



7.1 1-5 TIUNA GROVE, ELWOOD
LOCATION/ADDRESS: 1-5 TIUNA GROVE, ELWOOD
EXECUTIVE MEMBER: LILI ROSIC, GENERAL MANAGER, CITY STRATEGY AND SUSTAINABLE DEVELOPMENT
PREPARED BY: MATT SPENCER, PRINCIPAL PLANNER

1. PURPOSE

- 1.1 The purpose of this report is to assist Council in determining its position with respect to amended plans that have been received with respect to an upcoming *Victorian Civil and Administrative Tribunal* (VCAT) hearing to be held over seven days on 2, 3, 4, 5, 6, 9 and 10 December 2019.

2. EXECUTIVE SUMMARY

WARD:	Canal
TRIGGER FOR DETERMINATION BY COMMITTEE:	More than 15 objections
APPLICATION NO:	P0772/2018
APPLICANT:	Elwood Tiuna Grove Development Partnership
EXISTING USE:	Residential
ABUTTING USES:	Residential
ZONING:	Neighbourhood Residential Zone - Schedule 6
OVERLAYS:	Heritage Overlay, Schedule 8
STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL	Not applicable

- 2.1 This report relates to amended plans circulated as part of a VCAT appeal for the construction of a three storey building and basement carpark accommodating 22 dwellings and 44 car respectively.
- 2.2 The original application for planning permit was received by Council on 27 September 2018.
- 2.3 The application was advertised and 59 objections were received and Council's delegate refused the application on 7 February 2019.
- 2.4 The permit applicant lodged an *Application for Review* with VCAT on 8 February 2019. 47 objectors lodged a *Statement of Grounds* with VCAT, including 17 objectors who indicated their intention to appear and present a submission at the VCAT hearing.



- 2.5 On 5 June 2019, Council received a *Notice of an Amendment of an Application* seeking to amend the permit application by substituting amended plans for the permit application plans. These plans included changes that addressed some of Council's initial grounds of refusal.
- 2.6 At its Ordinary Council Meeting on 19 June 2019, Council resolved amongst other matters to:
- request the Minister for Planning to prepare and approve Amendment C173 to the Port Phillip Planning Scheme to extend Heritage Overlay HO8 to 3, 5, 7 and 15 Tiuna Grove, Elwood on an interim basis. Numbers 3 and 5 were to be graded as significant heritage places whilst 7 Tiuna Grove was to be graded as a contributory heritage place.
 - seek Ministerial Authorisation to prepare and exhibit Amendment C174 to the Port Phillip Planning Scheme applying heritage controls on these properties on a permanent basis.
- 2.7 The Minister for Planning's delegate subsequently approved Amendment C173, which came into effect on 4 July 2019.
- 2.8 Amendment C174 is currently on exhibition and as noted, this amendment seeks to extend HO8 on a permanent basis, including numbers 3 and 5 Tiuna Grove. This amendment does not prejudice the current application.
- 2.9 On 30 August 2019, Council received a second *Notice of an Amendment of an Application*. It is this second amendment to the plans that is the subject of this report.
- 2.10 The amended application seeks approval for the construction of a three storey building comprising 12 dwellings above a basement car park for 21 cars and part demolition, alterations and additions to the two existing dwellings on the site.
- 2.11 A VCAT hearing is scheduled to be heard over seven days, commencing on 2 December 2019.
- 2.12 Council Officers have assessed the amended plans and have formed the view that they should be supported as the amended proposal achieves the outcomes sought by Council's Heritage Policy and ResCode, subject to conditions.
- 2.13 It is recommended that Council informs the Tribunal (VCAT) and all parties to the appeal that it supports the application as shown on the amended plans circulated on 30 August 2019, subject to conditions.



3. RECOMMENDATION

- 3.1 That the Committee adopts Recommendation “Part A” and “Part B” to advise VCAT
- That it supports the application with conditions.
 - In the event that VCAT determines to grant a permit for the application, any permit issued should incorporate the conditions to this permit.
 - Authorise the Manager City Development to instruct Council’s Statutory Planners and/ or Council Solicitors on the VCAT Application for review.

RECOMMENDATION “PART A”:

3.2 That the Responsible Authority advise VCAT and other parties to the appeal that, on the basis of the amended plans received by Council on 30 August 2019, Council changes its position on the application and now supports the issuing of a planning permit, with conditions, for the demolition of the existing building at 1 Tiuna Grove and the part demolition of the remaining dwellings, including alterations and additions and the construction of a three storey building at 1-5 Tiuna Grove, Elwood in accordance with the plans referenced Rev TP-17.

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 electronic copy provided. The plans must be generally in accordance with the amended plans (Rev TP-17) circulated on 30 August 2019 but modified to show:

- a) Correction of the site coverage calculation.
- b) Demolition plans and elevation drawings, showing the full extent of all buildings and fences to be demolished.
- c) Floor plans and elevations of the existing dwellings at 3 and 5 Tiuna Grove.
- d) 1:20 scale floor plans and elevations of the proposed front facades and fences to 3 and 5 Tiuna Grove.
- e) Changes to the verandah of the dwelling at 5 Tiuna Grove by lowering the height of each of the masonry piers, deleting each of the roughcast masonry elements and extending each of the dual timber posts to the top of the lowered piers.
- f) Removal of the crossover and associated driveway to 3 Tiuna Grove with this crossover replaced with naturestrip and bluestone kerb and channel.
- g) White bricks to each elevation replaced with bricks of a warmer tone
- h) Deletion of the render to the façade of the building at 1 Tiuna Grove and it to be replaced with the bricks as required by condition 1g).



- i) Reduction in the height of the front fences to 1 Tiuna Grove to no more than 1.5m.
- j) The front fences at 1 Tiuna Grove shown as being no less than 50 percent permeable.
- k) A pedestrian gate to the frontage of 1 Tiuna Grove that matches the height and design of fences required by conditions 1i) and 1j).
- l) The location of mail boxes.
- m) A notation on the plans showing that the internal dimension of each triple garage as having minimum dimensions of 6m in length and 8.4m in width.
- n) The visitor car parking space widened to at least 3.2m with the remaining car parking spaces designed and dimensioned in a manner that complies with the car parking design standards of the Port Phillip Planning Scheme.
- o) A notation on the plans showing that the basement and ramp having a headroom clearance of no less than 2.1m.
- p) Ramp grades and lengths to be shown on the plans and designed in accordance with the Port Phillip Planning Scheme.
- q) The provision of 1.7m high privacy screening to all habitable room windows at the second floor of the north elevation.
- r) The full height screens to the north facing bedroom windows of Apartment 7 reduced to a height of 1.7m above the floor level of this apartment.
- s) All privacy screens, including those required by conditions 1q) and 1r), designed in a manner that maximises outlook, ventilation and daylight from proposed dwellings and balconies whilst ensuring that overlooking of neighbouring habitable room windows and secluded private open space is prevented. Cross section elevation 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 arrangement will prevent sightlines into neighbouring properties' secluded private open space and 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 neighbouring secluded private open space and habitable room windows are prevented.
- t) Rooftop plant shown at elevation and section showing rooftop plant being visually screened and a notation stating that the rooftop plant is acoustically attenuated.
- u) Plan and elevations of any proposed gas meters, water meters and/or electricity meters.



- v) A solid wall to the north side of the basement entrance, extending from the west wall of the master suite of Apartment 2 to the line of the first floor front façade.
- w) Details of all proposed fencing on the rear boundary and each side boundary.
- x) A 1.8m high fence between the boundary of 1 Tiuna Grove and 3 Tiuna Grove with the fence extending from the northwest corner of the scullery to 3 Tiuna Grove to within 5m of the front property boundary before it tapers down to 1.5m in height at the front boundary.
- y) A 1.8m high fence between the boundary of 3 Tiuna Grove and 5 Tiuna Grove with the fence extending from the wall separating the courtyards to each dwelling to within 5m of the front property boundary before it tapers down to 1.5m in height at the front boundary.
- z) The north side setback of the first floor of the three storey building notated on the west elevation as 2m.

