



6.3 **3 RAINSFORD STREET, ELWOOD**
LOCATION/ADDRESS: **3 RAINSFORD STREET, ELWOOD**
EXECUTIVE MEMBER: **LILI ROSIC, GENERAL MANAGER, CITY STRATEGY AND SUSTAINABLE DEVELOPMENT**
MATT SPENCER, PRINCIPAL PLANNER
PREPARED BY: **SIMON GUTTERIDGE, PLANNING COORDINATOR CANAL WARD AND FISHERMANS BEND**

1. PURPOSE

- 1.1 To consider and determine Planning Permit Application P570/2017 for construction of a three storey building comprising 4 dwellings and 4 car spaces at 3 Rainsford Street, Elwood.

2. EXECUTIVE SUMMARY

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|-------------------------------------------------------------------|--------------------------------------|
| WARD: | Canal |
| TRIGGER FOR DETERMINATION BY COMMITTEE: | More than 15 objections |
| APPLICATION NO: | 570/2017 |
| APPLICANT: | KATDESIGN |
| EXISTING USE: | Residential |
| ABUTTING USES: | Residential |
| ZONING: | General Residential, Schedule 1 |
| OVERLAYS: | Special Building Overlay, Schedule 1 |
| STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL | Expired |

- 2.1 The application seeks permission to construct a three storey building comprising 4 dwellings and 4 car spaces at 3 Rainsford Street, Elwood
- 2.2 The site is located within the General Residential Zone and is affected by a Special Building Overlay.
- 2.3 The application was advertised. Eighteen objections were received raising concerns with:
- Removal of an existing palm tree within the front yard
 - heritage



- c) car parking
 - d) safety
 - e) views
 - f) floodwater flow and floodwater storage capacity
- 2.4 Demolition of the existing dwelling on the site does not require planning permission as the site is not located within a heritage overlay
- 2.5 The floor level of the building would meet Melbourne Water's requirements
- 2.6 The permeability standard of ResCode would be met. On-site water retention would be assisted by the provision of underground water tanks to each dwelling
- 2.7 Whilst the existing tree within the front yard is defined as significant in accordance with Council's by-laws, its removal from the site is considered acceptable on condition that the tree is donated to Council and relocated to a suitable location at the applicant's expense
- 2.8 The proposal includes acceptable replacement trees within the front yard and further landscaping at the perimeter of the building
- 2.9 It is considered that the proposed development, with some modifications, would sit comfortably within the streetscape, which comprises a mix of architectural styles and includes several three storey multi-dwelling developments
- 2.10 The proposed development would display satisfactory compliance with the standards of Clause 55 (ResCode) thereby ensuring that the amenity of neighbouring dwellings would not be unreasonably impacted upon. Variations to the site coverage standard, side and rear setback standard, walls on boundary standard and the storage standard are considered acceptable, whilst permit conditions would ensure that overlooking would be prevented.
- 2.11 The number of car spaces proposed would meet the requirements of the planning scheme
- 2.12 Vehicular access to the site would be provided from an existing crossover thereby ensuring that on-street car parking provision would not be disrupted
- 2.13 The design of the car parking area would allow for safe and efficient vehicle movements to and from the site.
- 2.14 It is recommended that the Council approve the application and issue a Notice of Decision to Grant a Permit, subject to conditions.



3. RECOMMENDATION

- 3.1 That the Responsible Authority, having caused the application to be advertised and having received and noted the objections, issue a Notice of Decision to Grant a Permit
- 3.2 That a Notice of Decision to Grant a Permit be issued for buildings and works including construction of a three storey building comprising 4 dwellings and 4 car spaces at 3 Rainsford Street, Elwood
- 3.3 That the decision be as follows:

1 Amended Plans required

Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and an electronic copy must be provided. The plans must be generally in accordance with the plans submitted under Section 57A of the Planning and Environment Act 1987, but modified to show:

- a) The second floor west elevation of unit 1 setback at least 2.4m from the west (side) boundary and deletion of that part of the staircase at the second floor of Unit 1 that extends into the front balcony
- b) Sightlines notated at the vehicular entrance to the site in accordance with dot point 7 of design standard 1 at Clause 52.06-9 of the Port Phillip Planning Scheme
- c) Apart from windows to balconies, all habitable room windows at the east and west elevations notated as having a sill height of 1.7m above finished floor level or provided with fixed obscure glass to 1.7m above finished floor level
- d) Deletion of planter boxes to each balcony at the east elevation and replacement with fixed privacy screening that prevents downward views to neighbouring properties. Elevation and cross section drawings of the screens must be provided. The drawings must:
 - Be drawn to scale and fully dimensioned;
 - Clearly delineate any solid parts of the screen and any louvre or batten parts of the screen;
 - Clearly illustrate how any louvre or batten system will prevent (rather than limit) downward and horizontal views to neighbouring secluded private open space and/or habitable room windows;
 - Show the exact width and thickness of each louvre or batten, the exact spacing between each louvre or batten and a section detail from behind the screen demonstrating that views of adjacent secluded private open space and/or habitable room windows are prevented (rather than limited)
- e) The balcony to Unit 4 deleted and replaced with an east facing balcony that matches the depth and side boundary setback of balconies to units 2 and 3. The south edge of the balcony must be setback at least 1.9m from the south (rear) boundary. The balcony must be screened at each edge with screening as per that described at condition 1d) of this permit.



- f) The first floor north facing dining room windows to unit 1 deleted and replaced with windows that match the first floor north facing windows of the living room to Unit 1
- g) Deletion of the horizontal battens to the front fence and replacement with vertical battens
- h) 1.7 m high privacy screening to the south edge of the second floor balcony to unit 4. Elevation and cross section drawings of the screens must be provided. The drawings must:
 - Be drawn to scale and fully dimensioned;
 - Clearly delineate any solid parts of the screen and any louvre or batten parts of the screen;
 - Clearly illustrate how any louvre or batten system will prevent (rather than limit) downward and horizontal views to neighbouring secluded private open space and/or habitable room windows;
 - Show the exact width and thickness of each louvre or batten, the exact spacing between each louvre or batten and a section detail from behind the screen demonstrating that views of adjacent secluded private open space and/or habitable room windows are prevented (rather than limited)
- i) An additional 3m³ of storage provided within the vestibule of each dwelling
- j) The portion of the accessway fronting units 3 and 4 garages widened to at least 3m by increasing the setback of the garages from the east (side) boundary
- k) All plan and elevation drawings fully dimensioned, including natural ground level, floor levels, and incremental and total wall and building heights and lengths, with heights to be expressed to Australian Height Datum (AHD) and/or reduced levels. The first floor plan must also show detail of the framing elements above the driveway.
- l) Any changes necessary to meet the requirements of the Sustainable Design Assessment in the corresponding condition below.
- m) Any changes necessary to meet the requirements of the Water Sensitive Urban Design Response in the corresponding condition below.
- n) Any changes necessary to meet the requirements of the Landscape Plan in the corresponding condition below.

