



**6.1** 128 PICKLES STREET SOUTH MELBOURNE

**LOCATION/ADDRESS:** 128 PICKLES STREET SOUTH MELBOURNE

**EXECUTIVE MEMBER:** BRIAN TEE, ACTING GENERAL MANAGER, DEVELOPMENT,  
TRANSPORT AND CITY AMENITY

**PREPARED BY:** RICHARD LITTLE, SENIOR URBAN PLANNER

**1. PURPOSE**

- 1.1 To determine an application (316/2019) for the demolition of the two existing dwellings and boundary fences and the construction of buildings and works including a two-storey dwelling with swimming pool and car parking to the rear of the site.

**2. EXECUTIVE SUMMARY**

<b>WARD:</b>	Gateway
<b>TRIGGER FOR DETERMINATION BY COMMITTEE:</b>	Demolition of a Contributory graded dwelling
<b>APPLICATION NO:</b>	316/2019
<b>APPLICANT:</b>	Nepean Planning Consultants
<b>EXISTING USE:</b>	Residential
<b>ABUTTING USES:</b>	Neighbourhood Residential Zone – Schedule 1
<b>ZONING:</b>	Neighbourhood Residential Zone – Schedule 1
<b>OVERLAYS:</b>	Heritage Overlay 442
<b>STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL</b>	Current

- 2.1 This is a planning permit application for the demolition of the two existing dwellings and boundary fences, the construction of buildings and works including a two-storey dwelling with swimming pool and car parking to the rear of the site.
- 2.2 The subject site is approximately 350m<sup>2</sup> in area, located within Heritage Overlay - 442 (Albert Park Residential Precinct) and contains two double storey semi-detached dwellings constructed in 2000.
- 2.3 Council's Heritage Advisor has confirmed that the Contributory grading of the dwellings is incorrect, as the buildings were constructed in 2000 and have minimal heritage value.
- 2.4 The proposal seeks permission for the complete demolition of the two existing, semi-detached dwellings and the construction of a two-storey dwelling. The new dwelling would be setback 4.14 m from the frontage and be constructed along sections of the



northern and southern boundaries. The proposal includes vehicular access to the rear of the site via a right of way.

- 2.5 The new dwelling would be two storeys (with a basement level), have a height of 7.36 m and contain four bedrooms, with two car spaces.
- 2.6 The dwelling would be finished in cement render (grey), acrylic render (mount maraetai and monument), Kliplock roof (basalt), brick cladding (alloy), metal windows and downpipes (matte black).
- 2.7 Pursuant to Clause 22.04 (Heritage), where a permit is required for demolition of a significant or contributory building, it is policy to:
  - Refuse the demolition of a contributory building unless and only to the extent that:
    - the building is structurally unsound;
    - the replacement building and/ or works displays design excellence which clearly and positively supports the ongoing heritage significance of the area.
- 2.8 The applicant has not demonstrated that the existing dwellings are structurally unsound. However, Council's Heritage Advisor has noted that the contributory grading of the houses is incorrect, as the dwellings were constructed in 2000 and that the proposed demolition is acceptable.
- 2.9 In addition to the demolition being considered acceptable, the replacement building must also display design excellence and support the ongoing heritage significance of the area. Council's Heritage Advisor has stated that the proposal is an appropriate response for infill in a heritage context. The proposal is therefore considered to satisfy the policy requirements of Clause 22.04.
- 2.10 The application was advertised and received two objections. The issues raised relate to overshadowing, loss of daylight, height of the boundary fence, length of the boundary wall and visual bulk.
- 2.11 The application has been formally amended three times to address Council's concerns including vehicle access and the height of the dwelling in relation to the mandatory requirements of the zone.
- 2.12 The demolition of the contributory graded dwelling is considered to be satisfactory and in accordance with the Heritage Policy, as the heritage grading is incorrect.
- 2.13 The proposed dwelling would be of an appropriate design, respectful of its heritage context and the height and form of surrounding dwellings.
- 2.14 The proposal has been generally well designed, limits amenity impacts on neighbouring properties and is considered worthy of support, with some additional refinement through the conditions below.
- 2.15 It is recommended that the Council approve the application and issues a Notice of Decision to Grant a Permit, subject to conditions.



### 3. RECOMMENDATION

- 3.1 That the Responsible Authority, having caused the application to be advertised and having received and noted the objections, issue a Notice of Decision to Grant a Permit.
- 3.2 That a Notice of Decision to Grant a Permit be issued for the demolition of existing buildings and boundary fences and the development of a two-storey dwelling and associated buildings and works at 128 Pickles Street, South Melbourne
- 3.3 That the decision be issued as follows:

#### 1 Amended Plans required

Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and an electronic copy must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:

- a) Sightlines to demonstrate that no downward views into the secluded private open space of No. 41 Tribe Street would be possible from the first-floor master bedroom and windows to the stairs. If the sightlines do not demonstrate that no overlooking is possible, then the windows to be treated to prevent the overlooking. Where louvre or batten screening is to be used, cross section elevation drawings of the screens must be submitted to and approved by the Responsible Authority. The drawings must:
  - i. Be drawn to scale and fully dimensioned;
  - ii. Clearly delineate any solid parts of the screen and any louvre or batten parts of the screen;
  - iii. Clearly illustrate how any louvre or batten system will prevent direct views into the neighbouring habitable room windows;
  - iv. Show the exact width and thickness of each louvre or batten, the exact spacing between each louvre or batten and a section detail from behind the screen demonstrating that direct views of adjacent habitable room windows are precluded.
- b) The height of the rear wall, on either side of the roller door, to be a maximum of 1.8 m.
- c) The first floor setback of the en-suite (ENS) and walk in robe (WIR) to be increased to a minimum of 2.09 m from the southern boundary.

