



## Confidential Matter

### 8.1 14-16 THE ESPLANADE, ST KILDA

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*89(2)(h). A matter which the Council or special committee considers would prejudice the Council or any person.*



**8.1** [14-16 THE ESPLANADE, ST KILDA](#)

**LOCATION/ADDRESS:** 14-16 THE ESPLANADE, ST KILDA

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

**PREPARED BY:** PHILLIP BEARD, PRINCIPAL PLANNER

**1. PURPOSE**

- 1.1 To establish Council's position to put to VCAT on an application to amend an existing permit through a Section 87A VCAT process in relation to development of the site (as currently approved) for three buildings of eight levels each (in some instances, a ninth due to the slope of the land) comprising a total of 234 dwellings and 362 car spaces, 110 bicycle spaces and 42 motorbike spaces.
- 1.2 Due to the significance of the proposal, the matter is being reported to Council's Planning Committee for it to form a view regarding the revised proposal and inform VCAT of its position accordingly.

**2. EXECUTIVE SUMMARY**

<b>WARD:</b>	Lake
<b>TRIGGER FOR DETERMINATION BY COMMITTEE:</b>	Significance of proposal
<b>REFERENCE NO:</b>	1029/2016/C
<b>APPLICANT:</b>	Planning and Property Partners
<b>EXISTING USE:</b>	Residential Hotel
<b>ABUTTING USES:</b>	Residential
<b>ZONING:</b>	Part General Residential 3 and Part General Residential 1
<b>OVERLAYS:</b>	Part DDO 6-6 and part DDO 6-5
<b>STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL</b>	N/A

- 2.1 This proposal as currently approved is for the demolition of the existing buildings (no permit required) and construction of three new eight level buildings comprising a total of 234 dwellings supported by 362 car spaces, 110 bicycle spaces and 42 motorbike spaces. That approval was granted at the direction of VCAT in August 2017.
- 2.2 The site has changed ownership and the new owner wishes to develop the site generally within the approved building envelope but with a substantially altered



architectural treatment together with a substantial reduction in the intensity of the proposal by 125 dwellings down to 129 dwellings supported by 344 car spaces and 195 bicycle spaces.

- 2.3 The amended proposal lodged with VCAT would retain essentially the same heights and almost identical setbacks – aside from the rear face of building B which would be ‘squared off’ rather than angled away from the nearby boundaries – and would continue to depict three separate buildings.
- 2.4 Dwellings numbers would reduce to 129, a food/drink premises (café) would be introduced at the corner of Alfred Square and the Esplanade, car space provision would reduce to 344, bicycle provision would increase to 195 and no dedicated motorbike parking is shown. No residential visitor car parking is shown following the approval of Amendment VC 148 which removes any requirement for it to be provided.
- 2.5 The proposal, whilst maintaining three separate buildings of very similar envelopes to those currently approved, would nonetheless involve a considerable re-design of the building’s external appearance and architectural treatment.
- 2.6 The amended plans to be assessed have been lodged directly with VCAT under Section 87A of the Planning and Environment Act and this report is to inform Council so it can form a view and consequently advise VCAT of its position on the proposed revisions. Section 87A allows an applicant to apply directly to VCAT to cancel or amend a permit which was issued at the direction of VCAT.
- 2.7 The plans involve a completely revised design with more glass and two different but related architectural themes across the three buildings. Whilst showing a revised design and nearly half the density of dwellings, they would however, occupy an almost identical building envelope to that currently approved aside from some reduced setbacks in the site’s north-west corner.
- 2.8 Recent amendments to the Planning Scheme have removed all visitor car parking requirements on this site, but the Planning Scheme’s residential parking requirements have not changed. The revised proposal would exceed the relevant planning scheme car parking rates with regard to the dwellings and would allocate staff parking only (two spaces) to the proposed restaurant/café.
- 2.9 The site’s zoning, overlay and the fundamental policy settings have not changed since the previous approval and it is therefore considered that satisfactory alignment would be maintained. In short, the site remains one where an increase in dwelling density is contemplated and the site is not covered by a Heritage Overlay. As with the current approval, compliance with the DDO would still be achieved.
- 2.10 The new design shows a ground level ‘food and drink premises’. This is a relatively broad definition that is permit required in the Residential Zone and would allow restaurant/café, tavern (bar) and hotel. It is considered that the relatively close existing and proposed residential interfaces – reflected by the zoning of the land – would discourage a tavern or hotel. It is considered that ‘restaurant/café’ would be the most appropriate use for this new tenancy. The applicants have agreed to this and any



support for this proposal would require this aspect of the use changed to “restaurant/café” (refer recommended condition 1n)).

- 2.11 The amended proposal also includes numerous ancillary communal facilities, including a bar, lounge, gymnasium, library, theatre and the like, but for use by residents and their guests and would not be for general public access.
- 2.12 Generally, it is considered that the revised building would represent a better design and architectural outcome as compared to the current approval and it is recommended that VCAT be advised that Council supports the amendments as proposed subject to the following conditions.

### **3. RECOMMENDATION**

- 3.1 That the Council advise VCAT in relation to the Section 87A application to amend existing permit 1029/2016 that it would support the proposed changes, subject to the following:
- 3.2 That the permit preamble be modified to read as follows:  
'Construction of a multi-storey apartment building, reduction in the car parking requirements and use of the land for a restaurant/cafe, generally in accordance with the endorsed plans and subject to the following conditions'.
- 3.3 That existing conditions of permit 1029/2016 be revised to read as follows:

#### **Amended Plans Required**

- 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 drawn by Fender Katsalidis Architects dated 18/12/18 and submitted to the Tribunal as part of the Section 87A application to amend permit 1029/2016, but modified to show:
  - a) All bicycle spaces as being installed in accordance with the Australian standards, including each space having a clear 1.5m access aisle together with Ned Kelly spaces shown as being spaced at 0.5m intervals (min.), ground level spaces (i.e. hoops) as being spaced at 1m intervals (min.).
  - b) At least 25% of all bicycle parking spaces as being provided at ground level (not Ned Kelly style), to ensure plans are in accordance with the Australian Standards with such parking areas shown in basement level 1.
  - c) The provision and appropriate labelling of commercial (café/restaurant) waste bins with such area shown in basement level 1
  - d) Details of neighbouring fence heights
  - e) Dashed/dotted lines on the plans notated and labelled.
  - f) Greater details on the landscaping plan as to proposed fence details interfacing No. 39 Acland Street



- g) Dwelling TA G04 redesigned such that the living room is projecting beyond the bedroom and the respective locations of the living room and the bedroom reversed such that the living room is to the south and the bedroom to the north.
- h) Adjustable external shading devices to be provided to the north-east and north-west glazed facades of buildings A and C to reduce solar heat gain.
- i) Details of the proposed material and reflectivity of the roof, with all materials having a low solar absorbance.
- j) The provision of non-mechanical clothes drying facilities
- k) Depiction of a 110kL rainwater tank with notation for reuse (toilet flushing, irrigation as a minimum).
- l) The provision of a minimum 60KW solar panel installation of the building's roof with the former rating clearly notated.
- m) The number of visitor bicycle spaces increased to a minimum of 24, without any consequent reduction of the 102 resident's bicycle parking spaces.
- n) The "food and drink premises" shown as a "café/restaurant".
- o) The bin holding area on the lower ground level notated as being available for hard rubbish and charity use.

**No Alterations (Development)**

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

**Privacy Screens Must be Installed**

- 3 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.

**Walls on or facing the boundary**

- 4 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.

**Urban Art Plan**

- 5 Before the occupation of the development allowed by this permit, an urban art plan in accordance with Council's Urban Art Strategy must be submitted to, be to the satisfaction of and approved by the Responsible Authority. The value of the urban art must be at least 0.5% of the total building cost of the development to the satisfaction of the Responsible Authority. Urban art in accordance with the approved plan must be installed prior to the occupation of the building to the satisfaction of the Responsible Authority.

**Landscape Plan**



6 Concurrent with the endorsement of plans, a Landscape Plan must be submitted to, be to the satisfaction of and approved by the Responsible Authority. The Landscape Plan must be generally in accordance with the Landscape Plan Reference No TP01 – TP06, Project No18.053, dated 20.12.18, Rev D, but modified to show the following:

- a) Details of the landscape irrigation proposed.
- b) Confirmation that native *Banksia integrifolia* or similar species would be used as required by the currently approved landscape plan.
- c) Water sensitive urban design initiatives.

All species selected must be to the satisfaction of the Responsible Authority.

#### **Completion of Landscaping**

7 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 or at such later date as is approved by the Responsible Authority in writing.

#### **Landscaping Maintenance**

8 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.

#### **Wind Assessment**

9 Before the development starts, a suitably qualified person must undertake a comprehensive wind tunnel test of the entire development and a Wind Climate Assessment Report to the satisfaction of the Responsible Authority must be provided for the written endorsement of the Responsible Authority. Any modifications required to the development in order to ensure acceptable wind conditions must be submitted to and approved by the Responsible Authority as part of the plans for endorsement. The design details of any wind mitigation works must receive the endorsement of the owner's wind climate experts, preferencing the use of architectural features and planting to resolve any issues identified, to the satisfaction of the Responsible Authority.

#### **Sustainable Management Plan**

10 Concurrent with the endorsement of plans, a revised Sustainable Management Plan must be submitted to, be to the satisfaction of and approved by the Responsible Authority. The revised Sustainability Management Plan must be generally in accordance with the Sustainability Management Plan Reference 1027A, dated 20 Dec 2018, but modified to be consistent with items specified in condition 1 of this permit.

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

#### **Green Star benchmarking**

11. Prior to commencement of the development, confirmation must be provided to the Responsible Authority that the project has been registered with the Green Building Council of Australia targeting a 4 Star Green Star Design and As Built Rating.



Upon completion of the development, certification must be obtained from the Green Building Council of Australia, and provided to the Responsible Authority, that a 4 Star Green Star Design and As Built Rating has been achieved for the development.