2 No Alterations

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

3 Satisfactory continuation

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



4 Melbourne Water

- i. Prior to the development plans being endorsed, amended plans must be submitted to Council and Melbourne conditions. Plans must be submitted with ground and floor levels to Australian Height Datum (AHD) addressing Melbourne Water's requirements.
- ii. The setback from the frontage must be a clear 4 metres the decorative columns must be removed.
- iii. The dwellings must be constructed with Finished Floor Levels set no lower than 5.41 metres to Australian Height Datum (AHD), which is 300mm above the applicable flood level of 5.11 metres to AHD.
- iv. The garages must be constructed with finished surface levels set no lower than 5.26 metres to AHD, which is 150mm above the applicable flood level of 5.11 metres to AHD.
- v. Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed) to AHD, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.
- vi. Imported fill must be kept to a minimum on the property and only be used for the sub floor areas of the dwellings, garages and driveway ramp.
- vii. Any new fences or gates must be 50% open style of construction to allow for the passage of floodwaters/overland flow
- viii. The setback from the front boundary must not be altered without prior written consent from Melbourne Water. The existing natural ground surface levels must be maintained within this setback and be kept clear of all permanent structures.

5 Walls on or facing the boundary

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

6 Sustainable Design Assessment

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

7 Incorporation of Sustainable Design initiatives

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



8 Implementation of Sustainable Design Initiatives

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

9 Water Sensitive Urban Design

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

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

10 Incorporation of Water Sensitive Urban Design initiatives

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

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

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

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

- inspection frequency
- cleanout procedures
- as installed design details/diagrams including a sketch of how the system operates

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

12 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.



13 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.

14 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.

15 Parking and Loading Areas Must Be Available

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

16 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.

17 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.

18 Arborist Report

Before the development starts, a report and plan by a suitably qualified Arborist to comply with AS 4970 - 2009 Tree protection on development sites setting out how the existing street tree at the front of the site and trees on neighbouring land to the east of the property will be protected during construction, must be submitted to, approved by and be to the satisfaction of the Responsible Authority. When approved the report and plan will be endorsed and form part of the permit. The tree protection measures outlined in the report must be complied with to the satisfaction of the Responsible Authority.



19 Management of Canary Island Date Palm

Before the development starts, a management plan for relocation of the existing Canary Island Date Palm within the front setback of the existing dwelling on 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.

20 Piping and ducting

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

21 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.

22 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.

23 Time for starting and completion

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

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

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

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

Permit Notes:

Building Approval Required

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

Building Works to Accord with Planning Permit

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



Due Care

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

Days and Hours of Construction Works

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

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

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

Drainage Point and Method of Discharge

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

Noise

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

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

Significant Trees

This permit does not authorise the pruning or removal of any significant trees and/or removal of vegetation. A permit must be obtained pursuant to Local Law No. 1 (Community Amenity) 2013, Clause 44. For further information contact Council's City Permits unit on Ph: (03) 9209 6216.

4. RECOMMENDATION – PART B

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

5. RELEVANT BACKGROUND

There is no relevant history or background for this application.

6. PROPOSAL

- 6.1 The architectural plans which are the subject of this report are those prepared by Kat Design, dated April 2017 and otherwise described as:

- TP01 to TP03, TP03A, TP04 to TP07, TP07A and TP08 to TP11 (all revision C, dated 11/05/2018)



These plans were lodged pursuant to the provisions of S57A of the Planning and Environment Act 1987 and were advertised.

- 6.2 The landscape plan which is the subject of this report is that prepared by Horti Couture Landscape Architecture Pty Ltd, dated 30/04/2018.

This plan was also lodged pursuant to the provisions of S57A of the *Planning and Environment Act 1987* and was advertised.

- 6.3 The application for planning permit seeks approval for buildings and works including construction of a three storey building comprising 4 dwellings and 4 car spaces.
- 6.4 The site is oriented in a northwest-southeast direction, however for clarity the descriptions of the proposal in this report will adopt the orientations shown on the plans which labels the front elevation as the north elevation, the rear elevation as the south elevation and the sides as east and west elevations.
- 6.5 Specific details of the application are as follows:

6.5.1 Site Layout and Building Massing

6.5.2 The development would adopt an attached townhouse typology with each dwelling sited one behind the other

6.5.3 Each dwelling would contain two bedrooms

6.5.4 The site area covered by buildings would be 299m² which equates to 66% of the total site area

6.5.5 The area of permeable surfaces would be 26% of site area

6.5.6 The area of garden would be 26%

6.5.7 The landscape plan for the site includes four medium size trees within the front setback. Climbing plants would be provided to a frame along the east side of the driveway along with a strip of trafficable grass cells. Further landscaping would be provided around the perimeter of the building and site boundaries.

