



**6.3** 218 ESPLANADE WEST, PORT MELBOURNE

**LOCATION/ADDRESS:** 218 ESPLANADE WEST, PORT MELBOURNE

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

**PREPARED BY:** RICHARD LITTLE, SENIOR URBAN PLANNER

**1. PURPOSE**

- 1.1 To consider and determine Planning Permit application P320/2018 for demolition of existing dwelling, shed and associated fences and construction of a two storey dwelling and crossover to the road to the south of the site.

**2. EXECUTIVE SUMMARY**

<b>WARD:</b>	Gateway
<b>TRIGGER FOR DETERMINATION BY COMMITTEE:</b>	Application called in by Ward Councillor
<b>APPLICATION NO:</b>	320/2018
<b>APPLICANT:</b>	Planning Collaborative Pty Ltd
<b>EXISTING USE:</b>	Residential Dwelling
<b>ABUTTING USES:</b>	Dwellings and Public Park
<b>ZONING:</b>	Neighbourhood Residential Zone (NRZ1)
<b>OVERLAYS:</b>	Heritage Overlay – Schedule 1 (HO1) Special Building Overlay – Schedule 2 (SBO2)
<b>STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL</b>	Expired

- 2.1 The subject site is located within Heritage Overlay – Schedule 1 (Port Melbourne) and contains a contributory graded dwelling. The statement of significance for HO1 Port Melbourne heritage precinct (in part) states: *Forming part of the Port Melbourne area (HO1) and contributing to the significance of this broader overlay, the Port Melbourne East Sub-precinct is of local historical and architectural significance in its own right, as a largely nineteenth century residential area (with some later development of the Federation and interwar periods). The area is characterised by relatively wide streets which access the narrow, closely developed allotments and building stock comprised of relatively modest dwellings, predominantly but not exclusively timber.* It is noted in the statement of significance that dwellings dating from the Interwar period contributes to the significance of the heritage precinct.



- 2.2 A contributory heritage place includes buildings and surrounds that are representative heritage places of local significance which contribute to the significance of the Heritage Overlay area. They may have been considerably altered but have the potential to be conserved. They are included in a Heritage Overlay and are coloured “green” on the City of Port Phillip Heritage Policy Map, in the Port Phillip Heritage Review (Volume 1-6), 2018.
- 2.3 The dwelling on the subject site has been graded contributory under the Port Phillip Heritage Review (May 2018). The dwelling is important as it is an interwar bungalow of typical design with a transverse gabled roof and a prominent gable-fronted porch set on rendered piers with a rendered balustrade. There have been minimal alterations to the dwelling, possible removal of the chimney and replacement of the roof. Council’s Heritage Advisor has advised that the dwelling could have been graded as significant, if not for these changes.
- 2.4 The proposal seeks permission for the complete demolition of a contributory graded building and the construction of a two storey dwelling with access to the unnamed road to the south of the site.
- 2.5 Pursuant to Clause 22.04-3 (Heritage), where a permit is required for demolition of a significant or contributory building, it is policy to:

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

- *the building is structurally unsound, and either*
- *the replacement building and/or works displays design excellence which clearly and positively supports to the ongoing heritage significance of the area, or*
- *in exceptional circumstances the streetscape is not considered intact or consistent in heritage terms.*

*Require all applications for demolition of significant or contributory buildings to be accompanied by an application for new development. [Emphasis added]*

- 2.6 The applicant has failed to demonstrate that the existing dwelling is structurally unsound as required under Clause 22.04 (Heritage) of the Port Phillip Planning Scheme. The existing dwelling is contributory graded and an almost intact example of an interwar bungalow that contributes to the significance of this precinct.
- 2.7 The application was advertised and received no objections.
- 2.8 The replacement two storey dwelling is generally considered acceptable and could be supported subject to minor changes, including increasing the size of the garage, inclusion of privacy screens and reduction of wall heights. However, the proposal does not meet the first test of the Heritage policy and must be refused.
- 2.9 It is recommended that the Council refuse the application and issues a Notice of Refusal to Grant a Planning Permit.



### 3. RECOMMENDATION

- 3.1 That the Responsible Authority, having caused the application to be advertised and having received no objections, issue a Notice of Refusal
- 3.2 That a Notice of Refusal be issued for demolition of existing dwelling, shed and associated fences and construction of a two storey dwelling and crossover to the road to the south of the site at 218 Esplanade West, Port Melbourne
- 3.3 That the refusal be issued on the following grounds:
  - 1 The proposed demolition of a contributory graded building is contrary to Clause 15.03 (Heritage), Clause 21.05 (Built Form) and Clause 22.04 (Heritage) of the Port Phillip Planning Scheme as it has not been demonstrated that the building is structurally unsound.
  - 2 The proposed double garage is not satisfactory as it would not have a minimum internal area of 5.5 m x 6.0 m in accordance with Clause 52.06 (Car Parking) of the Port Phillip Planning Scheme.
  - 3 The proposal would not achieve the objectives and/or standards of Clause 54 (Rescode) of the Planning Scheme, in particular those relating to walls on boundaries, overlooking, and daylight to existing windows.