**Incorporation of Sustainable Design initiatives**

12. The project must incorporate the sustainable design initiatives listed in the endorsed Sustainable Management Plan to the satisfaction of the Responsible Authority.

**Incorporation of Water Sensitive Urban Design initiatives**

13. 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.

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

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

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

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

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

**Site Management Water Sensitive Urban Design (larger Multi-Unit Developments)**

15. The developer must ensure that:

- No water containing oil, foam, grease, scum or litter will be discharged to the stormwater drainage system from the site;
- All stored wastes are kept in designated areas or covered containers that prevent escape into the stormwater system;
- The amount of mud, dirt, sand, soil, clay or stones deposited by vehicles on the abutting roads is minimised when vehicles are leaving the site.
- No mud, dirt, sand, soil, clay or stones are washed into, or are allowed to enter the stormwater drainage system;
- The site is developed and managed to minimise the risks of stormwater pollution through the contamination of run-off by chemicals, sediments, animal wastes or gross pollutants in accordance with currently accepted best practice.

All to the satisfaction of the Responsible Authority.



### **Waste Management Plan for Higher Density Residential Development**

16. Concurrent with the endorsement of plans, 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. The Plan must include reference to the following:

- Land use type.
- The estimated garbage and recycling volumes for the whole development.
- Bin quantity, size and colour.
- The garbage and recycling equipment to be used.
- Collection frequency.
- The location and space allocated to the garbage and recycling bin storage area and collection point.
- The waste services collection point for vehicles.
- Waste collection provider.
- How tenants will be regularly informed of the waste management arrangements.
- Scaled waste management drawings.
- Signage.

Once submitted and approved, the waste management plan must be carried out to the satisfaction of the Responsible Authority.

### **Car and Bicycle Parking Layout**

17. Before the use or occupation of the development starts, the area(s) set aside for the parking of vehicles and bicycles and access lanes as shown on the endorsed plans must be:

- Constructed.
- Properly formed to such levels that may be used in accordance with the plans.
- Surfaced with an all weather surface or seal coat (as appropriate).
- Drained and maintained.
- Line marked to indicate each car space, visitor space, bicycle space, loading bay and/or access lane.
- Clearly marked to show the direction of traffic along access land and driveways.

All to the satisfaction of the Responsible Authority.

### **Lighting**

18. External lighting of the areas set aside for car parking, access lanes and driveways must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.

### **Vehicle Crossings**

19. 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.

**Applicant to Pay for Reinstatement**

20. 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.

**Public Services**

21. 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.

**Visitor Car Parking**

22. The number and location of visitor car parking spaces as shown on the endorsed plans may only be altered with the written consent of the Responsible Authority. Prior to the occupation of the building, all visitor car parking spaces must be line marked and designated as visitor car parking to the satisfaction of the Responsible Authority and must be designated as common property on any plan of subdivision.

**Tandem Car Parking and Car Stacker Parking Allocation**

23. Each set of tandem car parking spaces, or pair of vehicle stacker parking spaces must be allocated to one residential unit respectively.

**On-Site Bicycle Parking**

24. Before the development is occupied, bicycle parking spaces must be provided on the land to the satisfaction of the Responsible Authority.

**Car Parking Allocation**

25. Without the further written consent of the Responsible Authority car parking for the approved development must be allocated on any Plan of Subdivision as follows:

- not less than one car space for each one and two bedroom apartment;
- not less than two car spaces for each apartment with three or more bedrooms;
- not less than 43 visitor spaces held in common property; and
- one storage space per apartment.



All to the satisfaction of the Responsible Authority.

**Construction Management Plan (only to be used for major developments)**

26. Before the development starts, a Construction Management Plan must be submitted to, approved by and be to the satisfaction of the Responsible Authority. The Plan must include details of (but not be limited to):

- Construction hours;
- Control of construction noise to minimise impact on neighbouring properties;
- Maintaining cleanliness in abutting streets;
- Minimising disruption to pedestrian access along footpaths;
- Management of parking of construction worker vehicles (including construction machinery), management of site deliveries and traffic management;
- The waste removal process and duration, including the positions of trucks, equipment and rubbish bins, including the on-site storage of waste construction bins as much as practicable during the project's construction stages.

Once submitted and approved the works detailed by the Construction Management Plan must be carried out to the satisfaction of the Responsible Authority.

**Public Transport Victoria**

27. The permit holder must take all reasonable steps to ensure that disruption to tram operation along The Esplanade must be kept to a minimum during the construction of the development. Foreseen disruptions to tram operations during construction and mitigation measures must be communicated to Yarra Trams and Public Transport Victoria fourteen days (14) prior. Any damage to public transport infrastructure must be rectified to the satisfaction of Public Transport Victoria at the full cost of the permit holder.

**SEPP N-1 AND N-2**

28. Any noise originating and/or emanating from the ground floor commercial tenancy must not exceed the permissible noise levels stipulated in State and Environment Protection Policy N-1 (Control of Noise from Industrial Commercial and Trade Premises within the Melbourne Metropolitan Area) and State Environment Protection Policy N-2 (Control of Music Noise from Public Premises) to the satisfaction of the Responsible Authority.

**AMENITY**

29. The amenity of the area must not be detrimentally affected by the development through the use of the ground level commercial tenancy particularly through the emission of noise, artificial light, vibration, smell, fumes, smoke, waste water, waste products.

30. **COMMUNAL FACILITIES**

The lower ground level communal facilities being the community lounge, bar, sports bar, theatre, pool lounge, yoga room, gym and golf room must not be accessible to the general public.

**Time for Starting and Completion**



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

- a) The development is not started within five years of the date of this permit.
- b) The development is not completed within three years of the date of commencement of works.
- c) The use is not started within 1 year of the completion of the building

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

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

#### **4. RELEVANT BACKGROUND**

- 4.1 Application 946/2014 proposed two eight-storey buildings and comprised 299 dwellings with 352 car spaces. Due to the number of objections received, that application was reported to Council in December 2015. Council refused the proposal. Key Council concerns related to symptoms of overdevelopment, excessive building mass; poor pedestrian permeability, awkwardly located communal facilities, non-compliance with the design objectives of the DDO and in some instances, poor internal amenity flowing from some 'sunken' dwellings and from other so-called "saddleback" layouts. The absence of a loading bay in the basement for larger trucks was also a concern.
- 4.2 The Tribunal upheld the refusal in September 2016 although its decision identified the site as a good candidate for substantial re-development, that most (but not all) interfaces and shadow impacts would have been acceptable and that there was substantial and sufficient compliance with the DDO.
- 4.3 However, the Tribunal concluded that there were a number of shortcomings relating to the appearance of the development, its presentation to the public realm (lack of sufficient articulation and breaks in the building's mass and poor relationship to adjacent public open space)), its impact on the amenity of some adjoining properties and the amenity it would provide to its occupants. The shortcomings taken cumulatively indicated that the proposal did not represent an acceptable planning outcome. The changes required to address these matters went beyond what could be achieved by permit conditions and therefore the Tribunal confirmed Council's Refusal.
- 4.4 A second application (1029/2016) was subsequently lodged and sought to address the Tribunal concerns. Following public advertising, the number of objections again required that matter to be reported to Council at which time, it was resolved to support the proposal. Council was satisfied that the change from two buildings to three, the increased setbacks to Alfred Square and the deletion of 'sunken' dwellings were sufficient to warrant support.



- 4.5 The matter again was subject of an application for review before the Tribunal and determined that a permit being issued in August 2017 following a mediated and agreed outcome between the parties.
- 4.6 Plans have been endorsed under that permit and it remains valid. That permit has not, however, been acted upon.

## **5. PROPOSAL**

- 5.1 It is proposed to demolish the existing buildings (no permit required) and construct a new development comprising three separate eight storey (plus one level in some instances due to the slope of the site) buildings above three basement levels. An overall total of 129 dwellings is proposed together with 344 car spaces and 195 bicycle spaces. The three buildings have been depicted as A, B and C with building A being in the north-west of the site (abutting no. 7 Alfred Square and No. 1-4 Bessiere Place), building B being in the south-east of the site (abutting no. 17 The Esplanade and the rear of no. 40 Acland Street) and building C being at the front of the site abutting The Esplanade and Alfred Square. More particularly, the development is described as follows:

(NOTE: For the sake of ease of description, the site is assumed to be aligned north-south with Bessiere Place to the north, Alfred Square to the south and west and The Esplanade to the south).

### Basement levels 1, 2 & 3

- 5.2 These levels would comprise most of the site's car parking. Levels 2 and 3 would comprise 118 and 120 car spaces respectively and 143 and 144 storage cages respectively. Neither of these levels would contain any bicycle parking. At each of these levels, 33 car spaces would be individually provided, whilst the rest would be separately secured garages, mostly comprising three car spaces each but several comprising up to 12 spaces. Lift and stair lobbies and a plant area (in each respective north-east corner) are also proposed at each of these levels.
- 5.3 Basement level 1 would have a similar arrangement except that all the bicycle parking is proposed on this level together with a greater proportion of plant and services areas. Most of these would be located in the north and south areas of this level. There would be 18 individual car spaces whilst the remainder would be in garages similar to the levels below. Basement level 1 would also comprise a small resident amenities lounge area.

### Lower Ground level:

- 5.4 Much of this level would be occupied by private amenity and recreation areas for the residents including a pool, gym, library, private dining areas, a lounge, theatre and two bars. These would all generally be located in the centre of this level's footprint. They are for residents and their guests.
- 5.5 Generally to the west of these areas would be basement vehicle access ramps, additional plant room and 13 car spaces. All these parts of this level would be at zero setback to the site boundaries except for the north extremity where a setback of approximately 5.5m is proposed and the south where a setback between 1.5m and just



over 5m are proposed. In generally this same location, four dwellings are depicted. They would be one, two and three (or more) bedrooms and would face a courtyard towards the rear of building A.

- 5.6 The front or generally southern half of this level (building A) would comprise additional resident facilities including home office units and meeting rooms. At the very front of the site would be two additional dwellings – two and three or more bedrooms – adjacent to what is depicted as a 'café/food and drink premises'.
- 5.7 Boundary setbacks would mostly be zero for buildings B and C but the front building (A) would have curved edges and therefore, varied setbacks of between 1.5m to 3.5m to The Esplanade and 5m to almost 7m to Alfred Square.