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

3. Demolition Method Statement

Before the works permitted by this permit start, including any demolition works, a fully detailed 'demolition method statement' must be submitted to and approved by the Responsible Authority. When approved, the statement will be endorsed and will then form part of the permit. The 'demolition method statement' must:

- a) Fully describe and clearly demonstrate the methods of dismantling of the heritage fabric, restoration and repair and the subsequent reconstruction of the building.
- b) Include reference to the staging of demolition and reconstruction works on the site.
- c) Detail the necessary protection works required during the demolition works to protect those parts of the building to be retained.

Once approved by the Responsible Authority, all buildings and works must be in accordance with the demolition method statement.

4. Satisfactory continuation

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

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 be generally in accordance with the landscape plan prepared by John Patrick Landscape Architects P/L submitted for discussion purposes (dated Sep, Dwg No's L-VCAT01 and L-VCAT02) but modified to 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. 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. The approved Tree Management Plan must be implemented to the satisfaction of the Responsible Authority before and during the construction of the development.



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.

4. BACKGROUND

4.1 The original application for planning permit was received by Council on 27 September 2018 and sought approval for construction of a three storey building comprising 22 dwellings above a basement car park accommodating 44 car spaces and construction of a front fence exceeding 1.5m in height.

4.2 The application was advertised and 59 objections were received.

4.3 Council's delegate refused the application on 7 February 2019 for the following reasons:

1. *The proposed development fails to provide the mandatory minimum garden area or the Neighbourhood Residential Zone.*
2. *The proposed development fails to achieve the purpose of the Neighbourhood Residential Zone or the objective of Schedule 6 to the NRZ.*



3. *The proposed development fails to meet all the objectives of Clause 55.*
 4. *The extent of screening required to prevent overlooking of existing neighbouring secluded private open space and/or habitable room windows would unreasonably impact upon the internal amenity of several dwellings within the proposed development.*
 5. *The proposed development fails to encourage alternative modes of transport.*
 6. *The proposed development would unreasonably impact on the health and ongoing survival of neighbouring trees.*
 7. *The proposed crossover would unreasonably impact upon the health of an existing street tree.*
- 4.4 The permit applicant lodged an *Application for Review* with VCAT on 8 February 2019. 47 objectors lodged a *Statement of Grounds* with VCAT, including 17 objectors who indicated their intention to appear and present a submission at the VCAT hearing.
- 4.5 On 5 June 2019, Council received a *Notice of an Amendment of an Application* seeking to amend the permit application by substituting amended plans for the permit application plans.
- 4.6 Among other things, the amended plans included changes that addressed grounds 1, 6 and 7 of Council's initial grounds of refusal.
- 4.7 The amended plans did not however address the remaining grounds of refusal, being grounds 2, 3, 4 and 5. Council advised VCAT and all parties to the appeal of its decision on the amended plans by email on 19 June 2019.
- 4.8 At its Ordinary Council Meeting on 19 June 2019, Council resolved to request the Minister for Planning to prepare and approve Amendment C173 to the Port Phillip Planning Scheme, pursuant to section 20(4) of the *Planning and Environment Act 1987*. Amendment C173 sought changes to the Port Phillip Planning Scheme to extend Heritage Overlay HO8 to 3, 5, 7 and 15 Tiuna Grove, Elwood on an interim basis. Numbers 3 and 5 were to be graded as significant heritage places whilst 7 Tiuna Grove was to be graded as a contributory heritage place.
- 4.9 The request for interim control was based on heritage advice received from independent heritage consultant Peter Andrew Barrett. The advice considers the houses at 3, 5, 7 and 15 Tiuna Grove *are part of the historic development of the area in the early twentieth century, which was stimulated by the Victorian Railways electric tramway established in 1906 (closed 1959). Aesthetically, the houses are early and fine examples of mid 1910s and 1920s bungalow styles.*
- 4.10 The Minister for Planning's delegate subsequently approved Amendment C173, which came into effect on 4 July 2019.
- 4.11 It is noted that Amendment C174 is currently on exhibition. This amendment seeks to extend HO8 on a permanent basis, including numbers 3 and 5 Tiuna Grove. This amendment does not prejudice the current application.



- 4.12 By way of VCAT Order dated 15 July 2019, VCAT listed new hearing dates for the appeal, being 2, 3, 4, 5, 6, 9 and 10 December 2019.
- 4.13 On 30 August 2019, Council received a second *Notice of an Amendment of an Application*. It is this second amendment to the plans that is the subject of this report.
- 4.14 The amended application seeks approval for the construction of a three storey building comprising 12 dwellings above a basement car park for 21 cars and part demolition, alterations and additions to the two existing dwellings on the site.
- 4.15 A full hearing is scheduled to be heard by VCAT over seven days on 2, 3, 4, 5, 6, 9 and 10 December 2019.

5. PROPOSAL (AS AMENDED)

- 5.1 A comparison of the various sets of plans that have been submitted by the applicant is provided by the following table:

	Initial application plans (Advertised) Rev TP-4 27 September 2018	First set VCAT amended plans Rev TP-11 5 June 2019	Second set VCAT amended plans Rev TP-17 30 August 2019
Number of dwellings	22	19	14 (including two retained dwellings)
Number of basement car spaces	44	38	22
Location of crossover to basement	adjacent to the southwest corner of the site	adjacent to the northwest corner of the site	adjacent to the northwest corner of the site
Demolition	All buildings on the site	All buildings on the site	Demolition of the block of flats at 1 Tiuna Grove, part demolition of existing dwellings at 3 and 5 Tiuna Grove
Layout	Three storey building straddling all three allotments	Three storey building straddling all three allotments	Retention of dwellings at 3 and 5 Tiuna Grove with first floor rear additions. Three storey building at 1 Tiuna Grove transitioning to two storeys behind 3 and 5 Tiuna Grove



Garden area (percentage of site area)	33	40	41
Site coverage (percentage of site area)	64	60	51 shown on plans 54 actual (refer recommended condition 1a)
Permeability (percentage of site area)	22	27	31
Height (metres)	10	10	10 to 5.3
Front setbacks (metres), north to south	5.3, 6.5 and 2.9	5.5, 6.5 and 5.5	5 (new building), No change to existing dwelling setback at 3 Tiuna Grove No change to existing dwelling setback at 5 Tiuna Grove
North (side) setback (metres)			
Basement	3.7	3.4	2.4
Ground floor	4	4	3
First floor	4	4	2 to 2.5
Second floor	4	4	2 to 2.5 (to the balustrade) to 4
East (rear) setback			
Basement	2.1	3.4	0
Ground floor	4	4.1	Varies b/w 0 and 3.1
First floor	4	4	Varies b/w 1.1 and 3.1
Second floor	4	4	4

5.2 The design and materiality of the new building would be similar to that proposed by the initial application and the first set of amended plans, albeit with a smaller footprint. Specifically, the design of the building would include:

- A flat roof and a generally horizontal form expressed by wide solid balustrades and horizontal courses of brick and mortar. The horizontal form would be punctuated by extruded rounded walls/columns comprising vertical bricks and concrete render
- The front fence would comprise solid white bricks and be constructed to a height of 1.8m with a second curved element finished in concrete render



- The dominant facade material would be white brick, punctuated by zinc balustrades and breeze block balustrades
- Window, door frames and screens would comprise black aluminium

5.3 It is noted that the plans do not include details of the proposed fencing on the rear and side boundaries. This could be addressed by permit condition. **(refer recommended condition 1w)**

5.4 It is also noted that the applicant, by way of email dated 9 October 2019, provided Council with an updated set of shadow plans (Rev TP-17.1) in response to Council's advice that the submitted shadow plans were incorrect. The updated plans demonstrate that at least 40m² of each neighbouring secluded private open space would continue to receive sunlight, which would satisfy the overshadowing standard of Clause 55

