

## **Launch Housing Applications for Review Advisory Committee Report**

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### **VCAT Applications – Francine Sculli & Others v Maribyrnong City Council**

- P839/2017 – 121 Ballarat Road, Footscray
- P840/2017 – 125 Ballarat Road, Footscray
- P1090/2017: 175 – 177 Ballarat Road, Footscray
- P1091/2017 – 185 – 189 Ballarat Road, Footscray

4 September 2017

**Alison Glynn, Chair**

**John Glossop Member**

<b>SUMMARY OF APPLICATIONS</b>	
Applicant	Francine Sculli and others
Responsible Authority	Maribyrnong City Council
Referral Authority	VicRoads
Respondent / permit applicant	Launch Housing
Subject sites	<p>P839/2017: 121 Ballarat Road, Footscray</p> <p>P840/2017: 125 Ballarat Road, Footscray</p> <p>P1090/2017: 175-177 Ballarat Road, Footscray</p> <p>P1091/2017: 185-189 Ballarat Road, Footscray</p>
Proposals:	<p>P839/2017:</p> <ul style="list-style-type: none"> <li>• six single storey dwellings with no on-site car parking.</li> </ul> <p>P840/2017:</p> <ul style="list-style-type: none"> <li>• five single storey dwellings with no on-site car parking.</li> </ul> <p>P1090/2017:</p> <ul style="list-style-type: none"> <li>• six single storey dwellings with no on-site car parking.</li> </ul> <p>P1091/2017:</p> <ul style="list-style-type: none"> <li>• ten single storey dwellings with four car on-site car parking spaces.</li> </ul>
Permit Triggers:	<p>P839/2017:</p> <ul style="list-style-type: none"> <li>• development of two or more dwellings on a lot and a reduction in car parking to zero.</li> </ul> <p>P840/2017:</p> <ul style="list-style-type: none"> <li>• use and development of two or more dwellings on a lot, in a public acquisition overlay, and a reduction in car parking to zero.</li> </ul> <p>P1090/2017:</p> <ul style="list-style-type: none"> <li>• use and development of two or more dwellings on a lot, in a public acquisition overlay and a reduction in car parking to zero.</li> </ul> <p>P1091/2017:</p> <ul style="list-style-type: none"> <li>• use and development of two or more dwellings on a lot including removal of vegetation, in a public acquisition overlay and a reduction in car parking requirements.</li> </ul>

## HEARING AND REPORT DETAILS

Location	Maribyrnong Council reception rooms. Cnr Hyde and Napier Street, Footscray
Date of Hearing	8 August 2017
Site inspections	Both members of the advisory committee visited the site before the hearing.

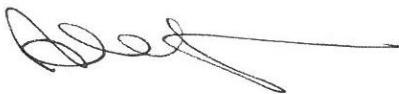
## APPEARANCES

For review applicant / Francine Sculli and others	Ms Catherine Gow and Ms Verena Kostadinov
For Responsible Authority / Maribyrnong City Council	Ms Amy Mak, town planner with Mr Steven Lionakis, town planner.
For VicRoads	Mr Ian Stokes
For respondent / permit applicant / Launch Housing	Mr Damian Illes, town planner with Ms Brigid Sammon, town planner.

## RECOMMENDATIONS

The committee recommends that the Minister for Planning recommend to the Governor in Council to:

1. In VCAT application P839/2017: vary the decision of the responsible authority and subsequently grant a planning permit for application TP767/2016(1), at 121 Ballarat Road, Footscray, in accordance with the description and conditions detailed in Appendix A.
2. In VCAT application P840/2017: vary the decision of the responsible authority and subsequently grant a planning permit for application TP772/2016(1), at 125 Ballarat Road, Footscray, in accordance with the description and conditions detailed in Appendix B.
3. In VCAT application P1090/2017: vary the decision of the responsible authority and subsequently grant a planning permit for application TP785/2016(1), at 175-177 Ballarat Road, Footscray, in accordance with the description and conditions detailed in Appendix C.
4. In VCAT application P1091/2017: vary the decision of the responsible authority and subsequently grant a planning permit for application TP795/2016(1), at 185-189 Ballarat Road, Footscray, in accordance with the description and conditions detailed in Appendix D.



Alison Glynn  
Chair



John Glossop  
Member

## Introduction

1 Ms Sculli and others made applications to the Victorian Civil and Administrative Appeals Tribunal (VCAT) asking it to review the decisions of the Maribyrnong City Council to grant planning permits for four development proposals, all made by Launch Housing to establish single storey dwellings in Footscray. In summary, these proposals are:

- Six single storey, one bedroom dwellings at 121 Ballarat Road (review P839/2017). This development includes no on-site car parking.
- Five single storey, one bedroom dwellings at 125 Ballarat Road (review P840/2017). This development includes no on-site car parking.
- Six single storey, one bedroom dwellings at 175-177 Ballarat Road (review P1090/2017). This development includes no on-site car parking.
- Ten single storey, one bedroom dwellings at 185-189 Ballarat Road (review P1091/2017). This development includes four on-site car parking spaces and requires the removal of two trees on the site.

2 On 6 July 2017, the Minister for Planning called in all four applications under clause 58(2)(a) of schedule 1 of the *Victorian Civil and Administrative Tribunal Act 1998* on the basis that the proceedings raise a major issue of policy, stating that:

*The Victorian Government has released Plan Melbourne 2017-2050, direction 2.3 of which identifies the need for more social housing and highlights the opportunity to utilise surplus government land to deliver additional appropriate social housing.*

*There is an identified shortage in the provisions of temporary social housing. Proposals of this scale and nature for such facilities are unique, and so I also consider that the determination of the proceedings may have a substantial effect on the achievement or development of planning objectives.*

3 In calling in these four matters the Minister subsequently appointed the Launch Housing Applications for Review Advisory Committee under Section 151 of the *Planning and Environment Act 1987* to consider the proposals ('the committee'). The committee was appointed by the Minister for Planning in accordance with terms of reference detailed in Appendix E. In summary, the purpose of the committee is to provide advice to the Minister for Planning in relation to the four applications called in from VCAT.

4 In accordance with these terms of reference, a hearing was held on 8 August 2017 at which parties to the four cases made oral and written submissions to the committee. The committee also made unaccompanied inspections to each site.

5 This report examines the issues raised in submissions of parties against the relevant provisions of the *Planning and Environment Act 1987* and the Maribyrnong Planning Scheme that apply to all four sites.

## What are the key issues?

6 In summary, the following issues are identified by the committee from submissions made:

- Is the intensity of development as social housing acceptable?
- Does the proposal sufficiently respond to the surrounding neighbourhood character?

- Is sufficient on-site car parking provided?
  - Is there sufficient on-site drainage?
  - Are there any other non-compliance with policy or residential standards (ResCode) that warrant refusal of the proposals?
- 7 The relevant issues are addressed in general, with specific comment about individual sites where needed.
- 8 We, the committee, address these issues below. We do so by first examining a core question of debate by parties at the hearing about the development of the dwellings for use of social housing. We consider this also links with the Minister's reason to call the applications in on the basis that the development of the sites for social housing raises a major matter of policy.
- 9 We then address the issues of neighbourhood character and amenity in context of our findings about the use and development of the sites for social housing.

