



6.2 **355 BARKLY STREET, ELWOOD**
LOCATION/ADDRESS: 355 BARKLY STREET, ELWOOD
EXECUTIVE MEMBER: LILI ROSIC, GENERAL MANAGER, PLACE STRATEGY AND DEVELOPMENT
PREPARED BY: MATT SPENCER, PRINCIPAL PLANNER

1. PURPOSE

1.1 To consider and determine Planning Permit application P1166/2017 for demolition of an existing dwelling and buildings and works to construct two double storey dwellings (with basements) and alteration of access to a road in a Road Zone, Category 1.

2. EXECUTIVE SUMMARY

WARD:	Canal
TRIGGER FOR DETERMINATION BY COMMITTEE:	More than 15 objections
APPLICATION NO:	1166/2017
APPLICANT:	BOJAN SIMIC ARCHITECTURE
EXISTING USE:	Single dwelling
ABUTTING USES:	Single dwellings
ZONING:	Neighbourhood Residential Zone - Schedule 5 (NRZ5) Abuts a Road Zone – Category 1 (RDZ1)
OVERLAYS:	Heritage Overlay - Schedule 403 (HO403) Special Building Overlay - Schedule 1 (SBO1)
STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL	Expired

2.1 The site was the subject of an application for planning permit in 2016. This application sought permission to demolish the existing dwelling on the site and construct four, two and three storey dwellings. Whilst VCAT supported the demolition of the existing dwelling on the basis that it was deemed structurally unsound, it did not support the replacement building fundamentally due to its impact upon the amenity of neighbouring dwellings and its presentation to Lawson Street.



- 2.2 The current application for the site seeks permission to demolish the existing dwelling on the site and construct two double storey dwellings (with basements) and alter access to a road in a Road Zone, Category 1 at 355 Barkly Street, Elwood.
- 2.3 The application was advertised. Seventeen objections were received raising concerns with:
- failure to respond to issues raised by VCAT in its determination on the previous application for the site
 - failure to respond to the character of the area
 - adverse impact on car parking availability in the area
 - failure to achieve several objectives of ResCode/Clause 55.
- 2.4 In response to Council and objector requests for further details and corrections to the plans, amended plans were submitted on 12 June 2018, pursuant to Section 57A of the *Planning and Environment Act 1987*.
- 2.5 The amended plans were emailed to all objectors on 12 June 2018. Whilst the amended plans generally represent an improvement to the development, additional changes are recommended by permit conditions to improve the development in terms of its amenity impacts and response to the heritage character of the area.
- 2.6 The key recommended changes include:
- additional ground and first floor setbacks from the south boundary to protect the amenity of neighbouring north facing windows and rear yard at 357 Barkly Street
 - deletion of the deck at the rear of House 2 to reduce privacy impacts upon 357 Barkly Street and 3 Lawson Street
 - increase in the setback of House 2 from Lawson Street to reduce the visual impact of the development as it presents to Lawson Street and to concurrently provide open space with excellent access to sunlight
 - reduction in the extent of solid fencing to Lawson Street to further reduce the visual impact of the proposal
 - replacement of steel cladding with brick at the ground floor of House 1 as it faces each street.
- 2.7 It is recommended that the Council approve the application and issue 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 Demolition of the existing dwelling and buildings and works to construct two double storey dwellings (with basements) and alteration of access to a road in a Road Zone, Category 1 at 355 Barkly Street, Elwood
- 3.3 That the decision be 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 three copies must be provided. The plans must be generally in accordance with the plans submitted under Section 57A of the Planning and Environment Act 1987, but modified to show:

- a) The location of all air-conditioning unit(s) to House 2 and/or hot water service(s) to each House.
- b) The solid portions of the fence to Lawson Street replaced with fencing that matches the remaining 1.8m high steel pickets.
- c) The external north and east facing walls to the ground floor of the master suite to House 1 finished in face brickwork (otherwise described by the 'external finishes legend' as item 'A').
- d) Each of the first floor windows to House 1 that face Barkly Street to be provided with a 4mm vertical blade screen (otherwise described by the 'external finishes legend' as item 'E').
- e) A dark colour and/or material to each garage door so that each door integrates with the overall design of the development.
- f) A notation on the plans stating that the rainwater tanks will be used for toilet flushing and garden irrigation.
- g) External sun shading devices shading for all sun exposed north and west facing glazing apart from the first floor north facing windows.
- h) A notation on the plans stating that all windows and glass doors will be double glazed.
- i) A notation on the plans stating that Green waste facilities will be provided for each House.
- j) All windows to be shown as operable apart from those portions comprising fixed obscure glass.



- k) The living/dining room of House 2 shifted 2m to the south and the enlarged setback to Lawson Street to include a deck constructed to more than 0.8m above natural ground level.
- l) Deletion of the deck at the southwest corner of House 2 and replacement with at grade landscaping.
- m) The ground floor south facing wall to the master suite/robe/ensuite of House 2 setback in accordance with Standard B20 at Clause 55.04-4 of the Port Phillip Planning Scheme.
- n) The first floor south facing walls of each House setback in accordance with Standard B20 at Clause 55.04-4 of the Port Phillip Planning Scheme.
- o) Retention or like for like replacement of the 2m high paling fence on the south boundary of the site.
- p) The south facing windows of the living/dining area to House 2, the west facing ground floor master suite window to House 2 and the south facing kitchen window to House 1 to be provided with sill heights to 1.7m above finished floor level or obscure glazing to 1.7m above the floor level or permanent screens to 1.7m above the floor level of each House. If screens, rather than obscure glazing or 1.7m high sills are to be utilised, the plans must include elevation and cross section drawings of the screens to ensure that overlooking of neighbouring secluded private open space and/or neighbouring habitable room windows are prevented (rather than limited). The drawings must:
 - Be drawn to scale and fully dimensioned;
 - Clearly delineate any solid parts of the screen and any louvre or batten parts of the screen;
 - Clearly illustrate how any louvre or batten system may allow upward views but will prevent downward and horizontal views to neighbouring properties;
 - 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 private open space are prevented, while allowing outlook horizontally and upward from the windows.
- q) The location of the landing, stairs and associated door to the laundry of House 1 swapped with that of the nearby bins and bike rack.
- r) the permeable crushed rock to the surface of the turning area within the Barkly Street frontage replaced with grass permeable.
- s) A demolition plan.
- t) Any changes necessary to meet the requirements of the Sustainable Design Assessment in the corresponding condition below.



- u) Any changes necessary to meet the requirements of the Water Sensitive Urban Design Response in the corresponding condition below.
- v) Any changes necessary to meet the requirements of the Landscape Plan in the corresponding condition below.

2 No Alterations

The development and colours, materials and finishes as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

3 Satisfactory continuation

Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

4 Melbourne Water

- i. Prior to the endorsement of plans, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Plans must be submitted with surface and floor levels to Australian Height Datum (AHD) and must be modified to show:
 - a) Finished floor levels of the garages set no lower than 1.8 metres to AHD.
 - b) The self-closing flood barriers set to 2.4m to AHD.
 - c) Highlight windows to the basement removed or set no lower than 2.4 metres to AHD.
 - d) Storage for House 1 moved for the south boundary setback and/or raised to 2.1m to AHD on unenclosed decking.
 - e) Internal fences and gates of an open style of construction (50% open).
 - f) An annotation on the ground floor and elevation plans indicating that the decking is open and unenclosed and steps contain no vertical risers.
 - g) Air-conditioning units and hot water services raised to a minimum of 1.8m to AHD.
- ii. The ground floor dwellings and entry foyers must be constructed with finished floor levels set no lower than 2.4 metres to Australian Height Datum (AHD) which is 600mm above the 2040 flood level of 1.8m to AHD.
- iii. All doors, windows, vents and openings to the basement must be tanked and banded to a minimum of 2.4 metres to AHD.
- iv. The garages must be constructed with finished floor levels set no lower than 1.8 metres to AHD.
- v. The garages must be protected by a Self-Closing Flood Barrier to a height of no lower than 2.4 metres to AHD which is 600mm above the 2040 flood level of 1.8m to AHD.



