



6.1 **57 DRAPER STREET, ALBERT PARK**
LOCATION/ADDRESS: **57 DRAPER STREET, ALBERT PARK**
EXECUTIVE MEMBER: **LILI ROSIC, GENERAL MANAGER, CITY STRATEGY AND SUSTAINABLE DEVELOPMENT**
PREPARED BY: **PHILLIP BEARD, PRINCIPAL PLANNER**

1. PURPOSE

To consider and determine an application for demolition of a contributory graded building and construction of two, two-storey dwellings with open fronted garages and a new front fence on the subject site.

2. EXECUTIVE SUMMARY

WARD:	Lake
TRIGGER FOR DETERMINATION BY COMMITTEE:	Demolition of a Contributory graded building.
APPLICATION NO:	111/2018
APPLICANT:	Tract Consultants
EXISTING USE:	Residential/dwelling
ABUTTING USES:	Residential.
ZONING:	Neighbourhood Residential Zone 2
OVERLAYS:	Heritage Overlay 444
STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL	Expired

- 2.1 This proposal is for the demolition of a contributory graded building comprising a single dwelling to be replaced by two, two-storey dwellings (plus roof terraces). The plans that are the subject of this report and assessment have been revised and formally substituted on 17 August 2018. The plans aim to resolve some design concerns, principally expressed by Council and the substituted plans are outlined in section 5 of this report. The revised plans were circulated to all parties but not formally re-advertised as they represent a reduction in the proposal.
- 2.2 Council previously refused a similar application at the subject site. The Tribunal decision relating specifically to that previous application supported the proposed demolition. The Tribunal determined that the existing building would have to be so substantially changed that little if any heritage fabric would remain. It is therefore considered that demolition of the dwelling must now be conceded.



- 2.3 Notwithstanding, the Tribunal refused the previous proposal based on their assessment of the replacement building alone. Its key concern was height, concluding that the proposed three-storey building was unacceptable but that a two-storey building would be appropriate.
- 2.4 The proposed replacement building subject to this second and current application has two storeys in accordance with the Tribunal's determination.
- 2.5 The application was advertised and received six objections concerned mostly about demolition, excessive building bulk and site cover, neighbourhood character, overshadowing and height.
- 2.6 It is considered that the replacement building as shown on the revised plans would represent an appropriate piece of new architecture for this section of Draper Street. It is also considered that the new building would meet the relevant local policies and would not result in unreasonable amenity impacts. Two car parking spaces are proposed for each dwelling in accordance with the Planning Scheme requirement.
- 2.7 Recent Tribunal decisions dealing with the broader issue of demolition of graded buildings are referred to in this report and outline Council's ability to allow demolition of such buildings.
- 2.8 It is considered that the current proposal is a well-designed replacement building that takes account of the previous Tribunal concerns and is therefore considered now suitable for approval.
- 2.9 It is recommended that the application be supported subject to conditions included on any permit issued.

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 demolition of the existing building and construction of a two, two storey dwellings and new front fencing at 57 Draper Street, Albert Park
- 3.3 That the decision be issued as follows:

Amended Plans

1. 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 forming part of the application but modified to show:
 - a) The existing side entry pit modified to Council's standard design detail SD2111, whereby the pit is wholly contained within the crossover and that its



cover is bicycle safe.

- b) The internal dimensions of both garages to meet Clause 52.06 (Car Parking) so as to measure 3.5m by 6m.
- c) The crossovers each reduced to no more than 2.5m in width (2.5m for the west crossover, no more than 2.5m widening for the east crossover)
- d) Full pedestrian sight triangles at the outer corners of each garage in accordance with Clause 52.06 (Car Parking) together with the immediate fence and planting no higher than 900mm.
- e) The screening to the sides of the roof balconies/decks to be zero percent transparent together with the un-screened sections of the balconies either screened to 1.7m above floor level with zero transparency.

No Layout Change

2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

External colours and Finishes

3. All external materials finishes and paint colours are to be to the satisfaction of the responsible authority and must not be altered without the written consent of the Responsible Authority.

Equipment and Services Above Roof Level

4. No equipment, services and architectural features other than those shown on the endorsed plans shall be permitted above the roof level of the building unless otherwise agreed to in writing by the Responsible Authority.

Plant & Equipment

5. No plant, equipment or domestic services (including any associated screening devices) or architectural features, other than those shown on the endorsed plan are permitted, except where they would not be visible from the primary street frontage (other than a lane) or public park without the written consent of the Responsible Authority.

Outdoor Lighting

6. Outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.

Updated Environmental Sustainability Documents

7. Before the development starts, updated ESD documentation and reports are to be submitted and if satisfactory, endorsed to form part of this permit. The updated documentation is to include the relevant matters as originally submitted, but must as a minimum, also address the following:
 - Provision of a stormwater plan indicating the site's catchment areas and treatment methods as per a stormwater modelling report,
 - Provide a rainwater tank with a STORM reliability rating of at least 80% and indicate the tank's location and water re-use functions
 - Provide a Maintenance Manual outlining WSUD measures appropriate for the development,



- Update the BESS report in terms of noting the correct Water Category,
- Achieve a minimum of 6.6 stars for the NATHERS assessment.

Maintenance Manual for Water Sensitive Urban Design Initiatives

8. 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.

Incorporation of Sustainable Design Initiatives

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

Incorporation of Water Sensitive Urban Design initiatives

10. 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.

Privacy Screens Must be Installed

11. Privacy screens as required in accordance with the endorsed plans must be installed prior to occupation of the building and thereafter maintained to the satisfaction of the Responsible Authority.

No equipment or services

12. No plant, equipment or domestic services (including any associated screening devices) or architectural features, other than those shown on the endorsed plan are permitted, except where they would not be visible from the primary street frontage (other than a lane) or public park without the written consent of the Responsible Authority.

Vehicle Crossings

13. 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. Any 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.



Applicant to Pay for Reinstatement

14. 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:
- Pay the costs of all alterations/reinstatement of Council and Public Authority assets necessary and required by such Authorities for the development.
 - Obtain the prior written approval of the Council or other relevant Authority for such alterations/reinstatement.
 - Comply with conditions (if any) required by the Council or other relevant Authorities in respect of alterations/reinstatement.