## SOCIAL HOUSING USE

### How does the specific use of housing to be developed impact on its assessment?

- 10 The review applicants contend that it is not appropriate to accept the small size of dwellings. They submit that that their size and intensity leads to variations to Clause 55 of the Maribyrnong Planning Scheme ('ResCode') and reduced parking rates, based on their social housing use that is unacceptable. They also submit there is a need to first examine the appropriateness of the location for social housing and then the social impact of the proposal on the surrounding neighbourhood.
- 11 Ms Gow and Ms Kostadinov spoke on behalf of the review applicants. They contended the proposals will form an intensive cluster that will lead to social division that in turn would lead to poor social and amenity outcomes for residents of the dwellings and the surrounding area.
- 12 Mr Illes, on behalf of Launch Housing said that the proposal is supported by State and local housing policies and is an 'important housing project' as it:
- *Is a socially inclusive development that provides housing for individuals on the public housing waitlist;*
  - *Will enable tenants to rent a studio through Launch Housing's real estate agency;*
  - *Will facilitate the provision of housing at reduced rates to tenants;*
  - *Will allow Launch Housing to take full responsibility for managing and maintaining of all common areas; and*
  - *Assign a case worker to each tenant to ensure that they transition into their new environment.*

### What is being proposed?

- 13 The committee has been asked to review four planning permit applications. Combined, these will deliver 27 dwellings to be used for social housing through a lease agreement between Launch Housing, the Department of Health and Human Services (DHHS) and the landowner of all four sites, VicRoads.
- 14 Another five sites in the nearby area have already been granted planning permits to develop a further 30 dwellings to be leased under the same arrangements and we understand follow the same built form model<sup>1</sup>. The permits for these five sites are not subject to our review.
- 15 The four proposals that are subject to our review are to enable the development of modular dwellings labelled "Freddie" to be located within a mix of private and communal open space.
- 16 Each Freddie dwelling comprises a single storey studio unit approximately 3.0m wide x 6.0m long, with a 1.75m x 3.0m covered deck to the front of the dwelling and a 1.1m x 3.0m covered deck to the rear. Each dwelling also has a 1.45m x 2.5m loft, accessed via

<sup>1</sup> We have not seen the plans for these other sites, but understand they form the same layout, building form and reduced parking provision.

a ladder over a bathroom. This is designated as storage as it is not a habitable room with only a 1.0m floor to ceiling height. The loft space has an openable, clear window. The applicants for review submitted that this will be used as an additional sleeping space and/or habitable space.

- 17 In total, each unit has 18sqm internal habitable space with a further 3.6sqm of loft space.
- 18 The dwellings were described as temporary by both the Council and Mr Illes. The permit applications are for dwellings, but each proposal is the subject of a lease agreement with VicRoads that extends only for five years. Each of the notices of decision issued for the sites includes a condition that the permit will expire in 10 years from the date of the permit issue, with all buildings removed within 3 months after that period.
- 19 Each of the four proposals before us includes a communal open space and/or pedestrian access area and secluded open space to each dwelling.
- 20 Figure 1 and 2 below depict the modular form of the dwellings.

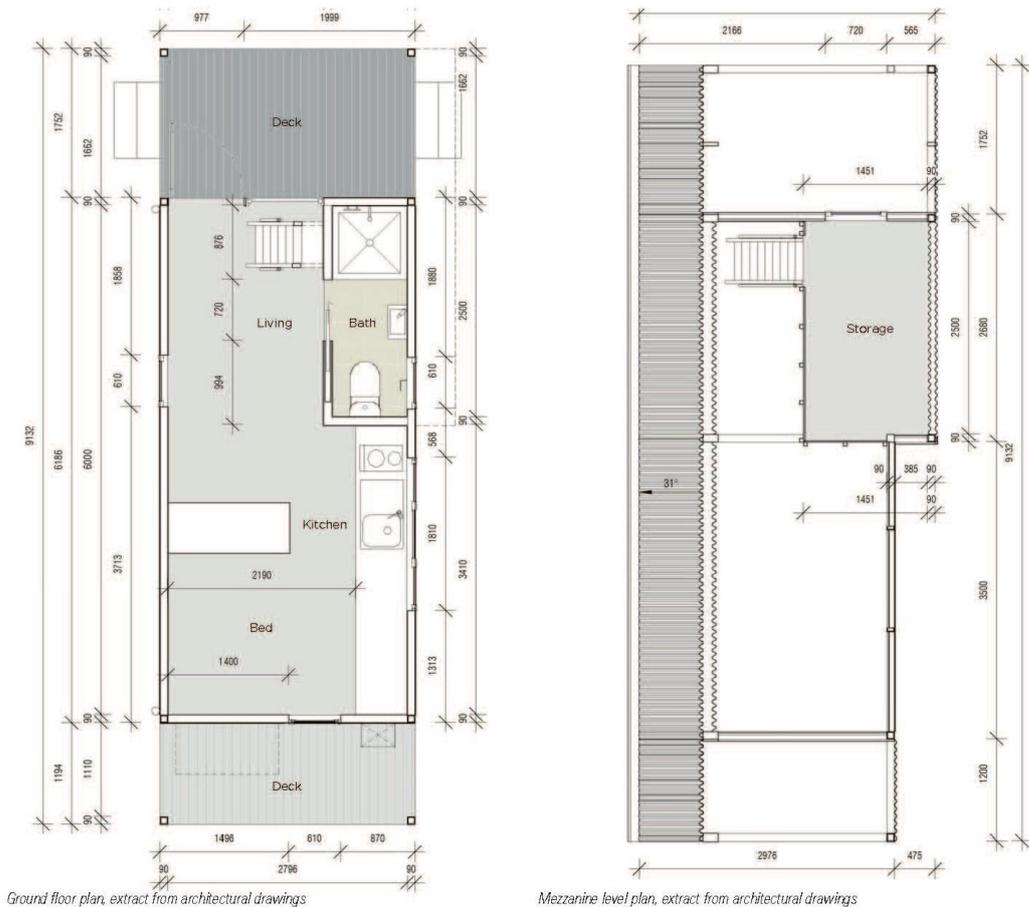


Figure 1- Freddie floor plans.



Figure 2 – illustrative external render of Freddie units.

- 21 At the commencement of the hearing, we asked the parties to comment on whether the proposals would be better described as forming a Residential village rather than dwellings given the expectation that the development will be managed differently to match its particular form.
- 22 A dwelling is defined in the planning scheme as:  
*A building used as a self-contained residence which must include:*
- a) *A kitchen sink*
  - b) *Food preparation facilities,*
  - c) *A bath or shower, and*
  - d) *A closet pan and wash basin.*
- It includes out-buildings and works normal to a dwelling.*
- 23 A Residential village is defined in the planning scheme as:  
*Land, in one ownership, containing a number of dwellings, used to provide permanent accommodation and which includes communal, recreation, or medical facilities for residents of the village.*
- 24 Mr Illes, on behalf of Launch Housing submitted that the proposal cannot be described as a residential village as the housing does not provide permanent accommodation. We, however, agree with the comments of the applicants for review that a dwelling established for at least five years and leased to a tenant on the basis of avoiding a transitory lifestyle is a permanent dwelling.
- 25 The dwellings have some similarities to a Residential village or caravan park. The dwelling sizes are well below what would be generally accepted as a private dwelling

taking into account the room size standards set by the Better Apartment Design Standards at Clause 55.07 and 58 of the planning scheme.

- 26 However, we also accept that the dwellings cannot be properly categorised as residential villages as the communal facilities are limited. In three out of four of the proposals, the only 'shared facility' is a common access path to the street. The fourth proposal (at 175 Ballarat Road) has a communal open space, but not any specific shared facility.
- 27 The planning scheme does not differentiate between affordable, social, public or community housing. There is, however, a current Bill<sup>2</sup> before the Victorian parliament to introduce a definition for affordable housing that will also include, as a subset, social housing. This will replicate the definition of social housing as already provided in the *Housing Act 1983*. The definition for social housing is:
- a) *Public housing; and*
  - b) *Housing owned, controlled or managed by a participating registered agency.*
- 28 We are not aware of any proposal at this stage to reflect these more specific definitions in the Victorian Planning Provisions ('the VPPs') to direct different development outcomes depending upon the categorisation of housing use.

