



6.3 12-14 DUKE STREET, ST KILDA
LOCATION/ADDRESS: 12-14 DUKE STREET, ST KILDA
EXECUTIVE MEMBER: LILI ROSIC, GENERAL MANAGER, CITY STRATEGY AND SUSTAINABLE DEVELOPMENT
PREPARED BY: NICK MCLENNAN, PLANNING COORDINATOR CANAL WARD
GEORGE BORG, MANAGER CITY DEVELOPMENT

1. PURPOSE

- 1.1 To consider and determine Planning Permit Application P1128/2017 for the demolition of existing buildings and construction of two, two storey buildings accommodating eight dwellings above a basement carpark accommodating 16 cars.

2. EXECUTIVE SUMMARY

WARD:	Canal
TRIGGER FOR DETERMINATION BY COMMITTEE:	More than 15 objections
APPLICATION NO:	1128/2017
APPLICANT:	Duke Street St Kilda Pty Ltd
EXISTING USE:	Residential
ABUTTING USES:	Residential
ZONING:	Neighbourhood Residential, Schedule 1
OVERLAYS:	Heritage Overlay, Schedule 7 Special Building Overlay, Schedule 1
STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL	Expired

- 2.1 The site is within a relatively diverse and robust urban environment, which includes the St Kilda Library opposite. Much of this built form comprises heritage buildings, of varying periods, styles and scale. The site is on the edge of the Carlisle Street Activity Centre and has excellent access to public transport, shops and community facilities.
- 2.2 The current application that is the subject of this report relates to amended plans lodged under S57A of the *Planning and Environment Act, 1987*.
- 2.3 It is proposed to demolish two existing single storey Victorian era timber workers cottages that are identified as providing a significant contribution to the heritage overlay.
- 2.4 Demolition of each of the existing dwellings is supported on the basis that each of the dwellings are structurally unsound.



- 2.5 Until recently, the subject site accommodated car parking for residents of the neighbouring apartment building at 18 Duke Street. Access to this carparking area is no longer available to residents of the neighbouring apartment building, which, at the time of reporting, is in the process of being sold as individual dwellings.
- 2.6 The existing dwellings on the subject site would be replaced with two, two storey buildings sited one behind the other. Each of the proposed buildings would accommodate four, two storey townhouses sited one behind the other.
- 2.7 16 car spaces would be located within a basement carpark accessed from Duke Street via a new crossover. Carparking provision would satisfy the carparking requirements of the Planning Scheme.
- 2.8 Following notice of the application, 22 objections were received. The key concern raised by objections related to the impact resulting from the loss of existing carparking at the rear of the subject site. Other concerns relate to overshadowing, overlooking and the removal of vegetation from the site.
- 2.9 A consultation meeting was held on 1 August 2019. No changes to the proposal were made following the consultation meeting.
- 2.10 Council's Heritage Advisor is generally supportive of the proposed demolition of the existing dwellings on the site and the design of the development in terms of its integration with the heritage fabric of the street. Council's Urban Design Advisor is also supportive of the design, subject to minor changes.
- 2.11 The development demonstrates a high degree of compliance with respect to the standards of ResCode and would not unreasonably impact upon the amenity of neighbouring dwellings.
- 2.12 It is recommended that the application be supported subject to conditions included on any permit that may issue.



3. RECOMMENDATION

- 3.1 That the Responsible Authority, having caused the application to be advertised and having received and noted the objections, issue a Notice of Decision to Grant a Permit
- 3.2 That a Notice of Decision to Grant a Permit be issued for the demolition of existing buildings and the construction of two, two storey buildings for the purpose of dwellings at 12-14 Duke Street, St Kilda
- 3.3 That the decision be issued as follows:

1 Amended Plans Required

Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and an electronic copy must be provided. The plans must be generally in accordance with the plans submitted with the application (identified as TP-101 to TP-110, TP200 to TP205, TP-301 to TP-305, TP-401 to TP-406 and TP-501 to TP-504, prepared by Bruce Henderson Architects and received by Council 18/04/2019, but modified to show:

- a) The relocation of the front fence to the front boundary of the site and the height of the fence notated as no more than 1.5m above the Duke Street footpath
- b) The articulation of the west facing wall of the stair to the basement improved by way of fenestration, rebates and/or other insertions into the exterior face of the wall
- c) A roof to the west facing wall of the stair to the basement
- d) Details including colour, material and operating mechanism of the basement ramp security door
- e) A notation indicating that all landscaping adjacent to the driveway to be no more than 900mm high at maturity
- f) Basement storage to each dwelling notated as comprising a volume of a minimum of 6m³
- g) A full schedule of materials, finishes and paint colours, including colour samples.
- h) Any modifications required by Melbourne Water at condition 4 of this permit

2 No Alterations

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

3 Satisfactory continuation



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

4 Melbourne Water

- i. The building/dwellings must be constructed with finished floor levels set no lower than 5.35 metres to Australian Height Datum (AHD), which is 300mm above the applicable flood level of 5.05 m to AHD.*
- ii. The apex to the basement (entry/exist & walls on both sides) must be set at 300mm above the applicable flood level.*
- iii. The basement must be waterproofed and all doors, windows & openings to the basement must be set 300mm above the 100 year ARI flood level.*
- iv. The building/structure, including basements, footings, eaves and balconies must be set at least 2 m laterally clear of the outside edge of the Shakespeare Grove Main Drain. Clearance must be measured from the external surface of the channel wall. The following measures to be undertaken,*
 - a) No foundation/footings are to interfere with the drain. Footings shall be independent and self-supporting and be placed at such a distance and constructed in a manner that loadings are not imposed onto channel.*
 - b) Footings are to extend at least 300 mm below the invert of the drain to allow for future excavation of the drain in the 2 m lateral clearance zone adjacent to the proposed structure.*
 - c) No loads are to be imposed on the drain from construction machinery operating in close proximity to the Shakespeare Grove Drain. No stockpiling of construction materials are to be within 5 m of the edge of the drains wall.*
 - d) Pre & Post construction photos of the Shakespeare Grove Drain at the rear of the property must be submitted to Melbourne Water.*
 - e) Any damage caused to Melbourne Water's assets due to the development shall be paid for by the developer.*
- v. Prior to the commencement of works, a separate build over application shall be made directly to Melbourne Water's Asset Services Team for assessment and approval of any proposed works over or near Melbourne Water's drain. The following formation to be submitted as part of the application,*
 - a) Survey plan showing the location of the drain and a mark-up of the proposed building line and setbacks;*
 - b) Detailed design drawings for the building to demonstrate that the buildings footing design and building setback comply with the above requirements;*
 - c) A statement from a suitably qualified engineer that states that: design of the proposed foundation allows for future excavation of the drain adjacent to the structure.*



