



6.1

18 CANDLE ROAD, PORT MELBOURNE

LOCATION/ADDRESS: **18 CANDLE ROAD, PORT MELBOURNE**

EXECUTIVE MEMBER: **LILI ROSIC, GENERAL MANAGER, CITY STRATEGY AND SUSTAINABLE DEVELOPMENT**

PREPARED BY: **SIMON GUTTERIDGE, PLANNING TEAM LEADER FISHERMANS BEND**

1. PURPOSE

- 1.1 To consider and determine Planning Permit Application P698/2018 for buildings and works for a roof top terrace on the existing three storey dwelling, and associated partial demolition of the dwelling at 18 Candle Road, Port Melbourne.

2. EXECUTIVE SUMMARY

WARD:	Gateway
TRIGGER FOR DETERMINATION BY COMMITTEE:	Accommodation (dwellings) within the Fishermans Bend Urban Renewal Area.
APPLICATION NO:	P698/2018
APPLICANT:	Sky Architecture Pty Ltd
EXISTING USE:	Three storey residential dwelling.
ABUTTING USES:	Three and four storey residential dwellings
ZONING:	Capital City Zone – Schedule 1 (CCZ1)
OVERLAYS:	Heritage Overlay - Schedule 164 (HO164) Design and Development Overlay - Schedule 32 (DDO32) Environmental Audit Overlay (EAO) Parking Overlay - Schedule 1 (PO1) Infrastructure Contributions Overlay - Schedule 1 (ICO1)
STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL	Expired

- 2.1 Planning Permit 698/2018 seeks to allow '*Buildings and works for a roof top terrace on the existing three storey dwelling, and associated partial demolition of the dwelling*' at 18 Candle Street within Capital City Zone - Schedule 1 (CCZ1) and Heritage Overlay - Schedule 164 (HO164).
- 2.2 The existing dwelling on the subject site is one of 287 three and four-storey attached and semi-detached townhouses approved by Ministerial Planning Permit 2013/001464 issued 10-January 2014.



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- 2.3 The townhouses are arranged in rows facing Ingles, Munro, Boundary and Woodruff Streets and along a network of internal private roads and lanes.
- 2.4 The dwellings were constructed in stages circa 2017-2018 and have only recently been completed and occupied.
- 2.5 One hundred and ninety one (191) of the town houses are three-storeys and ninety-six (96) feature a fourth level sunroom and rooftop balcony, which the application is seeking to match.
- 2.6 Immediately surrounding the subject site, the four abutting dwellings to the rear of the subject site, the four dwellings across the side lane to the east, the two dwellings to the south-east diagonally across Candle Road, and the dwelling three properties to the west along Candle Road, all have fourth level sunrooms and rooftop balconies.
- 2.7 Two objections were lodged, raising concerns regarding structural impacts on a neighbouring property, materials and finishes, and construction management.
- 2.8 Materials and finishes can be provided for by a condition of any approval.
- 2.9 Structural matters and construction management relative to the internal private road network are not planning matters and are managed under other legislations such as the Building Regulations and the Owners Corporation Act. Council's Local Law manages construction management issues for public land and matters such as days and hours of buildings and works.
- 2.10 The subject site is in a Heritage Overlay, but as a recently constructed dwelling, does not have heritage significance. The proposed sunroom addition and rooftop balcony would not adversely affect the heritage values of the subject site and surrounds.
- 2.11 The proposed alterations and additions would be relatively minor, and subject to a condition regarding materials and finishes, would match the other fourth level sunrooms and rooftop balconies within the parent development, and would be satisfactory.
- 2.12 It is recommended that Council supports the proposal and issues a Notice of Decision to Grant a Permit, subject to conditions.

3. RECOMMENDATION

3.1 RECOMMENDATION – PART A

- 3.1.1 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.
- 3.1.2 That a Notice of Decision to Grant a Permit be issued for **buildings and works for a roof top terrace on the existing three storey dwelling, and associated partial demolition of the dwelling** at 18 Candle Road, Port Melbourne.
- 3.1.3 That the decision be issued as follows:
 1. **Amended Plans required**
Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with



dimensions and an electronic copy must be provided. The plans must be generally in accordance with the plans submitted with the application, but modified to show:

- a) Details of all external materials and finishes and colours to match the existing and nearby dwellings, including Material F03 to be James Hardy Matrix cladding painted black.
- b) Any changes to meet the mandatory requirements for a third pipe and rainwater tank in the corresponding condition below.

2. No Alterations (Development)

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.

Mandatory (GC81) Condition

3. Third pipe and rain tank

A third pipe must be installed for recycled water to supply non-potable uses within the development for toilet flushing, fire services, irrigation, laundry and cooling, unless otherwise agreed by the relevant water authority.

An agreed building connection point must be provided from the third pipe, designed in conjunction with the relevant water supply authority, to ensure readiness to connect to a future precinct-scale recycled water supply.

A rainwater tank must be provided that:

- Has a minimum effective volume of 0.5 cubic metres for every 10 square metres of catchment area to capture rainwater from 100% of suitable roof rainwater harvesting areas;
- Is fitted with a first flush device, meter, tank discharge control and water treatment with associated power and telecommunications equipment approved by the relevant water authority.

4. 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.

Notations:

Building Approval Required



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This permit does not authorise the commencement of any demolition or construction on the land. Before any demolition or construction may commence, the applicant must apply for and obtain appropriate building approval from a Building Surveyor.

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.

Other Approvals May be Required

This Planning Permit represents the Planning approval for the use and/or development of the land. This Planning Permit does not represent the approval of other departments of the City of Port Phillip or other statutory authorities. Such approvals may be required and may be assessed on different criteria from that adopted for the approval of 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 adjoining building and property.

Construction Management

All construction activities associated with the development must comply with the requirements of Council's Local Law No. 1 (Community Amenity) 2013.

