open space</b>		
		Shadow cast by the development is within the parameters set out by the standard.	Y	Y
<b>55.04-6</b>	<b>B22</b>	<b>Overlooking</b>		
		Refer to discussion in the body of this report.	Y	Y
<b>55.04-7</b>	<b>B23</b>	<b>Internal views</b>		
		There are no internal views	Y	Y
<b>55.04-8</b>	<b>B24</b>	<b>Noise impacts</b>		
		Noise impacts are consistent with those in a residential zone.	Y	Y
<b>55.05-1</b>	<b>B25</b>	<b>Accessibility</b>		
		The ground levels of the proposal can be made accessible for people with limited mobility.	Y	Y
<b>55.05-2</b>	<b>B26</b>	<b>Dwelling entry</b>		
		Entries to the dwellings are identifiable and provide an adequate area for transition.	Y	Y
<b>55.05-3</b>	<b>B27</b>	<b>Daylight to new windows</b>		
		Adequate setbacks are proposed to allow appropriate daylight access.	Y	Y

Clause	Std		Compliance	
			Std	Obj
<b>55.05-4</b>	<b>B28</b>	<b>Private open space</b>		
		Refer to discussion in the body of this report.	Y	Y
<b>55.05-5</b>	<b>B29</b>	<b>Solar access to open space</b>		
		Sufficient depth is provided for adequate solar access.	Y	Y
<b>55.05-6</b>	<b>B30</b>	<b>Storage</b>		
		6 cubic metres of storage is shown for each dwelling.	Y	Y
<b>55.06-1</b>	<b>B31</b>	<b>Design detail</b>		
		Design detail of dwellings is appropriate in the neighbourhood setting.	Y	Y
<b>55.06-2</b>	<b>B32</b>	<b>Front fences</b>		
		A 1 metre high front fence is proposed which is appropriate in the neighbourhood context.	Y	Y
<b>55.06-3</b>	<b>B33</b>	<b>Common property</b>		
		Common property areas are appropriate and manageable.	Y	Y
<b>55.06-4</b>	<b>B34</b>	<b>Site services</b>		
		Refer to discussion in the body of this report.	Y	Y

**REFERRAL SUMMARY**

Department/Authority	Response
Capital Works	No objection, subject to condition included in recommendation
Transport Management and Planning	<p>Comments include:</p> <ul style="list-style-type: none"> <li>On-street parking on Smith Street is unrestricted on both sides of the carriageway.</li> <li>A review of vehicle swept paths indicates that vehicles can enter and exit the site in a forward direction.</li> <li>The applicant is seeking a total waiver of one (1) visitor car space, which is considered satisfactory in this instance, noting that: one (1) visitor car space can be accommodated on the site's frontage to Smith Street; Keon Park station is located 650 metres north of the site and bus services also operate on Cheddar Road, High Street and Keon Parade.</li> <li>The open air tandem car space is 2.6 metre wide by 4.9 metre long on the plan but a usable area of 3.1 metre by 7.8 metre is provided, which is appropriate.</li> <li>Garages and car ports exceed the 3.5m by 6.0m requirement outlined in the Planning Scheme.</li> <li>A B85th percentile vehicle can also access garage spaces</li> </ul>

Department/Authority	Response
	<p>as required.</p> <ul style="list-style-type: none"> <li>• The development is not anticipated to generate a significant impact on the surrounding road network.</li> <li>• No pedestrian doors are to open into parking areas, parking aisles, or circulation roadways.</li> <li>• The new crossover is to be 3.0 metre wide at the property boundary.</li> <li>• New vehicle crossings must be designed and constructed in accordance with Council’s engineering design standards and specifications.</li> <li>• Pedestrian visibility splays are shown on both sides of the crossover. Splays are to accord with Clause 52.06-8 (50% clear of obstructions), or alternatively Figure 3.3 of AS2890.1:2004 Clause 3.2.4(b) (no obstructions up to 1.15m in height).</li> <li>• The area in front of garage 4 and the carport is to be kept clear for vehicle manoeuvrability.</li> <li>• This planning permit must be attached to the “statement of matters affecting land being sold”, under section 32 of the <i>Sale of Land Act 1962</i> and any tenancy agreement or other agreement under the <i>Residential Tenancies Act 1997</i>, for all purchasers, tenants and residents of any dwelling shown on this planning permit, and all prospective purchasers, tenants and residents of any such dwelling are to be advised that they will not be eligible for on-street parking permits pursuant to the Darebin Residential Parking Permit Scheme.</li> <li>• No objection, subject to above conditions included in recommendation.</li> </ul>
Darebin Parks	<p>No objection. The following is recommended to reduce the impact upon the adjoining trees:</p> <ul style="list-style-type: none"> <li>• Tree protection fencing must be installed around Tree 4 and 6 prior to any work on-site. Fencing must remain in place for the duration of construction and be installed in accordance with Australian Standard AS4970 – 2009: Protection of trees on development sites.</li> <li>• The tree protection zone (TPZ) for Trees 4, 6 and 8 must remain at existing grade and designed to be preamble.</li> <li>• The carport for Dwelling 4 must be constructed above grade, with manually excavated post holes. Excavation works within the TPZs must be supervised by a suitably qualified arborist and any roots uncovered pruned with sharp and sterile hand tools</li> <li>• Any new boundary fencing within TPZs must be of light timber construction with manually excavated stump holes (i.e. no strip footing).</li> <li>• Trees to be removed from the site are of low-medium retention value, but still contribute to the canopy coverage</li> </ul>

Department/Authority	Response
	<p>and amenity value of the area. Removal is acceptable, provided a minimum of two (2) suitable medium canopy trees (in the front setback of Dwellings 1 and 2) and three (3) suitable small canopy trees (in the rear secluded private open space areas) are included in the new plans.</p> <ul style="list-style-type: none"> <li>The tree protection zone and the method of tree protection must be clearly notated on all plans.</li> </ul>

**PLANNING SCHEME SUMMARY**

**Darebin Planning Scheme clauses under which a permit is required**

- Clause 32.08-4 – Construct two or more dwellings on a lot

**Applicable provisions of the Darebin Planning Scheme**

Section of Scheme	Relevant Clauses
SPPF	11.02-1, 15.01-1, 15.01-5, 15.02, 16.01, 19.03-1
LPPF	21.02-3, 21.02-6, 21.03-2, 21.03-3, 21.03-4, 21.05-1, 21.05-2, 21.05-3, 22.02
Zone	32.08
Overlay	45.06
Particular provisions	52.06, 55
General provisions	65.01
Neighbourhood Character Precinct	F7

**POLICY IMPLICATIONS**

**Environmental Sustainability**

All new dwellings are required to achieve a minimum six (6) star energy rating under the relevant building controls. As the development is for five (5) or more dwellings, a Sustainable Design Assessment will be required as a condition of any approval.

**Social Inclusion and Diversity**

Nil

**Other**

Nil

**FINANCIAL AND RESOURCE IMPLICATIONS**

There are no financial or resource implications as a result of the determination of this application.

## **FUTURE ACTIONS**

Nil

## **DISCLOSURE OF INTERESTS**

Section 80C of the *Local Government Act 1989* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any direct or indirect interest in a matter to which the advice relates.

The Manager authorising this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

## **RELATED DOCUMENTS**

Darebin Planning Scheme and the *Planning and Environment Act (1987)* as amended.



**5.13 APPLICATION FOR PLANNING PERMIT D/699/2015**  
 34 Don Street, Reservoir

**AUTHOR: Principal Planner – Chris Lelliott**

**DIRECTOR: Director Assets and Business Services – Steve Hamilton**

**OWNER/APPLICANT/CONSULTANT:**

<b>Applicant</b>	<b>Owner</b>
Pj Body Works	Jamil Zomaya

**SUMMARY:**

- The proposal is to construct three (3) double storey dwellings to the rear of the existing dwelling. The existing dwelling has three (3) bedrooms and a study and will have an undercroft double garage. This dwelling is to have a balcony of 17.5 square metres and a ground level secluded private open space area of 63.6 square metres. The proposed dwellings will have a similar level of accommodation, with the ground floor levels having a kitchen//dining/living area and a single garage or carport (Dwelling 4). The first floors are to have two (2) bedrooms (with Dwellings 2 and 3 also having studies). The proposed dwelling will have secluded private open space of 50.7 square metres, 50 square metres and 61.7 square metres (for Dwellings 2, 3 and 4 respectively). Vehicle access is via the Right of Way to the north. The proposed dwelling will have a traditional design, with brick walls at ground level and rendered walls to the first floor, with pitched and hipped tile roofs.
- The site is zoned General Residential Zone Schedule 1.
- There is no restrictive covenant on the title for the subject land.
- 23 objections were received against this application.
- The proposal is generally consistent with the objectives and standards of Clause 55 of the Darebin Planning Scheme.
- It is recommended that the application be supported.

**CONSULTATION:**

- Public notice was given via a sign posted on site and letters sent to surrounding owners and occupiers.
- This application was referred internally to Capital Works, Transportation Management and Planning and Assets and Management.
- This application was not required to be referred to external authorities.

**Recommendation**

**That** Planning Permit Application D/699/2015 be supported and a Notice of Decision to Grant a Permit be issued subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to, and approved by, the Responsible Authority. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application (identified as drawing nos 04, 05, 06, Revision B, dated 16 January 2016 and prepared by Paul Farinacci) but modified to show:
  - a) The wall to the east of the first floor studies to Units 2 and 3 shall be a low open wall. A notation must be placed on the plans confirming that the wall shall remain open to the adjoining stairwells and shall not to be used as bedrooms.
  - b) The first floor habitable room windows to the south elevation of Dwellings 2, 3 and 4 are to be provided with fixed obscure glazing (not film) with a maximum transparency of 25% to a minimum height of 1.7 metres above finished floor level.
  - c) The location of all plant and equipment (including air conditioners and the like). These are to be co-located where possible, screened to be minimally visible from the public realm and adjacent properties, located as far as practicable from site boundaries and integrated into the design of the building.
  - d) A comprehensive schedule of construction materials, external finishes and colours (including colour samples).
  - e) A Landscape Plan in accordance with Condition No.5 of this Permit.
  - f) Notation on plans to confirm that the large gum tree to the north west of the site is to be retained and appropriately protected. Tree Protection Zone to be implemented during construction in accordance with condition No.6 of this permit.

When approved, the plans will be endorsed and form part of this Permit.

2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
3. This Permit will expire if either:
  - The development does not start within three (3) years from the date of this Permit; or
  - The development is not completed within five (5) years of the date of this Permit.

As relevant, the Responsible Authority may extend the times referred to if a request is made in writing:

- Before this Permit expires;
  - Within six (6) months after the expiry date; or
  - Within twelve (12) months after the expiry date if the request relates to the completion of the development or a stage of the development.
4. Once commenced, the development must be continued and completed to the satisfaction of the Responsible Authority.

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5. Before buildings and works start, a detailed Landscape Plan to the satisfaction of the Responsible Authority must be submitted to, and approved by the Responsible Authority. When the Landscape Plan is approved, it will be endorsed and will then form part of this Permit. The Landscape Plan must be prepared by a suitably qualified person and must incorporate:
- a) Details of all existing trees to be retained and all existing trees to be removed, including overhanging trees on adjoining properties and street trees within the nature strip. The genus, species, height and spread of all trees must be specified.
  - b) A planting schedule of proposed vegetation detailing the botanical name, common name, size at maturity, pot size and quantities of all plants.
  - c) A diversity of plant species and forms. All proposed planting must be to the satisfaction of the Responsible Authority.
  - d) Where the opportunity exists, an appropriate number and size of canopy trees are to be shown within the secluded private open space areas of each dwelling and within the front setback of the property, commensurate with the size of planting area available. All canopy trees are to have a minimum height of 1.6 metres in 40 litre containers at the time of installation. Canopy trees must have the following minimum widths at maturity: small canopy (4 metres), medium canopy (6 metres), large canopy (10 metres).
  - e) Annotated graphic construction details showing all landscape applications and structures including tree and shrub planting, retaining walls, raised planter bed and decking.
  - f) Type and details of all surfaces including lawns, mulched garden beds and permeable and/or hard paving (such as pavers, brick, gravel, asphalt and concrete) demonstrating a minimum site permeability of 20%. Percentage cover of permeable surfaces must be stated on the plan. Where paving is specified, material types and construction methods (including cross sections where appropriate) must be provided.
  - g) Hard paved surfaces at all entry points to dwellings.
  - h) All constructed items including letter boxes, garbage bin receptacles, lighting, clotheslines, tanks, outdoor storage etc.
  - i) Type and details of edge treatment between all changes in surface (e.g. grass (lawn), gravel, paving and garden beds).
  - j) An outline of the approved building/s including any basement, the location of entry doors, windows, gates and fences must be shown on the landscape plan. The location of both existing and proposed overhead and underground services. Conflicts of such services with the existing and proposed planting must be avoided.
  - k) Clear graphics identifying trees (deciduous and evergreen), shrubs, grasses/sedges, groundcovers and climbers.
  - l) Scale, north point and appropriate legend. Landscape plans are to be clear, legible and with graphics drawn to scale, and provide only relevant information.
6. Before buildings and works (including demolition) start, a tree protection fence must be erected around the large gum tree to the north-west of the site tree at a radius of 2 metres from the base of the trunk to define a 'Tree Protection Zone'.
- This fence must be constructed of star pickets and chain mesh (or similar) to the satisfaction of the Responsible Authority.
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The Tree Protection Fence must remain in place until construction is completed.

No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Zone.

No storage or dumping of tools, equipment or waste is to occur within the Tree Protection zone.

The ground surface of the Tree Protection Zone must be covered by a protective 100mm deep layer of mulch prior to the development commencing and be watered regularly to the satisfaction of the Responsible Authority.

7. The landscaping as shown on the endorsed Landscape Plan must be completed to the satisfaction of the Responsible Authority before the development is occupied and/or the use starts or at such later date as is approved by the Responsible Authority in writing.

No later than seven (7) days after the completion of the landscaping, the permit holder must advise Council, in writing, that the landscaping has been completed.

8. The landscaping as shown on the endorsed Landscape Plan must be maintained, and any dead, diseased or damaged plant replaced in accordance with the endorsed Landscape Plan to the satisfaction of the Responsible Authority.

9. Floor levels shown on the endorsed plans must be confirmed. The confirmation of the ground floor level must take place no later than at the time of the inspection of the subfloor of the development required under the *Building Act 1993* and the Building Regulations 2010. This confirmation must be in the form of a report from a licensed land surveyor and must be submitted to the Responsible Authority no later than 7 days from the date of the sub-floor inspection. The upper floor levels must be confirmed before a Certificate of Occupancy is issued, by a report from a licensed land surveyor submitted to the Responsible Authority.

10. All dwellings that share dividing walls and floors must be constructed to limit noise transmission in accordance with Part F(5) of the Building Code of Australia.

11. Before the dwellings are occupied, an automatic external lighting system capable of illuminating the entry to each unit, access to each garage and car parking space and all pedestrian walkways must be provided on the land to the satisfaction of the Responsible Authority.

The external lighting must be designed, baffled and/or located to ensure that no loss of amenity is caused to adjoining and nearby land, to the satisfaction of the Responsible Authority.

12. Boundary walls facing adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.

13. The land must be drained to the satisfaction of the Responsible Authority.

14. With the exception of guttering, rainheads and downpipes, all pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

15. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the prior written consent of the Responsible Authority.

16. Provision must be made on the land for letter boxes and receptacles for newspapers to the satisfaction of the Responsible Authority.

17. Before occupation of the development areas set aside for the parking of vehicles and access lanes as shown on the endorsed plan(s) must be:
- a) Constructed;
  - b) Properly formed to such levels that they can be used in accordance with the plans;
  - c) Surfaced with an all-weather sealcoat;
  - d) Drained;
  - e) Line-marked to indicate each car space and all access lanes;
  - f) Clearly marked to show the direction of traffic along the access lanes and driveways

to the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose.

18. Before the development is occupied vehicular crossing(s) must be constructed to align with approved driveways to the satisfaction of the Responsible Authority. All redundant crossing(s), crossing opening(s) or parts thereof must be removed and replaced with footpath, naturestrip and kerb and channel to the satisfaction of the Responsible Authority.

#### NOTATIONS

**(These notes are provided for information only and do not constitute part of this permit or conditions of this permit)**

- N1 Any failure to comply with the conditions of this permit may result in action being taken to have an Enforcement Order made against some or all persons having an interest in the land and may result in legal action or the cancellation of this permit by the Victorian Civil and Administrative Tribunal.
- N2 Nothing in the grant of this permit should be construed as granting any permission other than planning permission for the purpose described. It is the duty of the permit holder to acquaint themselves, and comply, with all other relevant legal obligations (including any obligation in relation to restrictive covenants and easements affecting the site) and to obtain other required permits, consents or approvals.
- N3 The amendments specified in Condition 1 of this Permit and any additional modifications which are "necessary or consequential" are those that will be assessed by Council when plans are lodged to satisfy that condition. Any "necessary or consequential" amendments, in addition to those required by this condition, should be specifically brought to the attention of Council for assessment.
- If any other modifications are proposed, application must also be made for their approval under the relevant Sections of the *Planning and Environment Act 1987*. They can only be approved once the required and consequential changes have been approved and the plans endorsed. It is possible to approve such modifications without notice to other parties, but they must be of limited scope. Modifications of a more significant nature may require a new permit application.
- N4 This Planning Permit represents the Planning approval for the use and/or development of the land. This Planning Permit does not represent the approval of other departments of Darebin City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria to that adopted for the approval of this Planning Permit.

- N5 This planning permit must be attached to the “statement of matters affecting land being sold”, under section 32 of the *Sale of Land Act 1962* and any tenancy agreement or other agreement under the *Residential Tenancies Act 1997*, for all purchasers, tenants and residents of any dwelling shown on this planning permit, and all prospective purchasers, tenants and residents of any such dwelling are to be advised that they will not be eligible for on-street parking permits pursuant to the Darebin Residential Parking Permit Scheme.

<b>Report</b>
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## INTRODUCTION AND BACKGROUND

### ISSUES AND DISCUSSION

#### Subject site and surrounding area

- The land is irregular in shape and contains part of a disused Right of Way at the rear which has been purchased to form part of the lot. The site measures 60.162 metres in length and 15.24 metres in width, with a site area of 865.6 square metres.
- The land is located within the General Residential Zone Schedule 1 and is covered by the Development Contributions Plan Overlay.
- The land is located on the east side of the street, opposite the intersection with Darebin Boulevard and approximately 250 metres to the north of the intersection with Ayr Street.
- The site contains a dwelling which is single storey to the front and double storey to the rear (due to the site fall). The dwelling is constructed of brick and has a pitched and hipped tile roof. It contains three (3) bedrooms and a study at ground level, with an east facing balcony of 17.5 square metres. The undercroft area has a living room and a double garage, accessed via the Right of Way to the north (approximately 6.1 metres in width). The site has a fall of approximately 9.7 metres from the front (south-west) to the rear (north-east west) corner.
- To the east are the rear yards of double storey dwellings fronting Ayr Street.
- To the west of the site, on the opposite side of the street, are single storey detached dwellings.
- To the north, beyond the Right of Way, is an allotment containing a medium density development of five (5) dwellings (three (3) double storey and two (2) single storey). The front dwelling is set back 7.52 metres from the street and the dwellings are set back approximately 1 metre to 2 metres from the Right of Way. To its north is a double storey dwelling.
- To the south is an allotment containing a large brick dwelling, which is single storey to the front and double storey to the rear, due to the fall through the site. The dwelling has vehicle access to a garage at the side of the dwelling, adjacent to the common boundary. Additionally, there is an additional dwelling in the rear yard area. The front dwelling is set back 7.485 metres from the street and approximately 1.1 metres from the common boundary at the first floor level. Further to the south is a more recent medium density development of double storey dwellings.
- There are no parking restrictions in the vicinity of the subject site.

- The area is residential in character with a mixture of single and double storey dwellings and medium density developments. The site is located approximately 150 metres for the Darebin Creek Reserve. The Gertz Avenue local convenience centre is approximately 500 metres to the north. Atkinson Reserve is approximately 300 metres to the west and Reservoir Views Primary School is approximately 800 metres to the west.

**Proposal**

- The proposal is to retain the existing dwelling and construct three (3) double storey dwellings to the rear.
- The existing dwelling is to maintain three (3) bedrooms and a study, with a double garage to its rear.
- The proposed dwellings are to be constructed along the length of the site and will all have a similar level of accommodation. The ground floor areas are to have an open plan kitchen/dining/living area. The first floors are each to have two (2) bedrooms and en-suites, with Dwellings 2 and 3 also having a study alcove.
- The proposed dwellings are each to have a single garage or a carport. Vehicle access is via the existing Right of Way along the north boundary.
- The proposed dwellings will have a traditional design with brick walls at ground level and rendered walls to the first floor, with pitched and hipped tile roofs.

**Objections**

- 23 objections have been received to the application.

**Objections summarised**

- Over supply of 1 and 2 bedroom dwellings / under supply of family accommodation.
- The studies may be converted to a bedroom and would require additional car parking.
- Inconsistent with neighbourhood character.
- Removal of trees and no replacement planting.
- Impact on traffic and car parking.
- Additional four (4) crossovers are inappropriate.
- Waste management is inappropriate and placement of bins will affect amenity.
- Parking reduction does not comply with Clause 52.06.
- Overdevelopment.
- Visual bulk and excessive scale.
- Proposal fails to provide net community benefit.
- The number of objections indicates the scale of negative social effect on the community.
- Does not meet the standards in the Planning Scheme.
- Will not provide affordable accommodation.
- Noise.
- Traffic along the Right of Way.

- Overlooking.
- Reduction in property values.
- Overshadowing.
- Pressure on services/infrastructure.
- Loss of views of parklands.
- Impact of construction.
- Tenants will not take care of property.
- No parking on Right of Way.

**Officer comment on summarised objections**Oversupply of one (1) and two (2) bedroom dwellings in the municipality

Council's new Municipal Strategic Statement (MSS) sets out the key strategic planning, land use and development objectives for the municipality and the strategies and actions for achieving the objectives. Relevantly, Clause 21.02-2 sets out the following key influence with respect to population growth and change:

*“Ageing families and declining household sizes are placing pressure on housing supply as fewer people occupy more housing.”*

An oversupply of one (1) and two (2) bedroom dwellings is unsubstantiated by any statistical data.

The proposed units two (2) bedroom accommodation that adds to the mix of housing types in the immediate area. The existing dwelling on the site is maintained and provides for family accommodation (four (4) bedrooms).

The studies may be converted to a bedroom and would require additional car parking.

Although Units 2 and 3 have studies to the first floor areas, these are considered to be too small to be used as bedrooms. Nevertheless, it is considered that conditions should be placed on any approval to ensure the studies are open to the stairway and not used as bedrooms.

Inconsistent with neighbourhood character

The test of neighbourhood character under the Darebin Planning Scheme is for development to respect the existing character or to contribute to a preferred future character. This is considered having regard to the relevant policies within the Scheme (including Clause 22.02).

The proposed development has been assessed against Council's Neighbourhood Character Study as detailed below. It is considered that the development would be generally consistent with the existing and preferred neighbourhood character.



Removal of trees and no replacement planting

It is noted that any trees on the site may be removed without a planning permit. Regardless, conditions will be placed on any approval to require an appropriate landscape plan including replacement planting. The significant large tree to the front of the site, along the right of way is shown as being retained.

Impact on traffic and car parking

Car parking has been provided on site in accordance with the provisions of Clause 52.06 of the Darebin Planning Scheme (one (1) car parking space for each of the two (2) bedroom dwellings and two (2) car parking spaces for the existing three bedroom dwelling). Any overflow parking resulting from the development would be within reasonable limits and would not negatively impact on the surrounding streets.

The proposal will result in a modest increase to the number of daily vehicle movements which can easily be absorbed by the local road network and by the adjoining Right of Way.

Additional four (4) crossovers are inappropriate.

The proposal does not include any additional crossovers to Don Street and all access is via the Right of Way. There is no on street car parking in the right of way and as such the proposed crossovers would not result in the loss of any car parking. The proposed crossovers are an appropriate design response.

Waste management is inappropriate and placement of bins will affect amenity.

There is sufficient space for the storage of bins for each unit. It is not considered that the placement of the bins (on bin collection day) to the Don Street nature strip would adversely impact on amenity.

Parking reduction does not comply with Clause 52.06.

There is no parking reduction required for the proposal with two (2) existing car spaces for the existing dwelling and one (1) car space each for the proposed dwellings. Car parking complies with Clause 52.06.

Overdevelopment

Given the positive assessment below it is not considered that the development is an overdevelopment of the site.

Visual bulk and excessive scale

Although the development is double storey, Council must assess the proposal on its merits, in the context of the site and area. It is noted that there are other double storey buildings in the immediate neighbourhood and that it is a generally held planning principle that a gradual increase in height is acceptable (i.e. a 1-2 storey mix is generally acceptable). It is also noted that a double storey height is considered to be low-scale and that it is reasonable to expect double storey heights in an established residential areas in Melbourne.

Issues surrounding the bulk and scale of the development are assessed below in the Clause 55 assessment and the Neighbourhood Character Study Assessment. Although the proposed dwellings are double storey, acceptable boundary setbacks are provided for the upper floor of the proposed dwellings. Substantial and varied first floor setbacks are provided from the boundaries, and along with the minimal overall height and mix of materials limit the unreasonable presentation of bulk to neighbouring properties.

Proposal fails to provide net community benefit

At a planning application level it is difficult to quantify the concerns surrounding this reason for objection. It is necessary for a development to meet the State and Local planning policy objectives and it is considered that the proposed development generally meets these objectives.

The objector's concerns regarding net community benefit cannot be substantiated. Firstly, the proposal contributes to State and local policy objectives to consolidate housing in well located, established residential areas. The type and form of housing also responds to demographic changes and housing needs in the municipality.

Combined with the high level of compliance (subject to conditions) with Clause 55, the proposal will provide a consolidated form of housing which minimises impacts on neighbouring land and provides net benefit to the community.

The number of objections indicates the scale of negative social effect on the community

There is no evidence to suggest that this development in isolation would lead to a negative social effect on the community.

Does not meet the standards in the Planning Scheme

As can be seen in the assessment below, the proposal has been assessed against relevant standards contained within the Scheme with particular focus on Clauses 52.06 and 55. It has a high level of compliance with the relevant aspects of the Planning Scheme.

Will not provide affordable accommodation

The proposal will provide four (4) dwellings on a site where there is only one (1) dwelling at present and thus provides a level of affordability and diversity, in compliance with relevant State and Local policies.

Noise

The proposed use is residential and will have noise impacts consistent with those normal to a residential zone.

Traffic along the right of way

The subject site has access to the right of way and use of right of ways for vehicle access is encouraged by Council. The absence of vehicle crossovers to Don Street is a benefit associated with utilising the right of way in order to maximise the retention of on street car parking and improve the streetscape interface. The increase in traffic movements arising from the development is not considered to adversely affect local traffic conditions.

Overlooking

Overlooking may be addressed by appropriate screening. See assessment and proposed conditions below.

Reduction in property values

Fluctuations in property prices are a not relevant consideration in assessing development under the provisions of the *Planning and Environment Act 1987*, or the Scheme.

Overshadowing

Concerns were raised about the overshadowing of the adjoining properties. Shadow diagrams indicate that the development will not unreasonably overshadow the adjoining private open space areas. Importantly, the extent of overshadowing is within the prescriptive measures of Standard B21.

Pressure on services/infrastructure

Any improvements required to existing utilities as a result of the development will be the responsibility of the developer. Infrastructure outside the site arising from general population growth be that retail, transport, medical or educational will be for the responsibility of the relevant service providers.

Loss of views of parklands

It is a well-recognised planning principle that there is no right to a view and that over time views change. However, it is recognised that bulk and heights may have an adverse effect on aspect and amenity. These are assessed below.

Impact of construction

Noise during construction is beyond the scope of the planning scheme.

Tenants will not take care of property

It is noted that tidiness of dwellings and whether dwellings are tenanted or owner occupied is not a relevant consideration in assessing medium density development under the provisions of the *Planning and Environment Act 1987*, or the Darebin Planning Scheme.

No parking on right of way

Issues with parking restrictions are beyond the consideration of this application. No car parking is permitted on the right of way and the right of way is for access only.

**PLANNING ASSESSMENT****Neighbourhood Character Precinct Guideline Assessment - Precinct G3**Vegetation

- The proposal will not result in the loss of significant trees from the site. There is no accompanying landscape concept plan however this would be required via a condition of any approval.
- The significant gum tree to the front of the site adjacent the right of way would be retained as detailed on the plans.
- Notwithstanding the above, it is considered that the proposed layout provides adequate setbacks and open space for landscaping to the front and rear.

**Complies**

Siting

- The front setback to the street is to be maintained, with the retention of the existing dwelling. In addition, the proposal allows sufficient rear garden space for landscaping. The landscape areas are large enough for planting of vegetation to enable the continuation of the garden setting in this area.
- The existing dwelling is to be retained, which will maintain the detached character to the street. There is no boundary construction, so that it does not affect the rhythm of dwelling spacing at the front.
- Vehicle access is via the Right of Way, with all car spaces located behind the façade of each dwelling. There are no significant areas of paving to the frontage.

**Complies**Height and Building Form

- Dwellings in the area are single and double storey buildings, including some medium density infill developments. The existing dwelling at the front is single storey and is to be retained, thus maintaining the existing single storey streetscape. The proposed dwellings are double storey and the first floor areas are smaller than the ground floor envelope and adequate setbacks to the boundaries.

**Complies**Materials and design detail

- The proposal provides brick and render for wall materials and pitched tiled roofs, which are considered acceptable and respect the materials of nearby buildings.
- The materials, fenestration and setbacks provide adequate articulation to the right of way and other elevations.

**Complies**Front boundary treatment

- There is no fence to the front, which allows views from the street to the front façade and is appropriate.

**Complies****Clause 55 Assessment**

The following sections provide discussion on fundamental areas of Clause 55 including variations of standards and matters informing conditions of the recommendation above.

Clause 55.03-10 B15 Parking Location

- Parking facilities will be proximate to the dwellings they serve.
- The proposed garages and car port are an adequately secure form of parking.
- The access is observable.