Walls on or facing a boundary

15. Before the occupation of the development allowed by this permit, all new or extended walls on or facing the boundary of adjoining properties and/or a laneway must be cleaned and finished to a uniform standard to the satisfaction of the Responsible Authority. Unpainted or unrendered masonry walls must have all excess mortar removed from the joints and face and all joints must be tooled or pointed also to the satisfaction of the Responsible Authority. Painted or rendered or bagged walls must be finished to a uniform standard to the satisfaction of the Responsible Authority.

Car parking Areas must be Available

16. Car and bicycle parking and loading areas and access lanes must be developed and 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.

Landscape Plan

17. Before the development starts (other than demolition or works to remediate contaminated land), a detailed Landscape Plan must be submitted to, approved by and be to the satisfaction of the Responsible Authority. When the Landscape Plan is approved, it will become an endorsed plan forming part of this Permit. The Landscape Plan must incorporate:
- Buildings and vegetation (including botanical names) on neighbouring properties within 3m of the boundary;
 - All street trees and/or other trees on Council land;
 - 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;
 - Landscaping and planting within all open space areas of the site;
 - Water sensitive urban design.

Time Limits

18. This permit will expire if one of the following circumstances applies:
- The development is not started within 2 years of the date of this permit.
 - The development is not completed within 2 years of the date of commencement.

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

- 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.
- The applicant/owner would 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.
- The developer shall show due care in the development of the proposed works so as to ensure that no damage is incurred to any adjoining properties.
- 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.
- 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.

4. RELEVANT BACKGROUND

- 4.1 There have been several applications for this site, all of which proposed demolition of the existing buildings and replacement with two new dwellings. These are summarised below.
- 4.2 Planning Permit application 165/2015 proposed demolition of the existing buildings and construction of two, three-storey dwellings together with a reduction in car parking. That application was refused under delegation essentially on grounds of non-alignment with local policies – including the demolition guidelines of Heritage Policy (Clause 22.04), Rescode (Clause 55), inappropriate response to local character and inadequate car parking provision.
- 4.3 A Tribunal review of Council's refusal was lodged, but was withdrawn before a hearing.



- 4.4 Planning Permit application 823/2016 proposed demolition of the existing buildings and construction of two, three-storey dwellings together with construction of a crossover and waiver of car parking for one of the dwellings.
- 4.5 That application was refused by Council under delegation on grounds similar to the previous application.
- 4.6 This application proceeded to a VCAT hearing and the Tribunal upheld Council's refusal directing that no permit be issued. In its decision, the Tribunal, whilst refusing the proposal as a package noted that retaining the existing building would be problematic and that retention of the existing building would leave so little heritage fabric as to bring into question the concept of what a heritage building is. It supported demolition of the existing dwelling but refused the proposal on the basis of its assessment of the replacement building.
- 4.7 The Tribunal also considered Council's concern that the uppermost level was excessive and a poor response to the local street. In summary, the Tribunal agreed and considered that the ground and first levels were an appropriately site responsive but that the uppermost level was inappropriate, visually dominant and discordant. It was this element that led to the Tribunal's refusal. It considered that the proposed building's character and presentation to the street would have been satisfactory subject to the uppermost level being deleted. It did not believe this should be achieved by permit condition but rather, that a fresh application should be made.

5. PROPOSAL

- 5.1 It is proposed to demolish the existing buildings on the site and construct two, two-storey dwellings with open garages, roof terraces partly incorporated into the roof spaces and new front fencing.
- 5.2 Plans have formally been substituted under Section 57A of the Planning and Environment Act 1987. They have not been re-advertised as they represent a reduction in the proposal but have been circulated to all objectors. The following description relates to the formal revised plans.

Note that the site abuts a small lane to the east and that the proposal would in several instances, abut that lane. However, the description below where quoting the proposal's setbacks to the east measures distances to the nearest residential property on the other side of the lane.

Ground floor:

- 5.3 Two mirrored floor arrangements are proposed comprising a front facing study with living/kitchen/dining area behind for each dwelling. The west setback to No. 59 Draper Street would partly abut the boundary and partly be setback 3m. That 3m setback would be occupied by a single car parking space. The setback from the east, being No. 60 Draper Street, would be partly 2.5m at its closest and partly 5.5m, with the additional setback being occupied by a single car parking space.



- 5.4 Each car parking space would be accessed by a single crossover, that to the west dwelling being new and that to the east dwelling being a widened existing crossover. They would access one car space per dwelling each being located in an open-fronted garage.
- 5.5 The rear setback would be approximately 5m at its closest to Nos. 62 and 64 St. Vincent Place North and 2.5m to No. 66 St. Vincent Place North. The front setbacks would be approximately 1.5m to the front walls of the studies and 5.4m to the front walls of the kitchen/dining areas behind.
- 5.6 Ground floor walls would be 5.9m high.

First floor:

- 5.7 This level would continue to a mirrored floor layout comprising two rumpus rooms, two bedrooms and bathroom/ensuite areas. The proposed layout would result in side setbacks for the building's front element partly cantilevering over the car spaces below with side setbacks of 2m to the west and approximately 4.5m to the east. The side setbacks for the rumpus/bedroom areas behind would respectively be 1m to the east and 3.5m to the west.
- 5.8 The proposed rear setbacks would generally be 4.7m to Nos 62 and 64 St Vincent Place North behind and the same 2.5m as the level below to No. 66 St Vincent Place North.
- 5.9 Above the first floor two balconies are proposed, one per dwelling. Each balcony would be approximately 18m² in area and would partly be set within the roof form of each dwelling with the floor of each balcony approximately 1m below the ridge line of each roof.
- 5.10 The balconies would each be setback just over 6m from the front boundary, 2.5m from the west boundary and almost 5m from the east boundary. They would be approximately 4.7m and 6.6m from the rear boundaries.
- 5.11 One section of 1.7m high vertical blade screening (25% transparency) is proposed on each side face of the balconies, being the sides closest to the front of the site. A 'sitting pool' is proposed adjacent to each balcony with flush mounted solar panels in front of and behind each balcony.