Days and Hours of Construction Works

Developers

Except in the case of an emergency a builder must not carry out building works outside of construction hours:-

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

An Out of Hours permit cannot be obtained for an appointed public holiday under the Public Holidays Act, 1993.

Owner Builders

An owner builder must not carry out building works outside of construction hours:-

- Monday to Friday: 7.00am to 8.00pm; or
- Saturdays, Sundays and public holidays: 9.00am to 6.00pm.

An Out of Hours permit may be considered pursuant to Local Law No. 1 (Community Amenity) 2013, Clause 31. For further information, contact Council's City Permits unit on Ph: (03) 9209 6216.

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.

3.2 RECOMMENDATION - PART B

That the Council authorise the Manager - City Development to instruct Council's Statutory Planners and/or Solicitors on any future Victorian Civil and Administrative Tribunal (VCAT) application for review.

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4. RELEVANT BACKGROUND

The following relevant applications have previously been considered for the subject site (being part of land known as 220 Ingles Street) and the land on the opposite side of Candle Road (known as 164 Ingles Street):

Application No.	Proposal	Decision / Date
220 Ingles Street 2013/001464	Demolition of buildings and works and the use and development of land for (287) townhouse style dwellings, temporary hoarding signage and the provision of car parking spaces in excess of prescribed rates under Schedule 1 to the Parking Overlay	10-January-2014: Minister Permit
164 Ingles Street 2/2016	Demolish part of the building, construct a building and construct or carry out works, and use the land for accommodation (7 dwellings) in the Capital City Zone. Construct a building, construct or carry out works, externally paint a building, and externally and internally alter a building in the Heritage Overlay. Provide car parking in excess of the prescribed rates specified in Schedule 1 to the Parking Overlay.	20-April-2016: Council Permit

5. PROPOSAL

- 5.1 It is proposed to demolish part of an existing three-storey dwelling and construct a new fourth level room and rooftop balcony.
- 5.2 More particularly, the proposal comprises:

Second floor level (Level 03):

- Construct a new internal stair to the roof top (This does not require a planning permit).

Existing roof top level (New third floor level - Level 04):

- Demolish part of existing metal deck flat roof.
- Construct a new 31.6m² room, accessed via stairs from below. The room would have solid walls to both sides, rear (north facing) windows, and front (south facing to Candle Road) full height windows and sliding doors opening onto a roof top balcony.

The room would have a maximum height of 3.12m above the existing roof and would increase the maximum height of the building from three-storeys and 6.96m (12.96m AHD) to four-storeys and 12.9m (15.9m AHD).

Materials and finishes are proposed to be rendered wall painted cream, grey and black, and black powder coated aluminium door and window frames with clear glazing.

- Construct a new 9.0m² (approx.) roof top balcony facing Candle Road. The balcony is proposed to incorporate a 1.1m high balustrade along its front and 2.0m high balustrade/screening including rendered wall along both sides.

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- 5.3 The plans which are the subject of this report are those referred to as Job No. S215, Drawing Nos. TP01 to TP13 inclusive, dated 29/10/2018, TP15 and TP16 dated 21/09/2018, and TP17, TP18 and TP19 dated 29/10/2018, prepared by SKY Architect Pty Ltd, date stamped received by Council on 07 November 2018.

6. SUBJECT SITE AND SURROUNDS

Site area	89m ²
Existing building & site conditions	<p>The subject site is located on the north-west corner of Candle Road and an unnamed lane, Port Melbourne.</p> <p>The site has a frontage width of 6.62m to Candle Road and a maximum depth of 13.5m for an overall area of 89m².</p> <p>Candle Road and the lane along the east side are fully constructed asphalt private road and are 8.25m and 4.47m wide respectively.</p> <p>The land is developed with a recently completed contemporary flat roofed three-storey townhouse comprising:</p> <ul style="list-style-type: none"> • Ground floor level: Dwelling entry, garage, Bedroom with ensuite, laundry and stairs to levels above and a small rear yard; • First floor level: Kitchen, living room and a balcony facing Candle Road and stairs to levels above and below. • Second floor level: Two bedrooms (one with an ensuite), a bathroom and stairs from levels below.
Surrounds / neighbourhood character	<p>The subject site is one of 287 three and four-storey attached and semi-detached townhouses recently constructed as a re-development of the former Symex / J. Kitchen and Sons Soap factory.</p> <p>The subject site and surrounding townhouses are all contemporary flat roofed dwellings, and are arranged in rows facing Ingles, Munro, Boundary and Woodruff Streets and along a network of internal private roads and lanes.</p> <p>One hundred and ninety one (191) of the town houses are three-storeys and ninety-six (96) feature a fourth level sunroom and rooftop balcony, which the application is seeking to match.</p> <p>Surrounding land is developed as follows:</p> <ul style="list-style-type: none"> • North (rear): Four x four-storey townhouses immediately to the rear at 17, 19, 21 and 23 Sunlight Road, and further three and four-storey townhouses beyond this. • South (opposite): Across Candle Road: ground level at-grade car ports and the four level Significant Heritage graded former Lever and Son circa 1920s office, which has been altered and extended to create seven (7) apartments. • East (side): Across the unnamed land, four x four level townhouses at 16 and 14 Candle Road and 13 and 15 Sunlight Road, and further three and four-storey townhouses beyond this. • West (side): Two x three-storey townhouses at 20 and 22 Candle Road, a four-storey townhouse at 24 Candle Road and further three and four-storey townhouses facing to Ingles Street beyond this <p>The townhouses face onto a relatively narrow street network and have a mews type character. The street network features minimal (and relatively young) landscaping.</p>