**We therefore accept the proposal is for “dwellings” but that they are developed with a specific end user in mind. Therefore, the development form is linked to dwellings managed in a particular way. How does this specific form of development impact on its assessment?**

- 29 The applicant for review submitted that the small, modular form of the dwellings is more like a trailer park, concentrating disadvantage and stigmatising the tenants in the eyes of the surrounding community. They also opined that the form, scale and arrangement of the buildings would be a poor fit having regard to the area's character.
- 30 Launch Housing and the Council both emphasised that the 27 dwellings subject to our review are a specific, modular form designed to accommodate one to two persons in an affordable manner. The dwellings are not to be separately sold, and will be managed by Launch Housing for the use of people at risk of homelessness. It is on this basis that both the Council and Launch Housing argue that variations should be granted to the standard parking rates and some of the standards of Clause 55 planning scheme.
- 31 These matters raise two issues we need to address:
- a) Given a dwelling in a residential zone is 'as of right' should we accept the development proposal in its current form, (which was deemed acceptable by the Council) because of its specific form of use, without some permit condition that links the development to this specific form?
  - b) On balance, is the concentration or intensity of housing proposed acceptable, given its occupation by people on low incomes?

<sup>2</sup> Planning and Building Legislation Amendment (Housing Affordability and Other Matters) Bill 2017.

### Should use conditions be imposed on the developments?

- 32 In response to questions put by us at the hearing, Mr Illes accepted that it was open to us to consider the need for use conditions given the nature of the development proposed and the presence of the overlay control which requires a permit for use (affecting three of the four sites). We are aware of similar proposals, including *Women's Housing Pty Ltd v Hobsons Bay CC* [2014] VCAT 1221 (2 October 2014) and VCAT 1519 (9 December 2014). In this case, a development for social housing was granted, but only with use conditions to manage the development for such purpose.
- 33 In *Women's Housing Pty Ltd v Hobsons Bay CC*, VCAT imposed a condition, at the agreement of parties, to require an agreement under Section 173 of the *Planning and Environment Act* that the dwellings could only be made available for affordable housing or social housing. No similar condition, about the specific occupation of the dwellings is included in any of the notices of decision issued by the Council for the proposals before us.
- 34 In the cases before us, three of four<sup>3</sup> of the proposals trigger a planning permit for use, as well as development because part of the site is affected by a Public Acquisition Overlay (PAO). VicRoads is a referral authority for these three applications and was notified of all four. It is also the landowner of all four sites.
- 35 Upon receipt of notice of reviews being lodged to VCAT for the four proposals, VicRoads wrote to VCAT on 9 June 2017 recommending the inclusion of four permit conditions to each permit to acknowledge the lease arrangements between VicRoads and the DHHS. These conditions are:
1. *No runoff from the site may enter the arterial road reserve or the adjacent properties.*
  2. *All disused or redundant vehicle crossings must be removed and the area reinstated to kerb and channel to the satisfaction of and at no cost to the Roads Corporation prior to the commencement of the use or the occupation of the buildings and works hereby approved.*
  3. *No use, buildings and works shall commence unless a lease has been executed between the Department of Health and Human Services and the Roads Corporation (VicRoads), which is at no cost to and is to the satisfaction of the Roads Corporation.*
  4. *No compensation is payable under Part 5 of the Planning and Environment Act 1987 in respect of anything done under this permit.*
- 36 VicRoads did not seek to make formal submission to the committee, but Mr Stokes of VicRoads attended and responded to our questions. Mr Stokes explained that each of the sites will have a head lease between VicRoads and DHHS for the provision of social housing. DHHS will then enter a sub-lease to Launch Housing, with VicRoads being a party to that sub-lease for the use of social housing. Mr Stokes explained that each lease will have management conditions that require that the use is only valid while leased for social housing purposes. Each lease will have a termination clause to require housing to be removed if VicRoads needs the land.

<sup>3</sup> 121 Ballarat Road, is owned by VicRoads but it is not subject to the PAO.

- 37 Mr Illes also noted that Launch Housing will remain the owner of the housing units and if the lease is terminated, it will remove the houses that it owns.
- 38 We discuss the specific issues about amenity in character below. We do so in the context of the specific form of development proposed, being a social housing project. To ensure that the development outcomes are linked to this specific social housing project, we agree that there is a need to impose conditions generally consistent with the use conditions proposed by VicRoads.
- 39 This is particularly necessary for the sites affected by the PAO, but we also find it necessary for all four, acknowledging that the form of development is in part acceptable because of its managed use as social housing by a housing agency. Our consideration of character and amenity issues is, therefore, predicated on the acceptance by the Council and Launch Housing of these conditions including a modified condition 3, that the use shall not commence until the lease has been executed and that the use must continue to operate in accordance with this lease.
- 40 In this same context, we consider the permit should expire at the conclusion of the lease, rather than a defined 10-year period.

### Is the concentration of social housing unacceptable?

- 41 The applicants for review argued that the location of 57 social housing units along a 650 metre stretch of Ballarat Road would create an inappropriate social enclave. They also repeatedly referred to the units being “crammed” on the sites, creating a “trailer park appearance”. In making these statements the applicants for review were at pains to point out that their concerns were not about the ‘type’ of people that may be housed in the developments, but rather that the concentration of houses on the individual sites and collectively in the neighbourhood would create inappropriate social division.

### Individual site concentration

- 42 The applicants for review submitted that the intensity of dwellings on each site was unacceptable and a poor social design response to the resident needs.
- 43 We find the dwellings are small but are liveable and an acceptable outcome as tested against the provisions of the planning scheme, provided the dwellings are for their specific social housing purpose, that is managed through permit conditions.
- 44 The form of the housing is specifically tailored to meet a particular housing need. Dwelling density is not a matter considered specifically by Clause 55 of the planning scheme. Similarly, we find that the removal of density from the Neighbourhood Residential Zone earlier in 2017 has further emphasised that the key issue is the built form response to character and space around dwellings, not how many dwellings there are on a site. We address any amenity and character issues associated with the external layout of the dwellings further below.
- 45 It is relevant to us that the internal arrangement and fit out of dwellings has already been approved by DHHS (which is responsible for the provision of public housing in the State of Victoria) as an acceptable living unit for the tenants’ use, through its endorsement of the proposals for the review sites and the other five approved sites. While the internal

arrangement would not be considered acceptable for a conventional apartment, these are not conventional apartments.

### Collective concentration of social housing

- 46 We are reviewing 27 dwellings across four sites, with another 30 dwellings on another five sites already granted planning permits. The nine sites extend along approximately 650 metres of Ballarat Road, from 121 Ballarat Road to 211 Ballarat Road. In this same area is the Kinnear's site, where nearly 1500 dwellings are proposed, of which 5% are designated for 'affordable' housing. Directly east of 121 Ballarat Road is a 4 storey student housing apartment building. Further east is a 14-storey student housing apartment building.
- 47 To the south west of the area is the Footscray Hospital and to the north east is Victoria University.
- 48 State policy, including *Plan Melbourne 2017*, seeks to increase the supply of social housing acknowledging a shortfall in its current provision. Policy 2.3.1 of the plan is to utilise government land to deliver additional social housing. Policy 2.3.2 is to streamline decision making for social housing proposals and Policy 2.3.3 is to strengthen the role of planning in facilitating and delivering the supply of social and affordable housing.
- 49 The proposal directly implements Policy 2.3.1. The reasons identified by the Minister to call in the proposals is reflected in the other two policies.
- 50 It is also State policy at Clause 16.01-5 of the Maribyrnong Planning Scheme to improve housing affordability by:
- *Increasing choice in housing type, tenure and cost to meet the needs of households as they move through life cycle changes and to support diverse communities.*
  - *Encouraging a significant proportion of new development to be affordable for households on low to moderate incomes.*
- 51 It is also policy to increase the supply of well-located affordable housing by facilitating a mix of private, affordable and social housing in activity centres and urban renewal precincts.
- 52 Local policy, particularly at Clause 21.07, seeks to encourage housing affordability and encourage public social and affordable housing in activity centres, close to public transport and as part of development of strategic redevelopment sites.
- 53 While the developments do not include a range of housing within themselves, they add to the range of housing options available in what is an area well serviced by transport and community services.
- 54 The applicants for review referred to a number of academic papers referring to the problems associated with public housing enclaves and mention was made of the separation that has occurred in the redevelopment of the Carlton North housing estate.
- 55 This proposal is not comparable to that project. We do not see that the provision of 27 dwellings that we are reviewing (or even the broader 57 dwelling project) will lead to an unacceptable social outcome akin to an 'enclave of disadvantage', let alone a 'ghetto'.

