



6.1 **14 ORANGE GROVE, BALACLAVA**
LOCATION/ADDRESS: **14 ORANGE GROVE, BALACLAVA**
EXECUTIVE MEMBER: **LILI ROSIC, GENERAL MANAGER, CITY STRATEGY AND SUSTAINABLE DEVELOPMENT**
PREPARED BY: **MARTIN COOKSLEY, SENIOR URBAN PLANNER**

1. PURPOSE

1.1 To consider and determine application P913/2018 for partial demolition; alterations and additions comprising a ground floor extension and a first-floor addition to the existing dwelling in the Heritage Overlay; and the construction and carrying out of works in the Special Building Overlay at 14 Orange Grove, Balaclava.

2. EXECUTIVE SUMMARY

WARD: Canal Ward
TRIGGER FOR DETERMINATION BY COMMITTEE: More than 15 objections
APPLICATION NO: P913/2018
APPLICANT: Elements of Home
EXISTING USE: Residential
ABUTTING USES: Residential
ZONING: Neighbourhood Residential Zone – Schedule 5
OVERLAYS: Heritage Overlay (HO392)
Special Building Overlay (SBO1)
STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL Expired

- 2.1 The application seeks partial demolition; alterations and additions comprising a ground floor extension and a first-floor addition to the existing dwelling in the Heritage Overlay; and the construction and carrying out of works in the Special Building Overlay at 14 Orange Grove, Balaclava
- 2.2 The subject site has an area of 575sqm and is developed with a single storey dwelling, built in the 1920s. The dwelling contains three bedrooms, study, two living areas and has a double garage with access via a crossover to Orange Grove.
- 2.3 The land is in a Neighbourhood Residential Zone – Schedule 5 (NRZ5) and is subject to a Heritage Overlay (HO392) and Special Building Overlay (SBO1).
- 2.4 As the size of the lot exceeds 500 square metres, an assessment under Clause 54 of the Port Phillip Planning Scheme is not required. However off-site amenity impacts are considered under the policy framework and Decision guidelines of the planning scheme, as relevant.



- 2.5 The application was advertised and sixteen objections were received. Concerns related to heritage impacts, neighbourhood character, noise, off-site amenity impacts and visual bulk, car parking and traffic impacts.
- 2.6 A consult meeting occurred on 6 June 2019, attended by the permit applicant, ward Councillors, Planning officers and objectors. It did not result in any changes to the proposal.
- 2.7 In response to matters raised by objectors and Council's Heritage Advisor, amended plans were submitted to Council on 8 May 2019 under Section 57A of the Planning and Environment Act 1987. The amended plans reduce the size of the first floor by deleting the front two bedrooms. The amended plans are the basis for this assessment, and form **Attachment 1**. The plans were not re-advertised as the changes would reduce the scale and impacts of the proposal. However, the amended plans were circulated to objectors on 9 May 2019.
- 2.8 The proposed development would be consistent with the heritage objectives outlined within the planning scheme, in particular the guidelines for 'Additions and or Alterations to Heritage Places' at Clause 22.04-3 of Council's local Heritage Policy. It would also comply with the requirements of the Special Building Overlay. Further, the amenity of the adjoining properties would not be unreasonable impacted by the proposal, largely due to the siting of the first floor, as well as the use of screening.
- 2.9 It is recommended that a Notice of Decision to Grant a Permit be issued for this application, 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 partial demolition; alterations and additions comprising a ground floor extension and a first-floor addition to the existing dwelling in the Heritage Overlay; and the construction and carrying out of works in the Special Building Overlay at 14 Orange Grove, Balaclava.
- 3.3 That the decision be issued as follows:

1 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, unless the Port Phillip Planning Scheme exempts the need for a permit.

2 No change to external finishes

All external materials, finishes and colours as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

3 Piping and ducting

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

4 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.

5 Walls on or facing the boundary

Before the occupation of the development allowed by this permit, all new or extended walls on or facing the boundary of adjoining properties and/or a laneway must be cleaned and finished to a uniform standard to the satisfaction of the Responsible Authority. Unpainted or unrendered masonry walls must have all excess mortar removed from the joints and face and all joints must be tooled or pointed also 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 Incorporation and maintenance 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 Stormwater Management (Water Sensitive Urban Design assessment) prepared by Low Impact Development Consulting, and thereafter be maintained, to the satisfaction of the Responsible Authority.