7. PERMIT TRIGGERS

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

Planning Scheme Provision	Why is a planning permit required?
Clause 37.04: Capital City Zone (CCZ1)	<p>Pursuant to Section 2 of the Table of uses at Clause 37.04-1 of the CCZ1 and Clause 1 of the Schedule to the CCZ1, a planning permit is required to use land for a use not in Section 1 or 3 of the Schedule to the zone. This includes Accommodation (Dwellings) if it does not meet the following conditions:</p> <ul style="list-style-type: none"> • Must not be in a Non-core area. • Must not be within an Amenity buffer shown on Map 4. • Must not be within 450m of the South Melbourne to Brooklyn or Dandenong to West Melbourne pipeline as shown on Map 5. • Must not be within 100m of the Port Melbourne to Symex Holdings pipeline as shown on Map 5. <p>The land is not in a Core Area, but is within 100m of the Port Melbourne to Symex Holdings pipeline and thus requires ostensibly a permit under this clause. A permit to use the land for Accommodation has previously been granted. Further permission is not required.</p> <p>Pursuant to Clause 37.04-4 of the CCZ1 and Clause 4.0 of the Schedule to the CCZ1, a permit is required to construct a building or construct or carry out works in the Capital City Zone, with the exception of an addition of, or modification to a verandah, awning, sunblind or canopy of an existing dwelling.</p> <p>Pursuant to Clause 37.04-4, an apartment development must meet the requirements of Clause 58. This does not apply to:</p> <ul style="list-style-type: none"> • An application lodged before the approval of Amendment VC136 (02-Feb-2017). • An application for amendment of a permit under S72, if the original application was lodged before the approval of Amendment VC136. <p>Pursuant to Clause 37.04-4 of the CCZ1 and Clause 4.1 of Schedule 1 to the CCZ1, a permit is required to demolish or remove a building or works, except for:</p> <ul style="list-style-type: none"> • The demolition or removal of temporary structures; • The demolition ordered or undertaken by the responsible authority in accordance with the relevant legislation or local law. <p>An application for the use of land, subdivision, or demolish or remove a building or construct a building or construct or carry out works is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act. This does not apply to an application to use land for a nightclub, tavern, hotel or adult sex product shop.</p> <p>A planning permit is required under this clause.</p>
Clause 43.01: Heritage Overlay (HO164)	Pursuant to Clause 43.01-1, a permit is required to demolish or remove a building, construct a building or construct or carry out works, externally alter a building, construct or display a sign, externally paint a building, externally paint an unpainted surface, internally alter a building (if the

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	<p>schedule specifies this) or carry out works, repairs and routine maintenance which change the appearance of the heritage place. A permit is required under this clause.</p>
Clause 43.02: Design and Development Overlay - Schedule 32 - Fishermans Bend - Sandridge Precinct (DDO32)	<p>The land is in Precinct Area S4 of DDO32 which encourages a low-mid-rise building typology and a mandatory maximum building height of 15.4m (4-storeys) facing Ingles Street (including the subject site) and a preferred maximum building height of 30 metres (8-storeys) facing Boundary Street.</p> <p>Pursuant to Clause 43.02-2 of the DDO and Clause 2.0 of Schedule 32 to the DDO, a permit is required to construct a building or construct or carry out works in the Design and Development Overlay.</p> <p>An application to construct a building or construct or carry out works or subdivide land in DDO32 is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.</p>
Clause 45.03: Environmental Audit Overlay (EAO)	<p>Pursuant to Clause 45.03-1 of the EAO, before a sensitive use (residential use, child care centre, pre-school centre, primary school, education centre or informal outdoor recreation) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, the developer must obtain either;</p> <ul style="list-style-type: none"> • A certificate of environmental audit issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or • A statement in accordance with Part IXD of the Environment Protection Act 1970 by an accredited auditor approved under that Act that the environmental conditions of the land are suitable for the sensitive use. <p>A planning permit is not required under this clause.</p>
Clause 45.09: Parking Overlay (P01)	<p>A planning permit is required to provide car parking spaces in excess of the rates specified in Table 1 of Schedule 1 to the Overlay.</p> <p>A permit is not required under this clause.</p>
Clause 45.11: Infrastructure Contribution Overlay (ICO)	<p>Pursuant to Clause 45.11-2, a permit must not be granted to subdivide land, construct a building or construct or carry out works until an infrastructure contributions plan has been incorporated into the Planning Scheme.</p> <p>Pursuant to Clause 45.11-6, land or development of land is exempt from the ICO if it is for:</p> <ul style="list-style-type: none"> • A non-government school; • Housing provided by or on behalf of the Department of Health and Human Services; • Any other land or development of land specified in a Schedule to the ICO. <p>Pursuant to Schedule 1 to the ICO, a permit may be granted to subdivide land, construct a building or construct or carry out works before an infrastructure contributions plan has been incorporated into the scheme for:</p> <ul style="list-style-type: none"> • An existing use of land provided the site coverage is not increased. • A sign. • Consolidation of land or a boundary realignment. <p>The proposed development falls within the first of the above exemptions; consequently, a permit may be granted.</p>



52.06: Car Parking	<p>Pursuant to Clause 52.06-5A, where a use is not specified in Table 1 or where a car parking requirement is not specified for the use in another provision of the planning scheme or in a schedule to the Parking Overlay ... car parking must be provided to the satisfaction of the responsible authority.</p> <p>Use of the land for Accommodation is listed in the Table to the Parking Overlay; accordingly, the car parking requirements of Clause 52.06 do not apply.</p> <p>Car parking should meet the design requirements of Clause 52.06-8. A permit may be granted to vary any dimension or requirement of Clause 52.06-8 (Design standards for car parking).</p> <p>A permit is not required under this clause.</p>
Clause 52.34: Bicycle Facilities	<p>A new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities have been provided on the land pursuant to Clause 52.34-1.</p> <p>A planning permit is required to vary, reduce or waive any bicycle facilities requirement of Clause 52.34-3 and Clause 52.34-4.</p> <p>A permit is not required under this clause.</p>