#### 2 No Alterations

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

#### 3 Walls on or facing the boundary

Prior to the occupation of the building(s) allowed by this permit, all new or *extended* walls on or facing the boundary of adjoining properties and/or the laneway must be cleaned and finished to a uniform standard. Unpainted or unrendered masonry walls must have all excess mortar removed from the joints and face and all joints



must be tooled or pointed to the satisfaction of the responsible authority. Painted or rendered or bagged walls must be finished to a uniform standard to the satisfaction of the responsible authority.

#### **4 Piping and ducting**

All piping and ducting (excluding down pipes, guttering and rainwater heads) must be concealed to the satisfaction of the Responsible Authority.

#### **5 No equipment or services**

No plant, equipment or domestic services (including any associated screening devices) or architectural features, other than those shown on the endorsed plan are permitted, except where they would not be visible from a street (other than a lane) or public park without the written consent of the responsible authority.

#### **6 Water Sensitive Urban Design**

Before the development starts (other than demolition or works to remediate contaminated land) a Water Sensitive Urban Design Report that outlines proposed water sensitive urban design initiatives must be submitted to, be to the satisfaction of and approved by the Responsible Authority. The report must demonstrate how the development meets the water quality performance objectives as set out in the Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO) or as amended.

When approved, the Report will be endorsed and will then form part of the permit and the project must incorporate the sustainable design initiatives listed.

#### **7 Maintenance Manual for Water Sensitive Urban Design Initiatives**

Before the development starts (other than demolition or works to remediate contaminated land) a Maintenance Manual for Water Sensitive Urban Design Initiatives must be submitted to and approved by the Responsible Authority.

The manual must set out future operational and maintenance arrangements for all WSUD (stormwater management) measures. The program must include, but is not limited to:

1. inspection frequency
2. cleanout procedures
3. as installed design details/diagrams including a sketch of how the system operates

The WSUD Maintenance Manual may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Builder' User's Guide or a Building Maintenance Guide.

#### **8 Privacy screens/measures must be installed**

Privacy screens/measures as required in accordance with the endorsed plans must be installed prior to occupation of the building to the satisfaction of the Responsible Authority and maintained thereafter to the satisfaction of the Responsible Authority.

#### **9 Time for starting and completion**

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



- a) The development is not started within two years of the date of this permit.
  - b) The development is not completed within four years of the date of this permit.
- The Responsible Authority may extend the periods referred to if a request is made in writing:
1. before or within 6 months after the permit expiry date, where the use or development allowed by the permit has not yet started; and
  2. within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

#### 4. BACKGROUND

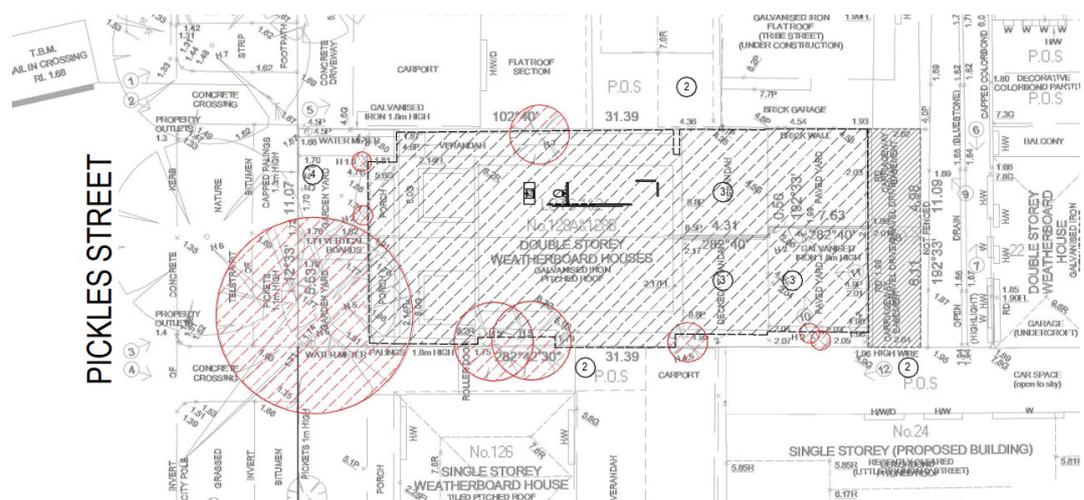
- 4.1 Planning Permit 1601/1999 was approved on 10 May 2000 for the existing two, double storey dwellings.
- 4.2 The current application has been formally amended three times to address Council's concerns including vehicle access and the height of the dwelling in relation to the mandatory requirements of the zone.
- 4.3 The application was amended on 29<sup>th</sup> September 2020 to address Council's Traffic Engineers concerns with vehicles entering and existing the site via Pickles Street. The proposed changes included:
  - Reduction in front setback, from 5.80m to 3.49m;
  - Deletion of basement level;
  - Double carport proposed toward rear of the site;
  - The addition of a loft floor, with theatre, study and forward facing terrace;
  - Increase in the overall height of the dwelling from 8.12m to 10.39m;
  - Consequential changes to internal configuration, windows and doors.
- 4.4 A review of the amended application found that it was prohibited due to the overall building height being above 10m. As a result, the application was again amended on 11<sup>th</sup> May 2021. The amendments included the following changes:
  - Reduction in the proposal from three storeys to two storeys to a maximum height of 7.361 m above Natural Ground Level (NGL)
  - Inclusion of a habitable basement area
  - Increase in the front setback from 3.49m to 4.14m
- 4.5 The application was formally amended again pursuant to s57A of the Planning and Environment Act 1987 on 28<sup>th</sup> September 2021. The amended plans made minor alterations to the rear of the dwelling, addressed traffic concerns regarding access and manoeuvrability to the rear carport.
- 4.6 These are the plans that are now being assessed by this report.

