

## ATTACHMENT 1 - Planning Permit Considerations

### The Proposal

The application is for roadworks, associated with creating a separated bicycle lane on Wellington Street, between Gipps Street to the south and Johnston Street to the north. Further details of the proposal are as follows:

- The existing on-street car parking will be removed on either side of the street will be removed.
- A segregated bicycle lane will be constructed along either side of the street, within the existing roadway.
  - In some locations along the route, some bluestone paving will be removed, and replaced with asphalt paving, to provide a smooth surface.
- Splitter islands will be constructed along the inside edge of the bike lanes, to separate cyclists from vehicle traffic, and in some locations parked cars.
- Some car parking will be reinstated on the east side of the street, adjacent the splitter islands.
- Access to Johnston Street will be altered, given the cycle lane will be constructed to the intersection.
  - The proposal has been considered by VicRoads, who have offered no objection to the proposal; and all conditions they have imposed have been incorporated into the designs.

### Yarra Planning Scheme Provisions

#### Uses, Buildings, Works, Subdivisions and Demolition Not Requiring a Permit

##### *Clause 62.02-1 – Buildings and works not requiring a permit*

- Pursuant to Clause 62.02-1: *Any requirement in this scheme relating to the construction of a building or the construction or carrying out of works, other than a requirement in the Public Conservation and Resource Zone, does not apply to: ...*
  - *Buildings or works with an estimated cost of \$1,000,000 or less carried out by or on behalf of a municipality.*
- As a number of quotes for tender have been received exceeding \$1,000,000 to carry out the works; the above exemption does not apply.

##### *Clause 62.02-2 Buildings and works not requiring a permit unless specifically required by the planning scheme*

- Pursuant to Clause 62.02-2, a planning permit is not required to carry out Roadworks; unless specifically required by another part of the scheme.

### Zoning

The subject site is zoned:

- Commercial 1 Zone (C1Z)
- Commercial 2 Zone (C2Z)
- Neighbourhood Residential Zone - Schedule 1 (NRZ1)
- General Residential Zone – Schedule 3 (GRZ3)
- Mixed Use Zone.

The following provisions apply:

- None of the relevant zoning provisions specifically require a permit for Roadworks: Therefore no permit is required under any of the relevant zoning provisions.

### Overlays

The subject site is affected by the Design and Development Overlay – Schedule 2 (DDO2).

- There are no specific provisions within the overlay or schedule to the overlay which require a permit for Roadworks: Therefore no permit is required under the overlay.

The subject site is affected by the Heritage Overlay – Schedule 318 (HO318) and Schedule 324 (HO324). The following provisions apply:

- Pursuant to Clause 43.01-1, a planning permit is required to: Construct a building or construct or carry out works, including: ... Roadworks which change the appearance of a heritage place or which are not generally undertaken to the same details, specifications and materials.
- Pursuant to Clause 43.01-4, an application for Roadworks is exempt from the Notice Requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64 (1), (2) and (3) and the review rights of Section 82(1) of the Planning and Environment Act 1987 (the Act).

### Relevant Particular Provisions

*Clause 52.29 – Land adjacent to a road zone, Category 1, or a public acquisition overlay for a category 1 road zone*

- Pursuant to Clause 52.29, a planning permit is required to create or alter access to a Road Zone Category 1.
- However, further to Clause 52.29 a planning permit is not required for *Proposals which, in the opinion of the responsible authority, satisfy requirements or conditions previously agreed in writing between the responsible authority and the Roads Corporation.*
- As VicRoads has previously considered the proposal and their requirements and conditions have been incorporated into the design of proposal at the Johnston Street intersection, no permit is required under Clause 52.29.

### General Provisions

- Clause 65 – Decision guidelines

### State Planning Policy Framework (SPPF)

Relevant clauses are as follow:

- Clause 10.04 – Integrated decision making
- Clause 11.02 – Urban growth
- Clause 15.01 – Urban environment
- Clause 15.02 – Sustainable development
- Clause 15.03 – Heritage
- Clause 18.01 – Integrated transport
- Clause 18.02 – Movement networks

### Local Planning Policy Framework (LPPF)

#### *Municipal Strategic Statement (MSS)*

Relevant clauses are as follow:

- Clause 21.05-1 – Heritage
- Clause 21.05-4 – Public environment
- Clause 21.06 – Transport
- Clause 21.08-5 - Collingwood

### Local Policies

Relevant clauses are as follow:

- Clause 22.02 – Development guidelines for sites subject to the heritage overlay

### **Planning permit process**

Given all of the above, an application for a planning permit will be lodged to carry out Roadworks within a Heritage Overlay.

As Council is the Responsible Authority, Council will determine the application.

As Clause 43.01-4 exempts the application from the Notice and Review provisions of the Act; there is no opportunity for third party objections, nor for an objector appeal. Given this:

- There is no opportunity for “6 objections” to trigger an automatic Internal Development Approvals Committee (IDAC) hearing; however Councillors may still choose to call up the application and have it decided at an IDAC meeting.
- Third party objectors are not able to have Council’s determination reviewed at the Victorian Civil & Administrative Tribunal (VCAT).

Based on internal discussions with Council’s Planning Department, it is expected the planning permit process could take up to approximately 6 months.