



Agenda

Planning Decisions Committee

6.30pm, Tuesday 23 April 2024

Richmond Town Hall

The Planning Decisions Committee

The Planning Decisions Committee is a delegated committee of Council with full authority to make decisions in relation to planning applications and certain heritage referrals. The committee is made up of three Councillors who are rostered on a quarterly basis.

Participating in the Meeting

Planning Decisions Committee meetings are decision-making forums and only Councillors have a formal role. However, Council is committed to ensuring that any person whose rights will be directly affected by a decision of Council is entitled to communicate their views and have their interests considered before the decision is made.

There is an opportunity for both applicants and objectors to make a submission to Council in relation to each matter presented for consideration at the meeting.

Before each item is considered, the meeting chair will ask people in attendance if they wish to make submission. Simply raise your hand and the chair will invite you to come forward, take a seat at the microphone, state your name clearly for the record and:

- Speak for a maximum of five minutes;
- direct your submission to the chair;
- confine your submission to the planning permit under consideration;
- If possible, explain your preferred decision in relation to a permit application (refusing, granting or granting with conditions) and set out any requested permit conditions
- avoid repetition and restating previous submitters;
- refrain from asking questions or seeking comments from the Councillors, applicants or other submitters;
- if speaking on behalf of a group, explain the nature of the group and how you are able to speak on their behalf.

Once you have made your submission, please remain silent unless called upon by the chair to make further comment or to clarify any aspects.

Following public submissions, the applicant or their representatives will be given a further opportunity of two minutes to exercise a right of reply in relation to matters raised by previous submitters. Applicants may not raise new matters during this right of reply.

Councillors will then have an opportunity to ask questions of submitters. Submitters may determine whether or not they wish to take these questions.

Once all submissions have been received, the formal debate may commence. Once the debate has commenced, no further submissions, questions or comments from submitters can be received.

Arrangements to ensure our meetings are accessible to the public

Planning Decisions Committee meetings are held at the Richmond Town Hall. The following arrangements are in place to ensure they are accessible to the public:

- Entrance ramps and lifts (via the entry foyer).
- Interpreting assistance is available by arrangement (tel. 9205 5110).
- Auslan interpreting is available by arrangement (tel. 9205 5110).
- A hearing loop and receiver accessory is available by arrangement (tel. 9205 5110).
- An electronic sound system amplifies Councillors' debate.
- Disability accessible toilet facilities are available.

1. Appointment of Chair

Councillors are required to appoint a meeting chair in accordance with the City of Yarra Governance Rules 2020.

2. Statement of recognition of Wurundjeri Woi-wurrung Land

“Yarra City Council acknowledges the Wurundjeri Woi Wurrung people as the Traditional Owners and true sovereigns of the land now known as Yarra.

We acknowledge their creator spirit Bunjil, their ancestors and their Elders.

We acknowledge the strength and resilience of the Wurundjeri Woi Wurrung, who have never ceded sovereignty and retain their strong connections to family, clan and country despite the impacts of European invasion.

We also acknowledge the significant contributions made by other Aboriginal and Torres Strait Islander people to life in Yarra.

We pay our respects to Elders from all nations here today—and to their Elders past, present and future.”

3. Attendance, apologies and requests for leave of absence

Anticipated attendees:

Councillors

- Cr Stephen Jolly Councillor
- Cr Herschel Landes Councillor
- Cr Sophie Wade Councillor

Council officers

- Lara Fiscalini Acting Coordinator Statutory Planner
- Corey Woolridge Senior Planner
- Rhys Thomas Senior Governance Advisor
- Mel Nikou Governance Officer

4. Declarations of conflict of interest

Any Councillor who has a conflict of interest in a matter being considered at this meeting is required to disclose that interest either by explaining the nature of the conflict of interest to those present or advising that they have disclosed the nature of the interest in writing to the Chief Executive Officer before the meeting commenced.

5. Confirmation of Minutes

RECOMMENDATION

That the minutes of the Planning Decisions Committee held on Tuesday 27 February 2024 be confirmed.

6. Committee business reports

Item		Page	Rec. Page
6.1	PLN22/0069.01 - 276 Lennox Street, Richmond	5	18
6.2	PLN23/0685 - 4 - 6 Derby Street Collingwood	20	79
6.3	PLN23/0661 - 9 Arthur Street, Fairfield	90	116

6.1 PLN22/0069.01 - 276 Lennox Street, Richmond

Report Summary

Purpose

1. This report provides the Planning Decisions Committee with an assessment of the application at No. 276 Lennox Street, Richmond for an amendment to the planning permit to increase the hours of operation, practitioner numbers and number of daily appointments.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Clause 13.07-1L (Interfaces and Amenity);
 - (b) Clause 32.09 (Neighbourhood Residential Zone); and
 - (c) Clause 52.06 (Car Parking).

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Use; and
 - (b) Objector Concerns.

Submissions Received

4. Twenty-two (22) objections were received in total to the application, with 17 from individual properties. These can be summarised as:
 - (a) Inappropriate location for a medical centre;
 - (b) Inappropriate operating hours in a residential zone;
 - (c) Noise associated with increased number of practitioners, appointments and hours of operation;
 - (d) Increased pedestrian activity on surrounding street network;
 - (e) Reduced car parking availability and impacts on local traffic network;
 - (f) Lack of on-site bicycle parking and inappropriate bicycle parking facilities;
 - (g) Lack of disabled access;
 - (h) The amendment application is an abuse of process and is seeking to “stack the permit”; and
 - (i) Use does not comply with existing permit conditions (hours of operation, display of signage, inappropriate bicycle parking facilities, waste collection).
5. One letter of support was received for the application.

Conclusion

6. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported, subject to the following key recommendations:
 - (a) The hours of operation on Saturdays limited to between 9am and 4pm.

CONTACT OFFICER: Erryn Megennis
TITLE: Senior Statutory Planner
TEL: 0392055485

6.1 PLN22/0069.01 - 276 Lennox Street, Richmond

Reference	D24/98754
Author	Erryn Megennis - Senior Statutory Planner
Authoriser	Coordinator Statutory Planning
Disclosure	The authoriser, having made enquiries with members of staff involved in the preparation of this report, asserts that they are not aware of any general or material conflicts of interest in relation to the matters presented.

Ward:	Melba
Proposal:	Section 72 Amendment to planning permit PLN22/0069 to increase practitioner numbers, hours of operation and number of daily appointments.
Existing use:	Medical Centre (Chiropractor)
Applicant:	Contour Consultants
Zoning / Overlays:	Neighbourhood Residential Zone – Schedule 1 (NRZ1) Heritage Overlay – Schedule HO332 (HO332) Development Contributions Plan Overlay – Schedule 1 (DCPO1)
Date of Application:	23 January 2024
Application Number:	PLN22/0069.01

Planning History

1. The site has the following planning history:

Planning Permit PLN22/0069

- (a) On 26 July 2022, Council's Planning Decisions Committee resolved to issue a Notice of Decision to Grant planning permit PLN22/0069 for:
 - (i) *Use of the land for a medical centre (chiropractic clinic), construction and display of one (1) business identification sign and a reduction in car parking.*
- (b) On 24 August 2022 a Section 82 Objector appeal against Council's decision was lodged at the Victorian Civil and Administrative Tribunal (VCAT);
- (c) Planning permit PLN22/0069 was issued on 30 September 2022 at the direction of VCAT via consent order for:
 - (i) *Use of the land for a medical centre (chiropractic clinic) and a reduction in car parking.*
- (d) Key changes between the Notice of Decision to Grant a Planning Permit and the Planning Permit include:
 - (i) Deletion of the business identification sign; and
 - (ii) That the plans include a notation to show provision of internal sound insulation to the southern wall of the reception/waiting area.
 - (iii) The hours of operation on Saturday modified from 8am to 12pm, to 9am to 1pm.
- (e) Plans have been endorsed and the use has commenced.
- (f) This application is the first amendment application to PLN22/0069 lodged under Section 72 of the *Planning and Environment Act (1987)* (the Act).

Other Permit History

- (g) Planning permit PL01/0804 was issued on 18 March 2002 at the direction of VCAT for *Alterations and Additions to existing dwelling (including partial demolition)*;
- (h) Planning permit PL06/0243 was issued on 5 May 2006 for *Development of the land through the construction of a side and rear fence including partial demolition (retrospective)*; and
- (i) Planning permit PLN24/0027 was issued on 31 January 2024 for *demolition of a shed*. Plans have been endorsed. At the time of writing this report, the works had yet to be commenced.

The Proposal

- 2. The application is for a Section 72 amendment to planning permit PLN22/0069 to increase practitioner numbers, hours of operation and number of daily appointments. Further details of the proposal are as follows:
 - (a) Increase practitioner numbers from 2 to 3;
 - (b) Increase the number of daily appointments from 35 to 45;
 - (c) Amend the hours of operation from:
 - (i) Monday to Friday 8am to 6:30pm;
 - (ii) Saturdays 9am to 1pm;To:
 - (i) Monday to Friday 8am to 7pm (increase of half an hour in the evening); and
 - (ii) Saturdays: 8am to 4pm (increase of one hour in the morning and three hours in the afternoon).
- 3. To facilitate these changes, the following amendments to the permit conditions have been requested:
 - (b) Amend Condition 3 from:

No more than two (2) practitioners are permitted to operate from the land at any one time

To (changes in bold)

*No more than **three (3)** practitioners are permitted to operate from the land at any one time*
 - (c) Amend Condition 4 from:

Except with the prior written consent of the Responsible Authority, no more than 35 appointments can be carried out per day

To (changes in bold)

*Except with the prior written consent of the Responsible Authority, no more than **45** appointments can be carried out per day*
 - (d) Amend Condition 5 from:

Except with the prior written consent of the Responsible Authority, the use authorised by this permit may only operate between the following hours:

 - (a) *Monday to Friday: 8:00am - 6:30pm; and*
 - (b) *Saturdays: 9:00am – 1:00pm*To (changes in bold)

Except with the prior written consent of the Responsible Authority, the use authorised by this permit may only operate between the following hours:

(c) *Monday to Friday: 8:00am - 7:00pm; and*

(d) *Saturdays: 8:00am – 4:00pm*

Legislation Provisions

4. The amendment has been requested pursuant to Section 72 of the *Planning and Environment Act 1987* (the Act). Section 72 of the Act states:
 - (1) *A person who is entitled to use or develop land in accordance with a permit may apply to the responsible authority for an amendment to the permit.*
 - (2) *This section does not apply to—*
 - (a) *a permit or a part of a permit issued at the direction of the Tribunal, if the Tribunal has directed under section 85 that the responsible authority must not amend that permit or that part of the permit (as the case requires); or*
 - (b) *a permit issued under Division 6.*
5. The planning permit was issued on 30 September 2022 at the direction of VCAT.
6. The Tribunal has not directed that the responsible authority must not amend the permit, nor was the permit issued under Division 6 of the Act.
7. Section 73 of the Act states that Sections 47 to 62 of the Act apply to the amendment application. This allows the Responsible Authority to apply the abovementioned sections of the Act to the amendment application as if it was an application for a permit.

Existing Conditions

Subject Site

8. A description of the subject site was provided within the officer report for the original application:

The subject site is on the south- western corner of the Lennox Street-Tanner Street intersection, in Richmond. Swan Street is approximately 100m to the south. The site has a frontage of 6.04m to Lennox Street, depth of 34.75m and an overall area of 212.5sqm. Currently occupying the site is a two storey, Edwardian-era dwelling with a small, paved front setback and area of private open space and car parking at the rear. Access to the car parking space is provided via a 3m wide crossover on Tanner Street. The site also has rear abuttal to Botherambo Street. The dwelling forms part of a matching pair with the dwelling to the south at No. 276A Lennox Street.

The site is graded 'contributory' to the Richmond Hill Heritage Precinct. Contributory features include the Edwardian-era dwelling, corbelled brick chimneys and exposed brick façade.
9. Since that time, there have not been any changes to the subject site with the exception of the Medical Centre now operating from the site.



Figure 1: View of subject site from Lennox Street (Officer's photograph, June 2022)

Title Information

10. The title submitted with the application does not show any covenants. A 0.114m wide party wall easement extends 26m along the southern boundary. This application will have no impact on this party wall.

Surrounding Land

11. A description of the surrounding land is provided within the previous officer report for the original application:
12. *Lennox Street is primarily a residential street also consisting of pockets of non-residential uses dispersed between Bridge Road and Swan Street. The subject site is located within residentially-zoned land. However, land use zoning along this section of Lennox Street is variable and consists of both residential and commercial zones. Approximately 100m north of the subject site, Lennox Street is zoned Commercial 1 and the Swan Street Major Activity Centre (MAC) is located approximately 100m to the south of the site. Land to the west of the subject site falls within the Mixed Use Zone and consists of a mix of residential, office and light industrial uses.*
13. *A two storey office building with a ground floor food and drink premises is also located on the corner of Lennox and Gipps Streets (diagonally opposite the subject site at No. 285 Lennox Street) within residentially-zoned land. Existing Use Rights for this office and planning approval for the food and drink premises were granted under planning permit PLN13/0173.*
14. *Car parking in this section of Lennox Street is subject to time restrictions and permit only parking zones. The site is also within the Principal Public Transport Network and is within walking distance of public transport servicing the Swan Street, Bridge Road and Hoddle Street corridors. Lennox Street is also a designated bicycle route with separate on-road bicycle lanes.*
15. *Specifically the subject site has the following interfaces:*
 - (a) *Adjoining property – No. 276A Lennox Street:
To the south of the site is No. 276 Lennox Street, an Edwardian-era dwelling with first floor addition constructed to the rear of the site. The dwelling forms part of a matching pair with the subject site and is constructed along the length of the common boundary. An area of private open space is located to the rear, with rear access via Botherambo Street;*

- (b) North – Nos. 73 Tanner Street and No. 77 Tanner Street and No. 272 Lennox Street:
To the north of the site, on the opposite side of Tanner Street are Nos. 73, 77 Tanner Street and No. 272 Lennox Street. No. 77 Tanner Street and No. 272 Lennox Street form a three storey townhouse development. A garage as well as habitable room windows are constructed to the southern façade of the building. No. 73 Tanner Street comprises a two storey building with on-site parking and habitable room windows constructed on the southern façade.
- (c) West – No. 68 Tanner Street:
To the rear of the site, on the opposite side of Botherambo Street, is the eastern side boundary of No. 68 Tanner Street, a two storey office building with on-site car parking accessed via Botherambo Street; and
- (d) *Properties to the east of the subject site include No. 1/2A Gipps Street and Nos. 291-295 Lennox Street. These properties consist of two and three storey townhouses with habitable room windows fronting Lennox Street.*

16. Since that time, there have not been any notable changes to the site context.



Figure 2: Nearmap aerial imagery of subject site and surrounds (February 2024)

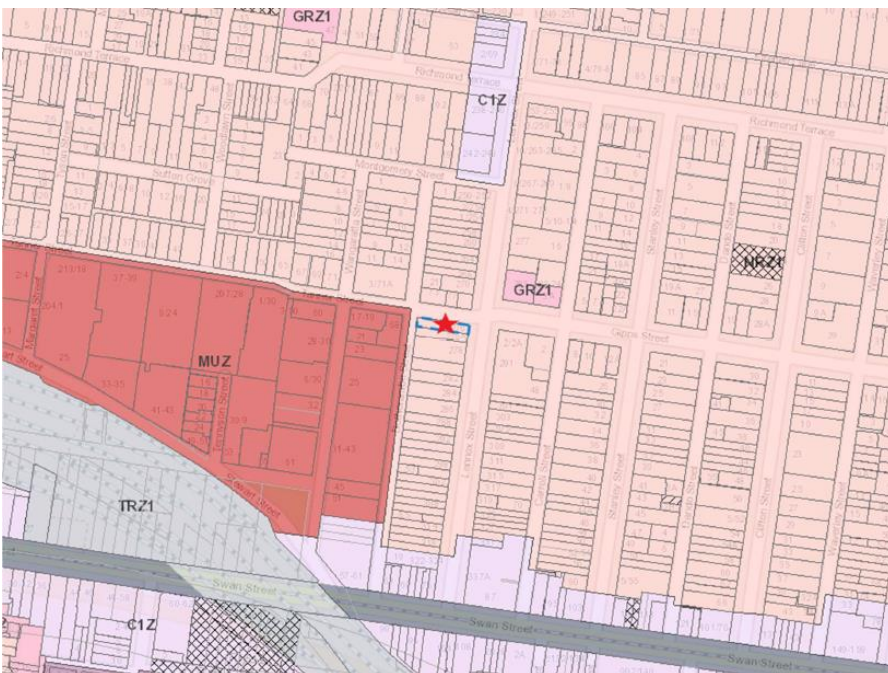


Figure 3: Land use zoning map (DELWP 2022) with subject site identified with red star

Planning Scheme Provisions

Zoning

17. The subject site is zoned NRZ1 - Neighbourhood Residential Zone - Schedule 1. The following provisions apply:
 - (a) Pursuant to Clause 32.09-2, a planning permit is not required to use the land as a Medical Centre provided the following conditions are met:
 - (i) The gross floor area of all buildings must not exceed 250 square metres.
 - (ii) Must be located in an existing building.
 - (iii) The site must adjoin, or have access to, a road in a Transport Zone 2 or a Transport Zone 3; and
 - (iv) Must not require a permit under Clause 52.06-3; and
 - (b) As the subject site does not adjoin or have access to a Transport Zone 2 or 3 and requires a planning permit under Clause 52.06-3, a planning permit is required to use the land for a medical centre; and
 - (c) The existing planning permit already approves the use of land for a medical centre.

Overlays

18. The subject site is affected by the Heritage Overlay, Schedule 332. As there are no buildings and works proposed an assessment against the HO332 is not required.
19. The subject site is also affected by the Development Contributions Plan Overlay, Schedule 1. This overlay applies to all land in the City of Yarra and to all new development where there is an increase in the number of dwellings and/or an increase in retail, commercial and industrial floor space. As the amendment application does not result in an increase to the gross floor area of the building, the requirements of the DCPO1 do not apply.

Particular Provisions

Clause 52.06 (Car Parking)

20. As the subject site is in the Principal Public Transport Network, Column B rates at Clause 52.06-5 apply.
21. Clause 52.06-5 applies a car parking rate of 3.5 spaces to each 100sqm of leasable floor area. The subject building has a leasable floor area of 161sqm, generating a requirement of five on-site car parking spaces. 1 car parking space is provided on-site, thus requiring a reduction of 4 car parking spaces.
22. This car parking reduction was approved under the original planning permit.
23. Given there will be no increase to the leasable floor area of the building, there is no requirement under Clause 52.06 to provide additional car parking.
24. The requirements of this clause therefore do not apply to the amendment application.

Clause 52.06 (Bicycle Parking)

25. Pursuant to Clause 52.34-1, *a new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land.*
26. Pursuant to Clause 52.34-5, the medical centre is required to provide 1 employee and 1 visitor bicycle parking space. Provision for bicycle parking for both employees and visitors is already included on the existing endorsed plans (which are not subject to change as part of this amendment application).
27. As the floor area of the existing medical centre will not increase, additional bicycle parking facilities are not required.

28. The requirements of this clause therefore do not apply to the amendment application.

General Provisions

Clause 65 – Decision Guidelines

29. The decision guidelines outlined at clause 65 of the Scheme are relevant to all applications. Because a permit can be granted does not imply that a permit should or will be granted. Before deciding on an application, the Responsible Authority must consider a number of matters. Amongst other things, the Responsible Authority must consider the relevant Municipal Planning Strategy and the Planning Policy Framework, as well as the purpose of the zone, overlay or any other provision. An assessment of the application against the relevant sections of the Scheme is offered in further in this report.

Municipal Planning Strategy

30. Relevant clauses are as follows:

- (a) Clause 02.03 – Strategic directions;
- (b) Clause 02.03-3 – Environmental risks and amenity; and
- (c) Clause 02.03-6 – Economic development.

Planning Policy Framework (PPF)

31. Clause 11 – Settlement:

- (a) Clause 11.01-1S – Settlement;
- (b) Clause 11.01-1R – Settlement – Metropolitan Melbourne; and
- (c) Clause 11.02-1S – Supply of urban land.

32. Clause 13 – Environmental Risks and Amenity:

- (a) Clause 13.05-1S – Noise management;
- (b) Clause 13.07-1S – Land use compatibility; and
- (c) Clause 13.07-1L – Interfaces and amenity.

33. Clause 17 – Economic Development:

- (a) Clause 17.01-1S – Diversified economy;
- (b) Clause 17.01-1R – Diversified economy (Metropolitan Melbourne);
- (c) Clause 17.01-1L – Employment;
- (d) Clause 17.02-1S – Business; and
- (e) Clause 17.02-2S – Out-of-centre development.

Advertising

34. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 22 letters sent to surrounding owners and occupiers and by two signs displayed on site. Council received 17 objections from individual properties with 22 objections in total of which 18 were pro-forma. The application also received 1 letter of support.

35. Objectors raised the following issues:

- (a) Inappropriate location for a medical centre;
- (b) Inappropriate operating hours in a residential zone;
- (c) Noise associated with increased number of practitioners, appointments and hours of operation;
- (d) Increased pedestrian activity on surrounding street network;

- (e) Reduced car parking availability and impacts on local traffic network;
 - (f) Lack of on-site bicycle parking and inappropriate bicycle parking facilities;
 - (g) Lack of disabled access;
 - (h) The amendment application is an abuse of process and is seeking to “stack the permit”;
 - (i) Use does not comply with existing permit conditions (hours of operation, display of signage, inappropriate bicycle parking facilities, waste collection).
36. The grounds of support are as follows:
- (a) The use supports the local community and should be allowed to expand; and
 - (b) Council should support local business post-pandemic.

Referrals

External Referrals

37. The application was not required by the Scheme to be referred to external parties.

Internal Referrals

38. The application was referred to Council’s compliance unit for comment. These referral comments are included as an attachment to this report.

OFFICER ASSESSMENT

39. The primary considerations for this application are as follows:

- (a) Use; and
- (b) Objector concerns.

Use

40. The following assessment is informed by the relevant policy objectives and decision guidelines of the Neighbourhood Residential Zone (Clause 32.09), Clause 13 (Environmental Risks and Amenity) and Clause 13.07-1L-01 of the Scheme (Interfaces and Amenity) of the Planning Policy Framework.
41. Relevant to the proposal, the key purposes of the Neighbourhood Residential Zone (Schedule 1) are:
- (a) *To implement the Municipal Planning Strategy and the Planning Policy Framework; and*
 - (b) *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*
42. The appropriateness of the subject site for a Medical Centre use was discussed at length in the planning officer’s [report](#) for the original application (paragraphs 30 to 51) where it was established that there is strong planning policy support for the use and that it would not have an unreasonable amenity impact on the surrounding area, subject to the conditions outlined on the planning permit.
43. This assessment will therefore be limited to the increase in practitioner numbers, number of daily appointments and the hours of operation and whether the proposed amended use will have an unreasonable amenity impact on the surrounding area.
44. Guidance on the assessment of non-residential uses in residentially-zoned land is provided at Clause 13.07-1L-01 of the Scheme (Interfaces and Amenity). The objectives of this policy are:
- (a) *To protect the operation of business and industrial activities from new residential use and development;*

- (b) *To provide a reasonable level of amenity to new residential development within or adjacent to land in commercial and industrial zones; and*
 - (c) *To support the growth and operation of surrounding non-residential development and uses.*
45. With regard to noise emissions, the proposed amendments to the Medical Centre are not anticipated to generate additional noise to what is already typical of the existing operations. The medical centre provides therapeutic and remedial health services to its patients, the nature of which would have similar noise emissions to residential use. Each consultation room is enclosed, and the appointments would be conversational rather than relying on any machinery. In terms of a non-residential use located in a residential zone, a medical centre is generally considered to pose little amenity risks in this regard.
46. Condition 5 is proposed to be amended to allow for an extra half-hour of trading, Monday to Friday and an extra one hour in the morning and three hours in the afternoon on Saturdays.
47. Policy at Clause 13.07-1L-01 seeks to ensure that the hours of operation for a non-residential use in a residential zone is limited to between 8am and 8pm. These hours are considered to fall outside the more sensitive morning and evening/night time hours where there is potential for non-residential uses to have an adverse amenity impact on nearby residential uses.
48. The proposed amended hours remain consistent with policy and are therefore not considered to unreasonably impact the amenity of the surrounding area. However, the current approved hours for Saturdays formed part of the agreement reached via consent as part of the VCAT appeal for the original application (P1106/2022) where the hours of operation were modified from 8am to 12pm, to 9am to 1pm.
49. This application proposes to commence trading on Saturdays at 8am, in lieu of 9am as previously agreed. Given this proposal is contrary to the terms agreed upon as part of the VCAT process, it is not supported and should remain at 9am in accordance with the VCAT order issued 30 September 2022 . It is therefore recommended that Condition 5 be amended to the following:
- 5. Except with the prior written consent of the Responsible Authority, the use authorised by this permit may only operate between the following hours:*
- (a) *Monday to Friday: 8:00am - **7:00pm**; and*
 - (b) *Saturdays: **9:00am – 4:00pm***
50. In addition to the increase in hours proposed, Conditions 3 and 4 are also proposed to be modified to allow for three practitioners in lieu of two and for 10 additional appointments per day (a total of 45 appointments).
51. The existing building provides three consulting rooms and as such it is considered that the building itself has capacity to accommodate an additional practitioner. The existing permit allows 35 appointments for 2 practitioners, on balance allowing 17 - 18 appointments per practitioner per day. As such, it is considered that an addition 10 appointments per day can be accommodated on the site without resulting in further material detriment to the surrounding area.
52. The scale of the use is considered to be generally consistent with servicing the local community and aligns with one of the key objectives of the NRZ *“to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations”*. The limited number of practitioners and the length of appointments (15 to 90 minutes as confirmed in the previous Officer’s Report – paragraph 43) would not result in large numbers of people frequenting the site and so it is unlikely to generate unreasonable disturbance to nearby residential properties.

53. With regard to noise transfer between buildings, additional soundproofing to mask the sound of people walking up and down the hallway is not considered necessary. The sounds of footsteps from neighbouring buildings is part and parcel of living in a built up, inner city suburb and particularly where buildings are constructed on shared boundaries. The sound of footsteps is also conducive had the building be used for a dwelling. Further, Condition 7 of the existing permit requires the use to comply with the relevant noise limits set by the Environmental Protection Authority and this condition will remain on any amended permit issued.
54. It is acknowledged that the increase to the hours of operation, practitioner numbers and number of daily appointments will result in additional people in the area throughout the day. However, social activity and the movement of people within the street is to be expected in an inner-city area. General noise produced from people arriving and leaving (including talking and car noises) associated with a medical centre is not considered unreasonable for the site context and will be reasonably limited by the recommended conditions restricting the operating hours and number of appointments per day. The host-building as shown on the endorsed plans currently has provision for up to three consulting rooms and as such, it is considered that an additional practitioner can be easily accommodated on-site without requiring additional modifications to the existing building.
55. Further, the proposed hours of operation, subject to condition, are not anticipated to cause conflicts with surrounding residential uses, give they largely represent standard business hours and the use will not disturb the amenity of the area during the sensitive night time hours. Conditions will continue to restrict practitioner numbers, hours of operation and appointment numbers should an amended permit be granted.
56. As the operating hours are generally restricted to daytime hours, light spill is not a consideration in this instance. Regardless, any lighting after hours would be no different to that of a residential use. The existing building is double storey and fenced and no additional buildings and works are proposed. The proposed amended use would therefore not result in any new opportunities for overlooking into neighbouring residential properties. It is therefore recommended that Conditions 3 and 4 be amended to the following:
- 3. No more than **three (3)** practitioners are permitted to operate from the land at any one time..*
- 4. Except with the prior written consent of the Responsible Authority, no more than **45** appointments can be carried out per day.*
57. Regarding waste, it is anticipated that waste generated by the proposed amended use would not increase beyond existing waste generation from the Medical Centre. As stated in the previous officer report, any waste generated by a consultative practice would be similar to or less than a residential use. Given the nature of the medical use, it is not expected that any toxic waste or large waste items will be produced. Further, the nature of the use will not require any bulky or frequent deliveries. Condition 9 of the permit restricts the days and hours that deliveries and collections to/from the site are permitted and this will remain on any amended permit issued. Further, Condition 8 of the existing permit will remain and will require waste generated from the medical centre use to be collected via private collection. Waste from the kitchen/staff room and bathrooms will continue to be collected via Council's waste collection service and bins will be stored on the street on the relevant collection day.
58. In summary, the proposed amended use, subject to the conditions outlined, will not cause unreasonable material detriment to surrounding residential properties and will continue to be compatible with the subject site and surrounding land use context. The amended proposal continues to satisfy the objectives of the NRZ and the Planning Policy Framework and is supported.

Objector Concerns

59. The majority of objector concerns are discussed in the body of the report, including:

- (a) Inappropriate location for a medical centre is addressed at paragraph 42. The planning permit already approves the use of land as a medical centre and this assessment has been limited to its proposed expansion;
- (b) Hours of operation are addressed at paragraphs 46 and 49;
- (c) Noise impacts are addressed at paragraphs 45 and 53;
- (d) Increased pedestrian activity has been addressed at paragraph 54; and
- (e) Car parking has been discussed at paragraphs 21 to 24. As there is no statutory requirement under Clause 52.06 to provide additional car parking, matters relating to car parking and traffic impacts cannot be considered.

60. Outstanding objector concerns are addressed as follows:

- (a) *Lack of on-site bicycle parking and inappropriate bicycle parking facilities:*

As stated at paragraphs 25 - 28, additional on-site bicycle parking is not required. The existing endorsed plans include provision for employee and visitor bicycle parking in accordance with the requirements of Clause 52.34. Council's Planning Enforcement Unit have already investigated the on-site bicycle parking provision and have confirmed that the on-site provision is satisfactory and in accordance with planning permit PLN22/0069 (Reference: CPPlan23/00241).

The endorsed plans show provision for on-site bicycle parking in accordance with Clause 52.34 of the Scheme. The use of parking signs and other street signs to park bicycles is not something that can be regulated under the *Planning and Environment Act* (1987).

- (b) *Lack of disabled access:*

Whilst universal access is encouraged, there is no requirement under the Yarra Planning Scheme to provide a disabled access ramp. This is a matter dealt with under the Building Code of Australia.

- (c) *The amendment application is an abuse of process and is seeking to "stack the permit":*

- (i) Section 72(1) of the Planning and Environment Act (1987) states that *a person who is entitled to use or develop land in accordance with a permit may apply to the responsible authority for an amendment to the permit*. Further, pursuant to Section 72(2)(a)(b) the tribunal has not directed that the responsible authority must not amend the permit, nor was the permit issued under Division 6 of the Act; and

- (ii) The permit holder is therefore entitled to apply for an amendment to the planning permit. Amendment applications are subject to assessment by Council planning officers and will be determined on their merits. As this report concludes, the proposed amendments are determined to demonstrate compliance with the relevant policies and provisions of the Yarra Planning Scheme. As discussed at paragraph 48 - 49, the proposal to commence trading at 8am is not supported as this is contrary to the settlement reached as part of the previous VCAT appeal. The commencement time for Saturday trading will remain at 9am; and

- (d) *Use does not comply with existing permit conditions (hours of operation, display of signage, inappropriate bicycle parking facilities, waste collection).*

- (i) Breaches of any conditions of the planning permit are matters for Council's Planning Enforcement Unit who will initiate investigations as required. The owner / permit holder in carrying out the approved use, remains obliged to comply with the conditions on the planning permit;

- (ii) The existing planning permit does not approve the construction and display of business identification signage, nor does this amendment application seek to apply for any. It appears the medical centre has been displaying a sandwich board sign on the street during business hours. The display of these signs on public land does not require a planning permit. These signs do however require a Footpath Trading Permit under Council's Local Law No. 26. If the Medical Centre does not have a Footpath Trading Permit for this sign it will be a matter for Council's Compliance Unit to investigate; and
- (iii) Should the permit holder wish to display a business identification sign on the subject site, they will be required to apply for another amendment to planning permit PLN22/0069. The sign will be assessed against the applicable signage policies and provisions of the Scheme and will be determined on its merits.