6. SUBJECT SITE AND SURROUNDS

Description of Site and Surrounds	
Site Area	2356m ²
Existing building & site conditions	<p><u>1 Tiuna Grove:</u> Three storey block of 5 flats with a flat roof constructed in front of an original one storey single dwelling. Five at-grade car spaces and double garage are located at the rear of the site and accessed from Ormond Road via a laneway abutting the rear boundary</p> <p><u>3 Tiuna Grove:</u> Single storey brick dwelling with cross gable and extruded gable end tiled roof. A crossover adjacent to the northwest corner of the site provides vehicular access to the site. This site is located within interim Heritage Overlay, Schedule 8 and identified as a significant heritage place.</p> <p><u>5 Tiuna Grove:</u> Single storey brick dwelling with gable end roof. This property is provided with two vehicle crossovers, one adjacent each front corner of the site. This site is located within interim Heritage Overlay, Schedule 8 and identified as a significant heritage place.</p>
Surrounds/neighbourhood character	<p><u>1A Tiuna Grove and 32 Ormond Road - land abutting north (side) boundary</u> Each of these properties is located within a Residential Growth Zone, whilst the front portion of 1A Tiuna Grove and the whole of 32 Ormond Road are also affected by Design Development Overlay 18-2.</p> <p>1A Tiuna Grove abuts the subject site for a length of approx. 22m and accommodates a three storey block of brick flats that are setback 1.7m from Tiuna Grove behind a 1m high</p>



	<p>brick fence. An existing crossover is located adjacent to the southwest corner of the site.</p> <p>The flats are setback 2.7m from the boundary shared with the subject site, which is fenced with 2m high palings. This setback area comprises concrete driveway.</p> <p>Habitable room windows at each level face the subject site. 32 Ormond Road abuts the remaining 22m of the north (side) boundary of the subject site. This land accommodates a three storey block of flats that are setback 2.7m and 4.9m from the boundary shared with the subject site. Habitable room windows at each level face the subject site.</p> <p><u>7 Tiuna Grove - land abutting the south (side) boundary</u> This property is located within Heritage Overlay, Schedule 8 and is identified as a contributory heritage place.</p> <p>The site accommodates a two storey brick dwelling with attic style gable end roof that is setback 7.5m from the street behind a 1.9m high brick fence that is punctuated by timber picket gates at either end. The property is provided with two crossovers, one adjacent the northwest corner and one adjacent to the southwest corner of the site.</p> <p>At the boundary shared with the subject site, the dwelling is setback 5.2m and 5.6m. A verandah at the rear corner of the dwelling is setback 1.3m from the common boundary. A six metre high deciduous hedge is located along the boundary shared with the subject site, which is fenced with 1.9m high palings.</p> <p>Four ground floor habitable room windows and two doors face the subject site.</p> <p>Secluded private open space wraps around the northeast corner of the dwelling and comprises an area of 250m².</p> <p><u>2, 4, 6 and 8 Bendigo Avenue – land opposite 3.2m wide laneway abutting rear boundary of the subject site</u> Each of these properties is located within Heritage Overlay (Schedule 8). All but number 2 Bendigo Avenue are identified as providing a significant contribution to the heritage overlay.</p> <p>2 Bendigo Avenue accommodates a three storey block of brick flats that are setback 2.2m from the east side of the laneway which is fenced with 2.1m high palings. The flats do not have any windows facing the subject site but does have windows facing south with oblique views of the subject site.</p>
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	<p>4 Bendigo Avenue accommodates a single storey brick dwelling that is setback 9.6m from the east side of the laneway. The rear boundary of this site is fenced with 2.1m high palings, a gate and a 3.4m high brick wall associated with a garage at the southwest corner of the site. The rear yard to this property is located to the north of the garage.</p> <p>6 Bendigo Avenue accommodates a single storey brick dwelling that is setback 5.9m from the east side of the laneway. This setback area comprises the rear yard of the dwelling and a carparking area that is accessed from the laneway via gates. The remainder of the rear boundary is fenced with 2.2m high iron sheet.</p> <p>8 Bendigo Avenue accommodates a double storey dwelling that that is setback approx. 9m from the east side of the laneway. Within this setback area is the rear yard, a swimming pool and an outbuilding that is constructed on the rear boundary to a height of approx. 2.9m. The remainder of the boundary is fenced with 3.4m high iron sheet.</p>
<p>Locality</p>	<p>The subject site is approximately 100m from the edge of the Ormond/ Glen Huntly Roads Neighbourhood Activity Centre, which includes several bus routes, including bus route 246 (Elsternwick to Clifton Hill), which forms part of the Principal Public Transport Network.</p> <p>The Elwood Foreshore, which includes bicycle and walking paths, is located approximately 250m to the south of the subject site.</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?
<p>Neighbourhood Residential Zone - Schedule 6</p>	<p>Pursuant to Clause 32.09-4, an application to construct a residential building on a lot above 650m² must provide a minimum garden area of 35% of the lot.</p> <p>Pursuant to Clause 32.09-6, a permit is required to construct two or more dwellings on a lot.</p> <p>A development must meet the requirements of Clause 55.</p> <p>Pursuant to Clause 32.09-10, a building must not be constructed for use as a dwelling or a residential building that:</p> <ul style="list-style-type: none"> • exceeds the maximum building height specified in a schedule to this zone; or • contains more than the maximum number of storeys specified in a schedule to this zone.



	<p><u>Schedule 6</u></p> <p>Pursuant to Clause 5.0, a building used as a residential building must not exceed a height of 10 metres and 3 storeys</p>
Heritage Overlay - Schedule 8	<p>Pursuant to Clause 43.01-1 a permit is required to:</p> <ul style="list-style-type: none"> • Demolish or remove a building. • Construct a building or construct or carry out works

8. PLANNING SCHEME PROVISIONS

8.1 Planning Policy Framework (PPF)

The following Planning Policies are relevant to this application:

- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 19 Infrastructure

8.2 Local Planning Policy Framework (LPPF)

The following local planning policies are relevant to this application:

- Clause 21.03 Ecologically Sustainable Development
- Clause 21.04 Land Use
- Clause 21.05 Built Form
- Clause 21.06 Neighbourhoods
- Clause 22.04 Heritage Policy
- Clause 22.12 Stormwater Management (Water Sensitive Urban Design)
- Clause 22.13 Environmentally Sustainable Development

8.3 Other relevant provisions

- Clause 52.06 Car Parking
- Clause 55 ResCode
- Clause 65 Decision Guidelines

8.4 Relevant Planning Scheme Amendment/s

At its Ordinary Council Meeting on 19 June 2019, Council resolved to request the Minister for Planning to prepare and approve Amendment C173 to the Port Phillip Planning Scheme, pursuant to section 20(4) of the Planning and Environment Act 1987. Council also resolved at this meeting to seek Ministerial Authorisation to prepare and exhibit Amendment C174 to the Port Phillip Planning Scheme applying heritage controls on these properties on a permanent basis.



The request for interim heritage controls was based on heritage advice received from independent heritage consultant Peter Andrew Barrett. The advice considers the houses at 3, 5, 7 and 15 Tiuna Grove *are part of the historic development of the area in the early twentieth century, which was stimulated by the Victorian Railways electric tramway established in 1906 (closed 1959). Aesthetically, the houses are early and fine examples of mid 1910s and 1920s bungalow styles.*

The advice recommended that the boundaries of the HO8 precinct be realigned to include the numbers 3, 5, 7 and 15 Tiuna Grove.

The Minister for Planning's delegate subsequently approved Amendment C173, which applies an interim Heritage Overlay to 3, 5, 7 and 15 Tiuna Grove.

The amendment came into effect on 4 July 2019.

Amendment C174, which is currently on exhibition, seeks to extend HO8 on a permanent, rather than interim, basis, including numbers 3 and 5 Tiuna Grove.