- vi. All doors, windows, vents and openings to the basement must be tanked and banded to a minimum of 2.4 metres to Australian Height Datum (AHD).
- vii. The external storage units must be set no lower than 2.1 metres to AHD which is 300mm above the 2040 flood level of 1.8m to AHD.
- viii. Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed), reduced to the AHD, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.
- ix. All open space within the property must be set at existing natural surface level with the exception of open & unenclosed decking and open style fencing, so as not to obstruct the passage of overland flows (and no retaining walls or solid masonry walls are to be used in the development of the land.)
- x. All proposed decking above natural surface must be constructed with unenclosed foundations and stairs must contain no vertical risers, to allow for the passage of overland flows.
- xi. All new boundary fences or gates facing Barkly and Lawson Streets must be maintained as proposed unless with prior written approval of Melbourne Water.
- xii. All internal fences and gates must be of an open style of construction (50% open) for the passage of overland flows.
- xiii. The air-conditioning and hot water services must be set no lower than the flood level of 1.8m to AHD.
- xiv. Prior to commencement of works, design plans of the Self-Closing Flood Barrier unit including details of general principles of operation, intake structures, control pit details, alarms, flood barrier rise times, risk assessment, maintenance schedule and monitoring of operations must be submitted and approved by Melbourne Water.
- xv. Prior to the completion of works, the owner/s of the Land must enter into an agreement pursuant to Section 173 of the Planning and Environment Act 1987 with the Responsible Authority and Melbourne Water Corporation. All costs associated with the setting up of the agreement must be borne by the permit holder. The agreement must be registered on the title of the Land and must provide, to the satisfaction of the Responsible Authority and Melbourne Water. The purpose of the agreement shall be to:
 - a) identify the garages and internal storage as being constructed below the adopted flood level of 2.4 metres to Australian Height Datum for properties affected by a 0.8 metre rise in sea level by the year 2100.
 - c) identify the use of the Self-Closing Flood Barrier to provide protection to the garages and storage to a level no lower than 2.4 metres to Australian Height Datum.



The Self-Closing Flood Barrier must provide a 600mm freeboard above the adopted flood level of 1.8 metres to Australian Height Datum.

- d) identify the ongoing maintenance requirements for the life of the Self-Closing Flood Barrier. The maintenance plan must be treated as any other essential service with mandatory annual reporting and maintenance servicing.

5 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.

6 Sustainable Design Assessment

Before the development starts (other than demolition or works to remediate contaminated land) a Sustainable Design Assessment that outlines proposed sustainable design initiatives must be submitted to, be to the satisfaction of and approved by the Responsible Authority. When approved, the Assessment will be endorsed and will then form part of the permit and the project must incorporate the sustainable design initiatives listed.

The report must be generally in accordance with the report submitted with the initial application material but modified to include:

7 Incorporation of Sustainable Design initiatives

The project must incorporate the sustainable design initiatives listed in the endorsed Sustainable Design Assessment to the satisfaction of the Responsible Authority.

8 Implementation of Sustainable Design Initiatives

Before the occupation of the development approved under this permit, a report from the author of the Sustainable Design Assessment approved pursuant to this permit, or similarly qualified person or company, must be submitted to the satisfaction of the Responsible Authority. The report must confirm that all measures and recommendations specified in the Ecologically Sustainable Design report have been implemented and/or incorporated in accordance with the approved report to the satisfaction of the Responsible Authority.

9 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.

10 Incorporation of Water Sensitive Urban Design initiatives

Before the occupation of the development approved under this permit, the project must incorporate the water sensitive urban design initiatives listed in the endorsed Water Sensitive Urban Design Report to the satisfaction of the Responsible Authority, and thereafter maintained to the satisfaction of the Responsible Authority.

11 Maintenance Manual for Water Sensitive Urban Design Initiatives (Stormwater Management)

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:

- inspection frequency
- cleanout procedures
- 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 Building User's Guide or a Building Maintenance Guide.

12 Landscape Plan

Before the development starts (other than demolition or works to remediate contaminated land), a detailed Landscape Plan must be submitted to, approved by and be to the satisfaction of the Responsible Authority. When the Landscape Plan is approved, it will become an endorsed plan forming part of this Permit. The Landscape Plan must be generally in accordance with the landscape plan submitted with the application and prepared by John Patrick Landscape Architects P/L, dated 08/03/18, but modified to show:

- a) Consistency with the plans required by condition 1 of this permit
- b) The provision of planter boxes to the edges each north facing deck

13 Completion of Landscaping

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



14 Landscaping Maintenance

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

15 Applicant to Pay for Reinstatement

Before the occupation of the development allowed by this permit, the applicant/owner must do the following things to the satisfaction of the Responsible Authority:

- a) Pay the costs of all alterations/reinstatement of Council and Public Authority assets necessary and required by such Authorities for the development.
- b) Obtain the prior written approval of the Council or other relevant Authority for such alterations/reinstatement.
- c) Comply with conditions (if any) required by the Council or other relevant Authorities in respect of alterations/reinstatement.

16 Parking and Loading Areas Must Be Available

Car parking areas must be kept available for those purposes at all times and must not be used for any other purpose such as storage to the satisfaction of the Responsible Authority.

17 Vehicle Crossings

Before the occupation of the development allowed by this permit, vehicle crossings must be constructed in accordance with Council's current Vehicle Crossing Guidelines and standard drawings to the satisfaction of the Responsible Authority. All redundant crossings must be removed and the footpath, naturestrip, kerb and road reinstated as necessary at the cost of the applicant/owner and to the satisfaction of the Responsible Authority.

18 Public Services

Before the occupation of the development allowed by this permit, 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/owner to the satisfaction of the relevant authority and the Responsible Authority. All costs associated with any such modifications must be borne by the applicant/owner.

19 Arborist Report

Before the development starts, a report and plan by a suitably qualified Arborist to comply with AS 4970 - 2009 Tree protection on development sites setting out how the existing Plane tree adjacent to the northwest corner of the site (opposite the living/dining of House 2) at 355 Barkly Street will be protected during construction, must be submitted to, approved by and be to the satisfaction of the Responsible Authority. When approved the report and plan will be endorsed and form part of the permit.



The tree protection measures outlined in the report must be complied with to the satisfaction of the Responsible Authority.

20 Removal and Replacement of Street Tree

Before the development starts, the amenity value and removal and replacement cost of the existing street tree opposite the living/dining of House 1 must be paid by the applicant/owner to the Responsible Authority. Removal and replacement, including 24 month maintenance of the street tree, may only be undertaken by the Responsible Authority.

21 Piping and ducting

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

22 No equipment or services

Any plant, equipment or domestic services visible from a street (other than a lane) or public park must be located and visually screened to the satisfaction of the responsible authority.

23 Privacy screens must be installed

Privacy screens 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.

24 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 two years of the date of commencement of works.

The Responsible Authority may extend the periods referred to if a request is made in writing:

- before or within 6 months after the permit expiry date, where the use or development allowed by the permit has not yet started; and
- within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

Permit Notes:

Building Approval Required

This permit does not authorise the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.

Building Works to Accord with Planning Permit

The applicant/owner will provide a copy of this planning permit to any appointed Building Surveyor. It is the responsibility of the applicant/owner and Building Surveyor to ensure that all building development works approved by any building permit is consistent with this planning permit.



Due Care

The developer must show due care in the development of the proposed extensions so as to ensure that no damage is incurred to any dwelling on the adjoining properties.

Days and Hours of Construction Works

Except in the case of an emergency, a builder must not carry out building works outside the following times, without first obtaining a permit from Council's Local Laws Section:

- Monday to Friday: 7.00am to 6.00pm; or
- Saturdays: 9.00am to 3.00pm.

An after-hours building works permit cannot be granted for an appointed public holiday under the Public Holidays Act, 1993.

Drainage Point and Method of Discharge

The legal point of stormwater discharge for the proposal must be to the satisfaction of the responsible authority. Engineering construction plans for the satisfactory drainage and discharge of stormwater from the site must be submitted to and approved by the responsible authority prior to the commencement of any buildings or works.

Noise

The air conditioning plant must be screened and baffled and/or insulated to minimise noise and vibration to other residences in accordance with Environmental Protection Authority Noise Control Technical Guidelines as follows:

- a) noise from the plant during the day and evening (7.00am to 10.00pm Monday to Friday, 9.00am to 10.00pm Weekends and Public Holidays) must not exceed the background noise level by more than 5 dB(A) measured at the property boundary
- b) noise from the plant during the night (10.00pm to 7.00am Monday to Friday, 10.00pm to 9.00am Weekends and Public Holidays) must not be audible within a habitable room of any other residence (regardless of whether any door or window giving access to the room is open).

4. RECOMMENDATION – PART B

- 4.1 Authorise the Manager City Development to instruct Council's Statutory Planners and/or solicitors on any future VCAT application for review.