General description:

- 5.12 As facing the street, the proposal would present as a single building of a restrained and relatively simple design. It would be modest contemporary design with vertical windows at both levels, a pitched/transverse ridge metal roof and an almost full width projecting ground level eave acting as a form of front verandah/cover. The roof pitch would be 30 degrees.
- 5.13 A low 1.25m high front fence is proposed comprising metal pickets almost immediately behind the partly open car spaces.



- 5.14 The side and rear elevations would be similarly treated but would have a simpler design, although the sides of each garage would comprise full height vertical battens as opposed to a solid wall. External cladding as facing the street would mostly be a combination of light grey composite panel beneath a dark grey metal roof.
- 5.15 The building's overall height to its ridge would be approximately 6.8m to the roof ridge, but the balcony side screening would extend to approximately 7.6m in height above ground.

6. SUBJECT SITE AND SURROUNDS

Site area	297m ² .
Existing site conditions.	<p>The site is irregular in shape. It would be generally rectangular, aside from a series of right-angled rear boundaries. The site appears to abut a bluestone laneway, but titles show that this is in fact an easement that is part of the subject site that forms the east portion of the site. That easement runs north-south and also has a return at the rear running east-west. It is used to give access to the rears of properties fronting St. Vincent Place North. The proposal does not involve any impeding of that easement.</p> <p>The site currently contains a single storey dwelling that is in poor condition. It is setback approximately 6.7m from the east boundary (across the easement) aside from a small galvanised metal structure at the front that is setback 2.4m from the east boundary, across the easement.</p> <p>The existing dwelling abuts the west side boundary and is setback approximately 1.5m from the front boundary. It is orientated east-west across the site and is of weatherboard construction with a metal roof with transverse ridge.</p> <p>The rear of the site contains some single storey additions which result in the existing building occupying most of the site so that the primary open space is located in the side setback to the east.</p> <p>The site has one crossover being connected to the easement.</p>
Site Surrounds	<p>Draper Street contains a relatively wide variety of building styles and presentations. The closest interface to the east (across the easement) comprises the rear yard of No. 60 St. Vincent Place North. That is a substantial site with an altered and extended single storey dwelling fronting that street with two storey additions behind partly comprising additions to the house itself and partly comprising some outbuildings. One of those is a two storey garage/loft building at right angles to Draper Street with one other being parallel to Draper Street and abutting the street with a single storey brick wall. This arrangement results in the nearest interface to the subject site's east being the rear yard of 60 St. Vincent Place North and the end of the single storey building abutting Draper Street.</p> <p>The west interface is to a single storey Victorian dwelling with a transverse roof ridge, but one that is lower and further forward than that on the subject site's</p>



	<p>building. That dwelling is setback about 1.5m to the street, has a wood picket front fence and a full width front verandah.</p> <p>It would appear to abut the subject building with a blank wall and has a footprint similar to that of the subject dwelling although No. 59-61 Draper Street has a deeper rear yard than the subject site. It has no crossovers to the street.</p> <p>Buildings further afield in Draper Street are mostly, but not exclusively, single storey and are mostly from the Victorian era with low fencing and small front setbacks. There are, however, some 1960s dwellings and some more recent two storey additions and one contemporary terrace style development.</p>
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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?
Clause 32.09 Neighbourhood Residential Zone	A permit is required to construct two or more dwellings on a lot. A building must not exceed two storeys and 9m in height. A development should meet the requirements of Clause 55 (Rescode)
Clause 43.01 Heritage Overlay	A permit is required for all demolition and construction of building and carrying out of works.

8. PLANNING SCHEME PROVISIONS

8.1 State Planning Policy Frameworks (SPPF)

The following State Planning Policies are relevant to this application:

Clause 11: Settlement, including:

Clause 11.01-1R1: Settlement - Metropolitan Melbourne

Clause 11.02: Managing Growth

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

15.03: Heritage

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

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

8.2 Local Planning Policy Framework (LPPF)

The following local planning policies are relevant to this application:

Clause 21.03: Ecologically Sustainable Development, including

Clause 21.03-1 Environmentally Sustainable Land Use and Development

Clause 21.04: Land Use, including

Clause 21.04-1 Housing and Accommodation

Clause 21.05: Built Form, including

Clause 21.05-1 Heritage

Clause 21.05-2 Urban Structure and Character

Clause 21.05-3 Urban Design and the Public Realm

Clause 21.05-4 Physical Infrastructure

Clause 21.06: Neighbourhoods, including

Clause 21.06-3 Albert Park/Middle Park

Clause 22.04: Heritage Policy

8.3 Other relevant provisions

Clause 52.06 Car Parking

Clause 55 Construction of more than one dwelling on a lot

Clause 65 Decision Guidelines

8.4 Relevant Planning Scheme Amendments:

There are no recently gazette or proposed amendments that would directly affect assessment of this proposal.



9. REFERRALS

Internal referrals. The application was referred to the following areas of Council for comment:

9.1 Council's Heritage Advisor:

- *In response to my comments a meeting was held with the architect and options for revisions were discussed. The s.57A plans are the result of these discussions. The key change is the increase of the side setbacks of the front section at the upper level from 1m to 2m on each side. This has the effect of reducing the visual bulk of the houses, the extent of the cantilever above the carports below.*
- *In addition, slatted screens have been added to the carports to provide more definition and screening, particularly on the exposed laneway side.*

With these changes, the proposed design is now acceptable in relation to heritage.

9.1.1 **Planner's comment:**

There are no outstanding matters to address

9.2 Council's Sustainable Design Architect:

The response received in this regard is lengthy and detailed and it covered many areas in which the building should achieve Council's best practice. In summary, the key points where the Sustainability Architect requested additional detail or that the building achieve particular outcomes, are considered to be the following:

- Provision of a stormwater plan indicating the site's catchment areas and treatment methods as per a stormwater modelling report,
- Provide a rainwater tank with a STORM reliability rating of at least 80% and indicate the tank's location and water re-use functions
- Provide a Maintenance Manual outlining WSUD measures appropriate for the development,
- Update the BESS report in terms of noting the correct Water Category and
- Achieve a minimum of 6.6 stars for the NATHERS assessment.

9.2.1 **Planner Comment:**

These are considered reasonable outcomes and therefore, recommended condition 7 would require that the originally submitted documentation be updated to include reference to the above matters.

