

**Date**

Thursday 1 March 2018

**To**

Nikolas Muhllechner – Statutory Planning  
Yarra City Council  
PO Box 168  
Richmond VIC 3121

**Sent**

Via Courier / [nikolas.muhllechner@yarracity.vic.gov.au](mailto:nikolas.muhllechner@yarracity.vic.gov.au) / [info@yarracity.vic.gov.au](mailto:info@yarracity.vic.gov.au)

Dear Nikolas,

**Response to Request for Further Information**

**Planning Permit Application No. PLN17/1042 : 368-374 Smith Street, Collingwood**

We continue to act on behalf of 368-374 Smith Street Pty Ltd and we refer to the above planning application and Council's request for further information dated 8 January 2018.

In response, we enclose the following documentation:

- 2 x Updated package of architectural plans at A3 to scale prepared by Warren and Mahoney Architects;
- Within the architectural plan set a materials schedule including all proposed exterior decorations, materials, finishes and colours prepared by Warren and Mahoney Architects;
- Within the architectural plan set additional 3D montages and perspectives prepared by Warren and Mahoney Architects;
- A copy of the updated daylight modelling assessment prepared by ADP Consulting;
- A copy of the updated Waste Management Plan prepared by Leigh Design;
- A USB containing an electronic copy of all plans and documents; and
- A list of all changes made in the amended plans prepared by Warren and Mahoney Architects.

More specifically, our response to Council's request for further information is provided below:

1. The enclosed site and floor plans (from Drawing No. A0.02 to Drawing No. A1.09) have been updated to include:
  - a) The width of the residential entry on Smith Street.
  - b) Title boundary dimensions on all floor plans.
  - c) Each floor plan with details of adjacent lots.
  - d) The ground floor plan to refer to a shop rather than a retail premises to be consistent with the car parking rate referred to in traffic report.
  - e) The structures on the communal rooftop terrace consistent with the landscape plans.
  - f) Driveway/accessway surfaces to the car parking entrance points from the rear laneway.
  - g) Clarification on whether habitable room windows are to be operable or fixed.



2. The enclosed apartment types plans (from Drawing No. A12.01 to Drawing No. A12.05) have been amended to show:
  - a) The width of the entrance to adaptable dwellings.
  - b) A clear circulation area for each adaptable bathroom in accordance with Standard D17 of Clause 58.05-1.
  - c) A clear path with a minimum width of 900mm from the door opening of the adaptable bathroom to the circulation area in accordance with Standard D17 of Clause 58.05-1 (where applicable).
  - d) The width of the door openings to the adaptable bathrooms.
  - e) The dimensions of all balconies.
  - f) The dimensions of all living areas to comply with Standard D24 of Clause 58.07-1.
3. The enclosed elevation plans (Drawing No. A3.01 and Drawing No. A3.02) have been updated to include:
  - a) The structures in the communal rooftop terrace consistent with the landscape plans.
  - b) Wall heights measured from ground level.
  - c) Whether habitable room windows are to be operable or fixed.
  - d) Internal elevations/ sections showing the light court elevations, etc.
  - e) Details of the stacked fire booster within transparent enclosure.
4. A materials schedule including all proposed exterior decorations, materials, finishes and colours has been prepared by Warren and Mahoney Architects and is enclosed. The final specific material and finishes will be determined post-planning permit, therefore an appropriate condition of permit would be acceptable should a permit issue for the proposal.
5. Additional 3D montages and perspectives as requested in Council's letter have been prepared by Warren and Mahoney Architects and are enclosed.
6. An updated Daylight modelling assessment in an equitable development scenario has been prepared by ADP Consulting and is enclosed.
7. We enclose A3 sized plans to scale for Council's consideration.
8. An electronic copy of all plans and documents has been submitted via the enclosed USB.
9. A list of all changes made in the amended plans has also been submitted.

In response to the issues raised in Council's letter, we note the following:

**a. Daylight Modelling Assessment**

The updated enclosed Daylight Assessment Report prepared by ADP Consulting has been amended to take into account an equitable development scenario, with the existing planning permits for the buildings to the south and the west incorporated into the daylight model together with an equitable development scenario for the site to the east.

The equitable development scenario for the site to the east includes a 6 storey building consistent with the preferred maximum building height of the applicable Easey Business Precinct outlined in the Smith Street Structure Plan 2008. The setbacks of the modelled building to the east replicate the setbacks of the proposed building provided to the centre of the laneway or the side boundary where the laneway is not the development interface, up to the 6 storey height.