- The north-facing habitable room windows of unit are set back between 1.5 metres from the right of way which accords with the standard. The north facing windows of unit 4 have a setback of 1.2 metres from the right of way and sill heights of at least 1.4 metres which complies with the standard. The north facing windows to Unit 3 have a setback of 1.4 metres and sill heights of 0.7 metres in this instance it is not considered that the minor shortfall would unreasonably impact the amenity of the dwelling. The unit adjoins a right of way with limited use. On balance it is considered that the development complies with the objective.

**Complies with objective**

Clause 55.04-6 B22 Overlooking

- The ground floor of the proposed dwellings has finished floor levels of less than 0.8 metres above natural ground level at the east and south boundaries. The proposed 1.8 metre high boundary fences will sufficiently limit overlooking in accordance with the standard.
- The development is designed to limit views into neighbouring secluded private open space and habitable room windows to the north, given the distance to adjoining dwellings is greater than 9 metres and there are no windows to the east and west.
- The following windows will be required to be screened to limit views in to adjoining residential properties:
- The south facing bedroom windows of Dwellings 2, 3 and 4 appear to have obscure glass to 1,700mm however this must be appropriately noted to the elevations.

**Complies subject to condition**

Clause 55.05-4 B28 Private Open Space

- The development provides adequate private open space (pos) for the reasonable recreation and service needs of residents.
- The site is located in a General Residential Zone – Schedule 1, where the Schedule to the zone varies this standard to the following:

*An area of 55 square metres, with one part of the private open space to consist of secluded private open space at the side or rear of the dwelling or residential building with a minimum area of 40 square metres, a minimum dimension of 3.5 metres and convenient access from a living room:*

	<b>Total POS</b>	<b>Secluded POS</b>	<b>Minimum dimension of secluded POS</b>
Dwelling 1 (existing)	290 square metres	17.5 square metres (balcony) and 63.63 square metres at ground level.	2.5 metres (balcony) 3.5 metres (ground level)
Dwelling 2	60 square metres	50 square metres	4.7 metres
Dwelling 3	61 square metres	35 square metres	4.7 metres
Dwelling 4	60 square metres	55 square metres	3.6 metres

**Complies**

Clause 55.05-5 B29 Solar Access to Open Space

Solar access is provided into the secluded private open space of the new dwellings as follows:

	<b>Wall Height to North</b>	<b>Required Depth</b>	<b>Proposed Depth</b>
Dwelling 1	N/A as no wall to north		
Dwelling 2			
Ground floor:	2.75 metres	4.475metres	4.7 metres
First floor wall:	5.62 metres	7.058 metres	6.0-6.5 metres
Dwelling 3			
Ground floor:	2.75 metres	4.475metres	4.7 metres
First floor wall:	5.62 metres	7.058 metres	6.0-6.5 metres
Dwelling 4			
Ground floor:	2.75 metres	4.475metres	4.7 metres
First floor wall:	5.62 metres	7.058 metres	9.5 metres

It is evident that the first floor rear walls of Units 2, 3 do not meet the standard. Before deciding on an application, the responsible authority must consider:

- The design response.
- The useability and amenity of the secluded private open space based on the sunlight it will receive.

In this instance it is considered that the design response is acceptable for the following reasons:

- The main living areas for Units 2 and 3 are north facing and have good access to sunlight. The north facing living rooms provide for winter solar gain and some shading to the rear garden in summer is considered a satisfactory design response.
- The shadow diagrams indicate that there would be some daylight to the secluded private open spaces throughout the day with conditions improving in the summer months.
- The dimension of the open spaces is 4.7 metres and it is considered that there would be sufficient daylight.
- The dimension of non-compliance is minor and it is considered that the open spaces detailed on the plans would provide for sufficient amenity.

**Complies with objective**

**Clause 52.06 Car Parking**

Number of Parking Spaces Required

- One car parking space is provided for each of the two bedroom dwellings. Although Dwellings 2 and 3 have study areas to the first floor, these are considered too small to be used as bedrooms.

- To ensure that the rooms are not altered, a condition should be placed on any approval requiring the studies to be open to the adjoining stairway and are not to be used as bedrooms.
- Two car parking spaces are provided for the existing dwelling.
- No visitor car parking space is required.

Design Standards for Car parking

- The carport, garaging and the access ways have appropriate dimension to enable efficient use and management.
- The car parking facilities are designed, surfaced and graded to reduce run-off and allow stormwater to drain into the site.
- The double garage to the existing dwelling is existing and will not alter.
- The garage dimensions to Dwellings 2-4 of 6.0 metres length x 3.5 metres width comply with the minimum requirements of the standard.
- Access dimensions to the car spaces comply with the standard.
- The adjacent Right of Way is to be used for vehicle access and it is not considered that the proposal will place an unreasonable traffic burden on this accessway.
- The adjacent Right of Way has a significant fall from west to east of approximately 9 metres. The applicant has provided diagrams from a traffic engineer indicating that the gradients will not result in vehicle scraping.

**CLAUSE 55 COMPLIANCE SUMMARY**

Clause	Std		Compliance	
			Std	Obj
<b>55.02-1</b>	<b>B1</b>	<b>Neighbourhood character</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.02-2</b>	<b>B2</b>	<b>Residential policy</b>		
		The proposal complies with the relevant residential policies outlined in the Darebin Planning Scheme.	Y	Y
<b>55.02-3</b>	<b>B3</b>	<b>Dwelling diversity</b>		
		N/A as development contains less than 10 dwellings	N/A	N/A
<b>55.02-4</b>	<b>B4</b>	<b>Infrastructure</b>		
		Adequate infrastructure exists to support new development	Y	Y
<b>55.02-5</b>	<b>B5</b>	<b>Integration with the street</b>		
		Dwelling 1 appropriately integrates with the Street and the proposed units have good integration with the right of way.	Y	Y
<b>55.03-1</b>	<b>B6</b>	<b>Street setback</b>		
		The existing dwelling is retained and the front setback is not to be altered. The proposed units are adequately set back from the right of way.	Y	Y

Clause	Std		Compliance	
			Std	Obj
<b>55.03-2</b>	<b>B7</b>	<b>Building height</b>		
		7.3 metres. The proposed new dwellings are considered to be of an acceptable height given the site context.	Y	Y
<b>55.03-3</b>	<b>B8</b>	<b>Site coverage</b>		
		47% and below the 50% required by the schedule to the zone.	Y	Y
<b>55.03-4</b>	<b>B9</b>	<b>Permeability</b>		
		42% above the minimum 20% required.	Y	Y
<b>55.03-5</b>	<b>B10</b>	<b>Energy efficiency</b>		
		Dwellings are considered to be generally energy efficient and will not unreasonably impact adjoining properties.	Y	Y
<b>55.03-6</b>	<b>B11</b>	<b>Open space</b>		
		N/A as the site does not abut public open space. / The proposed development appropriately addresses the adjoining public open space area.	N/A	N/A
<b>55.03-7</b>	<b>B12</b>	<b>Safety</b>		
		The proposed development is secure and the creation of unsafe spaces has been avoided.	Y	Y
<b>55.03-8</b>	<b>B13</b>	<b>Landscaping</b>		
		Adequate areas are provided for appropriate landscaping and a landscape plan has been required as a condition of approval.	Y	Y
<b>55.03-9</b>	<b>B14</b>	<b>Access</b>		
		Access is sufficient and respects the character of the area.	Y	Y
<b>55.03-10</b>	<b>B15</b>	<b>Parking location</b>		
		Parking facilities are proximate to the dwellings they serve, the access is observable, habitable room windows are sufficiently set back from access ways.	Y	Y
<b>55.04-1</b>	<b>B17</b>	<b>Side and rear setbacks</b>		
		Dwellings are set back in accordance with the requirements of this standard.	Y	Y
<b>55.04-2</b>	<b>B18</b>	<b>Walls on boundaries</b>		
		No walls are proposed on the boundary.	Y	Y
<b>55.04-3</b>	<b>B19</b>	<b>Daylight to existing windows</b>		
		Sufficient setbacks exist to allow adequate daylight	Y	Y
<b>55.04-4</b>	<b>B20</b>	<b>North-facing windows</b>		



Clause	Std		Compliance	
			Std	Obj
		Development is set back in accordance with the standard.	Y	Y
<b>55.04-5</b>	<b>B21</b>	<b>Overshadowing open space</b>		
		Shadow cast by the development is within the parameters set out by the standard.	Y	Y
<b>55.04-6</b>	<b>B22</b>	<b>Overlooking</b>		
		Please see assessment in the body of this report. Complies subject to condition.	Y	Y
<b>55.04-7</b>	<b>B23</b>	<b>Internal views</b>		
		There are no unreasonable internal views	Y	Y
<b>55.04-8</b>	<b>B24</b>	<b>Noise impacts</b>		
		There are no obvious or unreasonable noise sources.	Y	Y
<b>55.05-1</b>	<b>B25</b>	<b>Accessibility</b>		
		The ground levels of the proposal can be made accessible for people with limited mobility.	Y	Y
<b>55.05-2</b>	<b>B26</b>	<b>Dwelling entry</b>		
		Entries to the dwellings are identifiable and provide an adequate area for transition.	Y	Y
<b>55.05-3</b>	<b>B27</b>	<b>Daylight to new windows</b>		
		Adequate setbacks are proposed to allow appropriate daylight access.	Y	Y
<b>55.05-4</b>	<b>B28</b>	<b>Private open space</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.05-5</b>	<b>B29</b>	<b>Solar access to open space</b>		
		Insufficient depth is provided for adequate solar access to Dwellings 2 and 3. On balance the design response is considered acceptable. Please see assessment in the body of this report.	N	Y
<b>55.05-6</b>	<b>B30</b>	<b>Storage</b>		
		Sufficient storage areas are provided.	Y	Y
<b>55.06-1</b>	<b>B31</b>	<b>Design detail</b>		
		Design detail of dwellings is appropriate in the neighbourhood setting.	Y	Y
<b>55.06-2</b>	<b>B32</b>	<b>Front fences</b>		
		No front fence is proposed which is acceptable.	Y	Y
<b>55.06-3</b>	<b>B33</b>	<b>Common property</b>		
		There is no common property.	N/A	N/A

Clause	Std		Compliance	
			Std	Obj
55.06-4	B34	Site services	Y	Y
		Sufficient areas for site services are provided.		

**REFERRAL SUMMARY**

Department/Authority	Response
Capital Works	No objection, subject to condition included in recommendation.
Transport Management and Planning	No objection.
Assets and Properties	No objection to use of right of way.

**PLANNING SCHEME SUMMARY**

**Darebin Planning Scheme clauses under which a permit is required**

- Clause 32.08-4 – Construct two or more dwellings on a lot

**Applicable provisions of the Darebin Planning Scheme**

Section of Scheme	Relevant Clauses
SPPF	11, 15, 16, 19
LPPF	21.02-3, 21.03-2, 21.03-3, 21.03-4, 21.05-1, 21.05-2, 21.05-3, 22.02
Zone	32.08
Overlay	45.06
Particular provisions	52.06, 55
General provisions	65.01
Neighbourhood Character Precinct	G3

**POLICY IMPLICATIONS**

**Environmental Sustainability**

All new dwellings are required to achieve a minimum six (6) star energy rating under the relevant building controls.

**Social Inclusion and Diversity**

Nil

**Other**

Nil

**FINANCIAL AND RESOURCE IMPLICATIONS**

There are no financial or resource implications as a result of the determination of this application.

**FUTURE ACTIONS**

Nil

**DISCLOSURE OF INTERESTS**

Section 80C of the *Local Government Act 1989* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any direct or indirect interest in a matter to which the advice relates.

The Manager authorising this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

**RELATED DOCUMENTS**

Darebin Planning Scheme and the *Planning and Environment Act (1987)* as amended.

**5.14 APPLICATION FOR PLANNING PERMIT D/1006/2015**  
 41 and 43 Northernhay Street, Reservoir

**AUTHOR:** Statutory Planner – Daniel Murphy

**DIRECTOR:** Director Assets and Business Services – Steve Hamilton

**OWNER/APPLICANT/CONSULTANT:**

Applicant	Owner	Consultant
Beyond Design Group Pty Ltd	Ms Maria Piccolo	N/A

**SUMMARY:**

- It is proposed to construct a medium density development comprising four (4) double storey dwellings and two (2) single storey dwellings and reduce to the statutory car parking requirement associated with visitor car parking.
- The site is zoned General Residential Zone – Schedule 2 (GRZ2).
- There is no restrictive covenant on the titles for the subject land.
- Fifteen objections were received against this application.
- The proposal is generally consistent with the objectives and standards of Clause 55 of the Darebin Planning Scheme.
- It is recommended that the application be supported.

**CONSULTATION:**

- Public notice was given via two (2) signs posted on site and letters sent to surrounding owners and occupiers.
- This application was referred internally to Council’s Capital Works and Transport Management and Planning Units and Darebin Parks.
- This application was not required to be referred to external authorities.

<b>Recommendation</b>
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**That** Planning Permit Application D/1006/2015 be supported and a Notice of Decision to Grant a Permit be issued subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to, and approved by, the Responsible Authority. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application (identified as Drawing Nos. TP1, TP2, TP3 and TP4, Job No 15-1293, prepared by Beyond Design Group and dated 4 November 2015) but modified to show:
  - a) The pedestrian paths connecting the site to the frontage road must be fully constructed and not be intermittent pavers. All pedestrian paths must be provided with a minimum width of 1.0 metre.
  - b) The provision of pedestrian visibility splays measuring 2.0 metres (width across the frontage) by 2.5 metres (depth into the site), to the eastern and western sides of the crossovers to Northernhay Street. Where within the subject site, any structures or vegetation within these splays must be not more than 1.15 metres in height.
  - c) As per Design Standard 2 of Clause 52.06-8, where parking spaces are provided in tandem (one space behind the other), an additional 0.5 metres in length must be provided between each space (a minimum length of 5.4 metres).
  - d) The minimum headroom to be provided above a car parking space is 2.2 metres as per the AS2890.1:2004.
  - e) A front boundary fence. The fence must not exceed 1.2 metres in height.
  - f) A front fence elevation.
  - g) The location of all plant and equipment (including air conditioners and the like). These are to be co-located where possible, screened to be minimally visible from the public realm and adjacent properties, located as far as practicable from site boundaries and integrated into the design of the building.
  - h) The following windows:
    - Dwelling 1: all west-facing windows.
    - Dwelling 5: all east-facing windows.These windows may be provided with either:
    - A sill with a minimum height of 1.7 metres above finished floor level,
    - A fixed screen with a maximum permeability of 25% to a minimum height of 1.7 metres above finished floor level or
    - Fixed obscure glazing (not film) with a maximum transparency of 25% to a minimum height of 1.7 metres above finished floor level.Where fixed screens are being utilised a section diagram must be included to demonstrate how the screens minimise overlooking of adjoining properties.
  - i) Modifications in accordance with the Sustainable Design Assessment (Refer to Condition No. 9 of this Permit).
  - j) A landscape plan in accordance with Condition No. 4 of this Permit.

- k) Annotations detailing a Tree Protection Zone and associated Tree Protection Fence with a radius of 2.0 metres (No. 41 Northernhay Street) and 2.0 metres (No. 43 Northernhay Street) (measured from the outside edge of the trunk) for the Pyrus chauceux located in the nature strip in front of the subject site in accordance with the requirements of Condition 7 of this Permit.
- l) Any modifications as identified by the Arborist Report required by Condition No. 8 of this permit.
- m) The sill heights of east-facing living room windows of Dwelling 2 increased to a minimum height of 1.4 metres above the accessway.
- n) The opening to porch areas of all dwellings not less than 1 metre in width.

When approved, the plans will be endorsed and form part of this Permit.

2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
3. This Permit will expire if either:

- The development does not start within three (3) years from the date of this Permit; or
- The development is not completed within five (5) years of the date of this Permit.

As relevant, the Responsible Authority may extend the times referred to if a request is made in writing:

- Before this Permit expires;
- Within six (6) months after the expiry date; or
- Within twelve (12) months after the expiry date if the request relates to the completion of the development or a stage of the development.

4. Before buildings and works start, a detailed Landscape Plan to the satisfaction of the Responsible Authority must be submitted to, and approved by the Responsible Authority. When the Landscape Plan is approved, it will be endorsed and will then form part of this Permit. The Landscape Plan must be prepared by a suitably qualified person and must incorporate:

- a) Details of all existing trees to be retained and all existing trees to be removed, including overhanging trees on adjoining properties and street trees within the nature strip. The genus, species, height and spread of all trees must be specified.
- b) Any tree protection measures required by Condition 1(j) and condition 1(k).
- c) A planting schedule of proposed vegetation detailing the botanical name, common name, size at maturity, pot size and quantities of all plants.
- d) A diversity of plant species and forms. All proposed planting must be to the satisfaction of the Responsible Authority.
- e) Where the opportunity exists, an appropriate number and size of canopy trees are to be shown within the secluded private open space areas of each dwelling and within the front setback of the property, commensurate with the size of planting area available. All canopy trees are to have a minimum height of 1.6 metres in 40 litre containers at the time of installation. Canopy trees must have the following minimum widths at maturity: small canopy (4 metres), medium canopy (6 metres), large canopy (10 metres).

- f) Annotated graphic construction details showing all landscape applications and structures including tree and shrub planting, retaining walls, raised planter bed and decking.
  - g) Type and details of all surfaces including lawns, mulched garden beds and permeable and/or hard paving (such as pavers, brick, gravel, asphalt and concrete) demonstrating a minimum site permeability of 20%. Percentage cover of permeable surfaces must be stated on the plan. Where paving is specified, material types and construction methods (including cross sections where appropriate) must be provided.
  - h) Hard paved surfaces at all entry points to dwellings.
  - i) All constructed items including letter boxes, garbage bin receptacles, lighting, clotheslines, tanks, outdoor storage etc.
  - j) Type and details of edge treatment between all changes in surface (e.g. grass (lawn), gravel, paving and garden beds).
  - k) An outline of the approved building/s including any basement, the location of entry doors, windows, gates and fences must be shown on the landscape plan. The location of both existing and proposed overhead and underground services. Conflicts of such services with the existing and proposed planting must be avoided.
  - l) Clear graphics identifying trees (deciduous and evergreen), shrubs, grasses/sedges, groundcovers and climbers.
  - m) Scale, north point and appropriate legend. Landscape plans are to be clear, legible and with graphics drawn to scale, and provide only relevant information.
5. The landscaping as shown on the endorsed Landscape Plan must be completed to the satisfaction of the Responsible Authority before the development is occupied and/or the use starts or at such later date as is approved by the Responsible Authority in writing.
- No later than seven (7) days after the completion of the landscaping, the permit holder must advise Council, in writing, that the landscaping has been completed.
6. The landscaping as shown on the endorsed Landscape Plan must be maintained, and any dead, diseased or damaged plant replaced in accordance with the endorsed Landscape Plan to the satisfaction of the Responsible Authority.
7. Before buildings and works (including demolition) start, a tree protection fence must be erected around the tree located in the nature strip at a radius of 2.0 metres (No. 41 Northernhay Street) and 2.0 metres (No. 43 Northernhay Street) from the base of the trunk to define a 'Tree Protection Zone'.
- This fence must be constructed of star pickets and chain mesh (or similar) to the satisfaction of the Responsible Authority.
- The tree protection fence must remain in place until construction is completed.
- No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Zone.
- No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Zone.
- The ground surface of the Tree Protection Zone must be covered by a protective 100mm deep layer of mulch prior to the development commencing and be watered regularly to the satisfaction of the Responsible Authority.

8. Before the development starts, a report prepared by a suitably qualified arborist must be submitted to and approved by the Responsible Authority.

The report must assess all significant vegetation on adjoining properties which may be affected by the proposed works and provide recommendations which ensure the health and structure of any affected vegetation is protected.

Any recommendations contained within the report relating to the protection of vegetation or modifications to the proposed works must be shown on any plans endorsed as part of this permit.

The development must be constructed in accordance with the requirements/recommendations of the approved Arborist report to the satisfaction of the Responsible Authority.

9. Before the development starts, a Sustainable Design Assessment (SDA) detailing sustainable design strategies to be incorporated into the development to the satisfaction of the Responsible Authority must be submitted to, and approved in writing by the Responsible Authority. The SDA must outline proposed sustainable design initiatives within the development such as (but not limited to) energy efficiency, water conservation, stormwater quality, waste management and material selection. It is recommended that a Built Environment Sustainability Scorecard (BESS) report is undertaken as part of the SDA.

The development must be constructed in accordance with the requirements/recommendations of the Sustainable Design Assessment to the satisfaction of the Responsible Authority.

10. Floor levels shown on the endorsed plans must be confirmed. The confirmation of the ground floor level must take place no later than at the time of the inspection of the subfloor of the development required under the *Building Act 1993* and the Building Regulations 2006. This confirmation must be in the form of a report from a licensed land surveyor and must be submitted to the Responsible Authority no later than 7 days from the date of the sub-floor inspection. The upper floor levels must be confirmed before a Certificate of Occupancy is issued, by a report from a licensed land surveyor submitted to the Responsible Authority
11. All dwellings that share dividing walls and/or floors must be constructed to limit noise transmission in accordance with Part F(5) of the Building Code of Australia.
12. Before the dwellings are occupied, an automatic external lighting system capable of illuminating the entry to each unit, access to each garage and car parking space and all pedestrian walkways must be provided on the land to the satisfaction of the Responsible Authority.
- The external lighting must be designed, baffled and/or located to ensure that no loss of amenity is caused to adjoining and nearby land, to the satisfaction of the Responsible Authority.
13. Boundary walls facing adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.
14. The land must be drained to the satisfaction of the Responsible Authority.
15. With the exception of guttering, rainheads and downpipes, all pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
16. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the prior written consent of the Responsible Authority.
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17. Provision must be made on the land for letter boxes and receptacles for newspapers to the satisfaction of the Responsible Authority.
  18. Before occupation of the development, areas set aside for the parking of vehicles and access lanes as shown on the endorsed plan(s) must be:
    - a) Constructed;
    - b) Properly formed to such levels that they can be used in accordance with the plans;
    - c) Surfaced with an all-weather sealcoat; and
    - d) Drainedto the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose.
  19. Before the development is occupied, vehicular crossing(s) must be constructed to align with approved driveways to the satisfaction of the Responsible Authority. All redundant crossing(s), crossing opening(s) or parts thereof must be removed and replaced with footpath, naturestrip and kerb and channel to the satisfaction of the Responsible Authority.

#### NOTATIONS

**(These notes are provided for information only and do not constitute part of this permit or conditions of this permit)**

- N1 Any failure to comply with the conditions of this permit may result in action being taken to have an Enforcement Order made against some or all persons having an interest in the land and may result in legal action or the cancellation of this permit by the Victorian Civil and Administrative Tribunal.
- N2 Nothing in the grant of this permit should be construed as granting any permission other than planning permission for the purpose described. It is the duty of the permit holder to acquaint themselves, and comply, with all other relevant legal obligations (including any obligation in relation to restrictive covenants and easements affecting the site) and to obtain other required permits, consents or approvals.
- N3 The amendments specified in Condition 1 of this Permit and any additional modifications which are “necessary or consequential” are those that will be assessed by Council when plans are lodged to satisfy that condition. Any “necessary or consequential” amendments, in addition to those required by this condition, should be specifically brought to the attention of Council for assessment.

If any other modifications are proposed, application must also be made for their approval under the relevant sections of the *Planning and Environment Act 1987*. They can only be approved once the required and consequential changes have been approved and the plans endorsed. It is possible to approve such modifications without notice to other parties, but they must be of limited scope. Modifications of a more significant nature may require a new permit application.
- N4 This Planning Permit represents the Planning approval for the use and/or development of the land. This Planning Permit does not represent the approval of other departments of Darebin City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria to that adopted for the approval of this Planning Permit.

- N5 To complete a satisfactory Sustainable Design Assessment (SDA) the Responsible Authority recommends the use of the Built Environment Sustainability Scorecard (BESS) to assess the developments environmental performance against appropriate standards.
- N6. This planning permit must be attached to the “statement of matters affecting land being sold”, under section 32 of the *Sale of Land Act 1962* and any tenancy agreement or other agreement under the *Residential Tenancies Act 1997*, for all purchasers, tenants and residents of any dwelling shown on this planning permit, and all prospective purchasers, tenants and residents of any such dwelling are to be advised that they will not be eligible for on-street parking permits pursuant to the Darebin Residential Parking Permit Scheme.

<b>Report</b>
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## **INTRODUCTION AND BACKGROUND**

Council’s records do not show any previous planning permit applications that are applicable to the site.

## **ISSUES AND DISCUSSION**

### **Subject site and surrounding area**

- The land is regular in shape and measures 43.59 metres in length and 26.82 metres in width with a site area of 1,169.08 square metres.
- The land is located within the GRZ2 and is affected by the Development Contributions Plan Overlay (DCPO), noting that the current Development Contributions Plan has expired.
- The land is located on the on the south side of Northernhay Street approximately 380 metres to the east of the intersection with High Street.
- No. 41 Northernhay Street is currently occupied by a single storey weatherboard dwelling with a gable roof and No. 43 Northernhay Street is currently occupied by a single storey brick dwelling with a hipped roof.
- To the east is a single storey detached weatherboard dwelling with a gable roof
- To the west is a single storey detached weatherboard dwelling with a hipped roof.
- To the north on the opposite side of Northernhay Street are three (3) detached dwellings. No. 38 is a single storey weatherboard dwelling with a gable roof, No. 40 is a single storey weatherboard dwelling with a gable roof and No. 42 is a single storey weatherboard dwelling with a hipped roof.
- To the south are two (2) detached dwellings fronting Southernhay Street. No. 40 is a single storey brick dwelling with a gable roof, No. 42 is a single storey brick dwelling with a hipped roof.
- On-street car parking is available on both sides of Northernhay Street and is unrestricted.
- The subject site falls within an area of Incremental Housing Change and is located within the hinterland area of Reservoir, east of High Street.

### **Proposal**

- Construction of six (6) dwellings comprising four (4) double storey dwellings and two (2) single storey dwellings.
- The proposal comprises three (3), three (3) bedroom dwellings and three (3), two (2) bedroom dwellings.
- Each dwelling is provided with an area of secluded private open space in excess of 25 square metres at ground floor level and is directly accessible from the main living area.
- The maximum overall height of the development is 7.7 metres. Typical floor to ceiling heights of each dwelling are in the order of 2.7 metres at ground floor level and 2.55 metres at first floor level.
- Each two (2) bedroom dwelling is serviced by one (1) car parking space and each three (3) bedroom dwelling is serviced by two (2) car parking spaces.
- Vehicle access to the site is obtained via the existing crossovers.

### **Objections**

- Fifteen objections have been received.

### **Objections summarised**

- Impact on trees of adjoining properties/removal of raised garden bed.
- Overlooking.
- The garage of Dwelling 1 is not set back from the boundary.
- First floor of Dwelling 1 too imposing.
- Dominance of car parking structures.
- Proposed areas of secluded private open space are too small.
- Oversupply of one (1) and two (2) bedroom dwellings within the municipality.
- Contrary to neighbourhood character of the area.
- Not environmentally sustainable.
- Traffic impacts and insufficient car parking.
- Overdevelopment.
- Visual bulk.
- No net value to the community.
- Negative impact on the Oakhill Estate.

### **Officer comment on summarised objections**

#### Impact on trees of adjoining properties/removal of raised garden bed.

No assessment on the impact of trees has been provided by the applicant. An arborist report will be required as a condition of permit to demonstrate that the development will not unreasonably impact trees on adjoining lots which are located within 3 metres of the common boundary with the subject site.

Overlooking

While there are a number of habitable room windows with an outlook toward adjoining properties, the development is generally designed in a way that limits overlooking to adjoining properties.

A condition of permit will require screening to all first floor habitable room windows within 9 metres of existing adjacent habitable room windows and secluded private open space areas, in accordance with Standard B22 (Overlooking objective). Further assessment is provided below.

The garage of Dwelling 1 is not set back from the boundary.

The proposed wall of the garage of Dwelling 1, situated on the site boundary complies with Standard B18 (Walls on boundaries objective). The height and length of this wall are not considered unreasonably visually imposing and there is no basis to prevent development on the site boundary in this instance. Further assessment is provided below.

First floor of Dwelling 1 too imposing

The development complies with the relevant side and rear setback and height requirements of Clause 55, and provides appropriate spacing to adjoining properties and is not considered unreasonably visually imposing. Further assessment is provided below.

Dominance of car parking structures

The only car parking structure that is visible from the street is the garage of Dwelling 1. This garage is recessed behind the façade of the dwelling and will not dominate the streetscape. Additionally, the proposal makes use of existing crossovers to the street, which is considered an appropriate design response.

Proposed areas of secluded private open space are too small.

The development provides secluded private open space in accordance with the requirements of Standard B28 (Private open space objective). These areas of secluded private open space are considered reasonably sized and directly accessible from the main living areas of the dwellings. Further assessment is provided below.

Oversupply of one (1) and two (2) bedroom dwellings within the municipality

Key issues outlined in State Planning Policy and the Municipal Strategic Statement acknowledge the increased need for urban consolidation, issues relating to housing affordability and an increasing need to provide dwelling diversity to accommodate changing household compositions. The scope of these issues is generally addressed by the proposal which provides dwelling diversity in an established area proximate to services, which is otherwise characterised by detached dwellings.

Contrary to neighbourhood character of the area

A test of neighbourhood character as outlined at Clause 22.02 (Neighbourhood Character) of the Darebin Planning Scheme is whether a development respects the existing character or contributes to the preferred character of the area.

The proposal is considered consistent with the existing and preferred character of the area, having regard to the Neighbourhood Character Precinct Guidelines for Precinct D5. Further assessment against neighbourhood character considerations are provided below.

#### Not environmentally sustainable

The proposal has been assessed against Clause 55.03-5 (Energy Efficiency) of the Darebin Planning Scheme and is considered in accordance with the requirements of this clause. Key design features contributing to the sustainability of the development include:

- Attached construction.
- Cross ventilation is available in the design.
- The development does not unreasonably affect the solar access and energy efficiency of neighbouring dwellings.
- Open space and living areas with access to north light.
- Space for outdoor clothes drying facilities.

A Sustainable Design Assessment will be required as a condition of approval.

#### Traffic impacts and insufficient car parking

The proposed development provides the required number of car parking spaces to each dwelling in accordance with the requirements of Clause 52.06-5 of the Darebin Planning Scheme.