Recommended conditions 8 to 10 inclusive also require sustainable design initiatives to be undertaken and installed.

9.3 Council's Traffic Engineer:

9.3.1 **Accessways:**

- *The applicant has proposed two new crossovers via Draper Street. One crossover for each dwelling. Access way dimensions are in accordance with Clause 52.06 of the planning scheme. To reduce loss of parking, can the applicant consider the crossovers are at least 7.0m apart.*



- *Full pedestrian sight triangles have not been provided in accordance with Clause 52.06 of the planning Scheme. The applicant has proposed a 1.25m high fence. I recommend the fence and any landscape is kept at or below 900mm. This includes the fence adjacent to the laneway.*
- *The proposed crossover adjacent to the laneway (R4147) will require the relocation of the side entry pit (drain) and power pole at the developer's expense. I recommended contacting Council's Drainage Engineer to discuss possible options or relocating the proposed crossover.*
- *I recommend the applicant consider an island between the proposed crossover and laneway (R4147, access via Draper Street). Therefore, rather than having one wide crossover, it can be divided.*

9.3.2 Car park layout:

- *The proposed car space (for each dwellings) does not meet the planning scheme requirements (Clause 52.06 requires 6m long and 3.5m wide).*
- *The applicant has provided 5.4m long and 3.0m wide car park (carport).*
- *I note the storage space adjacent to the crossover indicates the door swing will encroach the car park space. I have concerns when future residents use the storage they will prop/overhang their vehicles on the footpath to open the storage doors.*

9.3.3 Headroom:

Minimum headroom complies with Clause 52.06 of the planning scheme.

9.3.4 Bicycles:

Bicycle parking is not required under the planning scheme.

9.3.5 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.*

9.3.6 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 10 vehicle movements a day and 2 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.*

9.3.7 On Street Parking:

- *The existing on-street parking is 2P 8AM-6PM MON-FR in Draper Street.*
- *The proposed crossover will result a net loss of up to one on-street parking spaces along Draper Street, this level of impact to on-street parking is considered acceptable.*



- *Provided the applicant can locate the crossovers 7.0m apart.*

9.3.8 **Parking overlay and parking provisions:**

- *Clause 52.06 of the planning scheme requires two off street parking spaces for each dwelling to be provided for proposed land uses.*
- *The applicant proposes one off-street car space for each dwelling,*
- *Given the above, the proposed development results in a shortfall of one car parking spaces for each dwelling and is seeking a waiver.*
- *Note that the assessment for the appropriate rate for car parking provision lies with Statutory Planning.*
- *Residents and visitors of the development will not be eligible for resident parking permits and will need to abide by on-street parking restrictions.*

9.3.9 **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.*

9.3.10 **Planner comment:**

- a) By way of information, the above comments note that two new crossovers are being proposed. This is not the case. As noted at section 5.4 of this report, one new crossover is proposed (that to the west of the site) whilst that to the east is proposed to be a widening of the existing crossover accessing the easement.

The key matters raised in the above referral relate to the following matters, with relevant planner comment and assessment under each matter.

b) **Car parking provision:**

Clause 52.06 states that studies are usually to be considered as bedrooms for the purposes of calculating car parking numbers. In this instance, the plans show each dwelling with two bedrooms plus a study. Normally, such a layout would constitute three bedrooms requiring two car spaces per dwelling.

However, the proposed studies would be directly inside the entrance doors and form part of the entry foyer to each dwelling. Additionally, the stairs to the first floor begin at the end of each study, as does the small step down into the living/kitchen area. Each study would therefore be the only access point to the front door, the first floor stairs and the access to the rear rooms of each dwelling.

It is highly unlikely that such a space would ever be used as a permanent bedroom meaning that each dwelling can validly be considered as having two bedrooms requiring only one car space each as proposed.

c) **Car space dimensions:**

The plans show each car space measuring 5.4m by 3m. Clause 52.06 suggests larger dimensions of 6m by 3.5m for car spaces inside garages or



carports. Therefore, recommended condition 1 (b) would require the internal dimensions of both carports to meet Clause 52.06.

d) Kerbside car park retention through crossover design:

The applicant's traffic report indicates that there would be 5.8m length of kerb between the two crossovers. A length greater than this would be desirable but with a crossover at each end of the kerb in question, with one of those being almost a double width crossover, it is considered that 5.8m kerb length would be sufficient to allow for a single car to conveniently park in that location.

Council's Traffic Engineer has suggested a better outcome could be achieved. This would involve reducing the width of the crossovers from the 3m to 2.5m each. It was acknowledged by the Traffic Engineer that this would result in the crossovers being narrower than the garages, but access would not be compromised. This measure would also result in there being no need for a splitter island between the easement crossover and the east dwelling's crossover. Therefore, recommended condition 1 (c) would require the crossovers to be reduced to 2.5m in width. Subject to this condition, Council's Traffic Engineer confirms that a 7m distance between crossovers is not required.

e) Safety sight lines:

Recommended condition 1 (d) would require the relevant sight lines be shown together with adjacent planting and fencing as no higher than 900mm.

Design impact on an adjacent drainage pit:

Recommended condition 1 (a) would require the existing side entry pit to be modified to Council's standard design detail SD2111, whereby the pit is wholly contained within the crossover and that its cover is bicycle safe.

10. PUBLIC NOTIFICATION/OBJECTIONS

10.1 The proposal was advertised by way of Council giving notice by ordinary mail to the owners and occupiers of surrounding properties (18 notices sent) and by placing one public notice on site for a minimum 14 day period, in accordance with s.52 of the *Planning and Environment Act 1987*.

10.2 Six objections have been received with concerns raised summarised as follows:

- Inappropriate demolition of the existing building and would be contrary to the purpose of the Heritage Overlay.
- Demolition would result in inconsistent application of the planning scheme provisions noting other instances where buildings have been retained.
- Excessive streetscape bulk/width, the flat front would be out of character and design excellence potentially not achieved.
- Excessive overshadowing and height.



- Poorly located car parking, the easement should be used such that its existing crossover would not have to be widened to the extent proposed.
- Excessive site coverage.
- Limited streetscape contribution to the immediate surrounds and two dwellings on a narrow site would be at odds with streetscape character and grain size.
- Noise impacts from roof deck whose use would also be out of character.

