

**DEVELOPMENT APPLICATION**

<b>Application Number:</b>	<i>180\0570\18</i>
<b>Applicant:</b>	<i>F Marioli</i>
<b>Location:</b>	<i>15 Vansittart Place, Beaumont</i>
<b>Proposal:</b>	<i>Demolition of existing dwelling and ancillary structures to construct three (x3) two-storey dwellings, including balconies, privacy screening, retaining walls, fencing and landscaping</i>
<b>Zone/Policy Area:</b>	<i>Residential Zone Residential Policy Area 22 – Beaumont Common Development Plan consolidated 19 December 2017</i>
<b>Kind of Assessment:</b>	<i>Merit</i>
<b>Public Notification:</b>	<i>Category 2 Two (2) representations received</i>
<b>Appeal Opportunity</b>	<i>Applicant only, no third party appeal rights</i>
<b>Referrals – Statutory:</b>	<i>N/A</i>
<b>Referrals – Non Statutory:</b>	<i>Technical Officer – Engineering Open Space Officer</i>
<b>Delegations Policy:</b>	<i>Environment, Resources and Development Court compromise proposal</i>
<b>Recommendation:</b>	<i>The Chief Executive Officer be advised that the Council Assessment Panel supports the compromise proposal</i>
<b>Recommending Officer:</b>	<i>Renae Grida</i>

**REPORT CONTENTS**

- Assessment report:
  - Appendix 1 – Aerial Locality Map
  - Appendix 2 – Detailed Planning Assessment

**Please note that due to Federal Copyright Law restrictions, attachments associated with the proposed development are not made available to the public.**

Documentation provided as attachments to the report to members of the Council Assessment Panel to facilitate decision making:

- Plans and supporting documents
- Environment, Resources and Development Court Book of Documents

## 1. DESCRIPTION OF PROPOSAL

The applicant seeks Development Plan Consent for the demolition of the existing dwelling and ancillary structures on the land to construct three (x3) two-storey dwellings (comprised within two separate buildings) including balconies, privacy screening, retaining walls, fencing and landscaping.

## 2. BACKGROUND

Development Application 180\0570\18 was lodged on 18 June 2018 by Frank Marioli of Arkhe Tekhne Pty Ltd, on behalf of the registered owners of the land. The application was processed as a merit form of development pursuant to Section 35(5) of the *Development Act 1993* and subject to Category 2 for the purposes of public notification as prescribed by Residential Policy Area 22, Principle of Development Control 9 of the Burnside (City) Development Plan.

The public notification period resulted in the submission of two (x2) representations opposing the proposed development. The concerns raised were, in short, relating to character and amenity, built form, density, setbacks, overshadowing, privacy, car parking, private open space, stormwater and fencing. The application was presented to the Council Assessment Panel (the Panel) at the meeting 06 November 2018 with staff support, where the Panel resolved to refuse the application for the following reasons:

*“The proposed development is substantially at variance with the following provisions of the Burnside (City) Development Plan:*

1. *Residential Policy Area 22 Objective 1 in that the development does not maintain and enhance the low scale, low density residential character of the policy area.*
2. *Residential Policy Area 22 Principle of Development Control 1 in that the development does not conserve and enhance the character of the policy area as described in Objective 1 or complement the scale, bulk, siting and positive elements of existing dwellings.*
3. *Residential Policy Area 22 Principle of Development Control 4 in that the averaged site area for each dwelling is less than 425 square metres.*
4. *Residential Zone Objective 2 in that the development does not protect and enhance the amenity of the locality with particular reference to the objectives for the policy area.*
5. *Council Wide Principle of Development Control 163 with respect to building height.*
6. *Residential Zone Objective 5 in that the development does not enhance the attractive qualities of streetscapes and particular areas of cohesive character or visual sensitivity through good design.*
7. *Residential Zone Principle of Development Control 2 in that the development has not been designed so as to be consistent with and contribute to the achievement of the objectives for the relevant policy area, having due regard to:*
  - (i) Siting*
  - (ii) Mass and proportion*
  - (iii) Building materials, patterns, textures, colours and decorative elements*
  - (iv) Ground floor height above natural ground level*
  - (v) Roof form and pitch*
  - (vi) Façade articulation and detailing, and window and door locations and proportions*
  - (vii) Verandas, eaves and parapets*
  - (viii) Fence style and alignment”*

On 7 December 2018, the applicant lodged an appeal against the Panel's decision in the Environment, Resources and Development Court (ERD-247-18). As part of the appeal process, the appellant has now put forward a compromise proposal for the Chief Executive Officer's

(CEO) consideration. In cases such as this the CEO seeks advice from the Panel when considering a compromise proposal for an application it has previously determined. Accordingly, the compromise proposal is presented to the Panel in confidence for consideration.