- vi. *Prior to the commencement of works, a separate application direct to Melbourne Water's Asset Services Team must be made for any new or modified storm water connection to Melbourne Water's drains or watercourses.*
- vii. *The buildings envelope that includes the (deckings, pavers & planters), outside that must be set at existing natural surface level so as not to obstruct the passage of overland flows.*
- viii. *Any new fencing/gates (front of building) to be of an open style of construction (minimum 50% open) to allow for the passage of overland flows.*
- ix. *Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels/apex to the basement have been constructed in accordance with Melbourne Water's requirements.*

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 (SDA) 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.

7 Incorporation of Sustainable Design initiatives

The project must incorporate the sustainable design initiatives listed in the endorsed Sustainable Design Assessment (SDA) 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 (SDA) 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 SDA 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 Builder' User's Guide or a Building Maintenance Guide.

12 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.

13 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.

14 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.

15 Waste Management Plan

Before the development starts (other than demolition or works to remediate contaminated land), a Waste Management Plan based on the City of Port Phillip's Waste Management Plan Guidelines for Developments must be prepared by a Waste Management Engineer or Waste Management Planner to the satisfaction of the Responsible Authority and endorsed as part of this permit.

16 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 incorporate:

- (a) A survey plan, including botanical names, of all existing vegetation/trees to be retained;
- (b) All street trees and/or other trees on Council land;
- (c) A planting schedule of all proposed vegetation including botanical names; common names; pot sizes; sizes at maturity; quantities of each plant; and details of surface finishes of pathways and driveways;
- (d) Landscaping and planting within all open space areas of the site;
- (e) Water sensitive urban design elements;

17 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.

18 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.

19 Management of Canary Island Date Palm

Before the development starts, a management plan for relocation of the existing Canary Island Date Palm at the rear of the site prepared by a person who has extensive experience in relocation of this species of tree must be submitted to and approved by the Responsible Authority.

The management plan must include recommendations about how best the tree should be removed from the site and relocated to a site nominated by Council at the expense of the applicant/owner. The recommendations of the management plan must be carried out and completed to the satisfaction of the Responsible Authority prior to the completion of the development.

20 Street Tree Protection measures

Before the development starts, a Tree Management Plan, prepared by a suitably qualified arborist must be submitted to, and approved in writing by, the Responsible Authority to ensure the protection of the street trees adjacent to the site and the Canary Island Date Palms within Council's laneway. The approved Tree Management Plan must be implemented to the satisfaction of the Responsible Authority before and during the construction of the development.

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 Environmental Assessment

Before the development starts (excluding works necessarily forming part of the environmental audit process), a preliminary site assessment of the land must be conducted by a suitably qualified professional in accordance with the National Environment Protection Measure (Assessment of Site Contamination) 1999 as



amended from time to time and the findings of that assessment must be submitted to the Responsible Authority.

Having regard to the Preliminary Assessment, if the Responsible Authority is satisfied that further assessment of the potential contamination of the land is required:

- An appointed auditor must be engaged pursuant to Section 53U of the Environment Protection Act 1970 to perform an environmental audit of the land.
- An environmental audit report must be produced in accordance with Section 53X of the Environment Protection Act 1970 must be provided to the Responsible Authority and
- A Certificate or Statement of Environmental Audit must be provided to the Responsible Authority.

Where a Statement of Environmental Audit is issued for the land:

- Development and/or use allowed by this permit must comply with any condition attached to the statement unless a certificate of environmental audit is subsequently issued for the land; and
- At the direction of the Responsible Authority, an agreement must be prepared and entered into by the owner, at the owner's cost, pursuant to Section 173 of the Planning and Environment Act 1987 to facilitate notification of future occupiers of the land of any conditions attached to the statement of environmental audit; and
- Prior to any use provided by this permit commencing, a letter prepared by an appointed auditor must be submitted to the Responsible Authority verifying that all conditions attached to the statement of environmental audit have been complied with.

25 Time for starting and completion

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

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

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.



4. RELEVANT BACKGROUND

- 4.1 The initial application for the site was received in December 2017 and sought approval for a single building comprising 12 double storey attached townhouses sited one behind the other.
- 4.2 The initial application was advertised and 20 objections were received.
- 4.3 The initial application proposed to construct part of the development on a Council owned laneway. The applicant was of the understanding that they owned the laneway.
- 4.4 The applicant subsequently amended the proposal in March 2019 by way of a S57A request. The amended proposal is not significantly different to the initial proposal however it excludes the laneway from the development. It is this amended application that is the subject of this report.
- 4.5 Planning Permit 743/2018 was issued on 14 November 2018 for the adjoining land at 18 Duke Street, St Kilda. This permit allowed for minor buildings and works to refurbish the building. As part of the 14 lot subdivision application for these lots under subdivision application 535/2019 and at the request of the applicant and owner of the site, the dwellings at 18 Duke Street have subsequently been included on the no parking permit register.

5. PROPOSAL

- 5.1 Demolition of two existing single storey weatherboard Victorian workers cottages that are located on the site.
- 5.2 Subsequent construction of two, two storey buildings each comprising four, three bedroom dwellings in each building. The buildings would be constructed above a basement that would accommodate 16 cars. Each of the eight dwellings would be two storey and would be sited one behind the other. Two dwellings (TH.01 and TH.08) would have four bedrooms whilst the remaining dwellings would have three bedrooms.
- 5.3 Vehicular access to the basement would be provided from Duke Street via a new crossover adjacent the southwest corner of the site. The basement would include separate stairs for each dwelling that would provide access to the ground floor above. An additional (common) stair would provide access to and from Duke Street.
- 5.4 Pedestrian access to each of the dwellings would be provided via an existing Council right-of-way that abuts the east boundary of the site.
- 5.5 Living areas of each dwelling would be located at ground floor with access to a courtyard.
- 5.6 The development would be constructed to a height of 7.4m above natural ground level (NGL).
- 5.7 The new building would have a flat roof and would be finished in a variety of materials including, light grey, dark grey and black cladding with expressed joints, expressed

white and black metal window surrounds, white perforated metal cladding, black metal fence pickets, timber look aluminium, brown brickwork,