7 Time for starting and completion

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

- a. The development is not started within two (2) years of the date of this permit.
- b. The development is not completed within two (2) 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:

• **Heritage Overlay & Special Building Overlay**

This permit is approved pursuant to the Heritage Overlay and Special Building overlay under the Port Phillip Planning Scheme. No assessment has been made under ResCode and therefore this permit does not give approval for siting dispensation and other relevant matters. Please contact Council's Building Department.

• **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.

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

4. RELEVANT BACKGROUND

- 4.1 There is no relevant planning history or background for this application.

5. PROPOSAL

- 5.1 Demolition and building and works are proposed to the rear of the existing dwelling comprising alterations at ground floor including spa, and two water tanks as well as new window and door openings and a first floor addition.
- 5.2 The plans which are the subject of this report are those referred as known as Revision 03 to DD00 – DD011, dated 1 May 2019 and prepared by Elements of Home Architecture and Building Design. These form **Attachment 1**.
- 5.3 More particularly the application proposes the following:

Demolition of:

- The store to the rear of the garage.
- The bedroom 3 window and living room window along the northern elevation.
- The laundry wall and door along southern elevation.
- The window to kitchen to the west (rear) elevation.



- Internal areas (i.e. no permit required) comprising of bedroom 3, dining room, bedroom 2, kitchen and laundry.
- Part of the roof to make way for first floor addition.

Ground Floor works:

- New window to dining room (north elevation).
- Changes to floor layout as well as new stairwell to provide access to first floor.
- New door to laundry to south elevation.
- Spa within rear yard towards the northern boundary.
- New store room along southern boundary behind existing garage.
- Two x 3000L rainwater tanks to the south side of the property.
- New window to kitchen towards the west (rear) elevation.
- The dwelling would result in a site coverage of 279.8m (49%).

First Floor addition:

- Comprising bedrooms 2, 3 and 4, rumpus room, powder room and bathroom. Bedroom 2 is to be used as a master with W.I.R. and ensuite.
- Setback 2.3 metres from the south boundary, 1.6 metres to the northern boundary, 17.4 metres from the front boundary and 8.9 metres from the rear boundary.
- Overall height of 8.4 metres.
- Constructed of bagged brick with rendered cladding and grey roof tiles to match existing.
- Privacy screening to a height of 1.7m for the habitable room windows.

5.4 The proposal was amended following advertising under Section 57A of the Act. The only changes made to the proposal was to reduce the size of the first floor by deleting the first two bedrooms and increasing the setback from the street frontage from 13m to 17.4m. The original (advertised) plans form **Attachment 2**.

6. SUBJECT SITE AND SURROUNDS

Description of Site and Surrounds	
Site Area	575m ²
Existing building & site conditions	<p>The subject site is located on the west side of Orange Grove, Balaclava, with Balaclava Road to the south and Hewison Reserve to the north east.</p> <p>The property is rectangular in shape with a 13.72 metre frontage to Orange Grove and a depth of 41.50 metres.</p> <p>The site is currently occupied by single storey Californian Bungalow which is classified as having a contributory heritage grading within the Port Phillip</p>



	<p>Heritage Registrar. However, Council's Heritage Advisor has advised that the house should be considered as having a nil heritage grading due its significant modifications. Refer to Section 9.1 of this report.</p> <p>Vehicular access to the site is via a driveway on the south side of the dwelling, leading to a double garage.</p> <p>The private open space is located to the rear of the site.</p> <p>A timber picket and brick pillar front fence is located along the front of the property.</p> <p>Three large conifer trees were previously located in the front yard, however these appear to have been removed under a Significant tree removal permit issued by Council in 2015.</p>
<p>Surrounds/ neighbourhood character</p>	<p>The subject site is located within an established residential area which comprises a mixture of Edwardian and Californian Bungalow style dwellings flanked by two and three storey flat developments. The street comprises of buildings with significant, contributory and nil heritage gradings.</p> <p>More particularly, features of adjoining land are as follows:</p> <p>South: No. 16 Orange Grove is occupied by a single storey brick Californian Bungalow style dwelling with tiled roof built to the boundary with the subject site in part with three windows towards the rear of the dwelling orientated to face the subject site. It has a contributory heritage grading.</p> <p>North: No. 12 Orange Grove is occupied by a single storey Californian Bungalow style dwelling with tiled roof setback 2 metres from the subject site. It has its private open space located to the rear, and two habitable windows facing the subject site. It has a significant heritage grading.</p> <p>West: Nos. 84 and 88 Westbury Street, which are not located in a Heritage Overlay.</p> <p>84 Westbury Street is occupied by a four storey contemporary residential building containing 24 dwellings.</p> <p>88 Westbury Street is occupied by a single storey modified Federation era dwelling with a rear first floor addition. The private open space is located to the rear and three habitable room windows face the subject site.</p>