### 4. RELEVANT BACKGROUND

The following relevant applications have previously been considered for the subject site:

Application No.	Proposal	Decision	Date of Decision
978/2001	Construction of a new double storey dwelling at the rear of existing and associated car parking facilities	Approval	20/02/2002

### 5. PROPOSAL

- 5.1 The application seeks approval for the demolition of the existing dwelling, shed, front fence, southern boundary fence and gate and construction of buildings and works including a two storey dwelling, front and side fence and the construction of a crossover to the south of the site.
- 5.2 The assessment relates to the plans (A00- A16 and SD01-SD08) all prepared by Tom Eckersley Architects and received by Council on 5<sup>th</sup> July 2018.
- 5.3 A Planning Report with ResCode assessment and WSUD was submitted in support of the application.



5.4 Specific details of the application are as follows:

5.5 **Demolition**

Demolition of existing dwelling, shed and front fence, southern boundary fence and gate

5.6 **Buildings and works**

5.7 The proposal involves the construction of a large two storey three bedroom dwelling with basement level. The overall floor area would be 378m<sup>2</sup>.

Basement Level

The layout would consist of two storage areas, lift, cellar and stairs.

The basement level would have a length of 13.9 m and be 8.45 m wide.

The finished floor level would be -0.65 AHD.

Ground Floor

The layout would consist of a central entry, two bedrooms, bathroom, laundry, lounge and stairs.

There would be a double garage with access to the road (unnamed) to the south of the site.

There would be a courtyard along the northern boundary with direct access to the lounge and a small garden area to the rear of the site.

The ground floor would be partially built to the northern and eastern boundaries.

The ground floor would be setback 3.38 m increasing to 4.3 m to Esplanade West and 0.8 m increasing to 1.39 m to the southern boundary. The dwelling would be built to the rear boundary with the exception of a small garden area. On the northern boundary, the dwelling would be built to the boundary with the exception of the central courtyard area.

The finished floor level would be 2.45 AHD

The ground floor of the dwelling would have a length of 17.7 m and have a maximum width of 12.6 m.

First Floor

The layout would consist of stairs, open plan living/dining and kitchen area and a master bedroom with en-suite.



The first floor would be setback 3.2 m increasing to 3.46 m to Esplanade West and 1.33 m to the southern boundary (unnamed road). The dwelling would be setback 1.5 m increasing to 5.3 m to the northern boundary and 0 increasing to 0.9 m to the rear boundary.

The first floor level would have a length of 17.7 m and have a maximum width of 12.6 m.

Roof Level

The dwelling would have a flat roof.

Overall building height of 8.65 m.

Materials

The proposal would be a contemporary building finished in tile cladding (bluestone or similar), blockwork (concrete/ light grey), steel, clear glass, dark grey cladding (monument grey or similar) and metal clip lock roof (silver or similar). The dwelling would have a strong rectilinear with projecting window elements, recessed from at ground floor level on the front elevation and vertical recesses on the southern elevation.

**6. SUBJECT SITE AND SURROUNDS**

Description of Site and Surrounds	
Site Area	285 m <sup>2</sup>
Existing building & site conditions	<p>The subject site is located on the corner of Esplanade West and an unnamed road, Port Melbourne.</p> <p>The site is irregular in shape with a 14.56 metre frontage to Esplanade West and a frontage of 37.54 m to the unnamed road to the south of the site. The site has a total area of 285m<sup>2</sup>.</p> <p>There is a 1.2m wide water supply easement that runs along the southern boundary.</p> <p>The site is currently occupied by a single storey interwar bangalow with a transverse gable and prominent gable-fronted porch set on rendered piers. There have been some alterations to the dwelling, without which the dwelling could have been graded as significant.</p> <p>There is a low level masonry fence and vehicular access facing Esplanade West and a high level steel fence along the southern boundary.</p>