Although the proposal seeks a waiver of one (1) car parking space associated with visitor car parking, it is noted that visitor car parking could be accommodated on Northernhay Street directly in front of the subject site. Moreover, the proposal makes use of the existing crossovers which will ensure that no on-street car parking spaces are lost as a result of the proposal.

Whilst it is acknowledged that the development will generate some additional vehicle movements on the local road network, it is not considered that such additional movements would not conflict with existing traffic.

A detailed assessment of traffic and car parking matters is provided below.

#### Overdevelopment

A reasonable test of whether the proposal is an overdevelopment of the site is Clause 55 of the Scheme. As noted below, the proposal fully complies with all but one of the standards and objectives of Clause 55. Therefore, there is no reasonable basis to consider the proposal as an overdevelopment of the site.

#### Visual bulk

The proposal complies with relevant standards relating to setbacks and heights and provides adequate articulation to address visual bulk.

No net value to the community

As noted above, the development is consistent with state and local planning policies which seeks to increase urban consolidation, housing diversity and address housing affordability issues. In essence, by addressing these issues the proposal demonstrates net community value.

Negative impact on the Oakhill Estate

As noted above, the proposal has been assessed against the preferred neighbourhood character for Precinct D5 of Council's neighbourhood character study and is considered generally in accordance with the design objectives.

**PLANNING ASSESSMENT****Neighbourhood Character Precinct Guideline Assessment - Precinct D5**Existing Buildings

Noting that there is no planning permit requirement for the demolition of the existing buildings which occupy the subject site, the proposed design provides a sympathetic design response which adopts inter-war elements which are prevalent within the existing streetscape, which is considered an appropriate response.

**Complies**Vegetation

- The proposal provides sufficient space within the front setback to accommodate landscaping and canopy planting. The front setback and areas of secluded private open space provide sufficient opportunities which will reinforce and enhance the landscaping quality of the area.
- A landscape plan will be required as a condition of approval.

**Complies subject to condition**Siting

- The proposal provides sufficient space within the front setback to accommodate landscaping and canopy planting.
- The front setback and areas of secluded private open space provide sufficient opportunities for landscaping.
- The proposal generally adopts spacing between the dwellings which is consistent with the existing pattern of development within the street.
- The garage of Dwelling 1 is recessed behind the front façade of the dwelling and all other parking structures are located to the rear of the front dwelling and will have minimal impact on the existing streetscape.

**Complies**Height and building form

- The proposed development provides an appropriate transition in height from the adjoining single storey dwellings to the east and west.

- The proposal respects the existing height and form of the street which contains a number of examples of double storey development.

**Complies**Materials and design detail

The proposal uses a mixed palate of materials (generally comprising facebrick at ground floor and horizontal cladding at first floor) which are sympathetic to the existing streetscape and provides articulation between floors.

**Complies**Front boundary treatment

- The proposal indicates that no front fence is proposed.
- The prevailing character of the area is low front boundary fences. A condition of permit will require the provision of a low front fence.

**Complies subject to condition****Clause 55 Assessment**

The following sections provide discussion on fundamental areas of Clause 55 including variations of standards and matters informing conditions of the recommendation above.

Clause 55.03-1 B6 Street Setback

The front setbacks of the adjoining dwellings are 6.9 metres and 9.150 metres. The standard therefore requires a setback of 8.025 metres.

The proposed front setback of 7.950 metres does not comply with the standard, however the design response is considered to be acceptable due to the following:

- The setback addresses the relevant requirements of the Neighbourhood Character Study, in that it allows adequate provision for landscaping.
- The design provides graduated setbacks of adjoining properties leading from the lesser setback to No. 39 Northernhay Street to the greater setback of No. 45 Northernhay Street.
- The front façade of Dwelling 1 and Dwelling 6 are appropriately articulated.
- The front setback will not result in unreasonable visual bulk when viewed from the street or adjoining properties.
- The proposed setback results in efficient use of the site.
- The existing streetscape is not consistent and provides for varied setbacks.
- The oblique views of adjoining properties will not be obstructed as a result of the reduced front setback.

**Complies with objective**Clause 55.03-10 B15 Parking Location

- Parking facilities will be proximate to the dwellings they serve.

- The proposed garages are an adequately secure form of parking.
- The access is observable.
- The east-facing living room windows of Dwelling 2 are setback from the accessway by 1 metre. These windows will be required to have sill heights of at least 1.4 metres above the accessway in accordance with this standard.

**Complies subject to condition**

Clause 55.04-1 B17 Side and Rear Setbacks

Ground floor

Boundary	Wall height	Required Setback	Proposed setback
Western – Dwelling 1	3.2 metres	1 metre	3.5 metres
Western – Dwelling 2	3.1 metres	1 metre	2.63 metres
Western – Dwelling 3	3.1 metres	1 metre	1 metre
Southern – Dwelling 3	3.1 metres	1 metre	1 metre
Eastern – Dwelling 4	3.1 metres	1 metre	1 metre
Southern – Dwelling 4	3.1 metres	1 metre	1 metre
Eastern – Dwelling 5	3.1 metres	1 metre	3 metres
Eastern – Dwelling 6	3.1 metres	1 metre	1.2 metres

First Floor

Boundary	Wall height	Required Setback	Proposed setback
Western – Dwelling 1	6.1 metres	1.75 metres	1.8 metres
Western – Dwelling 2	6.1 metres	1.75 metres	2.54 metres
Eastern – Dwelling 5	6.1 metres	1.75 metres	2.41 metres
Eastern – Dwelling 6	6 metres	1.72 metres	2.41 metres

**Complies**

Clause 55.04-2 B18 Walls on Boundaries

The standard requires that a wall be of a length of no more than 10 metres plus 25% of the remaining length of the boundary of an adjoining lot, and a height not exceeding an average of 3.2 metres.

Boundary and length	Maximum length allowable	Proposed length
Eastern: 43.59 metres	18.39 metres	6 metres

The wall heights of 3.2 metres average comply with the standard.



**Complies**

Clause 55.04-6 B22 Overlooking

- The proposed dwellings are single storey and have finished floor levels less than 0.8 metres above natural ground level at the boundary. The existing boundary fences in excess of 1.8 metres high, will sufficiently limit overlooking.
- The development is designed to limit views into neighbouring secluded private open space and habitable room windows.
- All upper storey windows are appropriately designed and/or screened to ensure no overlooking.
- The following windows will be required to be screened to limit views in to adjoining residential properties:
  - Dwelling 1: all west-facing windows.
  - Dwelling 5: all east-facing windows.
- Although this includes stairwell windows which are non-habitable room windows, it is noted that the landing areas at the top of the staircases allow for unfiltered views into habitable rooms and open space of adjoining properties. A condition of approval will therefore require these windows to be screened.

**Complies subject to condition**

Clause 55.05-1 B25 Accessibility

- The proposed dwellings can be made accessible for people with limited mobility by construction of a ramp, if required.
- The opening to porch areas will be required to be increased to a minimum opening of 1 metre to allow for a reasonable level of accessibility to dwellings.

**Complies subject to condition**

Clause 55.05-4 B28 Private Open Space

- The development provides adequate private open space (pos) for the reasonable recreation and service needs of residents.
- This is achieved through the provision of 40 square metres of secluded private open space at the side or rear of the dwelling with a minimum area of 25 square metres, a minimum dimension of 3 metres and convenient access from a living room.

	<b>Total POS</b>	<b>Secluded POS</b>	<b>Minimum dimension of secluded POS</b>
Dwelling 1	114 square metres	25 square metres	3 metres
Dwelling 2	40 square metres	40 square metres	4.8 metres
Dwelling 3	47 square metres	47 square metres	3.11 metres
Dwelling 4	41 square metres	41 square metres	4.8 metres
Dwelling 5	40 square metres	40 square metres	3 metres
Dwelling 6	83 square metres	25 square metres	3 metres

All secluded private open space areas have direct access to a living room.

**Complies**

**Clause 52.06 Car Parking**

Number of Parking Spaces Required

- One (1) car parking space is provided for each of the one (1) and two (2) bedroom dwellings.
- Two (2) car parking spaces are provided for each of the three (3) or more bedroom dwellings with one (1) space under cover.
- The proposal seeks a waiver of one (1) visitor car parking space. The waiver is considered acceptable on the basis that:
  - Car parking can be accommodated on Northernhay Street, directly in front of the subject site.
  - The use of existing crossovers means that no on-street parking will be lost as a result of the development.
  - Except for one (1) visitor car parking space, all dwellings have been provided with requisite number of car parking spaces in accordance with Clause 52.06-5 of Darebin Planning Scheme.
  - A notation on the Permit will advise that occupants of these dwellings are not entitled to on-street parking permits from Council.

Design Standards for Car parking

- The car parking facilities and access ways have appropriate dimension to enable efficient use and management, subject to a permit condition.
- The car parking facilities are designed, surfaced and graded to reduce run-off and allow stormwater to drain into the site.
- Access dimensions to the car spaces comply with the standard.
- Visibility splays are required at the accessway interface with the footpath to protect pedestrians. This has been requested as a condition of approval.
- As per Design Standard 2 of Clause 52.06-8, where parking spaces are provided in tandem (one space behind the other), an additional 0.5metres in length must be provided between each space. This will be required as a condition of approval.
- The minimum headroom above a car parking space will be required to be increased to 2.2 metres as a condition of approval.

**CLAUSE 55 COMPLIANCE SUMMARY**

Clause	Std		Compliance	
			Std	Obj
<b>55.02-1</b>	<b>B1</b>	<b>Neighbourhood character</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.02-2</b>	<b>B2</b>	<b>Residential policy</b>		
		The proposal complies with the relevant residential policies outlined in the Darebin Planning Scheme.	Y	Y

Clause	Std		Compliance	
			Std	Obj
<b>55.02-3</b>	<b>B3</b>	<b>Dwelling diversity</b>		
		N/A as development contains less than 10 dwellings	N/A	N/A
<b>55.02-4</b>	<b>B4</b>	<b>Infrastructure</b>		
		Adequate infrastructure exists to support new development	Y	Y
<b>55.02-5</b>	<b>B5</b>	<b>Integration with the street</b>		
		Dwelling 1 and Dwelling 6 appropriately integrate with the Street.	Y	Y
<b>55.03-1</b>	<b>B6</b>	<b>Street setback</b>		
		The required setback is 8.025 metres. The proposed setback of 7.95 metres complies with the objective.	N	Y
<b>55.03-2</b>	<b>B7</b>	<b>Building height</b>		
		7.77 metres	Y	Y
<b>55.03-3</b>	<b>B8</b>	<b>Site coverage</b>		
		45%	Y	Y
<b>55.03-4</b>	<b>B9</b>	<b>Permeability</b>		
		31.9%	Y	Y
<b>55.03-5</b>	<b>B10</b>	<b>Energy efficiency</b>		
		Dwellings are considered to be generally energy efficient and will not unreasonably impact adjoining properties.	Y	Y
<b>55.03-6</b>	<b>B11</b>	<b>Open space</b>		
		N/A as the site does not abut public open space.	N/A	N/A
<b>55.03-7</b>	<b>B12</b>	<b>Safety</b>		
		The proposed development is secure and the creation of unsafe spaces has been avoided.	Y	Y
<b>55.03-8</b>	<b>B13</b>	<b>Landscaping</b>		
		Adequate areas are provided for appropriate landscaping and a landscape plan has been required as a condition of approval.	Y	Y
<b>55.03-9</b>	<b>B14</b>	<b>Access</b>		
		Access is sufficient and respects the character of the area.	Y	Y
<b>55.03-10</b>	<b>B15</b>	<b>Parking location</b>		
		Parking facilities are proximate to the dwellings they serve, the access is observable, habitable room windows are sufficiently set back from accessways. Complies subject to condition.	Y	Y

Clause	Std		Compliance	
			Std	Obj
<b>55.04-1</b>	<b>B17</b>	<b>Side and rear setbacks</b>		
		Dwellings are set back in accordance with the requirements of this standard.	Y	Y
<b>55.04-2</b>	<b>B18</b>	<b>Walls on boundaries</b>		
		Walls on boundaries comply with the requirements of this standard.	Y	Y
<b>55.04-3</b>	<b>B19</b>	<b>Daylight to existing windows</b>		
		Sufficient setbacks exist to allow adequate daylight	Y	Y
<b>55.04-4</b>	<b>B20</b>	<b>North-facing windows</b>		
		There are no north facing windows within 3 metres of the common boundary with the subject site.	Y	Y
<b>55.04-5</b>	<b>B21</b>	<b>Overshadowing open space</b>		
		Shadow cast by the development is within the parameters set out by the standard.	Y	Y
<b>55.04-6</b>	<b>B22</b>	<b>Overlooking</b>		
		Please see assessment in the body of this report. Complies subject to condition.	Y	Y
<b>55.04-7</b>	<b>B23</b>	<b>Internal views</b>		
		There are no internal views	Y	Y
<b>55.04-8</b>	<b>B24</b>	<b>Noise impacts</b>		
		Noise impacts are consistent with those in a residential zone.	Y	Y
<b>55.05-1</b>	<b>B25</b>	<b>Accessibility</b>		
		The ground levels of the proposal can be made accessible for people with limited mobility. Complies subject to condition.	Y	Y
<b>55.05-2</b>	<b>B26</b>	<b>Dwelling entry</b>		
		Entries to the dwellings are identifiable and provide an adequate area for transition.	Y	Y
<b>55.05-3</b>	<b>B27</b>	<b>Daylight to new windows</b>		
		Adequate setbacks are proposed to allow appropriate daylight access.	Y	Y
<b>55.05-4</b>	<b>B28</b>	<b>Private open space</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.05-5</b>	<b>B29</b>	<b>Solar access to open space</b>		
		Sufficient depth is provided for adequate solar access.	Y	Y

Clause	Std		Compliance	
			Std	Obj
<b>55.05-6</b>	<b>B30</b>	<b>Storage</b>		
		Sufficient storage areas are provided.	Y	Y
<b>55.06-1</b>	<b>B31</b>	<b>Design detail</b>		
		Design detail of dwellings is appropriate in the neighbourhood setting.	Y	Y
<b>55.06-2</b>	<b>B32</b>	<b>Front fences</b>		
		No front fence is proposed. A low front fence will be required as a condition of permit.	Y	Y
<b>55.06-3</b>	<b>B33</b>	<b>Common property</b>		
		Common property areas are appropriate and manageable.	Y	Y
<b>55.06-4</b>	<b>B34</b>	<b>Site services</b>		
		Sufficient areas for site services are provided.	Y	Y

**REFERRAL SUMMARY**

Department/Authority	Response
Capital Works	No objection, subject to condition included in recommendation.
Transport Management and Planning	No objection, subject to conditions included in recommendation.
Darebin Parks	No objection, subject to condition included in recommendation.

**PLANNING SCHEME SUMMARY**

**Darebin Planning Scheme clauses under which a permit is required**

- Clause 32.08-4 (General Residential Zone) – construction of two (2) or more dwellings on a lot.

**Applicable provisions of the Darebin Planning Scheme**

Section of Scheme	Relevant Clauses
SPPF	11.02-1, 15.01, 15.02, 16.01, 19.03
LPPF	21.03, 22.02
Zone	32.08
Overlay	45.06
Particular provisions	52.06, 55
General provisions	65.01
Neighbourhood Character Precinct	D5

**POLICY IMPLICATIONS****Environmental Sustainability**

All new dwellings are required to achieve a minimum six (6) star energy rating under the relevant building controls.

**Social Inclusion and Diversity**

Nil

**Other**

Nil

**FINANCIAL AND RESOURCE IMPLICATIONS**

There are no financial or resource implications as a result of the determination of this application.

**FUTURE ACTIONS**

Nil

**DISCLOSURE OF INTERESTS**

Section 80C of the *Local Government Act 1989* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any direct or indirect interest in a matter to which the advice relates.

The Manager authorising this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

**RELATED DOCUMENTS**

Darebin Planning Scheme and the *Planning and Environment Act (1987)* as amended.

**5.15 APPLICATION FOR PLANNING PERMIT D/1027/2015**  
 9 Johnson Street, Reservoir

**AUTHOR:** Principal Planner – Jacquie Payne

**DIRECTOR:** Director Assets and Business Services – Steve Hamilton

**OWNER/APPLICANT/CONSULTANT:**

Applicant	Owner	Consultant
Dc Building Design Studio	Branislav Gruneski and Zorica Gruneska and Antonija Stojkovska	N/A

**SUMMARY:**

- It is proposed to construct a medium density housing development comprising three (3) double storey dwellings and one (1) single storey dwelling. Dwelling 1 will have three (3) bedrooms and access to two (2) car spaces (one under cover) while dwellings 2 to 4 will each have two (2) bedrooms and access to a single garage (see proposal section of this report for further details).
- The site is zoned General Residential Zone Schedule 2.
- There is no restrictive covenant on the Certificate of Title for the subject land.
- Eleven objections were received against this application.
- The proposal is generally consistent with the objectives and standards of Clause 55 of the Darebin Planning Scheme.
- It is recommended that the application be supported.

**CONSULTATION:**

- Public notice was given via one (1) sign posted on site and letters sent to surrounding owners and occupiers.
- This application was referred internally to the following units in Council: Capital Works, Darebin Parks and Transport Management and Planning.
- This application was not required to be referred to external authorities.

**Recommendation**

**That** Planning Permit Application D/1027/2015 be supported and a Notice of Decision to Grant a Permit be issued subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to, and approved by, the Responsible Authority. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application (identified as Sheet No's 1, 2 and 3 of 6, dated 3 January 2016, drawn by DC Building Design Studio and received by Council on the 3 March 2016) but modified to show:
  - a) Annotations detailing a radial Tree Protection Zone (TPZ) and associated Tree Protection Fence either within the confines of the subject site or nature strip around the following tree:
    - Tree 1 – 5.4 metres from trunk edge;The zone must be measured from the outside edge of the trunk in accordance with the requirements of Condition No. 7 of this Permit.
  - b) The south-facing kitchen room window of Dwelling 1 and the south-facing windows of the lounge of Dwellings 2 and 3 treated with either double glazing or glazing that is a minimum of 6mm thick
  - c) The height of the southern property boundary fence increased to a minimum height of 1.8 metres as measured above natural ground level (NGL).

Where necessary, the fence height may be increased by raising the height of the fence or by the provision of free-standing, self-supporting trellis adjacent the fence to the required height. If utilised, such trellis must be a maximum of 25% open and be fixed, permanent, durable and coloured or painted to blend with the development.
  - d) A notation confirming that all decks have the same finished floor level's (FFL's) as the dwellings.
  - e) The dimension between the finished floor level (FFL) of bedroom 2 of dwelling 1 and the sill height of the south facing habitable room window.
  - f) A landscape plan in accordance with Condition No. 4 of this Permit and with the inclusion of a minimum of two (2) medium sized canopy trees within the front setback to Johnson Street and three (3) small sized canopy trees, one (1) each to be shown within the rear secluded private open space (SPOS) of Dwellings 2 to 4.
  - g) External retractable shading devices over all east and west facing habitable room windows.
  - h) Fixed external shading devices over all north facing habitable room windows, where the windows are not directly below an eave.
  - i) A notation confirming fences separating each SPOS is a minimum of 1.8 metres high above NGL.
  - j) The 1.5 metre high front fence lowered to 1.2 metres and the material modified from brick to a of light timber construction. A notation must state that construction must be via manually excavated stump holes.
  - k) A schedule of construction materials, finishes and colours (including colour samples).



- 
- l) A minimum area of 40 square metres of secluded private open space of Dwellings 2 and 3.
  - m) The finished first floor levels shown on the plans for each of the dwellings.

When approved, the plans will be endorsed and form part of this Permit.

2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
3. This Permit will expire if either:
  - The development does not start within three (3) years from the date of this Permit; or
  - The development is not completed within five (5) years of the date of this Permit.

As relevant, the Responsible Authority may extend the times referred to if a request is made in writing:

- Before this Permit expires;
  - Within six (6) months after the expiry date; or
  - Within twelve (12) months after the expiry date if the request relates to the completion of the development or a stage of the development.
4. Before buildings and works start, a detailed Landscape Plan to the satisfaction of the Responsible Authority must be submitted to, and approved by the Responsible Authority. When the Landscape Plan is approved, it will be endorsed and will then form part of this Permit. The Landscape Plan must be prepared by a suitably qualified person and must incorporate:
    - a) Details of all existing trees to be retained and all existing trees to be removed, including overhanging trees on adjoining properties and street trees within the nature strip. The genus, species, height and spread of all trees must be specified.
    - b) A planting schedule of proposed vegetation detailing the botanical name, common name, size at maturity, pot size and quantities of all plants.
    - c) A diversity of plant species and forms. All proposed planting must be to the satisfaction of the Responsible Authority.
    - d) Two (2) medium sized canopy trees to be shown within the front setback to Johnson Street and three (3) small sized canopy trees to be shown, one (1) each to be located in the SPOS of Dwelling 2 to 4 commensurate with the size of planting area available. All canopy trees are to have a minimum height of 1.6 metres in 40 litre containers at the time of installation. Canopy trees must have the following minimum widths at maturity: small canopy (4 metres), medium canopy (6 metres), large canopy (10 metres).
    - e) Annotated graphic construction details showing all landscape applications and structures including tree and shrub planting, retaining walls, raised planter bed and decking.
    - f) Type and details of all surfaces including lawns, mulched garden beds and permeable and/or hard paving (such as pavers, brick, gravel, asphalt and concrete) demonstrating a minimum site permeability of 20%. Percentage cover of permeable surfaces must be stated on the plan. Where paving is specified, material types and construction methods (including cross sections where appropriate) must be provided.
    - g) Hard paved surfaces at all entry points to dwellings.
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- h) All constructed items including letter boxes, garbage bin receptacles, lighting, clotheslines, tanks, outdoor storage etc.
  - i) Type and details of edge treatment between all changes in surface (e.g. grass (lawn), gravel, paving and garden beds).
  - j) An outline of the approved building/s including any basement, the location of entry doors, windows, gates and fences must be shown on the landscape plan. The location of both existing and proposed overhead and underground services. Conflicts of such services with the existing and proposed planting must be avoided.
  - k) Clear graphics identifying trees (deciduous and evergreen), shrubs, grasses/sedges, groundcovers and climbers.
  - l) Scale, north point and appropriate legend. Landscape plans are to be clear, legible and with graphics drawn to scale, and provide only relevant information.
5. The landscaping as shown on the endorsed Landscape Plan must be completed to the satisfaction of the Responsible Authority before the development is occupied and/or the use starts or at such later date as is approved by the Responsible Authority in writing.

No later than seven (7) days after the completion of the landscaping, the permit holder must advise Council, in writing, that the landscaping has been completed.

6. The landscaping as shown on the endorsed Landscape Plan must be maintained, and any dead, diseased or damaged plant replaced in accordance with the endorsed Landscape Plan to the satisfaction of the Responsible Authority.
7. Before buildings and works (including demolition) start, a tree protection fence must be erected around the following tree and measured in a radius from the base of the trunk as detailed in Arboricultural Report, Prepared by Tree Radar Australian Pty Ltd, dated 11 February 2016 and received by Council on the 3 March 2015:

- Tree 1 – 5.4 metres from trunk edge

To maintain the viability of Tree 1 the following must be undertaken:

- Removal of the existing brick front fence (footings), excavation for the proposed southern vehicle crossover and removal/reinstatement of the northern vehicle crossover must be supervised by a qualified arborist:
  - Any roots uncovered through these works must be pruned with sharp/sterile hand tools.
- Any land in the front setback within the TPZ must remain at existing grade and designed to be permeable (strictly no hard surfaces)
- Any new boundary fencing within the TPZ must be of light timber construction with manually excavated stump holes (no brick fence with strip footing).

Excavation for dwelling 4 garage must be supervised by a qualified arborist.

- Any roots uncovered through these works must be pruned with sharp/sterile hand tools.

All demolition and construction works within the TPZs must be supervised by a suitably qualified arborist.

This fence must be constructed of star pickets and chain mesh (or similar) to the satisfaction of the Responsible Authority.

The tree protection fence must remain in place until construction is completed.

No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Zone.

No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Zone.

The ground surface of the Tree Protection Zone must be covered by a protective 100mm deep layer of mulch prior to the development commencing and be watered regularly to the satisfaction of the Responsible Authority.

8. Floor levels shown on the endorsed plans must be confirmed. The confirmation of the ground floor level must take place no later than at the time of the inspection of the subfloor of the development required under the *Building Act 1993* and the Building Regulations 2006. This confirmation must be in the form of a report from a licensed land surveyor and must be submitted to the Responsible Authority no later than 7 days from the date of the sub-floor inspection. The upper floor levels must be confirmed before a Certificate of Occupancy is issued, by a report from a licensed land surveyor submitted to the Responsible Authority.
9. All dwellings that share dividing walls and/or floors must be constructed to limit noise transmission in accordance with Part F(5) of the Building Code of Australia.
10. Before the dwellings are occupied, an automatic external lighting system capable of illuminating the entry to each unit, access to each garage and car parking space and all pedestrian walkways must be provided on the land to the satisfaction of the Responsible Authority.

The external lighting must be designed, baffled and/or located to ensure that no loss of amenity is caused to adjoining and nearby land, to the satisfaction of the Responsible Authority.
11. Boundary walls facing adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.
12. The land must be drained to the satisfaction of the Responsible Authority.
13. With the exception of guttering, rainheads and downpipes, all pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
14. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the prior written consent of the Responsible Authority.
15. Provision must be made on the land for letter boxes and receptacles for newspapers to the satisfaction of the Responsible Authority.
16. Before occupation of the development, areas set aside for the parking of vehicles and access lanes as shown on the endorsed plan(s) must be:
  - a) Constructed;
  - b) Properly formed to such levels that they can be used in accordance with the plans;
  - c) Surfaced with an all-weather sealcoat; and
  - d) Drained.

to the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose.

17. Before the development is occupied, vehicular crossing(s) must be constructed to align with approved driveways to the satisfaction of the Responsible Authority. All redundant crossing(s), crossing opening(s) or parts thereof must be removed and replaced with footpath, naturestrip and kerb and channel to the satisfaction of the Responsible Authority.
18. The study spaces of Dwellings 1, 2 and 3 must not be used as bedrooms.

## NOTATIONS

**(These notes are provided for information only and do not constitute part of this permit or conditions of this permit)**

- N1 Any failure to comply with the conditions of this permit may result in action being taken to have an Enforcement Order made against some or all persons having an interest in the land and may result in legal action or the cancellation of this permit by the Victorian Civil and Administrative Tribunal.
- N2 Nothing in the grant of this permit should be construed as granting any permission other than planning permission for the purpose described. It is the duty of the permit holder to acquaint themselves, and comply, with all other relevant legal obligations (including any obligation in relation to restrictive covenants and easements affecting the site) and to obtain other required permits, consents or approvals.
- N3 The amendments specified in Condition 1 of this Permit and any additional modifications which are “necessary or consequential” are those that will be assessed by Council when plans are lodged to satisfy that condition. Any “necessary or consequential” amendments, in addition to those required by this condition, should be specifically brought to the attention of Council for assessment.  
  
If any other modifications are proposed, application must also be made for their approval under the relevant sections of the *Planning and Environment Act 1987*. They can only be approved once the required and consequential changes have been approved and the plans endorsed. It is possible to approve such modifications without notice to other parties, but they must be of limited scope. Modifications of a more significant nature may require a new permit application.
- N4 This Planning Permit represents the Planning approval for the use and/or development of the land. This Planning Permit does not represent the approval of other departments of Darebin City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria to that adopted for the approval of this Planning Permit.
- N5 This planning permit must be attached to the “statement of matters affecting land being sold”, under section 32 of the *Sale of the Land Act 1962* and any tenancy agreement or other agreement under the *Residential Tenancies Act 1997*, for all purchasers, tenants and residents of any dwelling shown on this planning permit, and all prospective purchasers, tenants and residents of any such dwelling are to be advised that they will not be eligible for on-street parking permits pursuant to the Darebin Residential Parking Permit Scheme.

<b>Report</b>
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## INTRODUCTION AND BACKGROUND

There is no planning history for the site on Council’s records.

**ISSUES AND DISCUSSION****Subject site and surrounding area**

- The land is regular in shape and measures 18.28 metres in length and 45.97 metres in width for a total site area of 840 square metres.
- The land is located within the General Residential Zone – Schedule 2.
- The land is located on the east side of Johnson Street with Hickford Street located 130 metres to the north, Pickett Street located 190 metres to the south and Smith Street located to the east of the block to the rear of the subject site. High Street runs parallel to Johnson Street on the western side of the South Morang train line, which abuts Johnson Street to the west.
- The land is currently developed with a single storey brick veneer dwelling with a pitched, hipped tiled roof. This dwelling is set back 7.5 metres from Johnson Street, 1.2 metres from the southern boundary and is built to the boundary to the north where the existing brick garage abuts a simultaneously constructed garage. The land is not landscaped with no canopy trees or shrubs existing on the land.
- To the east of the site is the rear yard of No. 15 Smith Street. This lot is developed with a single storey dwelling with associated outbuildings. Directly abutting the rear boundary of the subject site is a shed structure and some canopy trees.
- To the west of the site is Johnson Street, beyond which is the South Morang train reserve, including land and train tracks. Further beyond this is High Street.
- To the north of the site is an existing single storey block of three (3) units. These units are set back 10.5 metres from Johnson Street and 3.4 metres from the common boundary. Two (2) vehicle crossovers access these units with a separate access-way for the front unit and a shared access-way for the rear units. Private open space abuts the common boundary.
- To the south of the site is a single storey brick veneer dwelling with a pitched, hipped tiled roof. This dwelling is set back 8 metres from Johnson Street and has a garage built to the common boundary. A bungalow and several sheds exist in the rear yard. The remainder of the open space has minimal vegetation.
- Parking along Johnston Street is unrestricted. Surrounding streets including Smith Street and Pickett Street are also unrestricted with No-Standing restrictions existing in Hickford Street to the north.
- The area is well serviced with respect to Public Transport with the South Morang train line directly opposite the site with both Ruthven and Keon Park train stations within 1 kilometre of the site. Local schools, including Reservoir Primary School and William Ruthven College are also within 1 kilometre of the site as is Broadway shopping strip.