7. PERMIT TRIGGERS

7.1 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 5	<ul style="list-style-type: none"> ▪ A <u>permit is not required</u> to construct or extend one dwelling on a lot greater than 500 sqm pursuant to Clause 32.09-5 and Schedule 5 to the NRZ. ▪ The mandatory minimum garden area requirement of 30% (172sqm) would be met. ▪ The mandatory maximum dwelling height of 2 storeys / 9m would be met.
Clause 43.01 Heritage Overlay	<ul style="list-style-type: none"> ▪ <u>A permit is required</u> to demolish and remove a building, and to construct a building or construct or carry out works pursuant to Clause 43.01-1.
Clause 44.05 Special Building Overlay	<ul style="list-style-type: none"> ▪ <u>A permit is required</u> to construct a building or construct or carry out works pursuant to Clause 44.05-2. ▪ Pursuant to Section 55 of the Planning and Environment Act an application must be referred to the relevant floodplain management authority (Melbourne Water).

8. PLANNING SCHEME PROVISIONS

8.1 The application needs to be assessed against the relevant sections of the Planning Policy Framework (PPF), including:

- Clause 11: Settlement
- Clause 13: Environmental Risks and Amenity,
- Clause 15: Built Environment and Heritage
- Clause 16: Housing

8.2 The Municipal Strategic Statement (MSS) contains a number of clauses which are relevant to this application as follows:

- 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 21.06: Neighbourhoods, including
 - Clause 21.06-1: East St Kilda and Balaclava

8.3 The application also needs to be assessed against the following clauses of the LPPF:



Clause 22.04: Heritage Policy

Clause 22.12: Stormwater Management (Water Sensitive Urban Design)

8.4 The following general provision is also relevant:

Clause 65: Decision Guidelines

9. REFERRALS

Internal referrals

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

Heritage Advisor

This house is graded Contributory, but I consider its significance to be marginal – the house is very modified and I would consider the contribution to be Nil. The house also sits within a very diverse streetscape and is flanked by three storey flats to the north and two storey flats to the south.

Preliminary plans showed a gable-fronted roof, which would have been overly dominant. At a meeting with the applicant/designer (also attended by Jessica Ladlow) I suggested changing the roof profile to a hip at the front to reduce the potential visual impact and also to complement the existing house.

This has been done, and has reduced the visual impact. Having now seen the detailed plans, including a 3D render I believe the addition could be set back further to ensure that the roof eaves do not intrude beyond the front peak of the existing roof and to ensure that it is not overly dominant in the streetscape. Ideally, this should ensure that the front of the addition does not exceed the 18 degree viewline (measured from the front northeast roof corner).

Planner's response:

The Section 57A plans show changes to the proposed first floor addition through the deletion of two proposed bedrooms, achieving a 17 degree sightline and increased setback of 17.4m to the street. The Heritage Advisor has reviewed these plans and has confirmed that they have addressed his recommendation.

Sustainable Design Officer

The architectural drawings and the Stormwater Management Report for the above project were reviewed against the WSUD (LPP 22.12) policy and they meet the requirements.

Planner's response:

It follows from the above that an appropriate response to the WSUD requirements have been provided. A standard condition is recommended to ensure WSUD initiatives are installed and maintained (refer recommended Condition 7).

External referral: Melbourne Water

9.2 Melbourne Water advised in a letter dated 10 January 2019 that they did not object to the proposal. They did not recommend any conditions or notes.