5. RELEVANT BACKGROUND

The following relevant applications have previously been considered for the subject site:

Application No.	Proposal	Decision	Date of Decision
1144/2014	<i>Demolition of the existing single storey dwelling, construction of one (1), two storey townhouse fronting Barkly Street and construction of three (3), three (3) storey townhouses facing Lawson Street, each with basements.</i>	<i>Delegate refusal upheld by VCAT</i>	<i>16 February 2016</i>

- 5.1 Whilst VCAT supported the demolition of the existing dwelling on the basis that it was deemed structurally unsound, it did not support the replacement building fundamentally due to its impact upon the amenity of neighbouring dwellings and its presentation to Lawson Street. Relevant excerpts of VCAT's decision on the previous proposal are included later in this report.

6. PROPOSAL

- 6.1 The plans that are the subject of this report are those that were received by Council on 12 June 2018, pursuant to Section 57A of the *Planning and Environment Act 1987*. The amended plans, which were forwarded to all objectors on 12 June 2018, include the following changes to the advertised plans:
- Each of the decks lowered 0.4m in height to 0.8m above natural ground level (NGL)
 - Flood barriers introduced to each garage
 - An angled portion of wall introduced to the southwest corner of the first floor
- 6.2 The amended plan are otherwise described as TP-03 Rev B, TP-04 Rev B, TP-05 Rev A, TP-06 Rev B, TP-07 Rev B, TP-09 Rev A TP-10 Rev A, TP-11 Rev A TP-12 Rev A, TP-17 Rev B and TP 18.
- 6.3 The proposal seeks permission for demolition of the existing dwelling on the site and buildings and works to construct two double storey dwellings (with basements) and alteration of access to a Road Zone, Category 1 road.
- 6.4 Each dwelling would have four bedrooms and a garage for two cars. One of the garages would be accessed from Barkly Street via an existing, yet widened, crossover, whilst the other garage would be accessed from Lawson Street via a new crossover.
- 6.5 Specific details of the application are as follows:

Site Layout and Building Massing

- 6.6 The building would be setback a minimum of 4.5m from Barkly Street behind a 1.2m high steel picket black fence.
- 6.7 At Lawson Street, each dwelling would have a staggered setback but with a minimum setback of 2m from Lawson Street behind a part rendered and part steel picket fence constructed to a height of 1.8m above footpath level.
- 6.8 The site area covered by buildings would be 56%.
- 6.9 The area of permeable surfaces would be 35%.
- 6.10 Pedestrian access to 'House 1' would be provided from Barkly Street via a gate.
- 6.11 Pedestrian access to 'House 2' would be provided from Lawson Street via a gate.

- 6.12 The submitted landscape plan proposes a variety of small and medium sized trees, shrubs, ground covers, grasses and climbers to surround the building.

Side and rear setbacks, wall heights and common boundary fence heights

- 6.13 A new 2.6m high timber paling fence would be constructed on the west (side) boundary. At this interface, the building would be setback 1.2m from the boundary at ground floor and 3.2m from the boundary at first floor. The ground floor component would be constructed to Australian Height Datum (AHD) level of 5.45m which is 4.25m above NGL. The first floor component would be constructed to 8.65m (AHD) which is 7.45m above NGL.
- 6.14 A new paling and trellis fence with an overall height of 2.6m would be constructed on the south (side) boundary. At this interface, the front dwelling (house 1) would be setback 1m and 2m from the boundary. The rear dwelling (house 2) would be setback 2m, 1m and 4.4m, with a raised deck located within this larger setback. The ground floor components would be constructed to a maximum height of 5.45m (AHD) which is 4.25m above NGL.
- 6.15 At first floor each dwelling would be setback 3.4m from the south (side) boundary.
- 6.16 The first floor component would be constructed to 8.65m (AHD) which is 7.45m above NGL.

On-Site Amenity and Facilities

- 6.17 House 1 would be provided with private open space within its setback to Lawson Street, including a 28m² raised deck. Further open space would be provided within the dwelling's Barkly Street and south boundary setback areas.
- 6.18 House 2 would be provided with private open space within its setback area to Lawson Street, its west (side) setback area and its south setback area, including a 37m² raised deck with access to the living/dining area and the master suite. An additional 10.8m² terrace, accessed from the first floor master suite, would face Lawson Street.
- 6.19 House 1 would be provided with bin storage area, clothes line, bike racks and 6m³ of storage within its south (side) setback area.
- 6.20 House 2 would be provided with a clothes line within its south setback area, whilst 6m³ of storage and bike racks would be located within its garage. Bins would be stored at the northwest corner of the site.
- 6.21 Each dwelling would be provided with a 5000 litre water tank beneath its deck.
- 6.22 Air-conditioning units and a hot water service would also be located beneath the deck to house 1.
- 6.23 Air-conditioning unit(s) and hot water service to house 2 are not nominated on the plans, noting that any permit that may issue should require such information (refer recommended condition 1a).



6.24 Letterboxes would be provided adjacent each pedestrian entry.

Detailed Design

6.25 The development would include a part gable end, part flat roof form along with occasional raked walls.

- 6.26 The development would comprise a variety of colours and materials including:
- natural finish grey face brickwork to parts of the ground floor facing Lawson Street and the ground floor of the south (side) elevation
 - dark grey colorbond cladding with standing seam profile to parts of the ground and first floors facing Lawson Street, the ground and first floors facing Barkly Street, the first floor of the south elevation and the ground and first floors of the west elevation
 - marine plywood in acrylic paint finish-colour: dulux 'cotton wood' to each garage door
 - brickwork with natural polished cement render finish to south side of the garage to house 1 and surrounds of each garage door
 - aluminium black vertical blade screen to first floor of Lawson Street elevation
 - clear and opaque toughened glass windows with anodized aluminium frames
 - steel picket fence in matt black powdercoated finish
 - masonry brick fence natural polished cement render finish

7. SUBJECT SITE AND SURROUNDS

Description of Site and Surrounds	
Site Area	651m ²
Existing building & site conditions	<p>The subject site is located on the southwest corner of the junction of Barkly Street and Lawson Street, Elwood.</p> <p>It is generally rectangular in shape, with a frontage of 15.01m to Barkly Street, a boundary along Lawson Street of 44.2m and a southern (side) boundary of 40.06 m.</p> <p>The site accommodates a single storey interwar brick dwelling with a pitched roof.</p> <p>Vehicular access to the site is provided from Barkly Street by way of a crossover located at the southeast corner of the site.</p> <p>The west and south common boundaries are fenced with timber palings to a height of approximately 2m.</p>
Abutting properties	<p><u>South (side) boundary – 357 Barkly Street</u></p> <p>Land abutting the south (side) boundary of the subject site accommodates a single storey semi-detached interwar brick dwelling with hipped and gable-end tiled roof.</p>



	<p>This dwelling is setback a minimum of 4.5m from Barkly Street, 1.2m from the boundary it shares with the subject site and approximately 8 m from its rear boundary.</p> <p>A number of habitable room windows face the subject site.</p> <p>Secluded private open space is located at the rear of the dwelling and comprises dimensions of approximately 8m in depth by 6.5m in width. A shed is located within the rear yard at the southwest corner of the site.</p> <p><u>West (rear) boundary – 1 Lawson Street</u></p> <p>Land abutting the west (rear) boundary of the subject site accommodates a single storey semi-detached interwar brick dwelling with hipped and gable-end tiled roof.</p> <p>This dwelling is setback 2.35m from Lawson Street behind a 1.6m high timber picket fence and 1.4m from the boundary it shares with the subject site.</p> <p>A number of habitable room windows face the subject site.</p> <p>The Tribunal, at paragraph 36 of its decision on the previous application for the site, provided the following description of properties abutting the subject site:</p> <p><i>...the dwellings at 357 Barkly Street and 1 Lawson Street each have a common party wall with their matching pair but a walkway down the other side to provide access and light. Importantly in the case of 357 Barkly Street, the walkway is on the northern side of the dwelling and provides the primary outlook from bedrooms and living areas for the dwelling.</i></p> <p>This site is currently the subject of an application for planning permit, which seeks permission to extend the ground floor of the dwelling and to construct a first floor addition. A decision on this application has not yet been made.</p>
<p>Neighbourhood character</p>	<p><u>Lawson Street</u></p> <p>Lawson Street is relatively short and narrow, has concrete footpaths, no nature strips and retains its original bluestone kerbing. Plane trees flank either side of the street.</p> <p>Eight, original, inter war dwellings and two recently constructed dwellings front the street. One of the recently constructed dwellings is opposite the subject site and forms one of two double storey attached dwellings.</p> <p>The original dwellings on the north side of the street are all single storey, detached, double fronted and constructed of weatherboard. Each of these dwellings presents a gable end roof to the street.</p> <p>On the south side of the street to the immediate west of the subject site is a semi-detached brick pair of single storey interwar dwellings with gable end roofs. Further west is a single storey double fronted interwar weatherboard dwelling with gable-end roof that is punctuated by an attic window. To the west of this dwelling at 7 Lawson Street is another interwar dwelling which is described in more detail below.</p>



Page 243 of the *Port Phillip Heritage Review - Volumes 1-6 (Version 25, May 2018)* includes the following references to some of the dwellings in Lawson Street:

A number of timber villas in Lawson and Meredith streets achieve cohesion through their double-fronted form, weatherboard cladding and hipped corrugated galvanised steel roofs; individually, however, they differ in composition and detailing. Some have asymmetrical frontages in the Victorian Survival mode, with canted bay windows (2 Lawson Street)

The house at 4 Lawson Street is entirely different, having a symmetrical façade with tripartite casement sash windows that flank a central gabled porch with half-timbered gable ends and stop-chamfered posts. The attic-storeyed weatherboard house at No. 7 is exceptional, with a steep tiled roof, roughcast rendered upper walls, curved bay windows, recessed porch and shingled spandrels, set amidst a well-established orchard garden.