**Proposal**

- It is proposed to construct four dwellings as follows:

Dwelling 1

- Ground floor will consist of entryway, living, meals, kitchen, laundry, toilet and study.
- Vehicle access is from Johnson Street with a separate vehicle crossover, car space and single garage.
- Upstairs will consist of three (3) bedrooms, one with an ensuite and walk-in-robe, retreat and family bathroom.

- The dwelling will have access to approximately 96 square metres of private open space of which 29 square metres is deemed to be secluded.

#### Dwelling 2 and 3

- Dwellings 2 and 3 have an identical floor plan in a reversed format.
- Each dwelling will have ground level entryway, living, meals, kitchen and toilet and access to a single car garage.
- Upstairs will consist of two (2) bedrooms, bathroom and study space.
- Each dwelling has been provided with 36 square metres of private open space of which all is deemed to be secluded.

#### Dwelling 4

- Ground floor will consist of entryway, study, two (2) bedrooms, family bathroom, living, kitchen and meals area with access to a single garage.
- The dwelling will have access to 40 square metres of private open space of which 26 square metres is deemed to be secluded.

#### **Objections**

- Eleven (11) objections have been received.

#### **Objections summarised**

- There is an oversupply of 1 and 2 bedroom apartments in Darebin and an undersupply of 3 or more bedroom separate housing for families. This development adds to the imbalance by removing a family home and adding 3 x 2 bedroom flats.
- Unit 2 has a third bedroom disguised as a 'study' without providing the appropriate parking allowance.
- Neighbourhood character – inappropriate double storey development.
- The development provides poor internal amenity with small living spaces and poor direct daylight due to a lack of windows.
- Building height/size is inappropriate/visual bulk.
- Decreased pedestrian safety.
- Parking – Traffic congestion.
- Proposed management of waste collection is inadequate and will further disrupt the amenity of the neighbourhood.
- The new crossover proposed will impact on the health of a street tree.
- Overdevelopment of the site.
- The proposed development does not add net value to the community.
- The number of objections indicates the scale of the negative social effect on the community.
- The proposed development does not meet standards set in the Darebin Planning Scheme (the Scheme).
- The proposed development will not provide affordable accommodation.

**Officer comment on summarised objections**

There is an oversupply of 1 and 2 bedroom apartments in Darebin and an undersupply of 3 or more bedroom separate housing for families. This development adds to the imbalance by removing a family home and adding 3 x 2 bedroom flats.

The proposed development provides diverse housing options with both two (2) and three (3) bedroom dwellings.

Unit 2 has a third bedroom disguised as a 'study' without providing the appropriate parking allowance.

The study could not reasonably be used as a bedroom because of its small size (2.4 metres x 1.8 metres), its location both opposite the upstairs family bathroom and staircase, where it acts more as a transition space than a room.

A condition of approval will confirm that the study spaces cannot be used as bedrooms.

**Neighbourhood character – Inappropriate double storey development**

The proposed development has been assessed against Council's neighbourhood character guidelines for precinct F7 and is shown to be compliant with all aspects contained within these guidelines. The double storey nature of the first three units is an appropriate transition in height over existing single storey dwellings.

The development provides poor internal amenity with small living spaces and poor direct daylight due to a lack of windows.

The proposed living spaces are more than adequate in size and have direct access to northern light which is the optimal arrangement with respect to the orientation of living spaces.

**Building height/size is inappropriate/visual bulk**

The proposed dwellings are to have a maximum height of 7.3 metres which is under the 9 metre maximum as required by Standard B7. Double storey construction is an acceptable design outcome in a suburban residential setting and provides an appropriate transition in height above adjoining single storey dwellings.

The size of the development is appropriate with recessed upper levels, small upper floor footprints, ample space for vegetation and a single story dwelling proposed in the rear yard realm.

The proposal is not considered bulky to the street or adjoining lots with generous setbacks provided from the property boundaries, combined with varied materials and modest wall heights (approximately 5.7 metres). See Standard B9 in this report for further assessment on building height.

**Decreased pedestrian safety**

The proposed development is not considered to increase the risk of pedestrian accidents as pedestrian visibility splays have been shown on the plans.

Parking – Traffic congestion

The increase in traffic movements in the street, arising from three (3) additional dwellings is considered to be an increment that will not affect local traffic conditions. The development provides the requisite number of car spaces on site for the number of bedrooms each dwelling has. This complies numerically with the Scheme under Clause 52.06. Furthermore, Johnson Street is only developed on one side, therefore parking is not an issue.

Proposed management of waste collection is inadequate and will further disrupt the amenity of the neighbourhood.

Waste management will be undertaken by Council to Council requirements with ample space on the nature strip for the collection of bins.

The new crossover proposed will impact on the health of a street tree.

The nature strip tree will not be impacted upon provided tree protection fencing is installed around the trunk of this tree at a radius of 5.4 metres and that all proposed works in the Tree Protection Zone (TPZ) are supervised by a qualified arborist.

Overdevelopment of the site

The site is of medium size, well proportioned (with an overall site area of 840 square metres) and located in the General Residential Zone Schedule 2 where residential development at a range of densities and varieties is allowed.

The consideration of a medium density development is based on its compliance with a set of criteria outlined in the Scheme and not based on a subjective concern of 'too many units'. In fact, the Victorian State Government has a clear policy on urban consolidation which is heavily dependent on medium density housing development.

The proposal will provide diverse housing in an area that is serviced and close to the central business district (CBD). The composition of housing types should be mixed to provide greater choice, as not everyone can afford or wants to live in a freestanding home or maintain a yard.

The proposed development does not add net value to the community

There have been no demonstrated dis-benefits associated with the development. The proposal provides dwellings resulting in community benefit. This ground is clearly contrary to the objectives of planning in Victoria.

In *Backman and Company Pty Ltd v Boroondara City Council* the following was noted:

*33. As I have highlighted, parties seeking to rely on Sections 60(1B) and 84(2)(jb) of the Planning and Environment Act face a significant task in order to substantiate a significant social effect in relation to a housing proposal on residentially zoned land. That significant task extends much further than just garnering a significant level of opposition to a proposed development. Firstly, parties alleging a significant social effect have to ascertain what the actual significant social effect is, in the framework of a zoning regime where one does not need a permit to use residentially zoned land for residential purposes. The mere identification of significant community opposition to a proposal is not a significant social effect of itself.*



*Secondly, the significant social effect will need to be sufficiently documented with evidentiary material to demonstrate the likelihood, probability and severity of the social effect. The identification of a social effect is not sufficient, as it also needs to be demonstrated that the social effect will be significant. Thirdly, as identified in the Rutherford decision, it will need to be demonstrated that any significant social effect outweighs any social benefits that might result from a balanced assessment of a development proposal.*

The number of objections indicates the scale of the negative social effect on the community

The number of objections does not indicate whether a development will have a negative social effect on the community. Non-compliance with the Scheme would indicate this. Conversely, the proposed development complies with most elements of Clause 55 and other relevant policy contained within the Scheme.

The proposed development does not meet standards set in the Darebin Planning Scheme

The proposed development complies with most elements of Clause 55 of the Scheme and is considered appropriate within the context of the streetscape.

The proposed development will not provide affordable accommodation

The cost of housing is determined by the residential market. This proposal provides housing choice.

## PLANNING ASSESSMENT

### Clause 21.03 Housing

- The site and wider area has been identified as one for incremental change, where a moderate level of development over time is permitted. The land is well located with respect to schools, shops and public transport all within a 1 kilometre radius of the site.
- The wider area is starting to exhibit a modest degree of residential infill development, evidenced at No's. 11, 10, 7, 5 and 4 Johnston Street.

### Neighbourhood Character Precinct Guideline Assessment - Precinct F7

#### Vegetation

- There are no trees on-site worthy of retention or require planning permission for removal.
- A condition of approval will require the provision of five (5) canopy trees of varying size. These additional canopy trees will enhance the garden landscape of the wider area.

### Complies subject to condition

#### Siting

- The proposed front garden to Johnson Street is large enough for the planting of vegetation to enable the continuation of the garden setting in this area. The proposal allows sufficient space along the property boundaries to plant canopy trees to soften the development.
- Dwelling 1 is set back between 6.7 and 7 metres from the front boundary which provides a generous space for larger scale vegetation to the street.

- The positioning of garage 1 on the northern boundary is acceptable in this instance because it abuts a simultaneously constructed boundary wall at 10 Johnson Street. The location of the proposed garage also matches the location of the existing garage associated with the original house.
- The proposed garage does not dominate the front setback as it is located to the side of the dwelling and recessed from the front porch, while car parking for the rear units is to the rear of the site and out of immediate site.

### **Complies**

#### Height and building form

- The proposed development is double storey. The overall height of the development is 7.3 metres which is below the 9 metre maximum allowed by the standard.
- The proposed development provides an appropriate transition in height over neighbouring single storey developments.

### **Complies**

#### Materials and design detail

- The modest design approach adopted here respects both the existing and preferred neighbourhood character of the area and is considered appropriate.
- The use of varying materials and wall surfaces (brick, render, horizontal board cladding, and concrete roof tiles) window openings and a combination of pitched and parapet walls, ensures the proposed building is articulated.
- A schedule of materials and colours would need to be submitted as a condition of approval.

### **Complies subject to condition**

#### Front boundary treatment

- A 1.5 metre high front fence is proposed 2.3 metres into the frontage. This isn't desirable and a condition of approval will require that the height of the fence is lowered to 1.2 metres to ensure views are maintained between the streetscape and the dwelling.
- The fence material must also be amended from brick to timber in line with comments contained within the Arborist Report, prepared by Tree Radar and received by Council on the 3 March 2016, to protect the health of the street tree.

### **Complies subject to condition**

### **Clause 55 Assessment**

The following sections provide discussion on fundamental areas of Clause 55 including variations of standards and matters informing conditions of the recommendation above.

#### Clause 55.02-4 B4 Infrastructure

- The development is to be located in an established area where there is adequate infrastructure. The proposal will not exceed the capacity of local infrastructure.

- The Capital Works Unit has commented that drainage is available to the site subject to conditions.

**Complies subject to condition**Clause 55.03-1 B6 Street Setback

- The front setback of the adjoining dwellings is 10.5 metres and 8 metres. The standard therefore requires a setback of 8.25 metres.
- The proposed front setback of 8.45 metres complies with the standard.
- Dwelling 1's proposed front porch, with a maximum height of approximately 3.3 metres and a 1.6 metre encroachment also complies with the standard and is deemed acceptable, providing an appropriate sense of address.

**Complies**Clause 55.03-5 B10 Energy Efficiency

The proposal is considered to be generally energy efficient due to the following:

- Attached construction.
- Cross ventilation is available in the design.
- The development does not unreasonably affect the solar access and energy efficiency of neighbouring dwellings.
- Open space and living areas with access to north light.
- Space for outdoor clothes drying facilities.
- Use of eaves.
- A condition of approval will require that all east and west facing habitable room windows have retractable shading devices and that all north facing windows are provided with fixed awnings, where they are not directly below an eave or canopy.

**Complies subject to condition**Clause 55.03-8 B13 Landscaping

- The surrounding landscape character is generally semi mature and informal with large open spaces and spacious setbacks.
- The open spaces and setbacks are generally large enough to provide sufficient landscaping.
- A detailed landscape plan will be required as a condition of any approval along with the inclusion of a minimum of five (5) canopy trees varying between small and medium size.

**Complies subject to condition**Clause 55.03-9 B14 Access

- Vehicle access to and from the site is safe, manageable and convenient. The two (2) vehicle crossovers are acceptable in this instance because other examples exist along the streetscape at No. 10, 7 and 4 Johnson Street, Reservoir.
- The width of each access-way is 3 metres.

- The two (2) crossovers to the street, taking up 32% of the frontage, is acceptable given that the standard requires that no more than 33% of the frontage should be taken up by vehicle access-ways.
- Cars associated with dwelling 1 will reverse onto Johnson Street, while cars associated with Dwelling 2 to 4 can exit in a forwards direction. This is acceptable with many cars associated with single dwellings needing to reverse onto the street.

**Complies**

Clause 55.03-10 B15 Parking Location

- Parking facilities will be proximate to the dwellings they serve.
- The proposed garages are an adequately secure form of parking.
- The access is observable.
- The south-facing habitable room windows of Dwellings 1, 2 and 3 are set back from the access-way by 1 metre, however they do not have sills that are at least 1.4 metres high above the access-way. As such a condition of approval will require that these windows are treated with thick glazing to ensure the rooms are not impacted by vehicular use of the access-way.

**Complies subject to condition**

Clause 55.04-1 B17 Side and Rear Setbacks

Ground floor

<b>Boundary</b>	<b>Wall height</b>	<b>Required Setback</b>	<b>Proposed setback</b>
Northern – Dwelling 1	See assessment under Standard B18	N/A	N/A
Northern – Dwelling 2 and 3	See assessment below		3.88 metres
Northern - Dwelling 4	3.2 metres	1 metre	3 metres
Eastern – Dwelling 4	3.2 metres	1 metre	1.1 metre
Southern – Dwellings 1, 2 and 3	See assessment below		

First Floor

<b>Boundary</b>	<b>Wall height</b>	<b>Required Setback</b>	<b>Proposed setback</b>
Northern – Dwelling 1	6.28 metres	1.8 metres	3.59 metres
Northern – Dwelling 2 and 3	5.7 metres	1.63 metres	4.39 and 4.38 metres
Southern - Dwelling 1	5.7 metres	1.63 metres	3.9 and 4.6 metres
Dwellings – 2 and 3	5.7 metres	1.63 metres	3.9 and 5.4 metres

The ground and first floor setbacks exceed the minimum numerical requirements under the standard.

**Complies**

Clause 55.04-6 B22 Overlooking

- The proposed dwellings at ground level have finished floor levels (FFL) less than 0.8m above natural ground level (NGL) at the boundary. Existing 1.8 metre high boundary fences on the northern and eastern property boundaries, will sufficiently limit overlooking into these interfaces, however the existing 1.75 metre high timber paling fence along the southern boundary will need to be increased to 1.8 metres high above NGL.
- A notation must also be added to the plans to state that the north facing decks will have FFL's matching the dwellings.
- The development is designed to limit views into neighbouring secluded private open space and habitable room windows.
- All upper storey windows are appropriately designed and/or screened to ensure no overlooking of adjoining areas of SPOS provided that a dimension is added to the plans between the FFL and the sill height of bedroom 2 of Dwelling 1.

**Complies subject to condition**

Clause 55.04-7 B23 Internal Views

- Measures outlined under Standard B22 to screen views of adjoining properties also minimise internal views from upper levels.
- The development is designed to limit views into the SPOS and habitable room windows of dwellings and residential buildings within the development provided a notation is added to the plans stating that fencing between the SPOS is a minimum of 1.8 metres high above NGL.

**Complies subject to condition**

Clause 55.05-4 B28 Private Open Space

- The development provides adequate private open space (POS) for the reasonable recreation and service needs of residents.
- The standard requires the provision of a minimum of 40 square metres of POS, of which a minimum area of 25 square metres is deemed secluded, located from a living room with a minimum dimension of 3 metres and conveniently accessed from a living room.

	<b>Total POS</b>	<b>Secluded POS</b>	<b>Minimum dimension of secluded POS</b>
Dwelling 1	96 square metres	29 square metres	3.8 metres
Dwelling 2 and 3	36 square metres*	36 square meters	3.8 metres
Dwelling 4	40 square metres	27 square metres	3 metres

\* The depth of the POS of dwelling 2 and 3 is not scaling correctly. The depth appears greater than what the 3.88 metre dimension suggests. A condition of approval will require that these areas are a minimum of 40 square metres.

- All secluded private open space areas have direct access to a living room.

**Complies subject to condition**

Clause 55.06-2 B32 Front Fences

- A 1.5 metre high front fence is proposed 2.3 metres into the frontage. This isn't desirable and a condition of approval will require that the height of the fence is lowered to 1.2 metres to ensure views are maintained between the streetscape and the dwelling.
- The fence material must also be amended from brick to timber in line with comments contained within the Arborist Report, prepared by Tree Radar and received by Council on the 3 March 2016, to protect the health of the street tree.

**Complies subject to condition**Clause 55.06-1 B31 Design Detail

- The design detail of the development respects the existing and preferred neighbourhood character through: façade articulation; window and door proportions; roof form; verandah treatment; eave widths and parapets.
- In addition the garages are designed to be visually compatible with the development.
- A materials, finishes and colour schedule will be required as a condition of approval.

**Complies subject to condition**Clause 55.06-2 B32 Front Fences

A 1.5 metre high front fence is proposed 2.3 metres into the frontage. This isn't desirable and a condition of approval will require that the height of the fence is lowered to 1.2 metres to ensure views are maintained between the streetscape and the dwelling.

**Complies subject to condition****Clause 52.06 Car Parking**Number of Parking Spaces Required

One (1) car parking space is provided for each of the two bedroom dwellings and two (2) car parking spaces are provided for the three bedroom dwelling with one space under cover.

Design Standards for Car parking

- The car parking spaces, garages and the access-ways have appropriate dimension to enable efficient use and management.
- The car parking facilities are designed, surfaced and graded to reduce run-off and allow stormwater to drain into the site.
- The studies of Dwellings 1, 2 and 3 cannot reasonably be used as a bedroom, because of their small size and location opposite stairways and the like where they act more as a transition space than a room.
- Garage dimensions of 6 metres long x 3.5 metres wide comply with the minimum requirements of the standard.
- Access dimensions to the car spaces comply with the standard.
- Visibility splays have been shown on the plans.

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**CLAUSE 55 COMPLIANCE SUMMARY**

Clause	Std		Compliance	
			Std	Obj
<b>55.02-1</b>	<b>B1</b>	<b>Neighbourhood character</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.02-2</b>	<b>B2</b>	<b>Residential policy</b>		
		The proposal complies with the relevant residential policies outlined in the Darebin Planning Scheme.	Y	Y
<b>55.02-3</b>	<b>B3</b>	<b>Dwelling diversity</b>		
		N/A as development contains less than 10 dwellings	N/A	N/A
<b>55.02-4</b>	<b>B4</b>	<b>Infrastructure</b>		
		Adequate infrastructure exists to support new development	Y	Y
<b>55.02-5</b>	<b>B5</b>	<b>Integration with the street</b>		
		Dwelling 1 appropriately integrates with the Street.	Y	Y
<b>55.03-1</b>	<b>B6</b>	<b>Street setback</b>		
		The required setback is 8.25 metres, and dwelling 1 is set back 8.4 metres from the street frontage.	Y	Y
<b>55.03-2</b>	<b>B7</b>	<b>Building height</b>		
		7.3 metres	Y	Y
<b>55.03-3</b>	<b>B8</b>	<b>Site coverage</b>		
		48%	Y	Y
<b>55.03-4</b>	<b>B9</b>	<b>Permeability</b>		
		31%	Y	Y
<b>55.03-5</b>	<b>B10</b>	<b>Energy efficiency</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.03-6</b>	<b>B11</b>	<b>Open space</b>		
		N/A as the site does not abut public open space.	Y	Y
<b>55.03-7</b>	<b>B12</b>	<b>Safety</b>		
		The proposed development is secure and the creation of unsafe spaces has been avoided.	Y	Y
<b>55.03-8</b>	<b>B13</b>	<b>Landscaping</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.03-9</b>	<b>B14</b>	<b>Access</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.03-10</b>	<b>B15</b>	<b>Parking location</b>		
		Please see assessment in the body of this report.	N	Y

Clause	Std		Compliance	
			Std	Obj
<b>55.04-1</b>	<b>B17</b>	<b>Side and rear setbacks</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.04-2</b>	<b>B18</b>	<b>Walls on boundaries</b>		
		Walls on boundaries comply with the requirements of this standard. Please see assessment in the body of this report.	Y	Y
<b>55.04-3</b>	<b>B19</b>	<b>Daylight to existing windows</b>		
		Sufficient setbacks exist to allow adequate daylight to existing habitable room windows.	Y	Y
<b>55.04-4</b>	<b>B20</b>	<b>North-facing windows</b>		
		There are no north facing windows within 3 metres of the common boundary with the subject site.	Y	Y
<b>55.04-5</b>	<b>B21</b>	<b>Overshadowing open space</b>		
		Shadow cast by the development is within the parameters set out by the standard.	Y	Y
<b>55.04-6</b>	<b>B22</b>	<b>Overlooking</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.04-7</b>	<b>B23</b>	<b>Internal views</b>		
		Please see assessment in the body of this report.	Y/N	Y/N
<b>55.04-8</b>	<b>B24</b>	<b>Noise impacts</b>		
		Noise impacts are consistent with those in a residential zone.	Y/N	Y/N
<b>55.05-1</b>	<b>B25</b>	<b>Accessibility</b>		
		The ground levels of the proposal can be made accessible for people with limited mobility.	Y/N	Y/N
<b>55.05-2</b>	<b>B26</b>	<b>Dwelling entry</b>		
		Entries to the dwellings are identifiable and provide an adequate area for transition.	Y	Y
<b>55.05-3</b>	<b>B27</b>	<b>Daylight to new windows</b>		
		Adequate setbacks are proposed to allow appropriate daylight access to new windows.	Y	Y
<b>55.05-4</b>	<b>B28</b>	<b>Private open space</b>		
		Please see assessment in the body of this report.	N	N
<b>55.05-5</b>	<b>B29</b>	<b>Solar access to open space</b>		
		Sufficient depth is provided for adequate solar access.	Y	Y
<b>55.05-6</b>	<b>B30</b>	<b>Storage</b>		
		Sufficient storage areas are provided.	Y	Y



Clause	Std		Compliance	
			Std	Obj
<b>55.06-1</b>	<b>B31</b>	<b>Design detail</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.06-2</b>	<b>B32</b>	<b>Front fences</b>		
		Please see assessment in the body of this report.	Y	Y
<b>55.06-3</b>	<b>B33</b>	<b>Common property</b>		
		Common property areas are appropriate and manageable.	Y	Y
<b>55.06-4</b>	<b>B34</b>	<b>Site services</b>		
		Sufficient areas for site services are provided.	Y	Y

**REFERRAL SUMMARY**

Department/Authority	Response
Capital Works	No objection, subject to condition included in recommendation.
Transport Management and Planning	No objection, subject to condition included in recommendation.
Darebin Parks	No objection, subject to condition included in recommendation.

**PLANNING SCHEME SUMMARY**

**Darebin Planning Scheme clauses under which a permit is required**

Zoning Controls

- The site is zoned General Residential Zone – Schedule 2. Under Clause 32.08-4 (General Residential Zone – Schedule 2) a planning permit is required to:
  - Construct two or more dwellings on a lot*

**Applicable provisions of the Darebin Planning Scheme**

Section of Scheme	Relevant Clauses
SPPF	11.02-1, 15.01-1, 15.01-5, 15.02, 16.01, 19.03-1
LPPF	21.02-3, 21.03, 21.03-2, 21.03-3, 21.03-4
Zone	32.08
Overlay	45.06*
Particular provisions	52.06, 55
General provisions	65.01
Neighbourhood Character Precinct	F7

\* Currently Council's ability to request the levy has expired as the Schedule to the Clause expired on the 30 June 2014.

**POLICY IMPLICATIONS****Environmental Sustainability**

All new dwellings are required to achieve a minimum six (6) star energy rating under the relevant building controls.

**Social Inclusion and Diversity**

Nil

**Other**

Nil

**FINANCIAL AND RESOURCE IMPLICATIONS**

There are no financial or resource implications as a result of the determination of this application.

**FUTURE ACTIONS**

Nil

**DISCLOSURE OF INTERESTS**

Section 80C of the *Local Government Act 1989* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any direct or indirect interest in a matter to which the advice relates.

The Manager authorising this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

**RELATED DOCUMENTS**

Darebin Planning Scheme and the *Planning and Environment Act (1987)* as amended.

**5.16 APPLICATION FOR PLANNING PERMIT D/187/2015**  
 305-307 Plenty Road, Preston

**AUTHOR: Principal Planner – Jolyon Boyle**

**DIRECTOR: Director Assets and Business Services – Steve Hamilton**

**OWNER/APPLICANT/CONSULTANT:**

<b>Applicant</b>	<b>Owner</b>
C. Kairouz Architects	Mr Kosmas Xanthis and Christina Xanthis

**SUMMARY:**

- It is proposed to develop a five (5) storey building (plus basement) comprising 14 dwellings. Two (2) single bedroom, seven (7) two (2) bedroom and five (5) three bedroom dwellings are proposed.
- 19 resident and 1 (one) visitor car parking space is proposed.
- The site is located within the General Residential Zone (Schedule 2).
- There is no restrictive covenant on the title for the subject land.
- 33 objections were received against this application.
- The proposal is generally consistent with the objectives and standards of Clause 22.06.
- The proposal is in accordance with Amendment C137 of the Darebin Planning Scheme, as adopted by Council, with the site located in a precinct earmarked for a 6 storey mandatory maximum height.
- It is recommended that the application be supported.

**CONSULTATION:**

- Public notice was given via a sign posted on site and letters sent to surrounding owners and occupiers.
- This application was referred internally to the Capital Works Unit, Transport Management and Planning Unit, the ESD officer and the Urban Design officer.
- This application was not required to be referred to external authorities.

**Recommendation**

**That** Planning Permit Application D/187/2015 be supported and a Notice of Decision to Grant a Permit be issued subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to, and approved by, the Responsible Authority. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application (identified as: A5, A6, A8, A9, A10, A11, A12, A13, A14, A15 and A16, dated 12 May 2016, Job No CKA14-003 prepared by C. Kairouz Architects) but modified to show:
  - a) Any modifications in accordance with the Sustainable Management Plan (Refer to Condition No. 4 of this Permit).
  - b) Any modifications in accordance with the Waste Management Plan (Refer to Condition No. 5 of this Permit). Waste collections must be limited to two (2) collections per week.
  - c) A landscape plan in accordance with Condition No. 6 of this Permit
  - d) A comprehensive schedule of external materials, colours and finishes (including colour samples). Construction materials are to be low maintenance. External materials and finishes (including glazing) are to be of a low reflectivity level. The use of painted surfaces must be minimised.

Annotated coloured elevations showing the location/application of the materials, colours and finishes must be provided.
  - e) Fixed horizontal external shading devices to all north elevation windows.
  - f) Retractable vertical external shading devices to all west elevation windows and or balconies.
  - g) The location of all plant and equipment (including air conditioners, solar panels, solar hot water systems as outlined in the Sustainable Design Assessment). These are to be screened to be minimally visible from the public and adjacent properties, located as far as practicable from site boundaries and integrated into the design of the building. Solar hot water tanks are to be flush mounted on the roof and not elevated on stands.

When approved, the plans will be endorsed and form part of this Permit.

2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
3. This Permit will expire if either:
  - The development does not start within three (3) years from the date of this Permit; or
  - The development is not completed within five (5) years of the date of this Permit.

As relevant, the Responsible Authority may extend the times referred to if a request is made in writing:

- Before this Permit expires;
- Within six (6) months after the expiry date; or
- Within twelve (12) months after the expiry date if the request relates to the completion of the development or a stage of the development.

4. Before the development starts, a Sustainable Management Plan (SMP) prepared by a suitably qualified professional, must be submitted to, and approved in writing by, the Responsible Authority.

The SMP must address the 10 key Sustainable Building Categories:

- a) Management
- b) Energy
- c) Water
- d) Stormwater
- e) IEQ
- f) Transport
- g) Waste
- h) Urban Ecology
- i) Innovation
- j) Materials

It is recommended that a Built Environment Sustainability Scorecard (BESS) or Green Star rating is included in the SMP.

Prior to the occupation of the development, a report from the author of the SMP, approved as part of this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the SMP have been implemented in accordance with the approved Plan.

5. Before the development starts, a waste management plan, to the satisfaction of the Responsible Authority, demonstrating the operation of the garbage and recyclables storage area must be submitted to the Responsible Authority.

The plan/documentation must demonstrate the means by which garbage and recyclables will be stored on the site and must clearly detail: what waste services will be provided (ie. cardboard paper plastic and metals recycling or comingled waste, general waste and even organic waste), types of bins, types of collection vehicles, frequency of collection, times of collection, location of collection point for vehicles and any other relevant matter. The plan must require that collection be undertaken by a private contractor.

Waste storage and collection must be undertaken in accordance with the approved management plan and must be conducted in such a manner as not to affect the amenity of the surrounding area and which does not cause any interference with the circulation and parking of vehicles on abutting streets.

6. Before buildings and works start, a detailed Landscape Plan to the satisfaction of the Responsible Authority must be submitted to, and approved by the Responsible Authority. When the Landscape Plan is approved, it will be endorsed and will then form part of this Permit. The Landscape Plan must be prepared by a suitably qualified person and must incorporate:

- a) Details of all existing trees to be retained and all existing trees to be removed, including overhanging trees on adjoining properties and street trees within the nature strip. The genus, species, height and spread of all trees must be specified.
- b) A planting schedule of proposed vegetation detailing the botanical name, common name, size at maturity, pot size and quantities of all plants.

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- c) A diversity of plant species and forms. All proposed planting must be to the satisfaction of the Responsible Authority.
  - d) Plants that are drought tolerant and indigenous to the area.
  - e) Where the opportunity exists, an appropriate number and size of canopy trees are to be shown within the secluded private open space areas of each dwelling and within the front setback of the property, commensurate with the size of planting area available. All canopy trees are to have a minimum height of 1.6 metres in 40 litre containers at the time of installation. Canopy trees must have the following minimum widths at maturity: small canopy (4 metres), medium canopy (6 metres), large canopy (10 metres).
  - f) Annotated graphic construction details showing all landscape applications and structures including tree and shrub planting, retaining walls and decking.
  - g) Construction details of container planting beds including drainage, irrigation, soil profiles and planting notes.
  - h) Type and details of all surfaces including lawns, mulched garden beds and permeable and/or hard paving (such as pavers, brick, gravel, asphalt and concrete) demonstrating a minimum site permeability of 20%. Percentage cover of permeable surfaces must be stated on the plan. Where paving is specified, material types and construction methods (including cross sections where appropriate) must be provided.
  - i) Hard paved surfaces at all entry points to dwellings.
  - j) All constructed items including letter boxes, garbage bin receptacles, lighting, clotheslines, tanks, outdoor storage etc.
  - k) Type and details of edge treatment between all changes in surface (e.g. grass (lawn), gravel, paving and garden beds).
  - l) An outline of the approved building/s including any basement, the location of entry doors, windows, gates and fences must be shown on the landscape plan. The location of both existing and proposed overhead and underground services. Conflicts of such services with the existing and proposed planting must be avoided.
  - m) Clear graphics identifying trees (deciduous and evergreen), shrubs, grasses/sedges, groundcovers and climbers.
  - n) Scale, north point and appropriate legend. Landscape plans are to be clear, legible and with graphics drawn to scale, and provide only relevant information.
  - o) A maintenance schedule.
7. The landscaping as shown on the endorsed Landscape Plan must be completed to the satisfaction of the Responsible Authority before the development is occupied or at such later date as is approved by the Responsible Authority in writing.
- No later than seven (7) days after the completion of the landscaping, the permit holder must advise Council, in writing, that the landscaping has been completed.
8. The landscaping as shown on the endorsed Landscape Plan must be maintained, and any dead, diseased or damaged plant replaced in accordance with the endorsed Landscape Plan to the satisfaction of the Responsible Authority.
9. Floor levels shown on the endorsed plans must be confirmed. The confirmation of the ground floor level must take place no later than at the time of the inspection of the subfloor of the development required under the *Building Act 1993* and the Building Regulations 2006.
-

This confirmation must be in the form of a report from a licensed land surveyor and must be submitted to the Responsible Authority no later than 7 days from the date of the sub-floor inspection. The upper floor levels must be confirmed before a Certificate of Occupancy is issued, by a report from a licensed land surveyor submitted to the Responsible Authority.