## 5. PROPOSAL

- 5.1 The plans which are the subject of this report are those referred to as drawing numbers TP1 to TP18 and TP20 (all Rev G) all prepared by Latitude 37 dated 16/02/21 and received by Council on 28<sup>th</sup> September 2021.
- 5.2 In addition to these plans a revised set of overshadowing diagrams were submitted (Date received 19/10/2021) to correctly show the exiting shadow from all surrounding properties.
- 5.3 A Planning Report with ResCode assessment, Heritage Report and Water Sensitive Urban Design Report was submitted in support of the application.
- 5.4 The application seeks approval for demolition of the existing semi-detached dwellings and boundary fences and the construction and carrying out of buildings and works including a two storey dwelling with swimming pool and car parking to the rear of the site.
- 5.5 Further details of the proposal are as follows:

### 5.6 Demolition

- Demolition of the two existing dwellings. The dwellings are cotemporary in design and are constructed in part along the northern and southern boundaries. To the front of the dwellings is a verandah and a low to medium level front fence. To the rear of the dwellings is the secluded private open space.
- Partial demolition of the boundary fences.
- Removal of trees.



### Buildings and works

#### **Basement Level**

- The layout would consist of a lift, powder room, store, stairs and rumpus.
- The basement level would have an overall length of 11.6 m and a width of 6.2 m.

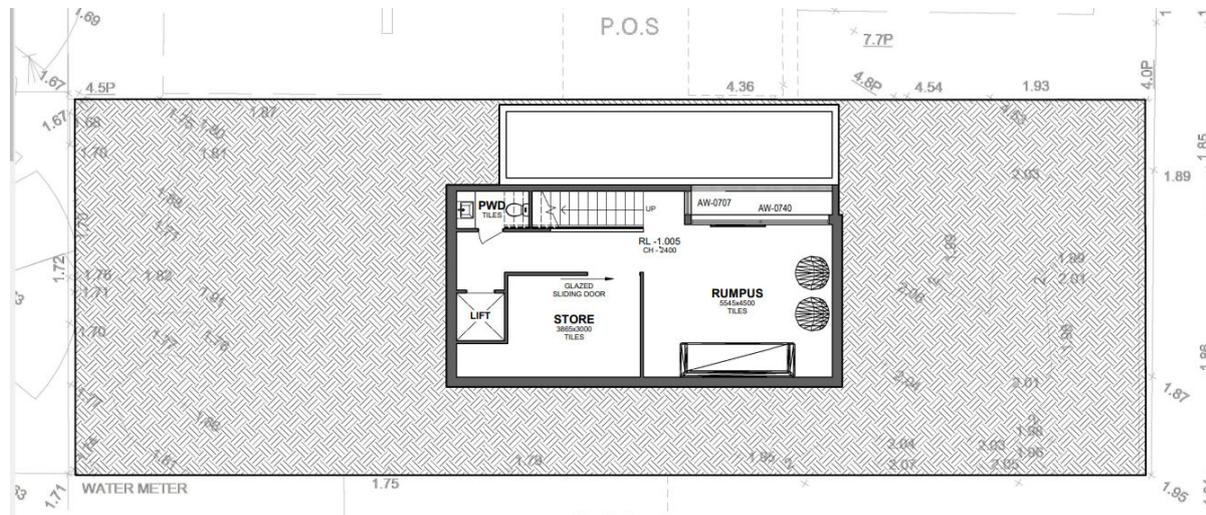


Image: Basement level plan

### Ground Floor

- The layout would consist of an entry, lounge, bathroom, lift, stairs, store, guest room open plan dining/ kitchen.
- To the rear of the dwelling would be a double car port and secluded private open space.
- The ground floor would have an overall length of 21.2 m and a width of 11.1 m.
- At ground floor the dwelling would be setback 4.14 m from the frontage.
- The proposed dwelling would be built along approximately two thirds of the southern boundary and partially built to the northern boundary.
- A 10m long pool is proposed along the northern boundary.
- To the rear of the dwelling would be 33.18 sqm of secluded private open space.

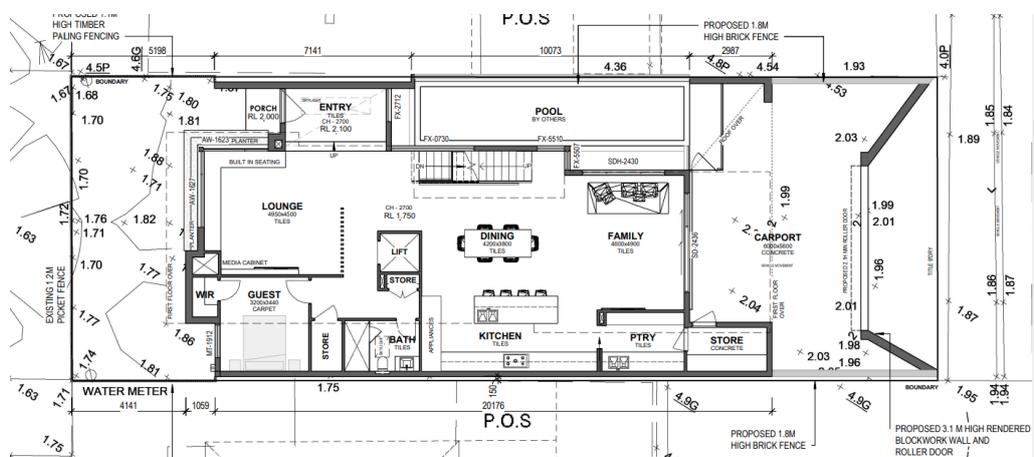


Image: Ground Floor plan

### First Floor

- The layout would consist of three bedrooms, bathroom, WIR, lift, laundry, stairs, powder room and rumpus area.