8. PLANNING SCHEME PROVISIONS

8.1 Planning Policy Frameworks (PPF)

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

- Clause 11: Settlement, including:
 - Clause 11.01-1R1: Settlement - Metropolitan Melbourne
 - Clause 11.02: Managing Growth
- Clause 13: Environmental Risks and Amenity, including:
 - Clause 13.01: Climate Change Impacts
 - Clause 13.03: Floodplains
 - Clause 13.07: Amenity
- Clause 15: Built Environment and Heritage, including:
 - 15.01-1: Built Environment
 - 15.01-1R: Urban design - Metropolitan Melbourne
 - 15.01-2S: Building Design
 - 15.01-4R: Healthy neighbourhoods - Metropolitan Melbourne
 - 15.01-5S: Neighbourhood character
 - 15.02-1: Sustainable development
 - 15.03: Heritage
 - 15.03-1S: Heritage conservation
 - 15.02-2S: Aboriginal cultural heritage
- Clause 16: Housing, including:



- Clause 16.01: Residential development
- Clause 16.01-3R: Housing diversity - Metropolitan Melbourne
- Clause 18: Transport, including:
 - Clause 18.02-4S: Car parking
- Clause 19: Infrastructure, including:
 - Clause 19.01: Energy
 - Clause 19.01-1S: Energy supply
 - Clause 19.01-2R: Renewable energy - Metropolitan Melbourne
 - Clause 19.01-3S: Pipeline infrastructure
 - Clause 19.03-1S: Development and infrastructure contributions plans
 - Clause 19.03-4S: Stormwater

8.2 Local Planning Policy Framework (LPPF)

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

- Clause 21: Municipal Strategic Statement
- Clause 21.01: Vision and Approach
- Clause 21.02: Municipal Context and Profile
- Clause 21.03: Ecologically Sustainable Development
- Clause 21.04: Land Use, including
 - 21.04-1: Housing and Accommodation
- Clause 21.05: Built Form, including:
 - 21.05-1: Heritage
 - 21.05-2: Urban Structure and Character
- Clause 21.06: Neighbourhoods, including
 - 21.06-8: Fishermans Bend Urban Renewal Area

8.3 Local Planning Policy Framework (LPPF)

The application also needs to be assessed against the following Local Planning Policies:

- Clause 22.04: Heritage Policy
- Clause 22.12: Stormwater Management (Water Sensitive Urban Design)
- Clause 22.13: Environmentally Sustainable Development
- Clause 22.15: Employment and Dwelling Diversity within the Fishermans Bend

8.4 Other relevant provisions

- Clause 52.06: Car Parking
- Clause 52.34: Bicycle Facilities



- Clause 54: One Dwelling on a Lot
- Clause 59.05: Buildings and Works in an Overlay
- Clause 59.07: Applications Under a Heritage Overlay
- Clause 59.08: Applications Under a Special Building Overlay
- Clause 59.10: Car Parking
- Clause 65: Decision Guidelines, including:
 - Clause 65.01: Approval of an Application or Plan

8.5 Relevant Planning Scheme Amendment/s

Planning Scheme Amendments relevant to the subject site are as follows:

05 July 2012: Amendment C102:

- Designates the Fishermans Bend Urban Renewal Area (FBURA).
- Rezones the subject site and surrounding land from Industrial 1 Zone and Design and Development Overlay 9 (DDO9) to Capital City Zone (CCZ1), deletes DDO2, 8 and 9, and introduces the Development Contributions Plan Overlay (DCPO2) and the Parking Overlay (PO1). Heritage Overlay carries over.

07 August 2014: Amendment GC7:

- Clause 52.01 (Open Space) changed to require 8% open space contribution in FBURA. FBSFP July 2014 made an Incorporated Document.

17 April 2015: Amendment GC29:

- Changed the CCZ1 to introduce interim mandatory height limits for two years (inc. transition provisions for apps lodged before GC29), expands the FBURA to include the Fishermans Bend Employment Precinct (in the City of Melbourne), and updates the FBSFP July 2014 (amended April 2015) Incorporated Document.

14 November 2016: Amendment GC50:

- Introduced new Local Planning Policy (Clause 22.15) Employment and Dwelling Diversity within the Fishermans Bend Urban Renewal Area, which specifies discretionary targets for dwelling diversity (a percentage of apartments with three or more bedrooms), affordable housing, and minimum floor areas for employment uses;
- Moved interim height controls from the CCZ1 to a new Design and Development Overlay (DDO30), which specifies mandatory maximum street wall and tower heights, and mandatory minimum tower street, side and rear boundary setbacks and tower separation distances. The height and setback controls apply on an interim basis until 31 March 2019, and updates the Fishermans Bend Strategic Framework Plan, July 2014 (Amended September 2016) and incorporated document provisions.

22 November 2016: Amendment GC59

- Corrected DDO30 to add exemption from notice and review:



05 October 2018: Amendment GC81:

- Amends MSS at Clauses 21.01 (Vison and Approach), 21.02 (Municipal Context and Profile), 21.03 (Ecologically Sustainable Development), 21.04 (Land Use), 21.05 (Built Form), 21.06 (Neighbourhoods) to update references to FB and include a refined vision for Montague, Sandridge and Wirraway precincts;
- Introduces new local planning policy at Clause 22.15 (Fishermans Bend) to provide guidance and assist with the exercise of discretion in the assessment of planning permit applications in FB;
- Introduces a new Schedule 1 to Clause 37.04 (CCZ) to ensure land use and development outcomes implement the FB Vision, September 2016 and FB Framework, September 2018;
- Introduces new precinct specific Schedules 30, 32 and 33 to Clause 42.03 (Design and Development Overlay) to align built form controls with preferred character and vision for Montague, Sandridge and Wirraway precincts, respectively;
- Introduces new Schedule 1 to Clause 45.09 (Parking Overlay) to encourage sustainable transport patterns and the provision of alternative forms of parking;
- Deletes Schedule 2 to Clause 45.06 (Development Contributions Plan Overlay); Inserts Clause 45.11 (Infrastructure Contributions Overlay) and Schedule 1 (ICO1) and applies it to land to enable implementation of an Infrastructure Contributions Plan when prepared; Applies Environmental Audit Overlay (EAO) to Montague, Sandridge and Wirraway precincts; Applies Environmental Significance Overlay - Schedule 1 (ESO1) to Wirraway precinct near PoM;
- Amends Schedule to Clause 66.04 to include the Port Phillip City Council and Melbourne Water as a recommending referral authority for planning permit applications where the Minister for Planning is the responsible authority and makes minor corrections to existing provisions;
- Amends Schedule to Clause 66.06 to require notice of certain permit applications to be given to the relevant pipeline licensee and Transport for Victoria;
- Amends Schedule to Clause 72.03 to reflect the deletion of Planning Scheme Map 1DCPO and insertion of new Planning Scheme Maps 1EAO, 1ICO, 2ICO and 3ICO; and
- Amends Schedule to Clause 72.04 to reflect the deletion of the Fishermans Bend Strategic Framework, July 2016 (amended September 2016) which is outdated.

9. REFERRALS

9.1 Internal referrals

The application was referred to the following areas of Council for comment. The responses received are summarised below:

Urban Design & Heritage



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The proposed alterations and additions to the existing dwelling would not adversely affect the heritage significance of the parent site, or the former J. Kitchen and Sons offices on the opposite side of Candle Road.

Officer Response

Officers concur that the fourth level addition would not be detrimental to the heritage values of the site or the surrounds.

9.2 External referrals

Pursuant to the Schedule to Clause 66.04: *Referral of Permit Applications Under Local Provisions* and Clause 4.0 of Schedule 1 to Clause 37.04, any permit application to construct a building or construct or carry out works must be referred to Melbourne Water as a recommending referral authority.

Pursuant to Clause 66, this does not apply if in the opinion of the responsible authority, the proposal satisfies requirements or conditions previously agreed in writing between the responsible authority and the referral authority, or the referral authority has considered the proposal for which the application is made within the past three months and has stated in writing that it does not object to the granting of the permit for the proposal.

Melbourne Water provided comments to the Minister for Planning on 07 March 2013 and were generally supportive subject to raising finished floor levels to between 2.4 - 2.7m AHD depending on the proposed use. Conditions requiring this were included in the permit for the existing townhouse.

The proposal is for an upper level addition to an existing dwelling which was constructed on a raised earth pad to satisfy flood concerns.

It is considered the proposal satisfies the requirements and conditions previously agreed in writing between the responsible authority and the referral authority in 2013.

The application was not required to be externally referred.

10. PUBLIC NOTIFICATION

- 10.1 Exemptions from the notice requirements of the *Planning and Environment Act 1987* and the review rights of the Act apply to the proposed buildings and works pursuant to the provisions of the Capital City Zone and the Design and Development Overlay.
- 10.2 Notice requirements apply to the proposal pursuant to the Heritage Overlay applying to the whole of the historic parent title (notwithstanding that the subject site and abutting buildings are recently constructed townhouses with no heritage significance).
- 10.3 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 and directed that the applicant give notice of the proposal by posting two notice(s) on the site for a 14-day period, in accordance with Section 52 of the *Planning and Environment Act 1987*. In addition

11. OBJECTIONS

- 11.1 Two objections were received. The key concerns can be summarised as follows:

20 Candle Road (neighbour to s-w side)	Officer Response
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<p>The current base wall was not designed, constructed to take a fourth-floor sunroom. A sunroom on the top will be over loaded to the walls, base, and will put my property and life in dangerous situation.</p>	<p>Structural matters are governed by the Building Regulations, and are not a relevant planning matter. An engineer will be required to assess the existing structure and determine if any additional strengthening is necessary to support the additions.</p>
<p>Owners Corporation PS 718981G</p> <p>We request that the issues set out below be included in any permit issued for these works.</p> <p>1. Owners corporation rules</p> <p>The Property is a member of Owners Corporation PS 718981G. The special rules of the Owners Corporation contain specific provisions relating to building works, noise, the alterations to the external appearance of a member lot, use of common property and numerous other matters.</p> <p>The applicant has not referred to the Owners Corporation prior to submitting the planning permit application.</p> <p>The planning permit application appears to have not given any consideration to these important obligations of members in Owners Corporation PS 718981G.</p> <p>Accordingly, any planning permit granted must require the applicant, its contractors and agents to adhere to the Owners Corporation rules in all respects.</p> <p>We submit that no works should be approved, let alone commenced, until all requirements of the Owners Corporation have been satisfied.</p>	<p>Officer Response</p> <p>Obligations to comply with Owners Corporation rules are not enforced by Planning Permits.</p>
<p>2. Drawings and plans</p> <p>Drawings TP12 and TP13. We note proposed material F03 is inconsistent with the material used elsewhere in the development. We request, if the permit is approved, that this element be applied to ensure consistency within the development and be “James Hardy Matrix cladding painted black”.</p> <p>http://www.jameshardie.com.au/technical/scyon-matrix-cladding/</p> <p>No details have been provided for the proposed balcony balustrade materials in TP12. We request, if the permit is approved, that this element entirely consistent with the same detail used elsewhere in the development.</p> <p>Material for F01 in TP12 is also different from that currently installed throughout the development and it is unclear from the drawings whether the applicant intends to replace the garage door. If the garage door is to be replaced, this element should be consistent in all respects with other garage doors in the development.</p>	<p>The application does not seek permission to replace the garage door.</p> <p>The applicants have advised it is their intention to match the materials and finishes of the existing and nearby buildings.</p> <p>This could be provided for by a condition of any approval that may issue Refer Recommended Condition 1(a).</p>