6. SUBJECT SITE AND SURROUNDS

Description of Site and Surrounds	
Site Area	1375m ²
Existing building & site conditions	<p><i>The subject site accommodates two single storey Victorian era workers cottages constructed of timber. Each dwelling has a hipped corrugated iron roof.</i></p> <p><i>The dwellings are setback approximately 4m from the street behind 1m high wire mesh fences.</i></p> <p><i>Secluded private open space is located behind the dwellings. Beyond the private open space is vacant land that is currently being used as a car park for an existing apartment building located on neighbouring land (18 Duke Street). This portion of the site accommodates a canary island palm adjacent to the northeast corner.</i></p> <p><i>An 'L' shaped 3m wide laneway, which is owned by Council, abuts the east (side) boundary of the subject site and partly separates the rear secluded private open space and the rear vacant land/carpark.</i></p> <p><i>The laneway comprises approximately half driveway and half grassed area along its long side. The grassed portion of the laneway accommodates two canary island palm trees.</i></p> <p><i>Abutting the rear boundary of the site is a concrete drain which is approximately 4.5m wide. This drain is a Melbourne Water asset that is otherwise described as the 'Shakespeare Grove Main Drain'.</i></p>
Abutting/Adjacent properties	<p>18 Duke Street:</p> <p><i>This property is to the east of the subject site and accommodates a double storey interwar apartment building constructed of brick with a hipped tiled roof.</i></p> <p><i>This building is setback 2m from the street and approximately 3.3m from the aforementioned Council laneway. It is also setback approximately 3.3m from the side boundary at the rear of the subject site.</i></p> <p><i>Pedestrian access to the building is provided along each side of the building.</i></p> <p><i>Several first and second floor habitable room windows face the subject site.</i></p> <p>10 Duke Street:</p> <p><i>This property abuts the west (side) boundary of the subject site and accommodates a double fronted single storey Victorian dwelling with a hipped iron roof. This dwelling is setback approximately 9m from Duke Street and approximately 3m from the boundary it shares with the subject site.</i></p>



	<p><i>10A Duke Street:</i></p> <p><i>This property is located behind 10 Duke Street and accommodates a single storey weatherboard dwelling with hipped roof. This dwelling is also setback approximately 3m from the boundary it shares with the subject site.</i></p> <p><i>1 and 3 Lynott Street:</i></p> <p><i>These properties accommodate double fronted Victorian dwellings that face Lynott Street. The rear boundaries of these properties abut the side boundary of the subject site.</i></p> <p><i>59A Pakington Street:</i></p> <p><i>This property is located on the opposite side of the main drain that abuts the rear boundary of the subject site and accommodates three dwellings with ground and first floor habitable room windows that have an outlook to the subject site.</i></p>
<p>Surrounds/neighbourhood character</p>	<p><i>The subject site is located midway between Lynott Street to the west and Glenmark Avenue, to the east.</i></p> <p><i>The north side of this portion of Duke Street has a naturestrip that is regularly planted with medium size street trees.</i></p> <p><i>In terms of built form, this portion of the street comprises single and double fronted detached Victorian era dwellings with hipped corrugated iron roofs, one of which includes a rear first floor addition, a double storey brick interwar apartment building with a hipped roof, a two storey block of 1960's/70's flats and attached single storey interwar brick dwellings with hipped and gable end roofs.</i></p> <p><i>All but one property within this portion of Duke Street is nominated as either contributory or significant in terms of their value to Heritage Overlay 7.</i></p> <p><i>Most dwellings are located close to the street with a front setback of approximately 2m to 4m.</i></p> <p><i>Fences along this part of the street vary in materiality and design however most are visually permeable and/or low.</i></p> <p><i>Two of the nine properties in this portion of Duke Street are provided with a vehicle crossover.</i></p> <p><i>Opposite the subject site is the St Kilda Public Library.</i></p> <p><i>In terms of parking restrictions within this portion of Duke Street, the north side is permit restricted, whilst the south side is restricted to one-hour parking between 8am and 6pm.</i></p> <p><i>The site is on the edge of the Carlisle Street Activity Centre and has excellent access to the Principal Public Transport Network, shops and a range of community facilities.</i></p>



7. PERMIT TRIGGERS

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

Zone or Overlay	Why is a permit required?
Neighbourhood Residential Zone Schedule 1	<ul style="list-style-type: none"> A permit is required to construct two or more dwellings on a lot. A minimum of 35% of the lot must be provided as garden area . The building height must not exceed 9 metres* and contain no more than 2 storeys at any point. <p><i>*The maximum building height specified is the vertical distance from the minimum floor level determined by Melbourne Water</i></p> <p><i>It is noted that 38% of the site would comprise garden area thereby satisfying the garden area requirement of the zone.</i></p> <p><i>In terms of height, the development would be two storeys and constructed to a maximum height of 7.4m above natural ground level, which would satisfy the height requirement of the zone.</i></p>
Special Building Overlay Schedule 1	<p>A permit is required to construct a building or to construct or carry out works.</p> <p>An application must be referred to Melbourne Water under Section 55 of the Act.</p>
Heritage Overlay Schedule 7	<p>A permit is required to demolish or remove a building and to construct a building or to construct or carry out works.</p>

8. PLANNING SCHEME PROVISIONS

8.1 Planning Policy Frameworks (PPF)

The following Planning Policies are relevant to this application:

- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 18 Transport

8.2 Local Planning Policy Framework (LPPF)

The following local planning policies are relevant to this application:

- Clause 21.03 Ecologically Sustainable Development, including
- Clause 21.04 Land Use
- Clause 21.05 Built Form
- Clause 21.06 Neighbourhoods



Clause 22.04 Heritage Policy

8.3 Other relevant provisions

Clause 52.06 Car Parking

Clause 55 ResCode

Clause 65 Decision Guidelines

9. REFERRALS

9.1 Internal referrals

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

Building Surveyor

I write to advise that I have carried out an inspection of 12 and 14 Duke St St Kilda further to the engineers report prepared by Adams Consulting Engineers dated 13 June 2018.