It is noted that concerns have been raised by objectors that the proposed application prejudices the C174 amendment process. It is also noted that as a result of the Interim Heritage Controls the amended proposal must be assessed against the relevant heritage policy and, as such, any decision will not prejudice the consideration of any future permanent controls.

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.

Heritage Advisor

I believe that, overall and on balance, this amended design (Revision TP17, dated 30 August 2019) represents a good heritage outcome.

This amended design will retain the two houses on this development site that are of early twentieth century origin (3 and 5 Tiuna Grove), which Council has identified to be of heritage value to the HO8 Elwood-Glenhuntly Road, Ormond Road precinct. An adjacent early twentieth century house (1 Tiuna Grove), and a Modernist block of flats, that are both on this development site, are not considered to be of heritage value to this precinct and their removal is considered acceptable.

Another early twentieth century house (7 Tiuna Grove), also identified to be of heritage value to the HO8, is not part of the subject development site.

The sites (1, 3 and 5 Tiuna Grove) are to be redeveloped with a two-three storeys (plus basement) residential unit complex.

Demolition

The extent of demolition is acceptable as it appears the visible elevations of the houses will be retained. However, the demolition plans are incomplete (roof and elevation demo plans are required) and some details are required – for example to confirm that the chimneys within the retained sections will also be retained.



Also, given the extent of demolition, together with the extent of excavation in proximity to the houses a condition of permit must be a demolition method statement, including an engineers report, that clearly sets out the measures that will be taken to ensure the structural stability of the retained sections of buildings will be maintained during construction.

New buildings and additions to existing

The proposed alterations to the two houses to be retained (3 and 5 Tiuna Grove), which will incorporate a level into their existing roof spaces, will not alter fabric that is visible from Tiuna Grove. Development to the rear of these two retained houses, which will take the form of a two-storey (plus basement) wing of the proposed development, will be recessive, as much of the mass of this rear portion of the development will be concealed from view from Tiuna Grove by the retained houses.

The three-level plus basement portion of the development at 1 Tiuna Grove is responsive to the retained houses in terms of its height and setbacks. Its mass steps down from a three-level form to a two-level form towards the house at 3 Tiuna Grove. The front setback of this portion of the development steps in, providing a transition between the shallower setback of 1a Tiuna Grove and the deeper setbacks of 3 and 5 Tiuna Grove. The architectural expression of this portion of the development at 1 Tiuna Grove is of a restrained contemporary design, the horizontality of its façade composition not dissimilar to that seen on the facades of 1930s Moderne flat design (see, for example, Windermere at 49 Broadway, which the proposed building seems to reference) found in this heritage precinct and in other parts of Elwood.

There are minor aspects of the design of the new building that could be refined to further enhance the development's response to the street. One aspect is the materiality of the façade, which predominantly comprises white 'bricks' laid horizontally and vertically, with a small amount of concrete render to one section. My minor quibble is there doesn't appear to be any 'logic' to the application of the render in terms of the composition of the façade. For a comparison, see the application of render and brick at Elwood House in Ormond Road, at the corner of Pine Avenue, where the two materials contribute to the considered expression of the design (bricks used as detail for balconies and framing devices around openings, render elsewhere). No specific recommendations, just a comment for them to think about and potentially respond to.

Conservation works

Conservation works that are proposed to the two retained houses is another good heritage outcome of this amended design. This will enhance the appearance of the houses, and, in a broader sense, their contribution to Tiuna Grove and its heritage character.

The reinstatement of the details to the porch of no.3 is supported, and the removal of the non-original balustrade and posts to the porch at no.5 is supported.

However, the proposed detailing of the reconstructed verandah at no.5 may not be correct. The original plans for no.5 (see attached) show the verandah as having paired posts, but with lower brick piers with a curved balustrade between. It's possible that it wasn't constructed this way, but in the absence of any other evidence, I believe this should be used as the basis of reconstruction. This will require lowering the height of the masonry pier section - deleting the rendered section would be sufficient.

Driveways and front fences to nos. 3 & 5



The statement of changes describes the 'construction of low level brick fences consistent with the design and detailing of the interwar era at 3 & 5 Tiuna Grove'. However, no plans have been provided. In principle, this sounds OK, but detail is required – also these houses are transitional Edwardian (constructed in 1916 and 1917) and the design should reflect this.

It is also proposed to introduce a driveway to no.3, while one of the driveways to no.5 will be retained and the other will be removed.

In relation to no.3 (which currently does not have a 'formal' driveway) it is my preference not to introduce one. I note the house will have sufficient basement parking. The driveway is shown as continuing up to the front of the house, which I believe will detract from its setting.

With no.5 I would prefer for the removal of both driveways, but as both already exist (and it is proposed to delete one) and there is better visual separation from the house, retention of the north side driveway is acceptable.

Conclusions and recommendations

This amended proposal is supportable from a heritage perspective. Any adverse impacts from this development will be mitigated by the retention of the two early twentieth century dwellings and the conservation measures to be applied to them.

Further detail is required in relation to:

- *Full demolition plans and demolition method statement*
- *Front fences to nos. 3 and 5*

Also:

- *Recommend changes to reconstruction of no.5 porch details, as described above, and deletion of driveways.*
- *Recommend review of façade materiality to new building, as described above*

Planning Officer response:

With respect to the lack of detail regarding the extent of proposed demolition, it is recommended that any permit that may issue should include conditions that require the following to be submitted to Council's satisfaction:

- a complete set of demolition plans, including roof and elevations. **(refer recommended condition 1b)**
- a demolition method statement, including a structural engineer's report, that clearly sets out the measures that will be taken to ensure the structural stability of the retained sections of buildings will be maintained during construction. **(refer recommended condition 3)**
- plans of the proposed front fences to 3 and 5 Tiuna Grove. **(refer recommended condition 1d)**
- amendments to the verandah of the dwelling at 5 Tiuna Grove by lowering the height of each of the masonry piers, deleting each of the roughcast masonry elements and extending each of the dual timber posts to the top of the lowered piers. **(refer recommended condition 1e)**



With respect to the crossover to 3 Tiuna Grove, it is considered appropriate to require removal of the crossover and deletion of the proposed driveway.

The location and design of the proposed driveway would require cars to be parked in front of the dwelling, which would fail to meet heritage policy where it encourages:

- *new on-site car spaces to be located at the rear of the property or in a side setback*

Furthermore, removal of the existing crossover would improve traffic safety given that the crossover is located on a bend in the road alignment.

Such an outcome could be achieved by permit condition should one issue (**refer recommended condition 1f**) and would result in the added benefit of providing additional landscaping opportunities within the front yard, thereby improving the developments' response to the garden character of the area.

With respect to the crossover to 5 Tiuna Grove, the associated driveway would allow for cars to be parked within the side setback and would therefore satisfy heritage policy. It is noted there is an existing driveway in this location currently.

Furthermore, given the narrow carriageway width of Tiuna Grove, retention of the crossover would maintain a turnout area to assist in reducing conflicts between vehicles travelling in opposite directions.

With respect to the materiality of the façade, this matter is discussed later in this report as part of the planning officers' response to comments provided by Council's Urban Design Officer.

Urban Design Officer

Position: Supported with conditions

From an urban design perspective, the proposal is supported. It is recommended some conditions be included to ensure the development meets community expectations and the design response meets the objectives outlined in the referenced policies.

Materiality and appearance

The dominant facade material in the proposed apartment design is Robertson's white brick 'Blanco'. This material lacks warmth and is in contrast to the neighbourhood's adjacent building's red brick character and off-white trim. It is recommended a more appropriate colour choice be explored using warmer hues so that the proposed development contributes to the existing character rather than draws attention from the neighbourhood and adjacent heritage buildings.

Refer to policies:

Standard B1 of Clause 55.02-1 'Neighbourhood character'

Standard B31 of Clause 55.06-1 'Design detail'

Integration with the street

The proposal's integration with the street has improved substantially from the previous design with the retention of two existing buildings. This is supported by clause 21.05-1 Heritage objective 1.3 that supports the restoration and renovation of heritage buildings and discourage their demolition. Likewise, the reinstatement and retention of existing fences to 3 & 5 Tiuna Grove is to be commended.