6.5.8 Vehicular access to the site would be provided from Rainsford Street via an existing crossover adjacent the northeast corner of the site. The crossover would provide access to a driveway along the east side boundary of the site, which would provide access to four garages

6.5.9 **Setbacks and height**

Ground floor

- a) The building would be setback 4m from the street at ground floor



- b) At the east (side) boundary the ground floor of the building would be setback 3.8m from the boundary, apart from a portion at the rear that would be constructed on the boundary for a length of 2.1m and a height of approximately 3.2m. The setback area would accommodate a driveway and 1m wide landscape strip
- c) At the south (rear) boundary the ground floor would be partly constructed on the boundary and partly setback 1.9m. The wall on the boundary would be 8.3m long and a maximum of 3.6m high
- d) At the west (side) boundary the ground floor of the building would be partly constructed on the boundary and partly setback. The portion constructed on the boundary would be toward the rear of the site and would comprise a length of 7.5m and a maximum height of 3.6m. The remainder would be setback 1.5m, 2.3m and 4.5m from the boundary with a pedestrian accessway located within these setback areas

6.5.10 **First floor**

- a) The western half of the front façade would be setback 4.1m from the street, with the other half setback 6.4m to provide a rebated balcony. The edge of the balcony would be setback 3.9m from the street
- b) At the east (side) boundary, the building would be setback 2m, 3.2m and approximately 3.7m. Balconies would be located within the larger setback areas, the outer edges of which would be setback 1.6m from the boundary. This elevation would cantilever over the ground floor driveway
- c) At the south (rear) boundary the building would be setback 1.9m from the boundary with a balcony partly constructed within this setback area to the rear boundary, the glass bricked edge of which would be constructed on the boundary to a maximum height of approximately 4.6m
- d) At the west (side) boundary the rear portion of the building would be setback 1.2m from the boundary, the mid portion 2.4m and the front portion 1.6m

6.5.11 **Second floor**

- a) The second floor of the building would be setback a minimum of 4.09m and a maximum of 6.4m (incorporating a rebated balcony) from the front (north) boundary.
- b) The building would have a maximum height of 9.98m (14.4m AHD).
- c) At the east (side) boundary, the building would be setback 2.1m and constructed to a maximum height of 9.4m

- d) At the south (rear) boundary the building would be setback 1.9m from the boundary and constructed to a maximum height of 9.4m (14.41m AHD). A 2.3m deep balcony would be located at the southeast corner of the building
- e) At the west (side) boundary the rear portion of the building would be setback 1.3m from the boundary, the mid portion 2.4m and the front portion 1.6m. the maximum height of the building at this elevation would be 9.6m

6.5.12 On-Site Amenity and Facilities

- a) Each dwelling would be provided with a separate pedestrian entry. The front dwelling would be provided with direct entry from the street via a gate and a secondary entry from its garage. Dwellings 2 and 3 would be provided with pedestrian access from the common driveway and the pedestrian walkway along the west (side) boundary. Dwelling 4 would also be provided with access from the pedestrian walkway, with access also provided from its garage
- b) All proposed windows would have access to daylight
- c) Each dwelling would be provided with the following open space:
 - Dwelling 1 - 33m² front yard, 9m² first floor balcony with access to open plan living/dining/kitchen area and 18m² second floor balcony to the master bedroom
 - Dwelling 2 - 14m² first floor balcony with minimum dimension of 2m and access to open plan living/dining/kitchen area
 - Dwelling 3 - 14m² first floor balcony with minimum dimension of 2m and access to open plan living/dining/kitchen
 - Dwelling 4 - 8m² ground floor courtyard at the southwest corner of the site, 18.5m² first floor balcony wrapping around the southeast corner of the building with minimum dimension of 1.6m and access to open plan living/dining/kitchen and 8m² second floor balcony at the southeast corner of the building
- d) Each dwelling would be provided with one car space within a garage
- e) Letterboxes would punctuate the front fence adjacent the pedestrian entrance
- f) Air-conditioning units would be located on each first floor balcony

6.5.13 Detailed Design

- a) The building would have a flat roof



- b) The building would comprise a variety of materials, colours and finishes including:
- Light and dark grey rendered walls to ground and first floor walls
 - Grey timber cladding to upper storey
 - Grey aluminium window frames;
 - Jarrah garage doors
 - Vertical Iron railings to balcony balustrades
 - Permeable concrete driveway
- c) Maximum 1.6m high front fence and gates comprising horizontal battens punctuated by pillars

7. SUBJECT SITE AND SURROUNDS

| Description of Site and Surrounds | |
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| Site Area | 449m ² |
| Existing building & site conditions | <p>Single storey rendered brick dwelling with hipped roof. Front setbacks of 3m and 4.5m. Timber picket front fence of approximately 1m in height. Vehicle access adjacent northeast corner. A laneway terminates at the southeast corner of the site. Front yard includes Canary Island Palm tree with a trunk circumference of 2.5m Secluded private open space at rear which includes six trees:</p> <ul style="list-style-type: none"> ▪ Queen palm with trunk circumference of 1.1m ▪ Kerosene plant with trunk circumference of 0.6m ▪ Olive tree with trunk circumference of 0.6m ▪ Fig tree with trunk circumference of 0.8m ▪ Cherry plum tree with trunk circumference of 0.6m ▪ Fig tree with trunk circumference of 0.5m |
| Abutting properties | <p><u>1 Rainsford Street (abutting land to the east):</u> This land accommodates a single storey brick dwelling with a hipped roof. The dwelling is setback 4.5m and 3m from the street behind a 1.8m high brick fence. The dwelling is setback 2.7m from the boundary it shares with the subject site. Within this setback area is a concrete driveway that is accessed from Rainsford Street via a crossover adjacent the northwest boundary of the site and which provides access to a garage at the rear southwest corner of the site. Two habitable room windows of this dwelling face the subject site and secluded private open space is located at the rear of the dwelling. Two Queen palms are located on the fence line of the boundary shared with the subject site, one of which has a trunk circumference of 1.3m, the other 0.9m.</p> |