10. All dwellings that share dividing walls and/or floors must be constructed to limit noise transmission in accordance with Part F(5) of the Building Code of Australia.
11. Before the dwellings are occupied, an automatic external lighting system capable of illuminating the entry to each unit, access to each garage and car parking space and all pedestrian walkways must be provided on the land to the satisfaction of the Responsible Authority.

The external lighting must be designed, baffled and/or located to ensure that no loss of amenity is caused to adjoining and nearby land, to the satisfaction of the Responsible Authority.

12. Boundary walls facing adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.
13. The land must be drained to the satisfaction of the Responsible Authority.
14. With the exception of guttering, rainheads and downpipes, all pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
15. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the prior written consent of the Responsible Authority.
16. Provision must be made on the land for letter boxes and receptacles for newspapers to the satisfaction of the Responsible Authority.
17. Before occupation of the development, areas set aside for the parking of vehicles and access lanes as shown on the endorsed plan(s) must be:
  - a) Constructed;
  - b) Properly formed to such levels that they can be used in accordance with the plans;
  - c) Surfaced with an all-weather sealcoat;
  - d) Line marked and;
  - e) Drained

to the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose.

## NOTATIONS

**(These notes are provided for information only and do not constitute part of this permit or conditions of this permit)**

- N1 Any failure to comply with the conditions of this permit may result in action being taken to have an Enforcement Order made against some or all persons having an interest in the land and may result in legal action or the cancellation of this permit by the Victorian Civil and Administrative Tribunal.

N2 Nothing in the grant of this permit should be construed as granting any permission other than planning permission for the purpose described. It is the duty of the permit holder to acquaint themselves, and comply, with all other relevant legal obligations (including any obligation in relation to restrictive covenants and easements affecting the site) and to obtain other required permits, consents or approvals.

N3 The amendments specified in Condition 1 of this Permit and any additional modifications which are “necessary or consequential” are those that will be assessed by Council when plans are lodged to satisfy that condition. Any “necessary or consequential” amendments, in addition to those required by this condition, should be specifically brought to the attention of Council for assessment.

If any other modifications are proposed, application must also be made for their approval under the relevant sections of the *Planning and Environment Act 1987*. They can only be approved once the required and consequential changes have been approved and the plans endorsed.

It is possible to approve such modifications without notice to other parties, but they must be of limited scope. Modifications of a more significant nature may require a new permit application.

N4 This Planning Permit represents the Planning approval for the use and/or development of the land. This Planning Permit does not represent the approval of other departments of Darebin City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria to that adopted for the approval of this Planning Permit.

## Report

### INTRODUCTION AND BACKGROUND

The application was advertised as a five (5) building comprising 16 dwellings comprising four (4) one (1) bedroom, nine (9) two (2) bedroom and three (3) three (3) bedroom dwellings.

A Section 57A application was received on 16 May 2016 reducing the development to a five (5) storey development comprising 14 dwellings comprising two (2) single bedroom, seven (7) two (2) bedroom and five (5) three bedroom dwellings.

A planning permit was issued 22 October 2013 (D/518/2012) for the development of a three (3) storey building comprising nine (9) dwellings.

### ISSUES AND DISCUSSION

#### Subject site and surrounding area

- The land is regular in shape and measures 36.92 metres in length and 18.92 metres in width with a site area of 675 square metres.
- The site is located on the west side of Plenty Road, three (3) properties north of its intersection with Swift Street.
- Bell Street is located approximately 400m to the south, which is a main arterial road providing public bus transport.
- The Preston Activity Centre is located approximately 450m to the north-west.
- A General Residential Zone (Schedule 2) and Development Contribution Plan apply.



- Plenty Road is a Road Zone (category 1).
- A right of way (ROW) is located to the rear of the site.
- The site comprises two (2) semi-detached single storey 1930's - 40's era dwellings. Each dwelling is setback approximately 1 metre from the side boundary and approximately 7.8 metres from the Plenty Road. A shed is provided within the rear of each dwelling. A 1.7 metre timber paling fence is provided across the frontage of both dwellings.
- To the north is a double storey dwelling, with a recent double storey rear extension. The dwelling is setback 7.9 metres from the frontage. The dwelling includes a single garage fronting Plenty Road and a double garage located at the rear of the site. Both garages are sited on the common boundary. Between each garage is small courtyard which is accessible from the laundry. A bedroom window setback 2.5 metres from the common boundary also has outlook to this courtyard. A ground floor living room is provided adjacent the site's northern boundary away from the common boundary, with direct access to a rear garden, including an elevated deck. The first floor is setback 2.235 metres from the common boundary. The first floor accommodates a west facing living room with access to a west facing balcony. A bedroom and ensuite is located at the north eastern section of the first floor. Two (2) non-habitable room windows (located above the staircase) provide outlook from the first toward the subject site.
- To the east is Plenty Road. Directly opposite the site is a second hand car yard. Either side of car yard are various single storey bungalows and post war dwellings of either brick or weather construction.
- To the south is a large double story brick bungalow. The dwelling is setback seven (7) metres from the frontage. The north elevation of the dwelling is setback 3.3 to 6.7 metres from the common boundary at ground level and 6.5 to 8 metres at first floor level. A driveway is located between the north elevation and the common boundary leading to a garage located within the rear of the site and sited on the common boundary. A number of north facing windows are provided with an outlook toward the site. The rear of the site accommodates a garden.
- To the west beyond the right of way are No. 10 and 12 Swallow Street. No. 10 Swallow Street is occupied by a double storey 1960's era block of flats. The rear of the site is occupied by a concrete paved car park. No. 12 Swallow Street is occupied by two (2) single storey dwellings in a battle-axe configuration. Unit 2 is setback approximately three (3) metres from the rear boundary and provides courtyard within this setback.
- The site is well serviced by public transport with the trams available on Plenty Road and buses on Bell Street. Preston Train Station is located 800 metres to the north-west.
- On-street parking on the western side Plenty Road is subject to a 1P restriction (9:00 am to 4:00 pm Monday to Friday and 8:00 am to 12:30 pm Saturday) to the south of Swift Street. Parking is unrestricted to the north of Swift Street in the vicinity of the site. A clearway restriction is in effect between 4:30 pm and 6:30 pm Monday to Friday.

### **Proposal**

- Development of five (5) storey building (plus basement) comprising 14 dwellings. Two (2) single bedroom, seven (7) two (2) bedroom and five (5) three bedroom dwellings are proposed.
- 20 resident car parking spaces are proposed. All car parking is provided in a car stacker.
- 11 of the dwellings provide balconies with direct access to a living room.

- The three (3) ground dwellings located at the rear of the site are provided with a ground level courtyard.

**Objections**

- 33 objections received.

**Objections summarised**

- Contrary to character of the area / Conflict with Neighbourhood Character guidelines
- Too many 1 and 2 bedroom dwellings / no dwelling diversity
- Not sustainable
- Traffic impacts
- Insufficient car parking
- Overdevelopment
- Height
- Visual bulk
- Design
- Density / number of dwellings
- No net value to the community
- Family area
- Overshadowing
- Overlooking
- Site coverage
- Drainage

**Officer comment on summarised objections**Contrary to character of the area / Conflict with Neighbourhood Character Guidelines

Refer to the assessment against the 22.06 and Amendment C137.

Neighbourhood character precinct (D5 guidelines) lists a number of design guidelines that are intended to maintain the relatively low scale residential character of the wider area. An examination of these guidelines shows that they are targeted at conventional residential blocks in predominantly residential streets. These guidelines are therefore less useful to the assessment of a multi storey development. The Municipal Strategic Statement identifies this site as being included within a 'high change area' where the character of the area is proposed to change. In these locations less emphasis is placed on the need for new development to respect the built forms of existing development

Too many 1 and 2 bedroom dwellings / no dwelling diversity

Council's new Municipal Strategic Statement (MSS) sets out the key strategic planning, land use and development objectives for the municipality and the strategies and actions for achieving the objectives. Relevantly, Clause 21.02-2 sets out the following key influence with respect to population growth and change:

*"Ageing families and declining household sizes are placing pressure on housing supply as fewer people occupy more housing."*

The proposal adds further housing diversity to the area and this ground for objection is contrary to the facts and recommendations of the Darebin Housing Strategy. The Darebin Housing Strategy identifies a future supply requirement of 1 and 2 bedroom dwellings to meet the future housing demands in the City of Darebin. This development comprises fourteen (14) dwellings - two (2) single bedroom, seven (7) two (2) bedroom and five (5) three bedroom dwellings are proposed.

#### Not sustainable

The proposal has provided an appropriate ESD assessment.

#### Traffic impacts

It is considered that the proposal will not generate significant traffic. The local road network and site context within Preston Central has capacity to accommodate the additional vehicle movements associated with the development.

#### Insufficient Car Parking

The development provides sufficient on site car parking in an area well served by public transport. Refer to the Clause 52.06 assessment below.

#### Overdevelopment

The Municipal Strategic Statement and Amendment C137 identify the Plenty Road corridor including this site as a 'high change area' where the character of the area is proposed to change. In these locations less emphasis is placed on the need for new development to respect the built forms of existing development. Clause 55 requirements do not apply to this proposal.

#### Height

The five (5) storey height of the development is considered to be appropriate in the context of the site and is supported by the adopted version of amendment C137.

#### Visual bulk

The visual bulk impact of the proposal has been addressed through setbacks and complies with the planning scheme.

#### Design

The Municipal Strategic Statement and Amendment C137 identify the Plenty Road corridor including this site as a 'high change area' where the character of the area is proposed to change. In these locations less emphasis is placed on the need for new development to respect the built forms of existing development. The design, form and materials accord with the guidance contained under Amendment C137. The proposed materials arranges the street façade into a brick base, timber clad and paint-finished mid-levels with inset balconies, and a recessed top element with contrasting darker timber clad finish. The composition of the street elevation is responsive to the residential character of the street.

Density/number of dwellings

Density of the development is assessed on a quantitative assessment of the design's ability to provide for the amenity of future tenants, protect the amenity of existing tenants and respond to the attributes and constraints of the site. The number of dwellings and associated pedestrian and vehicle movements should likewise account for the site's accessibility and location. This will be elaborated upon further in this report

No net value to the community

This ground is unsubstantiated. There are no demonstrated dis-benefits associated with the development. The proposal provides dwellings resulting in community benefit. This ground is clearly contrary to the objectives of planning in Victoria.

In *Backman and Company Pty Ltd v Boroondara City Council* the following was noted:

*"33. As I have highlighted, parties seeking to rely on Sections 60(1B) and 84(2)(jb) of the Planning and Environment Act face a significant task in order to substantiate a significant social effect in relation to a housing proposal on residentially zoned land. That significant task extends much further than just garnering a significant level of opposition to a proposed development. Firstly, parties alleging a significant social effect have to ascertain what the actual significant social effect is, in the framework of a zoning regime where one does not need a permit to use residentially zoned land for residential purposes.*

*The mere identification of significant community opposition to a proposal is not a significant social effect of itself. Secondly, the significant social effect will need to be sufficiently documented with evidentiary material to demonstrate the likelihood, probability and severity of the social effect.*

*The identification of a social effect is not sufficient, as it also needs to be demonstrated that the social effect will be significant. Thirdly, as identified in the Rutherford decision, it will need to be demonstrated that any significant social effect outweighs any social benefits that might result from a balanced assessment of a development proposal."*

Family Area

Respondents have formed the view that future residents of this building would disrupt the family and village feel of the area. This view runs against the principles of social inclusion, it is baseless and cannot be given consideration as part of the planning process. This development includes five (5) three bedroom dwellings which could cater for families.

Overshadowing

The level of overshadowing is within the thresholds under Clause 55 and complies with the planning scheme.

Overlooking

All windows and balconies are design to address overlooking. Overlooking of adjacent front gardens is permitted.

Site coverage

The site coverage is 67.7% which accords with Amendment C137 which requires no more than 80% site coverage.

Drainage

Any improvements required to existing utilities and infrastructure for reason of the development will be at the responsibility of the developer. Infrastructure outside the site arising from general population growth, be that retail, transport, medical or educational will be for the responsibility of is the relevant service provider.

**PLANNING ASSESSMENT****Neighbourhood Character Precinct Guideline Assessment - Precinct D5**

Neighbourhood character precinct (D5 guidelines) lists a number of design guidelines that are intended to maintain the relatively low scale residential character of the wider area. An examination of these guidelines shows that they are targeted at conventional residential blocks in predominantly residential streets. These guidelines are therefore less useful to the assessment of a multi storey development. The Municipal Strategic Statement identifies this site as being included within a 'high change area' where the character of the area is proposed to change. In these locations less emphasis is placed on the need for new development to respect the built forms of existing development.

**State and Local Planning Policy:**

State planning policies encourage new housing, including a range of housing types, in or close to activity centres and employment corridors and at other strategic redevelopment sites that offer good access to services and transport. Ensuring new housing provides a quality living environment is a further objective of the State Planning policy provisions.

The Municipal Strategic Statement (MSS) states activity centres are the focus for achieving many directions of Plan Melbourne; and that opportunities for incorporating residential development in and around centres need to be identified and quantified.

Clause 21.04 refers to different types of activity centres. The site is not located within an activity centre, though two small local activity centres are located a short distance to the north and south at the intersection of Plenty Road and Gower Street and at the intersection of Plenty Road and Bell Street respectively. The Preston major Activity Centre is located approximately 500m to the north-west.

The Housing section of the MSS at Clause 21.03-2 identifies the site for substantial housing change. *The scale and intensity of residential growth will differ across Substantial Change Areas depending on their strategic capacity to accommodate municipal growth and future housing needs as described at Clause 21.01-6. Generally, residential growth in Darebin adheres to the following hierarchy:*

- a) *Preston Central and Northland East Preston Activity Centres*
- b) *Reservoir and Northcote Activity Centres*
- c) *Neighbourhood Centres*
- d) *Strategic Corridors including Plenty Road and St Georges Road*
- e) *Other substantial change areas as identified in the Strategic Housing Framework Plan.*

The housing provision strategies in the MSS encourage a variety of housing typologies at increased densities in substantial change areas, with the scale of development appropriate to the context identified in a structure plan or Council policy and generally in accordance with the residential growth hierarchy quoted above. The Plenty Road corridor is at the lower end of this hierarchy. This means the scale and intensity of residential growth may be less than other higher order nominated activity centres.

Objective 1 (Housing Provision) of Clause 21.03: *to facilitate housing development that has an appropriate scale and intensity in locations across the municipality.*

Strategies to achieve the objective:

- *In Substantial Housing Change Areas, encourage a variety of housing typologies at increased densities and to discourage underdevelopment, with the scale of development appropriate to precinct characteristics and context as identified by a structure plan or adopted policy of Council, and generally in accordance with the hierarchy of residential growth identified at Clause 21.03-1.*
- *Ensure that the design of development at interfaces between Substantial Change and Incremental or Minimal Change Areas, or between Incremental and Minimal Change Areas, provides a sensitive transition, with particular consideration given to: Design and layout which avoids unreasonable amenity impacts on adjoining sensitive residential interfaces due to overshadowing, loss of privacy and unreasonable visual intrusion; Site orientation, layout and topography in determining the appropriate built form envelope and in assessing the impact of proposed development on adjoining amenity*

In terms of the design, interface and quality of the internal living spaces, Objective 3 (Residential Amenity) of Clause 21.03-2 seeks to *facilitate residential and mixed use developments that display a high standard of design, limit off-site amenity impacts and provide appropriate internal amenity for residents.*

Strategies to achieve this objective are:

- *Require a high standard of design (including architectural quality and environmentally sustainable design) be achieved in residential and mixed use developments through the use of design and development overlays, urban design frameworks, development plans and local policies as appropriate.*
- *Ensure non-residential use and developments in residential zones are designed to minimise negative amenity impacts on the surrounding residential neighbourhood.*
- *Ensure mixed use developments are designed to provide adequate amenity to residences on the site, minimising the need for screening and limiting unreasonable negative amenity impacts on surrounding residential uses.*
- *Ensure that housing development within and adjoining retail and employment areas is designed to minimise the potential for conflict between commercial and residential uses, including noise and operational considerations.*
- *Support the consolidation of retail and employment activities within activity centres.*

Further guidance on the quality of new housing, particularly apartments is discussed under Initiative 2.1.5 of Plan Melbourne which contains the following objective: *improve the quality and amenity of residential apartments.*

The release of the Better Apartments Discussion Paper has drawn further attention toward the issue of internal amenity.

In regard to equitable development Clause 22.06 of the Planning Scheme requires new proposals to have regard to the development potential of adjoining sites so that equitable access direct sunlight is achieved.

**Amendment C137**

Amendment C137 to the Darebin Planning Scheme has been exhibited and considered by an independent Panel. The Panel’s recommendations have been considered and Council has adopted the Amendment with changes, including recommendations by the Panel, and submitted it to the Minister for Planning for approval in December 2015.

Of relevance to this site and this proposal, Amendment C137 proposes the application of a Residential Growth Zone (Schedule 1) and a Design and Development Overlay (Schedule 17) to manage built form outcomes along the Plenty Road corridor.

The DDO17 nominates this section of Plenty Road, including this site, for building heights of a maximum of six (6) storeys and a rear of setback of 30 degrees. It also contains requirements on site coverage, private open space, building design, ESD requirements and car parking and vehicle access requirements.

The proposal generally complies with this envelope with only eave elements and balcony screens protruding outside the envelope which are normally accepted intrusions. The proposal has applied a 45 degree rear setback envelope. The envelope adopted by Council is a 30 degree envelope however as found by recent VCAT decisions this envelope is unable to be seriously entertained as a planning policy approach.

**PLANNING ASSESSMENT**

**Clause 22.06 Multi Residential and Mixed Use Development and Amendment C137:**

Objectives:

- *To facilitate residential and mixed use development which promotes housing choice, displays a high standard of urban design, limits off-site amenity impacts, and provides appropriate on-site amenity for residents.*
- *To facilitate development that demonstrates the application of environmentally sustainable design principles.*
- *To facilitate a high quality street edge that relates to the public realm.*
- *To encourage efficient design outcomes that consider the development potential of adjoining sites.*
- *To encourage the consolidation of lots to facilitate better design and amenity outcomes for higher density development in locations where substantial housing change is directed.*

	<b>Comment</b>	<b>Compliance</b>
<b>Sustainability</b>	A Sustainability Management Plan was not submitted with the application. The final ESD credentials of the development are therefore unknown at this stage. Nonetheless the development has the potential to provide a satisfactory ESD outcome considering the attached form of construction and the proximity of the site to public transport,	Complies subject to condition

	Comment	Compliance
	shops and services. A Sustainability Management Plan is required as a condition of approval.	
<b>Design and Materials</b>	<p>The proposed materials arranges the street façade into a brick base, timber clad and paint-finished mid-levels with inset balconies, and a recessed top element with contrasting darker timber clad finish. The composition of the street elevation is responsive to the residential character of the street.</p> <p>The front of the building is arranged into a three (3) storey elevation, with the 4<sup>th</sup> and 5<sup>th</sup> levels progressively set back from the street front. A front setback of 3.5 metres is provided in accordance with the proposal DDO controls.</p> <p>Site services, such as utility meters, substations, fire booster have not been allowed for in the design. Nonetheless it is unlikely that substation or fire booster would be required for development of this scale. There is space for utility meters.</p> <p>The location of rooftop services, air conditioning, ESD measures and plant must be detailed on plan.</p> <p>The rear of the building at ground and first floor level fits within the required 3 metre and 5.5 metre setback distances from the opposite side of the ROW.</p> <p>The 2<sup>nd</sup> to 4<sup>th</sup> floor rear elevation fits within a 45 degree building envelope setback, where a rear setback of 30 degree is recommended under the proposed DDO. The varied rear upper level setback (2<sup>nd</sup> to 4<sup>th</sup> floor) are considered appropriate in the site context comprising a ROW and car park located directly west of the rear elevation.</p> <p>The setback of the proposal from the north and south boundaries is appropriate, with only minimal on boundary construction proposed. While the development will be a relatively large structure in comparison to the adjacent double storey dwellings, the site fronts a major transport corridor and is in proximity to an activity centre. The site also has strategic support for the height and scale of development proposed.</p>	Complies
<b>Building Height</b>	<p>The site is located in an area which is already identified for substantial change which through Amendment C137 is earmarked for building heights of up to six (6) storeys. The site’s area, zoning, main road frontage and proximity to public transport also lend itself to an intensive form of development.</p> <p>The proposed five (5) storey height is consistent with the future direction of the site and area as set out under Amendment C137.</p>	Complies
<b>Dwelling</b>	The development provides Two (2) single bedroom, seven	Complies



	Comment	Compliance
<b>diversity</b>	(7) two (2) bedroom and five (5) three bedroom dwellings.	
<b>Parking and vehicle access</b>	Refer to the Clause 52.06 assessment below.	Complies
<b>Street address</b>	<p>Under Amendment C137 the site is nominated to be within a Residential Growth Zone and DDO17 where setbacks to Plenty Road should be three (3) metres.</p> <p>The proposed building is setback 3.5 metres from Plenty Road.</p> <p>The residential entries either face Plenty Road or the shared pedestrian access.</p>	Complies
<b>Amenity Impacts Including Overshadowing and Overlooking</b>	<p>The submitted shadow diagrams illustrate that at least 75 per cent, or 40 square metres with a minimum dimension of 3m, whichever is the lesser area, of the secluded private open space located adjacent the site and within the General Residential Zone will receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September.</p> <p>Windows and/or balconies within 9 metres of adjacent habitable room windows and secluded private open space areas are required to be screened, subject to a condition of any permit that may issue.</p> <p>The need to screen a high proportion of the windows and balconies leads to reduction in outlook and access to daylight. This issue is discussed in further detail below.</p>	Complies
<b>On-Site Amenity and Facilities, including Private Open Space</b>	<p>Objective 3 of Clause 21.03 (Housing) is <i>to facilitate residential and mixed use developments that display a high standard of design, limit off-site amenity impacts and provide appropriate internal amenity for residents. Strategies to achieve this objective: require a high standard of design (including architectural quality and environmentally sustainable design) be achieved in residential and mixed use developments through the use of design and development overlays, urban design frameworks, development plans and local policies as appropriate.</i></p> <p>Initiative 2.1.5 of <i>Plan Melbourne</i> is <i>to improve the quality and amenity of residential apartments.</i></p> <p>All dwellings are adequately sized, with the smallest one (1) bedroom apartment at 50 square metres and the smallest two (2) bedroom apartment at 72.4 square metres. The dual aspect layout maximises sunlight access. The mix of dwellings also includes five (5) three (3) bedroom dwellings.</p> <p>There are three (3) side facing dwellings (at 1<sup>st</sup> floor level and above) which require screening. The screening measures and the depth of the balconies have been designed to maximise outlook as much as possible.</p>	Complies

	Comment	Compliance
	<p>The three (3) bedroom dwellings facing Plenty Road have access to ground level gardens facing Plenty Road, in addition to a first floor balcony with direct access from a living room.</p> <p>Daylight is provided to the communal foyers on each floor level which represents a positive ESD outcome.</p> <p>All balconies provide an area of at least 8 square metres.</p>	
<b>Waste Management</b>	<p>The design of a development of this scale should be informed by a waste management plan detailing the number and size of bins required to service the development and the times, frequency and means of waste collection.</p> <p>Waste collection must be limited to one (1) collection per week per waste stream and the size of the waste collection area must be designed to achieve this outcome.</p> <p>For a development of this scale, it would be appropriate to seek details of waste management measures via conditions of any permit that may issue.</p>	Complies subject to condition.
<b>Equitable Access</b>	<p>While the development could be retrofitted to accommodate older people and people with disabilities, the two (2)-storey height of some of dwellings, make this development a less attractive proposition for this type of housing.</p>	Complies with objective

**Amendment C137:**

Amendment C137 proposes a Design and Development Overlay (DDO) Schedule 3 to manage built form outcomes along the Plenty Road corridor. The proposed DDO nominates the site for development up to 12-storeys. It also contains requirements about setbacks, site coverage, private open space, building design, ESD requirements and car parking and vehicle access requirements.

The objectives of the proposed DDO are:

- *To encourage high quality urban redevelopment that achieves higher residential densities via lot consolidation along Plenty Road.*
- *To ensure development promotes active modes of transport and supports ongoing investment in public transport infrastructure.*
- *To ensure new development supports activating areas along Plenty Road, in particular in the Tyler Street, Summerhill and Lancaster Gate Activity Centres.*
- *To encourage commercial and residential development to improve the visual amenity of built form along Plenty Road and the adjoining public realm via high quality urban design and architecture, including the preferred retention of existing shopfront facades and the reflection of the fine-grain rhythm of traditional shopfronts and residential development in new proposals.*
- *To ensure development achieves a balance between intensification, the provision of high quality internal amenity within new developments and the consideration of off-site amenity impacts.*

- *To ensure development achieves a high quality pedestrian amenity at the interface with the public realm and promotes a safe pedestrian friendly environment.*
- *To ensure the cumulative effect of development along Plenty Road leads to the creation of high quality design outcomes, including ensuring similar future development potential and high quality design outcomes on adjoining land within the Plenty Road corridor.*
- *To encourage adaptable building layouts that can support a variety of commercial and/or residential uses over time.*
- *To ensure building design and layout achieves highly environmentally sustainable development, especially regarding water and energy efficiency.*
- *To ensure development on corner lots provides a transition in scale along the side street frontage that responds to the character of adjoining sites to the rear.*
- *To ensure a diversity of dwelling sizes and configurations with easy accessibility to public transport and commercial services.*
- *To ensure rear building setbacks are not visually dominant to adjoining residential sites and are sympathetic to the topography of the land, stepping up or down with the fall of the land. Access and Parking*
- *To encourage convenient pedestrian connectivity through strategic development sites.*
- *To ensure development provides convenient bicycle and vehicle parking and access conditions.*
- *To maximise the retention of existing on street car parking spaces where possible and avoid proliferation of vehicle crossovers, especially on to Plenty Road.*
- *To encourage development that minimises vehicle crossovers to Plenty Road and provides rear lane or side street vehicular access instead*

The DDO contains seven (7) criteria to assess multi-level and mixed use development proposals. The table below provides an assessment against those criteria.