<p>Surrounds/neighbourhood character</p>	<p>To the north of the site (No. 220 Esplanade West) is a contemporary two storey building with a flat roof and built to each side boundary. The first floor level has a zero setback from the ground floor level. The dwelling is finished alucobond style cladding. To the front of the dwelling is a low level timber and masonry fence and the front setback is landscaped. The previous dwelling (graded significant) on the site was demolished as it was structurally unsound. To the rear of the dwelling is the secluded private open space. It is noted that this dwelling (1072/2009) was approved on the basis that the previous heritage dwelling (graded significant) was structurally unsound.</p> <p>Further to the north are two double storey dwellings. Beyond these dwellings the scale is reduced to single storey dwellings. It is also noted that the current two storey dwelling at No. 222 Esplanade West (786/2009) was supported as the previous dwelling was structurally unsound.</p> <p>To the south of the site is an unnamed road. Further to the south is Edwards Park.</p> <p>To the east of the site (2 Lagoon Lane) is contemporary two storey dwelling. The dwelling was approved under permit 978/2001 on 29<sup>th</sup> February 2001. The area now occupied by the dwelling was previously a workshop/ garage and not used a secluded private open space to the dwelling at 218 Esplanade West.</p> <p>The dwelling has a high-level masonry fence along the unnamed road and Lagoon Lane. The dwelling is finished in a combination of face brickwork at ground level and rendered board on the upper level. The secluded private open space faces both the unnamed road and Lagoon Lane and is at ground floor level and first floor level. There is also a section of secluded private open space at the rear of the site.</p> <p>To the west of the site is Esplanade West. On the opposite side of the street are a mixture of two and three storey dwellings. The dwellings are a mixture of contemporary and post war styles.</p>
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## 7. PERMIT TRIGGERS

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

Zone or Overlay	Why is a permit required?
Clause 32.09 – Neighbourhood Residential Zone - Schedule 1	A permit is required to construct or extend one dwelling on a lot which is less than 300 sqm pursuant to Clause 32.09 - 5. A development must meet the requirements of Clause 54.
Clause 44.05 – Special Building Overlay – Schedule 2.	A permit is required to construct a building or construct or carry out works.
Clause 43.01 Heritage Overlay – Schedule 1	A permit is required to demolish or remove a building and to construct a building or carry out works pursuant to Clause 43.01 – 1.

## 8. PLANNING SCHEME PROVISIONS

### 8.1 Planning Policy Frameworks (PPF)

The following Planning Policies are relevant to this application:

Clause 11: Settlement

Clause 11.01-1R1: Settlement - Metropolitan Melbourne

Clause 11.02: Managing Growth

Clause 11.03: Planning for Places

Clause 13: Environmental Risks and Amenity, including

Clause 13.01: Climate Change Impacts

Clause 13.07: Amenity

Clause 15: Built Environment and Heritage including

Clause 15.01-1: Built Environment

Clause 15.01-1R: Urban design - Metropolitan Melbourne

Clause 15.01-2S: Building Design

Clause 15.01-4R: Healthy neighbourhoods - Metropolitan Melbourne

Clause 15.01-5S: Neighbourhood character

Clause 15.02-1: Sustainable development

Clause 15.03: Heritage

Clause 15.03-1S: Heritage conservation

Clause 16: Housing including

Clause 16.01: Residential development



- Clause 16.01-1R: Integrated housing - Metropolitan Melbourne
- Clause 16.01-3R: Housing diversity - Metropolitan Melbourne
- Clause 16.01-4S: Housing affordability

## 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 21.03-2 Sustainable Transport

Clause 21.04: Land Use, including

Clause 21.04-1 Housing and Accommodation

Clause 21.05: Built Form, including

Clause 21.05-1 Heritage

Clause 21.05-2 Urban Structure and Character

Clause 21.05-3 Urban Design and the Public Realm

Clause 21.05-4 Physical Infrastructure

Clause 21.06: Neighbourhoods, including

Clause 21.06-4 Port Melbourne and Garden City

Clause 22.04 Heritage Policy

## 8.3 Other relevant provisions

Clause 52.06 Car Parking

Clause 54 ResCode

Clause 65 Decision Guidelines

## 8.4 Relevant Planning Scheme Amendment/s

Nil

## 9. REFERRALS

### Internal referrals

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

### 9.1 Development Engineer

*The proposed FFL at 2.45 AHD are above the required minimum flood level.*

*There are no objections to the proposal.*





## 9.2 Sustainable Design

The submitted WSUD is not yet of a standard that can be endorsed.

### Planners Comments

The submitted WSUD is not yet of a standard that can be endorsed. Had the application been recommended for approval, a condition would require the submission of a revised WSUD.