10.3 A consultation meeting took place on 25 September 2018 and no resolutions or agreements were reached.

10.4 The matters raised by these objections are discussed in the following section of this report.

10.5 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

11.1 Key Issues:

Based on the various Planning Scheme settings and provisions together with the grounds of objections, it is considered that this proposal raises the following key issues:

- Demolition.
- The replacement building.
- Car parking and access arrangements.
- Amenity impacts, Rescode assessment

An assessment of these matters follows using the local policy provisions together with the relevant Planning Scheme provisions. Assessment of the above matters are guided by Clauses, 21.05-1, 21.05-2, 21.06-3 and 22.04. The Planning Scheme provisions further used in the following assessment are Clauses 43.01, 43.02 and 54.

11.2 Demolition:

11.2.1 It is proposed to demolish all existing building on the site. As was pointed out in the background section of this report, this is the third application proposing full demolition of all buildings on the subject site.

11.2.2 The subject buildings have a contributory grading under Council's Heritage Policy (Clause 22.04). At Clause 22.04-5 of the Port Phillip Planning Scheme, a contributory place includes buildings which may have been considerably altered but have the potential to be conserved.

11.2.3 It is Local Planning Policy (Clause 21.05 – Built Form) to “*support the restoration and renovation of heritage buildings and discourage their demolition*”.

11.2.4 Strategies to achieve this include to:



- Protect, conserve and enhance all identified significant and contributory places, including buildings, trees and streetscapes.
 - Support the restoration and renovation of heritage buildings and discourage their demolition.
- 11.2.5 Clause 22.04 (Heritage Policy) of the Port Phillip Planning Scheme includes the following objectives:
- To retain and conserve all significant and contributory heritage places.
 - To discourage the demolition of significant and contributory heritage places.
- 11.2.6 Clause 22.04 states that where a permit is required for the demolition of a contributory building, it is policy to refuse the demolition unless and only to the extent that:
- The building is structurally unsound, and either
 - The replacement building and/or works displays design excellence which clearly and positively supports the ongoing heritage significance of the area, or
 - In exceptional circumstances the streetscape is not considered intact or consistent in heritage terms.
- 11.2.7 The permit applicant lodged a structural engineer's report (the same as submitted with previous applications) which concludes that the building is not structurally unsound, but concludes that it is in poor condition and would require substantial work and replacement of existing fabric to restore it. The applicant's heritage report concludes that the subject building could be demolished because of the previous Tribunal conclusion on the heritage value of the subject building.
- 11.2.8 Accordingly, the proposed demolition of the existing dwelling would be inconsistent with the first test of the above policy. The applicant seeks to set aside the policy to allow demolition of the dwelling based on the fact that the Tribunal has previously concluded that the condition of the existing building would require such extensive replacement of fabric that very limited heritage fabric and value would remain, bringing into question the overall aims of the Heritage Policy and Heritage Overlay.
- 11.2.9 The Tribunal decision indicated that the design quality of the then assessed replacement building would have been supported were it not for the third level.
- 11.2.10 The Heritage Policy is helpful in informing matters that the Responsible Authority is required to consider in exercising the discretion provided by Clause 43.01 (Heritage Overlay) of the Scheme. However, it is not intended by the Scheme that the policy be applied without considering the particular circumstances of the subject site, the contribution of the existing building to the heritage precinct and the merits of the replacement buildings or in this instance, the previous Tribunal decision at the subject site.
- 11.2.11 This view is shared by the Tribunal in a number of VCAT cases, including in Port Phillip CC v A & M Reis [2001] VCAT 489 (31 March 2001), where Deputy President Bruce stated that:



Policy, however strongly expressed, does not remove from the Planning Scheme the discretion to grant a permit which provides the very context within which the policy is to be applied.

- 11.2.12 In *Ianno v Port Phillip CC* [2009] VCAT 1877 (11 September 2009), Presiding Member Keddie stated that:

Clause 43.01 contemplates, indeed anticipates, demolition of buildings where there would not be an adverse affect on the significance of the heritage place – whether or not the proposed candidate for demolition is structurally unsound and the Tribunal has this broad discretion. Thus, the more salient question to be answered in this hearing is whether the proposed replacement building is acceptable under the Port Phillip Planning Scheme.

- 11.2.13 The Tribunal considered the heritage significance of the subject building in Application 823/2016 (the previous application). It was put to the Tribunal by the applicant's Heritage Advisor that:

....the building is in a poor state and devoid of much original fabric and almost all decorative elements, including the front verandah. The only original elements are the façade and door case, chimney, some skirtings and architraves and internal doors, a mantelpiece and a grate. While some of the built-in area at the back is possibly original or at least pre-1894, it is unusable and illegal in relation to current standards. Much of it would need to be demolished. In its current state overall, the dwelling is unliveable and in many respects does not comply with current standards and codes. On the basis that it would not be unreasonable to retain the façade and chimney, almost everything else would need replacement and it is questionable as to whether or not it would still be a Victorian cottage and whether or not it would still be contributory to the heritage precinct in any meaningful way. On balance, in my opinion, demolition could be contemplated given the condition of the dwelling, the extensive scope or [sic] works which would be required to renovate it and make it compliant and the mixed streetscape context in which it sits.

- 11.2.14 The Tribunal also accepted the Council's Heritage Advisor's description of the neighbourhood character:

Draper Street is very mixed in terms of building heights (single and double storey); dwelling types, eras and styles; garages and boundary walls; materials; presentation to the street and also contains built form which is actually on the rear boundaries of properties fronting St Vincent Place North. The existing heritage built form is more of a collection of individual buildings interspersed by non-heritage or intrusive elements, along street frontages rather than presenting as an intact streetscape.

- 11.2.15 In summary, the most recent Tribunal decision for the subject site found that:

- *“Structurally unsound” means “defects in the dwelling’s structure which manifest in a risk of collapse and/or make the building unsafe to occupy. There is no evidence before me that this is the case here”.*
- *[As] the building is not structurally unsound, the policy ‘test’ in clause 22.04 in respect of the demolition of a contributory building has not been satisfied.*



This, however, does not mean that a permit cannot be granted to demolish the building.