	<b>Comment</b>	<b>Compliance</b>
<b>Minimum frontage</b>	<p>Land to be developed in a Commercial 1 Zone and Mixed Use Zone 1 should have a minimum frontage width of 20 metres. The site provides a frontage of 18.29 metres.</p> <p>The degree of non-compliance is minimal and the development is one (1) storey level below the maximum allowed height.</p>	Does not comply
<b>Building height</b>	<p><i>Any new building must not exceed the maximum height of six (6) storeys. The maximum heights cannot be varied with a permit.</i></p> <p>The proposed five (5) storey height is below this requirement.</p>	Complies
<b>Building setbacks</b>	<p><i>In a General Residential Zone 2, the front setback from Plenty Road should be 3 metres minimum for the first two storeys (inclusive).</i></p> <p>The setback of the development from Plenty Road is generally acceptable. The ground level is setback 3.6 metres, the 1<sup>st</sup> and 2<sup>nd</sup> floor are setback 2.6 metres to the edge of the balcony.</p>	Complies with objective

	Comment	Compliance
	<p>At ground level, the rear setback of a building from the boundary of an adjoining residential site must be set back by a minimum of three (3) metres (including a laneway where applicable). At first floor level, the rear setback of a building from the boundary of an adjoining residential site must be set back by a minimum of 5.5 metres (including a laneway where applicable). Any other upper levels must be set back from the boundary of an adjoining residential site so as to be contained within a 30 degree setback envelope.</p> <p>The proposal generally complies with this envelope with only eave elements and balcony screens protruding outside the envelope which are normally accepted intrusions. The proposal has applied a 45 degree rear setback envelope. The envelope adopted by Council is a 30 degree envelope however as found by recent VCAT decisions this envelope is unable to be seriously entertained as a planning policy approach.</p>	
<b>Site coverage</b>	<p>The development provides 67.7% site coverage and 15% permeability, where the 80% site and 10% site coverage are recommended under this provision.</p>	Complies
<b>Building design</b>	<p><i>The building design should achieve a regular, fine grain streetscape rhythm (especially at ground level), with wider buildings or frontages being broken into smaller vertical sections having regard to the former or prevailing development patterns. The visual interest of buildings should be derived from the articulation of the three dimensional built form. Considerations include: providing a suitable ratio of solid and void elements; providing a well-considered combination of horizontal and vertical building elements; creating visual interest through the arrangement of fenestration, balconies and the application of architectural features such as external shading devices, window sills etc.; the application of a limited palette of materials, as suited to their location on the building.</i></p> <p><i>The creation of visual interest should not be overly reliant on the complex application of a variety of materials or colours. Development should activate the public realm via passive surveillance and avoid blank walls and high solid side fences, including side street frontages.</i></p> <p>The proposed materials arranges the street façade into a brick base, timber clad and paint-finished mid-levels with inset balconies, and a recessed top element with contrasting darker timber clad finish. The composition of the street elevation is responsive to the residential character of the street.</p> <p>The front of the building is arranged into a three (3) storey elevation, with the 4<sup>th</sup> and 5<sup>th</sup> levels progressively set back from the street front. A ground level front setback of 3.5</p>	Does not comply

	Comment	Compliance
	<p>metres is provided in accordance with the proposal DDO controls.</p> <p>Site services, such as utility meters, substations, fire booster have not been allowed for in the design. Nonetheless it is unlikely that substation or fire booster would be required for development of this scale. There is space for utility meters.</p> <p>The location of rooftop services, air conditioning, ESD measures and plant must be detailed on plan.</p> <p>The rear of the building at ground and first floor level fits within the required three (3) metre and 5.5 metre setback distances from the opposite side of the ROW. The 2<sup>nd</sup> to 4<sup>th</sup> floor rear elevation fits within a 45 degree building envelope setback, where a rear setback of 30 degree is recommended under the proposed DDO. The varied rear upper level setback (2<sup>nd</sup> to 4<sup>th</sup> floor) are considered appropriate in the site context comprising a ROW and car park located directly west of the rear elevation.</p> <p>The setback of the proposal from the north and south boundaries is appropriate, with only minimal on boundary construction proposed.</p> <p>While the development will be a relatively large structure in comparison to the adjacent double storey dwellings, the site fronts a major transport corridor and is in proximity to an activity centre. The site also has strategic support for the height and scale of development proposed.</p>	
<b>Access and parking</b>	Refer to the Clause 52.06 assessment below.	Complies
<b>Advertising signs</b>	<p><i>Any signage above the ground floor level (including above verandahs, canopies etc.) is discouraged. Signs should fit within the architectural forms and be integrated with the design of the building and must not exceed or protrude above verandahs, canopies etc.</i></p> <p>This is not a relevant consideration to the application.</p>	Not applicable

**Clause 52.06 Car Parking**

Number of Parking Spaces Required

- The development comprises fourteen (14) dwellings. Two (2) single bedroom, seven (7) two (2) bedroom and five (5) three bedroom dwellings are proposed. All car parking is provided in a car stacker form. No visitor parking spaces are provided. A breakdown of the car parking required under clause 52.06 of the scheme is set out below:

Use	Ratio	Proposed spaces	Total Required
Resident Parking	1 space / 1 and 2 bedroom dwellings 3 spaces / 3 – bedroom dwelling	20	19

Use	Ratio	Proposed spaces	Total Required
Visitor parking	1 space / 5 dwellings	0	2
<b>Total</b>		<b>20</b>	<b>21</b>

- Under Clause 52.06 a permit may be granted to reduce the car parking requirement, having regard to the following relevant considerations: the availability of car parking in the locality, the availability of public transport in the locality, any empirical assessment of parking demand and any car parking deficiency or surplus associated with the existing use of the land.
- No visitor car parking is provided where two (2) spaces are recommended.
- In considering the reduction to the visitor car parking requirements, the following is noted:
  - The site has excellent access to public transport with Preston Railway Station approximately 1km from the site, tram services available on Plenty Road and bus services on Bell Street.
  - All car parking spaces are provided in a stacked arrangement. Visitor parking is not permitted within a car stacker.

It is considered reasonable to grant consent to the reduction in the parking requirements of Clause 52.06.

Design Standards for Car parking

- The car parking spaces and the access ways have appropriate dimension to enable efficient use and management.
- The car parking facilities are designed, surfaced and graded to reduce run-off and allow stormwater to drain into the site.
- Access dimensions to the car spaces comply with the standard.

**Clause 52.34 - Bicycle Parking Requirement:**

Fourteen bicycle parking spaces are provided, which exceeds the requirements of this Clause.

**Complies**

**REFERRAL SUMMARY**

Department/Authority	Response
Capital Works	No objection, subject to condition included in recommendation.
Transport Management and Planning	No objection, subject to condition included in recommendation.
Urban Design officer	No objection, subject to condition included in recommendation.
ESD officer	No objection, subject to condition included in recommendation.

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**PLANNING SCHEME SUMMARY**
**Darebin Planning Scheme clauses under which a permit is required**

- Clause 32.08 (General Residential Zone - 2) – Construction of more than one dwelling
- Clause 52.06 (Car Parking) - A reduction to the car parking requirement.

**Applicable provisions of the Darebin Planning Scheme**

Section of Scheme	Relevant Clauses
SPPF	11.02-1, 15.01-1, 15.01-5, 15.02, 16.01, 19.03-1
LPPF	21.05-1, 21.05-2, 21.05-3, 22.06
Zone	32.08
Overlay	45.06
Particular provisions	52.06, 52.34
General provisions	65.01
Neighbourhood Character Precinct	D5

**POLICY IMPLICATIONS****Environmental Sustainability**

All new dwellings are required to achieve a minimum six (6) star energy rating under the relevant building controls.

**Social Inclusion and Diversity**

Nil

**Other**

Nil

**FINANCIAL AND RESOURCE IMPLICATIONS**

There are no financial or resource implications as a result of the determination of this application.

**FUTURE ACTIONS**

Nil

**DISCLOSURE OF INTERESTS**

Section 80C of the *Local Government Act 1989* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any direct or indirect interest in a matter to which the advice relates.

The Manager authorising this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

**RELATED DOCUMENTS**

Darebin Planning Scheme and the *Planning and Environment Act (1987)* as amended.



**5.17 APPLICATION FOR PLANNING PERMIT D/374/2004/B**  
63-71 Plenty Road, Preston

**AUTHOR: Principal Planner – Jolyon Boyle**

**DIRECTOR: Director Assets and Business Services – Steve Hamilton**

**OWNER/APPLICANT/CONSULTANT:**

<b>Applicant</b>	<b>Owner</b>	<b>Consultant</b>
Crystal Matt Developments Pty Ltd	Sixty High Pty Ltd	P2 Urban Planning and Design

**SUMMARY:**

- It is proposed to develop a fourteen storey building comprising two (2) shops and 85 dwellings.
- The site is located in the Commercial 1 Zone.
- There is no restrictive covenant on the title for the subject land
- No objections were received against this application as the application was not advertised.
- The proposal fails to meet a number of objectives and standards of Clause 22.06 and Amendment C137 of the Darebin Planning Scheme.
- It is recommended that the application be refused.

**CONSULTATION:**

- Notice of the application was not given.
- This application was referred internally to Capital Works Unit, the Transport Management and Planning Unit and Urban Design officer.
- This application was not required to be referred to external authorities.

**Recommendation**

**That** Planning Permit Application D/374/2004/B be refused and Notice of Refusal be issued on the following grounds:

1. The application is contrary to the aims and objectives of the following aspects of the Planning Scheme:
  - a) 15.01 Urban Design
  - b) 16.01 Residential Development
  - c) 22.06-3.1 Sustainability
  - d) 22.06-3.2 Design and Materials
  - e) 22.06-3.2 Building height

- f) 22.06-3.4 Dwelling diversity
  - g) 22.06-3.5 Car Parking and Vehicle Access
  - h) 22.06-3.6 Street address - Mixed use developments
  - i) 22.06-3.8 Amenity impacts, including overshadowing and overlooking
  - j) 22.06-3.9 On site amenity and facilities, including private open space
  - k) 22.06-3.10 Waste Management
  - l) 52.06 Car parking
2. The development is contrary to the Higher Density Residential Development Guidelines.
  3. A high portion of the dwellings provide a poor level of internal amenity as a result of their internal layout, restricted outlook, lack of daylight and or screening measures.
  4. The development fails to adequately address ESD objectives, particularly as a high proportion of the dwellings are reliant on borrowed or artificial lighting, contrary to Clauses 15.01, 15.02 and 21.05 and 22.06 of the Darebin Planning Scheme.
  5. The following aspects of the development are contrary to Amendment C137 (DDO3): Building height, setbacks, design, street interface, internal amenity, ESD and site services.

<b>Report</b>
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## INTRODUCTION AND BACKGROUND

Council issued Planning Permit No. D/374/2004  
On 19 June 2006 for:

- Construction of an eight (8) storey building (plus basement);
- Use of the land for the purpose of 4 shops and 40 dwellings;
- Reduction of the car parking requirements; and
- Waiver of the loading bay requirement.

On 16 March 2009, the applicant submitted an Amended Permit application to increase the development intensity to:

- Construction of an 11 storey building (plus basement);
- Use of the land for the purpose of four (4) shops and 83 dwellings;
- Reduction of the car parking requirements;
- Waiver of the loading bay requirement; and
- The Amended Planning Permit was approved by Planning Committee at its meeting held 15 June 2010 and the Amended Permit was issued on 22 July 2010.

**ISSUES AND DISCUSSION****Subject site and surrounding area**

- The land is regular in shape and measures 37 metres in length and 27 metres in width with a site area of 815 square metres.
- A Commercial 1 Zone, Design and Development Overlay, Environmental Audit Overlay apply.
- Plenty Road is a Road Zone (category 2) road.
- The site is located on the west side of Plenty Road, one (1) property south of its intersection with Raglan Street.
- The land is presently vacant.
- An existing crossover provides vehicular access to Plenty Road.
- The intersection of Plenty Road, High Street and Dundas Street is located 350m to the south.
- Bell Street is located approximately 450 metres to the north, which is a main arterial road providing public bus transport.
- Tram services are available on Plenty Road.
- Bell Train Station is located 700 metres to the north-west.
- Easement A1, a 2.76 metres wide easement extends along and within the (rear) western boundary of the site (permit issued for its removal). Adjoining the easement to the north, and providing connection to Raglan Street, is a laneway / easement. The Certificate of Title for the subject land confirms that the land has a legal right of carriageway over the laneway / easement and therefore the land has access to Raglan Street.
- To the north, on the south-west corner of Plenty Road and Raglan Street is a car rental yard at 73-77 Plenty Road. Planning Permit No. D712/2003 was issued for this land on 17 November 2004. The permit authorised the construction of a six (6) storey building accommodating offices, 27 dwellings and car parking. This permit has not been acted upon and has expired.
- To the south at 60-68 High Street is former 'Standard Leather' premises. The existing building has been extended and refurbished and used for the purpose of child care centre fronting Plenty Road and a food drink premises front High Street. Offices are located at first floor level.
- Further south at 50-56 High Street is a mixed use development comprising of one (1) eight (8) storey tower and one (1) nine-storey tower accommodating various commercial uses, 113 dwellings and car parking.
- To the west at 277 Raglan Street is occupied by an eight (8) storey building accommodating offices, 51 dwellings and car parking.
- To the east of the site on the opposite (east) side of Plenty Road are residential properties in a General Residential Zone. 86-106 Plenty Road, is occupied by a five (5) and six (6) storey building comprising 108 dwellings.

**Proposal**

- Amend the design from an 11-storey building (plus basement) building to a 14-storey (plus basement) building.

- Amend the design from four (4) shops and 40 dwellings to two (2) shops and 85 dwellings.
- The development comprises 12 studio dwellings, 19 one (1)-bedroom, 24 one (1)-bedroom + plus study and 30 2 (two)-bedroom dwellings.
- One hundred and one car parking spaces are proposed. This represents a reduction to the car parking requirement.
- Car parking is provided across three (3) basement levels, the ground, first and second floor.
- One hundred and thirty five bicycle parking spaces are proposed.
- The development provides a solid four (4) storey base with punctured openings to Plenty Road. Setbacks to Plenty Road are provided at the upper levels.
- The ground floor comprises two (2) shops, entrance/foyer to the dwellings and vehicle entrance.

## PLANNING ASSESSMENT

State planning policies encourage new housing, including a range of housing types, in or close to activity centres and employment corridors and at other strategic redevelopment sites that offer good access to services and transport. Ensuring new housing provides a quality living environment is a further objective of the State Planning policy provisions.

The Municipal Strategic Statement (MSS) states activity centres are the focus for achieving many directions of Plan Melbourne; and that opportunities for incorporating residential development in and around centres need to be identified and quantified.

Clause 21.04 of the Darebin Planning Scheme refers to different types of activity centres. The site is located within the South Preston Activity centre. The Preston Major Activity Centre is located less than 1km to the north.

The Housing section of the MSS at Clause 21.03-2 of the Darebin Planning Scheme identifies the site and surrounding areas as a Strategic Re-development precinct. These are specific areas earmarked to *accommodate significant levels of new development, generally at a higher intensity and density. Strategic planning of these areas should harness the higher capacity for development and encourage new housing at a range of densities, as well as commercial and recreational uses as appropriate to service existing and emerging communities.* The Junction area is identified as a key urban renewal area transitioning from predominantly industrial land to a higher density mixed use precinct. The area is characterised by a mix of commercial, retail and industrial properties fronting Plenty Road and High Street.

Clause 21.02-3 (Built Environment) of the Darebin Planning Scheme: *The design and quality of the built environment, including buildings, public spaces, infrastructure and streetscapes plays an important role in enhancing civic pride, liveability and social connectedness, and provides opportunities for creating a more sustainable city. Good urban design acknowledges the collective impact of development both within and beyond the boundaries of individual sites and enables positive outcomes for the public realm that enhance people's wellbeing and experience of the built environment. Darebin City Council is committed to environmental sustainability and actively encourages sustainably-designed buildings that reduce energy consumption and water use, encourage recycling and sustainable transport and that use recycled and sustainable materials.*

## Key Issues

- *Achieving high-quality design in development across a variety of urban environments, including activity centres and industrial/employment precincts.*
- *Impacts of large-scale development on streetscape amenity and pedestrian experience, and increased reliance on the public realm in providing visual appeal and amenity.*
- *How design might improve the interface and interaction of new developments with the public realm (including parks and open spaces).*
- *Incorporating Environmentally Sustainable Design (ESD) principles in the design and development of built environments and strengthening requirements at planning permit stage.*
- *Striking a balance between the understandable need for businesses to advertise and community expectations for an environment devoid of unattractive visual clutter.*

Objective 1 (Urban Design Excellence) of Clause 21.02-3 of the Darebin Planning Scheme is to ensure development in Darebin exhibits good urban design and provides distinctive, attractive and engaging places in which to reside, visit or work.

## Strategies

- *Encourage high quality design and buildings that respond to characteristics of the locality.*
- *Develop and implement detailed design guidelines for areas where substantial housing change and growth is encouraged.*
- *Ensure that important public views and vistas, where identified in a strategy or guideline adopted by Council, are recognised, protected and enhanced.*
- *Apply urban design principles when developing structure plans, land use strategies, and urban design guidelines.*
- *Promote land use and development in activity centres, strategic corridors and strategic development precincts in accordance with adopted Structure Plans, precinct plans or strategies.*
- *Ensure development in activity centres, strategic corridors and strategic development precincts:*
  - *Is responsive to its environment with a high quality appearance*
  - *Promotes an urban scale and character that is appropriate to the role and function of the activity centre or strategic corridor precinct*
  - *Encourages consolidation of commercial areas along strategic corridors to create strong, vibrant hubs to serve the local community*
  - *Manages negative off-site impacts and interface issues with surrounding sensitive land uses*
  - *Promotes visual and physical improvements to the public realm*
  - *Encourages a safe and accessible environment for pedestrians, cyclists, public transport users and motorists.*

Objective 3 (Environmentally Sustainable Design) of Clause 21.02-3 of the Darebin Planning Scheme is to promote and facilitate development that incorporates best practice environmentally sustainable design and promotes sustainable living and business practices.

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## Strategies

- *Encourage the adaptive reuse of buildings to reduce the amount of waste going to landfill.*
- *Encourage the design of new and retrofitted buildings and public spaces to incorporate high standards of energy efficient design, water sensitive urban design, sustainable transportation, waste reduction and protection of biodiversity.*
- *Promote the integration of land use and sustainable transport (walking, cycling and public transport) in accordance with the strategies in Clause 21.05-1 of the Darebin Planning Scheme.*
- *Encourage best practice industrial and commercial development to minimise amenity impacts and achieve long term environmental sustainability.*
- *Encourage the preparation of Sustainable Design Assessments and Sustainability Management Plans for residential, mixed use, industrial and commercial developments as part of the planning permit approval process*

Objective 1 (Housing Provision) of Clause 21.03 of the Darebin Planning Scheme: *to facilitate housing development that has an appropriate scale and intensity in locations across the municipality.*

## Strategies to achieve the objective:

- *On Strategic Opportunity Sites, encourage housing development at increased densities and discourage underdevelopment, with the scale and style of development responsive to location and context.*

Objective 3 (Residential Amenity) of Clause 21.03-2 of the Darebin Planning Scheme is *to facilitate residential and mixed use developments that display a high standard of design, limit off-site amenity impacts and provide appropriate internal amenity for residents.*

## Strategies:

- *Require a high standard of design (including architectural quality and environmentally sustainable design) be achieved in residential and mixed use developments through the use of design and development overlays, urban design frameworks, development plans and local policies as appropriate.*
- *Ensure mixed use developments are designed to provide adequate amenity to residences on the site, minimising the need for screening and limiting unreasonable negative amenity impacts on surrounding residential uses.*
- *Ensure that housing development within and adjoining retail and employment areas is designed to minimise the potential for conflict between commercial and residential uses, including noise and operational considerations.*
- *Support the consolidation of retail and employment activities within activity centres.*

In regard to equitable development Clause 22.06 of the Planning Scheme requires new proposals to have regard to the development potential of adjoining sites so that equitable access direct sunlight is achieved.

The High Density Residential Guidelines (HDRG) provides guidance on the design of high density development of four (4) or more storeys. Amongst other matters the guidelines encourage high quality development, which takes account of internal amenity, the design and height of development and relationship of development with neighbouring sensitive interfaces.

Further guidance on the quality of new housing, particularly apartments is discussed under Initiative 2.1.5 of Plan Melbourne which contains the following objective: *improve the quality and amenity of residential apartments.*

The release of the Better Apartments Discussion Paper has drawn further attention toward the issue of internal amenity.

### **AMENDMENT C137**

Amendment C137 to the Darebin Planning Scheme has been exhibited; considered by an independent Panel; and the Panel's recommendations considered by the Council. Council has adopted the Amendment with changes, including recommendations by the Panel; and submitted it to the Minister for Planning for approval in December 2015.

It is put that Amendment C137 is a "seriously entertained planning proposal" and should be given weight in this application. Of relevance to this site and this proposal, Amendment C137 proposes to amend the existing Design and Development Overlay (Schedule 3) to manage built form outcomes along the Plenty Road corridor.

The proposed amended DDO3 nominates the area bound by High Street, Plenty Road and Raglan Street, including this site, for development of up to 12-storeys in height. It also contains requirements on site coverage, private open space, building design, ESD requirements and car parking and vehicle access requirements.

A key objective of the amended DDO3 is *to ensure development achieves a balance between intensification, the provision of high quality internal amenity within new developments and the consideration of off-site amenity impacts.*

### **PLANNING ASSESSMENT**

#### **Clause 15.01 Urban Environment Assessment**

In assessing and determining residential development applications not covered by Clause 55, regard must be had to the urban design principles of Clause 15.01 of the Darebin Planning Scheme. This Clause comprises 10 design principals which are considered below.

The objective of this Clause is *to achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties.*

#### Context

The physical context is outlined in the proceeding section of this report. Clause 22.06 and Amendment C137 to the Darebin Planning Scheme are the most considerations.

Under Clause 22.06 (Multi Residential and Mixed Use Development) of the Darebin *Planning Scheme it is policy to facilitate residential and mixed use development which promotes housing choice, displays a high standard of urban design, limits off-site amenity impacts, and provides appropriate on-site amenity for residents; to facilitate development that demonstrates the application of environmentally sustainable design principles; to facilitate a high quality street edge that relates to the public realm and; to encourage efficient design outcomes that consider the development potential of adjoining sites.*

The site enjoys State planning policy support for the type of the development proposed. However at a detailed level of the proposal fails to satisfactorily respond to local planning policy objectives and the Higher Density Residential Development Guidelines (HDRDG) in relation to the design, scale and height, internal amenity, ESD and equitable development considerations.

**Does not comply**

The public realm

Only a third of the street interface is proposed as active. With the remaining sections devoted to the vehicle access and site services. This presents a poor outcome and which is unattractive and detracts from the commercial viability of this emerging commercial precinct. Is the proposed Launderette for public or private use? It lacks visibility from the street and appears only to be accessible for residents of the building.

Car parking is proposed at the 1<sup>st</sup> and 2<sup>nd</sup> floor level, fronting the Plenty Road frontage. This prevents a visual relationship, allowing for passive surveillance between the interior and the street, at lower levels. This arrangement is exacerbated by the minimal width of active frontage at ground level.

**Does not comply**

Safety

A central entrance to the residential component is provided to Plenty Road. The visibility and sense of address provided to the residential entrance is satisfactory.

**Complies**

Landmarks, Views and Vistas

The will have an impact upon views. However there is no planning right to a view and the protection of views is not a valid planning consideration.

**Complies**

Pedestrian Spaces

Only a third of the street interface is proposed as active. With the remaining sections devoted to the vehicle access and site services. This presents a poor outcome and which is unattractive and detracts from the commercial viability of this emerging commercial precinct. Is the proposed Launderette for public or private use? It lacks visibility from the street and appears only to be accessible for residents of the building.

Car parking is proposed at the 1<sup>st</sup> and 2<sup>nd</sup> floor level, fronting the Plenty Road frontage. This prevents a visual relationship, allowing for passive surveillance between the interior and the street, at lower levels. This arrangement is exacerbated by the minimal width of active frontage at ground level.

**Does not comply**



Light and Shade

The public realm will experience of loss of light and increased shadowing as a result of development. This is to be expected as a result of the increased densities and building heights envisaged in the immediate area.

**Complies**Energy Resource and Efficiency

The application is not supported by an Environmentally Sustainable Design (ESD) assessment. The ESD credentials of the development are therefore unknown and unresolved at this stage. A complete ESD assessment is required upfront with any future planning application.

Notwithstanding this the internal amenity of a high proportion of the dwellings is substandard, which is both a liveability issue as much as it is an ESD issue. For example the provision of a high proportion of dwellings are reliant on borrowed or limited access to daylight and will only increase the need to utilise internal lighting, which presents a poor ESD outcome.

**Does not comply**Architectural quality

The height, scale and relationship of the development to adjacent sensitive interfaces represent an unsatisfactory urban design outcome. Specifically the height and setback of the development does not address the DDO controls.

**Does not comply**Landscape Architecture

The site is currently devoid of any significant trees or shrubs. The proposed development will cover the larger part of the site which is to be expected for a site in this location.

**Complies****Clause 22.01 – The Junction Local Area Plan**

## Objectives (as relevant)

- *To ensure a high standard of amenity for new residential development that incorporates noise attenuation measures to minimise the impacts of existing industrial uses.*
- *To recognise existing residential areas and to consolidate and improve the amenity of these areas and ensure new development does not unreasonably impact upon the amenity of existing residences.*
- *To promote environmentally sustainable development through the design and development of all buildings and better use of existing infrastructure.*

The internal amenity and offsite impact of the proposal, including considerations of equitable development, are poorly considered.

The application is not supported by an ESD assessment or storm report. The ESD credentials of the development including details of best practice stormwater management are unknown and unresolved at this stage.

**Clause 22.06 - Multi Residential and Mixed Use Development:**

Objectives:

- *To facilitate residential and mixed use development which promotes housing choice, displays a high standard of urban design, limits off-site amenity impacts, and provides appropriate on-site amenity for residents.*
- *To facilitate development that demonstrates the application of environmentally sustainable design principles.*
- *To facilitate a high quality street edge that relates to the public realm.*
- *To encourage efficient design outcomes that consider the development potential of adjoining sites.*
- *To encourage the consolidation of lots to facilitate better design and amenity outcomes for higher density development in locations where substantial housing change is directed*

	<b>Comment</b>	<b>Compliance</b>
<b>Sustainability</b>	<p>A Sustainability Management Plan was not submitted with the application. The ESD credentials of the development are therefore unknown at this stage.</p> <p>The internal amenity of a high proportion of the dwellings is substandard, which is both an internal amenity issue as much as it is an ESD issue. For example a high proportion of the dwellings are reliant on borrowed daylight to a bedroom, which increases reliance on artificial lighting. The single aspect north facing dwellings raises issues of outlook and access to daylight in the likely event that the neighbouring property is redeveloped to a similar scale.</p>	Does not comply
<b>Design and Materials</b>	<p><i>High quality design and finishes for multi-level development are required. Development should provide a strong relation to the pedestrian environment in the public realm. Development facades facing public spaces and internal passage ways should be activated via passive surveillance. Development should seek to retain development potential of adjoining sites so that equitable access direct sunlight is achieved. Site services, such as utility meters, substations, fire booster and the like should be located and designed to minimise visibility from public spaces, especially the main street frontage.</i></p> <p>Only a third of the street interface is proposed as active. With the remaining sections devoted to the vehicle access and site services. This presents a poor outcome and which is unattractive and detracts from the commercial viability of this emerging commercial precinct. Is the proposed Launderette for public or private use? It lacks visibility from the street and appears only to be accessible for residents</p>	Complies

	Comment	Compliance
	<p>of the building.</p> <p>Car parking is proposed at the 1<sup>st</sup> and 2<sup>nd</sup> floor level, fronting the Plenty Road frontage. This prevents a visual relationship, allowing for passive surveillance between the interior and the street, at lower levels. This arrangement is exacerbated by the minimal width of active frontage at ground level.</p> <p>The siting and relationship of the proposal with the adjacent property to the north is inappropriate. This is in relation to the current state of the adjacent site and also the impact of the proposal upon any future development on the adjacent site. An objective of Clause 22.06 of the Darebin Planning Scheme is to orientate <i>building mass towards the street frontage, reducing the impact of visual bulk towards the rear of the lot and maximising the potential for street-facing dwellings (while avoiding side facing dwellings)</i>. A further objective of this Clause is to <i>retain development potential of adjoining sites so that equitable access direct sunlight is achieved</i>. Objectives of the proposed DDO controls also <i>encourage building design that achieves front and rear facing dwellings to reduce the reliance on side boundary facing light courts. Further objective of the DDO are: to ensure the cumulative effect of development along Plenty Road leads to the creation of high quality design outcomes, including ensuring similar future development potential and high quality design outcomes on adjoining land within the Plenty Road corridor and; to ensure development achieves a balance between intensification, the provision of high quality internal amenity within new developments and the consideration of off-site amenity impacts.</i></p> <p>Several Tribunal decisions have provided detailed accounts on matters of internal amenity and equitable development rights. This report has regard to the principles highlighted by the Tribunal in relation to these issues.</p> <p>The siting of the balconies and windows means that the outlook from these spaces is reliant on the adjacent land remaining in a relatively under-developed state. This is unreasonable and results in situation where any neighbouring development would be forced to provide reasonably substantial setbacks from the common boundary to ensure a reasonable level of outlook and access to daylight is maintained from these balconies and windows.</p> <p>At 14 storeys, this proposal exceeds the maximum height given in DDO3 of 12 storeys (38m), and should be reduced to comply. Note that the maximum height applies across the entire site above existing natural ground level.</p> <p>The rear elevation above the 3<sup>rd</sup> floor level rises a further</p>	

	Comment	Compliance
	nine (9) levels, without further setback. To the rear (west elevation), at No. 277 Raglan Street, an existing apartment building also rises without further setbacks for six (6) levels. Balconies between the proposal and No. 277 Raglan Street are separated by only five (5) metres across the common site boundary which raises issues privacy, noise, visual bulk and loss of light. Given that dwellings along this interface have single-aspect layouts, adequate building separation should be provided from development on the adjacent site to allow for adequate privacy, to be achieved without relying on screening measures that would restrict outlook.	
<b>Building Height</b>	<p>The site is located in an area which is earmarked for substantial change in accordance with Amendment C137, including development of up to 12-storeys. The site's area, zoning, main road frontage and proximity to public transport also lend itself to an intensive form of development.</p> <p>The previously amendment to the planning permit facilitated the development of an 11-storey building comprising 84 dwellings and four (4) shops.</p> <p>The proposed 11-storey height is consistent with the future direction of the site and area as set out under Amendment C137. The proposed 14-storey height is inconsistent with future direction of the site and area identified under Amendment C137. The height is also inconsistent with the surrounding built form, include the existing eight (8)-storey apartment located immediately west of the site.</p>	Complies
<b>Dwelling diversity</b>	<p><i>To provide a range of dwelling sizes and types, including 3 bedroom units.</i></p> <p>The development provides 12 studio dwellings, 19 one (1) bedroom, 24 one (1) bedroom + plus study and 30 two (2) bedroom dwellings.</p> <p>The development provides some level of diversity, but no three (3) bedroom dwellings are provided</p>	Does not comply
<b>Parking and vehicle access</b>	Refer to the Clause 52.06 assessment below.	Does not comply
<b>Street address</b>	<p><i>Development should provide for an active frontage to the footpath through the inclusion of generous glazing, openings or other design techniques that promote visibility and accessibility between the footpath and the building.</i></p> <p>Only a third of the street interface is proposed as active. With the remaining sections devoted to the vehicle access and site services. This presents a poor outcome and which is unattractive and detracts from the commercial viability of this emerging commercial precinct. Is the proposed Launderette for public or private use? It lacks visibility from the street and appears only to be accessible for residents</p>	Does not comply