## 9.3 Heritage Advisor

The Heritage Advisor's comments are provided in full below:

*Significant and Contributory buildings within the HO1 precinct are related to the historic periods of development in Port Melbourne. The statement of significance for the HO1 Port Melbourne heritage precinct notes (in part):*

*Forming part of the Port Melbourne area (HO1) and contributing to the significance of this broader overlay, the Port Melbourne East Sub-precinct is of local historical and architectural significance in its own right, as a largely nineteenth century residential area (with some later development of the Federation and interwar periods). The area is characterised by relatively wide streets which access the narrow, closely developed allotments and building stock comprised of relatively modest dwellings, predominantly but not exclusively timber.*

*Accordingly, houses dating from the Victorian, Federation and Interwar periods contribute to the significance of the precinct.*

*Esplanade East and Esplanade West historically define the boundaries of the lagoon that existed here in the nineteenth century and restricted development to the east of Bay Street. As the land was reclaimed much of this area became parkland, but some pockets at the north and south ends remained undeveloped while the surrounding areas were built on during the nineteenth century. These undeveloped areas were eventually subdivided and built on in the early twentieth century.*

*This house forms part of a group of houses (gable fronted Edwardian cottages and interwar bungalows) in the area bounded by Edwards Park to the south, Esplanade East, Bridge St, and Esplanade West that all date from the early twentieth century and demonstrate the later infill development that occurred on this land, thus illustrating how some parts of Port Melbourne developed later than others.*

*The Contributory grading is appropriate as it is an interwar bungalow of typical design with a transverse gabled roof and a prominent gable-fronted porch set on rendered piers with a rendered balustrade. There have been some alterations – presumed removal of chimney and possible replacement of roof material - otherwise it may have been graded Significant.*

*The Contributory grading of this building has not been affected by the construction of the new townhouses to the north, or the loss of its rear yard.*



9.3.1 **Demolition of the building**

In accordance with our heritage policy complete demolition of a Contributory building is not supported unless the building is structurally unsound, and either (my emphasis):

- *The replacement building and/or works displays design excellence which clearly and positively supports to the ongoing heritage significance of the area, or (my emphasis)*
- *In exceptional circumstances the streetscape is not considered intact or consistent in heritage terms.*

*In relation to the two alternate dot points, I agree the streetscape in this part of Esplanade West is not intact or consistent due to the recent redevelopment that has occurred immediately to the north of this site.*

*Because of this, I don't support complete demolition of the building.*

9.3.2 **Suitability of replacement building**

*Because I don't believe the building satisfies the first test set out for complete demolition, the design of the new development becomes irrelevant. Comments on the design will also be provided by Council's Urban Designer.*

*Because of this I will keep my comments about the design brief. My primary observation is that the proposed design has not taken its cues from the valued (that is, Significant or Contributory) buildings within the precinct. The blocky rectilinear form, materiality and details such as the window proportions are not characteristic of the houses within the precinct. The only vague reference appears to be the slightly pitched roof form. Accordingly, even if we were to support full demolition I don't believe the design is a suitable contextual response.*

*Accordingly, I don't support the current proposal. The existing house must be retained. If, however, evidence can be provided that the house is structurally unsound, then the design needs to be revised to have more regard to the valued context of the precinct and not simply the poorly designed townhouses in the immediate vicinity.*

9.3.3 **Planners Comments**

The Heritage Advisor does not support the demolition of the contributory graded dwelling. The Heritage Advisor confirms that the contributory grading is correct and that the dwelling is a good example of inter war development that contributes to the significance of the heritage precinct. Whilst the Heritage Advisor does not support the replacement dwelling, it is considered to be an acceptable design. Since the Heritage Advisor's comments were made, the applicant has worked with Council's Urban Design Officer to improve the overall design and appearance of the dwelling. It should also be noted that in the immediate area are a number of contemporary and non-heritage dwellings at Nos. 220, 222, 224, 224A, 211, 205, 211, 227 Esplanade West and 2 Lagoon Place. Given the immediate context of the site, the proposed contemporary two storey dwelling would be acceptable.



#### 9.4 Urban Design Officer

The Urban Design Officer's comments are provided in full below:

##### **Built Form**

*The proposed built form does not comply with front, rear and side setback requirements.*

*The proposal is not considered to be of a quality or standard that would warrant the demolition of the existing structure which forms part of a contributory place. UD supports the advice of Council's Heritage advisor.*

##### **Façade treatment & detail**

*While the chosen materials are durable, they do not fit within the character of the streetscape. This combined with very few apertures for windows results in a very monolithic outcome to the street. This is not supported.*

*A design response is sought that is of a high architectural quality, site specific and that responds to its surrounding context, making a positive contribution to the streetscape.*

##### Planners Comments

The original scheme was not supported on the grounds raised above. Following a meeting with the applicant, the design was amended and revised 3d montages and material details provided (as outlined in the advertised plans). On the basis of the changes and additional information, the proposal is now supported by Council's Urban Design Officer.

#### 9.5 External referrals

The application was not required to be externally referred.

### 10. PUBLIC NOTIFICATION/OBJECTIONS

10.1 It was determined that the proposal may result in material detriment therefore Council gave notice of the proposal by ordinary mail to the owners and occupiers of surrounding properties (14 letters) and directed that the applicant give notice of the proposal by posting two notice(s) on the site for a 14 day period, in accordance with Section 52 of the Planning and Environment Act 1987.