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

10.2 The application has received sixteen objections. The key concerns raised are summarised below and responded to below:

- Failure to comply with heritage policy including extent of first floor proposed and non compliance with sightline
The Section 57A plans show changes to the proposed first floor addition through the deletion of two bedrooms. The proposal would now achieve a 17 degree sightline which is acceptable given the diverse nature of this streetscape and its context.
- Neighbourhood Character, first floor impact upon the streetscape, poor design quality, lack of articulation, visual bulk and siting
Refer to the character assessment at Section 11. Overall, the proposal is considered to be an acceptable response to the existing and preferred character of the area.
- Noise from use for community centre/ synagogue
It is understood that some objectors have a concern that the building may be used as a synagogue (place of worship). There is nothing on the application or supporting information to indicate that the building would not be used as a dwelling. If it were to be constructed and then turned into a synagogue, it would become a planning enforcement matter because a planning permit would be required for a Place of Worship in this zone.

Noise impacts from the use of the land for a dwelling are not a relevant planning consideration.
- Off-site amenity impacts, including overlooking, overshadowing, setbacks, north facing windows and daylight access, visual bulk and wall on boundary
The lot is greater than 500 sqm in area and therefore a permit is not required under the Neighbourhood Residential Zone for the proposed development, and an assessment against the development requirements of ResCode (Clause 54) is not required.

Notwithstanding this, some consideration can be given to amenity impacts under the PPF and Clause 65 Decision Guidelines. In light of this, it is pertinent that the proposal would have a high level of compliance with Clause 54 standards and objectives and therefore would not have any unreasonable off-site amenity impacts. For instance, screens and obscured glazing are shown to first floor habitable room windows to limit potential overlooking into neighbouring properties. The proposed first floor side setbacks of 1.63 and 2.37 m from the north and south boundaries respectively, coupled with the retention of a large rear yard, would ensure there was no unreasonable visual bulk to adjoining dwellings. Only part of the eaves would project into the standard side setback requirement from the north boundary (as shown on the East Elevation on DD08 in **Attachment 1**) and into the standard setback required from north facing windows. Some additional shadow would be caused to the rear yard of 16 Orange Grove in the morning at the equinox, but due to the large size of that yard the overshadowing standard would be met.



Importantly, a full siting assessment will be required under the Building regulations and any variations to standard siting requirements will require consent under the building permit process. If variations are deemed necessary and consent is not granted, the applicant would have to apply to amend the endorsed plans associated with this permit (if granted).

▪ Car parking and traffic impacts

Clause 52.06 Car Parking does not apply to an extension to an existing dwelling. Notwithstanding that, it is noted that the existing two car spaces provided on site meets the Clause 52.06 requirements for a dwelling that has three or more bedrooms. Given that the number of on-site car parking spaces is not proposed to change, nor is the use, there are unlikely to be any significant traffic impacts from the proposal.

10.3 A consultation meeting was held on 6 June 2019. The meeting was attended by a Ward Councillor, applicant, objectors and Planning Officers. The meeting did not result in any changes to the proposal.

10.4 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.

11. OFFICER'S ASSESSMENT

Heritage

11.1 The subject site is included in the Orange Grove Precinct (HO392) and has a contributory grading. However, Council's Heritage Advisor has identified that the dwelling has nil significance. Notwithstanding this, an assessment against the decision guidelines of the Heritage Overlay and consideration of the local Heritage Policy at Clause 22.04 is required.

11.2 Where a permit is required for demolition of a significant or contributory building, pursuant to Clause 22.04-3 it is policy to *allow the demolition of part of a heritage place if it will not affect the significance of the place and the proposed addition is sympathetic to the scale and form of the place.*

11.3 It is considered that the extent of demolition proposed would be acceptable and would not impact the overall significance of the heritage dwelling. This is because none of the built form to be demolished is visible from the street or from the primary frontage.

11.4 Pursuant to Clause 22.04-3, in regards to additions and alterations to heritage places, it is policy that:

- additions and alterations:
 - *Do not change the original principal façade(s) or roof.*
 - *Are distinguishable from the original parts of the heritage place to be conserved, if a contemporary architectural approach is used.*
 - *Are based on research that can identify the elements, detailing and finishes originally employed.*
 - *Do not obscure or alter an element that contributes to the significance of a heritage place.*