Conclusion

61. The proposed amendments are considered to demonstrate a high level of compliance with the policy objectives contained within the Municipal Planning Strategy and Planning Policy Framework. The proposal, subject to the recommended conditions, is an acceptable planning outcome that demonstrates clear compliance with the relevant Council policies.

RECOMMENDATION

That having considered all objectives and relevant planning policies, the Committee resolved to issue a Notice of Decision to Grant an Amended Planning Permit PLN22/0069 for the use of the land for a medical centre (chiropractic clinic) and a reduction in car parking at 276 Lennox Street, Richmond VIC 3121 subject to the following conditions (changes in **bold**):

1. Before the use commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and must be generally in accordance with the decision plans prepared by Elevation 7 and dated November 2021 but modified to show:
 - (a) The ground floor plan updated to correctly reflect the true location of the crossover, roller door and angled car parking space provided. The dimensions of the car parking space must be in accordance with Design Standard 2 at Clause 52.06 of the Yarra Planning Scheme or otherwise to the satisfaction of the Responsible Authority;
 - (b) The business identification sign deleted; and
 - (c) Notation to show provision of internal sound insulation to the southern wall of the reception/waiting area.
2. The use as shown on the endorsed plans must not be altered unless the Yarra Planning Scheme specifies that a permit is not required without the prior written consent of the Responsible Authority.
3. No more than **three (3)** practitioners are permitted to operate from the land at any one time.
4. Except with the prior written consent of the Responsible Authority, no more than **45** appointments can be carried out per day.
5. Except with the prior written consent of the Responsible Authority, the use authorised by this permit may only operate between the following hours:
 - (a) Monday to Friday: 8:00am - **7:00pm**; and
 - (b) Saturdays: **9:00am – 4:00pm**
6. Before the use commences, or by such later date as approved in writing by the Responsible Authority, the bike racks must be installed and maintained to the satisfaction of the Responsible Authority.

7. The use must at all times comply with the noise limits specified in the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021), as may be amended from time to time.
8. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.
9. Delivery and collection of goods to and from the land may only occur between 7am and 10pm Monday to Saturday, or after 9am on a Sunday or public holiday except for those allowed under any relevant local law.
10. This permit will expire if:
 - (a) The use is not commenced within two years from the date of this permit; or
 - (b) The use is discontinued for a period of two years; or

The Responsible Authority may extend the period referred to if a request is made in writing before the permit expires or within six months afterwards for commencement.

NOTES

This site is subject to a Heritage Overlay. A planning permit may be required for any further external works.

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5555 to confirm.

A local law permit (e.g. Asset Protection Permit, Road Occupation Permit) may be required before development is commenced. Please contact Council's Construction Management Branch on Ph. 9205 5555 to confirm.

Use of Security Cameras must comply with Section 8(1) of the Surveillance Devices Act (2007) which outlines a permit holder's responsibility in relation to surveillance devices. Please ensure compliance with the relevant legislation at all times the security cameras are in use.

Attachments

- 1 Attachment 1 - 276 Lennox Street Richmond - Site Context Map
- 2 Attachment 2 - 276 Lennox Street Richmond - Cover Letter/Planning Report
- 3 Attachment 3 - 276 Lennox Street Richmond - Current Planning Permit
- 4 Attachment 4 - 276 Lennox Street Richmond - Current Endorsed Plans
- 5 Attachment 5 - 276 Lennox Street Richmond - Previous PDC Report

6.2 PLN23/0685 - 4 - 6 Derby Street Collingwood

Report Summary

Purpose

1. This report provides Council with an assessment of planning application PLN23/0685 for buildings and works to construct a multi-storey, mixed-use building for Restricted retail premises (showroom) and dwellings (the latter of which is as-of-right) and a reduction to the car parking requirements.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Clause 15.01 – Built Environment;
 - (b) Clause 43.02 – Design and Development Overlay;
 - (c) Clause 58 – Apartment developments;
 - (d) Clause 32.04 – Mixed Use Zone;
 - (e) Clause 52.06 – Car Parking; and
 - (f) Clause 52.34 – Bicycle facilities.

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Strategic Support;
 - (b) Use requiring a permit (Restricted Retail Premises);
 - (c) Building design (including DDO23);
 - (d) Urban design;
 - (e) Off-site amenity impacts;
 - (f) On-site amenity (Clause 58);
 - (g) Car parking and traffic;
 - (h) Bicycle provision and facilities;
 - (i) Other matters; and
 - (j) Objector concerns.

Submissions Received

4. Six (6) objections were received to the application, these can be summarised as:
 - (a) Overdevelopment of the site (excessive height and scale);
 - (b) Visually intrusive in the streetscape;
 - (c) Poor heritage response;
 - (d) Not in keeping with neighbourhood character;
 - (e) Pressure on on-street car parking availability;
 - (f) Impact on viability of neighbouring commercial properties;
 - (g) Removal of Michael Porter mural;
 - (h) Overshadowing of public realm;

- (i) Off-site amenity impacts (overlooking and privacy, overshadowing, loss of light);
 - (j) Wind impacts;
 - (k) Property value impacts;
 - (l) Increased foot traffic and associated footpath congestion; and
 - (m) Impacts from construction (including structural impacts).
5. Two (2) letters of support were received to the application, which are summarised as follows:
- (a) Scale and design is site responsive and contextually appropriate;
 - (b) Good size and variety of quality apartments;
 - (c) Potential for quality commercial tenancies;
 - (d) Comprehensive engagement process and feedback incorporated into the design; and
 - (e) Positive contribution to the future of Collingwood.

Conclusion

6. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported subject to the following key recommendations:
- (a) Reduction in the overall building height to a maximum of 20 metres;
 - (b) The open living and kitchen area of apartment 4.01 set back a minimum of 1.5 metres from the north and west title boundaries, reducing the podium on the north-west corner to four storeys; and
 - (c) The balcony of apartment 5.01 setback a minimum of 1.5 metres from the northern title boundary.

CONTACT OFFICER: Jessica Sutherland
TITLE: Principal Planner
TEL: 9205 5365

6.2 PLN23/0685 - 4 - 6 Derby Street Collingwood

Reference	D24/122288
Author	Jessica Sutherland - Principal Planner
Authoriser	Senior Coordinator Statutory Planning
Disclosure	The authoriser, having made enquiries with members of staff involved in the preparation of this report, asserts that they are not aware of any general or material conflicts of interest in relation to the matters presented.

Ward:	Langridge Ward
Proposal:	Buildings and works to construct a multi-storey, mixed-use building for Restricted retail premises (showroom) and dwellings (the latter of which is as-of-right) and a reduction to the car parking requirements
Existing use:	Commercial / art gallery
Applicant:	Contour consultants
Zoning / Overlays:	Mixed Use Zone Design and Development Overlay (Schedule 23) Environmental Audit Overlay Development Contributions Overlay (Schedule 1) Heritage Overlay (Schedule 101x) affecting the north-east corner of the site.
Date of Application:	28 September 2023
Application Number:	PLN23/0685

Planning History

1. Planning Permit PL03/0426 was issued on 11 July 2003 for *part demolition and installation on a roller door*.
2. Planning Permit PL06/0970 was issued on 25 June 2007 for the *use of the ground floor as a Place of Assembly, accommodating art, music, and hospitality youth support programs, and use of the first floor as an office with counselling facilities, including buildings and works and a reduction in the car parking requirements*. The permit was acted on, with a condition requiring that the uses operate between 9am and 5pm, Monday to Friday.

Background

Planning Scheme Amendments

Amendment C269yara

3. Amendment C269yara was gazetted into the Yarra Planning Scheme (the Scheme) on 21 December 2023, and implements the Yarra Planning Scheme Review (2014), updating local policies in the Yarra Planning Scheme by replacing the Municipal Strategic Statement (MSS) and Local Planning Policy Framework (LPPF) at Clause 21 and Clause 22 with a Municipal Planning Strategy (MPS), local policies within the Planning Policy Framework (PPF) and selected local schedules, particular provisions, and operational provisions consistent with the structure introduced by Amendment VC148.
4. The application was lodged prior to the gazettal of the amendment into the Scheme, however, the assessment will be based on the requirements at the time of determination.

Amendment VC250

5. Amendment C269yara was gazetted into the Scheme on 1 January 2024 and relevantly introduced Clause 53.03 (Residential Reticulated Gas Service). The clause applies to all new dwellings and apartment buildings, irrespective of their zoning, and prohibits their connection to reticulated gas services.
6. The subject application was submitted prior to the amendment being gazetted into the Scheme, and therefore benefits from transitional provisions pursuant to Clause 53.03-5.
7. Nevertheless, the application does not propose to have a gas connection.

Amendment C293

8. Amendment C293 proposes to adopt a new permanent Design and Development Overlay (Schedule 23) for Collingwood South, replacing the interim DDO Schedule 23 which currently applies to the site.
9. Amendment C293 was heard at a Standing Advisory Committee in March and April of 2022, with the Committee's report issued on 19 May 2022.
10. Council has since submitted the amendment to the Minister for Planning for Approval and is therefore considered to be seriously entertained. The requirements of the proposed permanent DDO23 will be discussed within the body of this report as relevant.

[Lodgement of sketch plans](#)

11. In response to the concerns raised by Council Officers and referral departments, the Applicant submitted Without Prejudice Plans for discussion on 19 March 2024, consisting of architectural plans (TP13, TP14 and TP15 dated 8 March 2024) and a perspective drawing.
12. The plans show a 1.85 metre setback of the sixth and seventh floors from the eastern boundary shared with No. 8 Derby Street, as illustrated in Image 1.



Image 1: perspective drawing circulated with Without Prejudice Plans, depicting the changes to the east elevation from the south-east along Derby Street

13. These plan changes have not been lodged under Section 57A of the *Planning and Environment Act 1987* (the Act), and as such, the plans as advertised continue to be the Decision Plans. The changes shown in the sketch plans will be discussed in the body of this report as relevant.

The Proposal

14. *Full demolition of the existing buildings on site and removal of crossovers along the Langridge Street frontage and outside of the HO (no permit required).*
15. *Removal of concrete at-grade car park and associated crossover on Little Oxford Street within the Ho (no permit required).*
16. Construction of an eight (8) storey (plus two basement levels and roof plant) mixed use building, with further details as follows:
- (a) 18 dwellings, consisting of 2 x one-bedroom, 10 x two-bedroom and 6 x three-bedroom;
 - (b) Restricted retail (showroom) at ground floor with a total area of 201.3sqm;
 - (c) The ground floor layout is arranged to provide the residential building entry and balconies and associated access for two dwellings along Derby Street, the commercial frontage to Langridge Street and vehicle access (via a car lift) from Little Oxford Street. An entrance for services and cyclists is provided on the laneway frontage;
 - (d) The building is generally constructed to all title boundaries with the exception of a ground floor splay on the north-east corner;
 - (e) Due to the sloping land (down from west to east), the building has street walls stepped in height as follows:
 - (i) Langridge Street – 5-storeys and 16.38 metres stepping down to 4-storeys and 14.04 metres to the east;
 - (ii) Little Oxford Street – 4 storeys and 14.34 metres stepping down to one-storey and 4.33 metres to the south;
 - (iii) Derby Street – 4-storeys and 13.53 metres stepping down to three-storeys and 11.43 metres to the east;
 - (f) On the west boundary to the laneway the lift core has a sheer boundary wall of 25.55 metres, with the remainder of the elevation set back 1.5 metres above the podium;
 - (g) The upper-level setbacks:
 - (i) have a chamfered splay on the north-east corner resulting in setbacks of between 6.24 metres to 13.61 metres from Little Oxford Street, and of between 3 metres and 11.99 metres from Langridge Street; and
 - (ii) are a consistent 3.81 metres above the Derby Street podium;
 - (h) A sheer boundary wall of 26.95 metres is proposed on the east boundary to No. 8 Derby Street;
 - (i) The overall height of the building is 26.95 metres (not inclusive of services and lift overrun);



Image 2: Artistic perspective of the proposed development from Langridge Street looking west – Façade and Materiality report page 11



Image 3: Artistic perspective of the development from Derby Street looking north-west, with No. 8 Derby Street in the foreground – Façade and Materiality report page 13



Image 4: Artistic perspective of the development from the corner of Smith Street and Derby Street looking east – Façade and Materiality report page 15



Image 5: Artistic perspective of the development from the corner of Smith Street and Langridge Street looking east – Façade and Materiality report page 17

- (j) As discussed, the vehicle entry to the basement levels is provided from a tilt garage door and enclosed car lift from Little Oxford Street, providing for 25 on-site car parking spaces. The basement levels are a minimum depth of 5.16 metres deep below NGL (RL 25.12);
- (k) 29 bicycle spaces are provided:
 - (i) 12 wall mounted spaces within a ground level bicycle room for residential, residential visitors and commercial staff use;
 - (ii) 17 above bonnet spaces for residential use spread between both basement levels;
- (l) Materials, finishes and façade details include:
 - (i) A mixture of brick and precast concrete in Apricot and a precast concrete in Light Apricot for elevations;

- (ii) The use of tiles in Apricot and Watermelon throughout (i.e. between windows along ground floor elevation and upper-level detailing);
- (iii) Gates and balustrades in painted metal (Apricot and Watermelon); and
- (iv) Windows with light grey glass and reeded glass.

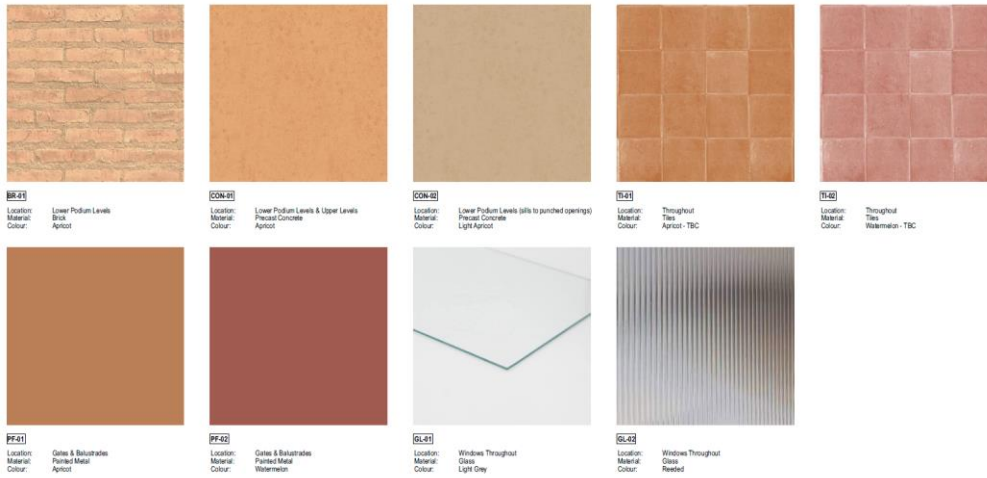


Image 6: Excerpt from Materials and Finishes Schedule – Decision Plans

Existing Conditions

Subject Site

17. The subject site is comprised of two allotments, formally known as Lot 1 on Title Plan 392284D and Lot 1 on Title Plan 966050H. The site has three street frontages; 24.13 metres to Langridge Street to the north, 12.7 metres to Little Oxford Street to the east and 17.98 metres to Derby Street to the south. The site is also abutted by an unnamed laneway along its western title boundary. As such, the site occupies almost the entire block with the exception of the south-east corner which is occupied by No. 8 Derby Street. The overall area of the site is 525.7sqm.
18. The site has a notable fall from west to east of approximately 1.5 metres.

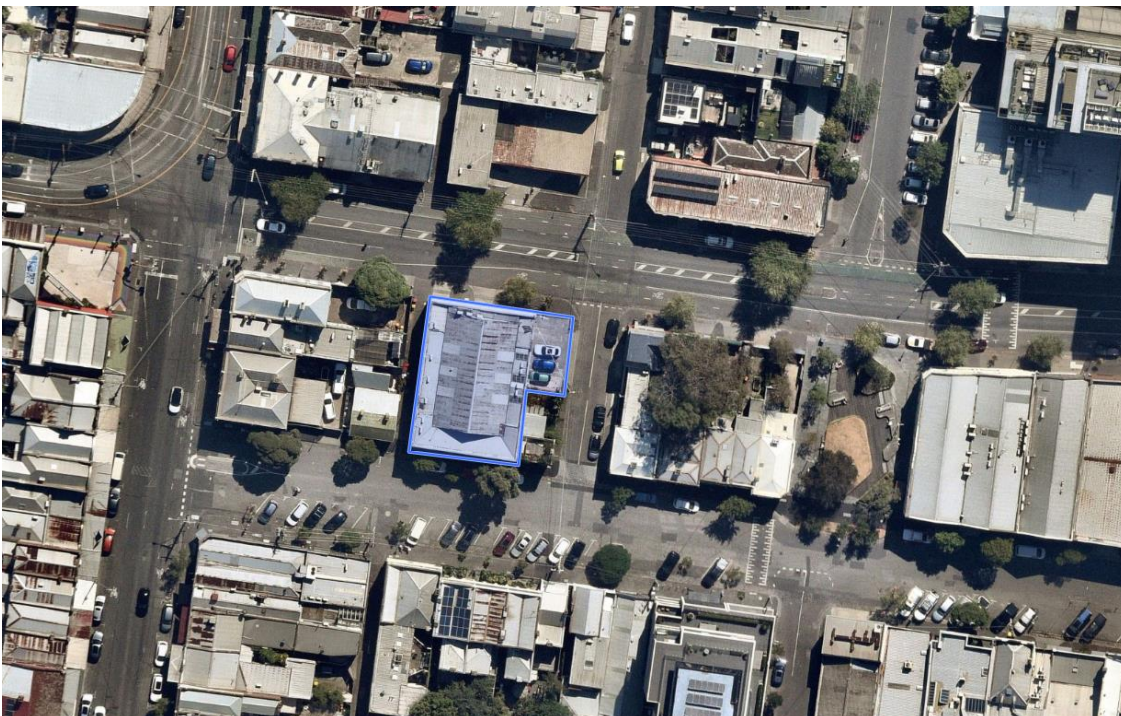


Image 7: Aerial of the subject site and surrounds (NearMap, March 2024)

19. The titles submitted with the application do not include any covenants, restrictions or easements.
20. The site is currently developed with a double storey brick building, generally constructed to all title boundaries, with the exception of an at-grade concrete car park on the north-east corner of the site. The site is provided two single-width crossovers from Langridge Street and a wide double-width crossover to the at-grade car park from Little Oxford Street.
21. Three (3) street trees and two bicycle hoops are located along the Derby Street frontage and one (1) street tree and three (3) bicycle hoops along the Langridge Street frontage.
22. A mural (by Melbourne artist, Michael Porter) is painted onto the eastern wall of the existing building, abutting onto the private car park.



Image 8: the subject site as seen from the north-east from Langridge Street (Officer site visit, April 2024)

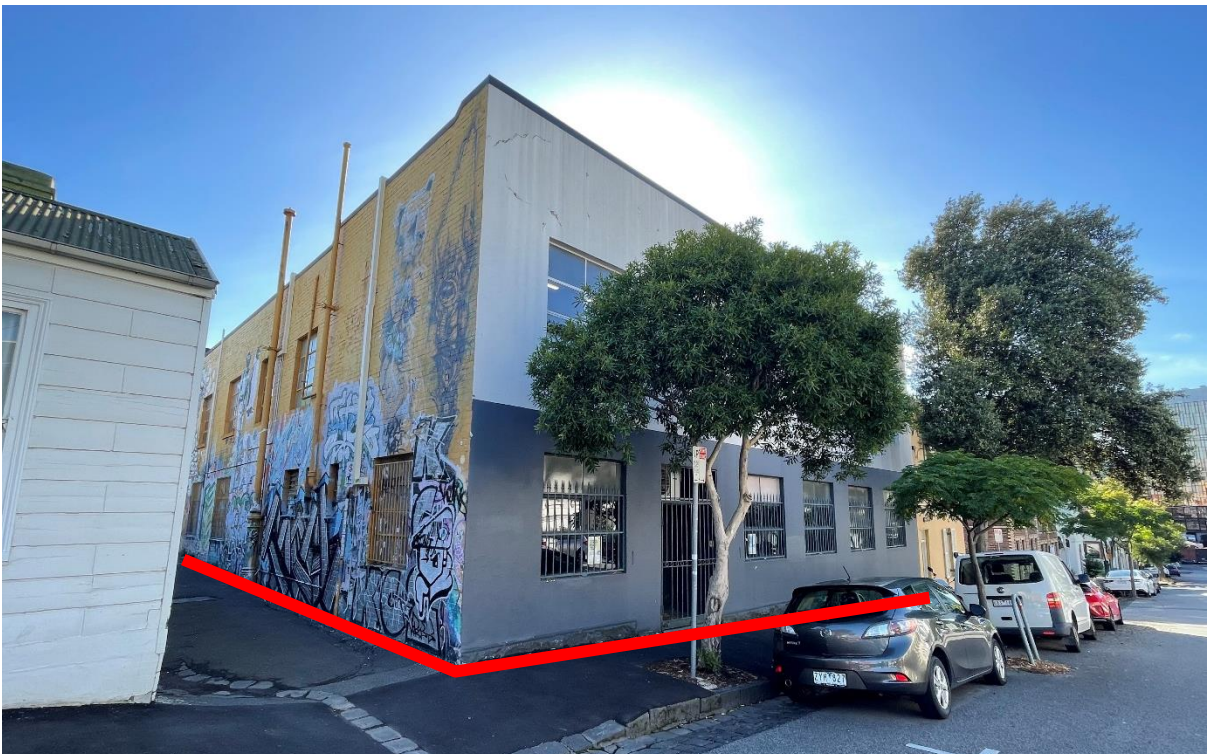


Image 9: the subject site as seen from the west along Derby Street (Officer site visit. April 2024)

Surrounding Land

- 23. The site is located on the periphery of the Smith Street Major Activity Centre (MAC) and is proximate to Wellington Street (200 metres to the east) and Victoria Parade (approximately 200 metres to the south). As such, the immediate area is characterised by a mixture of uses and development styles, including single and double storey buildings from the Victorian/Edwardian-era, mid-rise commercial buildings, warehouse conversions and an emerging character of more robust mixed-use development apparent, particularly to the east of the site approaching Wellington Street.
- 24. There is not a clear pattern of subdivision in the area, however, site coverage is consistently high.
- 25. Recently approved and/or constructed development proximate to the site includes:
 - (a) 15 – 21 Derby Street, 30 metres south-east of the site, which is constructed with an eight (8) storey building (commercial and apartments) as approved by Planning Permit PLN16/0092;



Image 10: the development as it appears from the west along Derby Street (Officer site visit, April 2024)

- (b) 7 – 15 Little Oxford Street, 60 metres north of the site, which is constructed with an eight (8) storey mixed-use building (café and apartments) as approved under Planning Permit PLN14/0860;

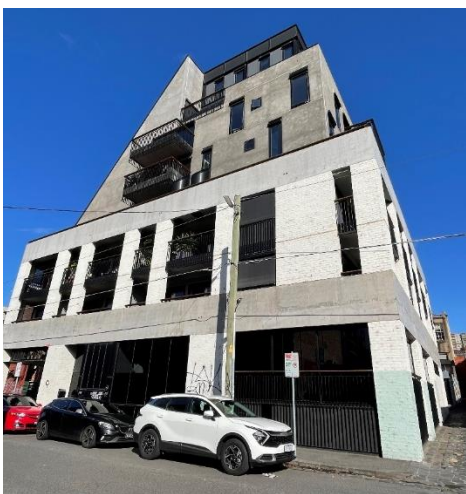


Image 11: the development as it presents to Little Oxford Street (Officer site visit, April 2024)

- (c) 16 – 20 Langridge Street, 100 metres east of the site, which is constructed with a ten (10) storey mixed-use building as approved by Planning Permit PLN18/0497;



Image 12 and 13: renders of the development from Langridge Street (left) and Oxford Street (right) from the Endorsed Façade Strategy

- (d) 4 – 12 Langridge Street, immediately opposite the site on Langridge Street, has an approval for an eight storey mixed-use building (PLN20/0470 as issued by the VCAT). A render is provided at Image 14 for context; however, it is noted that a condition was included on the permit to delete the architectural framing at the podium level and to provide for a 3 metre setback of Levels 4, 5 and 6 for the length of the southern boundary (effectively reducing the Langridge Street streetwall to four storeys and a maximum height of 15.33 metres). The permit has not been acted on but is still live;



Image 14: perspective render of the approval at 4 – 12 Langridge Street as viewed from across Smith Street (WPP as circulated at VCAT for PLN20/0470)

- (e) 46 – 52 Smith Street, 20 metres to the south-west across Derby Street, has an approval for a six (6) storey commercial building as approved by Planning Permit PLN21/0042. The permit has not been acted upon but is still live; and
- (f) 40 – 44 Smith Street, 40 metres to the south-west, has an approval for a six (60 storey commercial building as approved by Planning Permit PLN22/0598. The permit has not been acted on but is still live.



Image 15: rendered perspective of the two commercial buildings approved on Smith Street, as viewed from Smith Street (Without Prejudice Plans circulated at the VCAT for PLN22/0598).

26. Further to the east are a number of recent developments along Cambridge Street and Wellington Street which generally range in height from 8 – 12 storeys.
27. The site is located in the Mixed Use Zone, however, land to the west across the laneway is within the Smith Street MAC and Commercial 1 Zone.
28. As discussed, the north-east corner of the site is located in the Heritage Overlay (Schedule 101), together with the only immediately abutting site at No. 8 Derby Street. However, there are a number of other heritage overlays proximate to the subject site, including Schedule 333 and 464 affecting properties along the Smith Street MAC, a site-specific overlay (Schedule 99) affecting No. 2 Derby Street to the west, and Schedule 102 affecting a row of properties between Langridge and Derby Street to the east.



Image 16: Heritage Overlay Map (Vicplan, April 2024)

East

29. To the south-east of the site is the only immediately abutting property at No. 8 Derby Street. The site is developed with a two-storey dwelling from the Victorian era (circa 1870) which is recognised as being Individually Significant to its site-specific Heritage Overlay (Schedule 101). The dwelling is constructed flush to its frontage to Derby Street and to the shared boundary to the subject site for its entire length. As such, no windows face the subject site. However, the dwelling has three separate areas of secluded private open space (SPOS); a roof terrace on top of the two-storey portion fronting Derby Street, a ground floor courtyard adjacent to Little Oxford Street, and a first-floor terrace at the rear (north). The dwelling is generally simple in design with light yellow brick and render finish, sash windows, a flat parapet and two brick chimneys.



Image 17: No. 8 Derby Street from the corner of Little Oxford Street, the subject site visible beyond (Officer site visit, April 2024)

30. To the east is Little Oxford Street, a two-way street with no on-street parking permitted.
31. Beyond Little Oxford Street is a row of double storey, biochromatic brickwork terraces located in the heritage overlay (Schedule 102), the nearest of which are recognised as being Individually Significant. Langridge Street abuts the rear of these properties so that they generally present rear fences and roller doors to the street. The exception to this is the most western property located to abut Little Oxford Street (No. 10 Derby Street) which has been developed to have a contemporary rear extension and subdivided to provide for a three-storey contemporary dwelling to the north (known as No. 7 Langridge Street). Generally, No. 10 Derby Street and No. 7 Langridge Street present blank facades and garage doors to Little Oxford Street, with the exception of west-facing windows at the second floor of No. 7 Langridge Street.



Image 18: the Individually Significant dwellings fronting Derby Street (right) with the extension at No 10 Derby Street and new dwelling at No. 7 Langridge Street visible to the left (Officer site visit, April 2024)

South

32. To the south is Derby Street, a two-way street with on-street parking on either aspect.
33. Across Derby Street is a row of double storey terrace dwellings from the Victorian -era which are recognised as being Individually Significant to their respective heritage overlays. The dwellings are rendered off-white/cream, have flat parapets and are provided arched patios/entries and ground level.



Image 19: development on the opposite (south) side of Derby Street (Officer site visit, April 2024)

West

34. To the west is a 3.01 metre wide unnamed laneway, beyond which is No. 2 Derby Street and the rear boundaries of No. 60 and 62 Smith Street, all of which are located in the Commercial 1 Zone.

35. No. 2 Derby Street fronts south to Derby Street and is developed with a single-storey weatherboard dwelling with a transverse gabled roof. The dwelling is generally constructed to all boundaries, with the exception of a walk-way along the western boundary and an 'L-shaped' area of SPOS located on the north-east corner. Habitable room windows (HRW) face into the courtyard, with one facing directly toward the subject site. The dwelling is Individually Significant to its site-specific Heritage Overlay.



Image 20 and 21: No 2 Derby Street as it presents to Derby Street (Officer site visit, April 2024) and the dwelling's floorplan (Realestate.com.au, 2021)

36. Nos. 60 and 62 Smith Street are developed with a two-storey terraces fronting Smith Street which are set back at the rear allowing for courtyards/ service areas. No. 60 Smith Street is occupied by a licenced Food and drink premises and No. 62 Smith Street is occupied by retail at ground floor and an office at first floor.

North

37. To the north is Langridge Street, a two-way street with dedicated bicycle lanes and on-street car parking provided in each direction.
38. Across Langridge Street are single and double storey, modern brick buildings occupied by commercial uses / offices.

General

39. The subject site is 1.4km from the Melbourne CBD.
40. The site is proximate to the following transport routes:
- (a) Tram route 86 along Smith Street (30 metres to the west) connecting Docklands and Bundoora;
 - (b) Tram routes 12 and 78 along Victoria Parade (200 metres to the south) connecting St Kilda to Victoria Gardens and Port Melbourne to Box Hill, respectively;
 - (c) Bus route 905 along Victoria Parade connecting the City to Doncaster East; and
 - (d) A bicycle network is provided within local streets with dedicated bicycles lanes provided on Smith Street and Langridge Street, and Copenhagen style lanes provided along Wellington Street (200 metres to the east).
41. There are no unrestricted parking spaces proximate to the site. Parking adjacent to the site along Derby Street (both north and south aspects) is located in a permit zone.
42. No on-street car parking is currently provided on the Little Oxford Street or Langridge Street frontages of the site.

Planning Scheme Provisions

Zoning

43. The site is located in the *Mixed Use Zone*. The following provisions apply:
- (a) Pursuant to Clause 32.04-1, a permit is not required to use the land as a dwelling;
 - (b) Pursuant to Clause 32.04-1, a permit is required to use the land for Retail (the umbrella category for Restricted Retail premises); and
 - (c) Pursuant to Clause 32.04-7, a permit is required to construct two or more dwellings on a lot. An apartment development of five or more storeys, excluding a basement, must meet the requirements of Clause 58.

Overlays

Design and Development Overlay

44. The site is affected by the *Design and Development Overlay (Schedule 23)*.
- (a) Pursuant to Clause 43.02-2, a permit is required to construct or carry out works. This does not apply if a schedule to this overlay specifically states that a permit is not required;
 - (b) Clause 2.0 to Schedule 23 specifies that a permit is required to construct a building or construct or carry out works;
 - (c) Interim Schedule 23 includes site-specific building and street wall height requirements, as well as general design requirements for the precinct;
 - (d) The preferred street wall and building heights for the site, as prescribed by interim Schedule 23 (identified at Map 1) are a:
 - (i) Maximum building height of 20 metres;
 - (ii) Maximum street wall height (to every frontage) of 14 metres;
 - (e) Although these are preferred requirements (i.e. there is discretion to vary the requirements), Clause 2.2 states that “*a permit cannot be granted to vary*” a preferred building height specified in Map 1 unless the following are met:
 - (i) *the built form outcome as a result of the proposed variation satisfies the Design Objectives in Clause 1.0, the Heritage Building Design Requirements and the Overshadowing and Solar Access (Public Realm) Requirements;*
 - (ii) *the proposal will achieve each of the following:*
 - *greater building separation than the minimum requirement in this schedule;*
 - *housing for diverse households types, including people with disability, older persons, and families, through the inclusion of varying dwelling sizes and configurations;*
 - *universal access, and communal and / or private open space provision that exceeds the minimum standards in Clauses 55.07 and 58; and*
 - *excellence for environmental sustainable design measured as a minimum BESS project score of 70 percent.*
 - (f) Similarly, Clause 2.2 states that “*a permit cannot be granted to vary*” a preferred street wall height specified in Map 1 unless the following are met:
 - (i) *the built form outcome as a result of the proposed variation satisfies the Design Objectives at Clause 1.0 and the Heritage Building Design Requirements in this schedule;*

- (ii) *the proposed street wall height provides a transition, scaling down to the interface with heritage building, and is no more than two storeys higher than the street-wall height of the adjacent heritage building; and*
- (iii) *the proposed street wall height does not overwhelm the adjacent heritage building.*
- (g) The proposed development seeks a variation to the overall building height (maximum of 26.95 metres), and the streetwall height along Langridge Street (measures at the centre of the frontage as 16.38 metres). As such, an assessment of the relevant requirements will be provided in the *Building design* section of this report to determine whether a variation to the preferred requirements can / should be granted; and
- (h) The general design requirements of the DDO23, relating to setbacks, building design, overshadowing and solar access (public realm), building separation, amenity and equitable development, and vehicle access and car parking will also be discussed within the *Building design* section of this report.