10.2 The application has received no objections.

### 11. OFFICER'S ASSESSMENT

#### **Local Policy**

##### 11.1 Zone

Pursuant to Clause 32.09-5 (Neighbourhood Residential Zone) a permit is required to construct or extend one dwelling on a lot of less than 300 square metres.



The subject site has a total area of 285 sqm. There is no requirement for minimum garden area under Clause 32.09-4. The proposal would have a maximum height of 8.65 m and be two storeys, which is below the maximum of 9 m and two storeys allowed under the zone

## 11.2 Demolition

11.2.1 The proposal seeks to demolish the whole of the contributory graded dwelling. A key objective of the Planning Policy Framework at Clause 15.03 (Heritage) is to *ensure the conservation of places of heritage significance*. The policy strategies include *retain those elements that contribute to the importance of the heritage place*, and *encouraging the conservation and restoration of contributory elements*.

11.2.2 The Municipal Strategic Statement (MSS) at Clause 21.05-1 identifies key issues which include that the *incremental loss of contributory buildings through demolition within heritage areas has, and will, continue to affect the integrity of these places*. An objective of this clause is to *conserve and enhance the architectural and cultural heritage of Port Phillip*. Strategies to achieve this objective include *protecting, conserving and enhancing all identified significant and contributory places, including buildings, trees and streetscapes; and supporting the restoration and renovation of heritage buildings and discouraging their demolition*.

11.2.3 The heritage policy at Clause 22.04-3 states under “Demolition”:

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

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

- *the building is structurally unsound, and either*
- *the replacement building and/or works displays design excellence which clearly and positively supports to the ongoing heritage significance of the area, or*
- *in exceptional circumstances the streetscape is not considered intact or consistent in heritage terms.*

*Require all applications for demolition of significant or contributory buildings to be accompanied by an application for new development.* [Emphasis added]

11.2.5 The applicant has not demonstrated that the existing dwelling is structurally unsound and no structural engineers report has been submitted. Under Clause 22.04-3 the first test is whether or not the building is structurally unsound. Only after that has been satisfied can Council consider the design excellence and integrity of the streetscape.

11.2.6 Accordingly, the proposed demolition of the existing dwelling would be inconsistent with the first test of the above policy.



The applicant seeks to set aside the policy to allow demolition of the dwelling, and have confirmed that the dwelling is not structurally unsound, on the basis that the contributory grading is incorrect.

- 11.2.7 With regards to the grading of the dwelling, the Heritage Advisor has confirmed that it is correct and has noted:

*The Contributory grading is appropriate as it is an interwar bungalow of typical design with a transverse gabled roof and a prominent gable-fronted porch set on rendered piers with a rendered balustrade. There have been some alterations – presumed removal of chimney and possible replacement of roof material - otherwise it may have been graded Significant.*

- 11.2.8 Therefore, as the applicant has failed to demonstrate that the existing contributory graded dwelling is structurally unsound the application should be refused as it is contrary to Clause 22.04-3 (Heritage) of the Port Phillip Planning Scheme.
- 11.2.9 Furthermore, Council's Heritage Advisor has confirmed that the dwelling is justified a contributory grading, and had it not been for the change to the roof, could have been graded significant. Whilst the streetscape has a high degree of diversity with contemporary dwellings, this does not impact on the individual grading of the dwelling. The Heritage Advisor has also stated that *Victorian, Federation and Interwar periods contribute to the significance of the precinct*. The precinct is greater in area than just this section of Esplanade West and this dwelling contributes to the greater precinct as a fine example of interwar dwelling. In addition to this, the existing dwelling is in very good condition and is habitable in its current condition.
- 11.2.10 The Heritage Policy is helpful in informing matters that the Responsible Authority is required to consider in exercising the discretion provided by Clause 43.01 (Heritage Overlay) of the Scheme. However, it is not intended by the Scheme that the policy be applied without considering the particular circumstances of the subject site, the contribution of the existing building to the heritage precinct and the merits of the replacement buildings.
- 11.2.11 In cases where VCAT have supported the demolition of a contributory graded building, this has been due to the dwelling being highly altered and the dwelling no longer contributing to the wider heritage place. The Tribunal in *Curzon Property Investments v Port Phillip CC [2018]* supported the demolition of a contributory graded building due to the extent of alterations which *"markedly reduced the contribution the building makes to the heritage values of the precinct"*. This, however, is not the case for this application. As previously noted, Council's Heritage Advisor has noted that the dwelling is highly intact and had it not been for the change in roof materials, could have been graded significant.
- 11.2.12 In considering the contribution of a dwelling to the heritage precinct the Tribunal noted in *Stameen Pty Ltd v Port Phillip CC [2014]* that *the demolition of one contributory building in an extensive precinct could have only a minimal impact on the significance of the whole precinct, or heritage place.*