#### Ground Level

- 5.8 A similar envelope would be followed compared to the levels below, but all three buildings would exclusively comprise dwellings. Building A would comprise nine dwellings being a combination of one x one-bedroom, two x two-bedroom and six x three or more bedroom dwellings. They would respectively have areas of generally 94m<sup>2</sup> for the one bedroom dwelling up to between 115m<sup>2</sup> to almost 200m<sup>2</sup> for the three bedroom or more dwellings. Building B would comprise six dwellings being two x two-bedroom and 4 x three or more bedroom with areas being similar to those in building B.
- 5.9 Building C would comprise five dwellings being one x two-bedroom and four x 3 or more bedroom, but with areas larger than in the other buildings. The two-bedroom dwelling would be 138m<sup>2</sup> whilst the three bedroom or more dwellings would be between 129m<sup>2</sup> and 245m<sup>2</sup>
- 5.10 All buildings would have varied setbacks. Building A would be setback zero to the north, generally 6.5m to the east, 7m to the west (within which the basement ramp would be located) and almost 5m to the south (Alfred Square). Building B would be setback 3.5m to the north, and 6.2m to the east whilst building C would be setback between 3m and 7m to the west and zero to 3m to the south.
- 5.11 Vehicle access to the basement would be to the west of building A as it is under the current approval.

#### Levels 1 and 2

- 5.12 These levels would be mostly identical to each other in terms of internal layout. Building A would comprise 10 and 9 dwellings respectively at these two levels being a combination of one, two and three or more bedrooms with the smallest one bedroom dwelling being 58m<sup>2</sup> whilst the largest three (or more) bedroom dwelling would be 206m<sup>2</sup>. Building A would be setback 4.2m and 6.2m to the north and between 6.5m and 8.5m to the west.
- 5.13 Building B would comprise six and seven dwellings respectively ranging from one bedroom at 56m<sup>2</sup> to three or more bedrooms at 163m<sup>2</sup>. This building would be setback 3.7m to the north and generally 6.5m to the east. Building C would comprise five dwellings per level ranging from 100m<sup>2</sup> (two bedroom) to 245m<sup>2</sup> (three or more bedroom). Building B would be setback partly zero and partly 6.1m to the east, between 4m and 6m to the west and between zero and 3m to the south at the very front of the site.



#### Levels 3-5

- 5.14 For all practical purposes, these levels are also essentially identical to each other, aside from the north-east corner of building A where the proposed outside deck/balcony reduces in size at levels 4 and 5. Aside from that difference, external and internal layouts are virtually the same with building A comprising either four or five dwellings per level with the majority having two or three or more bedrooms between 92m<sup>2</sup> up to over mostly 210m<sup>2</sup> to 280m<sup>2</sup>. Some, however, would be almost 350m<sup>2</sup> in area. Building B would have either six or seven dwellings per level. One 56m<sup>2</sup> single bedroom dwelling is proposed per level with the remainder of two and three or more bedroom dwellings ranging from 85m<sup>2</sup> up to 129m<sup>2</sup> to 163m<sup>2</sup>. Building C would have either three or five dwellings per level being two and three or more bedrooms each in the 138m<sup>2</sup> to almost 400m<sup>2</sup> in area.
- 5.15 Building A (to its balcony faces) would be setback between 4.2m and 9.5m to the north and 6.5m to almost 8m to the west. Building B would be setback 3.7m to the north and generally 6.7m to the east whilst building C would be setback between 3m and 6m to the west, zero to 3m to the south and between zero and 6.1m to the east.
- 5.16 The balcony terraces to the north of building A at level 3 would be reasonably large varying between 4m and 8m deep. However, at levels 4 and 5 the same corresponding north facing balconies would be approximately 3m deep (west section) and would essentially not exist at all in the east section.

#### Levels 6 and 7

- 5.17 Buildings A and B would largely be identical at these levels. Building A would comprise either two or three dwellings per level all having three or more bedrooms mostly in the 160m<sup>2</sup> to 250m<sup>2</sup> range but with one at 873m<sup>2</sup> in area. This latter dwelling would be split between levels 5 and 6. Building B would comprise only one single bedroom dwelling (56m<sup>2</sup>) and one two-bedroom dwelling (99m<sup>2</sup>) per level with the remaining three dwellings per level having three or more bedrooms in the 113m<sup>2</sup> to 342m<sup>2</sup> range. Building C would only have habitable floor space at level 6 only comprising one dwelling of just over 900m<sup>2</sup> in area.
- 5.18 The various setbacks of all three buildings would essentially be identical to the levels below.

#### General description:

- 5.19 The proposal would be contemporary in its appearance and in some ways, would be restrained in its style. Most external treatments would comprise large expanses of full height glass with expressed concrete floor plates with balconies and screening attached. Buildings A and C would have somewhat curved facades whilst building B would be far more rectangular in its treatment. In each case, the respective building's glass line would vary and consequently, so would its balcony depth. Some open space parcels are shown as being only be 6m<sup>2</sup> or 7m<sup>2</sup> in area but the majority would all be between 15m<sup>2</sup> to 30m<sup>2</sup> (or much larger) in area.
- 5.20 The buildings would all be flat roofed with heights the same as currently approved and would essentially be the same height as the current approval. All three buildings



(excluding roof plant) would for all practical purposes be 24m high with generally 4m high plant above.

- 5.21 The three buildings would be separated from each other generally by just over 9m.
- 5.22 In terms of building setbacks and their comparison to the current approval, as previously outlined, the most notable difference would be the north face of building B. The current approval shows that wall progressively angling away from the boundary with one part (where closest to building A) setback approximately 3.5m with this increasing to a setback of approximately 10m (where closest to the abutting Office of Housing development). The revised proposal does not show that angling with the rear or north wall of building B aligned parallel to the north boundary. The implications of this difference are assessed later in this report.

**6. SUBJECT SITE AND SURROUNDS**

Site area	Approximately 5,800m <sup>2</sup> .
Existing building & site conditions	<p>The subject site has a single frontage to The Esplanade of approximately 40m and two frontages to each of approximately the same length. It also has two abutments to Bessiere Place, which is a small lane to the rear, of 23.5m and 40.5m in length. The site is situated on the north-eastern side of The Esplanade approximately 380m south of the edge of the Fitzroy Street Activity Centre (its intersection with Acland Street) and approximately 360m north-west of the intersection of Carlisle and Acland Streets (the 'top' of the Acland Street Activity Centre). The site currently comprises a part six, part seven storey hotel (Novotel) building in the front section of the site with guest open space areas and a pool facing south-east and a decked car park in the rear half of the site. The ground level car park deck is open and uncovered. The car park is accessed from the north-western corner of the site and contains around 213 car parking spaces.</p> <p>As facing towards the foreshore and Alfred Square, the building presents with unremarkable architecture comprising small rectangular windows generally arranged in a series of vertical column features. Each of these features, which are mostly the width of two windows, is capped by a gable shaped parapet. The building has two colours, being generally white and a contrasting mid-grey. As facing The Esplanade, some sections of the existing building are approximately 26.5m high, whilst the gable peaks facing Alfred Square are approximately 23m high.</p> <p>A ground level restaurant directly fronts The Esplanade whilst the entry lobby and other function spaces and back of house office areas face Alfred Square at ground level with rooms above.</p>
Surrounds/neighbourhood character	<p>Abutting buildings are highly varied. To the south-east is No. 17 The Esplanade, an eight storey building used for public housing. The front section of this building abuts the common boundary whilst the remainder of the building is setback between approximately 5m and 7m</p>



	<p>to the boundary with a large number of windows and recessed balconies generally at the same or very similar setback. The windows within the recessed balconies are approximately 7m from the boundary.</p> <p>There are three interfaces to the north-east. The first is on the opposite side of Bessiere Place, at No. 43 Acland Street which comprises a two storey 1970s block of flats. This site features two garages to the rear of the site fronting Bessiere Place. There are two small areas of open space between the garages. That building's rear windows, only some of which are to habitable rooms, are setback 12.3m from the boundary.</p> <p>The second interface to the north-east, immediately abutting the subject site, is No. 1-4 Bessiere Place which comprises a three storey townhouse development approximately 15 years old. It fronts Bessiere Place and has direct under-croft garage car park access from that lane. No. 4 Bessiere Place is developed to the common boundary and its rear secluded private open space area (approximately 4m wide) abuts the common boundary. The building is shielded from the existing subject site's car park by substantial vegetation on the subject site.</p> <p>The third north-east interface, immediately abutting the subject site, is No. 39 Acland Street. This site is occupied by an older three storey apartment block. This property has two immediate interfaces with the subject site. One is a section of secluded open space approximately 5m wide in the southern corner of the site that directly abuts the subject site. The other is a wider open car parking area (approximately 14m wide) which is accessed from Wimmera Place via a laneway and gravel apron both behind No. 35 Acland Street. The rear-most wing of that site which is adjacent to the open space parcel is approximately 12m from the boundary. The next closest section of building at No. 39 Acland Street (across the car park) is approximately 23m from the boundary.</p> <p>No. 35 Acland Street abuts the subject site's northern corner at a single point only. No.35 Acland Street's car parking area immediately abuts the common boundary accessible via a gravel apron also accessed from Wimmera Place.</p> <p>To the north-west, immediately abutting the subject site is No. 7 Alfred Square. This building is part three/part four storey. Its interface to the subject site comprises varied setbacks of 3.2m, 5.4m and 7.5m. The building features several windows (both habitable and non-habitable) fronting the subject site. There is no secluded private open space at ground level facing the subject site with the interface comprising a driveway and car parking area.</p> <p>To the front of the site is Alfred Square, a public park and open space area. Car parking in Alfred Square is a combination of ticket and half-hour parking (8am and 9am to midnight) and one hour free parking, 8am to midnight. The subject site faces this park on two sides, with the remaining interface being directly to The Esplanade.</p> <p>The Esplanade is a relatively busy road with one traffic lane in each direction, a central tram line and a combination of parallel and angle car parking. The car parking is generally a combination of two hour and ticket parking (8am to midnight, Monday to Saturday and 10am to 4pm</p>
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	<p>Sunday) along with no parking times generally being the morning and evening times on Sunday.</p> <p>Building stock in the broader area is highly varied. Development along The Esplanade comprises a mix of inter-war apartment buildings of generally three to four storey along with 1960s and 1970s apartment buildings of up to 10 storeys. A recent apartment addition to The Esplanade hotel is nine storeys high whilst the abutting building at No. 17 The Esplanade is eight storeys high. Most of these buildings have limited front setbacks and vegetation. Development in Alfred Square comprises a mix of detached and semi-detached Victorian single storey dwellings, three to four storey apartment buildings from the 1960s (some updated) and a 1970s building which is nine storeys high.</p> <p>Buildings in nearby Wimmera Place are generally a combination of three storey inter-war and 1960s apartment buildings along with one and two storey dwellings from various eras.</p> <p>Opposite the subject site (other than Alfred Square) is the upper terrace of the St. Kilda foreshore which comprises a wide footpath and well established palm street trees.</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 32.08 General Residential Zone (1 and 3)	Under Clause 32.08-4, a planning permit is required to construct two or more dwelling on a lot. A permit is required for restaurant which is included in 'food and drink premises'.
Clause 43.02 Design and Development Overlay - Schedule 6-5 and Schedule 6-6	Under Clause 32.08-4, a planning permit is required to construct a building or construct or carry out works.  A permit may be granted to construct a building or construct or carry out works which are not in accordance with any requirement in a schedule to this overlay, unless the schedule specifies otherwise.
Clause 52.06 Car Parking	The table at Clause 52.06-5 states that the rate for dwelling is one car parking space per one and two bedroom dwellings and two car parking spaces for three bedroom (or larger) dwellings. There is no visitor car parking requirement.