- *Maintain an existing vista or viewlines to the principal façade(s) of a heritage place.*
 - An upper storey addition is sited and massed behind the principal facade so that it preferably is not visible, particularly in intact or consistent streetscapes (see Performance Measure 1).
- 11.5 Performance Measure 1 states that upper storey additions may meet the above policy for siting and massing if the following measures, as appropriate, are achieved:
- *They are sited within an “envelope” created by projecting a sight line from 1.6 metres above ground level (this being the eye level of an adult person of average height) to the front parapet or gutter on the main façade and taken from a point where the footpath meets the property line directly opposite the site, where the property has a frontage to a narrow street (5 metres or less) or laneway, or*
 - *They are sited within an “envelope” created by projecting a line of 10 degrees from the height of the base of the front parapet or gutter line on the main façade and extending to the rear of the heritage place, or*
 - *In exceptional cases where the heritage place is located in a diverse streetscape and the design of the proposed addition is considered to be an appropriate contextual response, they are sited within an “envelope” created by projecting a line of up to 18 degrees from the height of the base of the front parapet or gutter line on the main façade of the heritage place.*
- 11.6 The proposed alterations to the ground floor would not be clearly visible from the public realm and therefore considered to be acceptable.
- 11.7 The design of the first floor addition would match the existing dwelling through the use of bagged brick with render and grey roof tiles, with a pitched roof form.
- 11.8 Concerns were originally raised by the Heritage Advisor in relation to the visibility and dominance of the second storey from the street. However, the Section 57A plans submitted include the deletion of the front-most bedrooms of the first floor addition and result in an increased setback from 13m to 17.4m from the front boundary. This new sightline accords with the Heritage Advisor’s recommendation.
- 11.9 The first floor addition would comply with Performance Measure 1 as the site is located in a diverse streetscape and would have a sightline of less than 18 degrees. The first floor would be setback 12 metres behind the front wall of the dwelling and 17.4 metres from the street. The image provided by the applicant (Page 1 of Attachment 1) demonstrates that while somewhat visible, the first floor would appear as a visually recessive element from Orange Grove. Accordingly, the design of the proposed addition would be an appropriate contextual response.

Neighbourhood character and built form

- 11.10 Clause 21.06-1 sets out a range of policy guidelines for development in this area, including to encourage new development to respond to specific character elements.



- 11.11 Clause 21.05-2 (Built Form – Urban Structure and Character) states its objective is to *ensure that the height and scale of new development is appropriate to the identified preferred character of an area.*
- 11.12 The proposed first floor addition would be responsive in this context, where one and two storey built form is prevalent.

Stormwater Management (Water Sensitive Urban Design)

- 11.13 An extension of more than 50sqm is proposed and therefore the application must satisfy the requirements of the Stormwater Management Policy at Clause 22.12.
- 11.14 A STORM Rating Report has been provided for the application, which achieves a 101% rating in accordance with policy requirements. A standard condition is recommended to ensure WSUD initiatives are installed and maintained (refer recommended Condition 7).

Special Building Overlay

- 11.15 A permit is required pursuant to Clause 44.05-2 and Schedule 1 to the Special Building Overlay (Melbourne Water Main Drain). This proposal is largely for a first floor extension with only limited ground floor works. Melbourne Water has not objected to the proposal or recommended any conditions. Accordingly, the proposal would achieve the purpose and requirements of the Special Building Overlay.

12. COVENANTS

- 12.1 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 of Title Plan 269244F [Parent Title Volume 09455 Folio 532].

13. OFFICER DIRECT OR INDIRECT INTEREST

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

14. OPTIONS

- 14.1 Approve as recommended.
- 14.2 Approve with changed or additional conditions.
- 14.3 Refuse - on key issues.

15. CONCLUSION

- 15.1 The proposed extension is responsive to the existing dwelling on the site and to the scale and pattern of development in the surrounding area. In particular, the proposed first floor addition would achieve a 17 degree sightline and would be visually recessive.
- 15.2 Accordingly, the proposed development would be consistent with the heritage objectives outlined within the planning scheme. It would also comply with the requirements of the Special Building Overlay, and would not cause any unreasonable amenity impacts to adjoining dwellings.
- 15.3 For these key reasons, it is recommended that the proposal be supported and that a Notice of Decision to Grant a Permit be issued, subject to conditions.

PLANNING COMMITTEE
26 JUNE 2019



TRIM FILE NO:

PF18/36179

ATTACHMENTS

- 1. Attachment 1 - Plans under assessment (Section 57A)**
- 2. Attachment 2 - Advertised plans**
- 3. Attachment 3 - Objector map**