*It is questionable whether the dwelling adds to the significance of HO5 that relates to offering 'valuable insights into the housing styles of the rich from the 1840's onwards'. However, it does add to the significance of HO5 that is the retention of important examples of architectural styles of each historical period. It is considered that the retention of the dwelling on the subject site also contributes to the wider heritage area as a good example of a inter war dwelling which makes up part of the historical period of this precinct.*

11.2.13 The loss of heritage character, through demolition, and its impact was also considered in *Montezuma Developments Pty Ltd v Port Phillip CC [2016]* where it was noted that *The subject dwelling has a heritage character and its loss will have an impact on this precinct. It will represent an erosion of the discrete heritage character of this section of HO6 which extends along part of Wellington Street. Although the dwelling has been physically modified, the alterations are reversible, albeit at a cost. It is possible to remove the roof tiles and replace them with slate. Similarly, the unsympathetic Inter-war verandah can be removed and a Victorian verandah reinstated. The window joinery of the front elevation is another element which can be reinstated.* Again, in this instance the dwelling is largely intact, apart from the change of roof materials and possible loss of chimney. The reinstatement of the roof materials could be reversed in the future. However, once the dwelling is demolished it would contribute to the further erosion of heritage value within this precinct.

11.2.14 From the above discussion there are no grounds to set aside the policy requirements of Clause 22.04-3 as:

- the dwelling is not structurally unsound.
- the dwelling has not been significantly altered and is almost entirely intact.
- the dwelling as it stands is in very good condition (internally) and habitable.
- the dwelling contributes to the overall heritage precinct as an important example of inter war development.

11.2.15 Whilst the remainder of this report will consider the merits of the replacement dwelling, this does not override the basis of the reason for refusal due to the dwelling being structurally sound and contributing to the heritage precinct.

### 11.3 Neighbourhood Character

11.3.1 Clause 21.05 (Built Form) requires new development to respect and enhance the scale, mass and setback of nearby heritage buildings. Clause 22.04-2 encourages new development to be respectful of the scale, form, siting and setbacks of nearby significant and contributory buildings.

11.3.2 The proposal is generally considered to be in keeping with the nature of development in the immediate area. All of the immediately abutting dwellings are double or triple storey.



Furthermore, the three dwellings to the north and the dwellings across the road all have first floors with zero setback to the ground floor. The wider area is more mixed with properties further north generally being single storey whilst on the opposite side of Esplanade West (and to the north) are mainly double storey. Within this context the proposed two storey built scale, with zero setback between ground and first floor would be acceptable. The two storey built form in the street is almost entirely built to each of the side boundaries at both ground and first floor. The proposal would be built to the northern boundary at ground floor level and would have a built form consistent with other two and three storey dwellings within Esplanade West.

11.3.3 In terms of setback, it is noted that this section of Esplanade West is not consistent. The setbacks range from zero to 7m, with the average being around 3 m. The proposed setback of 3.38 m increasing to 4.31 m would be consistent with this pattern of setback in this section of Esplanade West.

11.3.4 The dwelling would be mainly finished in light grey concrete blockwork. These materials are considered to be in keeping with more recent development in this section of Esplanade West. The overall form of the proposal is also considered to be acceptable with bold contemporary built form and flat roof reflecting the contemporary dwellings to the north of the site.

#### 11.4 Amenity – Clause 54/55 (Rescode)

11.4.1 The proposed development satisfies the A1 (Neighbourhood Character), A2 (Integration with Street), A4 (Building height), A5 (Site Coverage), A6 (Permeability), A8 (Significant Trees), A13 (North Facing Windows), A14 (Overshadowing Open Space), A16 (Daylight to New Windows), A17 (Private Open Space), A18 (Solar Access to Open Space) and A19 (Design Detail) standards of ResCode.

11.4.2 Variations have been sought and could be supported in relation to A3 (Street Setback), A7 (Energy Efficiency Protection), A10 (Side and Rear Setbacks) and A20 (Front Fences) as follows:

##### A3 (Street Setback)

11.4.3 The subject site is a corner lot and the adjoining property (No. 220 Esplanade West) is setback 4.11 m. The proposal would be setback 3.38 m increasing to 4.31 m. Therefore, the proposal does not comply with the requirement of the Standard.

11.4.4 In considering the pattern of setbacks in the surrounding area it is noted that there is no consistent pattern. The setbacks within this section of Esplanade West range from zero to 7 m, with the average being generally 3 m. On this basis the variation to the Standard is considered to be acceptable as the proposal would meet the objective of this Clause.

##### A7 (Energy Efficiency Protection)

11.4.5 The living areas would receive good northern access at first floor level. Whilst the area of secluded private open space would be located on the

northern side, it is against an existing two storey wall. Given the constraint imposed by the adjoining property, this is considered to be acceptable.