- 56 The sites have some separation between each other, in an area that already contains a range of housing opportunities ranging from student housing to larger family homes.
- 57 We have already observed that State and local policy encourages the provision of affordable and social housing and that this is an important policy agenda on many levels. It follows that we consider that any added amenity or character impacts that may arise from the introduction of these social housing projects is outweighed by the significant social benefits the project can bring in housing people at risk of homelessness and assist (even in a small way) in reducing the waiting list for public or social housing.
- 58 Provided there are some additional conditions relating to the management of the site to maintain development outcomes sought we are satisfied that the concerns of the residents can be addressed. The applicants for review submitted that while Mr Illes referred to the developments as 'acceptable', an optimal outcome should be sought for these sites. We find that for vacant sites owned by VicRoads, their development for independent social housing units in garden settings, is more than acceptable, if not an optimum use of the sites. In any event, we note that planning is not about creating 'optimal' outcomes and that the relevant test is 'acceptability'.

## CHARACTER AND AMENITY ISSUES

### Neighbourhood character

- 59 The applicants for review submitted the developments did not respect the character of the surrounding area due to their appearance and the intensity of the built form. They also questioned the materials used, the front setback provided, the proposed landscaping scheme and the fencing proposed.
- 60 The sites all fall within the incremental change area of the Council's neighbourhood character policy. They also all fall within 'inner urban 1' character area where the preferred character is to create new low scale buildings with pitched roofs and articulated facades. Design guidelines supporting the statement also seek to maintain and strengthen the garden setting of dwellings.
- 61 The preferred character statement directs that visual interaction between dwellings and the street is maintained and strengthened through permeable front fences.
- 62 We are satisfied that the built form response to each site is suitable and reflects what, on ground, is a mixed character area. Each site is surrounded by a predominance of older single storey Victorian dwellings, but also a range of new, and sometime intense building forms. We are satisfied with the design response which:
- Maintains a garden setting with each dwelling surrounded by space and room for planting.
  - Is of sufficiently low scale so that the dwellings will not dominate or overwhelm the surrounding streetscape.
  - Responds to the prevailing front setback. While the front setback for no. 175 – 177 is technically non-compliant (referring to Clause 55.03), the non-compliance is minor and relates partly to the angle of the front setback and the use of the covered deck areas. When tested against the objective of the provision we are satisfied that the setback is consistent with the general setbacks of other dwellings in the street while also making efficient use of the site.
  - Provides relatively low site coverage on each site and includes permeable fencing to the street.
  - Maintains an address to the street. Internally, some higher fencing is proposed, but permit conditions proposed by the Council require some of this to be made permeable to enhance connection to the street and on-site safe access.
  - Will not result in an overly monotonous building form as suggested by the review applicants. Each dwelling is rendered in muted tones, consistent with the general area. While the design is repetitive (some might say, 'integrated'), this is a common approach in most unit developments. The overall scale of the dwellings and their landscaping ensures that the dwelling patterns do not result in a monotonous dominance in the street.
- 63 The review applicants submitted the choice of landscape theme was poor, with the provision of coastal plants. All plant species are native and have been reviewed by the

Council as acceptable. We find no reason to suggest that these plants will not be successful.

- 64 Each of the proposed sets of permit conditions include a requirement for landscaping to be established before occupation of the dwellings.
- 65 Mr Illes advised that the landscaping in common areas will be maintained by Launch Housing but that private gardens will be the responsibility of individual residents. He also submitted, however, that external storage was not needed as residents were unlikely to have gardening equipment due to the nature of the dwellings and their scale.
- 66 To ensure character and amenity protection, we consider that there is a need for landscaping to be maintained to the satisfaction of the responsible authority. This can be addressed through an additional permit condition that we have recommended. How this condition is enforced, particularly in the private open spaces will be a matter to be addressed by the Council and Launch Housing or individual tenants. Putting it another way, we are not concerned if it is the landlord or tenant that maintains the landscaping, so long that it is maintained.

### **Amenity impacts**

- 67 The review applicants argued that there were several ResCode non-compliances, which lead to on and off-site amenity impacts. We consider the most notable of these were as follows:
- On-site secluded open space did not quite meet standard requirements.
  - There was a possibility of overlooking from loft windows into other dwellings on site and into student housing adjacent to 121 Ballarat Road.
  - The side setback of one dwelling at 185-189 Ballarat Road encroaches into the conventional one metre side setback, particularly for the upper loft area.

### **Open space provision**

- 68 Each of the dwellings is provided with a deck as well as surrounding garden space / service yards. For the size of the dwellings, we are satisfied that the objective of the open space provision to provide for the reasonable recreation and service needs of residents is met. Each dwelling is small and has areas of open space that are north orientated. Many have more than the standard provision and are large enough given the scale of building proposed. Apartment style dwellings would have decks or balconies no bigger than the decks provided. Indeed, if there is any concern, it is that some spaces, e.g. the gardens to dwellings 3 and 4 at 185 – 189 will be too much for a single occupant in a very small dwelling to manage. We are satisfied that the issue of maintenance, however, can be addressed through permit condition as we have already discussed.
- 69 The areas of non-compliance are very minor and do not result in any meaningful detriment to the capacity to provide garden spaces around dwellings. There is also communal open space provided in each of the proposals, with some of these spaces (notably at 175 Ballarat Road) being substantive.
- 70 We are therefore satisfied the provision of open space is acceptable.

### Overlooking and loft spaces

- 71 The applicants for review submitted the upper loft areas would be used as sleeping spaces that would lead to overlooking issues as well as greater intensity of use than inferred by the plans.
- 72 Each of the dwellings has a loft that measures 1.4m x 2.5m but only has a floor to ceiling height of 1.0 metres making the spaces non-habitable for the purposes of defining them as a room under the Building Act and the relevant building code.
- 73 Arguably the spaces have no need for a window. Mr Illes submitted the window added to interest, ventilation and natural light. We share the applicant for review's suspicions that while the loft spaces are not habitable rooms, they may be used for sleeping by tenants given their dimensions, in the same way that a tenant of a caravan or cabin may use such a space for sleeping. Having said this, we do not see that this results in a need to screen the windows or to remove the lofts.
- 74 If the lofts are found to be used for sleeping, then alternative provision for storage would need to be made. There is ample room elsewhere on the sites to do this (notably the back decks). The orientation and form of the loft areas is such that even if a person were to be sitting or lying in the loft space, they would need to be prostrate to look out the window, and would have a limited scope of view. The window appears to only have a glazed area of 600 x 750mm. This is not big, but provides natural light and ventilation into the loft space. The plans notate that the window looks out onto the front deck that has a roofed area that wraps to the side elevation, with Colorbond cladding. This encloses the view from the window to views directly forward from the window, reducing any potential internal overlooking.
- 75 Each of the proposals direct this window to view into the site or to the street. Only the dwellings at 121 Ballarat Road face a neighbour, which is student housing with windows off-set to likewise minimise overlooking.
- 76 In conclusion, we accept that there is some likelihood that the loft areas will be used as sleeping spaces, but do not find this to be a fatal flaw in the proposal or that it will result in unreasonable overlooking from the loft windows. We recommend a condition be added to the permits to ensure that storage is use for storage or alternative external storage is provided.