Barkly Street

Barkly Street predominantly comprises detached double fronted interwar dwellings and semi-detached single fronted interwar dwellings. The majority of these dwellings are single storey and present gable-end tiled roofs to the street. These dwellings typify the style of dwellings that contribute to the heritage value of the area as described at page 242 of the Heritage Review as follows:

The built fabric within the precinct consists overwhelmingly of late Edwardian housing in the Queen Anne Revival mode (the so-called Federation style), broadly characterised by the use of face red brickwork (often tuckpointed) with roughcast rendered banding and combined hipped and gabled roofs clad in red Marseilles pattern terracotta tiles. Within the precinct, its most common manifestation is in the form of semi-detached pairs.

The Tribunal, in its decision on the previous application for the site, noted the following characteristics of the area:

I consider the built form and the streetscape along Barkly Street is sufficiently varied and diverse (paragraph 35)

...the spacing or gap between attached pairs of dwellings is an important and recognisable character element of this heritage precinct (paragraph 36).

This is not a pristine heritage precinct but it is a precinct of predominantly single storey period style dwellings. There are of course exceptions, including some two storey, more modern structures at 353 Barkly Street and 6 and 10 Lawson Street (paragraph 42).

It is the mature street trees which create the main landscape character in the area, with garden planting supplementing the tall and wide spreading canopy provided by those trees. (paragraph 48).



8. PERMIT TRIGGERS

8.1 Zone and Overlays

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

Zone or Overlay	Why is a permit required?
<i>Neighbourhood Residential Zone - Schedule 5 (NRZ5)</i>	<p><i>Pursuant to Clause 32.09-4, an application to construct or extend a dwelling or residential building on a lot must provide a minimum garden area of 35% of the lot</i></p> <p><i>Pursuant to Clause 32.09-6, a permit is required to construct two or more dwellings on a lot. A development must meet the requirements of Clause 55.</i></p> <p><i>Pursuant to Clause 32.09-9, a building constructed for use as a dwelling must not exceed 9 metres and the building must contain no more than 2 storeys at any point</i></p> <p><i>For land in a Special Building Overlay, the maximum building height specified is the vertical distance from the minimum floor level determined by Melbourne Water to the roof or parapet at any point.</i></p>
<i>Heritage Overlay Schedule (HO403)</i>	<i>Pursuant to Clause 43.01-1, a permit is required to demolish a building and to construct a building or construct or carry out works</i>
<i>Special Building Overlay - Schedule 1 (SBO1)</i>	<p><i>Pursuant to Clause 44.05-1, a permit is required to construct a building or to construct or carry out works</i></p> <p><i>Pursuant to Clause 44.05-6, an application must be referred to the relevant floodplain management authority under Section 55 of the Act,</i></p> <p><i>Schedule 1 to the Special Building Overlay indicates that Melbourne Water is the relevant floodplain management authority for the purposes of Clause 44.05-6</i></p>

8.2 Particular Provisions

The following particular provisions apply to the site, with planning permission required as described.

Particular Provision	Why is a permit required?
<i>Clause 52.06 Car Parking</i>	<i>Pursuant to Clause 52.06-8, a carparking plan must be prepared to the satisfaction of the responsible authority. The car parking plan prepared in accordance with Clause 52.06-8 must meet the design standards of Clause 52.06-9</i>
<i>Clause 52.29 Land Adjacent to a Road Zone, Category 1</i>	<i>Pursuant to Clause 52.29-2, a permit is required to create or alter access to a road in a Road Zone, Category 1</i>



	<p><i>Barkly Street is in a Road Zone, Category 1 and given that access to the site from Barkly Street would be altered, a permit is required by this Clause.</i></p> <p><i>Pursuant to Clause 52.29-4, an application must be referred to the Roads Corporation under Section 55 of the Act and Clause 66.03 of the Port Phillip Planning Scheme.</i></p>
Clause 55	<p><i>A development:</i></p> <ul style="list-style-type: none"> ▪ <i>Must meet all of the objectives of this clause that apply to the application.</i> ▪ <i>Should meet all of the standards of this clause that apply to the application.</i>

8.3 General Provisions

The following general provisions apply to the site, with planning permission required as described.

General Provision	Requirement
<p><i>Clause 65</i> <i>Decision guidelines</i></p>	<p><i>Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:</i></p> <ul style="list-style-type: none"> ▪ <i>The matters set out in Section 60 of the Act.</i> ▪ <i>The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.</i> ▪ <i>The purpose of the zone, overlay or other provision.</i> ▪ <i>Any matter required to be considered in the zone, overlay or other provision.</i> ▪ <i>The orderly planning of the area.</i> ▪ <i>The effect on the amenity of the area.</i> ▪ <i>The proximity of the land to any public land.</i> ▪ <i>Factors likely to cause or contribute to land degradation, salinity or reduce water quality.</i> ▪ <i>Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.</i> ▪ <i>The extent and character of native vegetation and the likelihood of its destruction.</i> ▪ <i>Whether native vegetation is to be or can be protected, planted or allowed to regenerate.</i> ▪ <i>The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.</i>
<p><i>Clause 66</i> <i>Referral of permit applications</i></p>	<p><i>Applications of the kind listed in Clause 66.03 must be referred to the person or body specified as a referral authority in accordance with Section 55 of the Act.</i></p>



<p><i>under other State standard provisions</i></p>	<p><i>The Table at Clause 66.03 specifies the Roads Corporation (otherwise known as VicRoads) as the determining referral authority for applications to create or alter access to a road in a Road Zone, Category 1 and Melbourne Water Corporation for an application under Schedule 1 of the Special Building Overlay.</i></p>
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9. PLANNING SCHEME PROVISIONS

9.1 State Planning Policy Frameworks (SPPF)

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 15: Built Environment and Heritage, including:

15.01-1: Built Environment

15.01-1S: Urban Design

15.01-1R: Urban design - Metropolitan Melbourne

15.01-2S: Building Design

15.01-5S: Neighbourhood character

15.02-1: Sustainable development

15.03: Heritage

Clause 16: Housing, including:

Clause 16.01: Residential development

Clause 16.01-1S: Integrated housing

Clause 16.01-1R: Integrated housing - Metropolitan Melbourne

Clause 16.01-2S: Location of residential development

Clause 16.01-3S: Housing diversity

Clause 16.01-3R: Housing diversity - Metropolitan Melbourne

Clause 16.01-4S: Housing affordability

Clause 19: Infrastructure

Clause 19.01-1S: Energy supply

Clause 19.01-2S: Renewable energy

Clause 19.01-2R: Renewable energy - Metropolitan Melbourne

Clause 19.03: Development Infrastructure

Clause 19.03-4S: Stormwater

Clause 19.03-6S: Waste and resource recovery



9.2 **Local Planning Policy Framework (LPPF)**

The following local planning policies are relevant to this application:

Clause 21.03: Ecologically Sustainable Development, including

Clause 21.03-1 Environmentally Sustainable Land Use and Development

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 21.05-4 Physical Infrastructure

Clause 21.06: Neighbourhoods, including

Clause 21.06-2 Elwood and Ripponlea

Clause 22.04: Heritage Policy

10. **REFERRALS**

10.1 **Internal referrals**

The application was referred to the following areas of Council for comment. The comments are discussed in detail in Section 9.