The proposed front fence for the apartment development at 1 Tiuna Grove curves back in to the site presenting an open path with concealed areas between the street to the lobby area. Developments should be designed with good lighting and surveillance of internal access ways and the design response creates a void of overlooking along this internal pathway from the street. Also, the proposal includes a section of fence that is within three metres from the title boundary and 1.8m high. This is 300mm higher than policy allows and results in diminished observation of the street and internal walkways and presents an exclusive characteristic that is taller than the adjacent sites. As such, it is not supported.

The proposal's design response should prioritise safety, accessibility and security and be integrated with the street with its own sense of identity. This can be achieved with a legible, safe and accessible passageway from the street to the main lobby and lift area with no concealed areas or planting that obscures the walkway. To achieve an appropriate design response, is recommended that:

- *the front fence be limited to 1.5m high to improve passive surveillance to the street and to complement the design of the front fences on adjoining properties.*
- *the title boundary between 1 & 3 Tiuna Grove be fenced from the dwelling to the street providing a transitional space and a sense of personal address that is separate from the detached dwelling and apartment building and*
- *a pedestrian entry gate at or near the title boundary be designed and installed to control access to the apartments and monitor pedestrian movements by the residents.*
- *services, intercom, security and mail drop be co-located at the interface to the street.*

Access and Parking

The site is located on a tree-lined street providing pedestrian amenity that encourages people to walk to the beach from surrounding areas.

With three basement car park provisions assigned to both 3 & 5 Tiuna Grove in the proposal, the additional driveways/crossovers are providing for visitor parking at the expense of pedestrian amenity. The design response should ensure car parking spaces and structures are sited and designed to minimise their impact on the streetscape.

By removing the crossovers would allow more space for on-street parking, reduce pedestrian and vehicle conflict, reduce vehicular noise within the site, reduce urban heat island effect outside the site, encourage alternative modes of transport and create attractively landscaped large open spaces with the capacity to establish new trees and relocate existing trees within the site. As such, it is recommended that the driveways/crossovers proposed for 3 and 5 Tiuna Grove be removed from the proposal and pavement areas are reinstated and landscaping reviewed.

Recommended conditions

From an urban design perspective, the proposed development is supported with recommendations to include the following conditions:

1. *A warmer colour than 'Blanco' is chosen that responds to the neighbourhood's red brick character and off-white trim and complements, not contrasts with the other proposed materials.*



2. *Ensure the apartments located on 1 Tiuna Grove are secure and pedestrian access is safe and controlled from the street.*
3. *Create a sense of personal address by providing appropriate on the title boundary including the front fence that is to be constrained to no more than 1500mm high (up to 3000mm back from the title boundary).*
4. *Remove driveways/crossovers proposed for 3 and 5 Tiuna Grove and reinstate pavement areas and landscaping.*

Planning Officer response:

The materiality of the building and design of the front fence of the current proposal are essentially the same as that proposed by the initial application and the first set of amended plans. Council officers have consistently raised concerns with these elements throughout the application process.

With respect to the materiality of the building, it is agreed that a 'warmer' response to the context of the building and site should occur. As indicated by Council's Heritage Advisor it is also recommended that the composition of the facade be further enhanced and refined. Such outcomes could be achieved by permit condition (**refer recommended condition 1g and 1h**).

With respect to the front fences to the proposed new building, it is agreed that the proposed 1.8m height of the fences is inappropriate as it would not respect the immediate context of the site. It is noted that the elevation of the straight front fence shows it as solid whilst the ground floor plan nominates it as including 'perforations'.

Whilst the height and design of fences within the wider context varies, most fences allow for visual connectivity between front gardens and/or the facades of buildings. The proposed fences do not respect this theme.

It is therefore recommended that any permit that may issue should include a condition that reduces the height of the front fences to no more than 1.5m and introduces visual permeability to the design of the fence (**refer recommended condition 1i and 1j**).

It is agreed that the design of the pedestrian access to Tiuna Grove would not provide a sense of address. The entry to the new building from Tiuna Grove should therefore be re-designed to delineate entry to the site and to include the provision of mailboxes. Such an outcome could be achieved by permit condition (**refer recommended permit condition 1k and 1l**). It is also considered appropriate to provide a fence to delineate the side boundaries between each of the buildings (**refer recommended condition 1x and y**).

Transport Safety Engineer

Car Park Layout:

Access ways:

- *Vehicle access is proposed via one proposed and two existing crossovers to Tiuna Grove. Access way dimensions have been provided in accordance with Clause 52.06 of the planning Scheme being at least 3m wide.*
- *It is proposed to provide a traffic signal system within the site to reduce potential conflicts between entering / exiting vehicles, this is considered acceptable.*



- *Pedestrian sight triangles have been provided in accordance with the planning scheme, and are considered acceptable.*

Car parking spaces:

- *It is proposed to provide off-street parking spaces that are 2.6m wide, 4.9m long and accessed from an aisle at least 6.4m wide.*
- *Additional 300mm clearance has been provided adjacent to any walls/columns and columns have been located outside door opening envelopes. This is considered acceptable.*
- *Planning scheme requirements for any garage require a minimum internal length of 6.0m. Plans provided by the applicant do not indicate internal length. Please update plans to provide internal length dimensions, noting at least 6m is required.*
- *If updated plans are provided which indicate an internal length of 6m is provided within each garage, then the proposed car parking layout is considered acceptable.*

Headroom and gradient of ramps:

- *Plans provided by the applicant do not indicate headroom clearance within the basement car park or along the access ramp. Can additional plans please be provided which indicate headroom clearance along the access ramp and within the basement car park. Noting at least 2.1m clearance is required*
- *Updated plans provided by the applicant indicate that the basement access ramp will be provided in accordance with Clause 52.06 of the planning scheme. Can the plans please be updated to include ramp grades and lengths to confirm accordance with planning scheme*

Bicycles

- *Clause 52.34 of the planning scheme does not require off-street bicycle parking spaces to be provided for the proposed land uses.*
- *Given the applicant proposes to provide 22 off-street bicycle spaces, this exceeds the planning scheme requirement and is considered acceptable.*

Loading and Waste Collection

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

Traffic Generation and Impact:

- *Typical residential developments generate a daily traffic rate of between 4-7 vehicle movements per dwelling, with peak hour rates 10% of daily volumes. Based on these rates, the development is expected to generate an additional 70 vehicle movements a day and 7 vehicle movement during the peak hours.*
- *Overall the traffic generation from the proposed development is expected to have a negligible impact on surrounding local streets and intersections.*

On Street Parking:



- *The existing on-street parking is generally unrestricted, with the exception of 2P restrictions on weekends (10am-8pm) between 1st November and 31st March, with relatively low turnover.*
- *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.*
- *It is proposed to reinstate one existing crossover, keep 2 existing crossovers and create a new crossover to Tiuna Grove (3 crossovers in total). This will result in the loss of up to 1 on-street parking space along Tiuna Grove.*
- *In order to reduce the loss to on-street parking, it is recommended reducing the number of crossovers to the site. Given the existing crossover to 3 Tiuna Grove is located on a bend, to improve safety and on-street parking numbers it is recommended removing and reinstating kerb and channel.*

Parking overlay and parking provisions:

- *Clause 52.06 of the planning scheme requires 18 off-street parking spaces to be provided for the proposed land uses, all of which are residential spaces.*
- *Given the applicant proposes to provide 26 off-street car spaces, this exceeds the planning scheme requirement and is considered acceptable.*
- *Note that the assessment of the appropriate car parking provision lies with Statutory Planning.*

Other:

- *Any redundant crossover must be reinstated to Council satisfaction.*
- *Any proposed crossover must be installed to Council satisfaction.*
- *The Applicant is responsible for all costs, including those incurred by Council for associated on-street parking signage and line-marking changes.*

Planning Officer response:

Any permit that may issue should include conditions that require:

- the internal dimension of each triple garage shown as a minimum of 6m in length and 8.4m in width (**refer recommended condition 1m**).
- the visitor car parking space widened to at least 3.2m with the remaining car parking spaces designed and dimensioned in a manner that complies with the car parking design standards of the planning scheme (**refer recommended condition 1n**).
- the basement and ramp to have a headroom clearance of no less than 2.1m (**refer recommended condition 1o**).
- ramp grades and lengths to be shown on the plans and designed in accordance with the planning scheme (**refer recommended condition 1p**).
- crossovers to be installed and re-instated to Council's satisfaction with the Applicant responsible for all costs, including those incurred by Council for associated on-street parking signage and line-marking changes (**refer recommended condition 12**).