- *The remedial work required to bring the dwelling to an acceptable standard of construction and suitable for occupation is substantial.*
- *Having regard to the extent of re-construction and replacement required, there is some basis to the evidence and submissions that little of the original fabric will remain.*
- *What original fabric will remain once all the necessary reconstruction and remedial works are undertaken is a relevant consideration in this case. If all that is retained is the front façade and the surviving chimney it is questionable whether this heritage dwelling is being protected, conserved and enhanced as is sought by the Planning Scheme's policies and provisions. The extent of new fabric will far exceed the original fabric. I agree with Ms Riddett that, while the retention of the façade and chimney may make a contribution to the streetscape, there is a question as to whether the remainder of the dwelling as renovated should continue to be considered a contributory dwelling.*
- *When viewed holistically, the streetscape is an eclectic one. The retained original dwelling stock is interspersed with examples of modified Victorian dwellings, and contemporary dwellings constructed in the latter part of the last century and during this century.*
- *Draper Street is not an intact streetscape. Indeed it is quite eclectic in its composition. It has dwellings from the Victorian and Edwardian eras which have been restored, others from these eras which have been altered (some substantially), inter war flats, brick veneer post-war dwellings, contemporary dwellings and the rear of properties which front St Vincents Place North and display two-storey garage/outbuilding structures of relatively recent origin.... seven of the properties have frontage to St Vincent Place North and what they present to Draper Street is their rear abuttal. This comprises the presentation of outbuilding structures, the majority of which make little, if any, contribution to the heritage value of Draper Street.*
- *The loss of the subject building, given its characteristics and its location in a diverse streetscape, will not have an adverse impact on the significance of the heritage place. Had the building been a more intact example of its style and/or within a more intact streetscape, I may have formed a different view.*
- *Influential in my conclusion on this point is the extent of reconstruction required in order to make the building compliant with the relevant code and standards. This brings into question whether it can legitimately continue to be considered a contributory building, if this were done.*
- *My conclusion is that the demolition of the dwelling will not have an adverse impact on the significance of the heritage place.*

11.2.16 Another relevant and recent VCAT decision is *Curzon Property Investments v Port Phillip City Council and Ors* at 73 Park Road, Middle Park (31 May 2018) where VCAT allowed the demolition of a building after Council refused to allow its demolition:



- A building does not need to be intact in order to make a contribution. The definition of 'contributory heritage places' in the heritage policy itself recognises that buildings '*may have been considerably altered but have the potential to be conserved*'.
- Not all *contributory* buildings in HO444 make the same contribution. There is a spectrum of contribution. The extent of contribution will largely be a factor of the intactness.
- As highlighted in the case of Zig Inge, the Tribunal held that '*questions of heritage significance are to be assessed from the perspective of the common person rather than through the prism of any particular interest group or profession*'.
- There is no suggestion (in Council Policy) that alterations in the post-war period are to be valued as part of the diversity and layering of styles, rather it refers to '*contemporary architecture and innovative design*' adding to the existing diversity and layering'.
- Relevant considerations were that "*apart from the overall form, most of the original elements have limited visibility from the public realm*" and "*the alterations are extensive and highly visible*".

11.2.17 On the question of "restoration" the Tribunal found:

- There is a clear distinction between 'restoration' and 'reconstruction' (the latter introduces new material).
- In the absence of evidence of what the building originally looked like, or the necessary certainty to adopt 71 Park Road as a model, a fundamental requirement for both restoration and reconstruction is absent.
- It would be difficult and potentially impossible to reconstruct the building to anything resembling its original condition. The only possible result would be speculative reconstruction.
- Speculative reconstruction might be acceptable if it involved only a few items, but not when it is wholesale. In this case, it would be possible to recover the character or look of an Edwardian building, "but it would be reproduction design/mock heritage".

11.2.18 Another relevant and recent VCAT decision relates to 221 Beaconsfield Parade where the Tribunal allowed demolition of a contributory graded building.

Key findings with regard to demolition are as follows:

- It has long been held that local policy is not determinative. The policy that demolition of graded buildings that are not structurally unsound cannot be demolished cannot in fact usurp the discretion available under the Heritage Overlay. The Tribunal decision noted that it was referred to seven previous Tribunal decisions that had found and adhered to the above.
- The assessment of adverse impact on the 'Heritage Place' should relate to the entire heritage overlay (HO 444) but where such a precinct is very large, a more local assessment is reasonable.



- The section of Beaconsfield Parade was not seen as representing an 'exceptional circumstance' as referred to in local policy that would – by itself- justify demolition.
- The subject building was concluded to have a very limited level of heritage contribution and not all buildings on HO 444 have the same level of contribution, which is assessed to be on a spectrum.
- The subject building was assessed as being substantially altered with its integrity being consequently affected and further, it was assessed that there was no real prospect of restoration.
- The building was assessed as not being a good example of an Arts and Crafts dwelling and its demolition would not detract from the ability to interpret the diverse history of the precinct.

11.2.19 Whilst the existing dwelling retains some of its basic form, the Tribunal has concluded that so much fabric would need to be removed and replaced that the heritage value of the building that remained would be limited and that such a process would not represent conserving a heritage place as sought by policy. The subject building does not have a citation in the Port Phillip Heritage Review (Version 17, 2015) and it makes limited obvious architectural contribution to the street or wider area, a situation amplified by its poor condition. It was considered that demolition of the building in this instance would not be detrimental to the streetscape, neighbourhood character or heritage precinct.

11.2.20 The Tribunal also found that linking the design quality to the demolition of the current building was appropriate and essentially found that the existing building would be appropriate subject to the uppermost level being deleted.

11.2.21 If this matter were to return to the Tribunal, the Tribunal would again allow demolition of the existing building and reassess the proposal in light of the amendments made to the replacement building.