	<p>Based on these rates, the proposed development would exceed its residential parking requirement of 217 car spaces (344 car spaces proposed). The above table specifies a car parking rate for restaurant of 3.5 spaces per 100m<sup>2</sup> of floor area giving a requirement for eight car spaces. Two staff car spaces are proposed.</p>
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## 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 Clauses:

11.01-1R1: Settlement - Metropolitan Melbourne

11.02: Managing Growth

Clause 15: Built Environment and Heritage, including Clauses:

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

Clause 16: Housing, including Clauses:

16.01: Residential development

16.01-1S: Integrated housing

16.01-1R: Integrated housing - Metropolitan Melbourne

16.01-2S: Location of residential development

16.01-3S: Housing diversity

16.01-3R: Housing diversity - Metropolitan Melbourne

16.01-4S: Housing affordability

Clause 19: Infrastructure including Clauses:

19.01-1S: Energy supply

19.01-2S: Renewable energy

19.01-2R: Renewable energy - Metropolitan Melbourne

19.03: Development Infrastructure



19.03-4S: Stormwater

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 Clauses:

21.04-1 Housing and Accommodation

Clause 21.05: Built Form, including Clauses

21.05-2 Urban Structure and Character

21.05-3 Urban Design and the Public Realm

21.05-4 Physical Infrastructure

Clause 21.06-6 Neighbourhoods (St. Kilda)

Clause 22.06 Multi Dwelling Development

## **8.3 Other relevant provisions**

Clause 43.02: Design and Development Overlay (DDO)

Clause 52.06: Car Parking

Clause 58: Apartment Developments

Clause 65: Decision Guidelines

## **8.4 Relevant Planning Scheme Amendments:**

There have been several recent Planning Scheme amendments, the most relevant being Amendment VC 148 which removes the requirement for visitor car parking. There have been no other fundamental changes to policy, zone or overlay provisions since the current permit was issued in August 2017, aside from the introduction of Clause 58 (Apartment Developments) which came into effect under Amendment VC 136 on 13 April, 2017 and the requirements for minimum garden areas and maximum building heights, which came into effect on 27 March 2017 under Amendment VC 110. However, application 1029/2016 was lodged with Council in November 2016 and therefore pre-dates both of the above amendments and thus do not apply under the relevant transitional provisions.

## **9. REFERRALS**

### **9.1 External Referrals**

Given that this process is not an application to Council (the applicant lodging directly with VCAT), no Council referrals are relevant. The permit applicant did, however, refer the



proposal to Public Transport Victoria. At the time of writing, no information from that referral has been provided but would from part of submissions to VCAT.

## 9.2 Internal Referrals

Referral comments and subsequent officer comment are below:

### 9.3 Council's Urban Design Section:

*The applicant has submitted to amend the design of the three proposed towers on the current Novotel site. As requested, this referral will assess specifically whether the revised architectural expression is an appropriate contextual response to the Esplanade's surrounds.*

*Notably, the architectural expression of the towers A and C have shifted towards a more sculptural form, adopting a distinctive curvilinear reading, expressed through a fascia of horizontal bands which also form the balcony balustrades. Building B which sits between these two, retains a more rectilinear reading, possibly given that it does not address the Esplanade and Alfred Square to the same extent as the other two buildings. If not anything else, the contrast between the two expressions provides for a clear juxtapositioning of forms which enhances the uniqueness of tower A and C which act as the primary frontages.*

*The revised architectural expression, with its predominantly off-white 'Brighton Light' concrete finish, presents not only as a high-quality architectural design proposal, but also positively responds to the unique seaside setting, reinforcing St. Kilda's (and in particular The Esplanade's) historic role as the pre-eminent beach resort of the metropolis overlooking the bay.*

*The footprint of each of the three towers remain largely consistent with the endorsed scheme, with the exception of tower B, which is now filled out to the corner across all levels. The tapering building edge of the endorsed scheme ensures that the amenity of the adjacent buildings, primarily of No.17 Esplanade, No.43 Acland St and to a lesser extent, the courtyard between the rear buildings of No.18 Esplanade, will be preserved. The filling out of this envelope will compromise off-site amenity, both in terms of overshadowing and outlook, whilst achieving minimal benefit for on-site apartment amenity. It is recommended that the apartment layouts be revised to fit within the endorsed envelope.*

*With regard to massing, the endorsed design primarily relies on projecting balconies to achieve façade modulation. Balconies are aligned consistently across all levels, where building recesses break the overall mass into smaller vertical elements to temper the reading of visual bulk. Differentiation between the upper and lower half of balcony balustrades contributed to the scaling of the building mass. In contrast, the proposed amended design is read more 'in the round', where the bulging building envelope provides a sense of scale on a more subtle level.*

*The facades facing adjacent buildings or to the street are more modulated with deeper balcony recesses to achieve façade depth. The façade of Tower A facing*



*Alfred Square could be better articulated as two masses by expressing the balcony break across all levels. Equally, this could be achieved by variation the horizontal expression of the balcony banding.*

*The rationalisation of the building façade, together with the reduction of the number of apartments, appears to also have improved the room layouts and daylight access, where previously most bedrooms were located deep within the façade recesses (in an almost 'battle-axe' layout).*

*Overall, the revised architectural approach appears much more refined and is considered as appropriate for the site and surrounds, providing a new, distinctive contemporary flavour to the foreshore, whilst respecting the seaside character of the Esplanade. The revised design is a high-quality response and will no doubt be a welcome addition to the Esplanade.*

*We generally support the proposal and make the following recommendations:*

- *Building B envelope should be reduced to the endorsed building edge line*
- *A stronger break at the centre of the long building façade of Tower A to break down the reading of the long façade / mass*

**Planner Comment:**

It is noted that the above comments are highly positive in terms of overall architectural expression. The revised footprint of building B is assessed later in this report but in summary, it is considered that the change in footprint as proposed is supportable and whilst having some impacts on abutting properties, is not considered to lead to excessive or unreasonable outcomes.

The applicants and Urban Design Advisor have had additional discussions and the matter regarding the potential re-design of building A has been resolved such that the applicant's rationale for the proposed design as-is has been accepted and no re-design of the facades to building A is now considered necessary by our Advisor.

**9.4 Council's Traffic Safety Engineer**

*Car Park Layout:*

*Access ways:*

- *Vehicle access is proposed via a modified crossover to Alfred Square. Access way dimensions are in accordance with Clause 52.06 of the planning Scheme.*
- *Pedestrian sight triangles have been provided in accordance with the planning scheme, and are considered acceptable. Please ensure the proposed corner splay located adjacent the driveways are kept 50% clear of visual obstructions and all landscaping is less than 900mm in height.*

*Car parking spaces:*

- *It is proposed to provide a mixture of off-street parking spaces, with 167 spaces located within garages and 162 conventional spaces.*



- *The conventional spaces are generally 2.6m wide, 4.9m long and accessed from an aisle at least 6.4m wide.*
- *All garages have been provided in accordance with the planning scheme, with single garages at least 3.5m wide and double garages at least 5.5m wide.*
- *Tandem parking spaces have been provided with an additional 500mm clearance between each space, in accordance with the planning scheme. Each pair of tandem parking spaces must be allocated to a single dwelling, they cannot be shared across multiple dwellings.*
- *Additional 300mm clearance has been provided adjacent to any walls/columns and columns have been located outside door opening envelopes. This is considered acceptable.*
- *All parking spaces have been provided in accordance with planning scheme requirements and are considered acceptable.*
- *A swept path assessment has been provided showing a B85 can enter and exit all critical parking spaces with suitable clearance and number of corrective manoeuvres, this is considered acceptable.*
- *A swept path assessment has been provided showing two (2) B99 vehicles are able to utilize the entry/exit ramp to the car park simultaneously, this is considered acceptable.*
- *The proposed car park layout is considered satisfactory.*

*Headroom and gradient of ramps:*

- *Minimum headroom has been provided within the basement carpark, and along the access ramps, in accordance with Clause 52.06 of the planning scheme. This is considered acceptable.*
- *The propose ramp grades have been provided in accordance with the planning scheme and are considered acceptable.*

*Bicycles*

- *Clause 52.34 of the planning scheme requires 39 bicycle parking spaces to be provided for the proposed land uses, comprising 26 resident spaces and 13 visitor spaces.*
- *Given the applicant proposes to provide 195 off-street bicycle spaces, this exceeds the planning scheme requirement and is considered acceptable.*
- *Please ensure that all bicycle spaces are installed in accordance with the Australian standards, including each space has a clear 1.5m access aisle, Ned Kelly spaces are spaced at 0.5m intervals (min.), ground level spaces (i.e. hoops) are spaced at 1m intervals (min.)*
- *Please ensure that at least 25% of all bicycle parking spaces are provided at ground level (not Ned Kelly style), to ensure plans are in accordance with the Australian Standards.*

*Loading and Waste Collection*

- *A Loading Zone is not required in the planning Scheme.*



- One (1) waste collection area have been proposed on the lower ground floor of the basement carpark. The applicant has satisfactorily demonstrated access/egress using a 6.4m SRV and this is considered acceptable.
- 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.
- Given it is proposed to reduce the number of dwellings within the development, from 234 to 129, the likely traffic generated by the site is expected to be significantly less than what was previously approved by Council.
- Based on the above, the proposed changes will likely result in no net increase in traffic generation when compared to the previously approved development. This is considered acceptable.