Proposed Permanent DDO43

- 45. As discussed, Amendment C293 which is currently with the Minister of Planning for approval proposes a new permanent DDO23 to replace the current interim controls.
- 46. The proposed permanent DDO23 varies from the existing interim DDO23, having regard to the controls that apply to the site, as follows:
 - (a) Map 1 to the permanent DDO23 attributes:
 - (i) A preferred maximum height of 14 metres for the site;
 - (ii) A preferred maximum street wall of 11 metres for the Derby Street, Little Oxford Street and laneway frontages and a preferred maximum street wall of 14 metres for the Langridge Street frontage;
 - (b) Clause 2.3 states that *development should not exceed other street wall heights as shown in Map 1, unless all the following requirements are met, to the satisfaction of the Responsible Authority:*
 - (i) *the built form outcome as a result of the proposed variation satisfies the Design Objectives at Clause 1.0 of this schedule;*
 - (ii) *the proposed street wall height provides an appropriate transition, scaling down to the interface with a heritage building; and*
 - (iii) *the proposed street wall height does not visually overwhelm the adjoining heritage building.*
 - (c) Moreover, the proposed DDO23 amends the requirements that should be met to vary a preferred building height. Clause 2.5 states that *a permit should only be granted to construct a building or construct or carry out works which exceeds the building height shown in Map 1 where all the following requirements are met to the satisfaction of the responsible authority:*
 - (i) *the built form outcome as a result of the proposed variation satisfies:*
 - *the Design Objectives in Clause 1.0;*
 - *the Overshadowing and Solar Access Requirements in Clause 2.6;*
 - (ii) *the proposal will achieve each of the following:*
 - *greater building separation than the minimum requirement in this schedule;*
 - *excellence for environmental sustainable design measured as a minimum BESS project score of 70%.*

- *no additional overshadowing impacts to residentially zoned properties, beyond that which would be generated by a proposal that complies with the preferred building height;*
 - *provision of end-of-trip facilities, including secure bicycle parking, locker and shower facilities and change rooms in excess of the requirements of Clause 52.34.*
- (iii) *where the proposal includes dwellings, it also achieves each of the following:*
- *housing for diverse households types, including people with disability, older persons, and families, through the inclusion of varying dwelling sizes and configurations;*
 - *accessibility provision objective that exceeds the minimum standards in Clauses 55.07 and/or 58m as relevant; and*
 - *communal and/or private open space provision that exceeds the minimum standards in Clauses 55.07 and/or 58, as relevant; and*
- (d) In summary, the proposed DDO23 reduces the preferred overall building height and the street wall height to Derby Street, however, provides for a greater level of discretion in varying the preferred requirements by stating that “a permit **should** not be granted” (in lieu of the current “a permit **must** not be granted”) and by removing the subjective Heritage Building Requirements from the test.

Heritage Overlay

47. The north-east corner of the subject site is affected by the *Heritage Overlay (Schedule 101)*. The following provisions apply:
- (a) Pursuant to Clause 43.01-1, a planning permit is required to demolish or remove a building, and to construct or carry out works:
 - (i) There are no buildings currently occupying the north-east corner of the site, thus, the only trigger in this instance is to construct and carry out works; and
 - (b) Pursuant to the *City of Yarra “Database of Heritage Significant Areas, September 2023*, the site is identified as being Not Contributory to the Heritage Overlay (Schedule 101).

Environmental Audit Overlay

48. The subject site is affected by the *Environmental Audit Overlay*. The following provisions apply:
- (a) Pursuant to Clause 45.03-1, *before a sensitive use (residential use, child care centre, kindergarten, pre-school centre, primary school, even if ancillary to another use), children's playground or secondary school commences or before the construction or carrying out of buildings and works in association with these uses commences:*
 - (i) *A preliminary risk screen assessment statement in accordance with the Environment Protection Act 2017 must be issued stating that an environmental audit is not required for the use or the proposed use; or*
 - (ii) *An environmental audit statement under Part 8.3 of the Environment Protection Act 2017 must be issued stating that the land is suitable for the use or proposed use; or*
 - (iii) *A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970; or*
 - (iv) *A statement of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970 stating that the environmental conditions of the land are suitable for the use or proposed use.*

49. If a permit were to issue, Council’s standard note will be included reminding the applicant of this requirement.

Development Contributions Plan Overlay

50. The site is affected by the *Development Contributions Plan Overlay (Schedule 1)*. The following provisions apply:
- (a) Pursuant to Clause 45.06-1, a permit must not be granted to construct a building or construct or carry out works until a development contributions plan has been incorporated into this scheme. The development contributions plan has taken affect so a permit can be granted;
 - (b) *A permit granted must:*
 - (i) *Be consistent with the provisions of the relevant development contributions plan; and*
 - (ii) *Include any conditions required to give effect to any contributions or levies imposed, conditions or requirements set out in the relevant schedule to this overlay; and*
 - (c) Schedule 1 to the overlay outlines the Development and Community Infrastructure levies applicable to the application. Council’s Standard Conditions will be included on any permit issued requiring these levies to be paid.

Particular Provisions

Clause 52.06 – Car parking

51. Pursuant to Clause 52.06-1, this policy applies to new uses.
52. Pursuant to Clause 52.06-2, before a new use commences, the number of car parking spaces required under Clause 52.06-5 must be provided to the satisfaction of the responsible authority.
53. Table 1 of this clause sets out the car parking requirements that applies to the proposed uses. In this instance, column B applies as the site is located within the Principal Public Transport Network Area as shown on the Principal Public Transport Network Area Maps.

Proposed Use	Quantity/ Size	Statutory Parking Rate*	No. of Spaces Required	No. of Spaces Allocated
1-bedroom dwelling	2	1 space per dwelling	2	2
2-bedroom dwelling	10	1 space per dwelling	10	11
3-bedroom dwelling	6	2 spaces per dwelling	12	12
Restricted Retail Premises (Showroom)	201.3 m ²	2.5 spaces per 100 m ² of leasable floor area	5	0
Total			29 spaces	25 spaces

54. A reduction of 4 car parking spaces is required. Pursuant to Clause 52.06-3, a permit is required to reduce the number of car parking spaces.

Clause 52.34 – Bicycle facilities

55. Pursuant to Clause 52.34-1, a new use must not commence until the required bicycle facilities and associated signage are provided on the land. Under the provisions of Clause 52.34-3 of the Yarra Planning Scheme, the development’s bicycle parking requirements are as follows:

Proposed Use	Quantity/ Size	Statutory Parking Rate	No. of Spaces Required	No. of Spaces Allocated
Dwellings	18 dwellings	In developments of four or more storeys, 1 resident space to each 5 dwellings	4 resident spaces	25 resident spaces
		In developments of four or more storeys, 1 visitor space to each 10 dwellings	2 visitor spaces	2 visitor spaces
Restricted Retail premises (other than specified in this table)	201.3 sqm	1 employee space to each 300 sqm of leasable floor area	1 employee spaces	2 employee spaces
		1 visitor space to each 500 sqm of leasable floor area	0 visitor spaces.	0 visitor spaces
Bicycle Parking Spaces Total			5 resident / employee spaces	27 resident / employee spaces
			2 visitor spaces	2 visitor spaces
Showers / Change rooms	If 5 or more employee bicycle parking spaces are required 1 to the first 5 employee spaces and 1 to each additional 10 employee spaces		0 showers / change rooms	0 showers / change rooms

56. The development therefore exceeds the requirements of the clause.
57. It is noted that the existing bicycle hoops on the Langridge and Derby Street are located in the public realm (not within the boundaries of the subject site) and can not count towards the statutory contribution. They have not been included in these calculations accordingly.

Clause 53.03 – Residential reticulated gas service connection

58. Pursuant to Clause 53.03-1, this clause applies to an application for a permit under any provision of this scheme that is for or includes the construction of a new dwelling or a new apartment development.
59. Clause 53.02-2 states that *a permit must not be granted for construction of a new dwelling or a new apartment development that is to be connected to a reticulated gas service.*
60. However, pursuant to Clause 53.03-5, the requirements of this clause introduced by Amendment VC250 (on 1 January 2024) do not apply to an application lodged before the approval date. As such, the provisions of Clause 53.03 do not apply to the subject application.
61. Nevertheless, the proposed development will not be connected to gas, as committed to in the submitted Sustainable Management Plan.

Clause 53.18 – Stormwater management in urban development

62. This clause applies to an application under a provision of a zone to construct a building or construct or carry out works. An application to construct a building or to construct or carry out works:
- (a) *Must meet all of the objectives of Clauses 53.18-5 and 53.18-6; and*
 - (b) *Should meet all of the standards of Clauses 53.18-5 and 53.18-6.*
63. This will be discussed further in the *Environmentally sustainable design* section of this report.

Clause 58 – Apartment developments

64. This clause applies as the development is for the construction or extension of an apartment development or construct or extend a dwelling in or forming part of apartment development. A development should meet all the standards and must meet all the objectives.

General Provisions

Clause 65.01 – Approval of an application or plan

65. The decision guidelines outlined at Clause 65 of the Scheme are relevant to all applications. Because a permit can be granted does not imply that a permit should or will be granted. Before deciding on an application, the Responsible Authority must consider a number of matters. Amongst other things, the Responsible Authority must consider the relevant Municipal Planning Strategy and the Planning Policy Framework, as well as the purpose of the zone, overlay or any other provision.

Planning Policy Framework (PPF)

Clause 02 – Municipal Planning Strategy

- 66. Clause 02.01 – Context
- 67. Clause 02.01-1 – Location
- 68. Clause 02.01-6 – Built environment and heritage
- 69. Clause 02.01-9 – Transport
- 70. Clause 02.02 – Vision
- 71. Clause 02.03-1 – Settlement
- 72. Clause 02.03-3 – Environmental risks and amenity
- 73. Clause 02.03-4 – Built environment and heritage
- 74. Clause 02.03-6 – Economic development
- 75. Clause 02.03-7 – Transport
- 76. Clause 02.04 – Strategic Framework Plan

Clause 11 – Settlement

- 77. Clause 11.01-S – Settlement
- 78. Clause 11.02-1S – Supply of urban land

Clause 13 – Environmental risks and amenity

- 79. Clause 13.05-1S – Noise management
- 80. Clause 13.06-1S – Air quality management
- 81. Clause 13.07-1S – Land use compatibility
- 82. Clause 13.07-1L – Interfaces and amenity

Clause 15 – Built environment and heritage

- 83. Clause 15.01-1S – Urban design

- 84. Clause 15.01-1L – Urban design
- 85. Clause 15.01-2S – Building design
- 86. Clause 15.01-2L – Building design
- 87. Clause 15.01-2L-01 – Environmental sustainable development
- 88. Clause 15.01-4S – Healthy neighbourhoods
- 89. Clause 15.01-4R – Healthy neighbourhoods
- 90. Clause 15.01-5S – Neighbourhood character
- 91. Clause 15.03-1S – Heritage conservation
- 92. Clause 15.03-1L-01 - Heritage

Clause 16 – Housing

- 93. Clause 16-01-1S – Housing supply
- 94. Clause 16.01-1R – Housing supply
- 95. Clause 16.01-1L – Location of residential development
- 96. Clause 16.01-1L-01 – Housing diversity
- 97. Clause 16.01-2S – Housing affordability
- 98. Clause 16.01-2L – Housing affordability

Clause 17 - Economic Development

- 99. Clause 17.01-1S – Diversified economy
- 100. Clause 17.01-1L – Employment
- 101. Clause 17.02-1S – Business
- 102. Clause 17.02-1L – Retail

Clause 18 – Transport

- 103. Clause 18.01-1S – Land use and transport integration
- 104. Clause 18.02-1S - Walking
- 105. Clause 18.02-2S – Cycling
- 106. Clause 18.02-2L – Cycling
- 107. Clause 18.02-3S – Public transport
- 108. Clause 18.02-3R – Principal Public Transport Network
- 109. Clause 18.02-4S – Roads
- 110. Clause 18.02-4L – Road system
- 111. Clause 18.02-4L-01 – Car parking

Clause 19 – Development infrastructure

- 112. Clause 19.03-3L – Water sensitive urban design

[Other relevant documents](#)

Yarra Activity Centres Standing Advisory Committee Report 2

- 113. The Standing Advisory Committee (SAC) Report relates to the proposed Planning Scheme Amendment C293 for Collingwood South Mixed Use Precinct which proposes to introduce a new permanent DDO23. The Report was published on 19 May 2022 and made the following comments relevant to the subject site:

(page 52) *Mr Gard'ner gave evidence that the Supplementary Heritage Report made a number of recommendations regarding building heights that varied interim DDO23, including:*

- *a mandatory maximum height of 11 metres for residential heritage buildings*
- *reducing the discretionary maximum height for the following infill sites south of Peel Street from 20 metres to 14 metres:*
 - *4-6 Derby Street*
 - *43-49 Oxford Street*
 - *64-66 Oxford Street*
 - *the vacant land on Cambridge Street at the rear of 1-35 Wellington Street.*

Mr Gard'ner noted that DDO23 includes a range of design requirements in addition to the specified maximum building heights and these needed to be read together to understand the full suite of controls that apply to a particular site. In addition, the Heritage Policy at Clause 22.02 (and proposed Clause 15.03-1L) encourages new development that respects the scale of existing heritage buildings and streetscapes.

Mr Gard'ner said the majority of taller buildings subject to DDO23 were approved before the preparation of the Supplementary Heritage Report and interim DDO23 was in place. The strategic work since the introduction of interim DDO23 has resulted in lower proposed building heights and strengthened height requirements.

114. The SAC report adopted the recommendations of Mr Gard'ner (from GJM Heritage consultants) without providing any further discussion to the subject site.

Plan Melbourne 2017 – 2050

115. *Plan Melbourne 2017 – 2050* is a metropolitan planning strategy that defines and provides direction for the shape of the city and state, integrating long term land use, and infrastructure and transport planning. The plan includes various principles, directions and polices for implementation, that are broadly reflected in the Planning Policy Framework of the Yarra Planning Scheme, but can be summarised (as relevant to the subject proposal) as follows:
- (a) The plan predicts that Melbourne's population will grow from 4.5 million to almost 8 million and that the city will need to building 1.6 million homes in places where people want to live;
 - (b) In achieving this, the plan directs that population and housing growth will be kept within the existing urban growth boundary through selective development of underutilised areas within existing communities; and
 - (c) A key outcome is to provide housing choices in locations close to jobs and services, to assist in achieving "20-minute neighbourhoods" wherein residents will meet most of their daily needs in the local area, only requiring a short walk, bike ride or public transport trip.

Advertising

116. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 83 letters sent to surrounding owners and occupiers and by three (3) signs displayed on the Langridge, Little Oxford and Derby Street frontages.
117. Council received six (6) objections, the grounds of which are summarised as:
- (a) Overdevelopment of the site (excessive height and scale);
 - (b) Visually intrusive in the streetscape;
 - (c) Poor heritage response;
 - (d) Not in keeping with neighbourhood character;

- (e) Pressure on on-street car parking availability;
- (f) Impact on viability of neighbouring commercial properties;
- (g) Removal of Michael Porter mural;
- (h) Overshadowing of public realm;
- (i) Off-site amenity impacts (overlooking and privacy, overshadowing, loss of light);
- (j) Wind impacts;
- (k) Property value impacts;
- (l) Increased foot traffic and associated footpath congestion; and
- (m) Impacts from construction (including structural impacts).

118. Two (2) letters of support were received, the grounds of which are summarised as:

- (a) Scale and design is site responsive and contextually appropriate;
- (b) Good size and variety of quality apartments;
- (c) Potential for quality commercial tenancies;
- (d) Comprehensive engagement process and feedback incorporated into the design; and
- (e) Positive contribution to the future of Collingwood.

119. A planning consultation meeting was not held.

Referrals

120. The referral comments are based on the Decision Plans.

External Referrals

121. The application was not required to be referred to any external authorities.

Internal Referrals

122. The application was referred to the following units / external consultants:

- (a) Strategic Planning;
- (b) Heritage (GJM Heritage);
- (c) Development Engineering;
- (d) Acoustic (SLR);
- (e) City Strategy – Open Space;
- (f) City Works – Waste Management;
- (g) Urban design (internal);
- (h) Urban Design (Global South);
- (i) ESD;
- (j) Strategic Transport;
- (k) City works – Open Space; and
- (l) Wind Engineers (Vipac).

123. The referral comments have been included as attachments to this report.

OFFICER ASSESSMENT

124. The primary considerations for this application are as follows:

- (a) Strategic Support;
- (b) Use requiring a permit (Restricted Retail Premises);

- (c) Building design (including DDO23);
- (d) Urban design;
- (e) Off-site amenity impacts;
- (f) On-site amenity (Clause 58);
- (g) Car parking and traffic;
- (h) Bicycle provision and facilities;
- (i) Other matters; and
- (j) Objector concerns.

Strategic Support

125. The policy directives of the Scheme, as guided by *Plan Melbourne 2050*, are consistent in their purpose to increase density and encourage residential development in well-resourced inner-urban areas, improving housing availability near to established transport routes, infrastructure, employment precincts and community services, and easing pressure on unsustainable urban sprawl (Clause 11.01-1S - Settlement; Clause 11.02-1S - Supply of urban land; Clause 16.01-1S - Housing supply).
126. This objective to provide for sustainable growth is further supported by Clause 18.02-3R (Principal Public Transport Network) and Clause 18.02-3S (Public Transport) which both encourage a departure from vehicle centric design and reliance, recognising the need to maximise the existing public transport infrastructure and locate higher density development along the Principal Public Transport Network.
127. As discussed in the *Site and Surrounds* section of this report, the subject site is on the periphery of the Smith Street MAC and approximately 1.4km from the Central Business District (CBD). The site is well serviced by trams along Smith Street, and buses and trams along Victoria Parade (all within 200 metres walking distance from the site). This, coupled with the extensive local bicycle network provides for a highly accessible location for residential growth.
128. Specifically, Clause 11.01-1S (Settlement) aims to *capitalise on opportunities for urban renewal and infill development*, particularly in or near to existing activity centres as identified above. The current development of the subject site with a two-storey building for commercial use is considered an underdevelopment when having regard to the strategic direction of the area. Although Clause 16.01-1L (Location of residential development) identifies the site as being in an “incremental change area” in the Strategic housing framework plan (as identified in purple in Image 22 below), it is generally enveloped by moderate and high change areas (blue and yellow, respectively). This indicates that the broader area has a capacity for growth and redevelopment, with strategic support for increased density on and near the site, as reflected in the clear emerging character of robust mixed-use development.



Image 22: Excerpt from the Strategic Housing Framework Plan from Clause 16.01-1L of the Scheme, with the subject site identified by an orange star

129. This strategic intent is reflected by interim DDO Schedule 23, applicable to the site, which prescribes a preferred height of 20 metres for the subject site and supports a mid-rise character (3 to 12 storeys) for the precinct more broadly.
130. It is noted that the proposed permanent DDO23 currently with the Minister for approval seeks that development is low- to mid-rise in scale. However, until such time that the proposed DDO23 is gazetted into the Scheme, the current interim DDO23 is to be relied upon. The legitimacy of the interim DDO23 as a decision making tool is specifically referenced in *Oxford Mason Pty Ltd v Yarra CC* [2022] VCAT 170 with the residing Member relevantly stating:
- [16] *The DDO23 may have been introduced as an interim control but is nonetheless in the Planning Scheme. There is nothing in the control or the Planning Scheme that suggests it should be given less weight than any other provision.*
- ...
- [20] It is sometimes the case that interim controls are introduced to address an urgent problem and without support of strategic studies and background research.
- [21] But that is not the case with DDO23. The controls have been underpinned by three studies...
131. With regards to the proposed use of the development, the use of the land for residential purposes is as-of-right in the Mixed Use Zone, which provides a specific purpose “to provide for housing at higher densities”. The scale of the proposed use is further supported by various policies in the Scheme which encourage an increase in diverse and affordable housing stock to meet expected population growth (Clause 16.01-1S – Housing supply; Clause 16.01-2S – Housing affordability).
132. Specifically, Clause 16.01-1S (Housing supply) supports *opportunities for a range of income groups to choose housing in well-serviced locations*, while Clause 16.01-1L-01 (Housing diversity) supports well designed apartment developments that meet future occupants needs.

133. The subject proposal is for 18 residential apartments ranging from one- to three-bedroom apartments, with generous private open space areas, providing for a high level of accessibility for a range of household types. As will be elaborated on under the *On-site amenity (Clause 58)* section of this report, the development generally demonstrates that a high internal amenity will be provided for future occupants.
134. Finally, Clause 16.01-2S (Housing affordability) supports the *increase[ed] 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*. In achieving this, local policy at Clause 16.01-2L (Housing affordability) requires consideration, as relevant, for the *provision of a minimum of ten per cent of affordable housing for a major residential development of 50 or more dwellings*. The subject development only provides for 18 apartments and as such, an affordable house contribution is not required in this instance. Regardless, an increase in housing stock in the inner-city area is likely to assist in achieving the state and local strategic goals for more accessible and affordable homes.
135. Based on the strategic context outlined, it is a reasonable expectation that this currently underdeveloped site will experience intensification in use and development. Nevertheless, regard must be had to the appropriate scale and design of the proposal, with particular regard to the building design, off-site and on-site amenity and interfacing uses. These matters will be assessed in turn.

[Use requiring a permit \(Restricted Retail Premises\)](#)

136. The discussion of the appropriateness of the proposed uses requiring a permit will be guided by the purpose of the Mixed Use Zone at Clause 32.04 and the requirements of Clause 13.07-1S (Land use compatibility) and Clause 13.07-1L-01 (Interfaces and amenity) of the Scheme.
137. As discussed, the use of the land for dwellings is as-of-right in the Mixed Use Zone. The proposed uses requiring a permit in this instance are therefore limited to the Restricted Retail premises (showroom) located at the ground floor frontage to Langridge Street (overall area of 201.3sqm). Pursuant to Clause 73.03 (Land use terms), Restricted Retail Premises is defined as land used to sell or hire (generally larger) goods such as homewares and household appliances, automotive parts and accessories, camping and outdoor gear and sporting equipment (full definition provided at Clause 73.03). Relevantly, the clause recognises that it may require direct vehicle access to the building by customers for the purpose of loading or unloading goods.
138. The application seeks to have unrestricted operating hours for this use.
139. Generally, the use of the land for a Restricted Retail Premises (showroom) is consistent with the purpose of the Mixed Use Zone, which is to *provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality*. Although land to the south of the site along Derby Street is generally residential, commercial uses such as Offices, Food and drink premises and Retail are located immediately adjacent to the site to the west (within the Smith Street MAC) and to the north along Langridge Street. As such, the location of the proposed Restricted Retail premises to front Langridge Street is appropriately responsive to this context. This commercial context is also reinforced by the existing approved use of the land for a Place of Assembly and Office.
140. Further, various policies within the Scheme encourage that retail uses be located in and near to established activity centres and that they be aggregated to ensure their viability, accessibility and efficient use of infrastructure (Clause 17.01-1S – Business; Clause 17.02-1L – Retail; Clause 17.01-1L – Employment). These policies also recognise the benefits of retail premises by providing for activation and improving the quality of building interfaces.
141. The location of the proposed Restricted Retail Premises is therefore acceptable in a strategic sense; however, consideration must be given to the potential impacts on the surrounding area and interfacing sensitive uses.

142. Clause 13.07-1S (Land use compatibility) includes the objective *to protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts*. Similarly, Clause 13.07-1L-01 of the Scheme includes various considerations for new non-residential uses located near residential properties, with decision guidelines (relevantly) relating to noise, light spill, loading and unloading, rubbish removal and storage and other operational disturbances that may cause detriment to the amenity of nearby residential properties.
143. Although the proposed Restricted Retail premises is located near to residential properties (the nearest being No. 7 Langridge Street to the east across Little Oxford Street), the nature of this section of Langridge Street is generally for commercial uses. Moreover, Langridge Street provides a direct pedestrian and cyclist linkage from the Smith Street MAC/Gertrude Street to the Gipps Street Major Employment Precinct (400 metre walk to the north-east). As such, higher levels of foot traffic are an existing condition for the area, particularly during the typical work week. The proposed retail premises will provide for further activation to the street, benefiting this context. The use of the land for retail purposes, specifically for the purchase or hire of goods, is also considered to be generally low risk as it is not expected to generate an unreasonable number of visitors to the site or result in excessive noise or light spill. Unlike a Food and Drink remises (or similar) where patrons stay on-site for a period of time for leisure or recreation, a Restricted Retail Premises does not pose such a risk with regard to patron or music noise. Moreover, any lighting in association with the retail premises is expected to be commensurate to residential lighting, either ambient or white light, rather than strobe or fluorescent.
144. Nevertheless, given the primary purpose of the Mixed Use Zone and the proximity to residential properties (both on neighbouring sites and within the subject development), unrestricted operating hours is not considered appropriate in this instance.
145. An Acoustic Report was submitted with the subject application (prepared by Acoustic Logic and 14 September 2023), however, it assesses the proposed commercial use of the land from a broader scope, including recommendations relating to music and bottle emptying that are not considered relevant to the proposed use of the land for Restricted Retail. A condition will therefore require that the Acoustic Report be updated to specify the proposed use as a Restricted Retail premises as proposed and for the recommendation to be updated accordingly. Once updated, the Acoustic Report will be endorsed to form part of any permit issued.
146. In reviewing the Acoustic Report, SLR Acoustic consultants considered that the Restricted Retail Premises would pose a risk, and require further acoustic review, if the operating hours were to include the 'night time' period between 10pm to 7am. As such, the operating hours of 7am to 10pm (avoiding the sensitive night-time hours as identified by SLR consultants) will be enforced for the premises via condition. This is considered to be commensurate with office hours, and retail activities within the Smith Street MAC. Further, as a commercial use, it will be required to comply with the relevant EPA regulations, thus, a condition will be included in the recommendation to this effect.
147. With regards to delivery and collection of goods, there are no car parking spaces along the Langridge Street and Little Oxford Street frontages of the premises under existing conditions. The removal of the redundant crossovers could provide an opportunity for a car parking space / loading zone with good accessibility to the site, however, this would be at the discretion of Council's Traffic Management Department and not a consideration of the planning process. Regardless, it is considered that the nearest loading zone to the site, located approximately 30 metres to the north-west across Langridge Street, will provide reasonable access to the site without detrimentally impacting the local amenity of traffic conditions.
148. A Waste Management Plan (prepared by Leigh Design and dated 21 September 2023) was submitted with the application which stipulates that rubbish is to be collected by a private contractor from Little Oxford Street. The report was reviewed by Council's City Works (waste) who considered this to be an acceptable arrangement.

149. Council's standard conditions requiring deliveries, collections of goods and waste comply with local laws will be included in the recommendation.
150. For the reasons elaborated, the Restricted Retail Premises is supported, subject to conditions restricting the operating hours and requiring compliance with EPA regulations and local laws.

[Building design \(including DD023\)](#)

151. An assessment of the proposed building design is guided by the decision guidelines of both State and local policy for Building Design (Clause 15.01-2S and Clause 15.01-2L) and Heritage (Clause 15.03-1S and 15.03-1S), and the interim and proposed Schedule 23 to the DDO.

Building height

152. With regards to building height, Clause 15.01-2L (Building design) acts to ensure the height of new buildings respond to the building height requirements set out in the planning scheme, adjoining development building height or where there are no specified building height requirements, have regard to the physical and strategic context of the site. In this instance, there are building height requirements built into the interim DDO23 which are guided by strategic work for the area and should be relied upon.
153. As discussed, Schedule 23 to the DDO states that a permit cannot be granted to vary a building height specified in Map 1 (that being 20 metres for the subject site), unless all the outlined requirements are met. As discussed, the subject building has a maximum building height of 26.95 metres (not inclusive of services and the lift overrun), exceeding the preferred height. As such, the development must meet the following for a permit to be granted to vary the height:

The built form outcome as a result of the proposed variation satisfies the Design Objectives in Clause 1.0, the Heritage Building Design Requirements and the Overshadowing and Solar Access (Public Realm) Requirements;

154. It is considered that the proposed development generally complies with the Design Objectives of Clause 1.0 and other building height requirements as outlined at Clause 2.2 in that it:
- (a) Fosters the emerging, contemporary, mixed character sought for the precinct, and provides for a prominent street wall edge on all its street frontages;
 - (b) Is commensurate to the mid-rise character sought for the precinct (defined as ranging from 3 to 12 storeys);
 - (c) Promotes pedestrian activity and street edge activation to all three street frontages, providing for an appropriate type of activation (with regards to residential / non-residential use) to each interface;
 - (d) The development protects the footpath and public space amenity and complies with the Overshadowing and Solar Access (Public Realm) Requirements (to be discussed);
 - (e) The proposal includes a variety of dwelling sizes and configurations to provide housing types for a diverse demographic;
 - (f) The provision of private open space which exceeds the minimum standards of Clause 58 (to be discussed); and
 - (g) Excellence in environmental sustainable design is achieved with a BESS project score of 70%.
155. Further, the application was reviewed by Global South urban design consultants, who considered all the relevant requirements to the exceed the preferred height to be met and are supportive of the height as proposed. Specifically, Global South were of the view that “the design is highly considered, in its massing, internal layouts, and responses to all interfaces, including heritage considerations. The Architectural Plans and Design Report reflect this high level of design rigour and resolution in the proposal”.
-

156. However, Council Officers consider that the proposal does not fully meet the requirements set out at Clauses 1.0 and 2.2, as will be taken to below.
157. A requirement of Clause 2.2 is that *the proposal will achieve a greater building separation than the minimum requirement in this schedule*. Although the building separation requirements are met (as will be discussed), the proposal does not exceed the requirement, with some interfaces (such as the west-facing windows of the upper-level lobby) only meeting the minimum requirement.
158. Further, the second design objective at Clause 1.0 of the DDO23 is to *respond to the topography of the precinct, by providing a suitable transition in height as the land slopes upwards, whilst minimising amenity impacts on existing residential properties, including visual bulk, overlooking and overshadowing*. Although the street wall heights appropriately step down from west to east to respond to the natural slope of the site and contextual topography, the upper levels are not similarly responsive. As a result, the proposal presents a sheer wall (26.95 metres in height) to the shared boundary with No. 8 Derby Street which will be highly visible from, and overbearing to the Derby Street streetscape. The sheer wall may also appear visually bulky from the abutting root top terraces.