I am in agreeance with the engineers report in that the two dwellings are extremely dilapidated and in a state of disrepair with extensive rot to the timber framed subfloor elements and timber framed walls that has caused structural movement in the upper frame structure. Excessive water ingress and fire damage have caused extensive damage to the dwelling this is now considered insurmountable

The dwellings located at 12 and 14 Duke St St Kilda are structurally unsound and require demolition.

Heritage Advisor

Demolition

In terms of the proposed demolition of No's 12 and 14 Duke Street, I am guided by the assessment of Council's building surveyor. His comments are as follows:

I am in agreeance with the engineers report in that the two dwellings are extremely dilapidated and in a state of disrepair with extensive rot to the timber framed subfloor elements and timber framed walls that has caused structural movement in the upper frame structure. Excessive water ingress and fire damage have caused extensive damage to the dwelling this is now considered insurmountable

The dwellings located at 12 and 14 Duke St St Kilda are structurally unsound and require demolition.

On the basis of the building surveyor's findings, the removal of the two houses as proposed by the applicant is acceptable.

Proposed Development

This amended proposal is, in my view, an improvement upon the previous design.

The site is within a relatively diverse and robust urban environment, which includes the St Kilda Library opposite. Much of this built form environment is made up of heritage buildings, and these are of varying periods and styles, and scales. A diverse heritage



context such as this will be able to accommodate the proposed building, which provides a stepping down in scale from No 16 (east) to No 10 (west). The setbacks and materiality proposed also respond to the heritage context. The contemporary expression of the façade is a fine composition that will sit comfortably within this context.

The deep set back of the building from Duke Street has enabled a deep garden setting for the units. This deep set back refers to the deeper set back of the house at No 10 Duke Street. Garden setbacks also define the other housing and flats, albeit shallower, which generally have front boundary fences. In this respect, the front garden set back proposed may relate better to surrounding sites by having the front fence along, or closer to, the street boundary.

Overall, I believe that the proposed works are supportable from a heritage perspective.

Urban Design Officer

The appearance of the proposal is very much representative of a contemporary design. Its language includes bold orthogonal and prismatic volumes, sharp edges and flat or slightly tilted roof forms. Materials are used to effectively explore texture; whilst the tonal colour palette demonstrates sophisticated restraint. Fenestration is boldly articulated, with oversized dimensions and protruding metal frames.

The perceived mass of the building has effectively been reduced by dividing it into distinct smaller volumes. It's 7.4m height provides a stepping down between the two storey flats and the single storey dwelling adjoining each of its side boundaries. The resulting form is of one that is not overbearing and in terms of scale, sits comfortably within the street.

The buildings 6.5m front setback appropriately provides a stepped response between the 2.5m and 9m setback of the two adjacent buildings.

The building has a clear sense of address to Duke Street and provides a good sense of passive street surveillance from the large second storey bedroom window. The eastern walkway is well proportioned and provides adequate views to townhouse entry doors. The entrance to TH.01 is located on the southern elevation street interface and provides a clear sense of address to Duke street.

Although landscape plans have yet to be submitted, it is suggested that opportunities for planting could provide a harmonious contrast between soft, green vegetation and the hard, sharp edges of the architecture. Landscape plans will need to be reviewed prior to making final comment regarding planting and other landscape treatments.

Further clarification is required concerning the intended removal or retention of the Melaleuca street tree in front of the property.

Properties within this neighbourhood typically have low front fences, located on the front property boundary. This proposal has set back the front fence 2m behind the boundary. So as to respect the existing neighbourhood character, it is advised that the front fence be relocated to the Duke Street boundary.

Due to the elevated finished surface level of TH.01's private open space; the top of the proposed front fence will be 2.1m higher than the level of the footpath. So as to respect the existing neighbourhood character, the top height of the fence must be reduced so that it is no more than 1.5m above footpath level.



Stairwell access to the basement carpark is proposed from a Duke Street entrance. After assessing the available information, it seems that the experience of passing through this stair well will be poor. Opportunities to improve this experience should be investigated. Solutions could include incorporating windows, breaks or other insertions into the exterior facing wall of the stairwell.

Drawings indicated that no roof is proposed for this access way. Please confirm if a roof is to be provided in this location.

Further information needs to be supplied to Council regarding; the vehicle security gate and materials applied to walls abutting the vehicle ramp. Specifically:

- *the top security gate height when in a closed position*
- *security gate operation method (ie. roller, folding panel, tilt etc.)*
- *security gate appearance. Include the vehicle gate in front elevation and section drawings, indicating both the closed and open positions*
- *ramp side wall materials and appearance*

The following additional rendered perspective views of the proposal will be required, in order to provide a complete assessment of the proposal.

- *One view perpendicular to the front property boundary, showing the basement vehicle ramp*
- *One view looking north-east from Duke Street, showing the basement vehicle ramp and south-western corner of the building*

Recommendation

We generally support the proposal with the following conditions:

- *Submit a landscape plan and clarify the intended removal or retention of the Melaleuca street tree in front of the property.*
- *Relocate the front fence to the property boundary.*
- *The top of the front fence must be no more than 1.5m above the level of the footpath.*
- *Improve internal amenity of the Duke Street basement access stairwell.*

Confirm if a roof is to be provided to the Duke Street basement access stairwell.

Further information needs to be supplied to Council regarding; the vehicle security gate and materials applied to walls abutting the vehicle ramp. Specifically:

- *the top security gate height when in a closed position*
- *security gate operation method (ie. roller, folding panel, tilt etc.)*
- *security gate appearance. Include the vehicle gate in front elevation and section drawings, indicating both the closed and open positions*
- *ramp side wall materials and appearance*
- *Provide two additional perspective views of the proposal from Duke street.*
- *One view perpendicular to the front property boundary, showing the basement vehicle ramp*



- *One view looking north-east from Duke Street, showing the basement vehicle ramp and south-western corner of the building*

Planning Officer response:

With respect to landscaping, any permit that may issue should include a condition that requires a landscape plan to Council's satisfaction (**refer recommended condition 16**).

With respect to the existing street tree, the application does not propose to remove this tree, nonetheless, any permit that may issue should include a condition that requires the safety of this tree to be managed during construction of the development (**refer recommended condition 20**).