*On Street Parking:*

- The existing on-street parking is a mixture of 1P, Ticketed and Permit Zone parking. Parking is nearing capacity during typical residential peak periods (outside of business hours), with relatively low turnover.
- Future staff/residents/visitors of the new development will not be eligible for resident/visitor parking permits and will need to abide by on-street parking restrictions.
- It is proposed to utilize a modified crossover Alfred Square. This will result in no loss to the number of on-street parking spaces along Alfred Square. This is considered acceptable.

*Parking overlay and parking provisions:*

- Clause 52.06 of the planning scheme requires 225 off-street parking spaces to be provided for the proposed land uses, comprising 217 resident spaces and 8 staff/customer spaces.
- The applicant proposes to have 344 off street car parking spaces, comprising 329 residents, 13 visitors and 2 staff spaces.
- Given the above, the proposed development results in a shortfall of six customer spaces for the proposed café use.
- Given it is proposed to provide 2 staff and 13 visitor spaces, it is expected that any additional parking demands generated by the café use are likely to be accommodated with a mixture of on-street and off-street parking spaces. Overall, the likely impact to the level of on-street parking availability due to the waiver of six customer spaces is likely to be minimal.
- The traffic report indicates that all one/two-bedroom apartments will be provided with at least one car space and all 3+ bedroom apartments will be provided with at least two car spaces. This meets the previous condition stated in the planning permit.



- *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.*

Planner Comment:

There are no fundamental concerns raised in the above comments. The matters regarding bicycle parking are recommended to be included in a modified/revise conditions 1 (a) and (b).

In terms of the operation and efficiency of the loading bay, the applicants claim that the change from the currently approved plan would be limited and have clarified that each building would have a bin store area at Basement 1 level. Before rubbish collection, the waste or building manager would transfer waste bins up from the basement 1 store areas to the temporary bin holding area located adjacent to the loading bay via the hoist immediately behind the loading bay. The bins would then be emptied into the waiting garbage truck.

Council's Manager of Waste Services has confirmed that this arrangement would be satisfactory.

In relation to other practicalities of the loading bay for removalists and tradespeople, the applicants have clarified that the loading bay hoist would allow goods to be taken down one level into basement 1. From there, access can be gained to the lift lobbies for all three buildings.

The current approval shows a loading bay that has direct access only to the lift lobby of building A. Under the current approval, persons in buildings B and C would have to take their goods down to basement level one, across to the lobby for building A and then up to the lower ground level loading bay.

On balance, it is considered that the proposed new arrangements are a slight improvement over those of the current approval.

9.5 Council's Waste Management Section

*I have reviewed the WMP for 14-16 Esplanade, St Kilda and have the following comments:*

- *Please draw commercial bins into bin room.*
- *Is there any way the commercial bin room can be brought to the centre? With its current arrangement I can see some commercial tenancies misusing the residential bins.*



- *Are all the other space uses (office, yoga, spa, pool, gym, sports bar etc) going to be public? If so these are considered commercial tenancies and will need to be included under commercial volumes to ensure there will be enough bins (with allocated bin space in a commercial bin room).*
- *The use and space allocation for charity bins is strongly recommended.*
- *Sweep path diagrams are required in the updated traffic management plan (E5386/19).*
- *The temporary bin holding area on Lower Ground Level is recommended to be hard rubbish storage only and collection is recommended to take place within Basement 1 (involving increasing height of Basement 1 for truck to enter and operate). I also cannot see a lift near the temporary bin holding area which would make the movement of minimum 14 bins per collection efficient. Additionally, the storage of 14 bins in the temporary bin holding area would be difficult if all bins were brought up before the pickup (difficult to manoeuvre if all of garbage for example was stored at the front, but the recycling truck arrives before).*

#### Planner Comment

The applicants have been forwarded these comments and have advised – with regard to the third point – that all the nominated spaces are not public and are strictly for resident use only.

In relation to the other comments, the applicants have indicated that they would accept a condition stipulating that bins be drawn/labelled and relocated as requested and that swept paths be included in an updated traffic report and ideally also be shown on the plans.

In relation to the temporary bin store area, its use for hard rubbish and the matter of truck access to it, the applicants have commented that it is fully designed to be used for garbage collection and garbage truck access with all swept paths allowing for this. The applicants have also agreed to using the bin holding area for hard rubbish and to have an area for charity. (Refer recommended condition 1 (o)).

As previously noted, Council's Manager of Waste Collection Services has no outstanding matters of concern with the revised proposal's arrangements.

#### 9.6 Council's Sustainable Design Officer

The most recent comments received, based on discussion with the applicant about the revised design are as follows:

**Daylight** – *The layout in the redesign is improved in relation to bedrooms as there are almost no snorkel-type bedrooms now, compared to a high proportion in the original approval.*

*Poor daylight access to living areas is noted but found to be similar to current approval. The proposal includes tinted glazing but the level of natural daylight to living rooms as stated in the Daylight Investigation report is based on daylight via clear glazing. This means that the actual daylight would be reduced further*



*when tinted glazing is used. The worst apartment is TA G04 and this should be redesigned or deleted due to poor daylight.*

*The applicant has since clarified that the assumptions for the Daylight Investigation were deliberately the same as those for the daylight investigation for the previous (approved) scheme, in order to provide a like for like comparison of daylight modelling based on the approved versus proposed apartment layouts. With that in mind, I agree that the amended design (S87A plans) provides improved natural daylight to apartments overall.*

*TA G04 was earmarked as the worst performing apartment. A proposed amended design, with the living area extended towards the site boundary, would improve natural daylight provision to this apartment. Therefore, I suggest a condition requiring the alternative layout of TA G04 to be included on the approved plans.*

*You asked specifically about the internal environment quality of apartment TA G06. It appears to be improved from the original design on the basis of improved layout (comparison with approved apartment A-G03) including wider bedrooms so greater window width, increased setbacks from the site boundary and the apartment size being larger overall with larger POS. Note that this apartment in particular is included in the photographic renderings (page 14 in book of plans). The Daylight Investigation provided by Ark Resources also clarifies that an acceptable level of natural daylight could be achieved in the living room and the bedrooms of TA G06.*

**Green Star assessment** – *The SMP is light on details of how the Green Star rating will be achieved. But the SMP commits to certifying the project with the Green Building Council of Australia (GBCA - the administrators of Green Star ratings). So it is very important that a condition on permit requires them to have the project certified with the GBCA to achieve a 4 star Design and As Built Green Star rating, because this will ensure that appropriate initiatives are implemented to achieve best practice environmentally sustainable design. Without GBCA certification is it difficult to verify which initiatives have been implemented leaving scope to be slack. This is what we are wanting to avoid, particularly for a development of this scale. This will ensure that the development meets the objectives of our Environmentally Sustainable Design policy at Clause 22.13, which was in place when the original application for this development was assessed and is therefore highly relevant to the proposed amendment. To that end I would suggest that condition 11 on the existing permit be retained but re-worded as follows:*

#### Green Star Rating

*Prior to commencement of the development, confirmation must be provided to the Responsible Authority that the project has been registered with the Green Building Council of Australia targeting a 4 Star Green Star Design and As Built Rating.*

*Upon completion of the development, certification must be obtained from the Green Building Council of Australia, and provided to the Responsible Authority,*



*that a 4 Star Green Star Design and As Built Rating has been achieved for the development.*

**Energy** – *A condition should be included on permit to require that the 60kW solar PV system is clearly shown on the roof plans, including annotation of the system capacity (i.e. 60kW). The application plans show the location of PV panels with no capacity notation. With this condition in place the existing condition 1d could be deleted as the proposed 60kW system is an improvement compared to the solar hot water system currently approved.*

*No external shading has been provided to the north-east façade, which is a shortcoming of the design. In any development that has significant glazing exposed to direct sunlight on a north, east or west façade, this should be appropriately externally shaded to prevent excessive heat gain, thereby avoiding huge energy consumption for mechanical cooling. Operable external shading is best suited to east and west oriented facades, so that it can be adjusted as required, and this proposal includes facades of all directions. In a recent meeting the applicant took us through the details of the proposed helioscreens, which are included on the proposed plans in the north-west and south-west elevations of buildings A and C. At the meeting the applicant agreed to include these screens to the north-east elevation of building A. Therefore I suggest a condition be added to the permit to that effect.*

*The condition on the existing permit, which requires details of material and reflectivity of the proposed roof, should also be maintained on any amended permit that issues. This is something that we would expect to be clearly demonstrated on the plans to ensure that a heat-absorbing material is not used for the roof, while making sure that the reflectivity will result in a good aesthetic outcome.*

*Non-mechanical clothes drying facilities should also be provided.*

**Transport** – *The number of visitor bike spaces has been reduced. Could this be increased back to 24 to match the current approval? (Without reducing the proposed 102 resident's bike parking spaces.*

**Stormwater** – *A condition should be placed on any amended permit issued to require the 110kL rainwater tank to be shown on the plans with notation for reuse (toilet flushing, irrigation etc.).*

Planner Comment:

The above comments have raised some concerns but the applicants have essentially agreed to address most of these by way of condition. (Refer recommended conditions 1(g) to 1 (m) inclusive).