Image 22: Derby Street looking north-west, with No. 8 Derby Street in the foreground – Façade and Materiality report page 13

159. Moreover, the Heritage Building Requirements of the DDO23 relevantly provide requirements for developments on sites that are within the Heritage Overlay but are graded as Not Contributory, or on sites adjacent to a heritage building. As discussed, only the north-eastern lot of the site (currently occupied by the car park) is affected by the Heritage Overlay (Schedule 101 with No. 8 Derby Street) and it is graded as being Not Contributory. However, the subject site is also adjacent to sites within the Heritage Overlay to the west, south and east. As such, the DDO23 requires that development must be designed to:
- provide a transition in height at the interface (side or rear boundary) with the heritage building;*
 - ensure that façade treatments are simple and do not compete with the detailing of the adjacent heritage building(s);*

- (c) *incorporate simple architectural detailing that does not detract from significant elements of the heritage building;*
 - (d) *be visually recessive; and*
 - (e) *be articulated to reflect the fine grained character of the streetscape, where this is a prominent feature.*
160. The application was therefore referred to GJM Heritage consultants for specific advice as to whether the heritage response is acceptable.
161. GJM considered that the design partially achieves the objectives through appropriate materiality and the relationship of solid (walls) and void (window and balcony openings) but considered that the building fails to maintain the predominantly low-rise scale of the neighbouring heritage places. Accordingly, GJM recommend a reduction to the height through the removal of tower element (i.e. the fourth, fifth, sixth and seventh floors), resulting in a height of approximately 14 metres.
162. This position is consistent with the recommendation put forward by GJM consultants at the Standing Advisory Committee panel, as outlined in the SAC Report, which forms the basis of the 14 metre preferred height for the site in the proposed permanent DDO23 currently with the Minister for approval.
163. Notwithstanding this, the increased height in accordance with the interim DDO23 can be readily achieved without unreasonably causing adverse amenity impacts, as will be discussed, supporting the strategic opportunities of the site, as outlined in the *Strategic Support* section of the report. It also responds appropriately to the scale of recent development in the immediately surrounding area, which are in the range of 6 to 10 storeys (as outlined in the *Site Surrounds* section of this report).
164. However, based upon the advice from GJM, it is not considered that the heritage requirements of DDO23 have been met by the subject development. Therefore, a permit cannot be granted to vary the preferred heights of the interim DDO23.
165. In response to the concerns raised to the scale and transition of the tower element, the Applicant submitted Without Prejudice Plans for discussion on 19 March 2023, which show a 1.85 metre setback of the sixth and seventh floors from the eastern boundary shared with No. 8 Derby Street, as illustrated in Image 1 of this report. However, these changes do not go far enough to provide an appropriate transition in height within the streetscape to meet the Heritage Building Requirements, and as such, the changes will not be adopted.
166. Council Officers must therefore require that the preferred building height prescribed for the site be met (that being a maximum building height, as defined by Schedule 23 to the DDO, of 20 metres). This would result in essentially the deletion of two levels, as depicted in Image 24 below.



Image 24: Artistic perspective of the development from Derby Street – the built form likely to be deleted via condition overlayed in red by Council Officers

167. It is noted that Schedule 23 to the DDO states that *building height does not include structural elements that project above the build height and service equipment including plant rooms, lift overruns, structures associated with green roof areas, screens to service areas or other such equipment provided that all of the following criteria are met:*
- (a) *Less than 50 percent of the roof area is occupied by the equipment (other than solar panels);*
 - (b) *Any equipment is located in a position on the roof so as to avoid additional overshadowing of either public or private open space, or windows to habitable rooms of an adjacent property;*
 - (c) *Any equipment does not extend higher than 3.6 metres above the proposed height of the building; and*
 - (d) *Any equipment and any screening is integrated into the design of the building to the satisfaction of the Responsible Authority.*
168. As proposed, the lift and stair core and plant room meet the above requirements and may project above the prescribed 20 metre height (but will be subject to review).
- Street wall height*
169. The street wall height requirements for the site, as set out at interim Schedule 23 to the DDO, is 14 metres for all street frontages (directing that the street wall is to be measured at the centre of the frontage). The proposed DDO23 differs in that it prescribes a street wall height of 11 metres to Derby Street.
170. The proposed street walls are designed as follows:
- (a) The Derby Street streetwall is a maximum height of 13.96 metres at the centre of the frontage;
 - (b) The Little Oxford Street streetwall has a maximum height of 14.37 metres at the corner with Langridge Street; however, has a height of 11.49 metres at the centre of its frontage; and

- (c) The Langridge Street frontage has a maximum height of 17.28 metres and five storeys at the centre of the frontage, noting it steps down two four storeys to the east to have a height of 13.49 metres.
171. As such, the western portion of the Langridge Street streetwall seeks a variation to the preferred height prescribed by interim DDO23. The schedule states that a permit cannot be granted to the vary the preferred street wall height unless all the following are met:
- (a) *the built form outcome as a result of the proposed variation satisfies the Design Objectives at Clause 1.0 and the Heritage Building Design Requirements in this schedule;*
 - (b) *the proposed street wall height provides a transition, scaling down to the interface with heritage building, and is no more than two storeys higher than the street-wall height of the adjacent heritage building; and*
 - (c) *the proposed street wall height does not overwhelm the adjacent heritage building.*
172. In this instance, the street wall is adjacent to No. 62 Smith Street, which is developed with a two-storey commercial building fronting west to Smith Street which is graded as being Contributory to the heritage precinct. There is a buffer between the subject site and this building however, created by the 3 metre wide laneway and the generous rear setback of the building at No. 62 Smith Street.

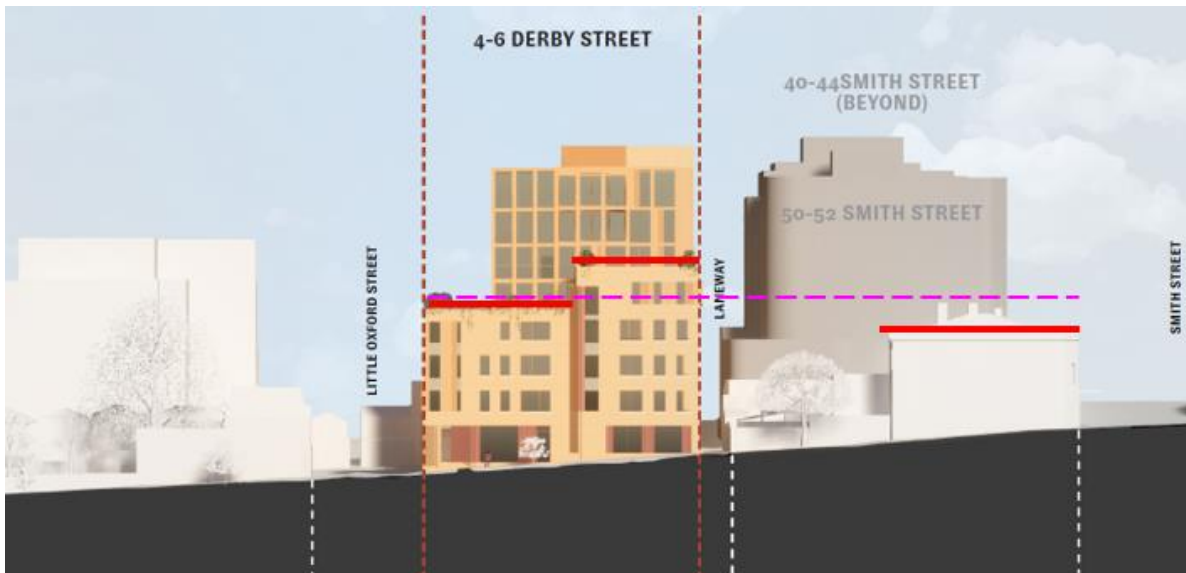


Image 25: Streetscape perspective from Façade and Materiality Development (page 20) – the dashed pink line represents a 14 metre height at the centre of the frontage

173. In reviewing the application, Global South urban design consultants considered that the variation sought on the north-west corner is acceptable, for the following reasons:
- (a) It is limited in length-breadth;
 - (b) It faces the major street interface;
 - (c) It provides a stepped profile to reflect and reinforce the topography; and
 - (d) It is located in the northern part of the site so does not create significant shadow impacts.
174. However, GJM Heritage Consultants do not support the proposed section of the five-storey podium noting it is “substantially taller than the single and two storey form of the adjacent heritage places” and recommend it be reduced to four-storeys.
175. Council Officers note that, although the wall is currently adjacent to a double storey building at No. 62 Smith Street, any future development at the rear of the site would likely be commensurate in height to the proposed streetwall.

176. Nevertheless, a four-storey street wall is consistent with both the interim and proposed DDO23 and would be consistent with the approval directly opposite the subject site (4 – 12 Langridge Street). As such, Council Officers recommend that a four-storey street wall be adopted at the north-west corner in-line with GJM consultants' recommendation.
177. In seeking to reduce the north-west podium to four-storeys, consideration must be given to the design of the top level of the podium which is currently occupied by Apartment 4.01 and the balcony of Apartment 5.01. Council Officers recommend that a 1.5 metre setback from the north and west boundaries should be adopted, responding to the current western setback of the upper levels. This will effectively reduce the podium height to the recommended four-storeys, whilst allowing for the on-going functionality of the associated dwellings above.
178. The implications for each are discussed below:
- (a) The living area of Apartment 4.01 be set back from the north and west boundaries for a minimum of 1.5 metres. This change will likely require the deletion of a bedroom to provide for a usable open living and kitchen area but will ensure the dwelling continues to have direct access from the living room to the generous terrace located on the eastern podium (which will remain as is); and

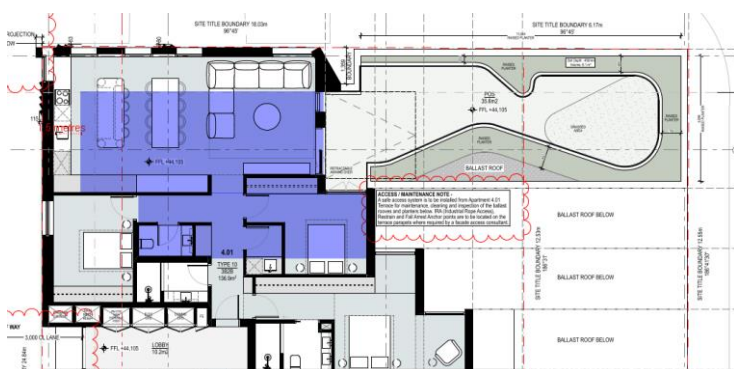


Image 26: Excerpt of the floor plan for apartment 4.01- Council Officers have overlaid the potential area for the open living and kitchen in purple

- (b) The balcony of Apartment 5.01 (level above) set back 1.5 metres from the northern boundary, reducing the area to approximately 8.5sqm (not including the raised planter boxes).

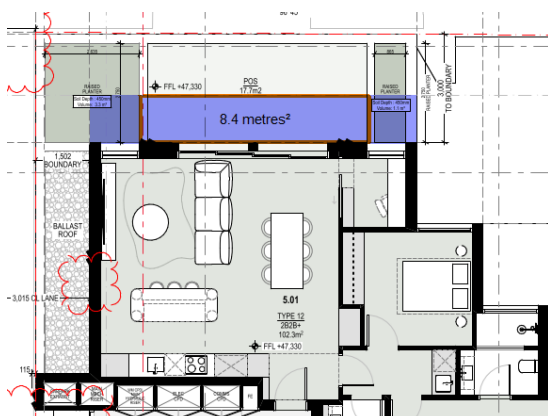


Image 27: Excerpt of the floor plan for apartment 5.01- Council Officers have overlaid the potential area for the balcony in purple

179. This will reduce the street wall to four storeys by providing a recessive form above the podium with a setback consistent with the setbacks of the upper levels from the western boundary (laneway), responding to the concerns raised by GJM consultants.

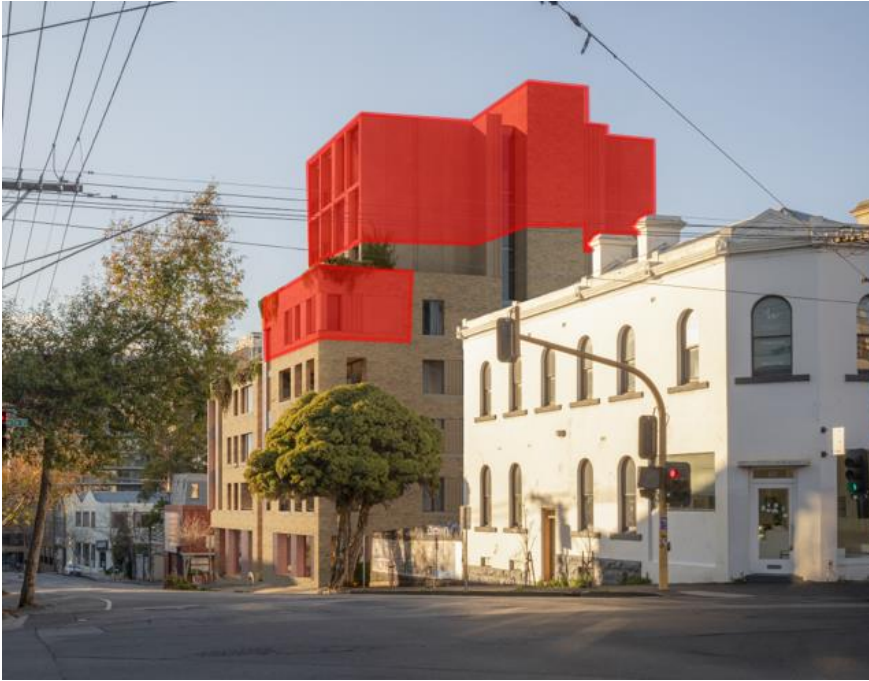


Image 28: Artistic perspective of the development from the corner of Smith Street and Langridge Street looking east - the built form likely to be deleted / set back via condition overlayed in red by Council Officers



Image 29: Artistic perspective of the development from Langridge Street – the built form likely to be deleted via condition overlayed in red by Council Officers

180. Finally, although the Derby Street streetwall would seek a variation to proposed permanent DDO23 (which seeks a maximum height of 11 metres at the centre of the frontage), it continues to meet the relevant requirements to vary the preferred height, providing an appropriate transition to avoid unreasonably overwhelming the adjoining heritage building. The height of the Derby Street streetwall (which is a height of 13.96 metres at the centre line of the frontage) was also not raised as a concern by either GJM Heritage consultants or Global South urban design consultants.

Setbacks

181. Schedule 23 specifies that the development of the subject site, as a non-heritage building, must be set back 6 metres from its corresponding boundary. The building is designed as follows:
- (a) A minimum 6.24 metre setback from the Little Oxford Street frontage;
 - (b) A 3.8 metre setback from the Derby Street frontage;
 - (c) A 1.5 metre setback from the laneway (apart from the core which is constructed to the boundary; and
 - (d) A varied setback of between 1.5 metres (via condition) to 11.98 metres from the Langridge Street frontage.
182. As such, variations are required for each elevation, with the exception of Little Oxford Street frontage. Schedule 23 states that, for development adjacent to a heritage building, a permit cannot be granted to vary the preferred minimum upper-level setbacks unless the proposal meets the Design Objectives and the Heritage Building Design Requirements in the schedule.
183. Council Officers consider that, subject to the recommended conditions to the overall height and north-west podium, the proposed setbacks comply with the relevant requirements for the following reasons:
- (a) Given the notable reduction in height, any visibility to the upper-levels will be reasonably obscured by the podium and recessive within the streetscape;
 - (b) Global South were supportive of the setbacks without any changes to proposed design as submitted, stating that setbacks of approximately 3 – 4 metres are acceptable for moderate mid-rise buildings and that “the setbacks support adequate visual differentiation between the street wall and upper levels”;
 - (c) GJM did not comment on the setbacks as it was their position that the tower element should be deleted. As elaborated on, Council Officers consider that such a recommendation would result in an underdevelopment for a large site with three street frontages on the periphery of a MAC and generally unencumbered by a Heritage Overlay;
 - (d) The proposed development, subject to condition, appropriately transitions down to the only adjoining dwelling at No. 8 Derby Street to avoid unreasonably dominating the heritage fabric. The site is otherwise reasonably buffered from heritage fabric by the laneway, Little Oxford Street and Derby Street. Although requiring a transition in height to No. 2 Derby Street across the laneway, the dwelling is located in the C1Z, Smith Street MAC and in a “high change area” pursuant to Clause 16.01-1L where more robust development is encouraged. As such, higher development near to the single storey dwelling is a reasonable expectation and does not necessarily result in a poor heritage outcome;
 - (e) As will be established in the *Off-site amenity impacts* section of this report, the proposal subject to condition will not unreasonably impact the amenity of nearby residential development with regards to visual bulk, overshadowing and overlooking;

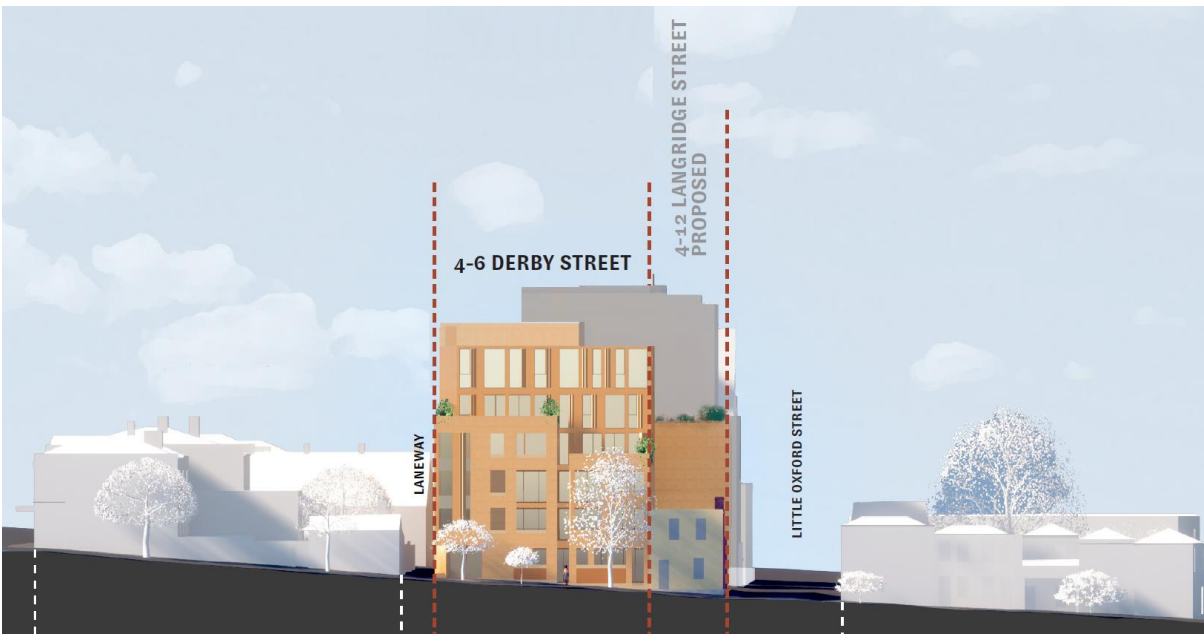


Image 30: Streetscape perspective of Derby Street from Façade and Materiality Development, altered by Council Officers to indicate an approximate height of 20 metres as recommended

- (f) The greatest variations sought to the setbacks are on the north-west corner of the site (to Langridge Street). Subject to the recommended condition to set back Apartment 4.01 by 1.5 metres from the north and west boundaries, variations sought range from 2.95 metres to 4.5 metres from what is prescribed by the DDO23. However, due to the notable slope of Langridge Street and the generous separation from the building at No. 62 Smith Street, this variation to the setback will not result in the building dominating the adjacent heritage fabric. Further, the rear of No. 62 Smith Street may be developed in the future, restricting views to the upper levels from various vantage points. Finally, as submitted by Global South consultants, a variation to setbacks / podium height on the north-west corner will not have any adverse shadow implications;

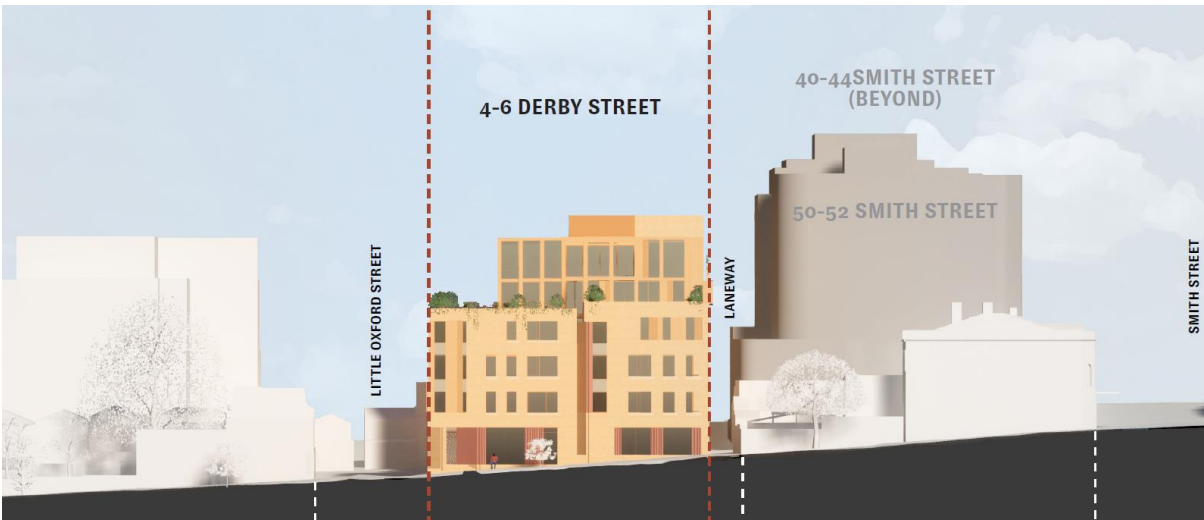


Image 31: Streetscape perspective of Langridge Street from Façade and Materiality Development, altered by Council Officers to indicate an approximate height of 20 metres and a four-storey street wall as recommended

- (g) The proposal meets the Building Separation Requirements of the DDO23 (to be discussed); and
- (h) The proposal meets the Overshadowing and Solar Access (public realm) Requirements of the DDO23 (to be discussed).

Heritage

- 184. As discussed, only the north-east corner of the site is affected by the Heritage Overlay, and as such, most of the demolition proposed is exempt from requiring a permit.
- 185. The exception to this is the concrete car park and associated crossover to Little Oxford Street. These are not contributory elements and as such their removal is supported by Clause 15.03-1L (Heritage).
- 186. With regards to the proposed development, the Heritage Building Design requirements of the DDO23 have been discussed at length and generally reflect the heritage intent at Clauses 15.03-1S and 15.03-1L of the Scheme. Council Officers consider that the proposal demonstrates a suitably respectful scale subject to condition, and that the design incorporates simple architectural details and façade treatments that compliment and do not detract from adjacent heritage buildings.

Overshadowing and solar access (public realm)

- 187. Schedule 23 to the DDO states that development must not overshadow any part of the southern footpath of Derby Street to a distance of 2 metres from the kerb between 10am and 2pm at the September Equinox. Council’s Strategic Planning Unit have clarified that in assessing an application against DDO23, the test for overshadowing should only have regard to the footpath, not the road formation.
- 188. Shadow diagrams are provided at TP28 which demonstrate that the development does not overshadow the opposite footpath (though falls very near to it at 1pm and 2pm) at the Equinox, thereby complying with the requirement.



Image 32: Excerpt of 1pm and 2pm shadows from TP28 – Decision Plans

- 189. The recommendation to reduce the overall height will result in shadows falling notably short of the southern footpath.

Design

- 190. The proposal is considered to meet the relevant design objectives of the DDO23 and of Clause 15.01-2L (Building design) as follows:
 - (a) The proposal provides a prominent, well-articulated street-wall edge that provides a distinction between the lower and the upper levels of the building. This position was supported by Global South Urban Design Consultants who considered that, although subtle, the variations in concrete tone and solid to void ratios to be suitably effective;
 - (b) The proposal results in an appropriate street edge activation through the commercial tenancy to Langridge and Little Oxford Streets and residential entries to Derby Street. The building provides various passive surveillance opportunities from the residential entries, balconies and windows facing onto each street interface;

- (c) The proposal incorporates design elements/features that contribute to an engaging streetscape, avoiding expanses of blank walls and providing for active frontages. Of note, the development provides for an appropriate level of glazing at street level, particularly for the commercial frontage, but ensures the glazing is not overly dominant within the streetscapes by providing recesses and solid plinths. This is considered to be an appropriate response to the corresponding streetscapes which have a character of solid frontages with modest openings, rather than full height glazing as seen in the Smith Street MAC;
- (d) Global South consider that the “street wall components are broken-up vertically into ‘fine grain’ modules that respond to established streetscape rhythms of nearby development fabric”. However, with regard to the design of the upper levels they stated:

The eastern and western facades are relatively ‘closed’ with limited windows. The eastern side is broken up by the brickwork stair/lift core form, but the prominent east-facing wall incorporates a quite large expanse of coloured concrete panels, which may appear ‘bland’ or ‘utilitarian’ in views from the east.

Given its prominent and scale, I consider that limited further articulation of this upper-level façade would be beneficial to its external expression, visual interest, and management of its scale.

Council Officers consider that the recommended reduction to the overall height will resolve the concern of large expanses of unarticulated concrete panels. Thus, subject to the reduction in height, the recommendation for further articulation will not be adopted.

- (e) Services cupboards are appropriately integrated into the design, by utilising the services cupboards as fencing to the balcony openings along the Derby Street frontage. This design response will avoid full height services cupboards that may dominate a street frontage. A condition should require the materiality of the service cupboards to be committed to, ensuring it is well integrated into the façade’
- (f) The proposed material palette of precast concrete, tiles and painted metal features (in Apricot, light Apricot and Watermelon) and tinted grey and reeded glazing is simple and subtle in variation, provides for visual interest and articulation through the distinct corbeled brickwork panels and brick inserts. The materiality and finishes of the proposal were supported by both GJM Heritage consultants and Global South UD consultants; however, the latter consider that clear glazing is preferable for visual interaction and therefore recommend it be replaced with clear glazing. Tinted grey glazing is considered to be an acceptable outcome for the development generally, however, Council Officers agree that clear glazing would be preferable for the commercial premises to improve activation to the street. A condition will be included accordingly;
- (g) As encouraged by Clause 15.05-2L, the proposed materials (particularly the concrete) are appropriately durable. However, to ensure the quality and on-going maintenance of the façade, a condition should require a Façade Strategy be submitted for review and endorsement. A condition should also be included requiring that any blank frontages at ground level (i.e. the western laneway) should be finished with an anti-graffiti treatment in accordance with Clause 15.01-2L; and
- (h) The proposal as suitably limited reflective materials to avoid causing detriment to nearby properties.

Building separation, amenity and equitable development

191. Schedule 23 to the DDO requires that where development shares a common boundary, upper-level (i.e. not inclusive of the podium) development must:

- (a) *be setback a minimum of 4.5m from the common boundary, where a habitable window or balcony is proposed; and*

- (b) *be setback a minimum of 3.0m from the common boundary where a commercial or non-habitable window is proposed.*

192. Where the common boundary is a laneway, the setback is measured from the centre of the laneway.

193. The upper levels of the development meet this requirement as follows:

- (a) No windows or balconies face the shared boundary to No. 8 Derby Street;
- (b) The non-habitable window of the upper level “lobby” is set back 3 metres from the centre line of the laneway; and
- (c) No other windows or balconies face west towards the laneway.

Vehicle access and car parking

194. The development is considered to meet the applicable design objectives of DDO23 and Clause 15.01-2L as follows:

- (a) The vehicle entry is provided from Little Oxford Street where pedestrian and vehicle activity is generally lower, and where there will be no conflict with on-street car parking;
- (b) The vehicle entry is contained to a single garage and crossover (replacing a wide crossover and open car park) to ensure that it does not dominate the frontage;
- (c) Blank walls associated with car parking have been appropriately avoided. Although the garage tilt door is proposed to be solid painted metal (Watermelon), introducing permeability may have implications on noise from the lift car lift. As such, a solid door is accepted however, the panelled articulation, as shown in plans, should be incorporated to ensure an appropriate level of visual interest and articulation for the frontage. A condition will be included accordingly; and
- (d) The service infrastructure has been appropriately incorporated into the design to limit the visibility from the public realm.

195. A more comprehensive review of the vehicle access and car parking is provided in the *Car Parking and Traffic* section of this report.

Site coverage

196. Clause 15.01-2L (Building design) *encourage[s] site coverage of new development that does not exceed a maximum site coverage of 80% of the site area, unless:*

- (a) *The pattern of site coverage in the immediate area is higher than 80%.*

197. The proposed site coverage is higher than 80%, however, is considered acceptable for the following reasons:

- (a) Commercial and mixed-use buildings in this precinct traditionally have high levels of site coverage with this characteristic being evident throughout Collingwood and on neighbouring developed sites.

[Urban design](#)

198. Clause 15.01-1S (Urban design) includes the objective *to create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.* Clause 15.01-1L requires consideration to be given to pedestrian access and frontages, wind and weather protection.

199. The application was referred to Council’s Urban Design Team who did not support the building ground floor layout in its current form, requesting the following changes be made:

- (a) *Redesign and resolve interface with adjacent streetscape. I.e. window heights and ledge on NW corner of building site;*
- (b) *Design review for improved entry, column and under croft at the NE corner of building site;*

- (c) A detailed Public Realm and Streetscape Improvement Plan must be provided; and
- (d) Inclusion of developer contributed tree planting must be included in Public Realm and Streetscape Improvement Plan along Langridge St.

200. More specifically for points (a) and (b) the urban design team have recommended that a redesign be explored for the window placement along Langridge St frontage so that there is a clear and distinct space between external footpath and bottom of the window (as demonstrated in the excerpt below - green dash indicates preferred and red dash undesirable outcome).



Image 33: excerpt from internal Urban Design advice

- 201. Council Officers however consider that this is an acceptable outcome given the constraints posed by the notable fall of the site, and that the materiality of the plinth will provide for an appropriate delineation from the public footpath. As such, this recommendation will not be adopted.
- 202. Further, the Urban Design Team request a design review of the commercial entry on the north-east submitting that it is at risk of becoming an underutilised entry point due to the:
 - (a) Lack of opening sightlines due to the column placement;
 - (b) Lack of activation and useability if the commercial space is not in operation; and
 - (c) Risk for late night anti-social behaviour and loitering deriving from nearby entertainment venues.

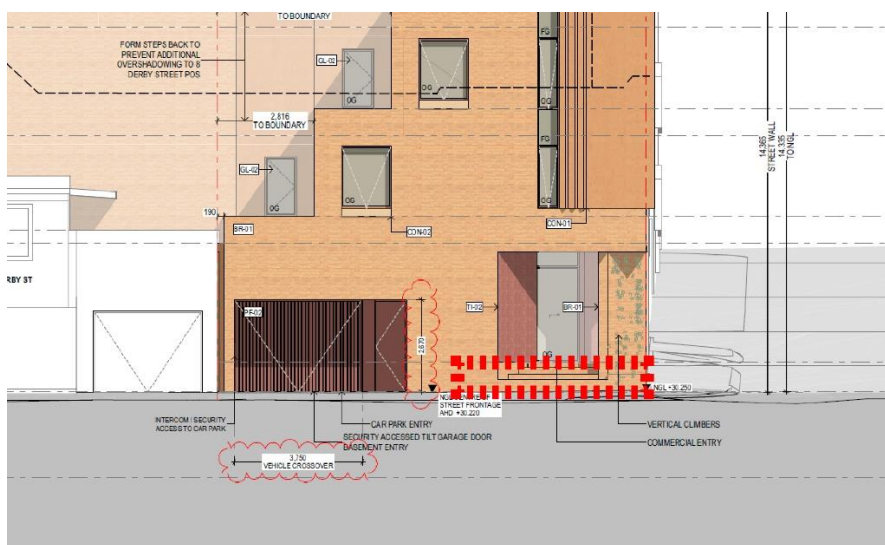


Image 34: excerpt from internal Urban Design advice

203. It is noted that a chamfer on street corners is specifically required by the proposed DDO23, however, acknowledge that the plinth and column allow for a less active and usable access point. As such a condition should require the corner be enclosed with clear glazing, sliding door (or similarly active edge). With regards to accessible access to the commercial tenancy, a secondary at-grade entry is provided further west along the Langridge Street frontage.
204. Council's Urban Design Team did not raise concerns to the residential entries from Derby Street or vehicle entry on Little Oxford Street.
205. Council Officers note that the vehicle entry and adjacent emergency exit are recessed by 1.4 metres, creating potential safety concerns with regards to visibility. However, the recess is required for practical reasons, allowing for the door to open outwards for the emergency fire exit without impeding on the public footpath. It is considered that the convex mirrors provided, and the condition requiring sensor lighting to all entries (to be discussed) will reasonably resolve the safety concerns for this interface.
206. Finally, Council Officers do not consider that the request for a Public Realm and Streetscape Improvement Plan is warranted in this instance. The proposed development proposes to reinstate kerb and footpath where the redundant crossovers are to be removed (to the satisfaction of the responsible authority), but no further streetscape works are proposed or required to carry out the development. Further, the purpose of the development and community contributions levy, which will be required to be paid by the subject development via condition, is to provide funds for Council to carry out public realm upgrades, including any provision of additional street trees. It is therefore not appropriate for the subject development to include public realm contributions that are unrelated to the design.
207. The proposal is therefore considered to meet the applicable design objectives of Clause 15.01-2L as follows:
- (a) Separate vehicular and pedestrian access is clearly provided to avoid modal conflicts;
 - (b) The pedestrian entries are identifiable with a sense of address;
 - (c) A condition will require sensor lighting be included at all pedestrian and vehicular entries to increase the safety for users. A condition will be included to require that they are located and baffled to the satisfaction of the responsible authority;
 - (d) Entries generally provide for reasonable weather protection through the incorporation of recesses; and
 - (e) All street frontages are well activated with glazing to an extent that it respectful of the existing the streetscape character.