### Side and rear setbacks

- 77 All of the dwellings are single storey and even to the top of the loft are only 3.6 metres high. Any minor encroachment into side or rear setbacks will have minimal impact by way of visual bulk, character or loss of natural daylight due to this height.
- 78 The only dwelling of any notable non-compliance is that of dwelling 10 at 185-189 Ballarat Road. This sits very close to the fence line of 183 Ballarat Road, but not to its title boundary. The plans indicate there is some discrepancy between fence and title boundaries.
- 79 The adjoining dwelling at 183 Ballarat Road has a habitable, highlight window directly adjacent to Dwelling 10 where the loft wall is proposed. It is unclear from the plans if the location of the loft wall would meet the daylight to existing window standard at Clause

55.04-3. The supporting material to the application states it does, but it is unclear if this has acknowledged the loft height and overhang. We also note, however that the window adjoining is a highlight window and the dwelling itself appears to have a somewhat elevated ground floor level.

- 80 We recommend a condition be imposed on the proposed permit for 185-189 that Dwelling 10 that it should meet the standard for Clause 55.04-3 as it relates to the adjoining window. We do this noting that it may not require any change to plans, simply that this matter should be confirmed. If the dwelling needs to be setback further of the side boundary we are satisfied that there is more than sufficient room for this dwelling to move west, closer to Dwelling 9.

### **Car parking and access**

- 81 Three of the four proposals rely on no on-site car parking. The fourth proposal at 185 – 189 Ballarat Road has four on-site spaces for 10 dwellings, with these spaces accessed via a rear laneway. The review applicants submitted that this would result in additional and unreasonable on-street parking in the area, notably in Jerrold Street to the rear as people would still choose to have a car.
- 82 In making this submission, Ms Gow commented that her review of existing houses in Jerrold Street was that only 12 of the 27 houses (or less than half) had on-site parking with the remainder relying on on-street parking, or not using a car.
- 83 A traffic report prepared by ARUP on behalf of Launch Housing supports the reduction in car parking, and concurs with the Council's assessment that the reduction is acceptable based on the tests of Clause 52.06 of the planning scheme because:
- The sites are within walking distance to a range of public transport options.
  - The Council's traffic engineering department was not opposed to the lack of on-site parking due to the nature of the dwellings proposed and the capacity for visitor parking in Gordon Street and other streets.
  - The empirical analysis undertaken by ARUP, with reference to other studies suggests that car ownership associated with social housing is low.
  - Management of the development by Launch Housing would vet tenants and advise them of the lack of on-site car parking.
- 84 The applicants for review questioned ARUP's car ownership rates and also the validity of their survey results that refer to a GTA Consultants review of parking rates for social housing in the Port Phillip municipality in 2009.
- 85 We accept that the GTA report is somewhat dated, although geographically we consider the inner-city nature of Port Phillip is not dissimilar to Footscray. We also accept that the costs of running a car, based on RACV standards of at least \$130 per week may not reflect the cost of maintaining a basic car by a person of low income, if that car was already owned outright.
- 86 However, we do agree with the permit applicant and the Council that (generally speaking) the ownership rate for cars is likely to be low, and that any additional parking demand can

be managed or accommodated on-street. This is partly because the general figures for car ownership in Maribyrnong is low.

- 87 The ARUP report indicates that in 2011, 17.3% of all households in the municipality had no car. ABS data for Footscray, as available at the Council's community profile webpage (see <http://profile.id.com.au/maribyrnong/car-ownership?WebID=110>) identifies that within Footscray, 22.7% of all households in 2016 had no car, compared to 13.1% of the City of Maribyrnong as a whole, and 8.5% across greater Melbourne. The ABS data for 2016 also indicates that 19.5% of all dwellings in Footscray comprise 0 to 1 dwelling.
- 88 While it is not possible to directly correlate the two figures of bedrooms to car ownership, we find it supports the other, albeit older, Port Phillip survey that ownership rates for small dwellings is likely to be generally low. When added to the location of the sites close to facilities and public transport, along with the management attributes of the proposal we are satisfied that the limited to no on-site parking is acceptable. It does, however, reinforce to us the need for the proposal to be restricted to dwellings managed by a social housing provider, given the lack of on-site parking relies partly upon the management of the proposal as a social housing project, that includes lessee selection.
- 89 For the sites at 121, 125 and 175 Ballarat Road, on-site access and parking is also severely restricted as the sites only have access to Ballarat Road and are small sites. As such there is no room to enable cars to enter and exit in a forward motion as would normally be sought for new access to a Category 1 Road, such as Ballarat Road. Clause 52.06 requires us to consider site constraints, or the capacity to provide parking on-site. The restricted access adds weight to our view that the reduced parking is acceptable.
- 90 Access to the four on-site spaces to 185-189 Ballarat Road is via a rear laneway that is not sealed. While this access is not ideal, it is used, and from site inspection accessible. Mr Illes tabled swept paths to confirm that vehicles can enter car spaces and then undertake a reverse motion to then exit the lane in forward motion. The Council traffic engineers were not opposed to the access subject to minor variations that are addressed in proposed permit conditions. This includes fencing the access from the car parking area to the dwellings to avoid people wandering into the laneway too easily and amending the layout to ease the turning circles.
- 91 We therefore find the rear access acceptable.
- 92 Conditions proposed by the Council (and which were uncontested by the permit applicant) also require alteration to the waste management of the sites. This includes amending collection to communal skips thereby reducing the number of bins on site. We agree this is an acceptable outcome provided the management plan is in place.

## **Drainage**

- 93 It was argued that Ballarat Road regularly floods and that the sites themselves have limited or no legal point of discharge. As such, it was submitted that the proposals should not proceed until a legal point of discharge is found and, where necessary constructed.
- 94 Mr Illes, VicRoads and the Council acknowledged that there has been a flooding problem from Ballarat Road to 185-189 Ballarat Road, but also noted that none of the properties are identified in a Special Building Overlay or Land Subject to Inundation Overlay. In

responding to questions of the committee, Mr Stokes advised that VicRoads has committed to undertaking works later this year to address flooding from the road to private properties.

- 95 Such flooding issues are an existing condition and not a matter created by the proposals. Each of the proposals needs to meet its own drainage needs and the Council, as drainage authority, has powers to require each of the developments to drain to a legal point of discharge. The Council has proposed permit conditions that ensure the developments will drain to a legal point of discharge before occupation.
- 96 We are satisfied that with such conditions in place the proposed drainage arrangements are acceptable. We do not see the need to impose the additional drainage condition proposed by VicRoads as the issue is already addressed by the conditions proposed by the Council.

### **Conclusions and recommendations**

- 97 For the reasons given above, the committee recommends the decisions of the Maribyrnong City Council be varied. The committee recommends that the Minister for Planning requests the Governor in Council direct that planning permits be granted for all four sites in accordance with permit conditions detailed in Appendices A to D.
- 98 We note that all four recommended approvals include conditions based on the lease condition proposed by VicRoads but modified to confirm that it relates to the use of the land for social housing. We have then amended the expiry condition to also link the use to social housing. We have not included the condition proposed by VicRoads that no compensation be payable to the development at 121 Ballarat Road as this site is not affected by the PAO.