A10 (Side and Rear Setbacks)

11.4.6 The proposal requires a variation to the rear setback requirement on the eastern boundary. The proposed 7.4 m high wall would have a zero setback increasing to 0.9 m from the eastern boundary. Under this Standard the setback would be 2.49 m. As such, the proposal seeks a variation of 1.59 m.

11.4.7 The majority of the wall would be opposite the dwelling (built to the shared rear boundary). However, part of the wall (the last 0.8m) would be opposite the secluded private open space of No. 2 Lagoon Lane.

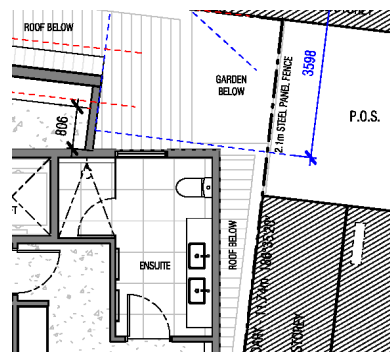


Image: First floor section of wall opposite the secluded private open space of No. 2 Lagoon Place.

11.4.8 The proposed variation to the setback requirement is unlikely to result in an unreasonable loss of amenity given the small section of wall facing the secluded private open space. The section of wall that does not comply is small. Occupiers of the secluded private open space would still have a reasonable level of outlook along the northern boundary of the subject site. Therefore, the proposed variation would not result in a loss of amenity in terms of visual bulk, loss of outlook or create a sense of enclosure. A variation is therefore considered appropriate in this instance.

A20 (Front Fences)

11.4.9 The application proposes a metal post and block work fence with a height ranging from 1 - 2 m.

11.4.10 The fencing along this section of Esplanade West is mixed in terms of height and materials. Typical fencing materials include masonry, timber picket and metal railing, whilst heights range from low level to 2.0 m in height.

11.4.11 The fence facing Esplanade West would be 1 m increasing to 1.5 m in height. The proposed low level metal post fence and block work fence is considered to be acceptable and in keeping the fence styles found in this section of Esplanade West. Furthermore, the fence would allow views through it of the dwelling.





11.4.12 The fence along the unnamed road ranges from 1 m to 2.0 m in height. It is noted that there is currently a high level timber paling fence. The proposed metal post fence is open and allows views through it. In this instance the variation to the fence height requirement is considered to be acceptable.

11.4.13 Variations have also been sought and could not be supported in relation to A11 (Walls on boundaries), A12 (Daylight to Existing Windows) and A15 (Overlooking) as follows:

A11 (Walls on Boundaries)

11.4.14 The proposal seeks to vary the height requirement of this Standard on the northern elevation. The proposal would have two sections of wall on the northern boundary. The first section, with a height of 5.11 m, would abut an existing two storey wall at No. 220 Esplanade West. Given the proposed wall would abut an existing two storey wall, there would be no loss of amenity and a variation can be supported in this instance.

11.4.15 The second section of wall (ground floor laundry and WC) would have a wall with a height of 3.5 m. The wall would be opposite a courtyard and windows (kitchen and dining). Given that the wall would be opposite a courtyard and habitable room windows, the additional height above the requirement of the Standard (3.2 m), would result in loss of amenity due to loss of day light, visual bulk and creating a sense of enclosure to the occupiers of No. 220 Esplanade West. As such, it is not considered acceptable to vary the height requirement of this section of wall. Had the remainder of the application been acceptable a condition would have required the wall height of the ground floor laundry and WC to have a maximum height of 3.2 m. As the application is recommended for refusal it is recommended that this is included as a ground of refusal.

11.4.16 The proposal also seeks to vary the height requirement of this Standard on the eastern elevation. The height of the ground floor wall (garage) would be 3.5 m

11.4.17 The variation of the height requirement is not considered to be acceptable. Whilst most of the proposed wall (garage) would abut an existing wall on the boundary, 1 m of the wall would be opposite the secluded private open space of No. 2 Lagoon Lane. Given the small area of secluded private open space, it is considered that the proposed wall height would result in loss of amenity due to visual bulk. In addition, the wall would directly abut their main secluded private open space and would create a sense of enclosure. Had the remainder of the application been acceptable a condition would have required the garage wall to be reduced in height and respond to the adjoining secluded private open space of No. 2 Lagoon Lane. This would not have affected the internal layout of the garage. As the application is recommended for refusal it is recommended that this is included as a ground of refusal.

A12 (Daylight to Existing Windows)

11.4.18 There are two habitable room windows at ground floor level on the adjoining dwelling (No. 220 Esplanade West) that face the subject site.

There is an existing 2.1 m high render brick fence on the shared boundary, opposite the windows. Between the shared boundary and windows is a 0.89 m wide courtyard.