Wind

208. An Environmental Wind Assessment (prepared by MEL Consultants and dated 28 September 2023) was submitted with the application. The report provides a desktop assessment of the proposed development (terraces, building entries and adjacent streetscapes), generally finding that the relevant comfort criteria is met, subject to the following recommendations being adopted:
- (a) The addition of a solid wall/screen (full height) along the northern side of the north-east ground floor chamfer (as indicated by the red line in Image 35 below).

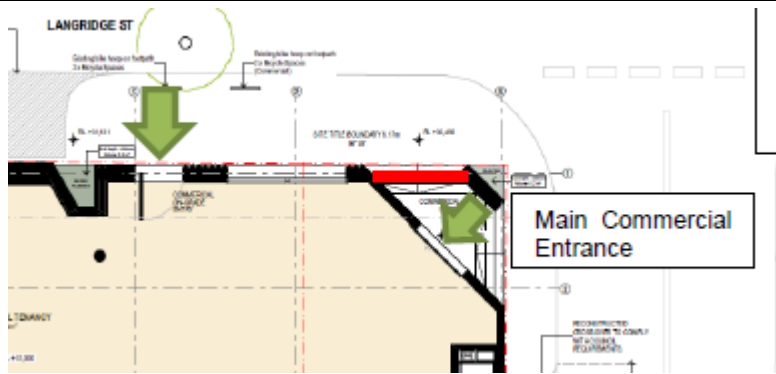


Image 35: excerpt from Figure 2 of MEL consultants Environmental Wind Assessment

- 209. This recommendation although not currently adopted by the Decision Plans would be reasonably resolved by the recommended condition to enclose this corner (with glazing, sliding doors or similar). This would require that the Wind Assessment demonstrates that the entrance can achieve standing comfort criteria. A condition will be included in the recommendation accordingly.
- 210. The report was referred to external wind consultants (Vipac) for review who were satisfied with the assessment, stating that it uses the proper analysis and methodology to analyse the wind effects on the pedestrian level surrounding the development and that the relevant target comfort criteria within the development is met. Vipac agree with the assessment conclusions and recommendations and do not recommend any further comments or changes to the report.
- 211. As such, should a permit be issued, the Wind Assessment should be endorsed to form part of the permit, subject to it being amended to reference the building design changes included in the recommendation of this report, relating to the reduce height of the building and north-west podium, and the enclosure of the ground floor chamfer on the north-east corner.

Weather protection and projections over public realm

- 212. Clause 15.01-1S supports development that provides weather protection for the public realm (including footpaths and plazas).
- 213. The proposal does not include any projecting awnings, or similar architectural features providing for weather protection to the footpath, however, this is consistent with the pattern of development along each frontage, with no awnings seen on any of the nearby buildings. As discussed, the slight recesses of entries provide for some weather protection of entries.

Off-site amenity impacts

- 214. The assessment will be guided by the Decision Guidelines of Clause 15.01-2L (Building design) and the Commercial 1 Zone.
- 215. Clause 15.01-2L *discourage[s] impacts on existing adjoining development through:*
 - (a) *Unreasonable overshadowing of secluded open space and loss of daylight to habitable room windows;*
 - (b) *Visual bulk;*
 - (c) *Overlooking and excessive screening;*
 - (d) *Noise from building plant and equipment; and*
 - (e) *Loss of on-street car parking from excessive crossovers.*
- 216. It is noted that the clause requires consideration only be given to adjoining development, which in this instance is limited to No. 8 Derby Street. However, the Decision Guidelines of the Mixed Use Zone (relevantly) require consideration be given to:
 - (a) The Planning Policy Framework; and

- (b) The impact of overshadowing on existing rooftop solar energy systems on dwellings on adjoining lots in a Mixed Use Zone.

Overshadowing of SPOS and loss of daylight to habitable room windows

217. With regards to overshadowing and daylight, the proposal will result in additional shadows to:
- (a) No. 2 Derby Street within the C1Z at 11am only (2sqm in area), noting that it is fully shadowed prior to 11am under existing conditions; and
 - (b) No. 8 Derby Street within the MUZ and immediately adjoining the site at 1pm (8sqm to the southern roof terrace) and 2pm (10.6sqm to the southern roof terrace).
218. It is considered that the shadow impacts to No. 2 Derby Street are acceptable given they are contained to only one hour at the Equinox, particularly having regard to its location with the C1Z and Smith Street MAC where higher density development is supported. It is also noted that any development of the sites to the immediate north beyond a single storey would likely overshadow the SPOS, and as such, the amenity expectations of this dwelling within the C1Z and Smith Street MAC must be reasonably tempered.
219. With regards to the shadow impacts to No. 8 Derby Street, the height of the proposed building would have to be substantially reduced, well below the heights prescribed by the interim or proposed DDO23, to avoid impacting the roof terrace located to the south-east of the development. Although the impacts to the southern roof terrace are notable in the afternoon, considerable effort has been made to mitigate the impacts to the northern terrace by chamfering the north-east corner of the tower and stepping the north-east podium down to a single storey. No. 8 Derby Street will have a good level of sunlight to one or both of the terraces throughout the day at the Equinox ensuring the dwelling is provided a reasonable level of amenity.

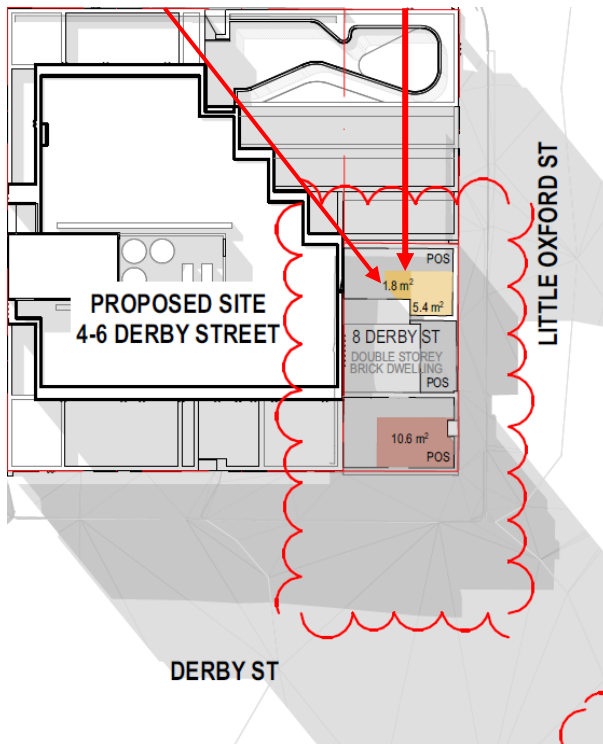


Image 36: excerpt of 2pm shadow analysis from Decision Plans showing POS cast in addition shadow in red, and POS which continue to receive sunlight in yellow. The area of dark yellow (notated as 1.8sqm in area) is POS that will receive sunlight which is currently overshadowed by the existing two-storey building on site.

220. There are no solar panels located on adjoining rooves that may be impacted by shadows from the development.
221. For these reasons, the shadow impacts resulting from the proposal are acceptable.

222. With regards to daylight to windows, the windows of No. 8 Derby Street face away from the subject site, thus, are not unreasonably impacted by the subject development.
223. The windows of No. 2 Derby Street are reasonably buffered by the laneway and rear SPOS, noting that the dwelling does not have any windows facing directly on to the laneway.

Visual bulk

224. With regards to visual bulk impacts to the nearby dwellings (namely No. 2 and 8 Derby Street) it is considered that within this built form context views from windows and balconies to built form is not an unreasonable expectation.
225. However, as discussed, the proposed sheer wall to the shared boundary with No. 8 Derby Street is considered to be unreasonably bulky to the adjacent roof top SPOS areas and the development has been reduced by two storeys accordingly. As discussed, the remainder of the development has been significantly reduced in scale to respond to No. 8 Derby Street's SPOS areas to ensure they are not unreasonably enclosed or enveloped by the development. Moreover, the roof top terraces will continue to have unimpeded outlook to Little Oxford Street and Derby Street.
226. For these reasons, the visual bulk impacts are considered resolved subject to the recommendation to reduce the overall scale of the building.

Overlooking and excessive screening

227. Clause 15.01-2L does not provide direction as to how overlooking impacts should be addressed, thus the Overlooking Standard at Clause 55 is relied upon in this instance.
228. The development demonstrates compliance with the objective of the Overlooking Standard, as follows:
- (a) Within 9 metres of the SPOS of No. 2 Derby Street are the west-facing windows of Apts 1.01, 1.04, 2.01, 2.04, 3.01, 3.02 and 4.01, which are designed as follows:
 - (i) Fixed obscure glazing to the west-facing bedroom windows of Apts 1.01, 2.01 and 3.01 and the study nooks of 1.04, 2.04 and 3.02, with a small horizontal mullion (as demonstrated in the Overlooking Sections on TP23 and TP24), with operable clear glazing above. The Overlooking sections demonstrate that the view lines from the above are appropriately directed to be above the roof line of No. 2 Derby Street (and not to the HRWs or NGL of the SPOS) in accordance with the requirements of the overlooking standard. However, a condition of permit is recommended requiring that the height of the fixed obscure glazing and the depth of the mullion be dimensioned to ensure they are installed accurately; and
 - (ii) Clear operable glazing to the west-facing glazing of the living areas of apartment 1.01, 2.01, 3.01 and 4.01, with the overlooking diagram demonstrating that views to the ground of the SPOS are intercepted by the fence. The HRWs of No. 2 Derby Street are not within a 9 metre radius of these windows; and
 - (b) The only windows or balconies within 9 metres of No. 8 Derby Street is the podium terrace associated with Apt 4.01. As demonstrated by the overlooking analysis on TP25, the view line only just reaches the terrace and is intercepted by the retaining wall.
229. Subject to the condition discussed above, the development will reasonably limit overlooking in accordance with the directions of the Scheme.
230. Screening has been appropriately limited through the design response to direct apartment outlooks towards the street frontages.

Noise from building plant and equipment

231. The services/plant equipment is located on the building roof and is enclosed (with the exception of the solar panels which are regarded as low risk). An Acoustic Report (prepared by Acoustic Logic and dated 19 September 2023) was submitted with the application and includes an assessment against the mechanical plant on the roof.

232. The Acoustic Report was reviewed by SLR acoustic engineers who recommended the following:
- (a) The nearest sensitive receivers to the subject site be identified; and
 - (b) A formal Noise Protocol and sleep disturbance assessment be provided for the car lift and carpark entry door. The maximum source level (as a sound pressure level at a distance) for the car lift, and other requirements (vibration isolation etc.) should also be specified.
233. These will therefore be included via condition, with any further design recommendations made by the revised acoustic report to be shown in plans.
234. Council's standard conditions will be included in the recommendation requiring the noise and emissions from plant and mechanical equipment comply at all times with the relevant EPA noise requirements.

Loss of on-street car parking from excessive crossovers

235. As discussed, the proposal removes three redundant crossovers and proposes only one single crossover to Little Oxford Street, where no on-street car parking is currently provided. As such, the proposal would likely result in additional on-street car parks, subject to review and approval by Council's Traffic Management Team.

[On-site amenity \(Clause 58\)](#)

236. Clause 58 comprises design objectives and standards to guide the assessment of new residential development. Given the site's location within a built-up inner city residential area, strict application of the standard is not always appropriate, whether the proposal meets the objective is the relevant test.

Standard D1 – Urban context objective

237. This is addressed within the *Strategic Context* and *Building design* sections of this report. The standard and objective are met.

Standard D2 – Residential policy objectives

238. This is addressed within the *Strategic context* section of this report. The standard and objective are met.

Standard D3 – Dwelling diversity

239. This objective seeks to encourage a range of dwelling sizes and types in developments of ten or more dwellings. The proposal provides 18 apartments, comprising 2 x one-bedroom, 10 x two-bedroom and 6 x three-bedroom apartments. It is noted that the recommended conditions will effectively delete two levels and will likely result in the deletion of at least 2 x three-bedroom dwellings.

240. Although there is a limited number of smaller apartments, the development provides for a range of apartments commensurate to its overall scale.

Standard D4 – Infrastructure

241. The proposal is located within an established area with existing utility services and infrastructure; there is no evidence to suggest that the proposed development would unreasonably overload the capacity of these existing services. The standard is met.

Standard D5 – Integration with the street

242. The orientation of the development and public realm interfaces have been discussed at depth previously in this report.

243. However, with consideration given solely to the objectives of Standard D5, the development appropriately:

- (a) Incorporates pedestrian entries, windows, balconies or other active spaces into the frontages to improve activation and passive surveillance opportunities;

- (b) Limits blank walls; and
- (c) Conceals car parking and internal waste collection areas from the street.

244. The standard is therefore met.

Standard D6 – Energy efficiency objective

245. Standard D6 includes the following objectives for apartments developments:

- (a) *To achieve and protect energy efficient dwellings and buildings;*
- (b) *To ensure the orientation and layout of development reduce fossil fuel energy use and make appropriate use of daylight and solar energy; and*
- (c) *To ensure dwellings achieve adequate thermal efficiency.*

246. Policy at clauses 15.01-2L-01 and 53.18 of the Scheme, also relevantly encourage ecologically sustainable development, with regard to water and energy efficiency, building construction and ongoing management.

247. With regard to protecting the energy efficiency of other buildings, the sensitive interfaces to the site are generally contained to the immediately adjoining dwelling to the south-east (No. 8 Derby Street) and the dwelling to the west and across the laneway (No. 2 Derby Street).

248. With regards to No. 8 Derby, as has been touched on, no windows face the site and there are no solar panels that will be impacted by development. The northern portion of the development has been appropriately stepped down to a single storey, whilst the upper-levels have been chamfered, ensuring that shadow and daylight impacts and appropriately mitigated and the energy efficiency of the dwelling is not unreasonably reduced. The sheer wall, although concerning from a visual bulk impacts, will not unreasonably impact internal daylight to the dwelling due its primary outlook to the south and east, away from the subject site. Regardless, the sheer wall will be required to be reduced in height by at least 6.95 metres to meet the preferred height of the interim DDO23.

249. With regards to No. 2 Derby Street, the dwelling is somewhat buffered by the 3 metre wide laneway, noting that the dwelling has no windows facing directly on to the laneway either. The shadow and daylight impacts to this property have been discussed and are considered to be acceptable. No solar panels are located on the roof that could be unreasonably impacted by the development.

250. With regards to the adjacent commercial properties, they are also reasonably buffered by the 3 metre wide laneway and do not have any windows immediately facing onto the laneway which may be unreasonably impacted by the development.

251. With regards to on-site amenity, Council's ESD advisor reviewed the submitted SMP (prepared by GIW and dated 22 September 2023) and the development plans, and considered that the following recommendations and commitments to be appropriate:

252. The project achieves a total BESS score of 70% with no mandatory category (IEQ, Energy, Water, Stormwater) below 50%:

- (a) 78% (14 out of 18) of the development's apartments are naturally cross-ventilated;
- (b) Daylight modelling has been conducted for a representative sample of apartments. The summary result is as follows:
 - (i) 80% of living floor area achieves >90% above DF1.0; and
 - (ii) 83% of bedroom floor area achieves >90% above DF0.5;
- (c) The non-residential areas are targeting a 2% DF to 70% of the nominated area'
- (d) 50% (9 out of 18) of apartments achieve at least 3 hours of sunlight.
- (e) The development is provided with a comprehensive shading strategy;
- (f) The development is to achieve a 7.5 Star average NatHERS Energy Rating result;

- (g) The non-residential areas aim to meet or reduce the heating and cooling energy consumption against the reference case (BCA Section J 2019);
- (h) The development will be provided with a centralised hot water heat pump;
- (i) A 15kW Solar PV system is to be located on the roof of the proposed development;
- (j) Individual cold water, and electricity meters will be provided to the commercial tenancy, apartments, and communal areas;
- (k) Water efficient fittings and fixtures are applied throughout;
- (l) A 10,000-litre rainwater tank will harvest rainwater from the roof (including main roof, ballast roof and carpark roof areas). This tank will be connected to toilets on ground, first and second floors;
- (m) A Melbourne STORM rating of 112% is achieved;
- (n) Landscaping is to be native vegetation with low water demand;
- (o) A minimum of 10 bicycle spaces are to be provided for residents;
- (p) A minimum of 4 bicycle spaces are to be provided for residential visitors;
- (q) A minimum of 2 bicycle spaces are to be provided for employees & 6 bicycle spaces are to be provided for non-residential visitors;
- (r) 33sqm of communal space will be provided at the apartment entry; and
- (s) Real-time energy and water usage data is to be available to each apartment and common areas (for building management use only).

253. The ESD Advisor did not consider the report to have any deficiencies, however, requires the following information be provided:

- (a) A Green Travel Plan with targets and actions around transitioning towards sustainable transport modes;
- (b) Confirmation that building services will undertake fine tuning each quarter for the first 12 months of occupation;
- (c) Confirmation that Head Contractor will be ISO 14001 accredited; and
- (d) Confirmation that an environmental management plan to be implemented to council guidelines.

254. The above will be required via condition.

255. Finally, the ESD advisor also suggested the following improvement opportunities:

- (a) Consider materials and assembly methods to assist with disassembly and adaptive reuse at end of life;
- (b) Consider incorporating a car share space within the basement, and at a minimum provide details of surrounding car share locations within the Building Users Guide and/or Green Travel Plan; and
- (c) Consider documenting the project using the green factor tool. <greenfactor.com.au>

256. The above has not been adopted by the Applicant, and although ideal, goes beyond what has been considered an acceptable outcome and as such will be not included in the recommendation accordingly.

257. Although Council's ESD advisor has considered the natural cross ventilation achieved for the dwellings, the amenity of G.02's bedroom is of particular concern to Council Officers. The bedroom is provided one highlight window which shown as fixed in plans, resulting in a poor ventilation outcome for the associated habitable room. As such, a condition should require that the bedroom window be shown as operable.

258. Finally, Standard D6 requires dwellings located in Climate Zone 21 (Melbourne) to not exceed the NatHERS annual colling load of 30mj/m². Council's ESD Advisor raised no concern with the cooling loads proposed.

259. For these reasons, the development is considered to meet Standard D6.

Standard D7 – Communal open space

260. This Standard applies to a *development with 10 or more dwellings, requiring that a minimum area of communal outdoor open space of 30sqm is provided. If the development contains 13 or more dwellings, the development should also provide an additional minimum area of communal open space of 2.5 square metres per dwelling or 220sqm, whichever is lesser. This additional area may be indoors or outdoors and may consist of multiple separate areas of communal open space.*

261. Thus, the development for 18 apartments is required to provide 50sqm of communal open spaces (with a minimum of 30sqm of this being provided as an outdoor area).

262. The subject development provides no outdoor communal open space, and although 33sqm area of the lobby is indicated as communal open space in the SMP, this is not considered to be a highly functional or usable area for the purposes of recreation and leisure and should not be included in the calculations for communal open space.

263. Council Officer acknowledge that the site is proximate to public green areas and the proposed development provides for reasonably SPOS areas in accordance with the requirements of Standard D20 (Private open space), however, do not consider a full waiver of the requirements of Standard D7 to be justified.

264. A condition will therefore be included in the recommendation of this report requiring that communal open space be provided in accordance with Standard D7.

Standard D8 – Solar access to communal open space

265. This Standard requires that a communal outdoor space be located to the north of the building, as appropriate, and that at least 50% (or 125sqm, whichever is lesser) receive a minimum of 2 hours of sunlight between 9am and 3pm on 21 June.

266. As discussed, the proposal does not provide for communal outdoor open space, however, is recommended to be required via condition. A condition should also be included on any permit issued requiring the communal open space be designed to comply with Standard D8. Given the orientation of the site, any communal open space on the roof or northern side of the development (i.e. in lieu of Apartment 4.01), will readily meet the requirements of the Standard.

Standard D9 – Safety

267. The proposed communal entrance is readily visible from Derby Street and, although recessed, is not unreasonably obscured or isolated from the street.

268. Similarly, two individual dwelling entries are provided along the Derby Street frontage which have gates recessed into the building façade which may be somewhat obscured from view. However, any safety concerns with regards to the recessed entries could be reasonably addressed by a requirement for sensor lighting. Moreover, the materiality of the dwelling gates should be identified, with a requirement for the gates to have a minimum 50% transparency. These conditions will be included in the recommendation of this report accordingly.

269. The Standard is therefore considered to be met, subject to the conditions discussed.

Standard D10 – Landscaping

270. Whilst landscaping is not a typical feature of higher density development in Collingwood, increased landscaping and greenery is encouraged by Clause 15.01-2L.

271. A Landscape Concept Plan (prepared by Etched and dated September 2023) was therefore submitted and reviewed by Council's City Strategy (Open Space) Unit who considered the concept plan to be acceptable subject to the following:
- (a) The landscape plans to be updated to be consistent with the architectural drawings (namely the Level 3 planted area) and the design changes required in the recommendation of this report;
 - (b) A full plant schedule and planting plan; and
 - (c) Dimensions and soil depths for planters (though noted in the architectural plans, they should also be detailed in the Landscape Plan).
272. The above will be required via condition in the recommendation.
273. Standard D10 also requires that development should retain existing tree and canopy cover, however, there are currently no trees on-site.
274. Finally, there is five (5) street trees located along the subject site's street frontages, all of which are to be retained. However, given their proximity to the site, the application was referred to Council's City Works (Open Space) Team who requested:
- (a) the tree locations, identification numbers, TPZs and SRZs be included on the architectural drawings and identify them as retained trees; and
 - (b) a Tree Management Plan.
275. The above will be included as conditions in the recommendation.
276. It is noted that no street tree bond was requested.
277. Finally, Standard D10 states that development on a site greater than 2500sqm should provide canopy cover for 350 sqm plus 20% of site area above 2500sqm (61sqm in this instance), and 15% of the site as deep soil area. However, this is not applicable to the subject which is 526sqm in area.

Standard D11 – Access

278. This aspect of the design has been discussed at length in the *Building Design* section of this report and is generally considered to be acceptable. With consideration given solely to the objectives of Standard D5, the development appropriately:
- (a) Minimises vehicle crossovers, providing for a single crossover to Little Oxford Street; and
 - (b) The development would not restrict access for service, emergency and delivery vehicles to and around the site.

Standard D12 - Parking location

279. The location of parking is considered to achieve an acceptable design response, providing for secure and conveniently accessed parking spaces for residents. The parking location and design was also assessed by Council's Engineering Services Unit who are generally satisfied, subject to recommendations outlined in the *Car Parking and traffic* section of this report.
280. An objective of this Standard is to protect residents from vehicular noise within development.
281. Car parking is appropriately provided in a basement where it is unlikely to disturb residents. However, various dwellings of the subject site abut, or face onto, the car lift garage. As discussed, a condition will require that a formal Noise Protocol and sleep disturbance assessment be provided for the car lift and carpark entry door be provided to ensure that it is appropriately designed to mitigate noise impacts.
282. Further, Apartment G.02 has a highlight window (associated with a bedroom) which is indicated to be located above the garage roof. A sectional diagram of this interface should be required via condition to ensure that the window is located to be fully above the roof line.

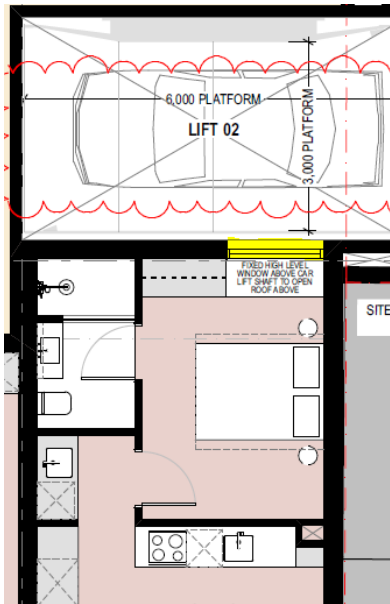


Image 37: excerpt from Ground Floorplan of the Decision Plans, window of G.02 highlighted in yellow

283. Subject to condition, the proposal will satisfy the objective of Standard D12.

Standard D13 – Integrated water and stormwater management

284. According to the SMP, the application proposes the installation of a 10,000Lt rainwater tank that will be connected to toilets on ground, first and second floors.

285. The STORM report provided achieves a score of 112%, which exceeds the policy direction under clause 19.03-3L (Water Sensitive Urban Design). Council’s ESD Advisor raised no concern with the stormwater management proposed and it is considered the requirements of clause 53.18 - Stormwater Management in Urban Development are met.

286. The proposal complies with the objective and the standard.

Standard D14 – Building setbacks

287. As outlined within the *Building design* section of this report, the setbacks of the building are considered to achieve an acceptable design response to the character of the surrounding area and meets the objectives of Standard D14 as follows:

- (a) The setbacks allow adequate daylight into the new dwellings, without relying on neighbouring private land for outlook or daylight; and
- (b) The proposal satisfactory limits views to neighbouring HRWs and SPOS areas, subject to condition.

Standard D15 – internal views

288. This standard requires that windows and balconies should be designed to prevent overlooking of more than 50 percent of the private open space of a lower-level dwelling directly below and within the same development.

289. Generally, the dwellings are oriented to face its corresponding street frontage rather than to each other. However, there are opportunities to overlook the podium terraces (i.e. for Apts 3.02, 4.01, 4.02 and 5.01) from apartments on the levels above. Each will be discussed in turn:

- (a) Terrace of Apt 3.02 built into the Derby Street podium – generally any views from the windows immediately above will be limited by the angle of the view line and mullions provided to each window. Similarly, the balustrade associated with SPOS of Apt 5.02 is set back from the edge to appropriately limit views directly downwards. The SPOS of Apt 4.02 is immediately to the west and one floor up, and although the planter along the eastern edge is expected to restrict views downwards an overlooking diagram will be required via condition to demonstrate this;

- (b) Terrace of Apt 4.02 – similarly to above, any views from the windows immediately above will be limited by the angle of the view line and mullions provided to each window. However, as above, a Sectional Overlooking Diagram will be required via condition to demonstrate that views from the SPOS of Apt 5.02 are limited to the SPOS of No. 4.02, in accordance with the requirements of Standard D15;
 - (c) Terrace of Apt 4.01 located on the Langridge Street podium – there appear to various HRWs (Apts 4.02, 5.01 and 6.01) which face this terrace. Though some of the windows have been assessed in the Overlooking analysis provided on TP25, consideration was not given to views from No. 5.01's terrace or secondary bedroom window, or Apts 6.01 and 7.01's terrace or kitchen windows. A condition will be included in the recommendation requiring that compliance with Standard D15 be demonstrated in this instance; and
 - (d) Balcony of Apt 5.01 - any views from the windows immediately above will be limited by the angle of the view line and mullions provided to each window. However, there may be views from the SPOS of Apts 6.01 and 7.01 which would be required to demonstrate compliance with Standard D15. A condition will be included in the recommendation requiring that compliance with Standard D15 be demonstrated in this instance.
290. Given the recommended design changes to overall height and north-east podium, however, these viewlines may be changed or may no longer exist. As such, the recommended conditions will be worded to ensure that compliance with the modified layouts and internal view lines demonstrated in accordance with the objectives of Standard D15 (Intern views).
- Standard D16 – Noise impacts*
291. Noise has been discussed already in this report in relation to the Restricted Retail Premises, mechanical equipment and vehicle access, with conditions recommended accordingly.
292. More broadly, the design has incorporated buffers between the lift core and services and sensitive areas of abutting dwellings, by locating non-sensitive butler pantries, study nooks and wardrobes to be adjacent to the lift core (where applicable). This is considered to be a reasonable design response.
293. Standard D16 requires that *buildings within a noise influence area specified in Table D5 should be designed and constructed to achieve the following noise levels:*
- (a) *Not greater than 35dB(A) for bedrooms, assessed as an LAeq,8h from 10pm to 6am; and*
 - (b) *Not greater than 40dB(A) for living areas, assessed LAeq,16h from 6am to 10pm.*
294. Although the proposed development is within 300 metres of Victoria Parade, this road does not exceed 40,000 annual Average Daily Traffic Volumes (in accordance with VicRoad's data), and as such, the subject site is not within a noise influence area specified in Table D5.
295. Nevertheless, a noise traffic assessment was carried out by the permit applicant in their acoustic report.
296. SLR reviewed the assessment and requested the following:
- (a) *The adopted traffic source spectra (daytime Leq,16h and Leq,1h, plus night-time Leq,8h and Leq,1h) are requested, along with descriptions of how these have been determined from the measurement results; and*
 - (b) *The predicted traffic noise levels (daytime Leq,1h, daytime Leq,16h, night-time Leq,1h and Leq,8h) inside the worst-case apartment are requested.*
297. The above will therefore be required via condition.
298. Finally, although adjacent to the Smith Street MAC the development is more than 50 metres from a live music entertainment venue and as such does not trigger the requirements of Clause 53.06.
-

299. Subject to conditions it is considered the Standard will be met.

Standard D17 – Wind Impacts

300. Wind has been discussed at depth under the *Urban Design* section of this report, with no concerns raised to Wind Assessment submitted with the application.

Standard D18 - Accessibility objective

301. To ensure the design of dwellings caters for people with limited mobility, the Standard requires that at least 50% of new dwellings should provide:

- (a) *A clear opening width of at least 850mm at the entrance to the dwelling and main bedroom;*
- (b) *A clear path with a minimum width of 1.2m that connects the dwelling entrance to the main bedroom, an adaptable bathroom and the living area;*
- (c) *A main bedroom with access to an adaptable bathroom; and*
- (d) *At least one adaptable bathroom that meets all of the requirements of either Design A or Design B specified in Table D7.*

302. Details of the apartment types are provided at TP31 – TP44 with a separate BADS apartment summary at TP30 stating that 55.6% of developments demonstrate full compliance with the Standard.

303. A review of these apartments suggests that the nominated apartments do generally comply with the above requirements, subject to:

- (a) The adaptable bathroom of Apt Type 3 to locate the toilet in the corner and include a notation confirming that the showers are hobless, in accordance with Design Option A; and
- (b) All adaptable bathrooms include a notation confirming that the shower is hobless, and where Design Option B at Table D7 is relied upon, has a removable shower screen.

304. Although the toilet for Apt Type 3 is not technically located in a corner, it has access to a section of wall (between the toilet and shower) which would allow for the installation handrails, meeting the intent of the Standard. As such, this aspect the proposal is accepted. A condition will be included in the recommendation to include the shower notations as outlined above.