- The first floor would be setback 3.416 m from the frontage.
- The first floor would have an overall length of 21.9 m and a width of 6.9 m.
- The first floor would be setback 1.758 m and 2.09 m from the southern boundary, 5.9m to the eastern (rear boundary) and 2.02 m increasing to 3.5 m to the northern boundary.

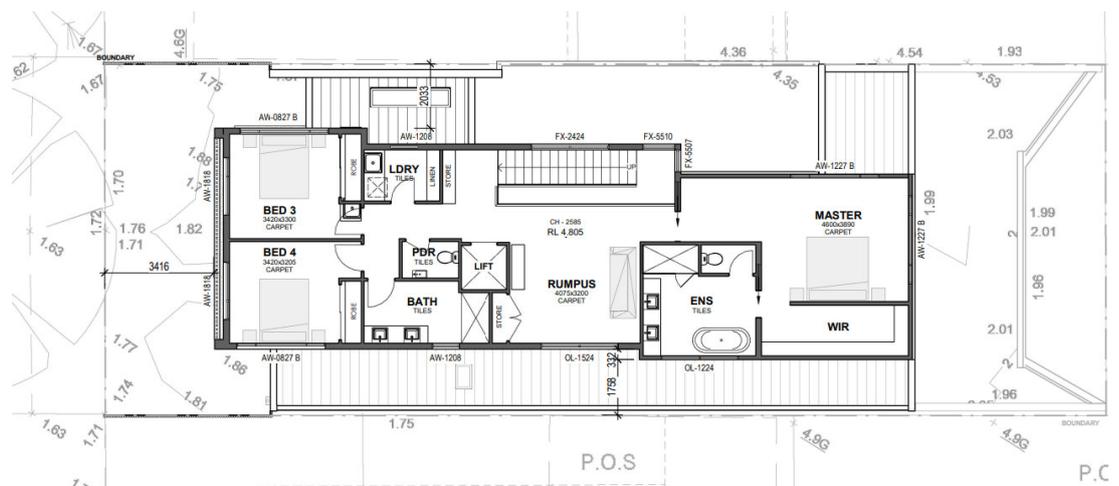


Image: First floor plan

### Roof Level

- The dwelling would have a gabled roof.
- The overall height of the dwelling would be 7.361 m above NGL.

### Materials and Finishes

- The dwelling would be finished in rendered cladding, timber cladding, selected brickwork, fixed screening, metal roofing.

## 6. SUBJECT SITE AND SURROUNDS

Description of Site and Surrounds	
Site Area	347.75 sqm
Existing building & site conditions	<p>The subject site is located on the eastern side of Pickles Street.</p> <p>The site has a frontage of 11.1 m and a length of 31.39 m.</p> <p>The site is generally flat, with a slight fall to the rear of the site.</p> <p>The site contains a pair of semi-detached double storey dwellings. The dwellings are cotemporary in design. To the front of the dwellings is a verandah and a low to medium level front fence. To the rear of</p>

	<p>the dwellings is the secluded private open space. To the rear of the site is a 2.6 m right of way.</p>  <p><i>Image: Front of the subject site.</i></p>
<p>Surrounds/neighbourhood character</p>	<p>This section of Pickles Street (between Tribe and Glover Streets) has an eclectic streetscape, comprising a diverse range of dwelling types and forms. Towards Glover Street dwellings are typically single storey timber Victorian era cottages on both sides of the street. The character changes toward Tribe Street and Spring Street East with more contemporary dwellings ranging from single to three storeys in height.</p> <p>The site interfaces with adjoining properties as follows:</p> <p>To the north of the site are properties (No. 39 to 43) facing Tribe Street. The proposal would interface with a car port and roof at No. 43 Tribe Street, a small area of secluded private open space and a roofed area at No. 41 Tribe Street and a single storey garage at 39 Tribe Street.</p> <p>To the south of the site are two properties (126 Pickles Street and 24 Little Boundary Street).</p> <p>The dwelling at 126 Pickles Street is a single storey timber dwelling with a verandah to the front and medium level (approx. 1.3 m) timber front fence. The dwelling at 24 Little Boundary Street is a single storey masonry dwelling with its secluded private open space abutting the shared boundary. Both dwellings have north facing habitable room windows and secluded private open space facing the subject site.</p> <p>To the east of the site is a 2.6 m wide right of way. On the opposite side of the right of way is a two storey timber dwelling facing Little Boundary Street.</p>



	<p>The dwelling has habitable room windows at ground and first floor level facing the subject site.</p> <p>To the west of the site is Pickles Street. The opposite side of Pickles Street is diverse in character with single storey dwellings from the Victorian era through to more recent contemporary two storey dwellings.</p>
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## 7. PERMIT TRIGGERS

The following zone and overlay controls apply to the site, with planning permission required as described.