## APPENDIX A – RECOMMENDED PERMIT AND CONDITIONS: VCAT REVIEW P839/2017

<b>PERMIT APPLICATION NO</b>	TP767/2016(1)
<b>LAND</b>	121 Ballarat Road, Footscray

### WHAT THE PERMIT ALLOWS

In accordance with the endorsed plans:

- Development of six dwellings
- A reduction in car parking requirements to zero

### CONDITIONS

1. Before the use and/or development start(s), amended plans must be submitted to the satisfaction of 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 provided in a digital format (where possible). The plans must be generally in accordance with the plans submitted with the application but modified to show:
  - a) An amended waste management plan to accord with condition 11.
  - b) A screened hardstand area capable of accommodating a shared skip for garbage and recycling. The hardstand must not be located within the front setback.
  - c) The east and west facing private open space of each dwelling to have a minimum dimension of 3 metres. This will require a reduction in width of the shared pedestrian access way along the eastern boundary.
  - d) The eastern fence of each dwelling with a degree of visual permeability to the satisfaction of the responsible authority.
  - e) The mailbox location for all dwellings.
2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. Once the development has started, it must be continued and completed to the satisfaction of the Responsible Authority.
4. The development must not be occupied until a lease on the land has been executed between the Department of Health and Human Services and the Roads Corporation (VicRoads) for the use of the land for social housing. The lease must be prepared at no cost to, and be to the satisfaction of the Roads Corporation.
5. All disused or redundant vehicle crossings must be removed and the area reinstated to kerb and channel to the satisfaction of, and at no cost to the Roads Corporation prior to the commencement of the use or the occupation of the buildings.
6. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.
7. The site must be drained to the satisfaction of the Responsible Authority and is subject to any requirements, conditions and subsequent approval from VicRoads. Stormwater run-off from the site must not cause any adverse impact to the public, any adjoining site or Council asset. Stormwater from all paved area should be drained to underground stormwater system. Any cut, fill or structure must not adversely affect the natural stormwater runoff from and to adjoining properties.

8. No polluted and/or sediment laden runoff is to be discharged directly or indirectly into Council's drains or watercourses during and after development.
9. Prior to the commencement of any works on the site and/or subdivision of the land, the owner must submit for approval to the Responsible Authority drainage plans to the requirements outlined in the Stormwater Discharge Permit.
10. Before the occupation of the development starts or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
11. Concurrent with the endorsement of plans, an amended waste storage and collection management and recycling plan must be prepared to the satisfaction of the Responsible Authority and be generally in accordance with the plan prepared by Arup Pty Ltd, report reference 001, final revision dated 08 December 2016. The Plan must be provided in digital format (where possible) and have regard to the following matters:
  - The provision of skips for garbage and recycling
  - Bin storage areas for the proposed dwellings.
  - Owners Corporation waste management plan.
  - Odour control from bin storage areas.
  - Access for removal of waste bins.
  - Delivery of bins to waste collection points and retrieval of bins once collected.
  - Location and detail of organic waste collection.
  - Work cover authority safety matters.

Once submitted, the Waste Management Plan will be endorsed to form part of the permit.

12. Waste management must be carried out in accordance with the Waste Management Plan approved as part of condition 12.
13. The loft area identified as 'storage' must only be used for storage, unless alternative external storage provided to the satisfaction of the responsible authority.
14. Unless with the prior written consent of the responsible authority, this permit will expire if one of the following circumstances applies: -
  - The development is not started within two years of the date of this permit.
  - The development is not completed within four years of the date of this permit.
  - The lease between the Department of Health and Human Services and VicRoads ceases. All buildings must be removed within 3 months after such lease terminates.

The Responsible Authority may extend the permit referred to if a request is made in writing before or within 6 months after the permit expiry date where the development has not commenced and within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires. Any request must be accompanied by consent from the Roads Corporation and a valid lease/agreement for the ongoing use of the site.

## APPENDIX B – RECOMMENDED PERMIT AND CONDITIONS: VCAT REVIEW P840/2017

<b>PERMIT APPLICATION NO</b>	TP772/2016(1)
<b>LAND</b>	125 Ballarat Road, Footscray

### WHAT THE PERMIT ALLOWS

In accordance with the endorsed plans:

- Use and development of five dwellings.
- A reduction in car parking requirements to zero

### CONDITIONS

1. Before the use and/or development start(s), amended plans must be submitted to the satisfaction of 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 provided in a digital format (where possible). The plans must be generally in accordance with the plans submitted with the application but modified to show:-
  - a) The eastern internal fence for Dwelling 2 and the western internal fence for Dwelling 4 reduced in height to 1.5 metres and feature a degree of visual permeability.
2. The use and/or development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. Once the development has started, it must be continued and completed to the satisfaction of the Responsible Authority.
4. The development must not be occupied until a lease on the land has been executed between the Department of Health and Human Services and the Roads Corporation (VicRoads) for the use of the land for social housing. The lease must be prepared at no cost to, and be to the satisfaction of the Roads Corporation.
5. All disused or redundant vehicle crossings must be removed and the area reinstated to kerb and channel to the satisfaction of, and at no cost to the Roads Corporation prior to the commencement of the use or the occupation of the buildings.
6. No compensation is payable under Part 5 of the Planning and Environment Act 1987 in respect of anything done under this permit.
7. The site must be drained to the satisfaction of the Responsible Authority and is subject to any requirements, conditions and subsequent approval from VicRoads. Stormwater run-off from the site must not cause any adverse impact to the public, any adjoining site or Council asset. Stormwater from all paved area has to be drained to underground stormwater system. Any cut, fill or structure must not adversely affect the natural stormwater runoff from and to adjoining properties.
8. No polluted and/or sediment laden runoff is to be discharged directly or indirectly into Council's drains or watercourses during and after development.
9. Prior to the commencement of any works on the site and/or subdivision of the land, the owner must submit for approval to the Responsible Authority drainage plans to the requirements outlined in the Stormwater Discharge Permit.

10. Before the occupation of the development starts or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
11. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.
12. The loft area identified as 'storage' must only be used for storage, unless alternative external storage provided to the satisfaction of the responsible authority.
13. Unless with the prior written consent of the responsible authority, this permit will expire if one of the following circumstances applies: -
  - The development is not started within two years of the date of this permit.
  - The development is not completed within four years of the date of this permit.
  - The lease between the Department of Health and Human Services and VicRoads terminating. All buildings must be removed within 3 months after such lease terminates.

The Responsible Authority may extend the permit referred to if a request is made in writing before or within 6 months after the permit expiry date where the development has not commenced and within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires. Any request must be accompanied by consent from the Roads Corporation and a valid lease/agreement for the ongoing use of the site.

## APPENDIX C – RECOMMENDED PERMIT AND CONDITIONS: VCAT REVIEW P1090/2017

<b>PERMIT APPLICATION NO</b>	TP785/2016(1)
<b>LAND</b>	175-177 Ballarat Road, Footscray

### WHAT THE PERMIT ALLOWS

Insert a full description that MUST be identical to the order made on the first page

In accordance with the endorsed plans:

- Use and development of six dwellings.
- A reduction in car parking requirements to zero

### CONDITIONS

1. Before the use and/or development start(s), amended plans must be submitted to the satisfaction of 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 provided in a digital format (where possible). The plans must be generally in accordance with the plans submitted with the application but modified to show:-
  - a) The eastern fences of Dwellings 1, 2, 3 and 4 (shown as fence C) replaced with 1.8 metre visually permeable high fencing to the satisfaction of the responsible authority.
  - b) A notation indicating the construction techniques for Dwelling 1 will be as per the Arborist Report endorsed to form part of this permit.
  - c) An amended landscape plan in accordance with condition 10.
  - d) An amended waste management plan in accordance with condition 7.
2. The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. Once the development has started, it must be continued and completed to the satisfaction of the Responsible Authority.
4. The development must not be occupied until a lease on the land has been executed between the Department of Health and Human Services and the Roads Corporation (VicRoads) for the use of the land for social housing. The lease must be prepared at no cost to, and be to the satisfaction of the Roads Corporation.
5. All disused or redundant vehicle crossings must be removed and the area reinstated to kerb and channel to the satisfaction of, and at no cost to the Roads Corporation prior to the commencement of the use or the occupation of the buildings.
6. No compensation is payable under Part 5 of the Planning and Environment Act 1987 in respect of anything done under this permit.
7. Concurrent with the endorsement of plans, the Waste Management Plan prepared for the development by Arup Pty Ltd dated 14 December 2016 must be amended to show the provision of skips for the development in accordance with Council's Planning Waste Management Guidelines (as amended) to the satisfaction of the responsible authority.