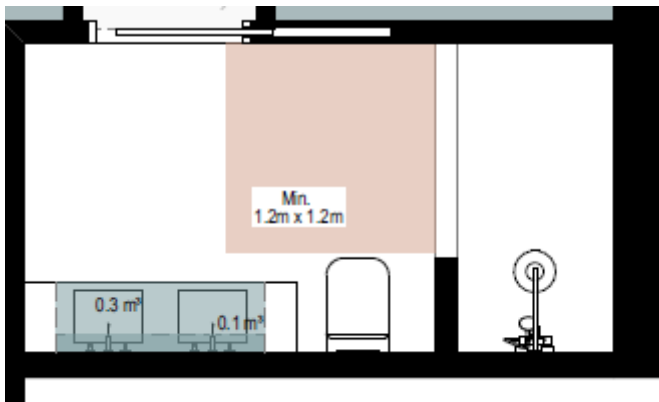


Image 38: Excerpt of the accessible bathroom from apartment Type 3 – Decision Plans

305. Finally, the condition requiring the overall height be reduced by two levels could result in the loss of the larger Apartments 6.01 and 7.01 which are relied upon to demonstrate compliance with Standard D18. As such a condition should require that the development demonstrate compliance with Standard D18 more broadly to ensure if these apartments are lost, other apartment layouts are amended to contribute to the 50%.

Standard D19 – Building entry and circulation

306. As previously discussed, the residential building entrances are considered satisfactory. The main lobby is provided natural daylight from the openings along the western wall, and the layout of services (such as mailboxes) has been reasonably considered to ensure clear view lines and easy navigation.
307. The common corridors in the upper-levels are short in length, provide for clear visibility and are provided with natural light from the west-facing windows. However, a condition will require these windows have operability to allow for natural ventilation. Subject to this condition the standard is considered to be met.

Standard D20 – private open space

308. Of relevance to this development, a dwelling should have private open space consisting of at least one of the following:
- (a) *An area at ground level of at least 25 square metres, with a minimum dimension of 3 metres and convenient access from a living room;*
 - (b) *A balcony with at least the area and dimensions specified in Table D8 and convenient access from a living room;*
 - (c) *An area on a podium or other similar base of at least 15 square metres, with a minimum dimension of 3 metres and convenient access from a living room; and*
 - (d) *An area on a roof of 10 square metres, with a minimum dimension of 2 metres and convenient access from a living room.*
309. Cooling units are shown on the roof space and therefore additional area on the balconies is not required to accommodate these.
310. The review of the plans demonstrates the development meets the requirements of Standard D20, with the POS of 3.01, 4.01, 4.02, 6.01 and 7.01 notably exceeding the standard.

Standard D21 – Storage

311. Of relevance to this development, the total minimum storage space (including kitchen, bathroom and bedroom storage) should meet the requirements specified in Table D10 of this Standard. This table specifies that:
- (a) *A 1-bedroom should have a total minimum storage volume of 10 cubic metres with a minimum storage volume within the dwelling of 6 cubic metres;*
 - (b) *A 2-bedroom should have a total minimum storage volume of 14 cubic metres with a minimum storage volume within the dwelling of 9 cubic metres; and*
 - (c) *A three (or more) bedroom dwelling should have a total minimum storage volume of 18 cubic metres with a minimum storage volume within the dwelling of 12 cubic metres.*
312. A review of the plans indicates that all apartments comply with the minimum storage requirements, with all apartments being provided the prescribed (or in excess of the prescribed) storage within the apartment, with some apartments provided supplementary storage in the basement, as required.

Standard D22 – Common property and Standard D23 – Site services

313. The common property areas within the development are generally clearly delineated and would not create areas which are difficult to maintain into the future. The lobby area is generally well conceived, with the mail room provided in an accessible location where they are unobstructed and easily accessible for residents. The waste room and bicycle storage to be discussed in turn.
314. With regards to landscaping, further details are required as to who is responsible for planting on the podiums, noting that raised planters are provided adjacent to private open space areas. The Landscape Plan will be required to be updated accordingly.

315. Similarly, the services located along the frontages of G.01 and G.02 should be clearly identified on plans as common property.

Standard D24 – Waste and recycling

316. A Waste Management Plan (prepared by Leigh Design and dated 21 September 2023) was submitted and reviewed by Council's City Works – waste management branch. The report was considered to not be satisfactory in its current form, with the following to be provided/detailed:

- (a) Who will collect hard waste and where it will be collected from; and
- (b) The size of the bin storage area in M2 so that the space is allocated to form an effective waste system can be assessed.

317. The above will be required via condition.

Standard D25 – External walls and materials objective

318. External walls and materials have been discussed under the *Building design* section of this report.

319. As discussed, the materials are considered to be of a reasonable quality and robust and resilient to wear and tear. However, a Façade Strategy would be required via condition to ensure that the final products and construction will be of a high standard.

320. The Standard is met.

Standard D26 – Functional layout objective

321. The Standard requires that bedrooms should meet the minimum internal room dimensions specified in Table D11, which are as follows:

- (a) *Main bedroom with a 3 metre width and 3.4 metres depth; and*
- (b) *All other bedrooms with a 3 metre width and 3 metre depth.*

322. A review of the plans indicates that all bedrooms are designed to meet or exceed the minimal internal room dimensions.

323. Further, the standard requires that living areas (excluding dining and kitchen areas) should meet the minimum internal room dimensions as follows:

- (a) One bedroom dwellings with a minimum area of 10sqm and a minimum depth of 3.3 metres; and
- (b) Two or more bedroom dwellings with a minimum area of 12sqm and a minimum depth of 3.6 metres.

324. A review of the plans indicates that all living areas are designed to meet or exceed the minimal internal room dimensions.

325. It is anticipated that the condition to set back the living area of 4.01 from the north and west boundaries would still allow for the internal dimensions to be met, subject to the deletion of a bedroom.

326. The standard is met.

Standard D27 – Room depth

327. This Standard requires that *single aspect habitable rooms should not exceed a room depth of 2.5 times the ceiling height.*

328. The room depth should be measured from the external surface of the habitable room window to the rear wall of the room.

329. Internal ceiling heights are a minimum of 2.9 metres, thus the room depth should not exceed 7.25 metres, or 9 metres in the instance that the following are met:

- (a) *The room combines the living area, dining area and kitchen;*

- (b) *The kitchen is located furthest from the window; and*
- (c) *The ceiling height is at least 2.7 metres measured from finished floor level to finished ceiling level. This excludes where services are provided above the kitchen.*

330. A review of the plans indicates the standard is met. Where the depth exceeds 7.25 metres, it is less than 9 metres and meets all the above requirements.

331. It is noted that the depth is measured to the internal surface of the wall or window on plans, rather than external as required by the standard; however, all other rooms would meet the standard regardless.

Standard D28 – Windows

332. This Standard requires that *habitable rooms should have a window in an external wall of the building.*

333. All windows are located on the external wall of the building where they are clear to sky (or to a balcony built into the development which is clear to sky). As such, the standard is met.

Standard D29 – Natural ventilation

334. The standard requires that at least 40 percent of dwellings should be provided with effective crossover ventilation that has a maximum breeze path through the dwelling of 18 metres and a minimum breeze path of 5 metres.

335. The BADS development summary states that 83.3% of dwellings comply with this standard which meets the requirements. A review of the plans confirms this. The standard is met.

Car parking and traffic

336. Pursuant to Clause 52.06-5 of the Scheme, the proposal generates a statutory requirement of 29 spaces. Given there are 24 spaces provided on-site, a reduction of 4 car parking spaces is being sought.

Parking availability/demand and traffic

337. The applicant submitted a Traffic Impact Assessment (prepared by Traffix Group and dated October 2023). The assessment gives consideration to the site context and accessibility to public transport modes, the availability of car parking locally, the existing traffic volumes on adjacent streets, and the convenience of pedestrian and cyclist access.

338. The Traffic Impact Assessment was referred to Council's Development Engineering Services who considered the reduction to car parking requirements appropriate in the context of the development in the surrounding area and proximity to public transport and sustainable transport options.

339. The development provides at least one (1) on-site car parking space, and although the Restricted Retail Premises will not be allocated any spaces, it is well documented through various decisions made by the Victorian Civil and Administrative Tribunal (VCAT) that modal shifts to reduce the reliance on the use of private motor vehicles is not only welcomed, but required, to ensure a holistic planning approach to achieve the outcomes set out in Plan Melbourne 2050.

340. The Traffic Impact Assessment cited a VCAT case, *Vincent Corporation v Moreland CC (Includes Summary) (Red Dot) [2015] VCAT 2049* (the Vincent decision), where the tribunal permitted the construction of a five-storey building with no on-site car parking. In approving the reduced parking, the Tribunal considered the location of the site within an activity centre and the availability of alternative transport options such as car share arrangements or electric bicycles. It also considered the inability of residents to access on-street car parking, which is restricted.

341. In considering the Vincent decision, Council's Engineering Team agree that future residents would know up-front whether they have any allocated on-site parking, and would make the decision to move into the building accordingly. They also recognise the importance of not oversupplying car parking in influencing the shift towards more sustainable forms of transport.
342. The point is substantiated by the *VCAT Red Dot Decision Ronge v Moreland CC [2017]* VCAT 550 which pertinently states:
- Oversupplying parking, whether or not to comply with Clause 52.06, has the potential to undermine the encouragement being given to reduce car based travel in favour of public transport, walking and cycling.*
- One of the significant benefits of providing less car parking is a lower volume of vehicle movements and hence a reduced increase in traffic movement on the road network.*
- Based upon the findings within this recent decision, it would be inappropriate to merely adopt current car parking trends for the proposed development. Consideration needs to be given to the context and opportunities to encourage sustainable transport alternatives.*
343. Having regard to these decisions and the relevant policy within the Yarra Planning Scheme, the reduction of car parking spaces being sought is supported by the following:
- (a) As discussed, the site has excellent access to the public transport network, bicycle and walking routes and as such, Clause 18.02-4L-01 (Car Parking) supports a reduction to the number of car parking spaces provided;
 - (b) The site is proximate to various employment precincts (including the Gipp Street Major Employment Precinct) and is within 1.5km of the CBD, allowing opportunities for residents to be near to their work;
 - (c) The proposal provides for 29 bicycle spaces for residents and visitors, more than 1 space per dwelling. As touched on, the location of the development in an inner-city area with bicycle networks to the CBD, Wellington Street and Smith Street, would increase the likelihood of residents working locally and commuting through passive transport modes;
 - (d) As submitted by Council's Engineering Team, there is limited unrestricted on-street parking in the Collingwood area, which will act as a disincentive for residents that have not been provided with an on-site car parking space to own a car. Resident or visitor parking permits will not be issued for the development. Council's Standard note relating to ineligibility for parking permits would be included in the recommendation if Council were in a position to support the application;
 - (e) A reduced reliance on vehicles not only eases pressure on local road systems but also assists to improve air quality as encouraged by Clause 13.06-1S (Air quality management); and
 - (f) The recommended conditions will likely reduce the waiver sought further, resulting in a negligible reduction in the context.
344. With regards to traffic generated by 25 on-site car parking spaces; this is not expected to put an unreasonable burden on the adjacent streets within an inner-city area particularly considering the existing commercial use of the land and provision of on-street car parking spaces under existing conditions.
345. Traffix Group submit that the new development would result in an expected 7 trips for each am and pm peak hour. These movements are expected to be contained to Little Oxford Street, a two-way street with an immediate junction to Langridge Street to the north and Derby Street to the south.
346. Council's Engineering Unit considered this arrangement to be acceptable and did not expect the level of traffic generated by the site to be unduly high or to adversely impact the traffic operation of Little Oxford Street or any of the surrounding road network.

Vehicle access and design

347. Vehicle access from Little Oxford Street to the car lift and basement car parking has been reviewed by Council's Traffic Engineers who considered the proposed vehicle entry, services and car parking layouts to be satisfactory, subject to the following being provided:
- (a) A vertical ground clearance check for the development entrance;
 - (b) The street light poles in Little Oxford to be depicted on the drawings ensuring the appropriately set back from the proposed vehicle crossing; and
 - (c) The sewerage vent on the laneway ensuring adequate separation from the proposed building.
348. The above will be required via condition.

Bicycle provision and facilities

349. The proposal provides a total of 29 bicycle parking spaces on-site (for residents, employees of the retail premises and residential visitors), providing a surplus of 22 spaces from what is required by the Scheme.
350. It is noted however, that the visitor spaces are provided in the lockable compound as accessed via the laneway. These are not considered to be reasonably accessible for visitors, however, there are two existing hoops along the Derby Street frontage (which although can not contribute to the statutory provision) can be reasonably utilised by visitors who do not have access to the lockable compound.
351. The provision and layout of bicycle spaces was reviewed by Council's Strategic Transport Team who requested the following:
- (a) A minimum of 20% of resident and employee parking to be provided as floor mounted horizontal racks;
 - (b) Amend architectural plans to allocate 4 bicycle racks for the commercial employees (currently only 2 allocated); and
 - (c) All car parking levels / spaces should be electrically wired to be 'EV ready'. A minimum 40A single phase electrical sub circuit should be installed to these areas for this purpose.
352. The above will be required via condition.

Other matters

353. For clarity, a condition will be included in the recommendation requiring the South and East Elevations be submitted without No. 8 Derby Street shown in the foreground:

Objector concerns

- (a) *Overdevelopment of the site (excessive height and scale):* This concern was discussed at paragraphs 125 – 131 and 152 - 183 of this report, and the proposed building subject to the recommendation to delete two levels, is considered to be an appropriate response to the site context and strategic policy;
- (b) *Visually intrusive in the streetscape:* The impact of the proposal within the heritage streetscape has been discussed at paragraphs 164 - 189 of this report, and the proposal is considered to provide an appropriate response subject to the recommended conditions to delete two levels and reduce the height of the podium on the north-east corner;
- (c) *Poor heritage response:* The response to adjacent heritage properties has been discussed at paragraphs 159 – 186, and subject to recommendations to reduce the scale of the building, the architectural quality is considered to provide a positive contribution to the heritage streetscape;

- (d) *Not in keeping with neighbourhood character:* As discussed at 23 – 38 and 128, the neighbourhood character is notably diverse, and the high quality contemporary design is not out of keeping with the existing to emerging character of the area;
- (e) *Pressure on on-street car parking availability:* This concern has been discussed in paragraphs 235 and 337 – 343 of this report. The provision of car parking is considered to meet the relevant policy of the Yarra Scheme and to address the broader objectives of Plan Melbourne 2020;
- (f) *Impact on viability of neighbouring commercial properties:* The use of the land for dwellings is as-of-right in the Mixed Use Zone and the design of the building, which orientates dwellings away from the Smith Street MAC, is not expected to unreasonably prejudice commercial activity or development;
- (g) *Removal of Michael Porter mural:* The mural is not protected by the Heritage Overlay and its removal is acceptable when having regard to the provisions of the Yarra Planning Scheme;
- (h) *Overshadowing of public realm:* As discussed at paragraphs 187 - 189, the proposal complies with the relevant requirements of DDO23, and the recommendation to delete two levels with further reduce the shadow impacts to the Derby Street road reserve;
- (i) *Off-site amenity impacts (overlooking and privacy, overshadowing, loss of light):* These concerns were discussed at paragraphs 214 - 235 of this report. Subject to conditions relating to the height, and provisions to mitigate overlooking, the building is considered to provide a reasonable response to the residential interfaces to ensure that it does not have an adverse impact on amenity;
- (j) *Wind impacts:* Wind impacts have been discussed at paragraphs 208 – 211 and, subject to condition, meets the relevant target criteria for commercial development;
- (k) *Property value impacts:* Property values are speculative and a perceived impact on property value is not a relevant consideration in assessing an application under the provisions of the Planning & Environment Act 1987, or the Yarra Planning Scheme;
- (l) *Increased foot traffic and associated footpath congestion:* This has been discussed at paragraph 143 of this report and it is not expected that any foot traffic associated with dwellings or Restricted Retail Premises would be unreasonable in the context; and
- (m) *Impacts from construction (including structural impacts):* These concerns are not relevant to the planning assessment or a consideration of the Yarra Planning Scheme. A Construction Management Plan will be required via condition, with matters specifically relating to construction dealt with at the building permit stage.

Conclusion

- 354. The proposed development is considered to demonstrate a high level of compliance with policy objectives contained within the Planning Policy Framework and Municipal Strategic Statement. Notably, the proposal achieves the State Government's urban consolidation objectives.
- 355. The proposal, subject to the conditions recommended, is an acceptable planning outcome that demonstrates compliance with the relevant Council policies.

RECOMMENDATION

That a Notice of Decision to Grant a Planning Permit PLN23/0685 be issued for buildings and works to construct a multi-storey, mixed-use building for Restricted retail premises (showroom) and dwellings (the latter of which is as-of-right) and a reduction to the car parking requirements at 4 – 6 Derby Street Collingwood generally in accordance with the “decision plans” and subject to the following conditions:

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and must be generally in accordance with the decision plans prepared by Bright Studio, Plan no. TP01-TP44 and dated 9 November 2023 but modified to show:
 - (a) The overall building height reduced to a maximum of 20 metres;
 - (b) The open living and kitchen area of apartment 4.01 set back a minimum of 1.5 metres from the north and west title boundaries, reducing the podium on the north-west corner to four storeys;
 - (c) The balcony of apartment 5.01 set back a minimum of 1.5 metres from the northern title boundary;
 - (d) Communal open space in accordance with Standard D7 (Communal open space) and designed to comply with the requirements of Standard D8 (Solar access to communal open space) of Clause 58;
 - (e) The materiality of the service cupboards, ensuring it is well integrated into the façade;
 - (f) Articulation through vertical panelling, or similar, in tilt garage door material confirmed in the materials schedule, ensuring it is well integrated into the façade;
 - (g) Sensor lighting to all pedestrian and vehicular entries;
 - (h) The height of the fixed obscure glazing and the depth of the mullion dimensioned on Sectional Overlooking diagrams on TP23 and TP24;
 - (i) The tree locations, identification numbers, TPZs and SRZs for all street trees adjacent to the site and a notation to confirm the trees are retained;
 - (j) A Sectional drawing of the interface of Apt G.02 and the adjacent car lift, ensuring the bedroom window is completely above the roof line and clear to sky;
 - (k) The bedroom window of apartment G.02 as operable;
 - (l) Compliance with the Standard D15 (internal views) of Clause 58:
 - (i) from the terrace of apartment 4.02 to the terrace of apartment 3.02;
 - (ii) from the terrace of apartment 5.02 to the terrace of apartment 4.02;
 - (iii) from apartments 5.01, 6.01 and 7.01 to the terrace of apartment 4.01;
 - (iv) from apartments 6.01 and 7.01 to the terrace of apartment 5.01;
 - (v) with sectional diagrams submitted to demonstrate compliance with the standard and any additional screening required to comply shown in plans; and
 - (vi) to account for any built form modifications resulting from Condition 1(a), (b), (c) and (d);
 - (m) In accordance with the objective of Standard D18 (Accessibility objective) of Clause 58:
 - (i) notations confirming that the showers are hobless, and where Desing Option B at Table D7 is relied upon, have a removable shower screen; and

- (ii) any other design changes to account for the built form modifications resulting from Condition 1(a), (b), (c) and (d), ensuring that a minimum of 50% of dwellings comply with Standard D18, or are to the satisfaction of the responsible authority.
 - (n) The west-facing windows of the upper-level lobby/corridors with operability.;
 - (o) The services located along the frontages of G.01 and G.02 identified as common property;
 - (p) A minimum of 20% of resident and employee parking to be provided as floor mounted horizontal racks;
 - (q) Four (4) bicycle racks to be allocated to commercial employees;
 - (r) All car parking spaces electrically wired to be 'EV ready';
 - (s) Clear glazing to the commercial tenancy;
 - (t) The chamfer on the north-east corner at ground floor enclosed with glazing, sliding doors, or similar;
 - (u) A South and East Elevation without No. 8 Derby Street shown in the foreground;
 - (v) Any changes required to comply with the Condition 15 (Façade Strategy);
 - (w) Any changes required to comply with The Condition 17 (Acoustic Report);
 - (x) Any changes required to comply with The Condition 20 (Sustainable Management Plan);
 - (y) Any changes required to comply with The Condition 23 (Landscaping Plan);
 - (z) Any changes required to comply with The Condition 25 (Tree Management Plan);
 - (aa) Any changes required to comply with The Condition 27 (Wind Assessment); and
 - (bb) Any changes required to comply with The Condition 29 (Waste Management Plan).
2. The development and use as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
 3. As part of the ongoing consultant team, Bright Studio Architects or an architectural firm to the satisfaction of the Responsible Authority must be engaged to:
 - (a) oversee design and construction of the development; and
 - (b) ensure the design quality and appearance of the development is realised as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.
 4. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
 5. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
 - (a) Monday to Friday (excluding public holidays) before 7 am or after 6 pm;
 - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm; or
 - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.
 6. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating vehicular access and all pedestrian entries (commercial and residential) must be provided within the property boundary. Lighting must be:
 - (a) located;
 - (b) directed;
-

(c) shielded; and

(d) of limited intensity,

to the satisfaction of the Responsible Authority.

7. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority.
8. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
9. Before the building is occupied, any wall located on a boundary facing public property must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.

Development Infrastructure Levy

10. Prior to the commencement of the development the Development Infrastructure Levy must be paid to Yarra City Council in accordance with the approved Development Contributions Plan.

Community Infrastructure Levy

11. Prior to the issue of a building permit, the Community Infrastructure Levy must be paid to Yarra City Council in accordance with the approved Development Contributions Plan.

Use (Restricted Retail premises)

12. Except with the prior written consent of the Responsible Authority, the use of the land for a Restricted Retail Premises authorised by this permit may only operate between the hours of 7am to 10pm, everyday of the week.
13. The amenity of the area must not be detrimentally affected by the use or development, including through:
 - (a) the transport of materials, goods or commodities to or from land;
 - (b) the appearance of any buildings, works or materials;
 - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
 - (d) the presence of vermin.to the satisfaction of the Responsible Authority.
14. Delivery and collection of goods to and from the land may only occur between 7am and 10pm Monday to Saturday, or after 9am on a Sunday or public holiday except for those allowed under any relevant local law.

Façade Strategy

15. In conjunction with the submission of development plans under Condition 1, a Façade Strategy and Materials and Finishes Plan to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. When approved, the Façade Strategy and Materials and Finishes Plan will be endorsed and will then form part of this permit. This must detail:
 - (a) elevation drawings at a scale of 1:20 illustrating typical podium details, entries and doors, and utilities and typical tower facade details;
 - (b) section drawings to demonstrate façade systems, including fixing details and joints between materials or changes in form;
 - (c) information about how the facade will be maintained, including any vegetation; and

(d) a sample board or coloured drawings outlining colours, materials and finishes.

16. The provisions, recommendations and requirements of the endorsed Façade Strategy must be implemented and complied with to the satisfaction of the Responsible Authority.

Acoustic Report

17. Before the development commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Acoustic Logic and 14 September 2023, but modified to include (or show, or address):

- (a) The commercial use as Restricted Retail with the recommendations updated accordingly;
- (b) The operating hours of Restricted Retail premises in accordance with Condition 12;
- (c) The adopted traffic source spectra (daytime Leq,16h and Leq,1h, plus night-time Leq,8h and Leq,1h), along with descriptions of how these have been determined from the measurement results;
- (d) The predicted traffic noise levels (daytime Leq,1h, daytime Leq,16h, night-time Leq,1h and Leq,8h) inside the worst-case apartment;
- (e) The nearest sensitive receivers to the subject site be identified;
- (f) A formal Noise Protocol and sleep disturbance assessment for the car lift and carpark entry door. The maximum source level (as a sound pressure level at a distance) for the car lift, and other requirements (vibration isolation etc.) specified; and
- (g) Any changes required to comply with Condition 1.

18. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.

19. The use and development must at all times comply with the noise limits specified in the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021), as may be amended from time to time.

Sustainable Management

20. Before the development commences, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Management Plan will be endorsed and will form part of this permit. The amended Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by GIW and dated 22 September 2023, but modified to include or show:

- (a) Confirmation that building services will undertake fine tuning each quarter for the first 12 months of occupation;
- (b) Confirmation that Head Contractor will be ISO 14001 accredited;
- (c) Confirmation that an environmental management plan to be implemented to council guidelines; and
- (d) Any changes required to comply with Condition 1.

21. Prior to the occupation of the development approved under this permit, a report from the author of the sustainable management plan, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the sustainable management plan have been implemented in accordance with the approved plan.

22. The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Landscaping Plan

23. Before the development commences, an amended Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Landscape Plan will be endorsed and will form part of this permit. The amended Landscape Plan must be generally in accordance with the Landscape Plan prepared by Etched and dated September 2023, but modified to include (or show):
- (a) Consistency with the architectural drawings (namely the Level 3 planted area) and the design changes required by Condition 1;
 - (b) A full plant schedule and planting plan;
 - (c) Dimensions and soil depths for planters (though noted in the architectural plans, they should also be detailed in the Landscape Plan); and
 - (d) Confirmation of who is responsible for the maintenance and upkeep of the podium raised planters.
24. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:
- (a) implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
 - (b) not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
 - (c) replacing any dead, diseased, dying or damaged plants,
- to the satisfaction of the Responsible Authority.

Tree Management Plan

25. Before the development commences, a Tree Management Plan to the satisfaction of the Responsible Authority must be prepared by a suitably qualified Arborist and must be submitted to and approved by the Responsible Authority. When approved the Tree Management Plan will be endorsed and will form part of this permit. The Tree Management Plan must make recommendations for:
- (a) the protection of the street trees along the Derby Street and Langridge Street frontages:
 - (b) pre-construction;
 - (c) during construction; and
 - (d) post construction
 - (e) the provision of any barriers;
 - (f) any pruning necessary; and
 - (g) watering and maintenance regimes,
- to the satisfaction of the Responsible Authority.
26. The provisions, recommendations and requirements of the endorsed Tree Management Plan must be complied with and implemented to the satisfaction of the Responsible Authority.

Wind Assessment

27. Before the development commences, an amended Wind Assessment Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Wind Assessment Report will be endorsed and will form part of this permit. The amended Wind Assessment Report must be generally in accordance with the Wind Assessment Report prepared by MEL Consultants and dated 28 September 2023, but modified to include (or show):
- (a) Any changes required to comply with Condition 1; and
 - (b) That the relevant target criteria be met for the commercial entrance on the north-east corner.
28. The provisions, recommendations and requirements of the endorsed Wind Assessment Report must be implemented and complied with to the satisfaction of the Responsible Authority.

Waste Management Plan

29. Before the development commences, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Waste Management Plan will be endorsed and will form part of this permit. The amended Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by Leigh Design and dated 21 September 2023, but modified to include:
- (a) Who will be responsible for the collection of hard waste and where it will be collected from;
 - (b) The size of the bin storage area in M2; and
 - (c) Any changes required to comply with Condition 1.
30. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
31. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.

Green Travel Plan

32. Before the development commences, a Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Green Travel plan will be endorsed and will form part of this permit. The Green Travel Plan must include, but not be limited to, the following:
- (a) a description of the location in the context of alternative modes of transport;
 - (b) employee welcome packs (e.g. provision of myki/transport ticketing);
 - (c) sustainable transport goals linked to measurable targets, performance indicators and monitoring timeframes;
 - (d) a designated 'manager' or 'champion' responsible for coordination and implementation;
 - (e) details of bicycle parking and bicycle routes;
 - (f) details of GTP funding and management responsibilities;
 - (g) the specific design of bicycle storage devices proposed to be used for employee;
 - (h) spaces, including demonstration of their suitability for parking cargo bikes, electric bikes and recumbent bikes;
 - (i) the types of lockers proposed within the change-room facilities, with at least 50% of lockers providing hanging storage space;
 - (j) security arrangements to access the employee bicycle storage spaces;

- (k) signage and wayfinding information for bicycle facilities and pedestrians pursuant to Australian Standard AS2890.3;
 - (l) Reference to a minimum 40A single phase electrical sub circuit should be installed to the car park areas for 'EV readiness'; and
 - (m) provisions for the Green Travel Plan to be updated not less than every 5 years.
33. The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Public realm conditions

34. Before the building is occupied or by such later date as approved in writing by the Responsible Authority, the footpath, kerb and channel along the property's Langridge Street and Little Oxford Street frontages must be reconstructed:
- (a) at the permit holder's cost,
- to the satisfaction of the Responsible Authority.
35. Concurrent with the submission of Condition 1 plans or by such later date as approved in writing by the Responsible Authority, a vehicle crossing design must be submitted to Council's Civil Engineering Department for approval. The submitted design must demonstrate compliance with City of Yarra's, Vehicle Crossing Information Sheet.
36. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any new vehicle crossing must be constructed:
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
37. Within 2 months of the completion of the development/Before the building/s is/are occupied, or by such later date as approved in writing by the Responsible Authority, any redundant vehicular crossing must be demolished and re-instated as standard footpath and kerb and channel:
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
38. Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.
39. Within 2 months of the completion of the development, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
- (a) At the permit holder's cost; and
 - (b) To the satisfaction of the Responsible Authority.
40. All pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
41. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the areas set aside on the endorsed plans for the car parking spaces, access lanes, driveways and associated works must be:
- (a) constructed and available for use in accordance with the endorsed plans;
 - (b) formed to such levels and drained so that they can be used in accordance with the endorsed plans;
 - (c) treated with an all-weather seal or some other durable surface; and
 - (d) line-marked or provided with some adequate means of showing the car parking spaces, to the satisfaction of the Responsible Authority.

42. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the car lift must be installed in accordance with the manufacturer's specifications by a suitably qualified person. The car lift must be maintained thereafter to the satisfaction of the Responsible Authority.

Car Park Management Plan

43. Before the development commences (excluding demotion, bulk excavation and site preparation work), a Car Park Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Car Park Management Plan will be endorsed and will form part of this permit. The Car Park Management Plan must address, but not be limited to, the following:
- (a) the number and location of car parking spaces allocated to each tenancy;
 - (b) any tandem parking spaces allocated to a single tenancy;
 - (c) the number and location of car spaces for shared use, including time of shared use;
 - (d) the number and allocation of storage spaces;
 - (e) policing arrangements and formal agreements;
 - (f) a schedule of all proposed signage including directional arrows and signage, informative signs indicating location of disabled bays and bicycle parking, exits, restrictions, pay parking system etc;
 - (g) the collection of waste and garbage including the separate collection of organic waste and recyclables, which must be in accordance with the Waste Management Plan required by Condition 29; and
 - (h) details regarding the management of loading and unloading of goods and materials.
44. The provisions, recommendations and requirements of the endorsed Car Park Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Construction Management Plan

45. Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:
- (a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
 - (b) works necessary to protect road and other infrastructure;
 - (c) remediation of any damage to road and other infrastructure;
 - (d) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land;
 - (e) facilities for vehicle washing, which must be located on the land;
 - (f) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
 - (g) site security;
 - (h) management of any environmental hazards including, but not limited to,:
 - (i) contaminated soil;
 - (ii) materials and waste;
 - (iii) dust;
 - (iv) stormwater contamination from run-off and wash-waters;

- (v) sediment from the land on roads;
- (vi) washing of concrete trucks and other vehicles and machinery; and
- (vii) spillage from refuelling cranes and other vehicles and machinery;
- (i) the construction program;
- (j) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
- (k) parking facilities for construction workers;
- (l) measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;
- (m) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
- (n) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced;
- (o) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads;
- (p) a Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with Noise Control Guideline 12 for Construction (Publication 1254) as issued by the Environment Protection Authority in October 2008. The Noise and Vibration Management Plan must be prepared to the satisfaction of the Responsible Authority. In preparing the Noise and Vibration Management Plan, consideration must be given to:
 - (i) using lower noise work practice and equipment;
 - (ii) the suitability of the land for the use of an electric crane;
 - (iii) silencing all mechanical plant by the best practical means using current technology;
 - (iv) fitting pneumatic tools with an effective silencer; and
 - (v) other relevant considerations,

If required, the Construction Management Plan may be approved in stages. Construction of each stage must not commence until a Construction Management Plan has been endorsed for that stage, to the satisfaction of the Responsible Authority.