Heritage Advisor

The historic and aesthetic qualities of the precinct as described by the Port Phillip heritage Review are evident within this part of Barkly Street, which comprises single storey Edwardian and interwar houses constructed of brick with hipped and gabled roofs clad in terracotta tiles. The exception is the recently constructed townhouses on the opposite corner. It is also seen in Lawson Street, which comprises a mix of timber and brick Edwardian houses, as well as a new townhouse at no.6.

The house on the subject site is a Significant heritage place. Situated on a prominent corner, it makes an important contribution to the precinct. I see from reading the VCAT report that there are structural issues with the house. I have not been provided with the evidence of this, but understand that the building is considered to be structurally unsound.

In terms of our policy in relation to complete demolition the question therefore turns as to whether the replacement building achieves 'design excellence'. 'Design excellence' is not specifically defined in the PP Planning Scheme but I believe it means good contemporary design that is responsive to context and is respectful of, but does not simply copy historic fabric.



The development plans for this site have evolved from a pre-application design and there is also a previous planning permit (1144/2014) for this site, which was decided at VCAT.

While VCAT decided that a permit should not issue due to problems with the design of the replacement building, it did conclude that the poor condition of the house, together with the added complication of the flood overlay, meant that complete demolition may be permitted (see pages 5 to 6 of the VCAT decision). The VCAT decision also notes that Council's building surveyor at the time had agreed the building is structurally unsound.

While I would still advocate for retention of the dwelling due to the contribution it makes to the very consistent character within this area, this would be difficult to uphold given this recent decision and also the advice of council's building surveyor that the building is structurally unsound.

Accordingly, the key issue becomes whether the new building achieves design excellence.

Compared to the side elevation, the front elevation seems somewhat less resolved/successful. I appreciate the need to keep it relatively simple in terms of form/materiality, but I wonder if the straight/flat section of the first floor façade should be the same treatment as the first floor on the Lawson Street side (ie., treatment 'E' instead of 'B', or whether there should be a visual break/window between the angled corner form and the straight form? Just thinking out loud, not saying this is the answer, but I would encourage the architect to look at this elevation again and come up with some options.

There do not appear to have been any changes made to the Barkly Street elevation and I still believe it is less resolved (and less successful) than the Lawson Street elevation. A key issue is the potential visual prominence of the garage element. Although the materials and finishes schedule (TP08) show a darker grey finish for the rendered cement, both the elevations and the renders show the rendered walls being a pale colour, with the garage door specified as marine ply painted in Dulux 'Cottonwood' (I searched this online and could not find it in the Dulux colour range). To ensure this feature becomes a recessive element I recommend a change to the colour and/or materiality to something darker, and also a design solution where the garage door is integrated (i.e. disappears) in the design so that it looks less like a garage. Changes to the garage could be considered as part of a review of the Barkly Street elevation as a whole to improve its presentation, which I believe is still lacking.

How high is the solid fence along the Lawson St frontage? And do they need so many sections of high fence when the front setbacks behind the fences aren't proposed to be the SPOS? In relation to the height and solidity of the side fence, as much of the setbacks aren't intended to be SPOS then could the height be reduced and/or more sections of metal blade fencing be included?

Otherwise, the form, materiality and siting of the development is generally acceptable. Subject to the resolution of the above issues, the development would be acceptable in relation to heritage.



Planning Officer comment:

With respect to the Lawson Street fencing, it is agreed that the solid elements should be deleted and replaced with vertical steel pickets to match the remainder of the fence (refer recommended condition 1b).

With respect to the Barkly Street elevation it is considered that this could be improved by way of permit conditions that require the ground floor to be finished in brick rather than colorbond cladding and the first floor windows to be provided with vertical blade screens (refer recommended conditions 1c) and 1d). It is considered that such an outcome would provide an improved integration of the Barkly Street and Lawson Street elevations.

Similarly, it is agreed that the garage doors should be finished in a dark colour to reduce their visual presence (refer recommended condition 1e).

Urban Design Advisor

The proposed built form setbacks to Barkly St and Lawson St are supported.

The interface of the proposal on Lawson St is a mundane response to the Rescode boundary - it does not correspond with the existing character, alignment or form of the surrounding built form. A contemporary approach is supported however needs to be incorporated into some acknowledgement and precedent of the predominant existing character and form of the area.

The adjacent corner site of Barkly and Lawson there is a 2 storey townhouse rectangular form which breaks the rhythm of the current character. However the location of the corner site does provide what has been described as a 'book end' approach which could validate a somewhat rectangular form on this site – but this should not be the predominant feature at the fore front of the site.

The majority of the Barkly St frontage is dominated by a double frontage garage door, this is a clear distinction of the existing character along the street. The proposal shows an unnecessary curved driveway area that hooks around in the front setback. It is recommended the garage be reduced in size or a removal of the need for a car park to the front of the dwelling, to provide more opportunities for landscaping.

Recommendation

We generally support the proposal with the following conditions:

- *Reconsider the overall form of the upper storey form and frontage to Lawson St, angle of roof pitch.*
- *Reconsider the horizontal windows in the upper storey to conform with the existing character, which are predominantly vertical in nature.*
- *Reconfiguration of the car parking area or reduction in garage size to provide more opportunities for landscaping.*
- *Provide a refined materials palette that responds to the surrounding character*



Planning Officer comment:

The angled roof forms facing Lawson Street are positive design elements that represent a contemporary interpretation of the prevailing roof forms in the area and should therefore be supported.

The enlarged Lawson Street setback recommended by condition 1m), would reduce the prominence of the built form in an acceptable manner and would adequately reference the existing corner development opposite the subject site.

The vertical 'thermal screens' to the upper storey windows facing Lawson Street would ensure that the windows would be read as a vertical, rather than horizontal element. These screens are considered a positive response to the character of the area.

With respect to the car parking area, the turning circle is required to enable cars to exit the site in a forward manner, which satisfies VicRoads and Council's traffic engineer. The permeable crushed rock to the surface of the turning area should be replaced with grass permeable paving to integrate with the front lawn and minimise the visual impact of the turning area. Such an outcome could be achieved by permit condition (refer recommended condition 1t).

The previous proposal included a double garage and similar access arrangement, including a turning circle. VCAT provided the following assessment of the Barkly Street presentation of the previous proposal:

The ground floor north facing open space, ground floor living areas, provision of a double garage with turning area, landscaping in the street setback including a large canopy tree in the north east corner, and materials and colours are all good aspects of Dwelling 1. (Paragraph 35)

Transport Safety Engineer

Access ways:

- *Vehicle access is proposed via a modified crossover to Barkly Street and a new crossover to Lawson Street. Access way dimensions are in accordance with Clause 52.06 of the planning scheme.*
- *Full pedestrian sight triangles have not been provided in accordance with the planning scheme. Please ensure all landscaping is kept below 900mm adjacent to each driveway to reduce potential conflicts with pedestrians.*

Car parking spaces:

- *Double width garage dimensions of at least 5.55m x 6m have been provided in accordance with Clause 52.06 of the planning scheme and are considered appropriate.*
- *Car parking layout is satisfactory.*

Headroom and gradient of ramps:

- *Minimum headroom complies with Clause 52.06 of the planning scheme.*



- *The proposed ramp grades do not comply with the planning scheme, noting that the ramp grade within the first 5m of the site is steeper than 1:10. Given the frequency of use and provision of pedestrian sight triangles, this is considered acceptable in this case.*

Bicycles

- *Bicycle parking is not required under the planning scheme.*
- *I am satisfied there is sufficient room within each garage to cater for bicycle parking if required.*

Loading and Waste Collection

- *A Loading Zone is not required in the planning Scheme.*
- *Waste Management plan to be referred to Council's Waste Management department for assessment.*

Traffic Generation and Impact:

- *Typical residential developments generate a daily traffic rate of between 4-7 vehicle movements per dwelling, with peak hour rates 10% of daily volumes. Based on these rates, traffic generation will be in the order of 10 vehicle movements a day and 1 vehicle movement during the peak hours.*
- *Overall the expected traffic generation of the proposed development is expected to have a negligible impact on surrounding local streets and intersections.*

On Street Parking:

- *The existing on-street parking is generally unrestricted with relatively low turnover.*
- *Residents/visitors of the development will not be eligible for resident parking permits and will need to abide by on-street restrictions.*
- *The proposed crossover to Lawson Street and modified crossover to Barkly Street will result in the loss of up to 1 on-street parking space. This level of loss to on-street parking is considered acceptable in this case.*
- *Given Barkly Street is a VicRoads controlled road, approval for the modified crossover will need to be sought from VicRoads.*

Parking overlay and parking provisions:

- *Clause 52.06 of the planning scheme requires 4 off-street parking spaces to be provided for the proposed land uses.*
- *Given the applicant proposes to provide 4 off-street car spaces, this meets the planning scheme requirement and is considered acceptable.*
- *Note that the assessment of the appropriate car parking provision lies with Statutory Planning.*

Other:

- *Any redundant crossovers must be reinstated to Council satisfaction.*
- *Any proposed crossovers must be installed to Council satisfaction.*



- *The Applicant is responsible for all costs, including those incurred by Council for associated on-street parking signage and line-marking changes.*

Planning Officer comment:

Any permit that may issue should include conditions that ensure crossovers, signage and line-marking are delivered to Council's satisfaction (refer recommended conditions 15 and 17).