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<p>3. Structural considerations</p> <p>The drawings submitted are simply copies of the original builder's for-construction drawings. Accordingly, we query whether the applicant and its architect have considered the structural engineering requirements necessary to undertake the works.</p> <p>We have been advised by the original builder that undertaking the proposed sunroom extension will require significant structural works to be completed to all levels of the existing dwelling. Such structural works would be necessary in order to support the additional loads created by adding the proposed third level sunroom.</p> <p>We request that a structural engineering assessment be produced and made available for review by our consultants prior to any planning permit being issued.</p> <p>Given the very close proximity of the Property to its next-door neighbours, this structural engineering assessment should articulate all works necessary to ensure the structural stability of the Property should the works proceed.</p> <p>Furthermore, it must also conclude that the proposed works will have no detrimental structural effect on neighbouring properties both the short term and in the long term</p>	<p>Structural matters are governed by the Building Regulations, and are not a relevant planning matter. An engineer will be required to assess the existing structure and determine if any additional strengthening is necessary to support the additions.</p> <p>It is noted that whilst the subject site and the objector's buildings abut each other, the Titles for the properties do not show any side party walls, indicating that the two properties are independent structures.</p>
<p>3. Protection of neighbouring dwellings</p> <p>No details have been provided for protection of neighbouring dwellings.</p> <p>Given the close proximity of neighbouring dwellings, any planning permit must require the applicant, its contractors and agents undertake the necessary protection works as required by the Victorian Building Authority.</p>	<p>Protection of neighbouring buildings during the construction process are governed by the Building Regulations, and are not a relevant planning matter.</p>
<p>4. Use and protection of common area assets</p> <p>Further to point 1 above, we foresee the proposed works will cause significant disruption and potentially damage to the common areas in the estate including roads, footpaths and landscaping.</p> <p>The Owners Corporation rules contain specific provisions for a member's use of such areas so as to ensure one member does not use them to the detriment of other members of the Owners Corporation.</p> <p>We anticipate that the proposed works will necessitate the use of cranes, large trucks for removal of demolition debris and deliveries of new building materials, scaffolding and skip bins for waste management.</p>	<p>The internal road network and areas of common property abutting and nearby the subject site are private roads and land and are managed by the Owners Corporation(s).</p> <p>Obligations to comply with Owners Corporation rules are administered pursuant to the Owners Corporation Act and are not enforced by Planning Permits.</p> <p>Some occupation of streets etc. are a typical and temporary consequence of buildings and works.</p> <p>Council's Local Law No. 1 (Community Amenity) 2013 would not apply to the private roads, but would apply regards days and hours of construction work. A notation of any approval would alert the owner(s) to the need for construction activities associated with the</p>

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<p>Items of this nature are likely to impinge upon and disrupt the use of the common property by others including neighbours, visitors, waste removal contractors and potentially emergency services.</p> <p>Any planning permit must require the applicant to receive approval of the Owners Corporation for the use, occupation, protection and make good of the common property.</p> <p>In considering any such application all expenses incurred by the Owners Corporation in considering and approving the works, including the drafting of any legal agreement, ongoing management and oversight of any agreement, must be paid for by the applicant.</p> <p>Considering the extensive works proposed and heavy plant and equipment necessary to undertake them, the Owners Corporation will require the applicant to prove security bonding to cover any damage to and subsequent make good of common property.</p> <p>An assessment of the security required will be made by the Owners Corporation prior to the commencement of construction, should a permit be issued.</p>	<p>development to comply with the requirements of Council's Local Law.</p>
<p>5. Construction management plan</p> <p>Further to point 1 above, any planning permit must require a construction management plan be prepared to the satisfaction of the Owners Corporation.</p> <p>The construction management plan should provide a detailed assessment of traffic movements throughout the estate associated with the proposed works and the provision of traffic management personnel to ensure the safety of residents, visitors and estate maintenance contractors. It will also need to satisfy all rules of the Owners Corporation including working hours and all other matters set out in the rules.</p> <p>All expenses incurred by the Owners Corporation in reviewing, negotiating, ongoing management and oversight of the construction management plan, must be paid for by the applicant. Such costs would include, but not be limited to those of an external project management consultant who the Owners Corporation will require to monitor adherence to any approved construction management plans.</p>	<p>Council does not require construction management plans as conditions of planning permits. Matters for construction management are instead administered by Council's City Permits Division.</p> <p>As noted above, the internal road network and areas of common property abutting and nearby the subject site are private roads and land and are managed by the Owners Corporation(s). Obligations to comply with Owners Corporation rules are administered pursuant to the Owners Corporation Act and are not enforced by Planning Permits.</p> <p>Some occupation of streets etc. are a typical and temporary consequence of buildings and works.</p> <p>Council's Local Law No. 1 (Community Amenity) 2013 would not apply to the private roads, but would apply regards days and hours of construction work. A notation of any approval would alert the owner(s) to the need for construction activities associated with the development to comply with the requirements of Council's Local Law.</p>
<p>6. Citipower sub-station</p> <p>There is an existing Citipower sub-station located on Candle Road directly opposite the Property.</p>	<p>Council does not require construction management plans as conditions of planning permits. Matters for construction management</p>



<p>Citipower requires access to the sub-station at all times, with or without vehicles. The construction management plan for the applied works must provide for the required Citipower access, with or without vehicles.</p>	<p>are instead administered by Council's City Permits Division.</p> <p>As noted above, the internal road network and areas of common property abutting and nearby the subject site are private roads and land and are managed by the Owners Corporation(s). Obligations to comply with Owners Corporation rules are administered pursuant to the Owners Corporation Act and are not enforced by Planning Permits.</p> <p>Some occupation of streets etc. are a typical and temporary consequence of buildings and works.</p> <p>Council's Local Law No. 1 (Community Amenity) 2013 would not apply to the private roads, but would apply regards days and hours of construction work. A notation of any approval would alert the owner(s) to the need for construction activities associated with the development to comply with the requirements of Council's Local Law.</p>
<p>7. Heritage overlay</p> <p>We note the property is within Heritage Overlay HO164. Can Council please confirm that all requirements of the heritage overlay have been satisfied, including but not limited to the notice requirements of the Act.</p>	<p>Notice of the application was given in accordance with the requirements of the Act relative to the Heritage Overlay.</p> <p>An assessment of the application pursuant to the Heritage Overlay is at Section 11 of this report.</p>

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

12. OFFICER'S ASSESSMENT

12.1 Local Policy

The proposed additional room and roof top terrace would be consistent with Local Policy for the FBURA to provide a variety of dwelling types and sizes, and would not detract from the character or heritage values of the site and surrounds.