8. Once submitted, the Waste Management Plan will be endorsed to form part of the permit and all waste management must be carried out in accordance with the Plan approved as part of condition 4.
9. Concurrent with the endorsement of plans an amended landscape plan must be submitted generally in accordance with the landscape concept plan submitted with the application prepared by Schored Projects dated January 2017, except that the plan must show:
  - a) Fence details as required by condition 1(a).
  - b) Methods of construction in accordance with the Arborist Report endorsed as part of this permit (refer below)
10. Before the occupation of the development starts or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
11. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.
12. Before the development commences the Arboricultural Assessment prepared by Tree Logic Pty Ltd dated 1 December 2016 must be endorsed to form part of the permit. All of the recommendations of the report (as they relate to the subject site) must be implemented before and during construction and at the removal of the dwellings, all to the satisfaction of the responsible authority.
13. Before the development starts (including any demolition works), tree protection measures in accordance with AS4970-2009 (Protection of trees on Development Sites) must be erected around the existing Norfolk Island Pine. The tree protection measures must remain in place until construction is completed.
14. Tree protection in accordance with condition 9 must be erected around the existing Norfolk Island Pine when dwellings are removed from the site.
15. The site must be drained to the satisfaction of the Responsible Authority and is subject to any requirements, conditions and subsequent approval from VicRoads. Stormwater run-off from the site must not cause any adverse impact to the public, any adjoining site or Council asset. Stormwater from all paved area must be drained to underground stormwater system. Any cut, fill or structure must not adversely affect the natural stormwater runoff from and to adjoining properties.
16. No polluted and/or sediment laden runoff is to be discharged directly or indirectly into Council's drains or watercourses during and after development.
17. Prior to the commencement of any works on the site and/or subdivision of the land, the owner must submit for approval to the Responsible Authority drainage plans to the requirements outlined in the Stormwater Discharge Permit.
18. The loft area identified as 'storage' must only be used for storage, unless alternative external storage provided to the satisfaction of the responsible authority.
19. Unless with the prior written consent of the responsible authority, this permit will expire if one of the following circumstances applies: -
  - The development is not started within two years of the date of this permit.
  - The development is not completed within four years of the date of this permit.
  - The lease between the Department of Health and Human Services and VicRoads terminating. All buildings must be removed within 3 months after such lease terminates.

The Responsible Authority may extend the permit referred to if a request is made in writing before or within 6 months after the permit expiry date where the development has not

commenced and within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires. Any request must be accompanied by consent from the Roads Corporation and a valid lease/agreement for the ongoing use of the site.

## APPENDIX D – RECOMMENDED PERMIT AND CONDITIONS: VCAT REVIEW P1091/2017

<b>PERMIT APPLICATION NO</b>	TP795/2016(1)
<b>LAND</b>	185-189 Ballarat Road, Footscray

### WHAT THE PERMIT ALLOWS

Insert a full description that MUST be identical to the order made on the first page

In accordance with the endorsed plans:

- Use and development of ten dwellings.
- A reduction in car parking requirements.

### CONDITIONS

1. Before the use and/or development start(s), amended plans must be submitted to the satisfaction of 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 provided in a digital format (where possible). The plans must be generally in accordance with the plans submitted with the application but modified to show:-
  - a) Waste hardstand area relocated adjacent to the western fence of Dwelling 7. Car spaces will be required to be relocated further west as a result.
  - b) Mailboxes for Dwellings 6 to 10 clearly shown on ground floor plan
  - c) A gate provided between Dwellings 6 and 7 preventing unauthorised access from the right of way.
  - d) A notation indicating the carpark will be constructed above ground with permeable paving in accordance with the recommendations of the Arboricultural Assessment endorsed as part of this permit.
  - e) A waste hardstand area within 10 metres of the front boundary (refer to amended waste management plan condition below). This may require a minor reduction in the west facing secluded private open space of Dwelling 3.
  - f) A notation indicating the construction techniques for the dwellings will be as per the Arboricultural Report endorsed to form part of this permit.
  - g) Amended landscape plan (refer to conditions below)
  - h) Amended waste management plan (refer to condition below)
  - i) Confirmation that Dwelling 10 is setback sufficient distance from the adjoining habitable room window at 183 Ballarat Road to meet Standard B19 of ResCode – Daylight to existing windows, or alteration of the side setback to comply with this standard if not met.
2. The use and/or development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. Once the development has started, it must be continued and completed to the satisfaction of the Responsible Authority.
20. The development must not be occupied until a lease on the land has been executed between the Department of Health and Human Services and the Roads Corporation (VicRoads) for the use of the land for social housing. The lease must be prepared at no cost to, and be to the satisfaction of the Roads Corporation.

21. All disused or redundant vehicle crossings must be removed and the area reinstated to kerb and channel to the satisfaction of, and at no cost to the Roads Corporation prior to the commencement of the use or the occupation of the buildings.
22. No compensation is payable under Part 5 of the Planning and Environment Act 1987 in respect of anything done under this permit.
4. Concurrent with the endorsement of plans, the Waste Management Plan prepared for the development by Arup Pty Ltd dated 19 December 2016 must be amended to show:
  - The provision of skips for the development.
  - The waste hardstand area relocated to adjoin the western fence of Dwelling 7.
  - A bin collection point within 10 metres of the site frontage. A reduction in the western secluded private open space of Dwelling 3 is allowed.
  - Details of responsibility for wheeling bins to collection point on collection day
  - Work cover authority safety matters.

All generally in accordance with the Planning Waste Management Guidelines and to the satisfaction of the responsible authority.

5. Once submitted, the Waste Management Plan will be endorsed to form part of the permit and all waste management must be carried out in accordance with the Plan approved as part of condition 4.
6. Concurrent with the endorsement of plans an amended landscape plan must be submitted generally in accordance with the landscape concept plan submitted with the application prepared by Schored Projects dated December 2016, except that the plan must show:
  - c) Northern fences to Dwellings 7, 8 and 9 and eastern fence to Dwelling 6 to feature a degree of visual permeability
  - d) A fence and/ or gate between Dwellings 6 and 7 to restrict inappropriate access.
  - e) Notation on plans indicating tree protection measures and construction methods (including for the car parking area) in accordance with the recommendations of the endorsed Arboricultural Assessment for Trees 16, 20 and 21.
7. Before the occupation of the development starts or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
8. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.
9. Before the development commences the Arboricultural Assessment prepared by Tree Logic Pty Ltd dated 1 December 2016 must be endorsed to form part of the permit. All the recommendations of the report as they relate to Trees 16, 20 and 21 must be implemented before and during construction and at the removal of the dwellings, all to the satisfaction of the responsible authority.
10. Before the development starts (including any demolition works), tree protection measures in accordance with AS4970-2009 (Protection of trees on Development Sites) must be erected around the trees nominated for retention in the endorsed Arboricultural Assessment. The tree protection measures must remain in place until construction is completed and are to be erected once again at the removal of these dwellings.

11. The site must be drained to the satisfaction of the Responsible Authority and is subject to any requirements, conditions and subsequent approval from VicRoads. Stormwater run-off from the site must not cause any adverse impact to the public, any adjoining site or Council asset. Stormwater from all paved area must be drained to underground stormwater system. Any cut, fill or structure must not adversely affect the natural stormwater runoff from and to adjoining properties.
12. No polluted and/or sediment laden runoff is to be discharged directly or indirectly into Council's drains or watercourses during and after development.
13. Prior to the commencement of any works on the site and/or subdivision of the land, the owner must submit for approval to the Responsible Authority drainage plans to the requirements outlined in the Stormwater Discharge Permit.
23. The loft area identified as 'storage' must only be used for storage, unless alternative external storage provided to the satisfaction of the responsible authority.
24. Unless with the prior written consent of the responsible authority, this permit will expire if one of the following circumstances applies: -
  - The development is not started within two years of the date of this permit.
  - The development is not completed within four years of the date of this permit.
  - The lease between the Department of Health and Human Services and VicRoads terminating. All buildings must be removed within 3 months after such lease terminates.