Sustainable Design

Should the development be deemed ready for issuing of a permit in the future the following the following are sought:

Conditional changes to ESD report listed below

- *BESS report - The project is required to be 'published' from the BESS website to allow it to be reviewed. This can be done by clicking the 'review and submit' tab in the widget on the left hand side of the screen. Publishing the BESS report will create a snapshot of the project for the information entered. It is still possible to create further altered assessments by making a copy of the project, and making changes within the copied version. Before publishing, amend the following errors:*
 - *NatHERS – amend the Dwelling Energy Profile to show 6.5 stars per the ESD reports*
 - *Pre-application meeting – confirm date of meeting or amend*
 - *ESD professional – confirm name of ESD advisor or amend*
 - *Third pipe – provide detail of the third-pipe system noted in the BESS report*
- *Stormwater management – Refer to the table provided in the Local Policy 22.12: Stormwater Management for the application requirements of this policy. These include as appropriate the following:*
 - *Stormwater plan – Provide a plan which shows the full site with all catchment areas and treatment measures annotated as per that in the modelling report. Catchment areas need to be clearly linked to related treatment method nominated in any modelling.*
 - *Construction Site Management Plan – Provide a management plan that details stormwater management during construction. A Guide is available from Council's website:
<http://www.portphillip.vic.gov.au/sustainable-design-guidelines-stormwater-management.pdf>*
 - *Urban Heat Island Effect – Council policy is to provide is for the Urban Heat Island Effect to be minimised. Use of lighter colour roofing and/or paving can assist in alleviating the UHI Effect.*
 - *Provide detail of the albedo of any low-pitched roofing areas and paving material where these will be exposed to direct sun.*



Conditional changes to drawings listed below

Floor Plans

- *Rainwater tank – Indicate water reuse*
- *Electric bicycles – Annotate electrical bike charging points are to be provided.*
- *Sun shading – indicate effective shading for all sun exposed north and west facing glazing.*
- *NatHERS rating – State the minimum NatHERS rating of 6.5 stars*
- *Double glazing – Note on drawings that the windows and glazed doors of all habitable rooms are to be double-glazed.*
- *Green waste – Indicate green waste facilities for each dwelling and annotate*
- *Irrigation – Note the provision of taps and floor waste gullies to all decks and courtyards.*

Roof Plan

- *Solar panels – Show panel location for any solar hot water panels (annotate percentage boost).*

Elevations

- *Sash operation – Indicate sash operation for all windows and glazed doors.*
- *Sun shading – Indicated effective shading for all sun exposed north and west facing glazing.*

Application of the following standard conditions:

- *G11 Sustainable Management Plan*
- *G18 Water Sensitive Urban Design*
- *G12 Incorporation of Sustainable Design initiatives*
- *G13 Implementation of Sustainable Design Initiatives*
- *G19 Incorporation of Water Sensitive Urban Design initiatives*
- *G21 Site Management Water Sensitive Urban Design*

Planning Officer comment:

Any permit that may issue should include the 'standard conditions' referred to above (refer recommended conditions 6 to 11).

With respect to the recommended changes to the drawings, the following consideration is provided:

- *Rainwater tank – Indicate water reuse*

This outcome could be achieved by permit condition (refer recommended condition 1f)

- *Electric bicycles – Annotate electrical bike charging points are to be provided.*



It is considered that this recommendation is unnecessary. Future owners can provide such facilities at their discretion at a later date.

- *Sun shading – indicate effective shading for all sun exposed north and west facing glazing.*

It is noted that the plans indicate that the first floor north facing windows would be provided with a 'thermal screen' which is considered acceptable.

Any permit that may issue should include a condition that requires the remaining sun exposed north and west facing glazing to be provided with shading devices (refer recommended condition 1g).

- *NatHERS rating – State the minimum NatHERS rating of 6.5 stars*

It is considered unnecessary to include this information on the plans, as it would be addressed by the Sustainable Design Assessment required by recommended condition 6.

- *Double glazing – Note on drawings that the windows and glazed doors of all habitable rooms are to be double-glazed.*

This outcome could be achieved by permit condition (refer recommended condition 1h)

- *Green waste – Indicate green waste facilities for each dwelling and annotate*

This outcome could be achieved by permit condition (refer recommended condition 1i)

- *Irrigation – Note the provision of taps and floor waste gullies to all decks and courtyards.*

It is considered that this recommendation is unnecessary. Future owners can provide such facilities at their discretion at a later date.

- *Solar panels – Show panel location for any solar hot water panels (annotate percentage boost).*

This recommendation is considered unnecessary. The ESD Report included a BESS assessment and confirms that the proposal would achieve a BESS score of 72%, which exceeds the 50% required to achieve best practice. Future occupants of the development may choose to install solar panels at a later date.

- *Sash operation – Indicate sash operation for all windows and glazed doors.*

This outcome could be achieved by permit condition (refer recommended condition 1j)

Parks Services

Advice was sought from Council's arborist with respect to the existing Palm tree within the front setback of the subject site. Council's arborist has advised that whilst the tree would be considered significant under the local law, it appears that it is self-sown and so long as replacement trees are provided, its removal would be supported.



Planning Officer comment:

The subject tree is adjacent a similar, yet more mature, tree on the neighbouring property. It would appear that the tree on the subject site was self sown from the neighbouring tree. The application includes opportunities for the planting of canopy trees, which is considered an acceptable replacement for the Palm tree.

10.2 **External referrals**

Referral Authority	Response	Conditions
Melbourne Water	No objection subject to conditions	Refer condition 4
VicRoads	VicRoads has considered the application and has no comments to make in relation to the proposal.	N/A

11. PUBLIC NOTIFICATION/OBJECTIONS

11.1 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 (19 letters) and directed that the applicant give notice of the proposal by posting two notices on the site for a 14 day period, in accordance with Section 52 of the Planning and Environment Act 1987.

11.2 The application has received 17 objections. The key concerns raised are summarised below (officer comment will follow in italics where the concern will not be addressed in Section 11):

- Excessive scale and mass
- Failure to address issues raised by VCAT
- Failure to respect heritage character of the area
- North facing glass door to neighbouring dwelling to the south not shown

The plans now show this door.

- Height of fences shown on common boundary incorrect

The existing fence heights shown on the survey plan are incorrect, the existing common boundary fences are approximately 2m high rather than the 2.6m shown on the survey plan.

- Overlooking
- Awkward location/design of Lawson Street decking
- Unreasonable overshadowing
- Unreasonable impact on north facing windows
- Unreasonable impact on car parking availability in the area



The number of car spaces proposed are in accordance with the requirements of Clause 52.06 of the Planning Scheme and therefore considered satisfactory

- 11.3 A consultation meeting was held on Thursday 5 July 2018. The meeting was attended by Ward Councillors, the applicant and its representative, the owners of the site, objectors and the Planning Officer. The meeting did not result in any changes to the proposal.
- 11.4 It is considered that the objections do not raise any matters of significant social effect under Section 60 (1B) of the Planning and Environment Act 1987.