11.3 Replacement building.

11.3.1 As with the matter of demolition, guidance is provided by the previous Tribunal decision for this site. A separate and new assessment must be made of the proposal on its merits, but great weight is given to the Tribunal decision given that this latest proposal has essentially been designed to address the concerns identified by the Tribunal

11.3.2 Key findings from the Tribunal are as follows (in summary at paragraphs 47 to 49):

Height, however, cannot be assessed in isolation of the building's massing. Given the diverse nature of Draper Street, I agree that the presentation of the ground and first floors is acceptable both in the streetscape directly and in oblique angles. While it is arguably of a plain and relatively unarticulated appearance, it has some characteristics and features which reference the heritage building stock in the street.



I have some reservations regarding the restrained architecture of the proposed development, based on its sheer front elevation and relative absence of any meaningful articulation but consider it to be acceptable on the basis that it is within a streetscape which is eclectic in its composition and overall appearance. Within a street which has a greater and more coherent representation of heritage buildings, I may have formed a different view.

The rear three-storey section is problematic. It has a massing which accentuates its visual presence and building bulk. This has the result of making the development too large for its context. When considered in conjunction with its plain geometric form, the second floor will be a prominent and discordant element as viewed from both the public realm. To an extent, this can also be said in respect to the development's presentation to the rear yards of neighbouring properties. It will be a visually overwhelming presence. The proposal is an unacceptable design response to the site's context. I agree with the Council that the second floor level should be removed. In addition to addressing visual bulk concerns, such a modification will also reduce amenity impacts on adjoining properties, such as overshadowing.

- 11.3.3 It is clear that the Tribunal's key concern was that of the uppermost level. This was also Council's key concern at the time and now that the uppermost level has been removed and a few notable other changes have been made, it is considered that the latest proposal would be appropriate in its streetscape.
- 11.3.4 Clause 21.05-1 Heritage Objectives:
To conserve and enhance the architectural and cultural heritage of Port Phillip.
- 11.3.5 This objective would be best achieved by conserving and enhancing heritage places, protecting subdivision patterns, discouraging demolition, new development that respects heritage values and the scale and form of nearby buildings and discouraging new crossovers.
- 11.3.6 In this case, it is acknowledged that an existing heritage place would not be conserved but it is noted that the previous Tribunal decision determined that the extent of replacement fabric would be so great as to question the notion of what was being conserved.
- 11.3.7 It is additionally assessed that having a new building that would respect but not replicate the scale, form and style of nearby buildings would also be appropriate noting the variety of materials, forms, articulation and building ages/eras found in this street. The massing and transition down to the neighbours would be appropriate with this current design being no more than one storey higher than either neighbour.
- 11.3.8 Clause 21.05-2: Urban Structure and Character: Objectives.
- 1. To reinforce key elements of the City's overall urban structure*
 - 2. To protect and enhance the varied, distinctive and valued character of neighbourhoods across Port Phillip.*
 - 3. To ensure that the height and scale of new development is appropriate to the identified preferred character of an area.*



- 11.3.9 These outcomes would best be achieved by respecting the low rise local character of established residential areas, respecting any other identified or key character elements, with particular reference to any height standards and requirements of the Planning Scheme.
- 11.3.10 It is considered that these outcomes would be achieved. The building would be a maximum of 6.8m high (7.6m high to some screening) but with only 6m high walls. All heights would be well below the 9m maximum stipulated in the zone. The building is considered low rise and appropriate for this area. It would be no more than one storey higher than its neighbours.
- 11.3.11 Achieving the above three outcomes would also be achieved by identifying areas in the municipality where a new built form character is anticipated versus areas where the existing character should be retained. In this instance, this site and its surrounds are in an area where the existing character would be retained. However, it is again considered (and noting the most recent Tribunal decision for this site) that Draper Street is capable of sustaining some change to its character.
- 7. To protect streetscape characteristics of the established residential areas.*
- 11.3.12 These objectives would best be achieved by retaining the low rise, predominantly one to two storey scale of the local built form and at the same time, being no more than one storey higher than the lowest neighbour.
- 11.3.13 The proposal would meet these objectives. Whilst of a different style, the building would only have two storeys. It could not be argued that a two-storey building in this street would be at odds with the neighbourhood character or read as anything other than low rise.
- 11.3.14 It is also considered that there is sufficient architectural and stylistic variation in Draper Street such that it could cater for a simple yet modestly articulated contemporary building. It is acknowledged that the proposed lot or grain size would be different from what currently exists and that a different streetscape rhythm would exist.
- 11.3.15 However, the subject site is one of the widest in the area and the proposal would be designed as one streetscape element with a unifying roof. It would not appear as two small and narrow buildings.
- 9. To ensure new development minimises any detrimental impacts on neighbouring properties.*
- 11.3.16 Refer Rescode assessment later in this report.
- 10. To ensure the built form of development along the foreshore enhances its significance as a natural, recreational and tourism asset.*
- 11.3.17 This outcome would best be achieved by meeting Design and Development Overlay requirements (as is assessed later in this section).
- 11.3.18 Clause 21.06-3 Neighbourhoods (Albert Park/Middle Park):
*In areas zoned Residential 1 (now partly Neighbourhood Residential)
6.3.2 Encourage all development to respond to the following character elements:*



- *The historic, low-rise Victorian and Edwardian architectural character of the area.*
 - *The low scale of development that is predominantly 1 and 2 storeys in most streets with the exception of some taller buildings along the foreshore and in the vicinity of Albert Road.*
 - *The small size of most residential lots in the neighbourhood.*
- 11.3.19 The proposal would meet these policy objectives, although it is acknowledged that the lot or grain size would alter in light of the wider frontage of the subject site.
- 11.3.20 Heritage Overlay considerations:
- *The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.*
- 11.3.21 The existing building to be demolished is graded contributory but has been found to be in poor condition to the extent that its retention and/or restoration would involve the removal of so much existing fabric as to consequently remove much of its heritage value, a finding agreed to by the relevant Tribunal decision and supported by other Tribunal decisions. It was also found that the demolition of the existing building would not diminish the heritage significance of the heritage place.
- *Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.*
 - *Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.*
- 11.3.22 The building would be no more than one storey higher than its neighbours, would have adequate side setbacks and separations and would respond to the key finding of the Tribunal decision, being removal of the uppermost level.
- 11.3.23 It has also been previously acknowledged that the building would be a modest and contemporary design. The modest design approach is considered preferable to a highly stylized design which could dominate this section of the street.
- 11.3.24 As has previously been acknowledged, the façade of the building would not display a high level of articulation and would have what could be described as a flat vertical and wide appearance.
- 11.3.25 It is considered that the façade of the building would respond appropriately to its varied context. All its windows would project forwards of the main front wall, the full width front feature would comprise a ground level reference to nearby verandahs, the east side easement would remain as a separation to nearby buildings and would not allow the new building to occupy the full site width and the ground and first floors would have different front setbacks (1.5m ground floor, 2.5m first floor). All these responses would result in an appropriate streetscape response which would align with the Tribunal's conclusion.