12.2 Design and Development Overlay - Schedule 30

Schedule 32 to the Design & Development Overlay applies built form controls to the Fishermans Bend Urban Renewal Area.

Post Amendment GC81, the subject site is in Building Typology Area S4 for low-mid-rise development, and is subject to a mandatory 15.4m (4-storey) maximum building height.

The additions would increase the height of the existing dwelling from three-storeys and 6.96m (12.96m AHD) to four-storeys and 12.9m (15.9m AHD); this would not exceed the mandatory height limit and would be satisfactory.

The new room would be built to both side boundaries. This would match the side setbacks of the other four-storey townhouses in the parent development and would be



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satisfactory. Similarly, the front and rear setbacks of the new room would also match the front and rear setbacks of the other four-storey townhouses in the parent development and would be satisfactory.

The form, massing, fenestration and detailing of the additions are as per the design for the fourth level sunrooms and rooftop balconies of the other four-storey dwellings within the parent development.

The Owners Corporation have raised concerns about detail materials and finishes and colours not matching the existing dwellings. A condition of any approval that may issue could require materials and finishes and colours to match existing **Refer recommended condition 1(a)**.

12.3 Stormwater Management (Water Sensitive Urban Design)

The proposed alterations and additions would not increase the footprint or storm-water run-off of the existing building.

12.4 Sustainable Design and Water Sensitive Urban Design

The 40.6m² combined area of the floor area of the new room (31.6m²) and new balcony (9.0m² approx.) is less than the 50m² threshold of Council Local Policy for requiring a Sustainable Design Assessment or Sustainable Management Plan.

The proposed alterations and additions would have a relatively large area of front and rear glazing which would allow for good levels of natural light. The proposed additions would not materially alter the energy efficiency of the existing building or any adjacent or nearby building.

Green Star rating

Amendment GC81 introduced a new Clause 4.3 to Schedule 1 to the Capital City Zone setting out mandatory permit conditions for certain applications, including a requirement for Green Star ratings for permit for alterations and additions of more than 50m². The area of the additions would be below this threshold as well.

Third pipe and rain tank

Amendment GC81 introduced a new Clause 4.3 to Schedule 1 to the Capital City Zone setting out mandatory permit conditions for certain applications, including a requirement that a permit to construct a building or to construct or carry out works must include the following conditions:

- *A third pipe must be installed for recycled water to supply non-potable uses within the development for toilet flushing, fire services, irrigation, laundry and cooling, unless otherwise agreed by the relevant water authority.*
- *An agreed building connection point must be provided from the third pipe, designed in conjunction with the relevant water supply authority, to ensure readiness to connect to a future precinct-scale recycled water supply.*
- *A rainwater tank must be provided that:*
 - *Has a minimum effective volume of 0.5 cubic metres for every 10 square metres of catchment area to capture rainwater from 100% of suitable roof rainwater harvesting areas;*
 - *Is fitted with a first flush device, meter, tank discharge control and water treatment with associated power and telecommunications equipment approved by the relevant water authority.*



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Refer recommended Conditions 1(b) and 3.

Condition 22 of the permit and the endorsed plans for the existing townhouse dwelling required the development to include dual reticulation and a connection point to a potential future precinct scale alternative water supply via third pipe network. This satisfies the first two dot points above.

Condition 15 of the permit for the existing townhouses required the approval of a Sustainable Management Plan (SMP) including details of Water Sensitive Urban Design. The endorsed SMP specified a 2,000 litre rainwater tank, harvesting rainwater from the entire roof area, and connected to all toilets, be installed in 174 of the townhouses. The subject site is one of the dwellings that was fitted with a rainwater tank connected to all toilets.

The subject site has an area of 89m² and a roof area of approx. 46m² which using the above formula, would require a 2,300 litre rainwater tank.

The proposed 9.0m² balcony would reduce the roof area from which rainwater could be harvested to approx. 37m², which would require a 1,859 litre tank. The existing 2,000 litre tank would thus satisfy the size requirements of the third dot point.

12.5 Heritage

All the land bounded by Ingles Street, Woodruff Street, Boundary Street and Munro Street, including the subject site, all of the other new townhouses, and the former J Kitchen and Sons offices directly across Candle Street, and the two and three storey period industrial buildings on the corner of Ingles and Woodruff Streets, is within the Heritage Overlay (HO164).

This is a mapping error. The Schedule to Clause 43.01 (Heritage Overlay) of the Planning Scheme notes HO164 as relating to '*Former J. Kitchen and Sons Pty Ltd offices, Ingles St, Port Melbourne*'. Council's Heritage Review includes a citation for HO164. The citation, including a map, relates solely to the former J. Kitchen and Sons offices on the land and makes no reference to buildings on the corner of Ingles and Woodruff Streets, or the former industrial buildings on the balance of the land (now demolished and redeveloped for townhouses).

The Planning Scheme map needs to be amended to reduce the extent of HO164 to only the former J. Kitchen and Sons offices site and buildings at 164 Ingles Street.

The proposed fourth floor addition to the existing three storey house would match the design and massing and height of the fourth level sunrooms and roof top balconies on 96 of the 287 townhouses in the parent development.