With respect to the front fence, it is agreed that shifting the fence to the front boundary and reducing its height to no more than 1.5m above footpath level would improve the developments' response to the character of the street. Such an outcome could be achieved by permit condition should a permit issue (**refer recommended condition 1a**).

With respect to the west facing wall of the stair to the basement, it is agreed that this wall lacks sufficient articulation. Any permit that may issue should include a condition that requires the articulation of this wall to be improved by way of fenestration, rebates or other insertions into the exterior face of the wall (**refer recommended condition 1b**). It is noted that the applicant has indicated that this stair would be roofed. Any permit that may issue should include a condition that requires the roof to be shown on the plans (**refer recommended condition 1c**).

Any permit that may issue should also include a condition that requires further detail regarding the basement security door at the ramp (**refer recommended condition 1d**).

Transport Safety Engineer

Car Park Layout:

- *Access ways – Vehicle access is proposed via a new crossover to Duke Street. Access way dimensions are in accordance with Clause 52.06 of the planning Scheme.*
- *Pedestrian sight triangles – Please ensure all landscaping is kept below 900mm adjacent to each driveway to reduce potential conflicts with pedestrians.*

Car parking spaces:

- *The planning Scheme states that garages must be at least 6 metres long and 3.5 metres wide for a single space and 6 metres long, 5.5 metres wide for a double space.*
- *Where parking spaces are provided in tandem (Town House 2,5,6&7), an additional 500 mm in length must be provided between each space.*
- *Plans provided by the applicant indicate that the internal length provided within the garage for townhouse 1,3,4 and 8 is 6m and 5.5m for the carport space.*



Parking in town house 2,5,6&7 is configured in tandem and the applicant has shown a length of 10.8m will be provided.

- *Car parking space dimensions have been provided in accordance with requirements set out in Clause 52.06 of the planning scheme, and are considered acceptable.*

Headroom and gradient of ramps:

- *Minimum headroom complies with Clause 52.06 of the planning scheme.*
- *The proposed ramp grades have been provided in accordance with the planning scheme, and are considered acceptable*

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 under clause 52.07 of 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 40 vehicle movements a day and 4 vehicle movement during the peak hours.*
- *Overall the expected traffic generation of the proposed development is expected to have minor impact on surrounding local streets and intersections.*

On Street Parking:

- *The existing on-street parking is a mixture of 1P and Permit Zone restrictions.*
- *Removal of the crossover to Laneway R3459 (decision pending) and installation of the newly proposed crossover to Duke Street will result in no loss to the level of on-street parking in Duke Street. This is considered acceptable.*
- *Future residents/visitors of the development will not be eligible for resident/visitor parking permits and will need to abide by on-street parking restrictions.*

Parking overlay and parking provisions:

- *Clause 52.06 of the planning scheme requires 16 off street parking spaces to be provided for the proposed land uses.*
- *Given the applicant proposes to provide 16 off-street car spaces, this is in accordance with the planning scheme and is considered satisfactory.*
- *Note that the assessment for the appropriate rate for 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.
- Please note that the proposed development currently occupies land known as Laneway R3459, which is a Council owned asset. No Works can be undertaken until the matter of ownership of the laneway has been determined. Refer to Council's Asset Management team.

Planning Officer response:

Any permit that may issue should include a condition that requires all landscaping adjacent to each driveway to be no more than 900mm at maturity (**refer recommended condition 1e**).

Any permit that may issue should also include Council's standard conditions with respect to crossovers (**refer recommended condition 12**).

With respect to laneway R3459, advice was sought from Council's Asset Management team regarding the crossover to the laneway. The Asset Management Team deferred the decision back to Council's Transport Safety Engineering team.

It is noted that the application does not seek to construct any part of the development on Council's laneway. Further, the existing crossover does not align with Council's laneway, being offset approximately 1.5m to the west of the laneway. Given this offset and support from Council's Transport Safety Engineer, it is considered appropriate that the existing crossover be deleted as shown on the plans.

Sustainable Design

The issues listed below for both the report and the drawings need to be addressed before the project can be considered to meet an acceptable level of 'best practice' in ESD.

BESS Assessment

- *The project still needs to meet the minimum 50% overall score and minimums in Energy (50%), Water (50%), IEQ (50%) and Stormwater (100%) categories in BESS to demonstrate best practice in sustainable design. In areas falling short of the targets, adjustments will need to be made to demonstrate that the project meets the BESS minimums.*

Water

- *The developer needs to commit to providing dishwashers and washing machines as part of the building fit-out if they are to be included within the BESS assessment beyond default. This commitment is currently not stated in the report. Please amend accordingly.*

Energy

- *Please indicate on plans the location of the outdoor clothesline as proposed in report.*



- *“No clothes dryer” has been entered in BESS, provide a detail showing how the all the laundry areas are designed with no space for a dryer. If this is not the case, the development needs to commit to providing clothes dryers as part of the base building if they are to be included within the BESS assessment beyond 1-star.*

Stormwater

Refer to <http://www.portphillip.vic.gov.au/sustainable-design-guidelines-stormwater-management.pdf> on how to provide an appropriate response. This includes addressing the following:

- *Additional notes on the plans to indicate permeable flooring to ramp.*
- *Maintenance manual – Provide a maintenance manual for water sensitive urban design initiatives. These must set out future operational and maintenance arrangements for all WSUD (stormwater management) measures appropriate to the scale and complexity of the project.*

Transport

- *Bicycle Parking – Notations on plans do not reflect commitments in report of 8 residential spaces and 2 visitor spaces. Note that BESS credit is not available for mounted bicycle parking above car bonnets due to access difficulties when a car is parked in the space.*
- *Transport 2.1 Electric Vehicle Infrastructure – Provide future owners the option of installing their own Electric Vehicle charger with electrical provisions at each garage.*

Urban Ecology

- *Urban Ecology 2.4 Private Open Space - Balcony / Courtyard Ecology – Provide additional notes on the drawings and in the report which shows that each dwelling’s private open space area either a balcony or courtyard will be provided with an external tap and floor waste*

Planning Officer response:

Any permit that may issue should include conditions that require updated ESD and WSUD reports (**refer recommended conditions 6 and 9**).

Arborist

The following comments relate to the initial application, which sought to remove the three existing Canary Island palms located within the Council laneway. The S57A application now seeks to remove only one of these palms, being at the rear of the subject site.