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| | <p>Planning permit application 5/2018 which seeks permission to construct two side by side two storey townhouses including rooftop terrace and garages on this site to was lodged with Council on 3 January 2018. At the time of reporting, no decision has been on this application.</p> <p>In terms of its relationship with the subject site, the proposed development at 1 Rainsford Street would include a 7.2m high wall on the common boundary along with two ground floor glass brick highlight windows and a first floor bathroom window.</p> <p>A 5m high brick garage wall is proposed on the common boundary toward the rear of the site.</p> <p><u>5 Rainsford Street (abutting land to the west):</u></p> <p>This land accommodates a three storey block of flats with undercroft carparking and a flat roof. The flats are setback 4.5m from the street and 2.6m from the boundary shared with the subject site. Within the side setback area is a driveway that is accessed from Rainsford Street via a crossover adjacent the northeast corner of the site.</p> <p>A number of habitable room windows, glass doors and balconies face the subject site.</p> <p>The rear elevation of the flats is setback 4m from the rear boundary. A carpark is located within this setback area.</p> <p><u>14 May Street (abutting land to the south):</u></p> <p>This land accommodates a three storey block of brick flats with a hipped tiled roof. Land at the rear of these flats shares an abuttal with the rear boundary of the subject site and accommodates a carparking area and carport/garage.</p> <p>The roof of the carport/garage is used as a communal terrace that accommodates two clothes lines and is provided with a 1m high open balustrade at its perimeter. There are no windows associated with these flats that face the subject site.</p> <p><u>185-189 Brighton Road (diagonally opposite the southeast boundary):</u></p> <p>This land accommodates a three storey block of units with hipped tiled roof. The southwest corner of these flats is located approximately 3.7m from the rear corner of the subject site. Within this area is carparking.</p> |
| <p>Surrounds / neighbourhood character</p> | <p>The subject site is located within an established residential area. Frontage widths are generally 13m within the vicinity of the site. Front setbacks are generally in the order of 4m. Crossovers are common.</p> <p>Rainsford Street exhibits a diverse range of detached and semi-detached architectural housing styles.</p> <p>The south side of Rainsford Street comprises a recently constructed three storey (six dwelling) development at 7 Rainsford Street. Abutting the west boundary of 7 Rainsford Street are three storey flats.</p> <p>The north side of Rainsford Street has a different character to the south side and includes single storey dwellings of either Victorian or Edwardian appearance that have been modified.</p> |



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| | <p>A recent two storey (two dwelling) development is located at 2 Rainsford Street, opposite the subject site, whilst a two storey (four dwelling) development has recently been constructed at 8 Rainsford Street.</p> <p>Roof forms are a mix of hipped, flat and gable end. Flat roofs associated with blocks of flats predominate on the south side of the street.</p> <p>Front fences vary in height and material.</p> <p>Street trees are not mature, there is an absence of nature-strips on both sides and limited vegetation within front and side setbacks. Consequently, the streetscape comprises a robust built form.</p> |
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8. 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? |
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| Clause 32.08: General Residential Zone (GRZ1) | <p>A permit is required to:</p> <ul style="list-style-type: none"> ▪ Construct two or more dwellings on a lot pursuant to Clause 32.08-6. <p>A development must meet the requirements of Clause 55.</p> <p>Pursuant to Clause 32.08-4, 25% of the lot must be provided as garden area.</p> <p>Pursuant to Clause 32.08-9, the building height must not exceed 11 metres, and the building must contain no more than 3 storeys at any point.</p> <p>The maximum building height specified is the vertical distance from the minimum floor level determined by Melbourne Water to the roof or parapet at any point.</p> |
| Clause 44.05: Special Building Overlay (Schedule 1) (SBO1) | <p>A permit is required to construct a building or to construct or carry out works pursuant to Clause 44.05-1.</p> <p>Pursuant to Clause 44.05-5, an application must be referred to the relevant floodplain management authority under Section 55 of the Act unless in the opinion of the responsible authority, the proposal satisfies requirements or conditions previously agreed to in writing between the responsible authority and the floodplain management authority.</p> <p>Clause 2.0 to Schedule 1 of the Special Building Overlay indicates that Melbourne Water is the relevant floodplain management authority for the purposes of Clause 44.05-5.</p> |

9. PARTICULAR PROVISIONS

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



| Particular Provision | Why is a permit required? |
|-----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Clause 52.06 Car Parking | <p>A permit is required to:</p> <ul style="list-style-type: none"> Reduce the number of car parking spaces required by Table 1 at Clause 52.06-5. <p>The table prescribes the provision of one car parking spaces for each two bedroom dwelling, which equates to a requirement of four car spaces. Given that four car spaces are proposed, the number of residential spaces prescribed by the table would be satisfied.</p> |

10. PLANNING SCHEME PROVISIONS

10.1 Planning Policy Framework

The following Planning Policies are relevant to this application:

- 10.1.1 Clause 11: Settlement, including:
 - Clause 11.01-1R1: Settlement - Metropolitan Melbourne
 - Clause 11.02: Managing Growth
- 10.1.2 Clause 15: Built Environment and Heritage, including:
 - 15.01-1: Built Environment
 - 15.01-1S: Urban Design
 - 15.01-1R: Urban design - Metropolitan Melbourne
 - 15.01-2S: Building Design
 - 15.01-5S: Neighbourhood character
 - 15.02-1: Sustainable development
- 10.1.3 Clause 16: Housing, including:
 - Clause 16.01: Residential development
 - Clause 16.01-1S: Integrated housing
 - Clause 16.01-1R: Integrated housing - Metropolitan Melbourne
 - Clause 16.01-2S: Location of residential development
 - Clause 16.01-3S: Housing diversity
 - Clause 16.01-3R: Housing diversity - Metropolitan Melbourne
 - Clause 16.01-4S: Housing affordability
- 10.1.4 Clause 19: Infrastructure
 - Clause 19.01-1S: Energy supply
 - Clause 19.01-2S: Renewable energy
 - Clause 19.01-2R: Renewable energy - Metropolitan Melbourne
 - Clause 19.03: Development Infrastructure



Clause 19.03-4S: Stormwater

Clause 19.03-6S: Waste and resource recovery

10.2 Local Planning Policy Framework (LPPF)

The following local planning policies are relevant to this application:

- 10.2.1 Clause 21.03 Ecologically Sustainable Development, including
 - Clause 21.03-1 Environmentally Sustainable Land Use and Development
 - Clause 21.03-2 Sustainable Transport
- 10.2.2 Clause 21.04 Land Use, including
 - Clause 21.04-1 Housing and Accommodation
- 10.2.3 Clause 21.05 Built Form, including
 - Clause 21.05-2 Urban Structure and Character
 - Clause 21.05-3 Urban Design and the Public Realm
 - Clause 21.05-4 Physical Infrastructure
- 10.2.4 Clause 21.06 Neighbourhoods, including
 - Clause 21.06-2 Elwood and Ripponlea
 - Clause 22.12 Stormwater Management (Water Sensitive Urban Design)
 - Clause 22.13 Environmentally Sustainable Development