The Responsible Authority may extend the permit referred to if a request is made in writing before or within 6 months after the permit expiry date where the development has not commenced and within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires. Any request must be accompanied by consent from the Roads Corporation and a valid lease/agreement for the ongoing use of the site.

## APPENDIX E

### COMMITTEE TERMS OF REFERENCE

Advisory Committee appointed pursuant to section 151 of the *Planning and Environment Act 1987* to consider applications for review P839/2017, P840/2017, P1090/2017 and P1091/2017 called in from the Victorian Civil and Administrative Tribunal

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#### Name

1. The Advisory Committee is to be known as the 'Launch Housing Applications for Review Advisory Committee'.

#### Purpose

2. The purpose of the Advisory Committee is to provide advice to the Minister for Planning in relation to the determination of the applications for review P839/2017, P840/2017, P1090/2017 and P1091/2017 called in from the Victorian Civil and Administrative Tribunal.

#### Background

3. Launch Housing along with major philanthropic donors Geoff and Brad Harris, VicRoads and the Department of Health and Human Services have a proposal to locate new affordable transportable homes on nine different parcels of vacant VicRoads-owned land in Footscray and Maidstone. The proposal involves the development of 57 transportable homes that aim to provide a boost to affordable housing support for low income singles and couples.
4. The City of Maribyrnong (Council) received nine separate planning permit applications in relation to the proposal, for sites located at 118 Ballarat Road, Footscray, 121 Ballarat Road, Footscray, 125 Ballarat Road, Footscray, 131-133 Ballarat Road, Footscray, 153-155 Ballarat Road, Footscray, 175-77 Ballarat Road, Footscray, 185-189 Ballarat Road, Footscray, 211 Ballarat Road, Footscray and 151 Ballarat Road, Maidstone.
5. The Council decided to grant permits for all nine applications and gave notice of these decisions in March and April 2017. Applications for review of four of these decisions were lodged with the Victorian Civil and Administrative Tribunal (Tribunal) under section 82 of the *Planning and Environment Act 1987*, being together, the "applications for review":
  - 121 Ballarat Road, Footscray; TP767/2016(1), VCAT ref P839/2017;
  - 125 Ballarat Road, Footscray; TP772/2016(1), VCAT ref P840/2017;
  - 175-77 Ballarat Road, Footscray; TP785/2016(1), VCAT ref P1090/2017; and
  - 185-189 Ballarat Road, Footscray; TP795/2016(1), VCAT ref P1091/2017.
6. The Minister for Planning subsequently decided, under clause 58(2)(a) of schedule 1 to the *Victorian Civil and Administrative Tribunal Act 1998*, to call in the applications for review from the Tribunal.

#### Outcomes

7. The Advisory Committee must produce a written report for the Minister for Planning setting out:
  - an assessment of all relevant matters relating to the applications for review.
  - an assessment of the submissions to the Advisory Committee and any other relevant matters raised in the course of the Advisory Committee hearing.
  - recommendations and reasons in relation to the determination of the applications for review P839/2017, P840/2017, P1090/2017 and P1091/2017, including recommendations as to whether permits should be granted and if so, with what conditions.
  - a list of persons consulted and/or heard.

**Method**

8. The Advisory Committee is to inform itself in any way it sees fit, but must consider:
  - Relevant documentation prepared by or for the Applicant for Application for Planning Permit TP767/2016(1), TP772/2016(1), TP785/2016(1) and TP795/2016(1);
  - All Notices of Decision prepared by Council and all written reports prepared in respect of Application for Planning Permit TP767/2016(1), TP772/2016(1), TP785/2016(1), and TP795/2016(1);
  - All written objections, submissions made in regard to Applications for Planning Permit TP767/2016(1), TP772/2016(1), TP785/2016(1) and TP795/2016(1);
  - All documentation, including statements of grounds, filed in the Tribunal by parties to the applications for review.
9. The Advisory Committee is to hold a public hearing and invite all parties in respect of each application for review to make verbal and/or written submissions, including the bringing of evidence.
10. The Advisory Committee may limit the time of parties appearing before it. The Advisory Committee may prohibit or regulate cross-examination.
11. The Advisory Committee is to retain a library of any written submissions or other supporting documentation provided to it, which must be available for public inspection up to the end of the last day of the hearing.
12. The Advisory Committee may apply to vary these Terms of Reference in any way it sees fit prior to submission of its report.

**Timing**

13. The hearing is to be conducted as soon as practicable being no later than six weeks from the date of the appointment of the Advisory Committee.
14. The Advisory Committee is required to submit its report in writing as soon as practicable but no later than 20 business days from the completion of the hearing.

**Fee**

15. The fee for the Advisory Committee will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.

## APPENDIX F

### APPLICATION INFORMATION

<b>P839/2017</b>	<b>121 Ballarat Road, Footscray</b>
Description of proposal	Construction of 6, single storey dwellings and a waiver of car parking.
Land description	Vacant, relatively flat land of approximately 541 square metres. The site is located on the southern side of Ballarat Road, approximately 70 metres east of the intersection with Farnsworth Avenue.
Planning scheme	Maribyrnong Planning Scheme
Zone and overlays	General Residential Zone Schedule1 (GRZ1) Development Contributions Plan Overlay 6 (DPO6) <i>expired</i>
Permit requirements	To construct two or more dwellings on a lot (Clause 32.08-1) To waiver car parking requirements (Clause 52.06-3)
<b>P839/2017</b>	<b>125 Ballarat Road, Footscray</b>
Description of proposal	Use and development of the land for five single storey dwellings on land in the Public Acquisition Overlay and a waiver in car parking.
Land description	Vacant, relatively flat, land of approximately 453 square metres. The site is located on the southern side of Ballarat Road, approximately 50 metres east of the intersection with Farnsworth Avenue.
Planning scheme	Maribyrnong Planning Scheme
Zone and overlays	General Residential Zone Schedule1 (GRZ1) Development Contributions Plan Overlay 6 (DPO6) <i>expired</i> Public Acquisition Overlay 1 (PAO1)
Permit requirements	To construct two or more dwellings on a lot (Clause 32.08-1) Use and development of land in a Public Acquisition Overlay (Clause 45.01-1) To waiver car parking requirements (Clause 52.06-3)

<b>P839/2017</b>	<b>157 - 177 Ballarat Road, Footscray</b>
Description of proposal	Use and development of land for 6 dwellings on land in the Public Acquisition Overlay and a waiver in car parking
Land description	Vacant land of approximately 608 square metres. One mature tree to the front of the property.
Planning scheme	Maribyrnong
Zone and overlays	General Residential Zone1 (GRZ1) Development Contributions Plan Overlay 6 (DPO6) <i>expired</i> Public Acquisition Overlay 1 (PAO)
Permit requirements	To construct two or more dwellings on a lot (Clause 32.08-1) Use and development of land in a Public Acquisition Overlay (Clause 45.01-1) To waiver car parking requirements (Clause 52.06-3)
<b>P839/2017</b>	<b>185 - 189 Ballarat Road, Footscray</b>
Description of proposal	Use and development of the land for 10 single storey dwellings and removal of vegetation on land in a Public Acquisition Overlay and a reduction in car parking
Land description	Vacant land comprising 3 lots with a combined area of approximately 1084 square metres. The site has a crossover to Ballarat Road and some scattered vegetation. The site is located on the southern side of Ballarat Road approximately 90 metres east of the intersection with Gordon Street and 230 metres west of the intersection with Droop Street.
Planning scheme	Maribyrnong Planning Scheme
Zone and overlays	General Residential Zone1 (GRZ1) Development Contributions Plan Overlay 6 (DPO6) <i>expired</i> Public Acquisition Overlay 1 (PAO1)
Permit requirements	To construct two or more dwellings on a lot (Clause 32.08-1) Use and development of land in a Public Acquisition Overlay (Clause 45.01-1) To reduce car parking requirements (Clause 52.06-3)