- 11.4.19 The Standard requires that buildings opposite a habitable room window provide a light court of at least 3 sqm with a minimum dimension of 1 m. The proposal seeks to build a wall on the boundary, thereby not providing a light court with a minimum dimension of 1 m.
- 11.4.20 The Standard also requires walls of more than 3 m in height to be setback from the window 50% of the height of the new wall. The proposed laundry and bathroom walls would have a height of 3.5 m on the boundary. As such, the required setback from the window would be 1.5 m. The proposed wall would only be setback 0.89 m from the existing windows. It is considered that the height of the wall would result in a loss of amenity due to loss of daylight to the existing habitable room. Had the remainder of the application been considered acceptable, a condition would have required that the ground floor laundry and bathroom wall height be reduced to 3 m where it is opposite the existing habitable room windows of No. 220 Esplanade West. As the application is recommended for refusal it is recommended that this is included as a ground of refusal.

#### A15 (Overlooking)

- 11.4.21 At ground floor level there would be a 2.1 m high fence that would prevent overlooking from the ground floor level window.
- 11.4.22 At first floor level there would be a one habitable room window (study) within 9 m of a window or secluded private open space of the adjoining property (No. 220 Esplanade West). There is no screening to this window to prevent direct views into the adjoining habitable room windows. Had the remainder of the application been acceptable a condition would have required this window to be screened to a minimum height of 1.7 m above finished floor level. As the application is recommended for refusal it is recommended that this is included as a ground of refusal.
- 11.4.23 There would also be sliding doors that lead to the first floor terrace. The terrace would be within 9 m of the ground floor habitable room windows of No. 220 Esplanade West. There is no screening of the terrace, to prevent downward views into these windows. Had the remainder of the application been acceptable a condition would have required that the first floor terrace be screened to a height of a minimum 1.7 m above finished floor level along the eastern elevation. As the application is recommended for refusal it is recommended that this is included as a ground of refusal.

#### **11.5 Internal Amenity**

- 11.5.1 The proposal is generally compliant with ResCode and displays a high regard for neighbouring amenity. Whilst there were some areas of non-compliance, such as overlooking, daylight to windows and wall height on boundaries, these could have been addressed by condition had the remainder of the application



had been considered acceptable. A full assessment against ResCode Assessment has been made and is on file.

11.5.2 In terms of internal amenity the proposal includes an open plan living and kitchen area and additional living space. It is considered that the proposed dwelling would provide an improved level of amenity to the occupiers.

#### **11.6 Traffic and Parking**

The proposed three bedroom dwelling would require two car spaces pursuant to Clause 52.06 (Car Parking). The proposal includes a double garage. However, the internal dimensions of the garage would only be a minimum 4.9 m long and 5.5 m wide. Clause 52.06 requires a double garage to have a minimum internal dimension of 6.0 m x 5.5 m. It is therefore considered that the proposed garage, due to its internal dimensions, is not acceptable and contrary to the requirements of Clause 52.06 of the Port Phillip Planning Scheme. Had the remainder of the application been acceptable a condition would have required that the garage have an internal dimension of 6.0 m X 5.5 m. As the application is recommended for refusal it is recommended that this is included as a ground of refusal.

#### **11.7 Water Sensitive Urban Design**

A Sustainable Design Assessment is not required for a single dwelling.

The development would have a floor area in excess of 50 sqm. Under Clause 22.12 (Stormwater Management) a Water Sensitive Urban Design Assessment is required. Had the remainder of the application been considered to be acceptable, a condition could have required the submission of a water sensitive urban design report.

### **12. COVENANTS**

12.1 The applicant has completed a restrictive covenant declaration form declaring that there is no restrictive covenant on the titles for the subject site known as Lot 1 of Plan of Subdivision 511433T [Parent Title Volume 04851 Folio 011].

### **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 Refuse as recommended

14.2 Refuse with changed or additional conditions

14.3 Approve with conditions



## 15. CONCLUSION

15.1 In summary, the proposed demolition of the contributory graded building is not acceptable as the applicant has failed to demonstrate that the existing dwelling is structurally unsound and is therefore contrary to Clause 22.04 (Heritage) of the Port Phillip Planning Scheme. Furthermore, the existing dwelling is an almost intact example of interwar development which contributes to the significance of this heritage precinct. The proposed demolition would result in the further erosion of the heritage fabric of this part of the heritage precinct and be contrary to Clause 15.03 (Heritage), Clause 21.05-1 (Built Form) and Clause 22.04 (Heritage) of the Port Phillip Planning Scheme.

**TRIM FILE NO:**

**PF18/13359**

**ATTACHMENTS**

1. 320/2018 - 3202018 - Advertised Plans
2. 320/2018 - Photos
3. 320/2018 - Location map