12. OFFICER'S ASSESSMENT

12.1 VCAT decision on previous proposal

- 12.2 The key issues raised by the Tribunal in its assessment of the previous application, which proposed four dwellings on the site, rather than the two dwellings currently proposed, are *'the extent of built form along Lawson Street, the absence of boundary setbacks to 357 Barkly Street and 1 Lawson Street'* (paragraph 34)
- 12.3 The Tribunal's concern with respect to *'the extent of built form along Lawson Street'* (paragraph 34) is discussed later in this report with a conclusion that subject to permit conditions, this issue would be addressed in an acceptable manner.
- 12.4 The Tribunal indicated that it does not *'accept that the garage should be located on the southern boundary for two reasons, Firstly the spacing or gap between attached pairs of dwellings is an important and recognisable character element of this heritage precinct'* (paragraph 34)

and

'The second reason I do not support the garage wall on the boundary is that the wall does not fully comply with ResCode standard B20' (paragraph 38)

- 12.5 The current application addresses these issues by providing the garage with a 1m setback from the south boundary, which would respond to the neighbourhood character in an acceptable manner. Further, the height and setback of the garage would comply with ResCode Standard B20
- 12.6 With respect to the western boundary the Tribunal provides the following assessment:

'On the western boundary, the garage wall of Dwelling 4 is located on the boundary opposite a bedroom window at 1 Lawson Street. The wall achieves compliance with the Clause 55 standard for length and height but, as with the garage wall for Dwelling 1, I am not persuaded that it responds to the particular characteristics of these semi-attached pairs where one side is setback from a side boundary to provide the only access to the rear and the only daylight to rooms down the length of the dwelling.'



Provision of a 1 metre side setback would also overcome the shortcoming identified by Mr Rogalsky of the only access to the rear yard to Dwelling 4 being through Bedroom 2' (paragraph 39)

12.7 The current application also addresses this issue by providing House 2 with a 1m setback from the west boundary, noting that the height and setback of House 2 at this interface would meet the daylight to windows standard of ResCode.

12.8 **Local Policy**

12.9 **Clause 22.04 – Heritage Policy**

Demolition of the existing building on the site is considered appropriate as the Tribunal has previously determined that the building is structurally unsound, as indicated at paragraphs 18 to 20 of the Tribunal's assessment:

'Council's building inspector was initially unconvinced about the extent of structural problems. However, after receipt of the detailed assessment by Mr Cross, Council's building department have since agreed that the dwelling is structurally unsound and do not oppose demolition'.
(paragraph 18)

'In principle, I do not oppose demolition of the dwelling and accept that restoration would be a very expensive exercise. One of the primary influences causing me to support demolition is the extent of flooding and the necessity to elevate any dwelling on the site by more than 1 metre above natural ground level. Although Mr Cross suggests that four sections of wall could be retained and underpinned, in a practical sense, retention of the dwelling would largely require removal of the existing heritage fabric and rebuilding it to current building standards'.
(paragraph 19)

'Whilst the restored dwelling may look original, it would to all intents and purposes be a new structure. It would also have a relatively small footprint and it is highly likely that a new extension would be required to replace the derelict non-original additions at the rear to provide modern and enlarged living areas. Such an extension would be clearly seen from Lawson Street and would change the context in which the restored dwelling would be seen'. (paragraph 20)

Performance Measure 2 - Vista

It is considered that the development would maintain the existing vista to the principal facade of the neighbouring heritage places to the south and west. This would be achieved by providing *an equivalent frontage setback to the heritage place.*

Performance Measure 3 - Scale

The height of the proposed development would be approximately 2m higher than the roof ridgeline of the neighbouring heritage place at 357 Barkly Street and would not therefore meet Performance Measure 3, which recommends that the



front portion of the proposed development be no higher than the neighbouring roof ridgeline.

Whilst the height of 357 Barkly Street is representative of the prevailing height of buildings within the street, height is but one component of scale. Building scale requires an analysis of elements and details as they proportionally relate to each other and require a consideration of not just height but also building form, setbacks and composition.

With regard to these elements it is considered that the proposed development would integrate with the prevailing scale of Barkly Street in an acceptable manner for the following reasons:

- The front setback would reflect the predominant front setback within the street whilst the provision of ground floor setbacks and larger first floor setbacks from the side boundary would reflect the detached built form that is evident on allotments that have frontage widths that are similar to that of the subject site
- The angled wall to the street corner would provide a contemporary reference to the gable end roof forms that are a common feature of the area.
- Subject to conditions that require modification to the Barkly Street façade, the proposed building would be articulated in a manner that would be complementary to the streetscape through:
 - Massing broken up by changes in setbacks and fenestration that would comprise proportions that reference nearby dwellings
 - blade screening that would reference the timber fretwork of nearby dwellings in a contemporary manner
 - the use of brickwork, which is common to the area
 - Dark and/or muted colours that would reduce the visual impact of the proposal

With respect to the relationship of the development to Lawson Street, the proposed development would be approximately 2m higher than the roof ridgeline of the neighbouring heritage dwelling at 1 Lawson Street.

It is considered that the streetscape of Lawson Street is more varied than Barkly Street in terms of building scale. Lawson Street contains a greater number of two storey buildings and these buildings are generally closer to the street than buildings within Barkly Street. As a consequence, it is considered that Lawson Street presents a more robust built form than Barkly Street.

As described by the Tribunal in its decision on the previous application:

'The proposed dwellings along Lawson Street are generally of two storeys or one more than the adjoining dwellings. I accept they have extra height because of the raised floor levels arising from the Melbourne Water requirements, but all new buildings will have that extra height as evidenced by the dwellings at 353 Barkly Street and 6 Lawson Street. The effect of raising floor levels by over 1 metre is that any new dwelling will appear to be approximately a half storey higher than a dwelling situated at natural ground level'. (paragraph 43)



It is considered that the proposal would respond to the scale of the Lawson Street for the same reasons that it responds to Barkly Street.

It is noted that the Tribunal was critical of the previous proposal in terms of its presentation to Lawson Street as follows:

'My major concern with the appearance of the building along Lawson Street is the visual impact of a 36 metre length of building setback at ground floor by between 2 and 2.3 metres with the first floor setback 2.37 and 2.43 metres. Although the proposed building includes additional setbacks and recesses, the overall height to the edge of the sloping roof is approximately 7.66 metres. Whilst it may have a different and arguably more acceptable presentation than the double storey townhouses to the north at 353 Barkly Street which Council supported, those dwellings extend for approximately 24 metres rather than 36 metres. I acknowledge that the building on the review site does include a space between Dwellings 2 and 3 of 3 metres, widening to 4 metres below the roof, which separates the building into two parts.' (paragraph 45)

The height and length of the current proposal, as it presents to Lawson Street, are commensurate with the previous proposal.

Nonetheless, the current proposal includes marginally larger ground floor setbacks and significantly larger first floor setbacks from Lawson Street. It also includes a setback from the common boundary with 1 Lawson Street, which would respect the neighbourhood character.

The current proposal also has a consistent flat roof whereas the previous proposal included a sloping roof and screening elements, which extended 1.7m higher than the current proposal.

Further, it is considered that the form and materiality of the current proposal represents a more simplified form than the previous proposal, which was highly embellished and, therefore, visually dominant. The current proposal also provides a first floor break in the building which the Tribunal, by inference, considered a positive outcome.

Whilst it is generally considered that these differences combine to achieve an acceptable response to the streetscape, it is considered that the response could be further improved by replacing the solid portions of fence along Lawson Street and shifting the living/dining room of House 2 a further 2m from the street. Such outcomes would reduce the visual impact on the street on the street.

As discussed later in this report, the shifting of this part of House 2 would have additional benefits in that it would provide an opportunity for the deck at the rear corner of House 2 to be located within the Lawson Street setback area so that it receives adequate sunlight. Relocation of the deck (refer recommended condition 1k) and 1l) would also benefit the amenity of the neighbouring property at 357 Barkly Street in that it would remove the need for a high (screening) fence on the common boundary, which would in turn reduce the overshadowing impacts caused by the fence.



It is noted that the planning officer has undertaken an assessment of the overshadowing impact of shifting the living/dining room of House 2 a further 2 m to the south and concluded that such an outcome would not introduce any further overshadowing of the neighbouring rear yard at 357 Barkly Street as the shadow would fall within the shadow cast by the existing 2m high fence on the boundary.

12.10 **Amenity – Clause 55 (Rescode)**

Subject to permit conditions, the proposed development would satisfy the Clause 55 standards and objectives with respect to neighbourhood character residential policy, infrastructure, integration with the street, street setback, building height, site coverage, permeability, energy efficiency, safety, landscaping, access, parking location, walls on boundaries, daylight to existing and proposed windows, internal views, noise, accessibility, dwelling entry, daylight to new windows, storage, detail design (subject to permit condition), common property and site services.

The proposal seeks variation to the following Clause 55 standards:

- side and rear setbacks
- north facing windows
- overshadowing open space
- overlooking
- private open space
- solar access to open space
- front fences

An assessment of these elements is provided as follows:

Side and rear setbacks (standard B17)

The elevations indicate that this standard would be met with respect to the west boundary.

At the southern elevation however, the setback of the south wall of the ground floor master suite to House 2 would be 0.2m less than the prescribed setback.

The impact of the development at this interface is assessed below with respect to the north facing windows standard.