### **3. DISCUSSION**

The appellant has considered the Panel's reasons for refusal and has sought to address these issues through amendments to the design that, from a quantitative perspective, reduce building height, site coverage and total floor area, as well as increasing setbacks and private open space. The reasons for refusal relating to density, built form and bulk and scale are intrinsically addressed through said amendments, and further supported by commentary in the planning report submitted by Ekistics.

#### *Total Floor Area and Site Coverage*

Concerns raised by the Panel included ground level site coverage and total floor area associated with the proposed dwellings. The ground floor footprint for each dwelling has been reduced to 93m<sup>2</sup> (through reducing overall dimensions in both width and depth, equating to 23% site coverage across the site as a whole. The total floor area of the buildings is nominated to be 190m<sup>2</sup> for each dwelling, resulting in 47% total floor area across the overall site. The reduction in area is considered to further contribute to a lesser bulk and scale, and improved siting, addressing point 1, 2 and 9(i) in the reasons for refusal.

#### *Building Height*

The overall building height has been reduced by some 600mm as a result of reducing floor to ceiling heights. The vertical height of the buildings at 7m is well under the 9m guideline of Council Wide Principle of Development Control 163(b). As the Burnside (City) Development Plan refers to building height above natural ground level, the height as measured from the lowest point of natural ground beneath the footprint (therefore taking into account site works and proposed floor levels) is 8.0m for Dwellings 1 and 2, which is still below the quantitative guideline of the Development Plan. As such, the compromise is considered to address point 5 and 7(iv) in the reasons for refusal.

#### *Setbacks*

The amendments present a 400mm increase to the northern boundary as measured from the external wall (noting that the timber screening protrudes 1m) however if measured from the external side of the screening, the set back is 4.9m and still in excess of the upper level side boundary setback as prescribed in the Development Plan. The western rear boundary setback to Dwelling 3 is increased by 700mm, being set back 6.03m in lieu of 5.33m. The increase in setbacks to the northern and western boundaries is considered to contribute to increased spatial separation and improved siting, addressing point 2, 4 and 7(i) and 7(ii) in the reasons for refusal.

#### *Private Open Space*

It is noted within the planning report prepared by Ekistics that, in calculating private open space, the sunken landscaping strip parallel to the northern boundary is not included as it not for practical use as sought by Council Wide Principle of Development Control 166.

Notwithstanding, the amount of private open space available for use in association with each dwelling is 54% - 55% of the total floor area for Dwellings 1 and 2 and 108% of the total floor area for Dwelling 3. It is acknowledged again, as per the assessment of the original proposal, that this area does include on-site car parking, and these figures, not including the car parking areas, are 38% - 39% of the total floor area for Dwellings 1 and 2 and 92.6% for Dwelling 3,

which is an increase overall, when compared against the original proposal. Overall, there is a considerable increase in useable private open spaces, further balancing the quantitative performance of the development.

#### *Density/Allotment Sizes*

The compromise maintains the proposal for three (3) dwellings, on allotment sizes of an average 407m<sup>2</sup>. The allotments present a shortfall on average of 18m<sup>2</sup> each, or 4% from the desired 1275m<sup>2</sup> to strictly meet the guideline. The appellant asserts that the proposal does not offend the desired low-density residential character, insofar as the site area shortfall is minor in area, and the locality and broader policy area is characterised by a range of allotment sizes, where a large proportion are less than the desired 425m<sup>2</sup>.

As considered in the original assessment, the development outcome being an increase from one dwelling on the land, to the three dwellings, is not considered to result in either a 'medium or high density' outcome, noting that the policy area anticipates dwellings on sites of 425m<sup>2</sup>, where each site, on average, falls only 18 square metres short of this provision, being a minor discrepancy from the quantitative guideline of the Development Plan. As such, it is maintained that the development appropriately responds to the policy area objective of maintaining a low density residential character, addressing points 1 and 3 of the reasons for refusal.

#### *Built Form/Amenity*

The design, as originally proposed and through the amendments presented as a compromise, is considered to suitably address the Development Plan with regard to building design and appearance, siting, massing and scale, building materials and its interface with adjoining land from an amenity perspective. It is reiterated that, the development as viewed from the street, centralises the massing with offsets from side boundaries in excess of the 4m guideline for two-storey buildings. Furthermore, the development appears as a single dwelling from the street. The overall concept is considered to be sensitively thought out, and has regard to the low scale character streetscape, ensuring that the two-storey built form maintains sufficient spatial separation so as to contribute positively the character and amenity of Vansittart Place. It is highlighted again that, two-storey development is neither prohibited, nor an anomaly within this streetscape, or the wider policy area.