Removal of the three significant Palms (Trees 7, 8 and 9) within the subject site is unlikely to be supported by Council and it appears that the applicant has not afforded room for the palms to be transplanted within the site.

- *The CoPP are happy to take donations of Palm ‘trees’ from residents so long as the ‘tree’ is a viable specimen that can be extracted with a suitable sized root ball, and the owner is prepared to pay for extraction and delivery from their property to*



our nominated site, using a suitable qualified and experienced service provider. If the proposal is approved, the developer would need to provide quotes and confirmation that the trees could be extracted from the site before a permit is issued for development.

- *The remaining trees onsite are not considered significant under the local law and Council would not typically object to their removal.*
- *I agree with the provided Arborist report, the neighbouring Palm (Tree 10) would tolerate the proposed encroachment as a result of the excavation to construct the underground basement.*
- *The drain would likely impede the development of roots from neighbouring Tree 6 into the development site. Therefore, the development is unlikely to adversely impact this tree.*
- *Having reviewed the provided arborist reports and taking the below information into consideration. I am of the opinion that the proposed basement carpark will encroach within the viable rooting area of the neighbouring Eucalyptus viminalis (Tree 1) and the quantity of roots proposed to be severed 2m from the property boundary will result in the loss of sufficient space, soil volume and root mass to reliably maintain the health and structural stability of the tree.*

The majority of roots found during the root investigation report were less than 50mm diameter. These smaller roots help anchor the tree into the soil and to serve as a conduit for water and nutrients. Even at a short distance (3m) from a mature tree, most roots will be less than 10mm in diameter, but these roots may extend at this diameter to well beyond the branch spread of the tree. Very fine roots known as root hairs, which are less than 1mm in diameter and associated beneficial fungi (mycorrhizae), develop off all parts of the root system and absorb the water and nutrients necessary for the growth of the tree (NJUG, 1995).

Trees maintain a dynamic equilibrium between its roots and shoots and a tree sustains enough foliage and roots to support each other. The combined loss of the larger roots greater than 50mm diameter and smaller roots would likely place stress on the energy of the tree, the tree may shed branches to compensate and its water and nutrient uptake will be restricted until new roots grow.

The relative size, mature age and overall condition of the tree will dictate the rate of new root growth and recovery. Generally, older (mature) trees have a slower rate of recovery after wounding and in some cases mature trees may never recover.

Furthermore, it appears the area lost to encroachment will not be compensated for elsewhere within the development site and contiguous with the TPZ of the neighbouring Eucalyptus viminalis (Tree 1), which will further restrict new root growth from the tree, in turn placing further stress on the tree's energy reserves and likely depleting it over a number of years, ultimately resulting in the trees decline.

Additionally, roots are not the only factor supporting the tree, there is also the soil traction, which occurs with the accumulation of the soil mass within that root system. Fracturing of the soil profile through excavation can reduce soil traction and cause trees to become unstable.



- *Therefore, the proposed development should not be supported unless design changes are made to reduce the encroachment from the basement carpark into the tree protection zone of the neighbouring Eucalyptus viminalis (Tree 1).*

Planning Officer response:

The application seeks to remove one of the three existing Canary Island Palms. The palm that is proposed to be removed is located at the rear of the subject site and provides little contribution to the public realm. The applicant has agreed to donate this palm to Council, where it could be planted in a location that would contribute to the public realm. Such an outcome could be achieved by permit condition (**refer recommended condition 19**).

The remaining two palms are located within Council’s laneway and would be retained. Any permit that may issue should include a condition that requires these palms to be suitably protected during construction (**refer recommended condition 20**).

With respect to the Eucalyptus tree (tree 1) on the neighbouring property to the west (10A Duke Street), Council’s development permits team has advised that the owner of this site has been successful in their application to remove this tree and therefore no design modifications are required to ensure its retention.

9.2 External referrals

Referral Authority	Response	Conditions
Melbourne Water	No objection subject to conditions/objection summarised.	<ul style="list-style-type: none"> i. <i>The building/dwellings must be constructed with finished floor levels set no lower than 5.35 metres to Australian Height Datum (AHD), which is 300mm above the applicable flood level of 5.05 m to AHD.</i> ii. <i>The apex to the basement (entry/exist & walls on both sides) must be set at 300mm above the applicable flood level.</i> iii. <i>The basement must be waterproofed and all doors, windows & openings to the basement must be set 300mm above the 100 year ARI flood level.</i> iv. <i>The building/structure, including basements, footings, eaves and balconies must be set at least 2 m laterally clear of the outside edge of the Shakespeare Grove Main Drain. Clearance must be measured from the external surface of the channel wall. The</i>



		<p><i>following measures to be undertaken,</i></p> <ul style="list-style-type: none"> a) <i>No foundation/footings are to interfere with the drain. Footings shall be independent and self-supporting and be placed at such a distance and constructed in a manner that loadings are not imposed onto channel.</i> b) <i>Footings are to extend at least 300 mm below the invert of the drain to allow for future excavation of the drain in the 2 m lateral clearance zone adjacent to the proposed structure.</i> c) <i>No loads are to be imposed on the drain from construction machinery operating in close proximity to the Shakespeare Grove Drain. No stockpiling of construction materials are to be within 5 m of the edge of the drains wall.</i> d) <i>Pre & Post construction photos of the Shakespeare Grove Drain at the rear of the property must be submitted to Melbourne Water.</i> e) <i>Any damage caused to Melbourne Water's assets due to the development shall be paid for by the developer.</i> <p>v. <i>Prior to the commencement of works, a separate build over application shall be made directly to Melbourne Water's Asset Services Team for assessment and approval of any proposed works over or near Melbourne Water's drain. The following formation to be submitted as part of the application,</i></p> <ul style="list-style-type: none"> a) <i>Survey plan showing the location of the drain and a</i>
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		<p><i>mark-up of the proposed building line and setbacks;</i></p> <p><i>b) Detailed design drawings for the building to demonstrate that the buildings footing design and building setback comply with the above requirements;</i></p> <p><i>c) A statement from a suitably qualified engineer that states that: design of the proposed foundation allows for future excavation of the drain adjacent to the structure.</i></p> <p><i>vi. Prior to the commencement of works, a separate application direct to Melbourne Water's Asset Services Team must be made for any new or modified storm water connection to Melbourne Water's drains or watercourses.</i></p> <p><i>vii. The buildings envelope that includes the (deckings, pavers & planters) , outside that must be set at existing natural surface level so as not to obstruct the passage of overland flows.</i></p> <p><i>viii. Any new fencing/gates (front of building) to be of an open style of construction (minimum 50% open) to allow for the passage of overland flows.</i></p> <p><i>ix. Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels/apex to the basement have been constructed in accordance with Melbourne Water's requirements.</i></p> <p>(Refer recommended condition 4)</p>
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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 (49 letters) 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. The application received 20 objections.