	Comment	Compliance
	<p>of the building.</p> <p>Car parking is proposed at the 1<sup>st</sup> and 2<sup>nd</sup> floor level, fronting the Plenty Road frontage. This prevents a visual relationship, allowing for passive surveillance between the interior and the street, at lower levels. This arrangement is exacerbated by the minimal width of active frontage at ground level.</p>	
<p><b>Amenity Impacts Including Overshadowing and Overlooking</b></p>	<p><i>The design of any privacy screening should strike a balance between preventing overlooking of existing secluded private open spaces and providing a high level of internal amenity for new dwellings.</i></p> <p>The rear elevation above the 3<sup>rd</sup> floor level rises a further (9) levels, without further setback. The rear elevation rise above 3<sup>rd</sup> level, for 15 levels, without further setback. To the rear (west elevation), at No. 277 Raglan Street, an existing apartment building also rises without further setbacks for eight (8) levels. Given that dwellings along this interface have single-aspect layouts, adequate building separation should be provided from development on the adjacent site to allow for privacy to be achieved without relying on tall screening that would restrict outlook. Balconies between the proposal and No. 277 Raglan Street are separated by only five (5) metres across the common site boundary and raises issues privacy, noise, visual bulk and loss of light.</p>	<p>Does not comply</p>
<p><b>On-Site Amenity and Facilities, including Private Open Space</b></p>	<p><i>Where single aspect south facing apartments cannot be avoided, light wells should be incorporated to introduce direct natural light into habitable rooms; windows to apartments with a single outlook must be clear to the sky, and should not be overhung with balconies or other protruding structure, unless the overhang is designed to provide a shading function and avoid excess heat gain and; Bedrooms that rely upon borrowed light, including 'battle axe' bedrooms, should be avoided. In larger residential developments, communal open spaces should be provided to allow for recreational uses such as a garden, courtyard, tables and seating, BBQ facilities and utility uses such as open air clothes drying.</i></p> <p>Objective 3 of Clause 21.03 (Housing) is to facilitate residential and mixed use developments that display a high standard of design, limit off-site amenity impacts and provide appropriate internal amenity for residents. Strategies to achieve this objective: require a high standard of design (including architectural quality and environmentally sustainable design) be achieved in residential and mixed use developments through the use of design and development overlays, urban design frameworks, development plans and local policies as appropriate.</p>	<p>Does not comply</p>

	Comment	Compliance
	<p>Objective 5.4 of the High Density Residential Development Guidelines (HDRG) is <i>to ensure that a good standard of natural lighting and ventilation is provided to internal building spaces</i>. Design suggestion 5.4.1 is <i>to provide direct light and air to all rooms wherever possible</i>.</p> <p><i>Encourage direct natural light and ventilation to all habitable rooms – living rooms, bedrooms, studies – in the form of operable windows. The ‘borrowing’ of light and air should be avoided, particularly in ventilating bedrooms, although this may not always be possible, when reusing existing buildings. Where light is borrowed from another room, ideally it should be taken from the principal living area rather than from corridors or other bedrooms.</i></p> <p>Initiative 2.1.5 of <i>Plan Melbourne</i> is <i>to improve the quality and amenity of residential apartments</i>.</p> <p>A number of bedrooms are reliant on borrowed light. A further nine (9) bedrooms provide a battle-axe configuration. 46 bedrooms located adjacent north and south boundary are reliant on daylight from a light court providing a depth of 1m (decreased from 1.5m). Such small light-courts do not sufficiently protect the development against the impact of any similar on boundary development to the north and south.</p> <p>At 6<sup>th</sup> – 10<sup>th</sup> floor level, L602/3/6/7, L702/3/6/7, L802/3/6/7, L902/36/7, L102/3/6/7 have internally located spaces, with the dimensions of bedrooms that could function as Study/Offices, and are without access to daylight or natural ventilation.</p> <p>At 9<sup>th</sup> and 10<sup>th</sup> floor level, L901 and L101 proposes all bedrooms to be lit from an internal light-court that scales at only 1.5m width.</p> <p>While it is not always possible to provide optimal, layouts, solar access, outlook and internal noise environments for all dwellings within a development. In this case the size and width of the land provides ample scope for a design where the dwellings provide a good quality internal living environment, without negatively impacting the amenity and development potential of adjacent land. The fact that this has not been achieved is key sign that proposal is an over development of the land.</p> <p>A design on land of this size should also avoid the need to provide screening measures to such a high proportion of the dwellings and avoid overhanging structures.</p> <p>Objective 2.6 of the GHDRD is <i>to ensure areas can develop with an equitable access to outlook and sunlight</i>. Design suggestion 2.6.1: is <i>to consider the possible future development of adjoining sites and allow, as best as possible, or an equitable spread of development potential throughout the area</i>.</p>	

	Comment	Compliance
	<p>All five (5) north facing mid-block dwellings located at the 4<sup>th</sup> to 8<sup>th</sup> floor level provide a design including windows and balconies adjacent the north boundary. The balconies serving these dwellings are located on boundary. The outlook from these windows and balconies are reliant on the adjacent site remaining in its underdeveloped state in order to maintain a reasonable degree of light and outlook. In the likely event that the site to the north is redeveloped, the level of daylight and outlook that these dwellings will experience will diminish significantly, resulting in a poor level of internal amenity. Contributing to this concern is that the balconies are arranged directly one above the other, thereby limiting daylight penetration. This combined with the small size of the balcony spaces (7 square metres) results in a substandard level of internal amenity.</p> <p>The provision of north facing dwellings in proximity to the north boundary will reduce the development potential of the adjoining property. In particular, the daylight and sunlight into these balcony spaces as well as the outlook from the dwellings would be compromised if a boundary wall were to be constructed as part of the redevelopment of the property to the north. Providing balconies on or near the north boundary, would force any neighbouring development to setback from the common boundary detrimental to the development potential of that site.</p> <p>The provision of north facing dwellings is inconsistent with the ruling made by the Tribunal in respect to application D/660/2007 (3-15 High Street Preston) where the Tribunal formed the view that the placement of balconies on the north side of the building was not appropriate as the amenity of these spaces would be compromised by any future development on the adjoining property. It was also considered that these balconies could prejudice the development potential of the neighbouring site. The Tribunal concluded that a re-design of the affected dwellings was warranted and stated that consideration should be given to orienting the balconies in a westerly direction.</p> <p>Any future development of this site should avoid mid-block dwellings which face only north or south.</p>	
<p><b>Waste Management</b></p>	<p>The design of a development of this scale should be informed by a waste management plan detailing the number and size of bins required to service the development and the times, frequency and means of waste collection.</p> <p>Waste collection must be limited to one (1) collection per week per waste stream and the size of the waste collection area must be designed to achieve this outcome.</p> <p>For a development of this scale, it would be appropriate to seek details of waste management measures prior to</p>	<p>Does not comply.</p>

	Comment	Compliance
	issuing a permit.	
<b>Equitable Access</b>	✓ The development could be retrofitted to accommodate people with disabilities.	Complies

**Clause 52.06 Car Parking Assessment**

Number of Parking Spaces Required

- The development comprises 85 dwellings (12 studio dwellings, 19 1-bedroom, 24 1-bedroom + plus study and 30 2-bedroom dwellings) and two (2) commercial spaces (café and laundry) totally 111m<sup>2</sup> in area.
- A total of 101 spaces are provided across two basement levels, ground, 1st and 2nd floor level.
- A breakdown of the car parking required under Clause 52.06 of the scheme is set out below:

Use	Required Rate	Parking Provided	Requirement
85 dwellings	1 / 1 or 2 bedroom dwelling, plus 2 spaces / 3 or more bedroom dwelling	85	85
Visitor parking	1 visitor space / 5 dwellings	14	17
Food and drink	4 spaces / 100m <sup>2</sup> leasable floor area	1	2
Laundrette	4 spaces / 100m <sup>2</sup> leasable floor area	1	1
		<b>Total: 101</b>	<b>Total: 105</b>

Based on the above the development has a statutory car parking requirement of 105 parking spaces. The car parking reduction is supported. This is because the site has good access to public transport modes and is proximate to High Street including shops and services.

Design:

- No gradients have been annotated on the development plans with respect to ramp grades leading to the basement and upper floor parking areas. Gradients must accord with the Gradients of Clause 52.06 of the Darebin Planning Scheme.
- Ramp widths must be widened by 300mm on either side where there is a kerb or barrier higher than 150mm or closer than 300mm from the edge. Consequently the ramps must be widened to 6.1 metres.
- It is not clear if the Laundrette is to be accessible to the general public. If so, this would require access through the foyer which is not supported.
- Visibility splays must be provided on both sides of the vehicle crossover.
- The relevance of the door adjacent to the vehicle gate is not clear.



- Not all spaces adjacent to walls or solid objects have been widened by 300mm as per 52.06 of the Darebin Planning Scheme e.g. Car parking space on the ground level adjacent the services.
- Information on how visitors will access the parking levels needs to be clarified e.g. intercom?
- Height clearance must be clarified by the applicant. AS2890.1 requires 2.2m. Height clearance into the basement level must be measured in accordance with AS2890.1.
- Entry and egress from the ground floor car parking space adjacent to the structural wall seems problematic given no aisle extension has been provided. This would need to be assessed through swept-paths in accordance with AS2890.1.
- The proposed crossover is unclear. It appears to traverse across vegetation?
- Some of the 2.6 metres wide parking spaces on the upper parking levels are to be accessed from a 6.0 metres wide accessway which is not supported and does not accord with Clause 52.06 of the Darebin Planning Scheme.
- The applicant proposes wall hanging bicycle racks on the upper parking levels adjacent to the lift core. However these extend into the accessway which is not acceptable.

**Clause 52.07 - Loading and Unloading of Vehicles**

Given the small size of the two (2) commercial tenancies, it is expected that loading events would only be minor and therefore more appropriately would occur either on-site or on-street. This requirement can therefore be varied in this instance.

**Complies with objective**

**Clause 52.34 - Bicycle Parking Requirement**

One hundred and thirty five bicycle parking spaces are provided.

**Complies**

**REFERRAL SUMMARY**

<b>Department/Authority</b>	<b>Response</b>
Capital Works	No objection, subject to condition.
Transport Management and Planning	Object to the design of the car park.
Urban Design officer	Objection based on height, design and internal amenity. See body of report for details.

**Amendment C137**

Amendment C137 proposes a Design and Development Overlay (DDO) Schedule 3 to manage built form outcomes along the Plenty Road corridor. The proposed DDO nominates the site for development up to 12-storeys. It also contains requirements about setbacks, site coverage, private open space, building design, ESD requirements and car parking and vehicle access requirements.

The objectives of the proposed DDO:

- *To encourage high quality urban redevelopment that achieves higher residential densities via lot consolidation within The Junction.*
- *To ensure development promotes active modes of transport and supports ongoing investment in public transport infrastructure.*
- *To ensure new development supports activating areas within the Junction Area, particularly along High Street, Plenty Road, Raglan Street, Dundas Street, Miller Street and Oakover Road.*
- *To encourage commercial and residential development to improve the visual amenity of built form in the Junction Area, particularly along Plenty Road, High Street, Raglan Street, Dundas Street, Miller Street, Oakover Road and the adjoining public realm via high quality urban design and architecture, including the preferred retention of existing shopfront facades and the reflection of the fine-grain rhythm of traditional shopfronts and residential development in new proposals.*
- *To ensure development achieves a balance between intensification, the provision of high quality internal amenity within new developments and the consideration of off-site amenity impacts.*
- *To ensure development achieves a high quality pedestrian amenity at the interface with the public realm and promotes a safe pedestrian friendly environment.*
- *To ensure the cumulative effect of development in the Junction Area leads to the creation of high quality design outcomes, including ensuring similar future development potential and high quality design outcomes on adjoining land within the Junction Area.*
- *To encourage adaptable building layouts that can support a variety of commercial and/or residential uses over time.*
- *To ensure building design and layout achieves highly environmentally sustainable development, especially regarding water and energy efficiency.*
- *To ensure development on corner lots provides a transition in scale along the side street frontage that responds to the character of adjoining sites to the rear.*
- *To ensure a diversity of dwelling sizes and configurations with easy accessibility to public transport and commercial services.*
- *To ensure rear building setbacks are not visually dominant to adjoining residential sites and are sympathetic to the topography of the land, stepping up or down with the fall of the land. Access and Parking.*
- *To encourage convenient pedestrian connectivity through strategic development sites.*
- *To ensure development provides convenient bicycle and vehicle parking and access conditions.*
- *To maximise the retention of existing on street car parking spaces where possible and avoid proliferation of vehicle crossovers, especially on to Plenty Road, High Street, Raglan Street, Dundas Street, Miller Street and Oakover Road.*
- *To encourage development that minimises vehicle crossovers to Plenty Road, High Street, Raglan Street, Dundas Street, Miller Street and Oakover Road and provides rear lane or side street vehicular access instead.*

The DDO contains seven (7) criteria to assess multi-level and mixed use development proposals. The table below provides an assessment against those criteria.

	Comment	Compliance
<b>Minimum frontage</b>	Land to be developed in a Commercial 1 Zone and Mixed Use Zone 1 should have a minimum frontage width of 15 metres. The site provides a frontage of 27 metres.	Complies
<b>Building height</b>	<p><i>Any new building must not exceed the maximum height. For the purpose of this schedule 12 storeys equates to 38 metres. The maximum heights shown on the precinct maps to this schedule cannot be varied with a permit.</i></p> <p>The proposed 18-storey height exceeds this requirement. A more detailed assessment of the height is provided under the Clause 22.06 assessment above.</p>	Does not comply
<b>Building setbacks</b>	<p><i>Land in a Commercial 1 the fronting Plenty Road should be setback zero for the first four (4) storeys (inclusive), unless specified otherwise. Higher storeys should be setback from the street wall and either side boundary at an adequate distance to create a separation between the lower and upper parts of a building. Such space should be usable for secluded private open space.</i></p> <p>The setback of the development from Plenty Road is generally acceptable. The front façade is offset from the street alignment. The façade also provides balconies and a satisfactory level of articulation.</p>	Complies
<b>Building design</b>	<p><i>The building mass should be directed towards Plenty Road. Building structures and layouts should be adaptable to allow for a variety of commercial spaces and potential for combining commercial units where in a Commercial Zone 1 or Mixed Use Zone 1. Buildings should be designed to achieve a high level of environmentally sustainability. Development should activate the public realm via passive surveillance and avoid blank walls and high solid side fences, including side street frontages. Site services such as air conditioning units, gas metres etc. should not be visible from the public realm or a sensitive interface on and off-site.</i></p> <p>The DDO seeks a regular fine-grain streetscape rhythm, especially at ground level. Only a third of the street interface is proposed as active. With the remaining sections devoted to the vehicle access and site services. This presents a poor outcome and which is unattractive and detracts from the commercial viability of this emerging commercial precinct. Is the proposed Launderette for public or private use? It lacks visibility from the street and appears only to be accessible for residents of the building.</p> <p>Car parking is proposed at the 1<sup>st</sup> and 2<sup>nd</sup> floor level, fronting the Plenty Road frontage. This prevents a visual relationship, allowing for passive surveillance between the interior and the street, at lower levels. This arrangement is exacerbated by the minimal width of active frontage at ground level.</p> <p>The rear elevation rises above the 3<sup>rd</sup> level for 10 levels, without further setback. To the rear (west elevation), at</p>	Does not comply

	Comment	Compliance
	No. 277 Raglan Street, an existing apartment rises to eight (8) storeys. Given that dwellings along this interface have single-aspect layouts, adequate building separation should be provided from development on the adjacent site to allow for privacy to be achieved without relying on tall screening that would restrict outlook. In places, facing balconies on adjacent sites are separated by approximately only five (5) metres across the common site boundary, resulting in a loss of outlook and, daylight. The proposed west facing dwellings will be required to be screened to prevent overlooking into the dwellings occupying No. 277 Raglan Street. This combined with other factors described under the Clause 22.06 assessment will result in a poor level of internal amenity.	
<b>Access and parking</b>	Refer to the Clause 52.06 assessment below.	Does not comply
<b>Advertising signs</b>	<i>Any signage above the ground floor level (including above verandahs, canopies etc.) is discouraged. Signs should fit within the architectural forms and be integrated with the design of the building and must not exceed or protrude above verandahs, canopies etc.</i>  Details of signage have not been provided.	Complies subject to condition

**PLANNING SCHEME SUMMARY**

**Darebin Planning Scheme clauses under which a permit is required**

- Clause 34.01 (Commercial 1 Zone) - Construction of buildings and works.
- Clause 52.06 (Car Parking) - A reduction to the car parking requirement.
- Clause 52.07 (Loading and Unloading) - A variation to the loading/unloading requirement.

**Applicable provisions of the Darebin Planning Scheme**

Section of Scheme	Relevant Clauses
SPPF	11.02-1, 15.01-1, 15.01-5, 15.02, 16.01, 19.03-1
LPPF	21.02-3, 21.03-2, 21.05, 22.06
Zone	34.01
Overlay	45.06
Particular provisions	52.06, 52.07, 52.34
General provisions	65.01
Amendment	C137

**POLICY IMPLICATIONS****Environmental Sustainability**

All new dwellings are required to achieve a minimum six (6) star energy rating under the relevant building controls.

**Social Inclusion and Diversity**

Nil

**Other**

Nil

**FINANCIAL AND RESOURCE IMPLICATIONS**

There are no financial or resource implications as a result of the determination of this application.

**FUTURE ACTIONS**

Nil

**DISCLOSURE OF INTERESTS**

Section 80C of the *Local Government Act 1989* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any direct or indirect interest in a matter to which the advice relates.

The Manager authorising this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

**RELATED DOCUMENTS**

Darebin Planning Scheme and the *Planning and Environment Act (1987)* as amended.

**5.18 APPLICATION FOR PLANNING PERMIT D/474/2015**  
63-71 Plenty Road, Preston

**AUTHOR: Principal Planner – Jolyon Boyle**

**DIRECTOR: Director Assets and Business Services – Steve Hamilton**

**OWNER/APPLICANT/CONSULTANT:**

<b>Applicant</b>	<b>Owner</b>	<b>Consultant</b>
Crystal Matt Developments Pty Ltd	Sixty High Pty Ltd	P2 Urban Planning and Design

**SUMMARY:**

- It is proposed to develop an eighteen storey building comprising two (2) shops and 135 dwellings.
- One hundred and eight car spaces are provided on site. This represents a reduction to the car parking requirement.
- The site is located in the Commercial 1 Zone.
- There is no restrictive covenant on the title for the subject land.
- One (1) statement of grounds (objection) has been received against this application.
- The proposal fails to meet a number of objectives and standards of Clause 22.06 and Amendment C137 of the Darebin Planning Scheme.
- It is recommended that the application be refused.

**CONSULTATION:**

- The application is currently on advertising in accordance with VCAT’s Order. The advertising process includes a public notice posted on site and letters to surrounding owners and occupiers.
- This application was referred internally to Capital Works Unit, the Transport Management and Planning Unit and Urban Design officer.
- This application was not required to be referred to external authorities.

**Recommendation**

**That** Planning Permit Application D/474/2015 be refused and Notice of Refusal be issued on the following grounds:

1. The application is contrary to the aims and objectives of the following aspects of the Planning Scheme:
  - a) 15.01 Urban Design
  - b) 16.01 Residential Development

- c) 22.06-3.1 Sustainability
  - d) 22.06-3.2 Design and Materials
  - e) 22.06-3.2 Building height
  - f) 22.06-3.4 Dwelling diversity
  - g) 22.06-3.5 Car Parking and Vehicle Access
  - h) 22.06-3.6 Street address - Mixed use developments
  - i) 22.06-3.8 Amenity impacts, including overshadowing and overlooking
  - j) 22.06-3.9 On site amenity and facilities, including private open space
  - k) 22.06-3.10 Waste Management
  - l) 52.06 Car parking
2. The development is contrary to the Higher Density Residential Development Guidelines.
  3. A high portion of the dwellings provide a poor level of internal amenity as a result of their internal layout, restricted outlook, lack of daylight and or screening measures.
  4. The development fails to adequately address ESD objectives, particularly as a high proportion of the dwellings are reliant on borrowed or artificial lighting, contrary to Clauses 15.01, 15.02 and 21.05 and 22.06 of the Darebin Planning Scheme.
  5. The following aspects of the development are contrary to Amendment C137 (DDO3): Building height, setbacks, design, street interface, internal amenity, ESD and site services.

<b>Report</b>
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## INTRODUCTION AND BACKGROUND

This application is the subject of an appeal to VCAT against failure to determine. The application is currently on advertising in accordance with VCAT's Order. The advertising period concluded on 7 June 2016. A compulsory conference is scheduled at VCAT on 16 June 2016.

Previous planning history:

Council issued Planning Permit No. D/374/2004

On 19 June 2006 for:

- Construction of an eight (8) storey building (plus basement);
- Use of the land for the purpose of 4 shops and 40 dwellings;
- Reduction of the car parking requirements; and
- Waiver of the loading bay requirement.

On 16 March 2009, the applicant submitted an Amended Permit application to increase the development intensity to:

- Construction of an 11 storey building (plus basement);
- Use of the land for the purpose of four (4) shops and 83 dwellings;
- Reduction of the car parking requirements; and

- Waiver of the loading bay requirement
- The Amended Planning Permit was approved by Planning Committee at its meeting held 15 June 2010 and the Amended Permit was issued on 22 July 2010.

## ISSUES AND DISCUSSION

### Subject site and surrounding area

- The land is regular in shape and measures 37 metres in length and 27 metres in width with a site area of 815 square metres.
- A Commercial 1 Zone, Design and Development Overlay, Environmental Audit Overlay apply.
- Plenty Road is a Road Zone (category 2) road.
- The site is located on the west side of Plenty Road, one (1) property south of its intersection with Raglan Street.
- The land is presently vacant.
- An existing crossover provides vehicular access to Plenty Road.
- The intersection of Plenty Road, High Street and Dundas Street is located 350m to the south.
- Bell Street is located approximately 450 metres to the north, which is a main arterial road providing public bus transport.
- Tram services are available on Plenty Road.
- Bell Train Station is located 700 metres to the north-west.
- Easement A1, a 2.76 metres wide easement extends along and within the (rear) western boundary of the site (permit issued for its removal). Adjoining the easement to the north, and providing connection to Raglan Street, is a laneway / easement. The Certificate of Title for the subject land confirms that the land has a legal right of carriageway over the laneway / easement and therefore the land has access to Raglan Street.
- To the north, on the south-west corner of Plenty Road and Raglan Street is a car rental yard at 73-77 Plenty Road. Planning Permit No. D712/2003 was issued for this land on 17 November 2004. The permit authorised the construction of a six (6) storey building accommodating offices, 27 dwellings and car parking. This permit has not been acted upon and has expired.
- To the south at 60-68 High Street is the former 'Standard Leather' premises. The existing building has been extended and refurbished and used for the purpose of child care centre fronting Plenty Road and a food drink premises front High Street. Offices are located at first floor level.
- Further south at 50-56 High Street is a mixed use development comprising of one (1) eight (8) storey tower and one (1) nine-storey tower accommodating various commercial uses, 113 dwellings and car parking.
- To the west at 277 Raglan Street is occupied by an eight (8) storey building accommodating offices, 51 dwellings and car parking.
- To the east of the site on the opposite (east) side of Plenty Road are residential properties in a General Residential Zone. 86-106 Plenty Road, is occupied by a five (5) and six (6) storey building comprising 108 dwellings.



**Proposal**

- Eighteen storey building comprising 2 shops and 135 dwellings.
- Thirty studio, 27 one (1) bedroom, 28 one (1) bedroom + study and 50 two (2) bedroom dwellings are proposed.
- One hundred and eight car parking spaces are proposed. This represents a reduction to the car parking requirement.
- Car parking is provided across three (3) basement levels, the ground, first and second floor.
- One hundred and thirty five bicycle parking spaces are proposed.
- The development provides a solid four (4) storey base with punctured openings to Plenty Road. Setbacks to Plenty Road are provided at the upper levels.
- The ground floor comprises two (2) shops, entrance/foyer to the dwellings and vehicle entrance.

**Objections**

- One (1) statement of grounds (objection) received.

**Objections summarised**

- The development is out of character.
- The development does not enhance the community or interest of residences.

**Officer comment on summarised objections**

- The development is out of character

The height and scale of the development is contrary to the Darebin Planning Scheme. Refer to Planning Assessment below for a thorough assessment of the proposal.

- The development does not enhance the community or interest of residences

The site enjoys State planning policy support for the type of the development proposed. However at a detailed level of the proposal fails to satisfactorily respond to local planning policy objectives in regard to height, scale, setbacks, internal amenity and ESD objectives.

**PLANNING ASSESSMENT****State and Local Planning Policy**

State planning policies encourage new housing, including a range of housing types, in or close to activity centres and employment corridors and at other strategic redevelopment sites that offer good access to services and transport. Ensuring new housing provides a quality living environment is a further objective of the State Planning policy provisions.

The Municipal Strategic Statement (MSS) states activity centres are the focus for achieving many directions of Plan Melbourne; and that opportunities for incorporating residential development in and around centres need to be identified and quantified.

Clause 21.04 of the Darebin Planning Scheme refers to different types of activity centres. The site is located within the South Preston Activity centre. The Preston Major Activity Centre is located less than 1km to the north.

The Housing section of the MSS at Clause 21.03-2 of the Darebin Planning Scheme identifies the site and surrounding areas as a Strategic Re-development precinct. These are specific areas earmarked to *accommodate significant levels of new development, generally at a higher intensity and density. Strategic planning of these areas should harness the higher capacity for development and encourage new housing at a range of densities, as well as commercial and recreational uses as appropriate to service existing and emerging communities.* The Junction area is identified as a key urban renewal area transitioning from predominantly industrial land to a higher density mixed use precinct. The area is characterised by a mix of commercial, retail and industrial properties fronting Plenty Road and High Street.

Clause 21.02-3 (Built Environment) of the Darebin Planning Scheme: *The design and quality of the built environment, including buildings, public spaces, infrastructure and streetscapes plays an important role in enhancing civic pride, liveability and social connectedness, and provides opportunities for creating a more sustainable city. Good urban design acknowledges the collective impact of development both within and beyond the boundaries of individual sites and enables positive outcomes for the public realm that enhance people's wellbeing and experience of the built environment. Darebin City Council is committed to environmental sustainability and actively encourages sustainably-designed buildings that reduce energy consumption and water use, encourage recycling and sustainable transport and that use recycled and sustainable materials.*

#### Key Issues

- *Achieving high-quality design in development across a variety of urban environments, including activity centres and industrial/employment precincts.*
- *Impacts of large-scale development on streetscape amenity and pedestrian experience, and increased reliance on the public realm in providing visual appeal and amenity.*
- *How design might improve the interface and interaction of new developments with the public realm (including parks and open spaces).*
- *Incorporating Environmentally Sustainable Design (ESD) principles in the design and development of built environments and strengthening requirements at planning permit stage.*
- *Striking a balance between the understandable need for businesses to advertise and community expectations for an environment devoid of unattractive visual clutter.*

Objective 1 (Urban Design Excellence) of Clause 21.02-3 of the Darebin Planning Scheme *is to ensure development in Darebin exhibits good urban design and provides distinctive, attractive and engaging places in which to reside, visit or work.*

#### Strategies

- *Encourage high quality design and buildings that respond to characteristics of the locality.*
- *Develop and implement detailed design guidelines for areas where substantial housing change and growth is encouraged.*
- *Ensure that important public views and vistas, where identified in a strategy or guideline adopted by Council, are recognised, protected and enhanced.*
- *Apply urban design principles when developing structure plans, land use strategies, and urban design guidelines.*

- *Promote land use and development in activity centres, strategic corridors and strategic development precincts in accordance with adopted Structure Plans, precinct plans or strategies.*
- *Ensure development in activity centres, strategic corridors and strategic development precincts:*
  - *Is responsive to its environment with a high quality appearance*
  - *Promotes an urban scale and character that is appropriate to the role and function of the activity centre or strategic corridor precinct*
  - *Encourages consolidation of commercial areas along strategic corridors to create strong, vibrant hubs to serve the local community*
  - *Manages negative off-site impacts and interface issues with surrounding sensitive land uses*
  - *Promotes visual and physical improvements to the public realm*
  - *Encourages a safe and accessible environment for pedestrians, cyclists, public transport users and motorists.*

Objective 3 (Environmentally Sustainable Design) of Clause 21.02-3 of the Darebin Planning Scheme *is to promote and facilitate development that incorporates best practice environmentally sustainable design and promotes sustainable living and business practices.*

#### Strategies

- *Encourage the adaptive reuse of buildings to reduce the amount of waste going to landfill.*
- *Encourage the design of new and retrofitted buildings and public spaces to incorporate high standards of energy efficient design, water sensitive urban design, sustainable transportation, waste reduction and protection of biodiversity.*
- *Promote the integration of land use and sustainable transport (walking, cycling and public transport) in accordance with the strategies in Clause 21.05-1 of the Darebin Planning Scheme.*
- *Encourage best practice industrial and commercial development to minimise amenity impacts and achieve long term environmental sustainability.*
- *Encourage the preparation of Sustainable Design Assessments and Sustainability Management Plans for residential, mixed use, industrial and commercial developments as part of the planning permit approval process.*

Objective 1 (Housing Provision) of Clause 21.03 of the Darebin Planning Scheme: *to facilitate housing development that has an appropriate scale and intensity in locations across the municipality.*

#### Strategies to achieve the objective:

- *On Strategic Opportunity Sites, encourage housing development at increased densities and discourage underdevelopment, with the scale and style of development responsive to location and context.*

Objective 3 (Residential Amenity) of Clause 21.03-2 of the Darebin Planning Scheme *is: to facilitate residential and mixed use developments that display a high standard of design, limit off-site amenity impacts and provide appropriate internal amenity for residents.*

Strategies:

- *Require a high standard of design (including architectural quality and environmentally sustainable design) be achieved in residential and mixed use developments through the use of design and development overlays, urban design frameworks, development plans and local policies as appropriate.*
- *Ensure mixed use developments are designed to provide adequate amenity to residences on the site, minimising the need for screening and limiting unreasonable negative amenity impacts on surrounding residential uses.*
- *Ensure that housing development within and adjoining retail and employment areas is designed to minimise the potential for conflict between commercial and residential uses, including noise and operational considerations.*
- *Support the consolidation of retail and employment activities within activity centres.*

In regard to equitable development Clause 22.06 of the Darebin Planning Scheme requires new proposals to have regard to the development potential of adjoining sites so that equitable access direct sunlight is achieved.

The High Density Residential Guidelines (HDRG) provides guidance on the design of high density development of four (4) or more storeys. Amongst other matters the guidelines encourage high quality development, which takes account of internal amenity, the design and height of development and relationship of development with neighbouring sensitive interfaces.

Further guidance on the quality of new housing, particularly apartments is discussed under Initiative 2.1.5 of Plan Melbourne which contains the following objective: *improve the quality and amenity of residential apartments.*

The release of the Better Apartments Discussion Paper has drawn further attention toward the issue of internal amenity.

### **AMENDMENT C137**

Amendment C137 to the Darebin Planning Scheme has been exhibited; considered by an independent Panel; and the Panel's recommendations considered by the Council.

Council has adopted the Amendment with changes, including recommendations by the Panel; and submitted it to the Minister for Planning for approval in December 2015. It is put that Amendment C137 is a "seriously entertained planning proposal" and should be given weight in this application.