46. During the construction:

- (a) any stormwater discharged into the stormwater drainage system must be in compliance with Environment Protection Authority guidelines;
- (b) stormwater drainage system protection measures must be installed as required to ensure that no solid waste, sediment, sand, soil, clay or stones from the land enters the stormwater drainage system;
- (c) vehicle borne material must not accumulate on the roads abutting the land;
- (d) the cleaning of machinery and equipment must take place on the land and not on adjacent footpaths or roads; and
- (e) all litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly.

47. The provisions, recommendations and requirements of the endorsed Construction Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Time expiry conditions

48. This permit will expire if:

- (a) The development is not commenced within two years of the date of this permit; or
- (b) The development is not completed within four years of the date of this permit; or
- (c) The use is not commenced within two years from the date of this permit; or
- (d) The use is discontinued for a period of two years.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six months afterwards for commencement or within twelve months afterwards for completion.

Notes

This site is subject to a Heritage Overlay. A planning permit may be required for any further external works.

Provision must be made for drainage of the site to a legal point of discharge. Please contact Council's Building Services on 9205 5555 for further information.

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5555 to confirm.

A local law permit (e.g. Asset Protection Permit, Road Occupation Permit) may be required before development is commenced. Please contact Council's Construction Management Branch on Ph. 9205 5555 to confirm.

The site is located within an Environmental Audit Overlay. Pursuant to Clause 45.03 of the Yarra Planning Scheme, the requirements of the Environmental Audit Overlay must be met prior to the commencement of the development permitted under the permit.

The person in management or control of the site must also provide a copy of any Environmental Audit Statement to any person who proposes to become the person in management or control of the site, such as a potential purchaser.

All future property owners or residents within the development approved under this permit will not be permitted to obtain resident or visitor parking permits.

All future business (whether as owners, lessees/tenants, occupiers) within the development approved under this permit, will not be permitted to obtain business parking permits.

A vehicle crossing permit is required for the construction of the vehicle crossing(s). Please contact Council's Construction Management Branch on 9205 5585 for further information.

Attachments

- 1 Attachment 1 - PLN23/0685 - 4 - 6 Derby Street Collingwood - Site Map
- 2 Attachment 2 - PLN23/0685 - 4 - 6 Derby Street Collingwood - Architectural Plans
- 3 Attachment 3 - PLN23/0685 - 4 - 6 Derby Street Collingwood - Facade and Materiality Development
- 4 Attachment 4 - PLN23/0685 - 4 - 6 Derby Street Collingwood - Referral comments

6.3 PLN23/0661 - 9 Arthur Street, Fairfield

Report Summary

Purpose

1. This report provides the Planning Decisions Committee with an assessment of the application at No. 9 Arthur Street, Fairfield for the construction of two, double storey dwellings on a lot.

Key Planning Considerations

2. Clause 15 – Built environment and heritage:
 - (a) Clause 15.01 – Built environment:
 - (i) Clause 15.01-1L – Urban design:
 - (ii) Clause 15.01-2L – Building design: and
 - (iii) Clause 15.01-1L-01 – Environmentally sustainable development.
3. Clause 16 – Housing:
 - (a) Clause 16.01 – Residential development:
 - (i) Clause 16.01-1L – Location of residential development; and
 - (ii) Clause 16.01-1L-01 – Housing diversity.
4. Clause 19 – Infrastructure:
 - (a) Clause 19.02 – Community infrastructure:
 - (i) Clause 19.02-6L-01 – Public open space contribution; and
 - (b) Clause 19.03 – Development infrastructure:
 - (i) Clause 19.03-3L – Water sensitive urban design.

Key Issues

5. The key issues for Council in considering the proposal relate to:
 - (a) Policy and strategic support;
 - (b) Clause 55;
 - (c) Car parking;
 - (d) Environmental sustainability; and
 - (e) Objector concerns.

Submissions Received

6. Twenty-six objections were received to the application, these can be summarised as:
 - (a) Amenity impacts (siting, off-site, on-site, overshadowing);
 - (b) Loss of vegetation (significant trees);
 - (c) Traffic and car parking;
 - (d) Location of services (air conditioning unit);
 - (e) Demolition; and
 - (f) Location and height of fencing.

Conclusion

7. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported.

CONTACT OFFICER: Corey Wooldridge
TITLE: Statutory Planner
TEL: 9205 5010

6.3 PLN23/0661 - 9 Arthur Street, Fairfield

Reference	D24/114461
Author	Corey Wooldridge - Statutory Planner
Authoriser	Senior Coordinator Statutory Planning
Disclosure	The authoriser, having made enquiries with members of staff involved in the preparation of this report, asserts that they are not aware of any general or material conflicts of interest in relation to the matters presented.

Ward:	Nicholls
Proposal:	Construction of two double storey dwellings on a lot
Existing use:	Accommodation (dwelling)
Applicant:	Planning & Property Partners Pty Ltd
Zoning / Overlays:	Neighbourhood Residential Zone – Schedule 2 Development Contributions Overlay – Schedule 1
Date of Application:	20 September 2023
Application Number:	PLN23/0661

Planning History

1. There is no planning history for the site located in Council records.

Background

Planning Scheme Amendments

2. Amendment C269 was gazetted on 21 December 2023 and updated the local policies in the Yarra Planning Scheme by implementing the Yarra Planning Scheme Review (2014) and updates the local policies by replacing the Municipal Strategic Statement (MSS) and Local Planning Policy Framework (LPPF) at Clause 21 and Clause 22 with a Municipal Planning Strategy (MPS), local policies within the Planning Policy Framework (PPF) and selected local schedules, particular provisions, and operational provisions consistent with the structure introduced by Amendment VC148.
3. Whist application was submitted prior to the gazettal of the Amendment, the assessment of the application will be based on the requirements of the Yarra Planning Scheme at the time of determination.
4. Amendment VC250 was gazetted on 1 January 2024 and introduced a new Particular Provision at Clause 53.03 to prohibit new gas connections to new dwellings, apartment and residential subdivision. No permit can be issued for an application which includes reticulated gas supply. Transitional provisions apply to permit applications lodged before 1 January 2024.
5. As the permit application was lodged prior to 1 January 2024, the requirements of VC250 do not apply to this planning permit application.

Application Background

6. The application was received by Council on 20 September 2023, with further information provided on 13 November 2023. The application was advertised between 23 November and 8 December 2023, with twenty-six (26) objections received.
7. No consultation meeting was held.

The Proposal

8. The application is for construction of two new double storey dwellings. Further details of the proposal are as follows:

Demolition (no planning permit required)

9. Full demolition of the dwelling, including the garage and separate roller door, landscaping, ground materials and front fencing.

Development

10. The construction of two new dwellings, each with the following details:

- (a) Ground floors comprising:
- (i) Garage, laundry and powder room / toilet;
 - (ii) Bedroom with associated ensuite;
 - (iii) Open plan kitchen, living and dining room; and
 - (iv) Open space with alfresco area / pergola; and
- (b) First floors comprising:
- (i) Main bedroom with associated WIR and ensuite;
 - (ii) Two bedrooms;
 - (iii) Retreat; and
 - (iv) Bathroom.

11. The dwellings will have minimum setbacks from title boundaries as follows:

Dwelling 1

Ground floor	N/A	1.07m	5.70m	6.00m
First floor	N/A	2.96m	12.35m	6.82m

Dwelling 2

Ground floor	1.14m	N/A	5.70m	6.00m
First floor	2.07m	N/A	12.35m	6.82m

12. The dwellings will have maximum lengths of walls on boundaries as follows:

Dwelling 1

Ground floor	N/A	0.00m	0.00m	0.00m
First floor	N/A	0.00m	0.00m	0.00m

Dwelling 2

Ground floor	9.23m	N/A	0.00m	0.00m
First floor	0.00m	N/A	0.00m	0.00m

13. The proposed dwellings will have a maximum height of 6.97m and will be two storeys in construction.

14. The new dwellings are to have a contemporary design and built form including the following materials:
 - (a) Face brickwork in white / grey finish and cream / off-white finish;
 - (b) Feature brickwork in cream / off-white finish;
 - (c) Concrete render in grey finish; and
 - (d) Timber panel cladding in both batten and shiplap styles.



Figure 1: Render of the proposed dwellings as they would present to Arthur Street (Source: Applicant submission, decision plans)

15. The following general details relate to each dwelling:
 - (a) Dwelling 1 will have a single car garage and Dwelling 2 will have a double car garage;
 - (b) A 900mm high batten fence in white colour will be constructed along the front boundary; and
 - (c) A 3000L rainwater tank to be connected to toilets for flushing.

Existing Conditions

Subject site

16. The subject site is located on the eastern side of Arthur Street, south of Heidelberg Road in Fairfield. The site is rectangular in shape, with a frontage of 20.12m to Arthur Street, a maximum depth of 42.26m, constituting an overall area of approximately 849.86sqm.



Figure 2: Subject site as viewed from the opposite side of Arthur Street (Source: Officer site visit, January 2024)



Figure 3: Subject site as viewed from the Arthur Street frontage (Source: Officer site visit, January 2024).

17. The land is developed with a single storey, brick dwelling. The dwelling is setback approximately 6.7m from the western (front) title boundary. There is no fence along the street fronting title boundary with an area of landscaping within the front setback. To the rear is the dwelling's secluded private open space, with two outbuildings, one larger being a garage and a smaller galvanised iron shed. There is formal vehicle access provided to Arthur Street along the southern side of the street frontage, this will be retained for use by the proposed development. A driveway provides access into a galvanised iron and brick garage along the southern boundary (Figure 3).

Surrounding Land

18. The surrounding land is generally residential in nature to the south and commercial to the north. Arthur Street is predominantly occupied by single dwellings on a lot with landscaped front setbacks. The built form in the area is predominantly single and double storey, with some examples of three-storey apartment buildings.



Figure 4: Subject site (blue) and surrounding land (Source: Nearmap, March 2024)



Figure 5: Adjoining property at No. 11 Arthur Street



Figure 6: Adjoining property at No. 7 Arthur Street



Figure 7: View of Arthur Street looking south

19. To the north of the subject site is No. 11 Arthur Street. This is a two-storey townhouse development containing five townhouses. The development is set back from the street frontage by 6m and from the side boundaries along the common boundary by minimum 2.5m. There are areas of POS located adjacent each townhouse as balconies or garden areas. The development has habitable room windows opposite the development. These will be discussed in the Clause 55 section of this report.
20. To the south of the subject site is No. 7 Arthur Street. This is a single storey dwelling constructed of rendered brick and weatherboard. The dwelling is setback a minimum of 5.5m from the street frontage. The dwelling is set back from the common boundary by 1.6m for the front section and constructed on boundary at the rear. The dwelling has solar panels located along the northern plane of the roof and north facing habitable room windows opposite the development. These will be discussed in the Clause 55 section of this report.

21. To the east of the subject site is Nos. 4 and 6 Austin Street. No. 4 Austin Street is a single storey weatherboard dwelling, with SPOS and outbuildings located abutting the subject site. No. 6 Austin Street is a two storey, brick apartment building, with accessway / SPOS abutting the subject site. No habitable windows are located opposite the proposed development.
22. To the west of the subject site is Arthur Street. This is a local road with one lane of traffic travelling in a north-south direction. The street ends outside of No. 11 Arthur Street, allowing for through traffic in the form of bicycles and pedestrians only. Both side of the street contain mature trees and car parking. On the opposite side of Arthur Street are dwellings, ranging from single storey weatherboard buildings and a three storey apartment building.

Planning Scheme Provisions

Zoning

Neighbourhood Residential Zone (Schedule 2)

23. The subject site is zoned as Neighbourhood Residential Zone (Schedule 2). The following provisions apply:
 - (c) Pursuant to Clause 32.09-2, a planning permit is not required to use the land as a dwelling as it is a Section 1 – Permit not required use.
 - (d) Pursuant to Clause 32.09-4 of the Scheme, an application to construct or extend a dwelling or residential building on a lot of 400sqm or more must provide a minimum garden area set out in the table at Clause 32.09-4.
 - (i) As the subject site has a lot size of 849.86sqm, the development must set aside 35% of the site as garden area.
 - The development sets aside 325.83sqm or 38% of the site as garden area. This is shown on Drawing No. TP09.
 - (e) Pursuant to Clause 32.09-5 of the Scheme, a planning permit is required to construct two or more dwellings on a lot. A development must meet the requirements of Clause 55.
 - (f) Pursuant to Clause 32.08-11, a dwelling must not exceed 9m in height and must contain no more than three storeys at any point.
 - (i) As the maximum building height is 6.86m and is two storeys in construction, the development meets the requirements of Clause 32.09-11.

Overlays

Development Contributions Plan Overlay

24. The subject site is affected by the Development Contributions Plan Overlay – Schedule 1 (DCPO1). This overlay applies to all land in the City of Yarra and to all new development where there is an increase in the number of dwellings and/or an increase in retail, commercial and industrial floor space. As the proposed works increase the number of dwellings on the site, the DCPO applies.

Particular Provisions

Clause 52.06 – Car Parking

25. Pursuant to Clause 52.06-2, before an existing use is increased by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use, the required car parking spaces must be provided on the land. The following table identifies the car parking requirement under Clause 52.06-5, the provision on site, and the subsequent reduction below the statutory requirement. As the subject site is in the Principal Public Transport Network, Column B car parking rates apply, and visitor car parking is not required.

Use	Statutory (Scheme) Rate	On-Site requirement	On-Site Provision	Reduction Sought
Dwelling	2 to each 3 or more bedroom dwelling	4	4	0
Total		4	4	0

26. The proposed on-site car parking provision therefore complies with Clause 52.06.
27. In accordance with Clause 52.06-9 plans prepared in accordance with Clause 52.06-8 must meet the design standards of Clause 52.06-9, unless the responsible authority agrees otherwise. An assessment against the acceptability of the car parking accommodation proposed will be discussed within the balance of this report.

Clause 52.34 – Bicycle Parking

28. Pursuant to Clause 52.34-1 a new use must not commence, or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land.
29. As the development is less than four storeys, the bicycle parking requirements of Clause 52.34 do not apply.

Clause 55 – Two or more dwellings on a lot (ResCode)

30. This clause applies as the development is for the construction of two or more dwellings on a lot. A development should meet all the standards and must meet all the objectives.
31. If a development meets standard B6, B7, B8, B17, B18, B19, B20, B21, B22, B27, B28, B30 or B32, it is deemed to meet the objective for that standard and the decision guidelines for that standard do not apply to the application.

General Provisions

32. Clause 65 – Decision guidelines.

Municipal Planning Strategy

33. Relevant clauses are as follows:
34. Clause 02.03 – Strategic directions:
- (a) Clause 02.03-4 – Built environment and heritage; and
 - (b) Clause 02.03-5 – Housing.

Planning Policy Framework (PPF)

35. Relevant clauses are as follows:
36. Clause 11 – Settlement:
- (a) Clause 11.01-1S – Settlement.
 - (b) Clause 11.01-1R – Settlement – Metropolitan Melbourne; and
 - (c) Clause 11.02-1S – Supply of urban land.
37. Clause 12 – Environmental and landscape values:
- (a) Clause 12.01 – Biodiversity:
 - (ii) Clause 12.01-1S – Protection of biodiversity; and
 - (iii) Clause 12.01-1L – Biodiversity.
38. Clause 15 – Built environment and heritage:
- (a) Clause 15.01 – Built environment:
 - (i) Clause 15.01-1S – Urban design;
 - (ii) Clause 15.01-1R – Urban design – Metropolitan Melbourne;

- (iii) Clause 15.01-1L – Urban design;
 - (iv) Clause 15.01-2S – Building design;
 - (v) Clause 15.01-2L – Building design;
 - (vi) Clause 15.01-1L-01 – Environmentally sustainable development; and
 - (vii) Clause 15.01-5S – Neighbourhood character.
39. Clause 16 – Housing:
- (a) Clause 16.01 – Residential development:
 - (i) Clause 16.01-1S – Housing supply;
 - (ii) Clause 16.01-1R – housing supply – Metropolitan Melbourne;
 - (iii) Clause 16.01-1L – Location of residential development; and
 - (iv) Clause 16.01-1L-01 – Housing diversity.
40. Clause 19 – Infrastructure:
- (a) Clause 19.02 – Community infrastructure:
 - (i) Clause 19.02-6L-01 – Public open space contribution; and
 - (b) Clause 19.03 – Development infrastructure:
 - (i) Clause 19.03-1S – Development and infrastructure contributions plans; and
 - (ii) Clause 19.03-3L – Water sensitive urban design.

Advertising

41. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by letters sent to surrounding owners and occupiers and by a sign displayed on site. Council received 26 objections, the grounds of which are summarised as follows):
- (a) Amenity impacts (siting, off-site, on-site, overshadowing);
 - (b) Loss of vegetation (significant trees);
 - (c) Traffic and car parking;
 - (d) Location of services (air conditioning unit);
 - (e) Demolition; and
 - (f) Location and height of fencing.

Referrals

External Referrals

42. The application was not required to be referred to the any statutory authorities under the Yarra Planning Scheme.

Internal Referrals

43. The application was referred to the following units within Council:
- (a) Development Engineering;
 - (b) ESD Officer;
 - (c) Urban Design Unit; and
 - (d) City Works – Open Space Services.
44. Referral comments have been included as attachments to this report.

OFFICER ASSESSMENT

45. The primary considerations for this application are as follows:

- (a) Policy and strategic support;
- (b) Clause 55;
- (c) Car parking;
- (d) Environmental sustainability;
- (e) Objector concerns; and
- (f) Other matters.

Policy and strategic support

46. The proposed development benefits from strong strategic and policy support. The context of the site, being within a Neighbourhood Residential Zone, unencumbered by a Heritage Overlay and within proximity to services and transport combined with the size of the allotment result in an opportunity for the site to accommodate increased residential density.
47. The subject site is within proximity (approximately 650m) to Fairfield Railway Station and approximately 800m to the Station Street commercial precinct, which provides a wide range of retailing, community and hospitality offerings with good public transport links. The site is also within walking distance of local parks and schools. This ensures the site is well serviced by public transport, local infrastructure and services.
48. The subject site is located in the Neighbourhood Residential Zone, a key objective of which is to manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics. The proposed development will add two new double storey dwellings in an area that is predominantly one and two storey in nature, therefore meeting the objective of the zone.
49. Notwithstanding the above, policy support for more intensive development needs to be balanced with built form guidance at Clauses 21.05-1, 21.05-2, 22.10 and 22.13 of the Scheme. These policies call for development that responds to the surrounding context with regard to urban character and amenity. Strategic support also needs to be tempered with consideration of amenity impacts to nearby sensitive uses.
50. As will be discussed in detail within this report, it is considered that the proposal achieves a good balance of State and local policy in relation to high quality development and protection of off-site amenity within the Neighbourhood Residential Zone.

Clause 55

51. Clause 55 comprises design objectives and standards to guide the assessment of new residential development. Given the site's location within a built-up inner city residential area, strict application of the standard is not always appropriate, whether the proposal meets the objective is the relevant test.
52. The following objectives of Clause 55 do not apply to this planning permit application:
- (a) *Clause 55.02-3 – Dwelling diversity objective – Not applicable;*
 - (b) *Clause 55.03-6 – Open space objective – Not applicable;*
 - (c) *Clause 55.06-3 – Common property objective – Not applicable; and*
 - (d) *Clause 55.07 – Apartment developments – Not applicable.*
53. The remaining objectives and standards are assessed in detail below.

Clause 55.02-1 – Neighbourhood character objectives

54. Complies with the objectives. The surrounding residential area has an existing and emerging character of single and double storey dwellings, with some three-storey apartment buildings being located within a close distance. The removal of the original building and construction of an additional dwelling is in keeping with the character of single and two storey contemporary developments in the neighbourhood. The scale and siting of the proposed built form generally reflects scale of the neighbourhood, particularly immediate surroundings. This assists in minimising impacts of any new built form on adjoining properties.
55. The 'Strategic housing framework plan – Fairfield and Alphington' at Clause 16.01-1L identifies the subject site as being part of a Minimal change area. The strategy of this area is to encourage development that respects the prevailing type, scale and character of development in the street.
56. Clause 16.01-1L also seeks to ensure that housing growth in minimal change areas outside of activity centres are commensurate with the purpose of the zone. As detailed in the Strategic Support section above, the development is consistent with the Neighbourhood Residential Zone.
57. Similarly, Clause 15.01-4S (Neighbourhood character) provides the following relevant strategy:
- Ensure development responds to its context and reinforces a sense of place and the valued features and characteristics of the local environment and place by respecting the pattern of local urban structure and subdivision.*
58. The proposal fulfils the above by providing for additional housing stock while maintaining a built form consistent with the surrounding neighbourhood and provides for a streetscape interface which respects the built form of existing buildings nearby. The proposed development is consistent with the overall character within this section and side of the street.
59. The surrounding neighbourhood has a variety of roof forms and materials. The proposed development has a flat / skillion roof form which is consistent with the apartment building opposite the subject site on Arthur Street. The other dwellings within the nearby neighbourhood are a mix of gable and hipped forms. Council's Urban Design Team raised concern with the orthogonal roof form, however in the context of the street, there is no dominant roof typology, so a flat skillion roof is not considered to be out of place or inconsistent with any predominant character. It is also noted that the variation in materials at ground and first floor, and recessive features provide sufficient visual interest that prevents the skillion roof form being a dominant feature in the built form.
60. The use of render and face brick for the proposed development is reflected in nearby dwellings as well. The predominant material in the immediate surrounds is face brick with some render and weatherboard also being used. As such the proposed development is consistent with Clause 15.01-2L (Materials)

Clause 55.02-2 – Residential policy objectives

61. Complies with the objective. The area is located within a well-established area of Fitzroy North, with connections to nearby commercial precincts on Nicholson Street and Brunswick Street / St Georges Road, as well as public transport links and active transport links. The development provides for new housing stock to introduce additional units and provide opportunity for density within the area.
62. The proposal is consistent with state and local strategic policies as it contributing to urban consolidation consistent with Clause 02.03-5 and. The proposed development will provide for new housing stock in an area well serviced by public transport and close to jobs and services, consistent with Clause 16.01-1S and Clause 16.01-1R. Furthermore, the proposal will provide for more diversity and potential housing types, consistent with Clause 16.01-1S.

Clause 55.02-4 – Infrastructure objectives

63. Complies with the standard. The proposal is situated in an area which is already well developed with reticulated services. The addition of one additional dwelling unit to the site is not anticipated to have any notable impact on these services.

Clause 55.02-5 – Integration with the street objective

64. The objective of this Standard is “to integrate the layout of the development into the street”. Of relevance to the scale of the development, Clause 15.01-2L (Building design) encourages that development be designed to:
- (a) *Provide separate vehicular and pedestrian access;*
 - (b) *Provide clearly identifiable, accessible, well-lit and safe pedestrian entries with a sense of address to a street;*
 - (c) *Provide weather protection for entries;*
 - (d) *Orient development to the street, and to both streets for a corner site;*
 - (e) *Reflect the predominant character of fencing and boundary treatments in the street through height, material and permeability, and clearly define the boundaries of the site; and*
 - (f) *Provide privacy and security that allows natural surveillance between the building and the street.*
65. The dwellings maintain Arthur Street as the principal frontage, the dwelling entries are clearly visible from the street and are offered weather protection from the cantilevered first floor / porch. Windows are provided in each dwelling frontage to increase the passive surveillance to the street.
66. Pedestrian pathways provided separately from the driveways for the dwellings, and are acceptable.
67. Overall, the proposed development is consistent with the street and is supported.

Clause 55.03-1 – Street setback objective

68. The following table (Table 2) considers the street setback of the proposal under the requirements of Clause 55.03-1. Standard B6 requires that the building be set back the average distance of the setbacks of the front walls of the existing buildings on the abutting allotments facing the front street or 9 metres, whichever is the lesser.

<i>Adjoining site (north)</i>	<i>Adjoining site (south)</i>	<i>Average of adjoining lots</i>	<i>Proposed setback</i>	<i>Compliance</i>
6.00m	5.50m	5.75m	6.00m	Yes

Table 2: Street setback assessment

69. Complies with the standard. The proposed dwellings will have a setback to the front walls of 6m.
70. Standard B6 also allows for porches no more than 3.6m in height and eaves to encroach not more than 2.5m into the setbacks of this standard. The eaves above the garage of the northern dwelling (Dwelling 2) encroach 1m within the Standard B6 requirements and both porches (being less than 3.6m in height) encroach 1.5m and 1m respectively.
71. Therefore, the proposed development is deemed to comply with the requirements of Standard B6 and is acceptable.

Clause 55.03-2 – Building height objective

72. The following table (Table 3) considers the maximum building height of the site as assessed under the requirements of Clause 55.03-2. Standard B7 allows for a maximum height of 9m and two storeys, where the zone allows for a maximum building height of 9m and three storeys.

Maximum height (m) and No. of storeys	Standard B7 requirement	Compliance
6.97m and 2 storeys	9m and 2 storeys	Yes

Table 3: Building height assessment

73. As seen above in Table 3, the proposed development complies with the requirements of the standard and is therefore deemed to comply and is acceptable.
74. By achieving the requirements of the objective at Clause 55.03-2, the proposal is also consistent with strategies at Clause 15.01-2L (Building heights).

Clause 55.03-3 – Site coverage objective

75. The following table (Table 4) assesses site coverage of the site pursuant to the requirements of Clause 54.03-3. Standard B8 specifies a maximum site coverage of 60% of the total site area.

Site area (sqm)	Proposed site coverage (sqm / %)	Standard B8 requirement	Compliance
849.86sqm	489.47sqm (57.59%)	509.92sqm (60%)	Yes

Table 4: Site coverage assessment

76. Complies with the standard. As seen above in Table 4 above, the proposed development provides for site coverage that achieves the standard. It is therefore deemed to comply and is acceptable.
77. Design guidelines at Clause 15.01-2L (Building design) states that new development should be encouraged not to exceed a maximum site coverage of 80% of the site unless the pattern of site coverage in the immediate area is higher than 80%. As seen above, the proposed development is consistent with this policy.

Clause 55.03-4 – Permeability and stormwater management objectives

78. The permeability of the site as assessed under the requirements of Clause 54.03-4. Standard B9 specifies that 20% of the site is to be dedicated to permeable surfaces.

Site area (sqm)	Proposed permeability (sqm / %)	Standard B9 requirement	Compliance
849.86sqm	367.91sqm (43.29%)	169.97sqm (20%)	Yes

Table 5: Permeability assessment

79. Complies with the standard. As seen above in Table 5, the proposed development would result in 43.29% of the site comprising of permeable groundcover. This complies with the requirements of the standard. It is therefore deemed to comply and is acceptable.
80. A STORM Rating Report has also been submitted with the application as part of the Sustainable Design Assessment (SDA) and as required by Clause 19.03-3L. The proposal demonstrates a score of 100% through the inclusion of 2 x 3000L rainwater tanks (one to each dwelling) shown in plans.
81. The rainwater tanks are to be connected to toilets for flushing and laundry for washing purposes as per the Applicant’s SDA report.

82. As such, it is considered that the proposal would provide an adequate response to stormwater management on-site and acceptable permeability.

Clause 55.03-5 – Energy efficiency objectives

83. Complies with objective. The below assessment considers the energy efficiency pursuant to the standard and objective at Clause 55.03-5. The main habitable rooms are provided with access to daylight through windows to the front, rear and sides of the buildings. The northern aspect provides for glazing to habitable rooms (guest room at ground and bedroom at first) for Dwelling 2. The dwellings provide for natural ventilation through operable windows at ground and first floor as well as reducing impacts from western sun by minimising windows on this elevation.
84. The Applicant submitted a Sustainable Design Assessment (SDA). The development will achieve a BESS score of 50%, which meets best practice in accordance with the relevant energy efficiency objectives and standard at Clause 55.03-3 and the environmental sustainability design objectives and guidelines at Clause 15.01-2L-01.
85. A Sustainable Design Assessment (SDA) report, prepared by Archi Sustainability and dated 27 October 2023, was submitted for the application. The application achieves a BESS score of 50%, which meets best practice in accordance with the relevant energy efficiency objectives and standards at Clause 55.03-3 and the environmental sustainability design objectives and guidelines at Clause 15.01-2L-01.
86. The SDA commits to the following:
- (a) Doubled glazed windows to habitable rooms;
 - (b) Motion sensor lighting for external lighting;
 - (c) 3000L rainwater tank to each dwelling;
 - (d) Crossflow ventilation; and
 - (e) Allocation for bins (4 streams of waste).
87. These are all committed to in plans.
88. The SDA was referred to Council's ESD advisor who stated that additional information and commitments were required in order to meet Council's best practice.
89. Should a permit issue, a condition will require that the SDA to be amended to include the commitments noted by the ESD advisor and to be shown on plans (where applicable), as follows:
- (a) Clarify the permeability of paving in POS to address inconsistency between annotations on plans and WSUD plan. Plans and assessment to be updated accordingly;
 - (b) Clarify the rainwater reuse. The plan annotation states toilet flushing, while the BESS report states toilet flushing laundry and irrigation. Additionally, if irrigation is connected consideration must be given to BESS Tool Notes regarding applicability of water credit (3.1 Water efficient landscaping);
 - (c) The STORM assessment updated to include all impervious surfaces, ensuring the updated STORM rating achieves a minimum of 100%;
 - (d) All SDA notes on the plans to be consistent with the ESD commitments detailed in the SDA; and
 - (e) Clarify the proposed colour of the roof material and detail it in the documentation, ensuring the specification supports a reduction in urban heat outcomes.

90. The ESD advisor also raised potential gas connections as a deficiency of the SDA. Pursuant to Clause 53.03 of the Yarra Planning Scheme, applications for new developments lodged on or after 1 January 2024 are prevented from having a gas connection. As the permit application was lodged before 1 January 2024, it is not required to comply with the mandatory requirements of this clause and a new gas connection is therefore permissible.
91. The ESD advisor also noted that the ground floor plans show the alfresco area as permeable, where the WSUD plan on TP_09 shows this area as impermeable. A condition of permit, were it to issue, will require this to be clarified. The STORM rating report may need to be amended to ensure that 100% rating is achieved and would be able to comply.
92. Overall, subject to conditions, the proposed development will achieve best practice in accordance with the relevant energy efficiency objectives and guidelines at Clause 15.01-2L-01 of the Yarra Planning Scheme.
93. Standard A7 also seeks to ensure that the energy efficiency of existing dwellings on adjoining lots is not unreasonably reduced, and to ensure that the performance of existing rooftop solar energy systems on dwellings on adjoining lots is not unreasonably reduced. The Standard does not consist of a specific measure to determine what constitutes an “unreasonable” loss of energy efficiency. However, this has been tested in various VCAT decisions which are cited below.
94. In *John Gurry & Assoc Pty Ltd v Moonee Valley CC & Ors* (Red Dot) [2013] VCAT 1258, the Tribunal articulates various factors as being useful reference points (as applicable) for decision makers attempting to assess the appropriateness of shadow impacts on solar collector systems. A list of those factors is provided below:
 - (a) *The ultimate test is ‘reasonableness’, rather than avoiding any overshadowing altogether;*
 - (b) *What constitutes ‘legitimate expectations’ in light of the strategic planning controls and policies affecting the subject land?*
 - (c) *Have the relevant solar panels been placed in an unreasonably vulnerable position on the host building?*
95. Having regard to the test of ‘reasonableness’, an assessment of overshadowing to solar panels should be informed by overshadowing at the equinox. This is considered a reasonable baseline measurement considering the constraints of the subject site and the need to balance on and off-site amenity expectations. The equinox has been relied upon as a measure in *Cahill v Hobsons Bay CC* [2019] VCAT 222.
96. The equinox is also relied upon in *Kirkman v Hobsons Bay CC* [2012] VCAT 1463 with regard to a development’s impacts on the energy efficiency of adjoining dwellings more generally.
97. In the VCAT decisions cited above, it was made clear that the objective of Standard A7 is not to prevent a reduction in energy efficiency, but to ensure the reduction in energy efficiency is not unreasonable.
98. The extent that the adjoining solar panels at No. 7 Arthur Street are in shadow at the equinox is not considered unreasonable. The submitted shadow diagrams (Figure 8) confirm that the solar panels will not experience shadowing at the September equinox on any of the three separate solar panel sections. Shadowing will occur at the June solstice according to the shadow diagrams, however given the previous VCAT rulings on the matter, the September equinox has been used as the reasonable baseline in this instance.