9.2 External referrals

The application was not required to be externally referred.

10. PUBLIC NOTIFICATION/OBJECTIONS

- 10.1 It was determined that the initial proposal may have resulted in material detriment therefore Council gave notice of the proposal by ordinary mail to the owners and occupiers of surrounding properties (95 letters) and directed that the applicant give notice of the proposal by posting 6 notices on the site for a 14 day period, in accordance with Section 52 of the Planning and Environment Act 1987.
- 10.2 The initial application received 59 objections and a further seven objections were received after the decision to refuse the application was issued.
- 10.3 The key concerns raised are summarised below (officer comment will follow in italics where the concern will not be addressed in Section 9):

- Excessive scale and mass
- Traffic impacts
- Car parking impacts
- Absence of visitor parking
- Impact upon the heritage and neighbourhood character
- Approval would create a precedent for similar developments
- Demolition of existing dwellings
- Amenity impacts during construction

This is not a relevant planning consideration

- Overlooking
- Glare
- Minimum garden area not achieved

The current application would provide the amount of garden area that is required by the zone

- Noise
- Loss of sunlight and daylight
- Loss of trees and vegetation
- Impact on neighbouring trees along south boundary of subject site
- Sightline triangle encroaches upon neighbouring land
- Traffic signal incompatible with neighbourhood character
- Noise from basement entrance
- Insufficient detail with respect to privacy screening
- Noise from rooftop plant and equipment



- Failure to respond to purposes of the zone and local policy
- Absence of public and communal open space
- Height of front fence
- Insufficient front setback
- Excessive site coverage
- Impact on street trees

10.4 Following the applicant providing notice to objectors that it had lodged an *Application for Review* with VCAT, 47 objectors lodged a *Statement of Grounds* with VCAT, including 17 objectors who have indicated their intention to appear and present a submission at the VCAT hearing.

10.5 VCAT required the applicant to advertise the amended plans received by Council on 2 September, which are the subject of this report. In response to these plans, 13 statements of grounds have been received by Council, which include the following additional concerns:

- Fumes and light spill from basement entrance;
- Failure to respect the heritage character of the area;
- Excessive demolition;
- Failure to respond to housing growth policy at Clause 21.04.

10.6 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

Do the amended plans address the issues that led to the previous Council position to refuse the application?

11.1 An assessment of the proposed amendments with respect to the grounds of refusal is provided as follows:

1. *The proposed development fails to provide the mandatory minimum garden area or the Neighbourhood Residential Zone.*

The garden area analysis at Plan A-018 (PDF page 21 of 27) demonstrates that the prescribed garden area would be provided. This ground of refusal has therefore been addressed by the current set of amended plans.

2. *The proposed development fails to achieve the purpose of the Neighbourhood Residential Zone or the objective of Schedule 6 to the NRZ.*

The purposes of the NRZ are (as relevant):

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*



- *To recognise areas of predominantly single and double storey residential development.*
- *To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.*

Schedule 6 to the Neighbourhood Residential Zone includes the following neighbourhood character objectives (Schedule 6)

- *To maintain the distinctive garden suburban character including larger lot sizes with generous landscaped front and side setbacks*

In terms of height/storeys, the three storey portion of the new building would be approximately 1m higher than the existing building located on the site and 1m higher than the neighbouring block of flats to the north. At the rear of the site, where the new building would be sunk into the ground, it would be approximately 2.3m higher than the existing two storey block of flats on the opposite side of the rear laneway. These differences in height would ensure that an acceptable transition in building form would occur and the building would comfortably integrate with its surroundings.

The three storey building form would then transition down to two storeys where it would be located adjacent to the older single storey building forms. Such an outcome would satisfy Council policy where it seeks to ensure that building forms are no more than one storey higher than neighbouring buildings.

With respect to garden character, officers considered that the initial application plans and the amended set of plans did not provide sufficient opportunity for meaningful landscaping.

The current set of plans however represent an improved response to the garden character of the area. Opportunities would be provided for an integrated landscaping response to the front yards (including the opportunity to relocate the existing Canary Island Palm within the front setback of 3 Tiuna Grove) and side setbacks of the existing/retained dwellings which would improve the sites presentation to the street.

The current set of plans also provide opportunity for landscaping within the front setback of the new building at 1 Tiuna Grove. It is noted that the existing block of flats at 1 Tiuna Grove are setback approximately 3m from the street whilst the proposed new building would be setback 5m from the street. The proposed building would therefore provide for an improved landscaped outcome compared to that which currently exists.

Similarly, the deep soil landscaping opportunities provided along the north (side) boundary of the subject site would represent a significant improvement to that which already exists along that boundary.

At the rear of the site, three deep soil landscaping areas would be provided, one at each rear corner of the site and one central to the boundary. These deep soil



areas, along with adjoining courtyards would provide opportunities for landscaping that would soften the edge of the site.

Further opportunities for landscaping would be provided between the new building and the existing/retained dwellings. The landscape plan submitted by the applicant highlights these opportunities.

It is therefore considered that the extent and location of landscaping would respect the garden suburban character of the area.

3. *The proposed development fails to meet all the objectives of Clause 55.*

Whilst the amended development does not meet all of the standards of Clause 55, it would however satisfy all of the objectives of Clause 55.

The standards that would not be met are as follows:

Standard B17 - Side and Rear Setbacks

North (side) elevation:

The top of the brick wall to Apartment 11, which would form the edge of the planter adjacent the living room, would be setback 2m from the common boundary. The standard prescribes a setback of 2.5m. The wall/planter would therefore extend approximately 0.5m beyond the building envelope prescribed by this standard, which is shown in figure 1 below.

The parapet to the second floor would also extend beyond the building envelope prescribed by Standard B17. At the front corner of the building, the second floor would extend approximately 1.1m beyond the envelope, which is also shown in figure 1 below.



Figure 1: Part western elevation highlighting ResCode setback

It is noted that the western elevation appears incorrect in terms of the side setback from the northern boundary insofar as it shows a concrete rendered wall extending approximately 0.2m into the 2m side setback. Any permit that may issue should include a condition that rectifies this error. **(refer recommended condition 1z)**

At the rear corner, the parapet of the building would extend approximately 0.4m beyond the prescribed envelope.

It is considered that a variation to the standard would be acceptable in this instance as the north elevation would not unreasonably impact upon existing daylight to windows opposite, nor would it contribute to overshadowing of neighbouring secluded private open space.

Further, landscaping within the setback area and within proposed planters along the elevation would assist in softening the built form when viewed from the neighbouring property, thereby minimising visual bulk impacts.

In terms of neighbourhood character, it is considered that the side setback would adequately respond to its context as it would be similar to that of the neighbouring block of flats and the block of flats that currently exist on the subject site.

East (rear) elevation:

As indicated by figure 2 below, the parapet to Apartment 12 at third floor would extend 0.1m beyond the envelope prescribed by Standard B17.



Figure 2: Part eastern elevation highlighting ResCode setback

Four portions of the parapet to Apartments 9 and 10 at second floor would extend a maximum of 0.5m beyond the Standard B17 envelope. The remainder of this elevation would meet Standard B17.