North facing windows (standard B20)

At ground floor, the 4.25m high south facing wall to the master suite of House 2, which is setback 1m from the boundary, would encroach 0.4m into the setback envelope prescribed by the standard.

At first floor, the 7.45m high south facing walls of each House, which are setback 3.4m from the boundary, would encroach 0.1m into the setback envelope prescribed by the standard.

It is considered that a variation to this standard would not be acceptable as the affected windows are the primary source of light to the dwelling at 357 Barkly Street.



Any permit that may issue therefore should include a condition that requires the ground and first floors to be setback in a manner that complies with this standard (refer recommended condition 1m) and 1n).

Overshadowing open space (standard B21)

The sole area of secluded private open space (SPOS) that would be affected by the proposed development would be the rear yard of the neighbouring dwelling to the south (357 Barkly Street).

This rear yard comprises an area of 53m², including its rear verandah.

It is noted that the shadow diagrams submitted indicate that the rear yard is 62m² which is incorrect due to the (9m²) rear shed being included as part of the SPOS calculation.

Further, the shadow cast by the existing fence on the boundary is less than that shown on the shadow diagrams. The shadow diagrams calculate the shadow cast by a 2.6m high fence on the boundary, however the existing fence on the boundary is 2m high.

The existing amount of sunlight to the affected yard is less than the requirements of this standard. The proposed development would reduce the amount of sunlight this yard receives.

The planning officer has undertaken an independent assessment of the shadow diagrams and calculated the extent to which the affected yard would have its sunlight reduced as follows:

- At 9am, sunlight would be reduced by 2m², which would be caused by the proposed new (higher) fence on the boundary
- At 10am, sunlight would be reduced by 3m², which would be caused by the proposed new (higher) fence on the boundary and part of the ground floor wall to the master suite of House 2
- At 11am, sunlight would be reduced by 3m², which would be caused by the proposed new (higher) fence on the boundary, part of the ground floor wall to the master suite of House 2 and a slight part of the first floor to House 2
- At 12pm, sunlight would be reduced by 4m², which would be caused by the proposed new (higher) fence on the boundary and part of the ground floor wall to the master suite of House 2
- At 1pm, sunlight would be reduced by 4m², which would be caused by the proposed new (higher) fence on the boundary, part of the first floor to House 2 and a slight part of the ground floor wall to the master suite of House 2
- At 2pm, sunlight would be reduced by 3m², which would be caused by the proposed new (higher) fence on the boundary and part of the first floor to House 2
- At 3pm, sunlight would be reduced by 5m², which would be caused by the proposed new (higher) fence on the boundary and a slight part of the first floor to House 2



It is considered that the extent of reduced sunlight to the neighbouring rear yard would be acceptable as the reduction would be minor (a maximum of 9% of the yard) and a usable portion of the neighbouring rear yard would continue to be provided with sunlight.

It is noted that recommended permit conditions that require the building to comply with the north facing windows standard would have the added advantage of reducing the extent that the building would overshadow the neighbouring rear yard.

As discussed later in this report, the recommended relocation of the deck at the rear corner of House 2 and consequent changes to the south facing windows of the living/dining room, would remove the need to replace the existing 2m high fence on the common boundary with a 2.6m high fence.

As indicated above, the proposed 2.6m high fence would be the key cause of the additional overshadowing of the neighbouring rear yard. Retention of the 2m high paling fence on the common boundary would therefore reduce the shadow impact of the proposed development.

Solar access to open space (standard B29)

The deck to House 2 would be located to the south of a 5.6m high wall.

This standard requires a setback of 7m to the southern boundary of the deck.

This south boundary of this deck would be setback 6.7m, thereby failing to meet this standard.

It is considered that a variation to this standard would not be acceptable. Opportunity exists for the deck to be located to the north of the dwelling. Any permit that may issue should include a condition that requires such an outcome (refer recommended condition 1k) and 1l)

Overlooking (standard B21)

West elevation – facing 1 Lawson Street:

At ground floor, the south elevation demonstrates that the proposed 2.6m high fence on the common boundary would prevent overlooking of windows at 1 Lawson Street.

The first floor west facing bedroom window to House 2 would have a sill height of 1.7m above FFL whilst the window to the first floor robe would comprise opaque glass. Each of these windows would comply with this standard.

South elevation - facing 357 Barkly Street:

It is proposed to construct a 2m paling fence with 0.6m of lattice above on the common boundary at this interface.

It is considered the lattice would not perform as an appropriate screen to prevent overlooking of the neighbouring rear yard from the ground floor deck of House 2.

The south edge of this deck would effectively comprise a 1.2m high paling fence above the floor level of the deck with a further 0.6m of trellis above. Clear views through the trellis to the neighbouring rear yard would be possible.



The trellis would also fail to effectively prevent views from the south facing windows of the living/dining room and the west facing windows of the master suite to House 2.

Similarly, the trellis would fail to prevent views from the south facing kitchen window of House 1 and the landing to the laundry of House 1.

As discussed earlier in this report, it is considered appropriate that the living/dining area of House 2 be shifted to the south which would provide opportunity for the deck to be relocated to the north side of House 2, within the setback to Lawson Street (refer recommended condition 1k) and 1l).

Such an outcome would remove the necessity for a 2.6m high fence on the south boundary (refer recommended condition 1o).

To ensure that overlooking of the neighbouring rear yard from the south facing windows to the living/dining area of House 2 would be prevented, any permit that may issue should include a condition that requires these windows to be screened (refer recommended condition 1r).

With respect to the south facing kitchen window, landing, stairs and door to the laundry of House 1, it is considered that any permit that may issue should include a condition that requires the location of the landing to be swapped with that of the nearby bins and bike rack (refer recommended condition 1q) and that the kitchen window be designed in a manner that would prevent overlooking of neighbouring windows (refer recommended condition 1p).

At the first floor of the south elevation, all habitable room windows, being windows to bedroom 4 of each dwelling would be provided with a sill height of 1.7m above FFL, thereby meeting this standard.

Private open space (standard B28)

Whilst the total amount of open space prescribed by this standard would be provided, no parts of the open space would be defined as secluded.

A variation to the secluded private open space component would be acceptable in this instance as each deck could be provided with effective screening plants. Such an outcome could be achieved by a condition on any permit that may issue (refer recommended condition 12).

Front fences (standard B32)

Council's Heritage Advisor has expressed concern with the height of the fence to Lawson Street and the extent of solid elements to the fence.

In terms of height, the 1.8m proposed is necessary where it provides a balustrade to the House 1 deck. It is agreed however that the solid part of the fence should be changed to match that of the remainder of the fence, being 1.8m high steel pickets. Such an outcome could be achieved by permit condition (refer recommended condition 1b).

12.11 **Traffic and Parking**

- 12.12 Council's traffic engineer and VicRoads have not raised any issue with the design of the car parking areas or the increase in traffic generated by the proposal,



noting that the number of car spaces proposed would meet the number required by the Planning Scheme.

13. COVENANTS

- 13.1 The land, otherwise known as Lot 1 on Title Plan 375393U, is affected by Covenant 1117424, which prohibits the erection of any garage workshop or similar building abutting Barkly Street. The proposed development would not breach this covenant in any way.

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.

15. OPTIONS

- 15.1 Approve as recommended
- 15.2 Approve with changed or additional conditions
- 15.3 Refuse - on key issues

16. CONCLUSION

- 16.1 Given that VCAT has previously determined that demolition of the existing dwelling would be acceptable, it is recommended that the proposed demolition should be supported.
- 16.2 It is considered that, subject to permit conditions, the proposed development represents an acceptable response to the concerns previously raised by VCAT.
- 16.3 The proposal would provide for a good level of internal amenity for future occupants and would include the requisite number of car spaces, which would be accessed in a functional and safe manner.
- 16.4 Subject to conditions that would improve the presentation of the development to Barkly Street and Lawson Street, it is considered that the proposal represents an acceptable response to the character of the area and is respectful of its heritage context.
- 16.5 Whilst the development would have a high degree of compliance with the off-site amenity standards of Clause 55, recommended permit conditions would improve the presentation of the development at its interface with neighbouring properties in a manner that would minimise amenity impacts to an acceptable level.
- 16.6 It is recommended that the proposal be supported and a Notice of Decision to Grant a Permit be issued, subject to conditions.



**PLANNING COMMITTEE
26 SEPTEMBER 2018**

**TRIM FILE NO:
ATTACHMENTS**

PF17/328036

- 1. objector map for council report**
- 2. 1166/2017 - s57 amended plans**