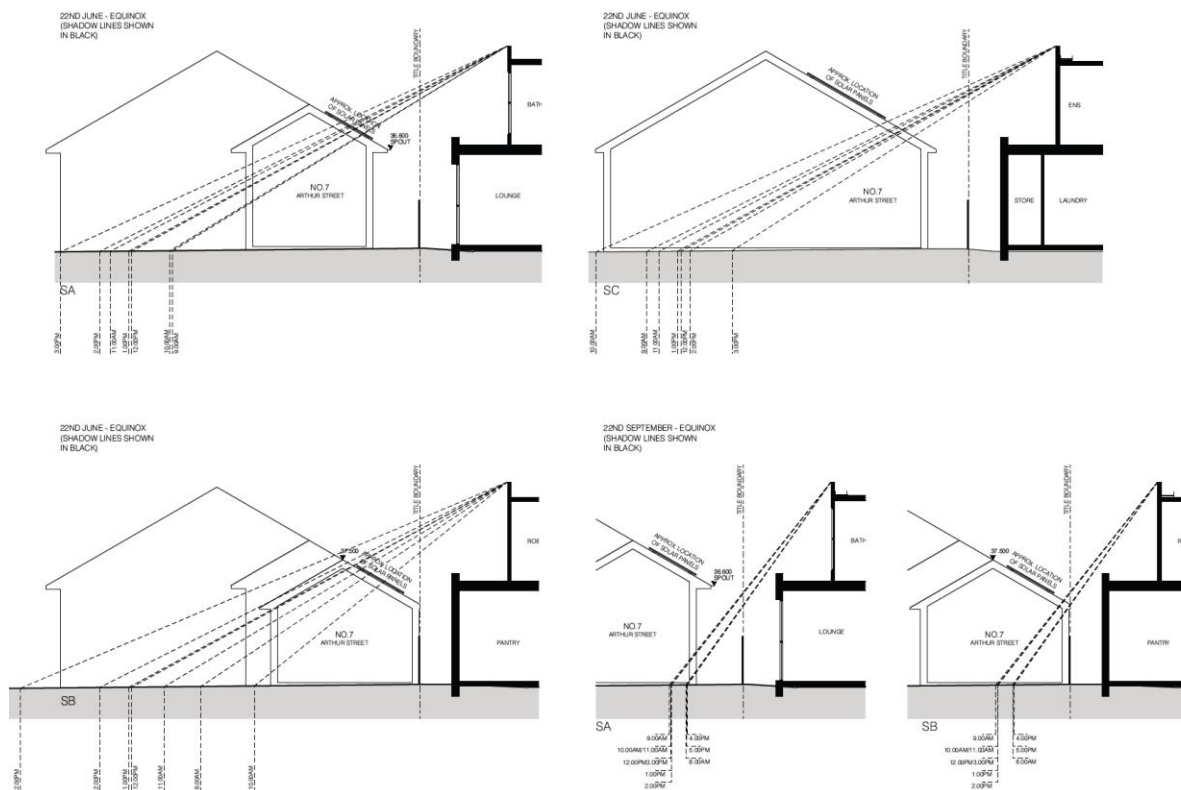


Figure 8: Sectional diagrams demonstrating shadow impacts to solar panels at June solstice and September equinox

99. In *McCusker v Yarra CC* [2019] VCAT 1359, the VCAT member considered that a reasonable outcome for overshadowing of solar panels would be for at least 50% of the period to not be subject to additional overshadowing from a new proposal. As noted above, based on the submitted shadow diagrams, the proposed development would not result in overshadowing to any of the solar panels at the September equinox.
100. The existing solar panels are located on the northern roof pitch of the dwelling at various setbacks ranging from sections of on-boundary walls to higher pitched roof setback 1.6m from the boundary. Given the east-west orientation of lots on Canning Street, the existing solar panels would be vulnerable to overshadowing should an extension or new dwelling(s) be constructed to the north, as is proposed. Although the solar panels appear to be constructed flush with the roof, they could be elevated to receive additional sunlight if necessary.
101. As such, the extent of overshadowing to existing solar panels will not unreasonably impact their efficiency and is therefore supported having regard to the above considerations.
102. Overall, the proposed development is not considered to unreasonably impact the energy efficiency of the dwellings at No. 7 Arthur Street, having regard to the objectives of Clause 55.03-5.

Clause 55.03-7 – Safety objective

103. Complies with the standard. Standard B12 specifies that dwelling entrances should not be obscured from accessways, or provide unsafe spaces due to planting and provide for good lighting and secure SPOS. The proposed development provides for entryways that are clearly visible from the streetscape and not obscured by vegetation or high fencing. It also provides for secure areas of fenced SPOS to each dwelling.

Clause 55.03-8 – Landscaping objectives

104. Complies with the standard. The proposed development will require the removal of vegetation within the site.

105. The site does not contain any significant trees as determined by Council's significant tree register / local law. No significant vegetation (as defined by Council) is required to be removed or has been removed from the site in the previous 12 months.
106. There are significant trees and street trees within proximity of the subject site. In order to ensure these are protected from new works / development, the following will be required, as recommended by Council's Open Space team:
- (a) A Tree Management Plan (TMP) is required as part of the permit conditions if the application is approved.
107. These requirements will be included as conditions of permit. A condition of permit will also require the submission of a landscape plan for endorsement.
108. Both dwellings will have SPOS to the rear with a landscaped area that will be large enough to allow for new planting and vegetation.
109. A standard condition will be placed on any permit were it to issue for a landscaping plan to be submitted and endorsed prior to commencement of development.
110. By achieving the requirements of the objective at Clause 55.03-8, the proposal is also consistent with strategies at Clause 15.01-2L (Landscaping).

Clause 55.03-10 – Parking location objectives

111. Standard B14 states that the width of accessways should not exceed 33 per cent of the frontage (where wider than 20m) The combined accessway widths comprise 6.4m of the frontage, equating to 32 per cent, and is therefore compliant with the Standard. Vehicle parking within the development is provided to the front area of both dwellings (tandem parking with garage and driveway). These spaces are located within the associated lot boundaries of the dwellings and provided with the garage allow for secure parking. There are no new shared accessways to other dwellings or residential buildings within close proximity. The proposed development is therefore acceptable and in accordance with the requirements of the standard.
112. By achieving the requirements of the objective at Clause 55.03-10, the proposal is also consistent with strategies at Clause 15.01-2L (Car parking).

Clause 55.04-1 – Side and rear setbacks objective

113. The following table (Table 6) considers the proposed wall setbacks from the south, east and west boundaries as compared to those required from the standard.

<i>Proposed Wall</i>	<i>Wall height (m)</i>	<i>B17 Setback (m)</i>	<i>Proposed setback (m)</i>	<i>Difference</i>	<i>Compliance</i>
North wall GF - Ensuite / Guest bed / Pantry	3.81	1.06	1.14	0.07	Yes
North wall GF - Living	3.81	1.06	3.54	2.47	Yes
North wall FF - Master bed	6.86	1.98	2.95	0.97	Yes
North wall FF - WIR / Ensuite / Retreat / Bed 1 / Bath	6.86	1.98	2.07	0.09	Yes
South wall GF - Garage / Pdr / Lounge / Pantry	3.71	1.03	1.07	0.04	Yes

South wall GF - Living	3.71	1.03	3.47	2.44	Yes
South wall FF - Master bed	6.82	1.97	4.34	2.37	Yes
South wall FF - Ensuite / Retreat / Bath / Bed 1	6.82	1.97	2.96	0.99	Yes
East wall GF - Alfresco (Dwelling 1 and 2)	3.89	1.09	5.70	4.61	Yes
East wall FF - Bed 1 / 2 (Dwelling 1 and 2)	6.86	1.98	12.66	10.68	Yes

Table 6: Side and rear setbacks assessment

114. Complies with the standard. As seen in Table 6 above, the proposed development complies with the requirements of Standard B17. It is therefore deemed to comply and is acceptable.
115. By achieving the requirements of the standard at Clause 55.04-1, the proposal is also consistent with strategies at Clause 15.01-2L (Building setbacks).

Clause 55.04-2 – Walls on boundaries objective

116. The following tables (Table 7-9) considers the proposed walls on boundaries as compared to those required from the standard.

Wall(s) on boundary	Length (m)	B18 Length (m)	Difference	Compliance
North wall	9.23	18.07	8.84	Yes

Table 7: Length of walls on boundaries assessment

Wall on boundary	Average Height (m)	B18 Average Height (m)	Difference	Compliance
North wall	3.20	3.20	0.00	Yes

Table 8: Average height of walls on boundaries assessment

Wall on boundary	Max. Height (m)	B18 Max. Height (m)	Difference	Compliance
North wall	3.81	3.60	-0.21	No

Table 9: Maximum height of walls on boundaries assessment

North wall:

117. Complies with the objective. As seen in Tables 7-9 above, the proposed wall on northern boundary complies with the length and average height requirements of the standard, but does not comply with the maximum height requirements. Despite this, a variation to the standard is considered acceptable.
118. The proposed height of the wall on northern boundary relates to the garage of Dwelling 2 at ground floor. The development situated to the north of the subject site is a multi-unit dwelling with a pedestrian accessway running along the length of the common boundary.

119. As noted above, the length and average height of the wall on northern boundary comply with the requirements of the standard, while the maximum wall height does not. The proposal exceeds the maximum height of 3.6m by 210mm. This relates to the parapets located at either end of the garage of dwelling 2 (refer Figure 9).



Figure 9: Proposed wall on boundary with compliant area (green) and area exceeding 3.6m (red)

120. As can be seen in Figure 9 above, the area of non-compliance with the standard is very minor and will not result in adverse amenity impacts to the adjoining building.
121. Given the setback created by the pedestrian accessway, the frosted windows opposite the wall on boundary and the minor nature of the variation, the proposed wall on boundary is not inconsistent with the neighbourhood character or result in adverse amenity or visual bulk impacts.
122. By achieving the requirements of the objective at Clause 55.04-2, the proposal is also consistent with strategies at Clause 15.01-2L (Walls on boundaries).

Clause 55.04-3 – Daylight to existing windows objective

123. The following table (Table 10) considers the setbacks to existing windows as compared to those required by the standard.

Proposed Wall	Opposite window	Wall height (m)	B19 Setback (m)	Proposed setback (m)	Difference	Compliance
North wall GF - Garage	GF HRW at No. 11 Arthur Street	3.81	1.91	2.50	0.60	Yes
North wall GF - Guest bed	GF HRW at No. 11 Arthur Street	3.81	1.91	3.64	1.73	Yes
North wall FF - Master bed	GF HRW at No. 11 Arthur Street	6.84	3.42	5.45	2.03	Yes
North wall FF - WIR / Ensuite	GF HRW at No. 11 Arthur Street	6.84	3.42	4.42	1.00	Yes
North wall FF - WIR / Ensuite	FF HRW at No. 11 Arthur Street	6.84	3.42	4.42	1.00	Yes
North wall FF - Retreat	GF HRW at No. 11 Arthur Street	6.84	3.42	4.57	1.15	Yes

South wall GF - Garage / Lounge	GF HRWs at No. 7 Arthur Street	3.81	1.91	2.67	0.77	Yes
South wall FF - Master bed / Ensuite / Retreat	GF HRWs at No. 7 Arthur Street	6.86	3.43	4.56	1.13	Yes

Table 10: Daylight to existing windows assessment

124. Complies with the standard. As seen in Table 10 above, the proposed development complies with the requirements of the Standard B19. It is therefore deemed to comply and is acceptable.

Clause 55.04-4 – North facing windows objective

125. The following table (Table 11) considers the setbacks to north facing windows as compared to those required by the standard.

Proposed Wall	Opposite window	Wall height (m)	B20 Setback (m)	Proposed setback (m)	Difference	Compliance
South wall GF - Garage / Lounge	GF HRWs at No. 7 Arthur Street	3.71	1.07	1.07	0.00	Yes
South wall FF - Master bed / Ensuite / Retreat	GF HRWs at No. 7 Arthur Street	6.82	2.93	2.96	0.03	Yes

Table 11: North facing windows assessment

126. Complies with the standard. As seen in Table 11 above, the proposed development complies with the requirements of Standard B20. It is therefore deemed to comply and is acceptable.

Clause 55.04-5 – Overshadowing open space objective

127. The following table (Table 12) considers the shadowing of the proposal to adjoining SPOS as compared to the requirements of the standard. Standard B21 states that:

where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September.

If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.

Address:	No. 7 Arthur Street Fairfield						
SPOS area:	405.10	sqm					
A15 sunlight area:	40.00	sqm					
	9:00 AM	10:00 AM	11:00 AM	12:00 PM	1:00 PM	2:00 PM	3:00 PM
Existing sunlight area (sqm):	351.31	350.24	349.33	346.69	330.80	309.70	280.88
Additional shadow area (sqm):	0.59	0.90	13.41	17.95	26.94	56.23	124.83
Additional shadow % of SPOS area:	0.15	0.22	3.31	4.43	29.00	13.88	30.81

Retained sunlight area (sqm):	350.72	349.34	335.92	328.74	303.86	253.47	156.05
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Table 12: Overshadowing to SPOS assessment

- 128. Complies with the standard. The proposed development would allow for an area of 40sqm and minimum dimension of 3m to be unshaded for a minimum of five hours between 9am and 3pm on 22 September. As such, it is deemed to comply and is acceptable.
- 129. A review of the proposal has identified that the rear fence of No. 7 Arthur Street has not been included during the morning hours when it would cast shadows onto the SPOS. Despite this, an Officer assessment of the shadow diagrams (using Objective Trapeze software) demonstrated that the shadow cast by the fence would have an impact of more than 45sqm at 9am (being the time that the greatest amount of shadow would be cast on the SPOS by the fence). Even when taking into consideration this additional 45sqm of shadow that would be cast by the fence, the proposal would comfortably comply with the requirements of Standard B21.
- 130. As such, the extent of overshadowing is within the requirements of the above standard and is acceptable.

Clause 55.04-6 – Overlooking objective

- 131. The following table (Table 13) considers the proposed new habitable room windows (HRW) with that of the requirements at Standard B22.

Habitable room windows	Assessment pursuant to Standard B22	Compliance
Dwelling 1 and 2 – GF habitable room windows	The new ground floor HRWs and SPOS will have an FFL of less than 800mm (max. 350mm) above ground level and will face a visual barrier of a minimum 1.8m (1.8m-1.9m high paling fence). As such the requirements of the standard are not applicable.	N/A
Dwelling 2 – FF Master bed (north elevation)	The new HRW facing north will have fixed obscured glazing or restricted operability glazing to a height of 1.7m above FFL. The windows will be operable awning type above.	Yes
Dwelling 2 – FF Retreat (north elevation)	The new HRW facing north will have fixed obscured glazing or restricted operability glazing to a height of 1.7m above FFL. The windows will be operable awning type above.	Yes
Dwelling 1 – FF Master bed (south elevation)	The new HRW facing south will have fixed obscured glazing or restricted operability glazing to a height of 1.7m above FFL. The windows will be operable awning type above.	Yes
Dwelling 1 – FF Retreat (south elevation)	The new HRW facing south will have fixed obscured glazing or restricted operability glazing to a height of 1.7m above FFL. The windows will be operable awning type above.	Yes
Dwelling 1 and 2 – FF Beds 2 and 3 (east elevation)	The new HRW facing east will have fixed obscured glazing or restricted operability glazing to a height of 1.7m above FFL. The windows will be operable awning type above.	Yes

Table 13: Overlooking assessment

- 132. Complies with the standard subject to condition. As seen in the table above, all new habitable room windows of the proposed development may comply with the requirements of Standard B22. An annotation on the plans states that windows may have fixed or restricted operability. While limited operability is acceptable, it must be in accordance with the requirements of Clause 55.04-6. Therefore a condition on any permit, were it to issue, will require detail be provided regarding the extent operability of any obscure glazed windows to demonstrate that the window openings comply with the overlooking standard. Subject to this condition, the proposal will comply with the standard.

Clause 55.04-7 – Internal views objective

- 133. Complies with the standard subject to condition. Development is required to ensure that windows and balconies be designed to prevent overlooking of more than 50 per cent of the secluded private open space of a lower-level dwelling or residential building directly below and within the same development to achieve the requirements of the standard.
- 134. The development provides windows at first floor which would have views to the adjoining SPOS of dwellings within the same development. However the majority of these windows are appropriately screened in accordance with the requirements of Standard B22 and therefore is acceptable in preventing views to adjoining SPOS. There are two first floor habitable room windows (associated with the retreats) which may have views into the adjacent courtyards. In order to demonstrate compliance, a condition of permit if it issues will require internal elevations of the dwellings to be submitted, and that compliance with Clause 55.04-7 be demonstrated for the two habitable room windows that face internally.

Clause 55.04-8 – Noise impacts objectives

- 135. Complies with the standard. The proposed development is residential and located in a residential zone. It is reasonable to expect that any noise generated on the site would only be residential in nature without causing any unreasonable acoustic impacts on neighbouring properties. Furthermore, there are no noise sources at adjoining sites that are expected to cause any unreasonable noise to future occupants at the subject site.

Clause 55.05-1 – Accessibility objective

- 136. Complies with the objective. It is acknowledged that the entrances to the new dwellings are not readily accessible for people with limited mobility. An accessible ramp however could be installed to the entrance as permit exempt (Clause 62.02-2) given the small distance between ground level and entry door.
- 137. Furthermore, the first floors require use of internal staircases however, this would be made clear to future occupants. It is unlikely that people of limited mobility would choose to occupy these dwellings as a result of the layout. As such, given the small scale of the development and overall, two storey design, it is considered acceptable.

Clause 55.05-2 – Dwelling entry objective

- 138. Complies with the standard. The proposed development provides each dwelling with a separate entrance for each unit / dwelling which are easily identifiable from the street, with easily accessible garden path. The entrances are provided with a small landing covered by roof eave which would provide for shelter prior to entrance into the building. As such, the proposed development is acceptable.

Clause 55.05-3 – Daylight to new windows objectives

- 139. Complies with the standard. Standard B27 requires a habitable room be located to face an outdoor area open to the sky with a minimum area of 3sqm and dimension of 1m. The proposed new dwelling will achieve the requirements of the standard, with habitable rooms facing north, south, east and west to open space.

Clause 55.05-4 – Private open space objective

- 140. The following table (Table 14) sets out the POS and SPOS of each unit compared to the requirements of the standard.

	POS / SPOS (SQ.M)	Standard B28 Requirement	Compliance
Dwelling 1	165.67sqm / 122.47sqm	40sqm / 25sqm	Yes
Dwelling 2	156.11sqm / 122.02sqm	40sqm / 25sqm	Yes

Table 14: Private open space assessment

141. Complies with the standard. As seen in Table 14 above, both dwellings will comply with the POS and SPOS requirements of the standard. Therefore, the proposed development is deemed to comply with the standard and is acceptable.

Clause 55.05-5 – Solar access to open space objective

142. The following table (Table 15) considers the proposed setback required for compliance with Standard B29.

	Wall height (m)	A18 Setback (m)	Proposed setback (m)	Difference	Compliance
Northern wall of SPOS – Townhouse 1 (GF Living / FF Balcony)	9.61	10.65	12.63	1.98	Yes
Northern wall of SPOS – Townhouse 2 (GF Living / FF Balcony)	9.61	10.65	22.73	12.08	Yes

Table 15: Solar access to open space assessment

143. Complies with the standard. As seen in Table 15 above, both dwellings would have access to SPOS that achieves the minimum setbacks for solar access in compliance with Standard B29. Therefore, the proposed development is deemed to comply with the standard and is acceptable.

Clause 55.05-6 – Storage objective

144. Complies with the standard. The standard requires that each dwelling be provided with 6m³ of external storage which is convenient to access. The decision plans show a storage area of 6m³ to each dwelling. This will comply the standard and is acceptable.

Clause 55.06-1 – Design detail objective

145. Complies with the objective. The design detail is one of face brick and render. This is consistent with the existing character of the neighbourhood. The use of brick and render is commonplace among both the varied age of dwellings within Arthur Street. The use of brick and render is not at odds with the surrounding neighbourhood, and this maintains the overall character of the area.
146. The use of flat / skillion roof is also consistent with the nearby dwellings, as noted under the Neighbourhood character objective assessment above.
147. The proposed development, however, does not state a material that is to be utilised for the roofing material. A condition of permit will require the material schedule to be updated to reflect this material.
148. The proposed development was referred to Council’s Urban Design Unit, who supported the application in principle subject to changes.
149. The Urban Design Unit proposed the following changes be made to the development scheme:
- (a) Reduction of the double garage of Dwelling 2 to a single garage and associated removal of the wall from northern boundary; and
 - (b) More detailed information be provided in regard to the Material Schedule in relation to the timber cladding that is to be used.
150. While the change of the double garage to a single garage has been raised by Urban Design as a concern, in considering the context and size of the site, it is acceptable for Dwelling 2 to have a double garage. The site has a substantial frontage to Arthur Street which can absorb the double and single car garages comfortably. The ground floor layout allows for activation at street level as well, with entry doors located forward of the garages.

151. The double car garage is also appropriately set back from the frontage to allow for a 3.2m wide crossover which tapers out to the garage door. This taper allows for hard surfaces to be minimised within the front setback.
152. Additionally, the garage door is to be constructed of a natural timber or timber look cladding, which would provide for a high quality finish to the development, which is consistent with the overall design, reducing visibility of the double garage within the façade.
153. In relation to timber/timber look finishes proposed, Council's Urban Design has recommended that natural timber be used, rather than a timber-look material. However, appropriate timber look materials can have a near identical appearance to natural timber and also will generally have less maintenance requirements, which is particularly important for application at first floor where this is less accessible. However, whether natural timber or timber-look material is to be used needs to be clarified on plans, and if the latter, details of the timber look material need to be provided to demonstrate its near identical appearance to natural timber. This will be recommended as a condition of permit, if one is to issue.
154. Overall, the proposal complies with the objective at Clause 55.06-1 and design strategies at Clause 15.01-1L (urban design) and Clause 15.01-2L (building design).

Clause 55.06-2 – Front fences objective

155. Complies with the standard. The proposed front fence within 3 metres of a street will be a maximum of 0.9m in height. It does not exceed the 1.5m height set out in the requirements of Standard B32.
156. By achieving the requirements of the objective at Clause 55.06-2, the proposal is also consistent with strategies at Clause 15.01-2L (Front fences and gates).

Car Parking

157. Council's standard note will be included on any permit issued to state that the properties will not be eligible for permit and visitor permit parking.
158. Dwellings 1 and 2 are provided with two car spaces each and a single crossover each. Therefore, no permit is required for a reduction in car parking. However, consideration should be given to the crossover and parking design and layout.
159. The design was referred to Council's Engineering Department who were supportive subject to the following conditions:
 - (a) The width of the garage doors is to be dimensioned (at a minimum of 2.6m for single and 5.2m for double); and
 - (b) The crossover sectional diagram resubmitted with accurate measurements in accordance with Council's Vehicle Crossing Information Sheet.
160. These will be included on the permit, along with Council's standard conditions relating to the construction of crossovers, and protection of Council assets.

Objector Concerns

161. Many of the objector issues have been discussed within the body of the report.
 - (a) Amenity impacts (siting, off-site, on-site, overshadowing) have been discussed within the body of the report between paragraphs 113 and 132;
 - (b) Loss of vegetation (significant trees) has been discussed within the body of the report between paragraphs 104 and 110; and
 - (c) Traffic and car parking has been discussed within the body of the report between paragraphs 111 to 112 and 157 to 160.
162. Outstanding objector issues raised are as follows and these will be discussed below:

Location and height of fencing

163. Pursuant to Clause 62.02-2 of the Yarra Planning Scheme, fences do not require a planning permit unless specifically required by the planning scheme. The relevant requirements of the Yarra Planning Scheme do not specifically require a permit for fencing (other than front fences).
164. The *Fences Act 1968* regulates the construction and requirements for boundary fencing. While the proposal indicates the removal and construction of new boundary fencing, this does not override the requirements of the *Fences Act 1968*. Adjoining properties will need to be consulted prior to any removal and construction of new boundary fencing in accordance with any regulations.

Demolition.

165. Pursuant to Clause 62.05 of the Yarra Planning Scheme, a permit is not required for the demolition or removal of a building or works unless a permit is specifically required for demolition or removal.
166. The relevant requirements of the Yarra Planning Scheme do not specifically require a permit for demolition. The proposed demolition is therefore exempt from the requirements for a planning permit.

Location of services (air conditioning unit);

167. Pursuant to Clause 62.02-2 of the Yarra Planning Scheme, domestic services normal to a dwelling do not require a planning permit unless specifically required by the planning scheme. The relevant requirements of the Yarra Planning Scheme do not specifically require a permit for domestic services.
168. Pursuant to Clause 73.01 of the Yarra Planning Scheme, a domestic service is defined as:
- (a) *a domestic appliance or apparatus that is normal to and services a dwelling or small second dwelling. It includes disabled access ramps and handrails, **an air conditioner, cooling or heating system**, a hot water service, security systems and cameras, shade sails, a barbeque, downpipes and flues, a skylight, security screens, and the like.*
169. The installation and location of domestic services is therefore not a planning consideration. The Environment Protection Agency regulates residential noise through the *Environment Protection Act 2017* and *Environmental Protection Regulations 2021*.

Other Matters

Public open space contribution

170. Pursuant to Clause 19.02-6L-01, cash contributions are preferred for open space contributions in Fairfield in accordance with Clause 53.01.
171. If the proposed development is to be subdivided post construction, a public open space contribution of 4.5% would be applied in accordance with Clause 53.01 of the Yarra Planning Scheme.

Conclusion

172. Overall, the proposal would substantially comply with the relevant planning policies and therefore should be supported subject to permit conditions.

RECOMMENDATION

That the Planning Decisions Committee resolves to issue a Notice of Decision to Grant a Planning Permit PLN23/0661 for construction of two dwellings on a lot at 9 Arthur Street, Fairfield VIC 3078 generally in accordance with the plans and reports noted previously as the “decision plans” and subject to the following conditions:

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and must be generally in accordance with the decision plans prepared by Taouk Architects, TP_02 – TP_09, dated November 2023 but modified to show:
 - (a) internal elevations of the dwellings (i.e. northern elevation of Dwelling 1 and southern elevation of Dwelling 2);
 - (b) details of screening to the retreat windows with views to internal courtyards or demonstrate compliance with Clause 55.04-7;
 - (c) south elevation of Dwelling 1 and north elevation of Dwelling 2 labelled accordingly;
 - (d) annotation for all habitable room windows to be fixed obscured glazing or further details to be provided as to restricted operability and demonstrate how this achieves compliance with Clause 55.04-6;
 - (e) dimension the width of both garages;
 - (f) the cross-sectional diagram of the vehicle crossing amended to correct the depiction of the kerb and channel and include the level 1m from the edge of the kerb;
 - (g) the materials and finishes schedule updated to include the following:
 - (i) the colour and material of the roof with the colour to be a light grey similar;
 - (ii) clarify whether natural timber or timber look material is proposed, and if timber-look, details of the specific material/product to demonstrate near identical appearance to natural timber and;
 - (iii) imagery of all materials and finishes.
 - (h) the rainwater reuse connections clarified and to be consistent with the Endorsed Sustainable Design Assessment;
 - (i) the permeability of paving within the private open space clarified to address inconsistencies between annotations on plans and the WSUD plan;
 - (j) any changes required by Condition 11 (Endorsed Sustainable Design Assessment);
 - (k) any changes required by Condition 13 (Endorsed Landscape Plan); and
 - (l) any changes required by Condition 15 (Endorsed Tree Management Plan).
2. The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
 - (a) Monday to Friday (excluding public holidays) before 7 am or after 6 pm;
 - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm; or
 - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

4. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority.
5. Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
6. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any new vehicle crossing must be constructed:
 - (a) in accordance with any requirements or conditions imposed by Council;
 - (b) at the permit holder's cost; and
 - (c) to the satisfaction of the Responsible Authority.

Developer Infrastructure Levy

7. Prior to the commencement of the development, the Development Infrastructure Levy must be paid to Yarra City Council in accordance with the approved Development Contributions Plan.

Community Infrastructure Levy

8. Prior to the issue of a building permit, the Community Infrastructure Levy must be paid to Yarra City Council in accordance with the approved Development Contributions Plan.
9. Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.
10. Within 2 months of the completion of the development, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
 - (a) At the permit holder's cost; and
 - (b) To the satisfaction of the Responsible Authority.

Sustainable Design Assessment (SDA)

11. Before the development commences, an amended Sustainable Design Assessment to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Design Assessment will be endorsed and will form part of this permit. The amended Sustainable Design Assessment must be generally in accordance with the Sustainable Design Assessment prepared by Archi Sustainability and dated 27 October 2023, but modified to include or show:
 - (a) the STORM assessment updated to include all impervious surfaces on the site (not only roof area), ensuring that a minimum of 100% STORM rating is achieved; and
 - (b) all ESD commitment annotations on plans to be consistent with the ESD commitments within the SDA
12. The provisions, recommendations and requirements of the endorsed Sustainable Design Assessment must be implemented and complied with to the satisfaction of the Responsible Authority.

Landscaping Plan

13. Before the development commences, a Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Landscape Plan will be endorsed and will form part of this permit. The Landscape Plan must:

- (a) show the type, location, quantity, height at maturity and botanical names of all proposed plants;
 - (b) indicate the location of all areas to be covered by lawn or other surface materials; and
 - (c) provide a specification of works to be undertaken prior to planting,
- to the satisfaction of the Responsible Authority.
14. Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:
- (a) implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
 - (b) not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
 - (c) replacing any dead, diseased, dying or damaged plants.
- to the satisfaction of the Responsible Authority.

Tree Management Plan

15. Before the development commences, a Tree Management Plan to the satisfaction of the Responsible Authority must be prepared by a suitably qualified Arborist and must be submitted to and approved by the Responsible Authority. When approved the Tree Management Plan will be endorsed and will form part of this permit. The Tree Management Plan must make recommendations for:
- (a) the protection of (specify which trees) trees;
 - (b) pre-construction;
 - (c) during construction;
 - (d) post construction;
 - (e) the provision of any barriers;
 - (f) any pruning necessary; and
 - (g) watering and maintenance regimes,
- to the satisfaction of the Responsible Authority.
16. The provisions, recommendations and requirements of the endorsed Tree Management Plan must be complied with and implemented to the satisfaction of the Responsible Authority.

Expiry

17. This permit will expire if:
- (a) The development is not commenced within two years of the date of this permit; or
 - (b) The development is not completed within four years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six months afterwards for commencement or within twelve months afterwards for completion.

Notes

Provision must be made for drainage of the site to a legal point of discharge. Please contact Council's Building Services on 9205 5555 for further information.

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5555 to confirm.

A local law permit (e.g. Asset Protection Permit, Road Occupation Permit) may be required before development is commenced. Please contact Council's Construction Management Branch on Ph. 9205 5555 to confirm.

All future property owners or residents within the development approved under this permit will not be permitted to obtain resident or visitor parking permits.

A local law permit may be required for tree removal. Please contact Council's Compliance Branch on 9205 5555.

In accordance with the Yarra Planning Scheme, a 4.5 per cent public open space contribution will apply in the event of the subdivision of the land.

A vehicle crossing permit is required for the construction of the vehicle crossing(s). Please contact Council's Construction Management Branch on 9205 5555 for further information.

Attachments

- 1 Attachment 1 - PLN23/0661 - 9 Arthur Street Fairfield - Plans
- 2 Attachment 2 - PLN23/0661 - 9 Arthur Street Fairfield - Neighbourhood and Site Description Plan
- 3 Attachment 3 - PLN23/0661 - 9 Arthur Street Fairfield - Referral Comments
- 4 Attachment 4 - PLN23/0661 - 9 Arthur Street Fairfield - Site Location Map