10.2 The s57A Amended application was re-advertised in May 2019. The amended application received an additional two objections above and beyond the 20 objections received in response to the initial application. The key concerns raised are summarised below (officer comment will follow in italics where the concern will not be addressed in Section 9):

- Loss of the existing carparking area at the rear of the site, which is used by residents at 18 Duke Street will unreasonably impact upon the availability of parking in the area

The 14 dwellings at 18 Duke Street are owned by the permit applicant, have recently been re-furnished, subdivided and are currently for sale. In response to this objection, the owner requested that Council include 18 Duke Street on Council's no parking permit register so that it is not entitled to resident parking permits. This request was accepted by Council and 18 Duke Street was subsequently listed on the no parking permit register.

Purchasers of these dwellings will be aware that they are not eligible for parking permits. Given the extent of parking restrictions in the area, it is likely that any purchasers of these dwellings will be cognisant of these restrictions and the proximity to public transport and community facilities.

Notwithstanding the above, it is fortunate that previous residents at 18 Duke Street have been able to park their vehicles at the rear of 12-14 Duke Street. This needs to be regarded as a bonus, but not something that can be relied upon in the future.

Further, it is noted that the application would provide the requisite number of carparking spaces prescribed at Clause 52.06 and would not be eligible for resident parking permits

- Overlooking (of 1, 3 Lynott Street and 59A Pakington Street)

The screening details at plans TP-405 and TP-406 demonstrate that direct views to secluded private open space and habitable room windows of neighbouring development within 9m, and a 45degree arc from proposed windows would be avoided. Such an outcome would satisfy the overlooking standard of ResCode/Clause 55

- Loss of vegetation

Refer internal arborist comments at section 9.1 earlier in this report

- Traffic congestion



As indicated earlier in this report, Council's Traffic Engineer has concluded that 'overall the expected traffic generation of the proposed development is expected to have minor impact on surrounding local streets and intersections'.

- Unreasonable impact on heritage character and values

As indicated earlier in this report, Council's Heritage Advisor believes 'that the proposed works are supportable from a heritage perspective'.

- Failure to respond to the rear drain

Melbourne Water has reviewed the application documents and has no objection to the proposal, subject to permit conditions.

- Failure to achieve acceptable sustainability outcomes

Any permit that may issue should include conditions that require an updated ESD and WSUD report to Council's satisfaction.

10.3 A consultation meeting was held on 1 August 2019. The meeting was attended by a Ward Councillor, applicants, 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

Local Policy

11.1 Clause 21.04 – Land Use

Strategy 2.1 at Clause 21.04-1, seeks to *limit new residential development within established residential areas to achieve:*

- *Minimal residential growth in areas where an existing heritage overlay applies. All new development shall be in accordance with the Port Phillip Heritage Policy at Clause 22.04.*

Notwithstanding that the subject site is located under this policy within an area where minimal growth is sought, it is considered that the subject site is a suitable candidate for additional housing given its location at the edge of the Carlisle Street Activity Centre.

An assessment of the proposal with respect to Heritage Policy at Clause 22.04 is provided below.

11.2 Clause 22.04 – Heritage

Demolition

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

- *Refuse the demolition of a significant building unless and only to the extent that:*



- *the building is structurally unsound;*
- *the replacement building and/or works displays design excellence which clearly and positively supports the ongoing heritage significance of the area.*

11.4 The structural condition report provided as part of the application material includes the following conclusions:

Both dwellings are in disrepair and are currently uninhabitable due to waterproofness, unevenness in the floors, danger to due falling hard plaster, and damage to floors. Number 12 in particular is in danger of partial collapse due to the fire damage and loss of support of roof members. Both residences have large sections of hard plaster dislodged or close to falling which causes a major risk to injury for anyone in the dwellings. It appears that no maintenance has been undertaken on the residences (except as noted in number 14) causing the dwellings to fall into disrepair.

As indicated earlier in this report, Council's Building Surveyor and Heritage Advisor agree with the conclusions of the structural engineering report which demonstrates that the buildings on the subject site are not structurally sound.

Subject to permit conditions discussed elsewhere in this report, it is considered that the replacement building displays design excellence which clearly and positively supports the ongoing heritage significance of the area. These design elements are discussed below.

New Development in Heritage Overlay Areas

It is policy that:

New development maintains and enhances an existing vista to the principal facade(s) of the heritage place, where a new development is adjacent to a heritage place (see Performance Measure 2).

Performance Measure 2

Buildings and works may meet the above policy for maintaining and enhancing an existing vista to the principal facade(s) of a heritage place if the following measures, as appropriate, are achieved:

- *New development, with a significant or contributory heritage place on both adjacent sites with differing setbacks, has a setback no greater than the largest setback and no less than the smaller setback.*

The setback of the proposed new building would meet this performance measure, noting that the front setback of the new building would be between 1m and 2.8m greater than the setbacks of the existing dwellings on the subject site. The side setbacks of the proposed building would also be greater than the side setbacks of the existing buildings located on the subject site. The combination of greater front and side setbacks would ensure that the vista to each neighbouring heritage building would be enhanced.



It is policy that:

New development generally reflects the prevailing streetscape scale and does not dominate the streetscape or public realm (see Performance Measure 3).

Performance Measure 3

Buildings and works may meet the above policy for building scale if the following measures, as appropriate, are achieved:

- *If located in a street with a diverse building scale, and adjacent to a significant or contributory heritage place, the height of the new building is of a scale and mass that respects both the adjacent heritage place and the prevailing scale of the area.*

The new buildings would be adjacent to significant places on either side of the subject site. The proposed development would be approximately 1.5m lower than the roof ridge of the neighbouring flats to the east and approximately 2.5m higher than the neighbouring dwelling to the west. These differences in height are considered to achieve an appropriate height transition which, combined with generous separation between buildings and a relatively generous front setback, would ensure the development would respect the scale of neighbouring buildings and not dominate the streetscape or public realm.