10.3 Other relevant provisions

- Clause 55 Two or more dwellings on a lot and residential buildings
- Clause 59.05 Buildings and works in an overlay
- Clause 59.08 Applications under a Special Building Overlay
- Clause 65 Decision Guidelines
 - Clause 65.01 Approval of an application or plan
- Clause 66 Referral and notice provisions

11. REFERRALS

11.1 Internal referrals

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



Urban Design Officer

- 11.1.1 I have reviewed the amended plans, overall, the design response has improved since the barn-like proposal. The recent changes including the removal of roof terraces are supported, however, there are a couple points that UD have previously addressed and are yet to be resolved.
- a) *Unit's 1 staircase to second floor is not supported, the top level is to be recessed, it negatively impacts the façade's articulation and doesn't contribute to the design. A large south (sic, shown on plans as west elevation) facing window won't contribute greatly to sun incidence but will allow for overlooking to the Balcony of the adjacent property.*
 - b) *Overlooking prevention should not rely on removable planters nor on the state of the vegetation. We suggest integrating the planters as a fixed design element part of the balustrade.*
 - c) *I have a particular concern regarding the interface with 14 May St. As I previously pointed out, the proximity to the balcony/carport of the mentioned property may present a privacy/security issue for unit 4. I imagine this has been identified by the applicant but the interface is not clear in the plans. Please provide detail of how this is going to be addressed and ensure people won't be able to jump into unit's 4 balcony.*

Planning officer response:

It is agreed that the second floor stair element would result in an awkward upper level presentation to the street and should be re-designed. Such an outcome could be achieved by permit condition (refer recommended condition 1a).

It is agreed that the reliance on removable planters as a screening technique is not appropriate, noting that such an approach would not meet the screening techniques prescribed by Clause 55 (ResCode). Accordingly, these planter boxes should be deleted and replaced with compliant screening (refer recommended condition 1d).

With respect to the security concerns raised regarding the rear balcony to Unit 4, it is agreed that this element should be reconfigured by removing the balcony from the rear boundary and configuring it in manner that resembles the east facing balconies to units 2 and 3. Such an outcome could be achieved by permit condition (refer recommended condition 1e).

Transport Safety Engineer

11.1.2 Car Park Layout:

Accessways:

- a) *Vehicle access is proposed via a modified crossover to Rainsford Street and rear ROW. Access way dimensions are in accordance with Clause 52.06 of the planning scheme.*



- b) *Pedestrian sight triangles have not been provided in accordance with Clause 52.06. It is recommended providing sightlines in accordance with the planning scheme to reduce potential conflicts between pedestrians and vehicles entering/exiting the site.*

Car park layout:

- *Proposed garage dimensions of at least 3.5m width x 6.0m length have been provided in accordance with planning scheme requirements. This is considered appropriate.*
- *Modify the swept paths for access/egress to Unit 4. The swept paths show the vehicle driving over the garden bed. This could be added as a condition of permit.*

Headroom:

- *Headroom clearances have been provided in accordance with clause 52.06.*

Bicycles:

- *Bicycle parking is not required under the planning scheme, although I am satisfied that there is sufficient room within each garage to provide bicycle parking for each dwelling.*

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 25 vehicle movements a day and 3 vehicle movements during the peak hours.*
- *Overall the expected traffic generation of the proposed development are expected to have negligible impacts on surrounding local street and intersections.*

On Street Parking:

- *The existing on-street parking is generally unrestricted parking.*
- *Residents/visitors of the development will not be eligible for resident/visitor parking permits and will need to abide by on-street parking restrictions.*
- *The proposed crossovers to Rainsford Street and the rear laneway will result no loss to on-street parking, this is considered acceptable.*

Other:

- *All redundant crossovers must be reinstated to Council satisfaction.*
- *All proposed crossovers must be installed to Council satisfaction.*
- *Any costs associated with changes to on-street parking signage and/or line marking is to be covered wholly by the applicant.*



Planning officer response:

As per the above recommendation, any permit that may issue should include a condition that requires sightlines to be provided in accordance with dot point 7 of design standard 1 at Clause 52.06-9 (refer recommended condition 1b).

With respect to the swept paths, a vehicle exiting the garage to unit 4 would encroach a maximum of approximately 0.3m into the 1m wide garden bed. It is considered that such an outcome would not be appropriate. Instead it is considered appropriate that the accessway to the unit 4 garage, and as a consequence, the unit 3 garage, should be widened from 2.8m to 3m by increasing the setback of the garages (refer recommended condition 1j).

With respect to crossovers, signage and linemarking, any permit that may issue should include conditions that reflect the above recommendations (refer recommended conditions 16 and 17).

It is noted that the traffic engineers' reference to Loading Zones at Clause 52.07 is no longer relevant as this clause has been removed from the Planning Scheme since the application was lodged.

Arborist

I do not agree with the provided arborist report that Tree 2 a significant Phoenix canariensis is of Low amenity and arboriculture value.

The tree was displaying good health and structure, appears to have been managed by the previous owners, therefore, it is unlikely to be self-germinated, it makes a moderate contribution to the amenity of the subject site plus broader surrounding landscape and considering Phoenix canariensis are a long lived species (life span of 100+ years) its ULE should be 20+ years.

Taking the above into consideration and using the descriptors provided in the arborist report, Tree 2 should have been afforded a high amenity and arboricultural value. Therefore, A permit is unlikely to be granted for the removal of Tree 2 and changes should be undertaken to incorporate the tree into the design.

Since palm trees do not having a spreading woody root system and provided consideration is given to the trees canopy, Tree 2 could be incorporated into the design provided minor design changes are undertaken.

Alternatively the tree could be transplanted within the site or be removed from the site and donated to Council at the applicants cost.

The remaining trees within the site were of poor quality and/or not considered significant.

Provided tree protection fencing and management is afforded to the nature strip tree and neighbouring Trees 3 and 4, the proposed development should not have a major impact to their overall health and/or structural condition. Once the final design is approved, a tree protection management plan would be required to satisfy Council that the trees to be retained will be protected during development.



Planning officer response:

The centre of the Phoenix Canariensis is located within the front yard of the existing dwelling and is setback approximately 2.5m from the front boundary and approximately 4m from the east (side) boundary. It has a radial spread of approximately 4m.

In order to retain this tree, significant changes to the design of the development would be required, including changes to the access arrangement and an increase in the front setback of the development by at least 2m. Further, there is insufficient space to transplant the tree elsewhere on the site.