Zone or Overlay	Why is a permit required?
Clause 32.09 – Neighbourhood Residential Zone - Schedule 1	<ul style="list-style-type: none"> <li>A permit is required to construct or extend one dwelling on a lot which is less than 500 sqm pursuant to Schedule 2 to Clause 32.09. A development must meet the requirements of Clause 54.</li> </ul>
Clause 43.01- Heritage Overlay Schedule 442	<ul style="list-style-type: none"> <li>A permit is required to demolish and to construct or carry out works pursuant to Clause 43.01 – 1.</li> </ul>

## 8. PLANNING SCHEME PROVISIONS

### 8.1 Planning Policy Framework (PPF)

The following State Planning Policies are relevant to this application:

Clause 11	Settlement, including
Clause 11.01-1R1:	Settlement - Metropolitan Melbourne
Clause 11.02:	Managing Growth
Clause 11.03:	Planning for Places
Clause 13	Environmental Risks and Amenity, including
Clause 13.07:	Amenity
Clause 15	Built Environment and Heritage, including
Clause 15.01-1:	Built Environment
Clause 15.01-1R:	Urban design - Metropolitan Melbourne
Clause 15.01-2S:	Building Design
Clause 15.01-4R:	Healthy neighbourhoods Metropolitan Melbourne
Clause 15.01-5S:	Neighbourhood character
Clause 15.02-1:	Sustainable development
Clause 15.03:	Heritage



Clause 15.03-1S:	Heritage conservation
Clause 16	Housing, including
Clause 16.01:	Residential development
Clause 16.01-1R:	Integrated housing - Metropolitan Melbourne
Clause 16.01-3R:	Housing diversity - Metropolitan Melbourne
Clause 21.03	Ecologically Sustainable Development, including
Clause 21.03-1	Environmentally Sustainable Land Use and Development
Clause 21.03-2	Sustainable Transport
Clause 21.04	Land Use, including
Clause 21.04-1	Housing and Accommodation
Clause 21.05	Built Form, including
Clause 21.05-1	Heritage
Clause 21.05-2	Urban Structure and Character
Clause 21.05-3	Urban Design and the Public Realm
Clause 21.06	Neighbourhoods, including
Clause 21.06-5	South Melbourne

## 8.2 Local Planning Policy Framework (LPPF)

The following local planning policies are relevant to this application:

Clause 22.04	Heritage Policy
Clause 22.12	Stormwater Management (Water Sensitive Urban Design)

## 8.3 Other relevant provisions

Clause 52.06	Car Parking
Clause 54	ResCode
Clause 65	Decision Guidelines

## 8.4 Relevant Planning Scheme Amendment/s

Nil

## 9. REFERRALS

### 9.1 Internal referrals

The application was referred to the following areas of Council for comment.

#### Heritage Advisor

I understand this is a re-submission of a 2019 proposal that for some reason did not proceed. The Heritage Advisor's comments on the application as originally lodged are reproduced below. As noted below, the Contributory grading is incorrect and full demolition may be permitted.

The plans now under consideration retain the overall concept, but have made a number of changes, most significantly:



- The garage at the front has been deleted, and car access is now from the rear
- Consequential changes to the ground floor façade, including changes to the front window, which is now recessed into the wall behind a planter and wraps the corner leading to the front door.
- The overall height has reduced – at the front this decreases from 8.84m to 7.34m.
- The front setbacks have been reduced slightly.

The changes have improved the design. The reduction in front setback is not consequential in terms of visual impacts and in any case is offset by the reduction in height and significant improvements arising from the removal of the garage and driveway. The new window design also improves the façade and provides more legibility to the side entrance.

Overall, I believe this is an improved scheme and may be supported.

#### Previous Heritage Comments (in part)

The contributory gradings of the houses are incorrect. The Heritage Advisor has informed the file officer that the existing two houses were constructed in 2000, after the 1998 heritage study was completed. On this basis, the demolition of the two houses is acceptable.

The proposed design is contemporary in its expression, and an appropriate response for infill in a heritage context.

#### Planner Comments

Council's Heritage Advisor has not raised any concerns about the proposed demolition of the existing building or the design and construction of the replacement building.

#### **Traffic Engineer**

No objections to the proposal or the access to and from the car spaces at the rear.

#### Planner Comments

Council's Traffic Engineer now has no objections to the proposal. These comments are based on the (s57A) plans, which resolved the previous issues relating to access and manoeuvring.

### **9.2 External referrals**

9.3 Nil

## **10. PUBLIC NOTIFICATION/ OBJECTIONS**

10.1 It was determined that the proposal may result in material detriment therefore Council gave notice of the proposal by ordinary mail to the owners and occupiers of surrounding properties (13 properties), in accordance with Section 52 of the Planning and Environment Act 1987.

10.2 The application received two objections.

10.3 The key concerns raised are summarised below (officer comment will follow in italics, where comments are not provided, the concerns will be addressed in Section 11):

- Overshadowing



*Discussed in section 11 of this report.*

- Walls on boundaries

*The proposal seeks a variation to the height and length requirements of Standard A11 of ResCode on the northern and southern boundaries.*

*The variation to the height requirement on the northern boundary is considered to be acceptable, as the section of wall with a height in excess of 3.2m would be opposite the car port and single storey building of No. 43 Tribe Street. Given that the wall would not be opposite an area of secluded private open space or a habitable room window, there would be no loss of amenity from this variation to the Standard.*

*The proposal also seeks a variation to the length requirement of this Standard on the southern elevation and this is discussed in detail, in section 11 of this report.*

- Visual bulk

*The proposal is for a two storey dwelling. The dwelling would be within the mandatory height limits for this area, as detailed in the zone. Furthermore, the first floor setbacks to the adjoining properties meet or marginally exceed the requirements of ResCode (Standard A10). As such, it is not considered that the proposal would result in unreasonable visual bulk to the adjoining properties.*

- Daylight to windows

*There are existing windows on No. 126 Pickles street facing the subject site.*

*The proposal would have a ground floor wall on the boundary with a height of 3.15 m above natural ground level. This wall would comply with the requirements of this Standard. The proposal also includes a two storey wall, setback from the boundary, with a height of 5.77 m above natural ground level. Under this Standard this wall should be setback 2.89 m from the window on the adjoining property. The first floor wall would be setback 4.3 m from the window facing the subject site at No. 126 Pickles Street. This setback significantly exceeds the requirements of this Standard.*

- Plans show the pergola at No. 126 Pickles Street which was removed Jan/Feb 2020.