In response to the concerns raised by the Panel in regards to design and appearance and the overall built form, it is considered by the appellant, and staff, that the building design represents a high quality outcome for the streetscape, and this is attributed to through:

- The policy area and wider residential zone envisage and encourage the development of dwellings in a variety of types;
- Roof form and pitch that is complementary to existing development in the streetscape and wider locality;
- Building footprints that do not exceed 40% of the total area of the site;
- Buildings are appropriately set back from relative site boundaries so as to provide for sufficient spatial separation and maintain amenity;
- Include a range of textures and finishes so as to achieve visual interest and articulation;
- Provide for substantial landscaping that provides for both privacy, and additional amenity;
- The visual 'bulk and scale' is modest in comparison to other two-storey developments in the locality; and
- Interface issues such as privacy, overshadowing and visual amenity are suitably addressed through screening, landscaping, setbacks and external materials and finishes, all of which are integrated into the overall design and concept.

It is therefore considered that the compromise sufficiently addresses points 1, 4 6 and 7(i)-(viii) in the reasons for refusal.

#### 4. RECOMMENDATIONS

The Chief Executive Officer be advised that the Council Assessment Panel **supports** Development Application 180\0570\18, by F Marioli, subject to the following the conditions:

##### Conditions

- 1 The development granted Development Plan Consent shall be undertaken in accordance with the stamped approved plans, drawings, specifications and other documents submitted to the Council that are relevant to the consent to the reasonable satisfaction of the Council, except where varied by conditions below.

**Reason:**

To ensure the development is undertaken in accordance with the plans and details submitted.

- 2 The timber batten privacy screening that forms the external facades of the upper level component of the proposed buildings, shall extend a minimum 2.6m above the finished floor level of the upper floor, and have timber battens spaced at no less than 100mm centres.

The timber batten privacy screening that forms the balustrade to the east facing balcony associated with Dwelling 1, the north facing balconies associated with Dwellings 1 and 2 and 3, and the west facing balcony associated with Dwelling 3 shall have fixed obscure sheet screening attached to the inner side of the timber battens to a height of 1.7m above the floor level of the balcony.

All screening devices shall be fixed and installed prior to the occupation or use of the building herein granted Development Plan Consent and thereafter shall be maintained to the reasonable satisfaction of Council at all times.

**Reason:**

To ensure the new development does not unreasonably diminish the privacy of residents in adjoining properties.

- 3 The selected vegetation identified as the '*Syzygium smithii*' (Lilly Pilly hedge) shall be established within three (3) months of the substantial commencement of development, and in any event, prior to the use or occupation of the development.

The '*Syzygium smithii*' (Lilly Pilly hedge) shall be planted at a minimum height of 1700mm and 600mm wide, and established at 800mm centres so as to form an evergreen screening device adjacent the northern side boundary, as delineated on the stamped and approved plans, namely 'Landscaping Plan TP70' dated April 2018, Revision B, by Arkhe Tekhne.

The '*Syzygium smithii*' (Lilly Pilly hedge) shall be maintained in good health and condition to the satisfaction of the Council at all times and any dead or diseased plants or trees shall be immediately replaced to the reasonable satisfaction of the Council.

**Reason:**

To provide privacy and amenity for the occupants of buildings and those of adjacent buildings through the provision of landscaping as part of the development.

- 4 The selected vegetation identified as the '*Bambusa Textilis Var. Garcilis*' (Bamboo) shall be established within three (3) months of the substantial commencement of development, and in any event, prior to the use or occupation of the development.

The '*Bambusa Textilis Var. Garcilis*' (Bamboo) shall be established adjacent the western rear boundary, and extend the width of the rear boundary to form a continuous evergreen screening device, as delineated on the stamped and approved plans, namely 'Landscaping Plan TP70' dated April 2018, Revision B, by Arkhe Tekhne. The vegetation shall be established at a minimum height of 2 metres.

The shall '*Bambusa Textilis Var. Garcilis*' (Bamboo) be maintained in good health and condition to the satisfaction of the Council at all times and any dead or diseased plants or trees shall be immediately replaced to the reasonable satisfaction of the Council.

**Reason:**

To provide privacy and amenity for the occupants of buildings and those of adjacent buildings through the provision of landscaping as part of the development.