It is noted that the proposed development includes new landscaping in the front setback, including provision of three ornamental plums, which grow to a height of 6m. It is considered that the proposed landscaping would represent an improvement to the streetscape, given the relative scarcity of curated landscaping on nearby sites.

It is considered therefore that removal of the tree and donation to Council would be the appropriate option for the existing tree within the front yard. Such an outcome could be achieved by permit condition (refer recommended condition 19).

Sustainable Design officer

A Sustainable Design Assessment was provided with the initial application material; however, the plans have altered since that report was submitted.

Any permit that may issue should include conditions that require an updated Sustainable Design Assessment and Water Sensitive Urban Design report that relate to the current set of plans (refer recommended conditions 6 and 9).

11.2 External referrals

| Referral Authority | Response | Conditions |
|--------------------|------------------------------------|-------------------|
| Melbourne Water | No objection subject to conditions | Refer condition 4 |

12. PUBLIC NOTIFICATION/OBJECTIONS

12.1 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 (70 letters) and directed that the applicant give notice of the proposal by posting one notice on the site for a 14 day period, in accordance with Section 52 of the Planning and Environment Act 1987.

12.2 The application has received 18 objections. The key concerns raised are summarised below (officer comment will follow in italics where the concern will not be addressed in Section 9):



- Impact on views from dwelling

VCAT has in the past determined that there is no legal right to a view. Further, whilst the planning scheme does refer to views and vistas to important landmarks within the municipality, these views are considered in the context of views from the public realm. In this instance the planning scheme does not specifically address views from the private or public realms.

- Impact on car parking

Car parking would be provided in accordance with the requirements of the planning scheme, therefore this concern is not considered relevant to the merits of the proposal.

- Impact on heritage

The site is not located within or adjacent to a heritage overlay, this concern is not considered relevant to the merits of the proposal.

- Safety

As discussed later in this report, subject to permit conditions that require pedestrian sightlines to be provided at the vehicular entrance to the site, the development would not introduce any unreasonable safety issues to the area.

- Council has not established bona fides of applicant

This is not a relevant planning issue. The applicant has completed the relevant planning permit application form in a satisfactory manner. It is noted that the applicant's business name is listed on the ASIC register and any permit is issued to the land and not the applicant.

- Impact on tree within front yard

This matter is discussed later in this report.

- Impacts on floodwater flow, reduction in floodwater storage capacity

The application has been referred to Melbourne Water. Melbourne Water has indicated that it has no objection to the issue of a permit subject to permit conditions.

- Failure to meet minimum floor level height (above flood level)

The applicable flood level of the property is 5.11 metres to the Australian Height Datum (AHD). The finished ground floor level would be constructed to 300mm above the flood level and would meet Melbourne Water's requirements.

- Depth and flow of floodwater affecting access to the property would be hazardous

The application has been referred to Melbourne Water. Melbourne Water has indicated that it has no objection to the issue of a permit subject to permit conditions.

- 12.3 A consultation meeting was held on Tuesday 21st August 2018. The meeting was attended by a Ward Councillor, a representative of the applicant, one objector and the Planning Officer. The meeting did not result in any changes to the proposal.



- 12.4 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.

13. OFFICER'S ASSESSMENT

13.1 Zoning – General Residential Zone

Schedule 1 to the GRZ does not specify any variations to the height requirements of the parent Clause. The building must therefore not exceed 11 metres or 3 storeys at any point.

For land in the Special Building Overlay, the maximum building height is measured from the minimum floor level determined by the relevant drainage authority or floodplain management authority to the roof or parapet at any point.

Melbourne Water is the relevant floodplain authority and they have advised the minimum floor level for the site is 5.41m AHD; the maximum building height would therefore be 16.41m AHD.

The proposed building would be three storeys and its parapet constructed to a maximum height of 14.41m AHD, which is 9m above the minimum floor level determined by Melbourne Water (5.41m AHD) and 9.6m above NGL. The proposed height would therefore comply with the mandatory height requirement of the GRZ.

With respect to the garden area requirement of the GRZ, 26% of the site would comprise garden area. This would exceed the 25% minimum requirement.

13.2 Local Policy

13.3 Clause 21.04 Land Use

Clause 21.04-1 Housing and Accommodation

Pursuant to Clause 21.04-1, it is considered that the subject site is located within an area that demonstrates the characteristics where limited residential growth is sought to be achieved given that:

- The site is in an established residential area outside a Heritage Overlay;
- The site is located within an area that does not offer proximity to a major activity centre; and
- Although the site is close (approximately 60m) to trams on Brighton Road, it does not have a *frontage to a main road that is adjacent to the Principal Public Transport Network*.

New medium density housing is not encouraged within these areas.

At Strategy 2.2 of Clause 21.04-1, the key matter to consider is whether or not the proposed development responds to its context in an acceptable manner.

It is considered that the proposed development would adequately respect the neighbourhood character for the following reasons:



- The front setback of the building would be consistent with that of nearby buildings, noting that the setback standard of ResCode would be met
- Subject to a permit condition requiring the west elevation to be further setback, the side setbacks of the building would be consistent with nearby development and whilst the building would not comply with the setback prescribed by ResCode, the setbacks would not introduce any unreasonable amenity impacts upon neighbouring properties
- The height of the building would be consistent with nearby development, noting that three storey developments are common nearby
- The proposed landscaping would represent an improvement to the landscape character of the area, which lacks a cohesive landscape character
- The development would comprise a mix of complementary materials, finishes and colours that would assist in ensuring that the development would comfortably integrate with the streetscape

13.4 Clause 21.05 Built Form

Clause 21.05-2 Urban Structure and Character

The design of the development in terms of its response to the character of the neighbourhood and its impact upon the amenity of neighbouring dwellings is discussed as part of the Clause 55 assessment below.

In terms of scale, Local Policy seeks to ensure that in a streetscape with a diverse building scale, the height of any new residential development is generally no more than 1 storey above the height of the lower adjoining buildings, with a maximum building height of 3 storeys.