*This has been noted and a set of corrected shadow diagrams provided with the increased area of secluded private open space.*

- Plans don't state origin of the RL.

*The plans state that the crossing has an RL of 1.68.*

- Is the ground floor level and RL (not stated).

*The plans (TP5) shows the ground floor RL as 1.750. As such, the plans show this to be an RL.*

- Where is the natural ground level in relation to the RL?

*The plan TP5 has a number of spot levels (in RL) of natural ground level as does plans TP2.*

- The dimensions on plan TP8 have two different heights. .



*The two heights shown on plan TP8 are taken from different points, one at finished floor level and one from ground level.*

- The front elevations of the properties on TP1 is misleading and out of date.

*The plan TP1 is a cover page and not used for the assessment of the proposal.*

- The overshadowing diagrams are from September to favour the proposal.

*ResCode requires overshadowing diagrams to show the shadow on 22<sup>nd</sup> September.*

It is considered that the objectors do not raise any matters of significant social effect under Section 60 (1B) of the Planning and Environment Act 1987.

## 11. OFFICER'S ASSESSMENT

### Local Policy

#### 11.1 Does the proposal provide sufficient garden area and comply with the height control under the Neighbourhood Residential Zone?

The subject site has a total area of 347.75 sqm. There is no requirement for minimum garden area under Clause 32.09-9. The proposed dwelling would have a maximum building height of 7.361 m and be double storey, which is below the maximum of 9 m and two storeys allowed under the zone.

#### 11.2 Does the extent of demolition impact on the heritage values of the site? Is the alteration(s) compatible with the existing building and sympathetic to heritage values?

The heritage policy at Clause 22.04-3 states under "Demolition":

*Where a permit is required for demolition of a significant or contributory building, it is policy to:*

- *Refuse the demolition of a contributory building unless and only to the extent that:*
  - *the building is structurally unsound, and either*
  - *the replacement building and/or works displays design excellence which clearly and positively supports to the ongoing heritage significance of the area, or*
  - *in exceptional circumstances the streetscape is not considered intact or consistent in heritage terms.*
- *Require all applications for demolition of significant or contributory buildings to be accompanied by an application for new development. [Emphasis added]*

In this case the applicant has not demonstrated that the dwellings are structurally unsound. However, the dwellings were constructed in 2000 and as such have minimal heritage value. Council's Heritage Advisor has confirmed that the grading is an error and he has no objection to the proposed demolition.

The second part of the policy details that demolition of a contributory graded heritage building should only be supported where the replacement building displays 'design excellence' which positively supports the ongoing heritage significance of the area.

There have been various VCAT decisions that have defined what is meant by 'design excellence'. These VCAT decisions detail that 'design excellence' does not mean that a

building has to be of particularly exemplary design but rather something that is an appropriate fit within its context or as the planning scheme requires, that a proposal will produce acceptable outcomes.

In this case Council's Heritage Advisor has reviewed the replacement building and is supportive of the proposal. Council's Heritage Advisor has stated "*The proposed design is contemporary in its expression, and an appropriate response for infill in a heritage context*". This section of Pickles Street (between Tribe and Glover Streets) has a diverse range of dwelling types and built form. Towards Glover Street are typically single storey timber Victorian era cottages on both sides of the street. The character changes toward Tribe Street and Spring Street East, where dwelling styles are more contemporary and range from single to three storey in height.



Image: Pickles Street looking south.

Given the eclectic nature of the streetscape, the proposed contemporary dwelling would be in keeping with the character of this section of Pickles Street.

For these reasons it is considered that the replacement building would be well designed, fit sensitively within the streetscape and will produce an acceptable outcome. As such, it is considered that the replacement building achieves the second part of the policy for 'design excellence'.

### **11.3 Is the development consistent with the nature of development in the immediate neighbourhood in terms of existing/preferred scale, setbacks, form and pattern of subdivision?**

Clause 21.05 (Built Form) requires new development to respect and enhance the scale, mass and setback of nearby heritage buildings. Clause 22.04-2 (Heritage) encourages new development to be respectful of the scale, form, siting and setbacks of nearby significant and contributory buildings.

The proposed two storey dwelling would be in keeping with the existing streetscape of this section of Pickles Street and the previous dwellings on the site. Pickles Street contains a range of dwelling types, sizes and styles. The eastern side of Pickles Street is typically single storey timber cottages, with the subject site being a notable exception at two storeys. The western side of Pickles Street is far more diverse with dwelling heights ranging from single to triple storey and styles from contemporary, postwar and Victorian.

Within this context the proposed contemporary two storey dwelling would be appropriate for in this location.



#### **11.4 Amenity – Clause 54 (ResCode)**

A full assessment against Clause 54 (One Dwelling on a Lot) has been undertaken and is attached to this report (Attachment 1). The proposal seeks variations to the street setback (A4), site coverage (A5), wall on boundaries (A11), north facing windows (A13), overshadowing (A14), overlooking standards (A15). Each of these will be discussed in turn.