Of relevance to this site and this proposal, Amendment C137 proposes to amend the existing Design and Development Overlay (DDO) (Schedule 3) to manage built form outcomes along the Plenty Road corridor. The proposed amended DDO nominates the area bound by High Street, Plenty Road and Raglan Street, including this site, for development of up to 12-storeys in height. It also contains requirements on site coverage, private open space, building design, ESD requirements and car parking and vehicle access requirements.

A key objective of the DDO is *to ensure development achieves a balance between intensification, the provision of high quality internal amenity within new developments and the consideration of off-site amenity impacts.*

### **PLANNING ASSESSMENT**

**Clause 15.01 Urban Environment Assessment**

In assessing and determining residential development applications not covered by Clause 55, regard must be had to the urban design principles of Clause 15.01. This Clause comprises 10 design principals which are considered below.

The objective of this Clause is to achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties.

Context

The physical context is outlined in the proceeding section of this report. Clause 22.06 and Amendment C137 to the Darebin Planning Scheme are the most considerations.

*Under Clause 22.06 (Multi Residential and Mixed Use Development) of the Darebin Planning Scheme it is policy to facilitate residential and mixed use development which promotes housing choice, displays a high standard of urban design, limits off-site amenity impacts, and provides appropriate on-site amenity for residents; to facilitate development that demonstrates the application of environmentally sustainable design principles; to facilitate a high quality street edge that relates to the public realm and; to encourage efficient design outcomes that consider the development potential of adjoining sites.*

The site enjoys State planning policy support for the type of the development proposed. However at a detailed level of the proposal fails to satisfactorily respond to local planning policy objectives and the Higher Density Residential Development Guidelines (HDRDG) in relation to the design, scale and height, internal amenity, ESD and equitable development considerations.

**Does not comply**The public realm

Only a third of the street interface is proposed as active. With the remaining sections devoted to the vehicle access and site services. This presents a poor outcome and which is unattractive and detracts from the commercial viability of this emerging commercial precinct. Is the proposed Launderette for public or private use? It lacks visibility from the street and appears only to be accessible for residents of the building.

Car parking is proposed at the 1<sup>st</sup> and 2<sup>nd</sup> floor level, fronting the Plenty Road frontage. This prevents a visual relationship, allowing for passive surveillance between the interior and the street, at lower levels. This arrangement is exacerbated by the minimal width of active frontage at ground level.

**Does not comply**

Safety

A central entrance to the residential component is provided to Plenty Road. The visibility and sense of address provided to the residential entrance is satisfactory.

**Complies**Landmarks, Views and Vistas

The will have an impact upon views. However there is no planning right to a view and the protection of views is not a valid planning consideration.

**Complies**Pedestrian Spaces

Only a third of the street interface is proposed as active. With the remaining sections devoted to the vehicle access and site services. This presents a poor outcome and which is unattractive and detracts from the commercial viability of this emerging commercial precinct. Is the proposed Launderette for public or private use? It lacks visibility from the street and appears only to be accessible for residents of the building.

Car parking is proposed at the 1<sup>st</sup> and 2<sup>nd</sup> floor level, fronting the Plenty Road frontage. This prevents a visual relationship, allowing for passive surveillance between the interior and the street, at lower levels. This arrangement is exacerbated by the minimal width of active frontage at ground level.

**Does not comply**Light and Shade

The public realm will experience of loss of light and increased shadowing as a result of development. This is to be expected as a result of the increased densities and building heights envisaged in the immediate area.

**Complies**Energy Resource and Efficiency

The application is not supported by an Environmentally Sustainable Design (ESD) assessment. The ESD credentials of the development are therefore unknown and unresolved at this stage. A complete ESD assessment is required upfront with any future planning application.

Notwithstanding this the internal amenity of a high proportion of the dwellings is substandard, which is both a liveability issue as much as it is an ESD issue. For example the provision of a high proportion of dwellings are reliant on borrowed or limited access to daylight and will only increase the need to utilise internal lighting, which presents a poor ESD outcome.

**Does not comply**

Architectural quality

The height, scale and relationship of the development to adjacent sensitive interfaces represent an unsatisfactory urban design outcome. Specifically the height and setback of the development does not address the DDO controls.

**Does not comply**Landscape Architecture

The site is currently devoid of any significant trees or shrubs. The proposed development will cover the larger part of the site which is to be expected for a site in this location.

**Complies****Clause 22.01 – The Junction Local Area Plan**

## Objectives (as relevant)

- *To ensure a high standard of amenity for new residential development that incorporates noise attenuation measures to minimise the impacts of existing industrial uses.*
- *To recognise existing residential areas and to consolidate and improve the amenity of these areas and ensure new development does not unreasonably impact upon the amenity of existing residences.*
- *To promote environmentally sustainable development through the design and development of all buildings and better use of existing infrastructure.*

The internal amenity and offsite impact of the proposal, including considerations of equitable development, are poorly considered.

The application is not supported by an Environmentally Sustainable Design (ESD) assessment or storm report. The ESD credentials of the development including details of best practice stormwater management are unknown and unresolved at this stage.

**Clause 22.06 - Multi Residential and Mixed Use Development:**

## Objectives:

- *To facilitate residential and mixed use development which promotes housing choice, displays a high standard of urban design, limits off-site amenity impacts, and provides appropriate on-site amenity for residents.*
- *To facilitate development that demonstrates the application of environmentally sustainable design principles.*
- *To facilitate a high quality street edge that relates to the public realm.*
- *To encourage efficient design outcomes that consider the development potential of adjoining sites.*
- *To encourage the consolidation of lots to facilitate better design and amenity outcomes for higher density development in locations where substantial housing change is directed.*

	Comment	Compliance
<p><b>Sustainability</b></p>	<p>A Sustainability Management Plan was not submitted with the application. The ESD credentials of the development are therefore unknown at this stage.</p> <p>The internal amenity of a high proportion of the dwellings is substandard, which is both an internal amenity issue as much as it is an ESD issue. For example a high proportion of the dwellings are reliant on borrowed daylight to a bedroom, which increases reliance on artificial lighting. The single aspect north facing dwellings raises issues of outlook and access to daylight in the likely event that the neighbouring property is redeveloped to a similar scale.</p>	<p>Does not comply</p>
<p><b>Design and Materials</b></p>	<p><i>High quality design and finishes for multi-level development are required. Development should provide a strong relation to the pedestrian environment in the public realm. Development facades facing public spaces and internal passage ways should be activated via passive surveillance. Development should seek to retain development potential of adjoining sites so that equitable access direct sunlight is achieved. Site services, such as utility meters, substations, fire booster and the like should be located and designed to minimise visibility from public spaces, especially the main street frontage.</i></p> <p>Only a third of the street interface is proposed as active. With the remaining sections devoted to the vehicle access and site services.</p> <p>This presents a poor outcome and which is unattractive and detracts from the commercial viability of this emerging commercial precinct. Is the proposed Launderette for public or private use? It lacks visibility from the street and appears only to be accessible for residents of the building.</p> <p>Car parking is proposed at the 1<sup>st</sup> and 2<sup>nd</sup> floor level, fronting the Plenty Road frontage. This prevents a visual relationship, allowing for passive surveillance between the interior and the street, at lower levels. This arrangement is exacerbated by the minimal width of active frontage at ground level.</p> <p>The siting and relationship of the proposal with the adjacent property to the north is inappropriate. This is in relation to the current state of the adjacent site and also the impact of the proposal upon any future development on the adjacent site. An objective of Clause 22.06 of the Darebin Planning Scheme is to orientate <i>building mass towards the street frontage, reducing the impact of visual bulk towards the rear of the lot and maximising the potential for street-facing dwellings (while avoiding side facing dwellings)</i>. A further objective of this Clause is to <i>retain development potential of adjoining sites so that equitable access direct sunlight is achieved</i>. Objectives</p>	<p>Does not comply</p>



	Comment	Compliance
	<p>of the proposed DDO controls also <i>encourage building design that achieves front and rear facing dwellings to reduce the reliance on side boundary facing light courts. Further objective of the DDO are: to ensure the cumulative effect of development along Plenty Road leads to the creation of high quality design outcomes, including ensuring similar future development potential and high quality design outcomes on adjoining land within the Plenty Road corridor and; to ensure development achieves a balance between intensification, the provision of high quality internal amenity within new developments and the consideration of off-site amenity impacts.</i></p> <p>Several Tribunal decisions have provided detailed accounts on matters of internal amenity and equitable development rights. This report has regard to the principles highlighted by the Tribunal in relation to these issues.</p> <p>The siting of the balconies and windows means that the outlook from these spaces is reliant on the adjacent land remaining in a relatively under-developed state. This is unreasonable and results in situation where any neighbouring development would be forced to provide reasonably substantial setbacks from the common boundary to ensure a reasonable level of outlook.</p> <p>Access to daylight is maintained from these balconies and windows.</p> <p>The rear elevation rise above 3<sup>rd</sup> level, for 15 levels, without further setback. To the rear (west elevation), at No. 277 Raglan Street, an existing apartment building also rises without further setbacks for eight (8) levels. Given that dwellings along this interface have single-aspect layouts, adequate building separation should be provided from development on the adjacent site to allow for privacy to be achieved without relying on tall screening that would restrict outlook. Balconies between the proposal and No. 277 Raglan Street are separated by only five (5) metres across the common site boundary and raises issues privacy, noise, visual bulk and loss of light.</p>	
<p><b>Building Height</b></p>	<p>The site is located in an area which is earmarked for substantial change in accordance with Amendment C137, including development of up to 12-storeys. The site's area, zoning, main road frontage and proximity to public transport also lend itself to an intensive form of development.</p> <p>The previously amendment to the planning permit facilitated the development of an 11-storey building comprising 84 dwellings and four (4) shops.</p>	<p>Does not comply</p>

	Comment	Compliance
	<p>The proposed 18-storey height is inconsistent with future direction of the site and area identified under Amendment C137. The height is also inconsistent with the surrounding built form, include the existing eight (8)-storey apartment located immediately west of the site.</p>	
<p><b>Dwelling diversity</b></p>	<p><i>To provide a range of dwelling sizes and types, including 3 bedroom units.</i></p> <p>The development provides 135 dwellings comprising 30 studio, 27 one (1) bedroom, 28 one (1) bedroom + study and 50 two (2) bedroom dwellings are proposed.</p> <p>The development provides some level of diversity, but no three (3) bedroom dwellings are provided. A development of this scale should provide some level of three (3) bedroom accommodation.</p>	<p>Does not comply</p>
<p><b>Parking and vehicle access</b></p>	<p>Refer to the Clause 52.06 assessment below.</p>	<p>Does not comply</p>
<p><b>Street address</b></p>	<p><i>Development should provide for an active frontage to the footpath through the inclusion of generous glazing, openings or other design techniques that promote visibility and accessibility between the footpath and the building.</i></p> <p>Only a third of the street interface is proposed as active. With the remaining sections devoted to the vehicle access and site services. This presents a poor outcome and which is unattractive and detracts from the commercial viability of this emerging commercial precinct. Is the proposed Launderette for public or private use? It lacks visibility from the street and appears only to be accessible for residents of the building.</p> <p>Car parking is proposed at the 1<sup>st</sup> and 2<sup>nd</sup> floor level, fronting the Plenty Road frontage. This prevents a visual relationship, allowing for passive surveillance between the interior and the street, at lower levels. This arrangement is exacerbated by the minimal width of active frontage at ground level.</p>	<p>Does not comply</p>
<p><b>Amenity Impacts Including Overshadowing and Overlooking</b></p>	<p><i>The design of any privacy screening should strike a balance between preventing overlooking of existing secluded private open spaces and providing a high level of internal amenity for new dwellings.</i></p> <p>The rear elevation above the 3<sup>rd</sup> floor level rises a further 15 levels, without further setback. The rear elevation rise above 3<sup>rd</sup> level, for 15 levels, without further setback. To the rear (west elevation), at No. 277 Raglan Street, an existing apartment building also rises without further setbacks for eight (8) levels. Given that dwellings along this interface have single-aspect layouts, adequate building separation should be provided from</p>	<p>Does not comply</p>

	Comment	Compliance
	<p>development on the adjacent site to allow for privacy to be achieved without relying on tall screening that would restrict outlook. Balconies between the proposal and No. 277 Raglan Street are separated by only five (5) metres across the common site boundary and raises issues privacy, noise, visual bulk and loss of light.</p>	
<p><b>On-Site Amenity and Facilities, including Private Open Space</b></p>	<p><i>Where single aspect south facing apartments cannot be avoided, light wells should be incorporated to introduce direct natural light into habitable rooms; windows to apartments with a single outlook must be clear to the sky, and should not be overhung with balconies or other protruding structure, unless the overhang is designed to provide a shading function and avoid excess heat gain and; Bedrooms that rely upon borrowed light, including 'battle axe' bedrooms, should be avoided. In larger residential developments, communal open spaces should be provided to allow for recreational uses such as a garden, courtyard, tables and seating, BBQ facilities and utility uses such as open air clothes drying.</i></p> <p>Objective 3 of Clause 21.03 (Housing) of the Darebin Planning Scheme is <i>to facilitate residential and mixed use developments that display a high standard of design, limit off-site amenity impacts and provide appropriate internal amenity for residents. Strategies to achieve this objective: require a high standard of design (including architectural quality and environmentally sustainable design) be achieved in residential and mixed use developments through the use of design and development overlays, urban design frameworks, development plans and local policies as appropriate.</i></p> <p>Objective 5.4 of the High Density Residential Development Guidelines (HDRDG) is <i>to ensure that a good standard of natural lighting and ventilation is provided to internal building spaces. Design suggestion 5.4.1 is to provide direct light and air to all rooms wherever possible.</i></p> <p><i>Encourage direct natural light and ventilation to all habitable rooms – living rooms, bedrooms, studies – in the form of operable windows. The 'borrowing' of light and air should be avoided, particularly in ventilating bedrooms, although this may not always be possible, when reusing existing buildings. Where light is borrowed from another room, ideally it should be taken from the principal living area rather than from corridors or other bedrooms.</i></p> <p>Initiative 2.1.5 of <i>Plan Melbourne is to improve the quality and amenity of residential apartments.</i></p> <p>Thirty bedrooms are reliant on borrowed light. A further 20 bedrooms provide a battle-axe configuration. 48 bedrooms located adjacent north and south boundary</p>	<p>Does not comply</p>

	Comment	Compliance
	<p>are reliant on daylight from a light court providing a depth of 1m (decreased from 1.5m). Such small light-courts do not sufficiently protect the development against the impact of any similar on boundary development to the north and south.</p> <p>While it is not always possible to provide optimal, layouts, solar access, outlook and internal noise environments for all dwellings within a development. In this case the size and width of the land provides ample scope for a design where the dwellings provide a good quality internal living environment, without negatively impacting the amenity and development potential of adjacent land. The fact that this has not been achieved is key sign that proposal is an over development of the land.</p> <p>A design on land of this size should also avoid the need to provide screening measures to such a high proportion of the dwellings and avoid overhanging structures.</p> <p>Objective 2.6 of the HDRDG is <i>to ensure areas can develop with an equitable access to outlook and sunlight</i>. Design suggestion 2.6.1: is to <i>consider the possible future development of adjoining sites and allow, as best as possible, or an equitable spread of development potential throughout the area</i>.</p> <p>All nine (9) north facing mid-block dwellings located at the 3<sup>th</sup> to 11<sup>th</sup> floor level provide a design including windows and balconies adjacent the north boundary. The balconies serving these dwellings are located on boundary. The outlook from these windows and balconies are reliant on the adjacent site remaining in its underdeveloped state in order to maintain a reasonable degree of light and outlook. In the likely event that the site to the north is redeveloped, the level of daylight and outlook that these dwellings will experience will diminish significantly, resulting in a poor level of internal amenity. Contributing to this concern is that the balconies are arranged directly one above the other, thereby limiting daylight penetration. This combined with the small size of the balcony spaces (7 square metres) results in a substandard level of internal amenity.</p> <p>The provision of north facing dwellings in proximity to the north boundary will reduce the development potential of the adjoining property. In particular, the daylight and sunlight into these balcony spaces as well as the outlook from the dwellings would be compromised if a boundary wall were to be constructed as part of any redevelopment of the property to the north. Providing balconies on or near the north boundary, would force any neighbouring development to setback from the common boundary detrimental to the development potential of that site.</p>	

	Comment	Compliance
	<p>The provision of north facing dwellings is inconsistent with the ruling made by the Tribunal in respect to application D/660/2007 (3-15 High Street Preston) where the Tribunal formed the view that the placement of balconies on the north side of the building was not appropriate as the amenity of these spaces would be compromised by any future development on the adjoining property. It was also considered that these balconies could prejudice the development potential of the neighbouring site. The Tribunal concluded that a re-design of the affected dwellings was warranted and stated that consideration should be given to orienting the balconies in a westerly direction.</p> <p>Any future development of this site should avoid mid-block dwellings which face solely north or south.</p>	
<b>Waste Management</b>	<p>The design of a development of this scale should be informed by a waste management plan detailing the number and size of bins required to service the development and the times, frequency and means of waste collection.</p> <p>Waste collection must be limited to one (1) collection per week per waste stream and the size of the waste collection area must be designed to achieve this outcome.</p> <p>For a development of this scale, it would be appropriate to seek details of waste management measures prior to issuing a permit.</p>	Does not comply
<b>Equitable Access</b>	<p>The development could be retrofitted to accommodate people with disabilities.</p>	Complies

**Amendment C137**

Amendment C137 proposes a Design and Development Overlay (DDO) Schedule 3 to manage built form outcomes along the Plenty Road corridor. The proposed DDO nominates the site for development up to 12-storeys. It also contains requirements about setbacks depending on adjacent zonings, site coverage, private open space, building design, ESD requirements and car parking and vehicle access requirements.

The objectives of the proposed DDO:

- *To encourage high quality urban redevelopment that achieves higher residential densities via lot consolidation within The Junction*
- *To ensure development promotes active modes of transport and supports ongoing investment in public transport infrastructure*
- *To ensure new development supports activating areas within the Junction Area, particularly along High Street, Plenty Road, Raglan Street, Dundas Street, Miller Street and Oakover Road.*

- *To encourage commercial and residential development to improve the visual amenity of built form in the Junction Area, particularly along Plenty Road, High Street, Raglan Street, Dundas Street, Miller Street, Oakover Road and the adjoining public realm via high quality urban design and architecture, including the preferred retention of existing shopfront facades and the reflection of the fine-grain rhythm of traditional shopfronts and residential development in new proposals.*
- *To ensure development achieves a balance between intensification, the provision of high quality internal amenity within new developments and the consideration of off-site amenity impacts.*
- *To ensure development achieves a high quality pedestrian amenity at the interface with the public realm and promotes a safe pedestrian friendly environment.*
- *To ensure the cumulative effect of development in the Junction Area leads to the creation of high quality design outcomes, including ensuring similar future development potential and high quality design outcomes on adjoining land within the Junction Area.*
- *To encourage adaptable building layouts that can support a variety of commercial and/or residential uses over time.*
- *To ensure building design and layout achieves highly environmentally sustainable development, especially regarding water and energy efficiency.*
- *To ensure development on corner lots provides a transition in scale along the side street frontage that responds to the character of adjoining sites to the rear.*
- *To ensure a diversity of dwelling sizes and configurations with easy accessibility to public transport and commercial services.*
- *To ensure rear building setbacks are not visually dominant to adjoining residential sites and are sympathetic to the topography of the land, stepping up or down with the fall of the land. Access and Parking*
- *To encourage convenient pedestrian connectivity through strategic development sites.*
- *To ensure development provides convenient bicycle and vehicle parking and access conditions.*
- *To maximise the retention of existing on street car parking spaces where possible and avoid proliferation of vehicle crossovers, especially on to Plenty Road, High Street, Raglan Street, Dundas Street, Miller Street and Oakover Road.*
- *To encourage development that minimises vehicle crossovers to Plenty Road, High Street, Raglan Street, Dundas Street, Miller Street and Oakover Road and provides rear lane or side street vehicular access instead.*

The DDO contains seven (7) criteria to assess multi-level and mixed use development proposals. The table below provides an assessment against those criteria.

	<b>Comment</b>	<b>Compliance</b>
<b>Minimum frontage</b>	Land to be developed in a Commercial 1 Zone and Mixed Use Zone 1 should have a minimum frontage width of 15 metres. The site provides a frontage of 27 metres.	Complies
<b>Building height</b>	<i>Any new building must not exceed the maximum height. For the purpose of this schedule 12 storeys equates to 38 metres. The maximum heights shown on the precinct maps to this schedule cannot be varied with a permit.</i>	Does not comply

	Comment	Compliance
	<p>The proposed 18-storey height exceeds this requirement. A more detailed assessment of the height is provided under the Clause 22.06 assessment above.</p>	
<p><b>Building setbacks</b></p>	<p><i>Land in a Commercial 1 the fronting Plenty Road should be setback zero for the first four (4) storeys (inclusive), unless specified otherwise. Higher storeys should be setback from the street wall and either side boundary at an adequate distance to create a separation between the lower and upper parts of a building. Such space should be usable for secluded private open space.</i></p> <p>The setback of the development from Plenty Road is generally acceptable. The front façade is offset from the street alignment. The façade also provides balconies and a satisfactory level of articulation.</p>	<p>Complies</p>
<p><b>Building design</b></p>	<p><i>The building mass should be directed towards Plenty Road. Building structures and layouts should be adaptable to allow for a variety of commercial spaces and potential for combining commercial units where in a Commercial Zone 1 or Mixed Use Zone 1. Buildings should be designed to achieve a high level of environmentally sustainability. Development should activate the public realm via passive surveillance and avoid blank walls and high solid side fences, including side street frontages. Site services such as air conditioning units, gas metres etc. should not be visible from the public realm or a sensitive interface on and off-site.</i></p> <p>The DDO seeks a regular fine-grain streetscape rhythm, especially at ground level. Only a third of the street interface is proposed as active. With the remaining sections devoted to the vehicle access and site services. This presents a poor outcome and which is unattractive and detracts from the commercial viability of this emerging commercial precinct. Is the proposed Launderette for public or private use? It lacks visibility from the street and appears only to be accessible for residents of the building.</p> <p>Car parking is proposed at the 1<sup>st</sup> and 2<sup>nd</sup> floor level, fronting the Plenty Road frontage. This prevents a visual relationship, allowing for passive surveillance between the interior and the street, at lower levels. This arrangement is exacerbated by the minimal width of active frontage at ground level.</p> <p>The rear elevation rises above the 3<sup>rd</sup> level for 14 levels, without further setback. To the rear (west elevation), at No. 277 Raglan Street, an existing apartment rises to eight (8) storeys. Given that dwellings along this interface have single-aspect layouts, adequate building separation should be provided from development on the adjacent site to allow for privacy to be achieved without relying on tall screening that would restrict outlook.</p>	<p>Does not comply</p>

	Comment	Compliance
	In places, facing balconies on adjacent sites are separated by approximately only five (5) metres across the common site boundary, resulting in a loss of outlook and, daylight. The proposed west facing dwellings will be required to be screened to prevent overlooking into the dwellings occupying No. 277 Raglan Street. This combined with other factors described under the Clause 22.06 assessment will result in a poor level of internal amenity.	
<b>Access and parking</b>	Refer to the Clause 52.06 assessment below.	Does not comply
<b>Advertising signs</b>	<i>Any signage above the ground floor level (including above verandahs, canopies etc.) is discouraged. Signs should fit within the architectural forms and be integrated with the design of the building and must not exceed or protrude above verandahs, canopies etc.</i>  Details of signage have not been provided.	Complies subject to condition

**Clause 52.06 Car Parking Assessment**

Number of Parking Spaces Required

- The development comprises 135 dwellings including 30 studio, 27 one (1) bedroom, 28 one (1) bedroom + study and 50 two (2) bedroom dwellings and two (2) commercial spaces (café and laundry) totally 111 square metres in area.
- A total of 108 spaces are provided across two basement levels, ground, 1<sup>st</sup> and 2<sup>nd</sup> floor level.
- A breakdown of the car parking required under Clause 52.06 of the scheme is set out below:

Use	Required Rate	Parking Provided	Requirement
135 dwellings	1 / 1 or 2 bedroom dwelling, plus 2 spaces / 3 or more bedroom dwelling	105	135
Visitor parking	1 visitor space / 5 dwellings	1	27
Food and drink	4 spaces / 100m <sup>2</sup> leasable floor area	1	2
Laundrette	4 spaces / 100m <sup>2</sup> leasable floor area	1	1
		<b>Total: 108</b>	<b>Total: 165</b>



- The applicant intends to provide 135 one (1) and two (2) bedroom dwellings. Given the site is located in proximity to multiple public transport modes and within walking/cycling distance to the Thornbury/Preston Activity Centres a partial waiver of residential parking can be considered. It is recommended that parking be provided at a rate of 0.7 spaces per one (1) bedroom apartments and one (1) space per two (2) bedroom dwelling. This would align the development with ABS data in respect to residential parking demands within Preston. Application of these rates would require a total of 109 resident car parking spaces.
- The development has a statutory residential visitor parking requirement for 27 spaces. Under the current proposal only one (1) residential visitor parking space is provided and this represents a significant reduction from the previous design. The current provision of residential visitor parking is considered to be insufficient for a development of this size and is not supported. Residential parking demands should be provided at a rate of 0.12 parking spaces per dwelling (16 spaces). Empirical data suggests medium to high density housing generates residential parking demands in the order of 0.12 per dwelling and this has generally been accepted at VCAT.
- The Café (assessed as Food and Drink) requires 2 spaces (4/100 square metres based on floor area of 62.3 square metres) and the Laundrette (Shop) requires 1 space (4/100 square metres based on floor area of 48.1 square metres). The provision of two (2) spaces is considered appropriate and sufficient to accommodate staff parking demands.

### Design

- No gradients have been annotated on the development plans with respect to ramp grades leading to the basement and upper floor parking areas. Gradients must accord with the Gradients of Clause 52.06.
- Ramp widths must be widened by 300mm on either side where there is a kerb or barrier higher than 150mm or closer than 300mm from the edge. Consequently the ramps must be widened to 6.1 metres.
- It is not clear if the Laundrette is to be accessible to the general public. If so, this would require access through the foyer which is not supported.
- Visibility splays must be provided on both sides of the vehicle crossover.
- The relevance of the door adjacent to the vehicle gate is not clear.
- Not all spaces adjacent to walls or solid objects have been widened by 300mm as per 52.06 of the Darebin Planning Scheme e.g. Car parking space on the ground level adjacent the services.
- Information on how visitors will access the parking levels needs to be clarified e.g. intercom?
- Height clearance must be clarified by the applicant. AS2890.1 requires 2.2m. Height clearance into the basement level must be measured in accordance with AS2890.1.
- Entry and egress from the ground floor car parking space adjacent to the structural wall seems problematic given no aisle extension has been provided. This would need to be assessed through swept-paths in accordance with AS2890.1.
- The proposed crossover is unclear. It appears to traverse across vegetation?
- Some of the 2.6 metres wide parking spaces on the upper parking levels are to be accessed from a 6.0 metres wide accessway which is not supported and does not accord with Clause 52.06 of the Darebin Planning Scheme.

- The applicant proposes wall hanging bicycle racks on the upper parking levels adjacent to the lift core. However these extend into the accessway which is not acceptable.

**Clause 52.07 - Loading and Unloading of Vehicles**

Given the small size of the two (2) commercial tenancies, it is expected that loading events would only be minor and therefore more appropriately would occur either on-site or on-street. This requirement can therefore be varied in this instance.

**Complies with objective**

**Clause 52.34 - Bicycle Parking Requirement:**

One hundred and thirty five bicycle parking spaces are provided.

**Complies**

**REFERRAL SUMMARY**

<b>Department/Authority</b>	<b>Response</b>
Capital Works	No objection, subject to condition included in recommendation.
Transport Management and Planning	Object to the design of the car park and car parking reduction. See report for details.
Urban Design officer	Objection based on height, design and internal amenity. See body of report for details.

**PLANNING SCHEME SUMMARY**

**Darebin Planning Scheme clauses under which a permit is required**

- Clause 34.01 (Commercial 1 Zone) - Construction of buildings and works.
- Clause 52.06 (Car Parking) - A reduction to the car parking requirement.
- Clause 52.07 (Loading and Unloading) - A variation to the loading/unloading requirement.

**Applicable provisions of the Darebin Planning Scheme**

<b>Section of Scheme</b>	<b>Relevant Clauses</b>
SPPF	11.02-1, 15.01-1, 15.01-5, 15.02, 16.01, 19.03-1
LPPF	21.02-3, 21.03-2, 21.05, 22.06
Zone	34.01
Overlay	45.06
Particular provisions	52.06, 52.07, 52.34
General provisions	65.01
Amendment	C137

**POLICY IMPLICATIONS****Environmental Sustainability**

All new dwellings are required to achieve a minimum six (6) star energy rating under the relevant building controls.

**Social Inclusion and Diversity**

Nil

**Other**

Nil

**FINANCIAL AND RESOURCE IMPLICATIONS**

There are no financial or resource implications as a result of the determination of this application.

**FUTURE ACTIONS**

Nil

**DISCLOSURE OF INTERESTS**

Section 80C of the *Local Government Act 1989* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any direct or indirect interest in a matter to which the advice relates.

The Manager authorising this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

**RELATED DOCUMENTS**

Darebin Planning Scheme and the *Planning and Environment Act (1987)* as amended.

## 6. OTHER BUSINESS

### 6.1 **GENERAL PLANNING INFORMATION: Scheduled VCAT Applications, Significant Applications and Applications for the next Planning Committee Meeting**

The General Planning Information attached at **Appendix A** contains lists of:

- Scheduled VCAT appeals for the information of the Planning Committee. The table includes appeals heard as well as those scheduled for the coming months (but does not include mediations and practice day hearings).

Where an appeal has been adjourned and a new hearing date not yet set, the details appear with the text 'struck out'.

- Applications with a cost of construction of at least \$3,000,000 currently under consideration.
- Applications for the upcoming Planning Committee Meeting. The list of applications is based upon best available advice at the time of publishing the Planning Committee Agenda. For confirmation of agenda items reference should be made to the Planning Committee Agenda on Council's website the Friday prior to the scheduled meeting.

<b>Recommendation</b>
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**That** the General Planning Information attached as **Appendix A** be noted.

**7. CLOSE OF MEETING**