Additionally, Council's ESD advisor has indicated that the suite of conditions noted above along with revised condition 10 would be satisfactory in achieving an appropriate ESD outcome for the new development. The specific re-design of dwelling TA G04 would be required by recommended condition 1(g).

In relation to the submitted SMP potentially having insufficient information regarding Green Star Design, Council's ESD Advisor has confirmed that the applicants offer (required to be undertaken by recommended revised condition 11) of having the development not only designed to meet an appropriate green star rating but then having that formally certified by the Green Building Council of Australia would achieve an appropriate outcome.

## **10. PUBLIC NOTIFICATION/OBJECTIONS**

10.1 As previously noted, this is not a planning application lodged with Council. All public notification has taken place through the Tribunal with submissions lodged with VCAT. By way of information, at the time of writing only one Statement of Grounds has been lodged with the Tribunal. In summary, the Statement of Grounds raise matters regarding the following:

- Lack of clarity on plans (various lines and graphics not nominated)
- Poorly located exhaust vent/plenum from car park and sub-station
- Boundary fence heights unclear
- Insufficient setbacks on building A (its relationship to its open space and that at 39 Acland Street)
- Insufficient detail on landscaping plan
- Concern about new 'commercial' uses (offices, bar, lounge etc)

### Planner Comment:

The matters of additional detail and clarity on the plans – including the landscape plan – can be addressed by way of condition. (Refer recommended conditions 1 (d) to 1(f) inclusive) as can the matters of boundary fence heights. In regard to that matter, the applicants have identified that all boundary fencing would remain as per the current approval aside from some instances where up to 900mm of louvre privacy screening is proposed to be added. This would alter sight line angles from the proposal (especially at the rear of building A interfacing with the rear yards of 39 Acland Street) so as to improve privacy protection to that property)

In relation to the setbacks of building A to its own open space, it is noted that the proposed building envelope of that building, aside from its curved facades, is very similar to the current approval. There is not considered to be any fundamental change to the way building A would relate to or overhang its own open space. Its relationship to 39 Acland Street is discussed later in this report both in terms of setbacks of the differences in



ground levels. In relation to the former it is noted that the proposal's setback to 39 Acland Street would be slightly greater than the current approval and in relation to the latter, the differences in ground levels (again assessed later in this report) would have no perceptible differences compared to the current approval.

- 10.4 Council considers that there are no matters of significant social effect under Section 60 (1B) of the Planning and Environment Act 1987 that the Tribunal needs to be advised of.

## **11. OFFICER'S ASSESSMENT**

### **11.1 Key Issues:**

This is a proposal to heavily revise some aspects of an existing planning permit, but not to revise certain others. In terms of the latter, the proposal would not substantially alter or amend the current approval's building envelope not its basement access arrangement. Side boundary setbacks would also remain largely unchanged aside from the north or rear wall of building B which is now proposed to be parallel to the boundary as opposed to progressively angling away from it.

However, the style/architectural treatment of the proposal would substantially change as would the development's internal layout and its overall density (significantly lowered).

Based on the above, it is considered that the key matters that the Tribunal should be advised about are Council's opinions regarding style and its potential changed impact on local character, any matters regarding traffic and car parking (resulting from the lowered density) and whether the proposal would re-introduce any concerns that Council or Tribunal previously identified.

It is also considered important to identify whether the proposal would continue to align with the following matters:

- Would there remain broad strategic land use support for the proposal?
- Would the revised proposal, mostly by reason of height and proportion, be appropriate for this site's context and character, especially in the light of the Design and Development Overlay?
- Would there be unreasonable direct amenity impacts as referred to in the DDO?
- Is the car/bicycle provision acceptable?

An assessment of these matters follows using the local policy provisions together with the relevant Planning Scheme provisions. In terms of local policy, assessment of many of the above matters are guided by Clauses, 21.04-1, 21.06-6 and 22.06. The Planning Scheme provisions further used in the following assessment are Clauses 43.02, 52.06 and 58.

- 11.2 Would the proposal's revised style lead to unreasonable changed impact on local character?

The current approval is for a clearly contemporary building with relatively large expanses of glass and a flat roof. The current approval represents a very clear architectural and



stylistic distinction from the existing building on the site, which has previously been described as unremarkable.

Nearby building styles vary greatly with some remnant older building stock interspersed with much new architecture. It is considered difficult to identify any particular architectural theme in the immediate area and it is possibly for this reason that the site and immediate area are not included in a Heritage Overlay.

There is reference in the abovementioned policies to having new buildings responding to local character or an identified future character. Clause 21.04-1 largely relates to identifying suitable locations for new residential growth and notes that sites within established residential areas can be considered suitable for incremental residential growth if any new development would not compromise the heritage, neighbourhood character or amenity values of such areas.

Clause 21.06-6 in its reference to areas zoned residential, has various strategies and outcomes which include matters such as retaining the existing residential role of properties fronting the foreshore and encouraging development to respond to the diverse architectural forms and styles and the stepping up of built form on the Esplanade. Clause 22.06 has numerous sub-headings relating to new development but all are seeking to achieve overall outcomes such as achieving high quality architecture that responds to context and place, that integrates with the prevailing character contributing to amenity and vitality and that protects and enhances the valued elements of the municipality.

It is considered to be clear that local policy seeks new development that in summary, would be respectful of local character and contextual in its design but that equally, would be new and where appropriate, innovative. Importantly, there is nothing in the above policies that would restrict any architectural style on this site or that would encourage stylistic restraint. That is, provided that contemporary architecture would be respectful and/or contextual for this site, the particular style of a new building is considered to be relatively open.

As previously noted, the current approval exemplifies that approach with what is clearly a highly contemporary building. Based on this fact and the various policy and planning scheme settings, it is considered that there is nothing that would now preclude a change of style.

It is considered that the proposed new style would not lead to unreasonable character impacts and may be considered an improvement over the approved desi.

There are several nearby buildings that have large expanses of glass and the expressed floor plates are considered a positive design feature that would help define the buildings and give appropriate visual relief in terms of the building's massing. They would also tend to emphasize width as opposed to height and coupled with the gaps or breaks between the buildings, it is considered that the new style would appropriately respond to this site in terms of massing and the arrangement of the three buildings. Perhaps most importantly in terms of massing or at least dealing with the very visible and open nature of the site, is the fact that two distinct but related building styles are proposed. That is, buildings A and C are essentially the same style with their curves referencing nearby Art Deco style, whilst building B is far more angular.



These two different styles are considered a very important technique in breaking the proposal's mass, which was one of the Tribunal's and Council's key concerns with the original design.

Therefore, in summary, it is considered that the heavily revised treatment would result in an appropriate character outcome and one that would in fact lead to a better response to this site than that currently approved.

Finally, the fact that the site is in a DDO with its associated height requirements gives a very clear indication that at least from a built form perspective, that an emerging or different character is anticipated for this site. Within those requirements, it is again considered that architectural style could be relatively open and in this instance, the chosen style is considered not only appropriate but as noted above, superior to that currently approved largely by way of its relative simplicity and its better breaking of the overall mass of the proposal.

- 11.3 Would the revised proposal's traffic and car parking arrangements (mostly resulting from the lowered density) be satisfactory?

Based on the advice from Council's Traffic Engineer, it is considered that there would be no new or unreasonable traffic or parking impacts from this revised proposal compared to the current approval. Whilst the new proposal proposes a café/restaurant, it also proposes a substantial decrease in dwelling numbers by 105 dwellings from 234 to 129. The absence of any concerns from Council's Traffic Engineer has taken this fact into account and essentially concluded that there would be a net decrease in traffic volumes at this site.

Noting the above and the fact that the car park access would be in the same location as that currently approved, it is therefore, it is considered that there would be no new or unreasonable traffic and parking impacts compared to the current approval.

- 11.4 Would the proposal re-introduce any concerns that Council previously identified, particularly by way of 'sunken' dwellings, absence of a loading bay and poor internal amenity (from 'saddleback' dwellings) or any concerns identified by the Tribunal (internal amenity, landscape interface to the adjacent open space and inappropriate massing)?

The revised proposal includes a loading bay, even though there is no planning scheme requirement to do so. Council's Traffic Engineer has not raised any concerns with it but Council's Waste Management referral has questioned whether it can be used for garbage truck access. The applicant has clarified that it would be and has been designed for this purpose.

The previous Council concern with regard to loading bays is that they more commonly are used for tradespeople and/or removal vans. Given that there is no formal requirement for any loading bay, it is considered that the provision of a loading bay is a positive. The access ramp clearance of 3.9m is sufficient to allow for most smaller removal type vans and trades vehicles.

In relation to internal amenity, it is considered that the proposal would be very good. One dwelling with less than optimum internal amenity is recommended to be redesigned in accordance with the internal advice received from Council's ESD advisor (Refer recommended condition 1 (g))



Six dwellings remain with 'saddleback' bedrooms. This is far fewer than the existing approval. Additionally, the light 'snorkels' as proposed would generally be 1.2m wide x 3m deep. Council's ESD Advisor has raised no concerns regarding the few remaining 'snorkel' dwellings on the revised plans.

In assessing the sunken dwellings, it is reasonable and sensible to do so in relation to the current approval, given that this revised design is an amendment to an existing permit. In that context, it is considered that the proposal would result in an improvement compared to the current approval. The current approval shows such dwellings at the rear of building C whilst the revised plans show this area as home offices and meeting rooms. There would be no bedrooms – as currently permitted – in this area, which is considered an improvement.

One other area where one such dwellings is currently approved is at the north of building A, or dwelling G06. The currently approved and revised plans both show that dwelling below the natural ground level of abutting 39 Acland Street. The revised plans appear to show a much greater level difference than the endorsed plans but it has been determined that the cross-section on the current plans has been drawn through a slightly different part of the site and as such, shows the plinth or ledge of a garden area. The actual floor levels of the courtyard to the above dwelling would be identical on both the approved and revised plans.