The Daylight Assessment confirms that the design delivers an adequate level of daylight in both the existing conditions and equitable development scenarios and, based on access to daylight, achieves an acceptable level of internal amenity for future residents.

In addition, the proposed development complies with Standard D25 of Clause 58.07-2 'Room depth' of the Apartment Development provisions within the Yarra Planning Scheme which expresses the following objective:

*To allow adequate daylight into single aspect habitable rooms.*

Further to the above, we reference the decision of the Victorian Civil and Administrative Tribunal (VCAT) which granted a permit for the seven storey mixed-use proposal at 366 Smith Street (southern abuttal to the subject site) reference *Gleneg Investments Pty Ltd v Yarra CC [2017] VCAT 221 (24 February 2017)*. In this decision, the Tribunal explored the acceptability of internal daylight amenity to the apartments on levels 3 to 6 which faced a rear (east) light-court with dimensions of 3.9 metres x 3.9 metres and included balconies protruding into the light-court. Levels 3 to 5 were discussed in detail as these were the primary balconies for each apartment, where's the penthouse apartment on Level 6 had an additional balcony, which was the primary balcony, facing Smith Street. Forming part of the VCAT hearing was that applicants appeal to delete a permit condition which required a minimum 4.5m setback from the balcony edge to the eastern boundary at Level 3 and above to achieve appropriate daylight to the apartments for the purpose of achieving acceptable internal amenity. The equitable development opportunities of the adjoining sites were also a Council consideration which informed the condition.

Ultimately the Tribunal was not persuaded that the light court should be enlarged. The key paragraphs explaining the reasons for the decision are outlined below.

53. *The orientation of the dwellings around the light court allows for both eastern and northern aspect which is positive in terms of light access and outlook.*
54. *I consider the potential use and development of the adjoining land to the east in accordance with the current Commercial 2 zoning would need to respond to the context created by the development as would any development to the north on land zoned Commercial 1. The context created by the light court is not so restrictive as to unreasonably compromise future development of those sites in accordance with the purposes of the applicable zones and the local policy relating to interface uses.*

55. *Although there may be some potential for residential development to the east, I am not persuaded that this should be a basis for a setback of the order recommended by Mr Blades. I reach this view on the basis that the current zoning does not allow residential use and that there is no amendment to the Planning Scheme seeking to rezone the land to allow residential use and development.*
56. *Although there may be some potential for residential development to the east, I am not persuaded that this should be a basis for a setback of the order recommended by Mr Blades. I reach this view on the basis that the current zoning does not allow residential use and that there is no amendment to the Planning Scheme seeking to rezone the land to allow residential use and development.*

The proposed building at 368-374 Smith Street provides a 4.5m setback from the balcony edge to the centre of the laneway for all single-aspect apartments on the east side of the building, which exceeds the light-court provided for the approved building at 366 Smith Street and considered to deliver an adequate level of daylight to those apartments for the purpose of achieving acceptable internal amenity. The balconies proposed on the east side of the building which are setback less than 4.5m from the balcony edge to the centre of the laneway are dual-aspect (north and east) and are not expected to be unreasonably compromised by the future development of the adjoining site to the north which accommodates the Robert Burns Hotel which is listed as being of individual heritage significance in the *City of Yarra Heritage Review* (Butler, 2007).

**b. Visual Appearance and Finishing Materials**

Further detail on the material and colour finishes have been included in the amended architectural plan set prepared by Warren and Mahoney Architects. The elevations have been notated to reference the material and colour finish, confirming that the exposed concrete panel elements to the southern elevation will be textured to achieve greater articulation until such time that the site at 366 Smith Street is developed. The less prominent exposed concrete panel elements to the northern elevation will also be textured, however this elevation also benefits from additional articulation opportunities created by the northern orientation (balcony and windows) and the limitations on future development of the Robert Burns Hotel due to the individual heritage significance of the building.

**c. Accessibility**

51.2% of apartments are now assessable in accordance with Clause 58.05-1 'Accessibility'.

**d. Unused Space**

The area east of the five-car car stacker system is unused.

**e. Waste Management Plan**

The updated architectural plans prepared by Warren and Mahoney Architects include a designated residential hard waste area on the ground floor. An updated Waste Management Plan prepared by Leigh Design is also enclosed.

**f. Internal Referrals**

Please provide the Council internal referral comments as available.



We trust the information provided is to Council's satisfaction. Should the information be deemed by Council to be unsatisfactory, we request to be notified immediately and in that circumstance, we request an extension to the lapse date by a further 60 days.

Should you have any questions, do not hesitate to contact our office.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Shem Curry', written over a faint, light blue circular watermark.

**Shem Curry**  
Associate

*Encl.*