- 5 The landscaping detailed on the stamped and approved plans granted Development Plan Consent shall be undertaken within three (3) months of the substantial completion of development and in any event prior to the occupation or use of the development.

Such landscaping shall be maintained in good health and condition to the satisfaction of the Council at all times and any dead or diseased plants or trees shall be immediately replaced to the reasonable satisfaction of the Council.

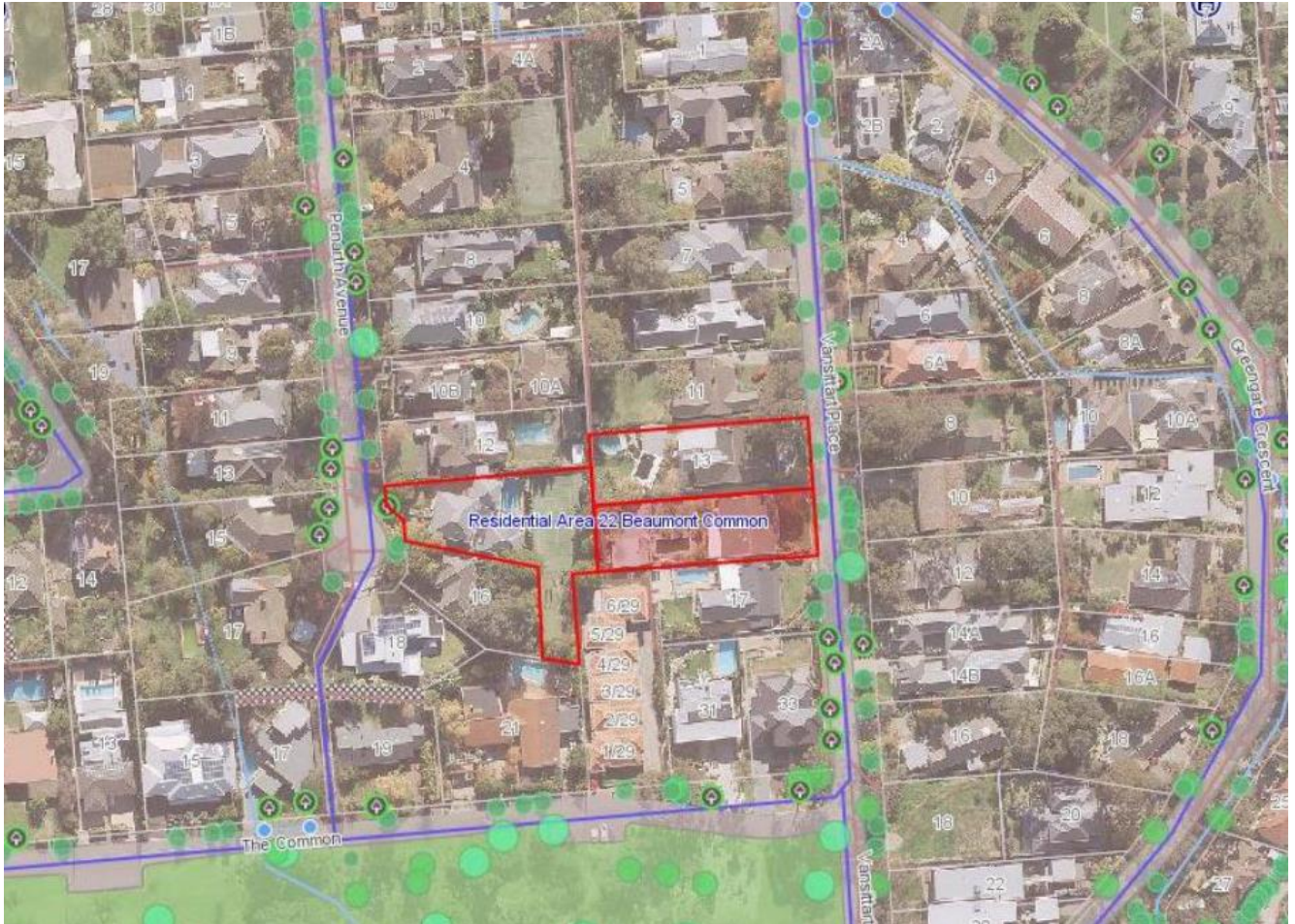
**Reason:**

To provide amenity for the occupants of buildings and those of adjacent buildings through the provision of landscaping as part of the development.

**RECOMMENDING OFFICER**

Renae Grida  
Development Officer – Planning

**AERIAL LOCALITY MAP**



**Legend**



**Subject Land**



**Representor's Land**