Whilst the development would be two storeys more than the neighbouring one storey dwelling to the east, it is considered that a variation to the above policy would be acceptable in this instance as the height difference between the roof ridge of the single storey dwelling and the roof of the proposed building would be approximately one storey, thereby providing an acceptable transition. It is noted that the height of the neighbouring dwelling to the east as depicted at TP07 is actually 0.5m higher than shown on the submitted plans. The design of the building in terms of its form and setbacks, would further assist in ensuring that an abrupt transition in height would not occur.

Further, given that an application to develop the neighbouring land with a two storey development is currently lodged with Council, it is likely that a building of at least two storeys will be developed on the neighbouring land to the east in the future and if this was to occur, this would provide an even better transition in building heights.

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

Subject to permit conditions, the proposed development would satisfy the Clause 55 standards and objectives with respect to neighbourhood character residential policy, infrastructure, integration with the street, street setback, building height, permeability, energy efficiency, open space, safety, parking location, daylight to existing and proposed windows, internal views, noise, accessibility, dwelling entry, daylight to new windows and common property.



The proposal seeks variation to the following Clause 55 standards:

- Site coverage
- Landscaping
- Access
- Side and rear setbacks
- Walls on boundary
- Overshadowing
- Overlooking
- Storage
- Design detail
- Front fences
- Site services

An assessment of these elements is provided as follows:

Site coverage

The standard prescribes a site coverage of 60%.

The site coverage proposed is 66%.

The variation sought would be commensurate with other multi-dwelling developments within the area.

Further, subject to permit conditions, the proposed front and side setbacks of the development would be consistent with nearby buildings and would allow for the introduction of vegetation that would assist in softening visual bulk impacts to an acceptable level.

Visual bulk would be further reduced by fenestration, a mix of materials and balcony rebates that would combine to achieve an articulated built form.

At the rear of the site, the hard-edged built form to the boundary is not consistent with the other three storey buildings to the west, which are provided with rear setbacks of approximately 4m. The rear setbacks of these other three storey buildings respond to the existing habitable room windows opposite at 14 May Street.

Unlike those properties to the west, the rear boundary of the subject site does not face any habitable room windows, nor does it face any secluded private open space. It is not therefore constrained by a sensitive rear interface. In such a context, it is considered that a hard-edged built form to the rear boundary represents an appropriate design response.

Further, the articulated design of the building and the screening effects of existing outbuildings on neighbouring sites to the east and south would combine to adequately mitigate visual bulk impacts.



Landscaping

Existing trees on the site would be removed. Only one of these trees is considered significant. Whilst this tree contributes to the neighbourhood character, landscaping is not considered a particularly important characteristic of the area.

Further, the landscape plan for the site includes four medium size trees within the front setback. It is considered that the landscaping response would adequately offset the removal of the existing tree in the front yard. It is noted that a recommended condition of the permit would be to transplant the tree on Council land where it could contribute to the landscape theme of Council's parks and gardens, many of which are valued for their Canary Island palms to the extent that they feature on Council's logo.

Access

The existing 2.7m wide crossover to the site would be retained for vehicular access to the site. It is considered that such an outcome would be acceptable.

The width of accessway/driveway would be 2.8m and would not therefore meet the relevant design standard at Clause 52.06, which requires a width of 3m.

The swept path diagrams at TP03A however indicate that cars to units 1, 2 and 3 would be able to exit the site in a forward direction without traversing the adjoining grass strip, whilst cars exiting from the unit 4 car space would encroach 0.3m into the grass strip. It is considered that such encroachment would not be appropriate and that any permit that may issue should include a condition that requires that the rear portion of the accessway/driveway to be widened to meet the standard (refer recommended condition 1j).

Side and rear setbacks

The upper level of the building would extend beyond the side setback envelope prescribed by this standard.

The east (side) elevation of the building would extend 2.3m beyond the prescribed setback envelope, whilst the west (side) elevation would extend between 2.3m and 3.4m beyond the prescribed setback envelope.

The key element of non-conformity with the standard in terms of neighbourhood character and amenity impacts is the northwest corner of the building. This element contributes to overshadowing of neighbouring balconies to the west and would be constructed to within 1.6m of the side boundary, which is not consistent with the 2.5m setback of the neighbouring flats.

It is considered that any permit that may issue should include a condition that requires the second floor of Unit 1 to be setback at least 2.4m to match the setback of Units 2 and 3 along the west elevation of the upper level (refer recommended condition 1a). Such an outcome would improve the development's response to the streetscape in terms of side setbacks and reduce shadow impacts on neighbouring balconies.

With respect to the east (side) boundary, it is considered that the proposed 2.1m setback of the upper level would respect the neighbourhood character and would not unreasonably impact on the amenity of the neighbouring dwelling, noting that specific assessment of amenity impacts is discussed later in this report.



Walls on boundary

The length of walls on boundaries would meet this standard.

In terms of the height, this standard recommends walls on boundaries should not exceed an average of 3.2 metres with no part higher than 3.6 metres unless abutting a higher existing or simultaneously constructed wall.

The application seeks variations to the height of walls on boundaries as follows:

- West (side) wall to 3.4m to 3.5m high for a length of 7.5m
- South (rear) wall to 3.3m to 3.4m high for a length of 8.3m

The average height of the proposed wall on the west (side) boundary would be 0.25m higher than prescribed by the standard.

A variation is supported because:

- The variance from the Standard would be minor;
- The wall would abut a concrete driveway and would therefore not introduce any adverse amenity impacts in terms of overshadowing private open space;
- The nearest habitable room windows to the proposed wall are opposite; however these windows are elevated first floor windows, and would not therefore be adversely impacted in terms of sunlight or daylight access.

The average height of the proposed wall on the south (rear) boundary would be 0.15m higher than prescribed by the standard.

A variation is supported because:

- The variance from the Standard would be minor;
- Approximately two thirds of the length of the proposed wall would abut an existing garage on the neighbouring site, and the remainder of the proposed wall would abut a concrete car park.
- The existing wall on the boundary is approximately 2m lower than the proposed abutting wall.
- The wall would not introduce any material adverse amenity impacts on the abutting property.

Overshadowing

The private open space of the three storey flats at 5 Rainsford Street to the west would be affected by the proposal. This open space comprises first and second floor 2.6m² balconies that are setback approximately 1.7m from the common boundary.