The composition of the front façade including materiality, textures, finishing, massing and door and window proportions would complement existing fabric evident within the streetscape.

As discussed earlier in this report, it is considered that the presentation of the development to the street could be improved by relocating the front fence and reducing its height. Further improvement could be achieved by articulating the west facing wall to the stair to the basement.

With respect to the proposed crossover, it is considered that the crossover would be acceptable as it would not increase the number of crossovers to the street, noting that an existing crossover to the site would be removed.

11.5 Amenity – Clause 55 (ResCode)

The proposed development satisfies the street setback, building height, site coverage, permeability, access, daylight to new and existing windows, overlooking, internal views, noise and private open space standards of ResCode.

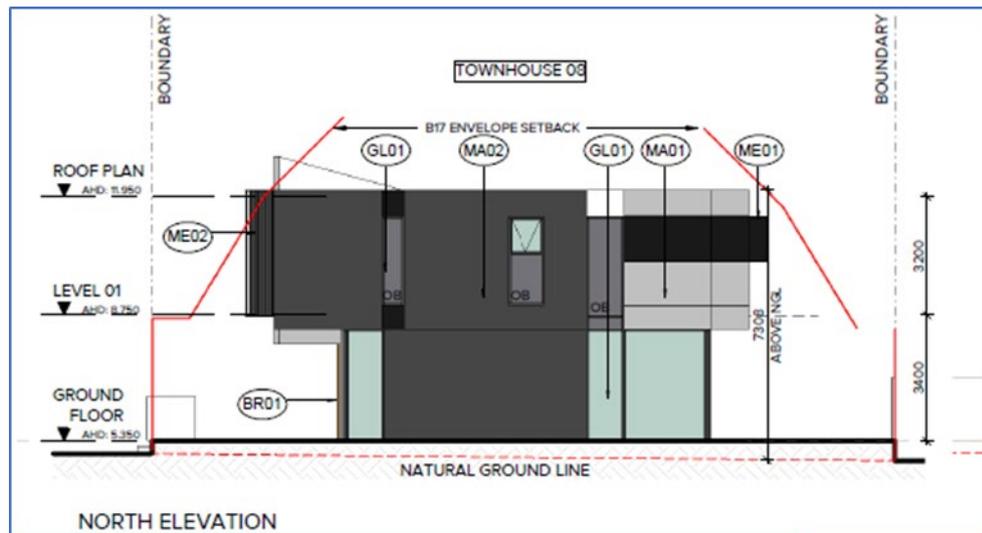
Variations have been sought and could be granted in relation to side and rear setbacks, whilst permit conditions would ensure that objectives would be met with respect to landscaping, storage and front fences

Side and rear setbacks:

The application seeks variation to the east (side) setback of the front building and the north (rear) setback of the rear building.

East (side) boundary:

With respect to the east (side) setback, the higher section of the front building would extend 1.5m beyond the prescribed setback envelope whilst the brick wall of the front portion would extend 0.6m beyond the prescribed envelope.



North Elevation highlighting ResCode non-compliance

The variations sought for the side setback would not result in any adverse amenity impacts upon the neighbouring flats at 18 Duke Street, noting that the building would satisfy ResCode standards with respect to daylight and sunlight to windows and overshadowing. In terms of visual bulk, the east elevation would comprise a variety of materials, finishes and forms that would assist in articulating the building in an acceptable manner.

In terms of neighbourhood character, the Council laneway abutting the east (side) boundary of the subject site would maintain separation between the proposed building and the neighbouring heritage building in a manner that would adequately respond to the spacing of buildings elsewhere in the street. Furthermore, the retention of existing palm trees within the laneway would further assist in softening the proposed built form.

North (rear) boundary:

At the rear of the site, the north (rear) elevation of the building would extend beyond the prescribed setback envelope by 0.4m and 0.8m.

The variations sought for the rear setback would not result in any adverse amenity impacts upon neighbouring properties, noting that the building would satisfy ResCode standards with respect to daylight and sunlight to windows and overshadowing. In terms of visual bulk, the south elevation would comprise a variety of materials, finishes and forms that would assist in articulating the building in an acceptable manner.

In terms of neighbourhood character, the rear setback would be commensurate with the neighbouring block of flats whilst the Melbourne Water drain abutting the north (rear) boundary of the subject site would provide separation between the proposed building and buildings on the opposite side of the drain.

Recommended permit conditions:



To satisfy the landscaping objective of ResCode, any permit that may issue should include a condition that requires submission of a landscape plan (**refer recommended condition 16**).

With respect to storage, whilst storage is shown for each dwelling, the capacity of storage is not nominated on the plans (**refer recommended condition 1f**).

As discussed earlier in this report, it considered that any permit that may issue should also include a condition that requires the front fence to be located on the Duke Street boundary and constructed to a height of no more than 1.5m (**refer recommended condition 1a**).

11.6 Traffic and Parking

Council's traffic engineer has reviewed the design of the carpark and indicated that it meets the design requirements of the Planning Scheme. Further, the extent of traffic that would be generated by the proposal would not unreasonably impact upon the area.

In terms of the number of carparking spaces, each dwelling would be provided with two carparking spaces which would satisfy the requirements of the Planning Scheme.

12. COVENANTS

12.1 The applicant has completed a declaration that the proposed development of the subject land, being all that land contained within the following titles, does not breach, in any way, an encumbrance on title such as a restrictive covenant, section 173 agreement or other obligation such as an easement or building envelope:

- Volume 03102 Folio 382, Lot 1 on Title Plan 671138L
- Volume 03476 Folio 091, Lot 1 on Title Plan 6688716

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 It is considered that the demolition of the existing dwellings on the site would be acceptable as they are in very poor condition and structurally unsound.
- 15.2 The replacement building would comfortably integrate within the existing heritage streetscape and represents an acceptable response to the site context.



15.3 The site has excellent access to a broad range of community facilities and services, including fixed rail public transport and is therefore suitable for additional housing.

15.4 Further, the development would provide the required number of car parking spaces, would meet most of the standards and all of the objectives of ResCode and would not unreasonably impact upon the amenity of neighbouring dwellings.

TRIM FILE NO: PF17/325649

ATTACHMENTS 1. 1128/2017 - ADV - S57A - plans