Additionally, the current applicants have re-surveyed all neighbouring levels and found that the rear of 39 Acland Street is actually approximately 150mm higher than previously shown. Thus, whilst the relationship of dwelling G06 and its courtyard to 39 Acland Street would actually remain unchanged, the technical survey information appears to show a difference of 150mm. In any case, this is considered inconsequential.

One other difference in this area is that the applicants intend to add height 900mm of louvre privacy screening to the top of the common boundary fence to 39 Acland Street. Whilst this would add height and some visual impost to the future occupants of dwelling G06, it would add to the privacy of 39 Acland Street – as compared to the approved plans – by better screening potential overlooking into no 39 Acland Street from the revised dwellings above.

There are no other dwellings that would be lower than their respective neighbours as compared to the current approval.

In relation to the landscape interface to the adjacent open space, it is considered that the revised design would not give rise to any concerns. The extent of landscaping shown on the current approval as facing Alfred Square– which addressed the previous Tribunal concerns – is either the same or slightly greater as now depicted. The plans show a landscape strip to the west of building C approximately 2.5m wide with a combination of low level and semi-mature planting at lower ground level and a strip to the south of building A between 2m and 3m wide again with a combination of low level and much taller semi mature planting.

Overall, it is considered that the extent and type of landscape planting as compared to the current approval would remain satisfactory and appropriate.

- 11.5. Is there broad strategic land use support for the proposal?



Ordinarily, there would be an assessment of the site's policy settings and whether or not it was considered suitable for any proposed intensification in residential growth and/or consequent change in built form.

However, in this instance, the proposal is to amend an existing permit which has already been through a Council and Tribunal process with the final conclusion being reached that the site is well suited for increased residential growth and that a relatively large built form can reasonably be anticipated by the DDO. The Tribunal in its first decision to refuse did nonetheless indicate that the site was a 'good candidate' for residential growth.

Therefore, rather than re-iterating the various policy settings regarding the sites capacity to absorb growth, it is considered sufficient in this case to note that there have been no fundamental changes in policy or Planning Scheme settings that would now lead to the site's ability to absorb growth being different from when the current permit (and indeed the original application) were both concluded and resolved.

The site therefore remains one that is considered capable of absorbing both a notable increase in residential density and sustaining a relatively large built form.

- 11.6 Would the revised proposal, mostly by reason of height and proportion, be appropriate for this site's context and character, especially in the light of the Design and Development Overlay?

The following clauses and Planning Scheme provisions are the most relevant to this part of the assessment.

Clause 21.05-2: Urban Structure and Character. (Relevant Objectives)

- To reinforce the key elements of overall urban structure.*
- To protect and enhance the varied nature of neighbourhoods.*
- To ensure that height and scale of new development is appropriate to the identified preferred character.*
- To retain Port Phillip's fine grain street pattern.*
- To protect streetscape characteristics of established residential areas.*
- To ensure new higher density development is responsive to the existing scale and form of neighbouring sites.*
- To minimise detrimental amenity impacts.*

When combined, these objectives seek to achieve a wide variety of outcomes but all essentially seek appropriate new development that would be contextual to its setting and be appropriate to its local (and any future) character.

These issues have to some extent been previously discussed and in the light of the proposal being an amendment to an existing permit, it is considered that the revised design would not result in a development that would not achieve these outcomes. In summary, the revised design is considered to meet the above objectives as follows:



- Height/scale would be appropriate to identified character being the DDO 24.5m for much of the site and 9.5m for one small portion of the site. Meeting these heights would remain unchanged from the current approval.
- Minimised amenity impacts noting that side boundary setbacks and the overall alignment of the building would be very similar to the current approval
- Enhancing the varied nature of this area by way of a new, contemporary and improved architectural treatment as compared to the current approval,
- By being in a highly varied streetscape and appropriately responding to that streetscape in a better way than the current approval (less massive and curved
- The gaps between the buildings and the fact that two different external treatments are proposed are considered to minimise mass impacts in the finer grained Alfred Square as compared to the current approval.
- Overall height as compared to the current approval would remain the same and therefore, any responsiveness to the context by way of height is also considered the same as with the current approval,
- The way in which the revised proposal would reinforce key elements of overall urban structure are considered either the same as the current approval or for reasons previously expressed, better than the current approval.

#### Clause 21.06-6 St. Kilda

This clause was recently amended at the same or similar time to the introduction of the DDO affecting this site. It is now much longer and more detailed than it previously was, but mostly in relation to the St. Kilda Road area. The other strategies and objectives remain largely unchanged as they would be relevant to this site.

As with the assessment under Clause 21.05-2 and noting that this is a proposal to amend an existing permit and that the Tribunal has previously indicated that there were no strategic or policy concerns regarding this site and its capacity to cater for an eight level development of (at that time) over 200 dwellings, it is not considered necessary to outline all the strategies and objectives of this clause. Given that its provisions are essentially the same as with previous assessments, it is considered that the broad strategic support offered by this Clause also remains the same now as previously.

However, for the sake of completeness, it is considered that the revised proposal would continue to meet the relevant local strategies of this Clause which can be summarised as seeking to achieve new development that retains the residential role of properties fronting the St. Kilda foreshore and at the same time, responds to the diverse architectural styles and forms and acknowledges the stepping up of built form along The Esplanade from its low-rise edges at Fitzroy Street and Acland Street.

These would be met as the overriding residential role of the development would remain, albeit at a lower density than currently approved, a contemporary style and form is proposed, as is the current approval and the overall form and envelope of the revised proposal would essentially be identical to the current approval meaning that its response to the stepping up along The Esplanade would also be essentially the same to the current approval.



Clause 22.06: Urban Design Policy for Multi-Unit Residential Development:

This clause has several key objectives and a large number of policy outcomes related to achieving high quality urban design responses. Those policy outcomes are divided into separate headings and cover matters such as the public realm, street level frontages, Landmarks and vistas, larger sites, energy efficiency, overall building design, urban art, landscaping, public and private open spaces, fences, amenity and car parking/pedestrian access.

The existing design was assessed under all those provisions and it was concluded that all aspects of Clause 22.06 would be appropriately met, being the objectives and above policy outcomes. In this instance, it is considered that the revised design, whilst visually quite different, would continue to align with this clause.

The relevant overarching objectives are as follows:

- *To achieve high quality urban design and architecture that:*
  - *Responds to the context of places within the municipality.*
  - *Integrates with the prevailing neighbourhood character and contributes to the amenity and vitality of the area.*
  - *Protects and enhances the valued elements of the municipality.*
- *To encourage the development of integrated urban art in new development that reflects the identity of place, community values, innovation and creativity.*

Again, as with the previously assessed clauses, it is noted that none of the provisions of this Clause have changed since the previous assessments, most importantly, the first application which was ultimately decided by the Tribunal. Whilst it is acknowledged that the decision in that instance was to refuse that proposal, it is nonetheless considered that the key matters of concern to the Tribunal – in relation to urban design as opposed to amenity - were those related to landscape planting interfacing the public realm and the unrelieved massing of the proposal.

Following that refusal, a new application was made and a permit was issued. The approved plans show revised massing with the original two buildings divided into three and greater landscape setbacks to the public realm.

The revised design now submitted continues to show three separate buildings and for the most part the same or greater public realm landscaping.

In terms of the revised architecture, in urban design terms, it is noted that the Council's Urban Design referral comments support the new style and form. They do, however, recommend that the tapered rear to building B as currently approved be retained and not be 'squared off' as proposed.

This is assessed in more detail later in this report and is considered unnecessary. In summary, the revised rear of building B would be opposite the very rear of abutting 17 The Esplanade and mostly opposite its ground level open space. The revised side of building B would be separated from 17 The Esplanade essentially by 14m. Whilst the current approval would have less impact in this particular area of the site, it is not considered that the revised proposal would have an unreasonable impact which would warrant requiring a further amendment to the plans.



It is therefore considered that the revised proposal would continue to meet the objectives and policy outcomes of Clause 22.06 in the light of what is currently permitted.

Design & Development Overlay:

The provisions of this overlay have not changed since both previous applications were assessed. In the most recent assessment, leading to the existing permit, it was considered that all the relevant overall Design Objectives, specific design Objectives for each sub-area and the formal requirements for each sub-area would be met.

The revised design would not introduce any aspect that would not either comply with the formal height/setback or design requirements of the various Design Objectives.

The majority of the subject site is covered by DDO 6-6, which has a mandatory height requirement of 24.5m and a suggested minimum setback of 3m from a street frontage.

The proposal would not exceed the above height, aside from roof plant, equipment and lift overruns, which the DDO allows to be no more than 4m higher (i.e. 28.5m). No part of the building would be above the 28.5m plant/equipment/services allowance, as per the existing approval.

Some parts of the revised design would be less than the 3m discretionary setback to the road frontages, but these would for the most part, mimic the existing approval. In fact, the reductions from the 3m are most notable at The Esplanade frontage where some of the building would be at zero setback. That building face, however, would be curved and would only partly be at zero unlike the existing approval (which is not curved) and would be at zero for the full length of that abuttal. All other street interfaces would be at 3m or greater as with the existing approval.

Therefore, the key building requirements would continue to be met to the same (or better) extent than with the existing approval.