It is considered that a variation to the standard would be acceptable in this instance. Whilst the non-compliant portions of the east elevation would contribute to overshadowing of the secluded private open space at the rear of 4 Bendigo Avenue at 3pm, the extent of overshadowing would be within the limits prescribed by the overshadowing standard of Clause 55/ResCode.

In terms of visual bulk, the changes in height of the building, variations in setbacks, fenestration and mix of materials to this elevation would break-up the massing of the building in an acceptable manner.

It is noted that the decision guidelines to this standard, require consideration of whether the wall abuts a side or rear laneway. When taking the rear laneway into account, the setback of the building would meet the standard and would have sufficient separation from the adjoining properties secluded private open space areas.

In terms of neighbourhood character, the rear laneway includes high fences and garages, some of which are built up to a height of approximately 3.4m, and multi-storey flats built to within approximately 2 metres of the laneway.

The proposed two storey component of the building would effectively be read as one and half storeys by virtue of it being sunk up to 1.5m below the surface level of the laneway. The combination of height and setback would ensure that the building would not unreasonably dominate the rear lane or the rear yards of properties facing Bendigo Avenue relative to existing built form abutting and adjacent to the laneway.



The three storey component, which would also be sunk into the ground, would be located amongst existing two and three storey flat development. It is considered that this component of the building represents an acceptable response to its context.

Standard B22 - Overlooking

All first floor habitable room windows and balconies would be screened to 1.7m above finished floor level to avoid direct views into the secluded private open space and habitable room windows of neighbouring properties within 9m.

It is noted that such views have been measured within a 45 degree angle from the plane of proposed windows and the perimeter of proposed balconies.

At second floor, this standard does not require screening to the proposed east facing windows and balcony as the built in planter box at this elevation would obscure views to neighbouring secluded private open space within 9m.

At the second floor of the north elevation, no screening is proposed, which would fail to meet this standard as overlooking of neighbouring windows would be possible. This failure could be overcome by permit condition should one issue. **(refer recommended condition 1q)**

It is noted that the plans do not include details of the screens demonstrating their efficiency at preventing overlooking. This could be addressed by permit condition **(refer recommended condition 1s)**, noting that the full height screens to the north facing bedroom windows of Apartment 7 should be reduced to a height of 1.7m to improve the internal amenity of these rooms. **(refer recommended condition 1r)**

Furthermore, to ensure that the privacy screens do not unreasonably impact upon the internal amenity of dwellings, any permit that may issue should include a condition that requires the screens to maximise outlook, ventilation and daylight whilst ensuring that overlooking of neighbouring habitable room windows and secluded private open space is prevented. **(refer recommended condition 1s)**

Standard B28 - Private Open Space

All ground floor apartments, apart from Apartment 4, would be provided with the amount of open space prescribed by this standard.

Apartment 4 would be located with two areas of open space, one area would be located to the west of the dining room, the other to the east of the living room. Whilst the total area of open space to Apartment 4 would be 8m² less than the 40m² prescribed by this standard, the prescribed area of *secluded* private open space, which is 25m² with a minimum dimension of 3m would be provided (28m² provided).

It is considered that the amount of secluded private open space provided would meet the reasonable needs of residents, thereby ensuring that the objective of this standard would be met.



It is noted that the decision guidelines of the standard require consideration of the availability of and access to public or communal open space. In this regard it is considered that the subject site has excellent access to public open space along the foreshore, which is approximately 240m to the south of the subject site.

Standard B31 - Detail Design

As indicated by Council's Urban Design Advisor, the extensive use of white brick fails to respond to the common muted colours of building fabric within the street. As indicated earlier in this report, this issue could be addressed by permit condition should one issue.

Standard B32 - Front Fences

The front fence to 1 Tiuna Grove would be solid brick and constructed to a height of 1.8m above NGL.

Whilst the height and design of fences within the street varies, most fences allow for visual connectivity between front gardens and/or the facades of buildings. The proposed front fence does not respect this theme.

As indicated earlier in this report, this issue could be addressed by permit condition should one issue.

Standard B34 - Site Services

Bin storage would be located within the basement which is considered acceptable.

As indicated earlier in this report, mailboxes are not shown on the plans. This could be addressed by permit condition.

Plant and equipment would be located on the roof and within the basement. It is noted however that the roof services are not shown on the elevations. Any permit that may issue should include a condition that requires this information including a requirement that the roof services be visually screened and acoustically attenuated. **(refer recommended condition 1t)**

It is noted that the plans do not include the location of gas meters, water meters and/or electricity meters. Any permit that may issue should include a condition that requires these services to be nominated on the plans. **(refer recommended condition 1u)**

Standard B35 - Energy efficiency

Whilst the proposal would not unreasonably impact upon the energy efficiency of existing dwellings on neighbouring lots, the application material does not include a Sustainable Design Assessment report.

Any permit that may issue should include a condition that requires such a report including a requirement that the report demonstrates that the development would



not exceed the maximum NatHERS annual cooling load of 30 per cent. **(refer recommended condition 6)**

Standard B38 - Deep Soil areas and canopy trees

The subject site comprises an area of 2356m². Table B5 to this standard prescribes 236m² of deep soil areas with minimum dimension of 6m.

In excess of 400m² of the site would be deep soil area with a minimum dimension of 6m. Additional deep soil areas with minimum dimensions of less than 6m would be located with the north and south side setbacks and within part of the rear setback.

Table B5 to this standard prescribes the provision of three large (12m high) trees or six medium (8-12m high) trees.

The landscape plan submitted by the applicant for discussion purposes (not as part of the formally substituted amended plans) includes, among other shrubs and ground covers, two large trees at the front of the site and 13 medium size trees, thereby satisfying this standard. It is noted that the existing tall Canary Island Palm is also proposed to be relocated within the front setback of 3 Tiuna Grove. Any permit that may issue should formalise this landscape plan. **(refer recommended condition 16)**

Standard B39 - Integrated water and stormwater management

This standard prescribes a stormwater management system that is designed to meet the current best practice performance objectives for stormwater quality as contained in the Urban Stormwater – Best Practice Environmental Management Guidelines (Victorian Stormwater Committee 1999) as amended.

Whilst a stormwater management plan has not been submitted as part of the amended application material, it could be required by permit condition should one issue. **(refer recommended condition 9)**

Standard B40 - Noise impacts

It is considered that the entrance to the basement car park has the potential to introduce unreasonable noise (and fumes) to neighbouring dwellings. The entrance is adjacent to neighbouring habitable rooms and does not include any solid structures separating it from neighbouring rooms. The plans do not include a section or show any detail in regard to how the basement ramp will be acoustically treated along its northern edge.

Any permit that may issue should include condition that requires a solid wall to be introduced to the north side of the basement entrance, extending from the west wall of the master suite of Apartment 2 to the line of the first floor front façade to appropriately attenuate this interface. **(refer recommended condition 1v)**



Standard B45 - Waste and recycling

Whilst a waste management plan has not been submitted as part of the amended application material, it could be required by permit condition should one issue. **(refer recommended condition 15)**

4. ***The extent of screening required to prevent overlooking of existing neighbouring secluded private open space and/or habitable room windows would unreasonably impact upon the internal amenity of several dwellings within the proposed development.***

The current set of plans do not address this ground of refusal, it is considered that this issue could be addressed by permit condition should one issue. **(refer recommended condition 1s)**

5. ***The proposed development fails to encourage alternative modes of transport.***

This ground related to the surplus of car parking initially proposed which was considered contrary to Council's Sustainable transport objectives and strategies.

The initial application proposed 44 spaces for 22 dwellings, which represented a surplus of 18 spaces. The first set of amended plans did not adequately address this ground of refusal with 39 spaces proposed for 19 dwellings, which represented a surplus of 15 car spaces.

The current set of amended plans proposes 21 resident car spaces and one visitor space for 14 dwellings, which represents a surplus of seven car spaces (including the visitor space).