##### **Standard A4 – Street Setback**

The proposal would be setback 4.14 m at ground floor level and 3.416 m at first floor level. The average setbacks of the adjoining properties is 3.65 m.

As such, the proposal would require a variation to the standard due to the first floor level, which overhangs the ground floor.

The proposed variation is only 0.23 m and it is noted that this section of Pickles Street has a variation in front setbacks, ranging from 3.0 m to 4.8 m. It is considered that the proposed variation would be consistent with the existing streetscape and is acceptable in this instance.

##### **Standard A5 – Site Coverage**

The proposal would result in a site coverage of 60.97% and is seeking a variation of 0.97%, above the 60% recommended requirement of this Standard.

In this instance the variation is considered to be acceptable and consistent with the existing neighborhood character, as many of the surrounding properties have high levels of site coverage.

##### **Standard A11 – Walls on Boundaries**

###### Northern Elevation

The proposal seeks a variation to the height requirement of this Standard on the northern elevation.

The variation to the height requirement is considered to be acceptable, as the wall would have a height of 3.55 m (requiring a variation of 0.35 m to the Standard) and would be opposite the car port and single storey building of No. 43 Tribe Street. Given that the wall would not be opposite an area of secluded private open space or a habitable room window, there would be no loss of amenity from this variation to the Standard.

###### Southern Elevation

The proposal seeks a variation to Standard A11 regarding the length of wall on the southern boundary.

This Standard requires a wall length of 15.33 m on the southern boundary, while the proposal would have a length of 20.18 m, requiring a variation of approximately 5.0 m. The variation to the length requirement is considered to be acceptable in this instance, as buildings constructed on boundaries is a characteristic of this locality.

The wall on the southern boundary would be 3.15 m in height, which is marginally below the average height of 3.2 m recommended by the Standard.

##### **Standard A13 – North Facing Windows**



There is one north facing habitable room window at No. 126 Pickles Street. The proposal would have a wall height of 5.77 m opposite this window. Under this Standard the wall should be setback 2.32 m from the shared boundary. In this case the proposal would be setback 2.1 m to the shared boundary, but would be 4.11 m from the habitable room window.

In this case the variation is considered to be acceptable as it is relatively minor, being 0.21 m. Furthermore, it is noted that the current two storey dwelling is opposite this window and the first floor currently has a lesser setback (approx. 1.7 m) to the shared boundary than the proposal. As such, the proposal would provide for an improved northern daylight access compared to the existing conditions. On this basis, the proposed variation is considered to be acceptable.

There are two north facing habitable room windows at No. 24 Little Boundary Street that face the subject site. However, the proposed development would not be built in front of these windows. As such, the proposal complies with the Standard to these windows.

#### **Standard A14 – Overshadowing**

The proposal would result in additional shadow to the secluded private open space (SPOS) of both 24 Little Boundary Street and 126 Pickles Street, as outlined below.

#### **24 Little Boundary Street**

The proposal would result in additional shadow to the secluded private open space for each hour between 9 am to 3 pm. This increase in overshadowing ranges from 2.4 sqm to 7.22 sqm. Much of the increased shadow to this property results from the inset walls to the roller door entry from the ROW, which is shown to be 3.1 m high. If the inset wall was to be reduced to 1.8 m, then the shadow produced would fall within the existing shadow cast by the boundary fence and in turn reduce the overall amount of overshadowing to the SPOS of 24 Little Boundary Street.

If the remainder of the application is considered to be acceptable, a condition would require the rear wall either side of the roller door to be reduced to 1.8 m in height.

**(Refer Condition 1b).**

In addition, it is recommended that the setback of the rear section of the first floor (en-suite and WIR) wall is proposed to be increased by 0.322 m (see discussion below). Whilst this would not eliminate all the proposed shadow, the levels of shadowing would be reduced and not be unreasonable. **(Refer Condition 1c)**

#### **128 Pickles Street**

The proposal would also result in additional shadow to the secluded private open space (SPOS) of No. 128 Pickles Street and not meet the minimum requirement of Standard A14 (overshadowing).

In this case the variation is considered to be acceptable and can be marginally approved by a recommended condition, should the proposal be supported. The adjoining SPOS, some of which is covered, is located to the south of the subject site and almost any two storey development is likely to result in some additional shadow due to orientation of the site and the widths of the lots. It is noted that even with the first floor setbacks satisfying, and in part slightly exceeding, the side setback requirements of Standard A10, additional overshadowing will occur.

While the proposal has attempted to respond to the overshadowing on this adjacent property, it is considered that the amount of overshadowing could be further improved



by increasing the first floor level setback to the southern boundary by 0.322 m, for the en-suite and WIR, to match the rest of the first floor setback of 2.09 m. This recommended modification (**Refer Condition 1c**) would help to reduce the overall amount of shadow produced.

Overall, the amount of overshadowing to the Secluded Private Open Space area of 126 Pickle Street is not considered unreasonable, due to the following:

- Recommended changes as per condition 1c)
- Compliance with ResCode setbacks
- The impact of the existing evergreen tree situated along the southern boundary (to be removed) that already casts a shadow in this area,
- The impact of the existing roofed areas on the SPOS area
- After 12 noon the shadows fall predominantly within the existing shadows.

The Officers assessment on this issue has been supported by various VCAT decisions in Port Phillip, acknowledging the highly urbanised context of the municipality and recognising that meeting the Standards of ResCode is not always possible. In circumstances where Clause 54 standards are not met, Council is required to be satisfied that the relevant objectives of Clause 54 are achieved.

In this instance Council is satisfied that the Objective of Standard A14 is met and the variation of the Standard is not considered to be unreasonable.