As with all of the previous assessments, noting that none of the Decision Guidelines or Design Objectives have changed since the current approval was issued, it is arguable that outlining all the above matters is necessary. However, since the appearance and style of the revised design is substantially different from the current one, it is considered useful to assess it under the relevant DDO provisions that relate to style and appearance. Such relevant provisions are considered to be the following:

(Decision Guidelines, related to style/appearance)

- *Whether the bulk, location and appearance of any proposed buildings and works will be in keeping with the character and appearance of adjacent buildings, the streetscape or the area.*

(Overall Design Objectives for DDO 6 related to style/appearance)

- *To protect and enhance the visual amenity and environment of the St Kilda foreshore as an important natural, recreational and tourism asset of metropolitan Melbourne by ensuring development complements the foreshore and hinterland.*
- *To encourage high quality, well-designed new buildings, works, renovations and additions that are compatible with the existing diverse architectural and streetscape character of St Kilda and reinforce its distinctive built form.*



- *To create articulated, attractive and detailed facades on all visible elevations, including exposed boundary walls.*
- *To ensure that the facade design of new development is compatible with, and respects the character of, neighbouring buildings within the same streetscape.*
- *To encourage architectural design elements which enhance the character of the area and form and provide a safe and comfortable environment for outdoor eating and promenading.*

(Design Objectives specific to sub-area 6 of the DDO related to style/appearance)

- *To ensure buildings respond to their highly visible seaside location through highly articulated facades.*
- *To ensure that the landscaped setback character is maintained.*

Building design is highly subjective and whether a particular design would therefore meet with the above matters is equally subjective. However, assessing the revised design takes place not only in the light of the above matters but also how it compares to the current approval which was considered to suitably meet all the above matters.

As has previously been mentioned, the existing approval is for a clearly contemporary design with relatively large expanses of glass. Whilst different and perhaps more simple, so too would the revised design be. Additionally, the revised proposal would have two styles or themes whereas, the current approval only has one. This is considered an improvement over the current approval.

It is considered that there would have to be something fundamentally flawed with the revised design as opposed to it being clearly different from the approved design. Even though the matter is subjective, there is not considered to be any fundamental failing with the revised design as compared to the approved one. To that end, it is considered that the revised proposal's bulk and appearance would be sufficiently in keeping with adjacent buildings, the streetscape and the area. There is a very wide variety of building styles and forms nearby such that a revised contemporary treatment is still considered appropriate.

Similarly, even though the permitted facades could be argued to be more visually complex than the revised ones, they would nonetheless comprise what is essentially the same treatment across the site. They would also essentially be flat. The revised treatment would comprise two styles, one of which would have notably curved elements. Both these revised differences are considered to result in appropriate detailed and articulated facades meeting with the above requirements calling for such treatments.

Additionally, the revised facades are considered to be well designed and in the light of the current approval, would be compatible with the diverse architectural and streetscape character of this area. The curved facades in particular would reference but not mimic the art deco character of St. Kilda whilst the strongly horizontal design with its expressed floor plates would partly reference the numerous post-modern buildings (1950s and 1960s) in the area and much more strongly reference the new apartment building to the rear of the Esplanade Hotel.

The subject site is somewhat unusual in that it is not part of an intact streetscape or a streetscape in the traditional understanding of the word. As it abuts The Esplanade, it



only has neighbours to one side and the large gap of Alfred Square to the other. The streetscape of Alfred Square has three sides to it with the subject site occupying all of one and part of one other and the existing building on the site dominates those frontages. That is, the site is not part of a single run of lots in one single street and therefore, does not have a traditional streetscape presence.

It does of course have a very highly visible public realm presence due largely to the open Alfred Square in the foreground but even so, compared to the current approval it is considered that the revised design would be in keeping with the existing character of that public realm and would comprise a more moderated yet (by way of the two overall themes) varied external treatment. This and the appropriate extent of landscaping, would meet with those aspects of the objectives mentioned above.

It is therefore considered – in the light of the existing approval – that the revised design would remain sufficiently compliant with the relevant Design Objectives of the DDO.

It is also noted that a very small portion of the site is within DDO 6-5 as opposed to DDO 6-6. That DDO applies to the north-east corner of building A only. That DDO has a 9.5m mandatory height limit and a discretionary boundary setback requirement of 3m.

That corner of the building would be approximately 9m high and would be setback just over 5m to its nearest boundary. These would also mimic the existing approval.

#### 11.7 Would there be unreasonable direct amenity impacts as referred to in the DDO?

Ordinarily, an assessment of a new development's likely amenity impacts would be assisted by Clause 58. However, that Clause does not apply to amendments to permits – such as being requested in this instance – if the original application was lodged before (as relevant here) 13 April, 2017. The original application was lodged in November 2016.

Moreover, in amenity terms, the previous assessments essentially identified that the previous key amenity impacts would most likely be shadowing and overlooking. These are assessed below, followed by an assessment of the revised design's reduced setbacks at the north of building B.

The applicants have submitted shadow diagrams comparing shadows cast by the existing approval versus the revised proposal. Given that the two building envelopes are so similar, the extent of shading would be virtually identical. Therefore, in line with the requirements of DDO 6-6, the revised proposal would not cast any shade onto the foreshore reserve at any time. The revised proposal would, however, cast shadow onto the footpath on the opposite side of The Esplanade on the winter solstice but only to a very similar extent to the current approval.

Similarly, some shadowing would fall across Alfred Square on the winter solstice and to a much lesser extent, the equinox. The DDO requires the former shadowing to not result in any 'unreasonable loss of light to that reserve'.

The revised shadowing would be very similar to that currently permitted. That is, in relation to the opposite footpath, both schemes would result in shadowing in winter that would not affect that footpath after approximately 12.30pm and both schemes would cast shadows that would not unreasonably affect Alfred Square after approximately 10.30am.



It is therefore considered that the revised proposal would not detrimentally increase shadowing under the DDO provisions as compared to the existing approval.

In terms of overlooking, the revised design continues to depict privacy screening in much the same locations as shown on the current approval. The new proposal's screening would be different from the current approval and would comprise a large extent of vertical batten/louvre screens as opposed to the current approval's combination of 1.7m high obscure glass and balcony balustrades placed in such a way to as to create sight lines that would prevent unreasonable overlooking.

The most sensitive interfaces in terms of overlooking are considered to be from the west of building A towards No. 7 Alfred Square, from the east of buildings B and C towards no. 17 The Esplanade and from the rear (north) of building A towards the open space at 1-4 Bessiere Place. A less sensitive interface is from the rear (north) of building B towards 42 Acland Street.

Revised building A would be separated anywhere between 9m and 16m to the east wall (and windows) of 7 Alfred Square. The current approval due to that separation distance and the relevant Tribunal decision, does not show any privacy screening on that face of the building. The revised plans continue to show almost identical separations to 7 Alfred Square and also continue to show no privacy screening.

In the light of their being a valid approval, it is not considered that any new or different situation has arisen that now justifies privacy screening to building A.

The revised setbacks to the rear (39 Acland Street and 1-4 Bessiere) are either largely unchanged or slightly greater than those of the current approval. The revised plans show a lesser extent of screening, but also show changes to fence heights – with the inclusion of louvre panels above existing fences added to the interfaces with 39 Acland Street and 1-4 Bessiere Place. Privacy protection at these interfaces would either be the same or better than with the current approval due to the revised proposal essentially raising (or making more shallow) the associated sight lines outwards from the proposal.

The east side of building C as facing 17 The Esplanade is shown on both the currently approved and revised plans as having substantial screening. Whilst the revised plans show extensive vertical screening (as opposed to high balcony balustrades and some obscure glass) the sight lines offered through the proposed battens would be such that no unreasonable overlooking would be caused. Essentially, only views at an approximately 45 degree angle forwards or rearwards would be offered as opposed to views straight across. This would represent a change in circumstances compared to the current approval but not one that would lead to unreasonable detriment noting the separation between building B and 17 The Esplanade of approximately 12m to approximately 14m.

The current approval shows solid and relatively high balcony balustrades to the rear of building A as facing the open spaces at 1-4 Bessiere Place. The revised plans show more limited screening at this interface. However, as previously noted, the plans also show louvre screen panels added to the common boundary fence thus raising sight lines and improving privacy protection.

On balance, it is not considered that any of the screening changes from the current approval would be unreasonable.



In relation to the revised design's reduced setbacks at the rear of building B (as compared to the current approval) it is considered that no additional or unreasonable detriment would be caused. The revised rear or north wall of building B would be setback generally a consistent 3.7m (or slightly more) from the boundary beyond which is the approximately 5m wide rear laneway. Much of the interface beyond that is to blank garage doors with two very small open space parcels between the garages. This, however, is not primary open space with that function carried out by an open space parcel between the garage building and the main residential building on the site. It is therefore not considered that the squared off rear of building B would have added detriment to No. 42 Acland Street.

Similarly, the revised rear setback of building B would place additional mass and bulk closer to the very rear of 17 The Esplanade. However, that additional mass would still be at least 14m away from the closest window at the rear of neighbouring No. 17, which would still have oblique outlook across the end of Bessiere Place and direct and open views to the north-east. Whilst less than the current approval, a 14m setback is considered generous in this setting. This coupled with the fact that much of the revision to building B would not be opposite any of the windows at 17 The Esplanade – but its rear service space – is considered to lead to an acceptable outcome, even if different from the current approval.

It is therefore considered that there would be no unreasonable detrimental impacts from the revised rear treatment of building B.

**11.8 Is the car/bicycle provision acceptable?**

The proposal would comfortably exceed its planning scheme requirement in relation to residential car parking. The revised proposal's residential car parking requirement would be 217 car spaces. Its restaurant/café requirement would be eight spaces bringing the overall total requirement to 225 spaces.

The revised plans show a total of 344 car spaces. It is noted that there is now no formal requirement for any visitor car parking but in any case, 13 are proposed.

Only two instead of five car spaces would be allocated to the café/restaurant, but given this site's location and its access to public transport (tram) this shortfall is considered acceptable.

The proposal would substantially exceed its bicycle parking requirement with a total of 180 spaces proposed rather than the 39 required under Clause 52.34.

**12. COVENANTS**

There are no restrictive covenants on the title that would prevent Council from deciding on the proposal.



**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 amended proposal raises no new planning concerns which cannot be addressed by appropriate condition, and overall it is considered that the amended proposal is an improvement over that previously approved.
- 15.2 It is recommended that Council advise VCAT that it does not oppose amendment of the proposal in accordance with the submitted plans subject to the conditions set out in this report.

**TRIM FILE NO:** P1029/2016  
**ATTACHMENTS** 1. 1029/2016/C - objector map  
2. 1029/2016/C plans