11.4 Car parking and access arrangements:

- 11.4.1 As previously assessed, the dwellings are considered to have two bedrooms and thus only require one car space each. It is therefore considered that sufficient car parking is proposed.
- 11.4.2 It could be argued that the semi-open garages would be at odds with the character of the street in that car parking at the front of the site is not a commonly found feature. The car parks would be located behind gates that would match the remainder of the proposal's front fencing, visually linking the car spaces to the rest of the ground floor.
- 11.4.3 Noting that the proposal has two storeys, it is further considered that the car parks would not be a dominant feature when viewed in the context of the whole front façade.
- 11.4.4 Assessing whether the side easement should be used for at least one dwelling's car parking, it has previously been assessed that the proposed arrangement would be both practical and visually acceptable. The side easement is just over 2m wide and it is considered that using it for access could potentially raise new and separate access difficulties.

11.5 Amenity – Clause 55 (Rescode)

- 11.5.1 The proposed development would satisfy the B1 (Neighbourhood Character), B2 (Residential Policy), B4 (Infrastructure), B5 (Integration with the street), B6 (Street Setback), B7 (Building Height), B8 (Site Coverage), B10 (Energy Efficiency), B12 (Safety), B13 (Landscaping subject to condition), B14 (Access), B15 (Parking Location), B18 (Walls on Boundaries), B19 (Daylight to existing Windows), B23 (Internal Views), B24 (Noise Impacts), B25 (Accessibility), B26 (Dwelling Entry), B27 (Daylight to New Windows), B30 (Storage), B31 (Design Detail), B32 (Front fences) and B34 (Site Services) standards of Clause 55 (Rescode).
- 11.5.2 Variations have been sought and could be granted in relation to B9 (Permeability), B17 (Side and Rear Setbacks), B21 (Overshadowing), B22 (Overlooking subject to condition), B28 (Private Open Space) and B29 (Solar Access to Open Space) as follows:
- 11.5.3 Permeability:
Approximately 11% permeability is proposed.
The objective would be complied with and the extent of permeable surface, whilst limited, would be in keeping with the wider area noting that the easement (non-permeable) is required to remain paved to give proper access to neighbouring properties.
- 11.5.4 Side and Rear Setbacks:
First floor/West elevation. The proposed wall height is 5.9m and would require a setback of 1.7m. Proposed is one metre.
The variation is considered supportable as the wall in question would mostly be opposite the blank boundary wall of the neighbouring property and where not, would be opposite a narrow side interface rather than primary open space.

The proposal's footprint would be very similar to the neighbouring dwelling to the west meaning that the building would not extend into the neighbour's open space envelope.

11.5.5 Overshadowing:

There are only two properties affected by additional shadowing being abutting No. 59-61 Draper Street to the west and the rear of No. 66 St. Vincent Place behind to the south.

Between 9am and 11am, No. 59-61 Draper Street would have just over 40% of its yard shaded (a 3%-4% increase during those times), whilst at midday, shading would decrease to just over 10%. At all times after, No. 59-61 Draper Street would be unaffected by shading. Some of the shading during the above times comes from the existing building on that neighbouring site.

Therefore, more than 25% of the neighbour's yard would be shaded from between 9am and approximately 11.30am, leaving 3.5 hours of limited shadow impact. This would be less than the 5 hours of the standard, but it is noted that the increase would be generally 3% to 4% over the current situation which in this urban context is considered almost imperceptible.

The property at No. 66 St. Vincent Place North would experience shading to more than 25% of its rear yard from approximately 2.30pm onwards, leaving more than 5 hours with less than that amount of shading. It is also noted that the shading increases would generally be in the 1% to 2% range aside from at 3pm, where an additional 12% shading would occur. This is considered acceptable.

11.5.6 Overlooking:

All side and rear first floor windows are shown with 1.7m high sills. No unreasonable overlooking would result from these.

The roof decks/balconies would have 1.7m high screening (25% transparent) to approximately half the length of their sides. These would restrict overlooking to the rear yards of the properties to the east and west. However, overlooking from the unscreened sides of the balconies would still be possible.

It is considered that the proposed 25% screens should have no transparency and that the remainder of the balconies should also be screened or have their footprint/size reduced so that no portions of the neighbouring yards any closer than 14m from the balconies experienced any overlooking. This can be addressed by condition on any permit issued. (Refer recommended condition 1 (e)).

11.5.7 Private Open Space:

Each dwelling would be provided with just over 16m² of ground level open space augmented with approximately 18m² of balcony/roof deck space each. This would meet likely resident needs.

11.5.8 Solar Access to Open Space:

The balconies would have good northern access but the ground level open spaces would be to the south of each dwelling. However, it is considered that locating the open space to the rear of each dwelling (adjacent to the living areas) is the most rational design response.



The southern boundary of the year yards should be setback 7.4m from the dwelling's rear walls, but is only setback 2.5m. To achieve the standard, the depth of the dwellings would have to be reduced by just over 5m which is not practicable.

From these assessments, it is considered that there would be no unreasonable direct amenity impacts.

12. COVENANTS

There are no restrictive covenants affecting this proposal.

13. OFFICER DIRECT OR INDIRECT INTEREST

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 This application responds to the most recent Tribunal decision for this site.
- 15.2 Giving appropriate weight to the Tribunal decision whilst carrying out a full and separate **assessment**, it is considered that the proposal is supportable both in terms of demolition and the design response of the replacement building.
- 15.3 Based on the officer assessment, it is considered appropriate that a Notice of Decision to grant a Planning permit be issued.

TRIM FILE NO: P0111/2018
ATTACHMENTS
1. 111/2018 - Application - S57A - Plans
2. 111/2018 - objector map