These balconies are provided with visually permeable balustrades that are approximately 1m high and are not therefore technically defined as 'secluded' private open space. Further, the size of the balconies do not meet the current dimensions prescribed by ResCode, which recommends balconies of 8m² with a minimum width of 1.6m.

These balconies are currently not overshadowed by any buildings during the specified time, which is between 9am and 3pm on 22 September.

The proposed development would introduce shadow to these balconies between 9am and 11am on 22 September.



The shadow sections at TP10, demonstrate the extent that the proposal would overshadow these balconies.

At 9am the first and second floor balconies would be completely in shadow.

At 10am the first floor balconies would be completely in shadow. At second floor, the floor surface of the balcony toward the front of the building would also be in shadow. Above the floor surface of the balcony, sunlight would be received by persons sitting or standing on the balcony. It is noted that condition 1e), which requires the front portion of the west elevation to be further setback, would result in this balcony not being overshadowed at all at 10am. The rear second floor balcony would not be overshadowed at 10am.

By 11am shadows to each of the neighbouring balconies would completely disappear. Each of the balconies would therefore receive sunlight for the four hours between 11am and 3pm.

The standard recommends that at least 75% of the secluded private open space should receive a minimum of five hours of sunlight between 9am and 3pm on 22 September.

Notwithstanding that the balconies are not 'secluded private open space', it is considered that the variation sought, being 1 hour of sunlight to the first floor balconies, would be acceptable, given the minor nature of the variation sought and the time of day. Further it is considered that the effect of the reduction would not unreasonably impact on the use of the balconies.

Additionally, the increased setback for the second floor of unit 1 as recommended, would reduce the amount of overshadowing of these balconies.

Overlooking

West (side) elevation

Apart from windows toward the front of the building, all first and second floor windows at this elevation would have fixed obscure glass to 1.7m above finished floor level (FFL) or a sill height of 1.7m above FFL which would ensure compliance with this standard.

It is noted that the plans do not clearly nominate each of the windows as being screened. This should be addressed by permit condition (refer recommended condition 1c).

The first and second floor windows toward the front of the site are windows to stairs and are not deemed habitable room windows. These windows do not therefore require screening.

East (rear) elevation

All first and second floor windows at this elevation would have fixed obscure glass to 1.7m above finished floor level (FFL) or a sill height of 1.7m above FFL, which would ensure compliance with this standard.

Balconies at this elevation would be provided with planter boxes constructed to a height of 1.4m above FFL. The overlooking diagram at TP07A purports to demonstrate that the planter boxes and associated vegetation within, would screen views to neighbouring windows.



Notwithstanding that the planter boxes shown at TP11 appear to be movable, the reliance of vegetation to screen views is not an outcome that is supported by this standard. Accordingly, any permit that may issue should include a condition that requires each edge of each balcony at this elevation to be provided with fixed screening to prevent overlooking (refer recommended condition 1d).

South (rear) elevation

There are no existing habitable room windows within 9m of the rear elevation.

The proposed first floor balcony to unit 4 would abut an existing garage that has a rooftop terrace. As discussed above as part of the response to Council's Urban Designer's comments, it is considered that this terrace should be re-configured, including provision of screening to each edge of the balcony (refer recommended condition 1e).

Storage

3m³ of storage would be provided within each garage which is less than the 6m³ storage prescribed by this standard.

It is considered that opportunities for additional storage would be provided within each vestibule/lobby area and any permit that may issue should include a condition that introduces at least 3m² storage units within these areas (refer recommended condition 1i).

Design detail

Each elevation would comprise an integrated mix of complementary colours and materials. Along with variations in colours and materials, variations in setbacks and fenestration would contribute to breaking up the mass of the building and providing acceptable articulation.

Apart from the first floor north facing dining room windows, window and door proportions would respect those of nearby development in a consistent and integrated manner.

The first floor dining room windows however are considered an awkward variation to the proportions of other windows in the development and should be amended accordingly (refer recommended condition 1f).

Front fences

The 1.6m height and materiality of the front fence are considered an acceptable fit within the streetscape, given the variety of fence types evident within the street. The horizontality of the fence design is however considered inappropriate as it would not be consistent with the vertical form of the building. Any permit that may issue should include a condition that requires the fence to comprise vertical, rather than horizontal battens (refer recommended condition 1g).

Site services

Letterboxes would be provided adjacent the pedestrian entrance to the site, whilst dedicated bin storage is not nominated on the plans, sufficient space within each garage would be provided for the storage of bins.



13.4 Traffic and Parking

Council's traffic engineer has not raised any significant issues with the design of the car parking areas or the increase in traffic generated by the proposal, noting that the number of car spaces proposed would meet the number required by the Planning Scheme.

13.5 Sustainable Design and Water Sensitive Urban Design

Whilst a Sustainable Design Assessment was provided with the initial application material, the plans have altered since that report was prepared. Any permit that may issue should include conditions that require an updated Sustainable Design Assessment and Water Sensitive Urban Design report (refer recommended conditions 6 and 9).

14. COVENANTS

14.1 The applicant has completed a declaration that the subject land, being all that land contained within Volume 11842, Folio 705, commonly known as land in Plan of Consolidation 356008L, is not encumbered by a restrictive covenant or Section 173 Agreement or other obligation such as an easement or building envelope.

15. OFFICER DIRECT OR INDIRECT INTEREST

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

16. OPTIONS

- 16.1 Approve as recommended
- 16.2 Approve with changed or additional conditions
- 16.3 Refuse - on key issues

17. CONCLUSION

- 17.1 Subject to conditions, it is considered that the proposed development represents an acceptable response to the character of the area and is respectful of its context.
- 17.2 The proposal would provide for a good level of internal amenity for future occupants and would include the requisite number of car spaces, which would be accessed in a safe and functional manner.
- 17.3 Subject to conditions, the development would achieve a satisfactory degree of compliance with the off-site amenity standards of Clause 55, thereby ensuring that it would not introduce any unreasonable amenity impacts upon neighbouring properties.
- 17.4 It is recommended that the proposal be supported and a Notice of Decision to Grant a Permit be issued, subject to conditions.



PLANNING COMMITTEE
14 NOVEMBER 2018

TRIM FILE NO:

PF17/306230

ATTACHMENTS

1. Plans
2. Landscape plan
3. Level and feature survey plan
4. Objector Map