It is considered that the surplus would be minor and has sufficiently addressed the original ground of refusal and therefore is acceptable, noting that 16 bicycle spaces would be provided, which would encourage alternative modes of transport.

6. ***The proposed development would unreasonably impact on the health and ongoing survival of neighbouring trees.***
7. ***The proposed crossover would unreasonably impact upon the health of an existing street tree.***

The crossover has been moved from adjacent to the southwest boundary to the adjacent to the northwest boundary, where it would no longer impact on a street tree or on the adjoining trees at 7 Tiuna Grove.

No trees on or off the site would be affected by the revised crossover location. It is noted that the new crossover would require removal of a Lantana Tree on the naturestrip, which would be acceptable as Lantana Trees are considered a weed species as confirmed by Council's Arborist.

Accordingly, grounds six and seven have been addressed.



Local Policy

11.2 Clause 21.04

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.*

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

11.3 Heritage Policy – 22.04

As indicated earlier in this report, Council's Heritage Advisor has reviewed the amended plans and considers that the proposal would represent an appropriate response to heritage values subject to an improved façade restoration of 3 Tiuna Grove and details of the proposed front fences.

Additions and/or Alterations to Heritage Places

This policy seeks to ensure that:

An upper storey addition is sited and massed behind the principal facade so that it preferably is not visible, particularly in intact or consistent streetscapes.

Performance Measure 1:

Upper storey additions may meet the above policy for siting and massing if the following measures, as appropriate, are achieved:

- *They are sited within an "envelope" created by projecting a line of 10 degrees from the height of the base of the front parapet or gutter line on the main façade and extending to the rear of the heritage place (illustration 2 or 3), or*
- *In exceptional cases where the heritage place is located in a diverse streetscape and the design of the proposed addition is considered to be an appropriate contextual response, they are sited within an "envelope" created by projecting a line of up to 18 degrees from the height of the base of the front parapet or gutter line on the main façade of the heritage place.*

With respect to the above policy, the first floor addition to 3 Tiuna Grove would be located behind, and no higher than, the existing ridge of the transverse gable roof. Further, the first floor addition would be setback more than 18m from the street. The siting of the first floor addition would therefore meet the above policy as it would not be visible from the street.

With respect to 5 Tiuna Grove, the first floor addition would be sited within a 16 degree envelope, which would satisfy Performance Measure 1.

It is noted that application of the 18 degree sightline is considered appropriate in this instance as the street is considered diverse. This assessment of the streetscape is



supported by the Statement of Significance for Heritage Overlay 8, which recognises the architectural diversity of the area.

It is also noted that the new building, where it is located at the rear of 3 and 5 Tiuna Grove, would not project above the 18 or 10 degree sightline specified by Performance Measure 1.

As indicated earlier in this report Council's Heritage Advisor considers that:

The proposed alterations to the two houses to be retained (3 and 5 Tiuna Grove), which will incorporate a level into their existing roof spaces, will not alter fabric that is visible from Tiuna Grove. Development to the rear of these two retained houses, which will take the form of a two-storey (plus basement) wing of the proposed development, will be recessive, as much of the mass of this rear portion of the development will be concealed from view from Tiuna Grove by the retained houses.

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 one adjacent site, has an equivalent frontage setback to the heritage place or a setback configuration that maintains a reasonable vista to the heritage place.*

The setback of the proposed new building at 1 Tiuna Grove would not correspond with the front setback of 3 Tiuna Grove, thereby not meeting Performance Measure 2.

Nonetheless, it is considered that the front setback of the new building would satisfy the overarching policy as the front setback of the new building would be greater than the front setback of the existing block of flats on the site. This larger setback, would improve the existing vista to the retained heritage dwellings, thereby ensuring that the overarching policy intent would be satisfied.

As indicated earlier in this report, Council's Heritage Advisor considers that:

The front setback of this portion of the development steps in, providing a transition between the shallower setback of 1a Tiuna Grove and the deeper setbacks of 3 and 5 Tiuna Grove.

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 form of the new building would step down in height from 1 Tiuna Grove to the existing/retained dwelling at 3 Tiuna Grove. This transition in height is considered an appropriate design response.

In terms of the proposed buildings response to the scale of the area, Heritage Overlay 8 includes a variety of architectural styles and building forms, including inter-war single storey dwellings, inter-war double storey apartment buildings and double storey Victorian dwellings.

It is considered that the proposed new three storey building, which would have a height that is commensurate with an older style two storey building, would respect the eclectic scale of buildings in the area. Further, the proposed three storey building would replace an existing building in the same location and of a similar height.

As indicated earlier in this report, Council's Heritage Advisor considers that:

The three-level plus basement portion of the development at 1 Tiuna Grove is responsive to the retained houses in terms of its height and setbacks. Its mass steps down from a three-level form to a two-level form towards the house at 3 Tiuna Grove.

In terms of materiality and design detail, subject to changes recommended by Council's heritage and urban design advisors, it is considered that the proposed new building would complement the character and appearance of the streetscape.

Demolition

Council's Heritage Advisor has indicated that *the extent of demolition is acceptable as it appears the visible elevations of the houses will be retained.*

The planning officer agrees with this assessment.

Car Parking

It is policy to:

- *Discourage new vehicle crossovers in the front of a property with a narrow street frontage or in streets with few or no crossovers.*
- *Encourage new on-site car spaces to be located at the rear of the property or in a side setback area.*

The proposal seeks to delete one crossover (adjacent to the southwest corner of the site) and introduce a new crossover (adjacent to the northwest corner of the site). Such an outcome would result in no net increase in vehicle crossovers which is considered acceptable.



Two existing crossovers, one to each of the existing/retained dwellings, would be kept.

The crossover to 3 Tiuna Grove would provide access to a new car parking space in front of the retained dwelling. Such an outcome would not achieve the outcomes sought by policy. It is considered that this crossover and associated driveway and carparking space should be deleted. (**refer recommended condition 1f**)

The crossover to 5 Tiuna Grove would provide access to a car parking space to the side of the existing/retained dwelling which would be consistent with the outcomes sought by policy.

11.4 Traffic and Parking

Council's traffic engineer has indicated that traffic generated by the proposed development would likely have a negligible impact on surrounding local streets and intersections.

Further, subject to permit conditions, the design of the carpark would be acceptable and would satisfy the carparking standards of the planning scheme.

In terms of the number of car parking spaces, the proposal would provide the requisite number of car parking spaces prescribed by the planning scheme.

12. COVENANTS

12.1 The applicant has completed a declaration that the proposal 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 on the subject land, being all that land described as follows:

- (1 Tiuna Grove) - Volume 11467 Folio 692, Lot 3 on Plan of Subdivision 005443
- (3 Tiuna Grove) - Volume 04075 Folio 923, Lot 4 on Plan of Subdivision 005443
- (5 Tiuna Grove) - Volume 09418 Folio 855, Lot 1 on Title Plan 093982U

13. OFFICER DIRECT OR INDIRECT INTEREST

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

14. OPTIONS

14.1 Approve as recommended

14.2 Approve with changed or additional conditions

14.3 Refuse - on key issues

15. CONCLUSION

15.1 The proposed development as shown on the amended plans circulated on 30 August 2019, subject to the recommended conditions, complies with the relevant State and Local planning provisions because it would:



- Be an appropriate response to the heritage character of the area, which includes a number of apartment buildings and dwellings from a range of eras. In particular, the development would retain existing heritage dwellings whilst the new building would comfortably integrate with its surrounds.
- Comply with all of the Clause 55 objectives and most of its standards (subject to conditions).
- Provide a curated landscape response that would complement the landscape character of the area.
- Not cause any unreasonable off-site amenity impacts.

15.2 It is recommended that Council inform the Tribunal (VCAT) and all parties to the appeal that it supports the application subject to conditions, as per Recommendation "Part A".

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ATTACHMENTS

1. 772/2018 - VCAT - further information - Amended Plans
2. 772/2018 - nearby objectors map