This includes townhouses immediately to the rear (x4), across the lane to the east side (x2), and diagonally opposite to the south-east (x4) and two dwellings to the west in close proximity to the subject site.

In this context, the construction of a matching fourth level room and roof top balcony would be consistent with the character of the area.

The additions would not be generally visible from Ingles Street, and due to the narrow width of the internal road and lane network, largely not visible from within the parent site.



The small area and modest height increase of the additions (coupled with the new room being setback 4.379m from Candle Road) would not adversely impact on the setting of the significant graded former J. Kitchen and Sons offices opposite.

12.6 Special Building Overlay - Schedule 2

Melbourne Water finished floor levels in the FBURA are as follows:

Land Use	Floor Level metres AHD
Habitable Residential and Office	3.0
External entry to individual dwellings	1.9 to 2.1
Commercial Lobbies/Retail	2.4
Lifts/Services	3.0
Garage/Car Parking entry	2.4 plus 600mm mechanical freeboard
On street parking spaces	1.9 to 2.1

The subject site is in SBO2. The proposed fourth level addition would be above Council and Melbourne Water recommended floor levels and would have no impact on flood risk to the existing dwelling or the surrounding area.

12.7 Car Parking (Parking Overlay)

Schedule 1 of the Parking Overlay (PO1) applies to the site, which specifies a maximum parking rate of one car space for a 3BR or greater dwelling. No additional car parking is proposed.

12.8 Bicycle Facilities (Clause 52.34)

The alterations and additions do not generate any additional bicycle parking / facilities requirements

12.9 Waste Management

The alterations and additions do not generate any additional waste management requirements.

12.10 Aboriginal Archaeological Potential

The proposal is for roof top additions to an existing dwelling. No ground disturbance would result from the proposal.

It is noted that the recent development of the 287 townhouses (approved prior to present day CHMP requirements and July 2018 changes to Aboriginal cultural heritage mapping in Fishermans Bend) entailed substantial ground disturbance, grading, soil movement and ultimately the laying of a membrane to protect against potential soil contamination from the previous industrial uses, followed by extensive filling of the site to achieve flood protection.

12.11 Developer Contributions

Development Contributions Plan Overlay Schedule 2 (DCP02) was deleted from the Planning Scheme by Amendment GC81 in October 2018.

It is noted that the permit for the town house development required the owner to enter into a S173 Agreement to pay a Development Contribution. This has been done and the agreement AM245028J (13/10/2015) has been registered on the Titles for the townhouses.

12.12 Infrastructure Contribution Overlay (ICO1)



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Amendments **VC146** (15 May 2018) and **GC81** (05 October 2018) introduced the Infrastructure Contributions Overlay and Schedule 1 to ICO respectively. Pursuant to Clause 45.11-2, a permit must not be granted to subdivide land, construct a building or construct or carry out works until an infrastructure contributions plan has been incorporated into the Planning Scheme.

Pursuant to Clause 45.11-6, land or development of land is exempt from the ICO if it is for:

- A non-government school;
- Housing provided by or on behalf of the Department of Health and Human Services;
- Any other land or development of land specified in a Schedule to the ICO.

Pursuant to Schedule 1 to the ICO, a permit may be granted to subdivide land, construct a building or construct or carry out works before an infrastructure contributions plan has been incorporated into the scheme for:

- An existing use of land provided the site coverage is not increased.
- A sign.
- Consolidation of land or a boundary realignment.

The proposed development falls within the first of the above exemptions, consequently, a permit may be granted.

12.13 Environmental Audit

Clause 6.0 of Schedule 1 to the Capital City Zone requires the following:

Before a sensitive use (residential use, child care centre, pre-school centre, primary school, education centre or informal outdoor recreation) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, the developer must obtain either;

- A certificate of environmental audit issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or
- A statement in accordance with Part IXD of the Environment Protection Act 1970 by an accredited auditor approved under the Act that the environmental conditions of the land are suitable for the sensitive use.

This requirement has been satisfied by the planning permit for the town houses which allowed residential use of the land and required site remediation works to protect the new dwellings from any potential site contamination from previous industrial use of the land.

12.14 Gas Pipelines

Amendment GC81 introduced a new Clause 4.3 to Schedule 1 to the Capital City Zone setting out mandatory permit conditions for certain applications, including a permit to construct a building or construct or carry out works on land within 50m of a high-pressure gas transmission pipelines shown on Map 5 of the schedule.

The site is within 50m of a nominated gas pipeline. However, the condition is not required on a permit to construct alterations and additions to an existing building.



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13. COVENANTS

- 13.1 The applicant has completed a declaration that the subject land, being the land contained within Volume 11903, Folio 633, commonly known as Lot 250 on PS 718981G, is not encumbered by a restrictive covenant or Section 173 Agreement or other obligation such as an easement or building envelope.
- 13.2 Notwithstanding this declaration, the land is encumbered by two S173 Agreements as follows:
 - AM245028J (13/10/2015) requiring payment of a Development Contribution.
 - AM545975M (09/02/2016) requiring payment of an Open Space Contribution.
- 13.3 The proposed alterations and additions would not breach either Agreement.

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 The proposed alterations and additions would match the design, massing and height of other four storey townhouses on the land.
- 16.2 Concerns regarding materials and finishes matching the existing dwelling and other dwellings within the development could be provided for by a condition of any approval that may issue for the proposal.
- 16.3 The additions would be relatively minor and would not adversely impact on the heritage values of the site or the surrounds.
- 16.4 Objector concerns regarding structural matters and street occupation and other impacts during construction, including compliance with Owners Corporation requirements are not relevant planning matters and are administered under other legislation.
- 16.5 If a permit was to issue, the owner would still need to obtain owners corporation consent to proceed with the development.

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ATTACHMENTS

1. 698/2018 - Attachment 1 - Map
2. 698/2018 - Attachment 2 - Application Plan and Elevation drawings