#### **Standard A15 - Overlooking**

At ground floor level the boundary fence would prevent views into the adjoining property.

At first floor level there would be windows along the northern and southern (side) elevations and the rear elevation.

It is noted that there is secluded private open space and habitable room windows within 9 m of the side and rear boundaries.

#### North Elevation

Along the northern elevation are windows to bedroom 3, laundry, stairs and master bedroom. The window to bedroom 3 and the laundry would look over the front garden and car port of No. 43 Tribe Street. The windows to the stairs would be opposite the secluded private open space of No. 41 Tribe Street. Whilst stairs are not a habitable room, the rumpus room behind the stairs would be within 9m of the secluded private open space of No. 41 Tribe Street. If the remainder of the application is considered to be acceptable a condition would require the applicant to demonstrate that no direct views into the secluded private open space of No. 41 Tribe Street to a height of 1.7m above natural ground level, is possible from this window, otherwise the window to be treated to prevent overlooking. (**Refer Condition 1a**).

Again, the master bedroom window is within 9m of the secluded private open space of No. 41 Tribe Street. If the remainder of the application is considered to be acceptable a condition would require the applicant to demonstrate that no direct views into the secluded private open space of No. 41 Tribe Street to a height of 1.7m above natural ground level, is possible from this window, otherwise the window to be treated to prevent overlooking. (**Refer Condition 1a**).



### South Elevation

On the southern elevation there are windows to bedroom 4, bathroom, rumpus and ensuite. Of these windows, bedroom 4 and the bathroom, would overlook the front garden and driveway of No. 126 Pickles Street. The remaining windows would be obscured and fixed shut to a height of 1.7 m above finished floor level.

On the rear elevation would be a window to the master bedroom. This window would be more than 9m to the habitable room windows and secluded private open space facing the rear of the site at No. 22 Little Boundary Street.

### **11.5 Internal Amenity**

The dwelling would provide three bedrooms, open plan kitchen / dining / family, and three bathrooms. Private open space would be provided through 33.18 sqm of rear garden area. The dwelling would be provided with two car parking spaces. The facilities provided and the size of the dwelling would provide comfortable and practical living arrangements for future residents.

### **11.6 Traffic and Parking**

The proposal includes two car spaces at the rear of the dwelling accessed via a right of way. The provision of two car parking spaces satisfies the requirements of Clause 52.06 (Car parking). It is also noted that Council's Traffic Engineer has no objection to the car parking layout or access to the site.

### **11.7 Sustainable Design and Water Sensitive Urban Design**

A Sustainable Design Assessment is not required for a single dwelling under Clause 22.13 (Environmental Sustainable Development) however the permit applicant has voluntarily submitted a report.

A Water Sensitive Urban Design Report has been assessed by Council's Sustainable Design Officer who has no objections, subject to the inclusion of two standard WSUD conditions on any approval. **(Refer conditions 6 and 7)**

### **11.8 Other Matters**

11.9 Nil

## **12. INTEGRATED DECISION MAKING AND CONCLUSION**

Clause 71.02 of the planning scheme requires the decision-maker to integrate the range of policies relevant to the issues to be determined and balance the positive and negative environmental, social and economic impacts of the proposal in favour of net community benefit and sustainable development. When considering net community benefit, fair and orderly planning is key; the interests of present and future Victorians must be balanced; and, the test is one of acceptability.

The proposal would result in a number of positive, neutral and negative impacts, these are outlined below:

### Positive

- The proposal would achieve the purpose of the zone, providing a clear public benefit by way of contributing to Melbourne's much needed appropriate housing stock, adding to diversity/housing choice in an accessible location (environmental, economic and social)
- The proposal would achieve relevant environmental sustainability requirements (environmental)



- The proposal is well designed and would fit sensitively within the streetscape and produce an acceptable outcome for the heritage area.

Neutral

- Neither the built form nor the use would not result in unreasonable offsite amenity impacts to residential properties (social)
- The proposal is considered to satisfactorily address the Objectives of Clause 54 (ResCode), subject to conditions.

Negative

- The application has received 2 objections (social)

Summary

The impacts of the development are considered to weigh heavily in the favour of 'positive'. The key negative relates to the number of objections

Viewed holistically and balancing the material considerations along with the interests of present and future Victorians, the proposal is considered to result in a net community benefit and a sustainable development.

The demolition of the contributory graded dwelling is considered to be satisfactory and in accordance with the Heritage Policy, as the dwelling was constructed in 2000 and the grading is incorrect. The proposed dwelling would be of an appropriate design and respectful of the height and form of the surrounding dwellings. Furthermore, the proposal has been generally well designed to protect the amenity of neighbouring occupiers and is considered worthy of support however some refinement is sought subject to conditions noted below. Variations to ResCode have been supported in relation to A4, A5, A11, A12 and A13, however this is justified having regard to the existing pattern of development in the locality and existing conditions. The variations to A14 and 15 have not been supported in their entirety and conditions would require amendments to reduce the extent of overshadowing and overlooking (**Refer Conditions 1a, b and c**). On the basis of the assessment in this report, it is recommended to approve the application.

### 13. COVENANTS

- 13.1 The applicant has completed a restrictive covenant declaration form declaring that there is no restrictive covenant on the titles for the subject site known as Lot 1 and 2 on Plan of Subdivision 440607E (Parent title Volume 01711 Folio 439) created by Instrument PS440607E 15/01/2001.

### 14. OFFICER DIRECT OR INDIRECT INTEREST

- 14.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.

### ATTACHMENTS

1. Plans
2. Overshadowing Diagrams
3. ResCode Assessment