



YARRA CITY COUNCIL
Internal Development Approvals Committee
Agenda

**to be held on Wednesday 10 October 2018 at 6.30pm
in Meeting Rooms 1 & 2 at the Richmond Town Hall**

Rostered Councillor membership

Councillor Amanda Stone
Councillor Mi-Lin Chen Yi Mei
Councillor Jackie Fristacky

- I. ATTENDANCE**
Nish Goonetilleke (Senior Statutory Planner)
Danielle Connell (Senior Co-Ordinator Statutory Planning)
Cindi Johnston (Governance Officer)
- II. DECLARATIONS OF PECUNIARY INTEREST AND CONFLICT OF INTEREST**
- III. CONFIRMATION OF MINUTES**
- IV. COMMITTEE BUSINESS REPORTS**

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***"Welcome to the City of Yarra.
Yarra City Council acknowledges the
Wurundjeri as the Traditional Owners
of this country, pays tribute to all
Aboriginal and Torres Strait Islander
people in Yarra and gives respect to
the Elders past and present."***



Guidelines for public participation at Internal Development Approval Committee meetings

POLICY

Council provides the opportunity for members of the public to address the Internal Development Approvals Committee.

The following guidelines have been prepared to assist members of the public in presenting submissions at these meetings:

- public submissions are limited to a maximum of five (5) minutes
- where there is a common group of people wishing to make a submission on the same matter, it is recommended that a representative speaker be nominated to present the views of the group
- all public comment must be made prior to commencement of any discussion by the committee
- any person accepting the chairperson's invitation to address the meeting shall confine himself or herself to the subject under consideration
- people making submissions shall address the meeting as a whole and the meeting debate shall be conducted at the conclusion of submissions
- the provisions of these guidelines shall be made known to all intending speakers and members of the public generally prior to the commencement of each committee meeting.

For further information regarding these guidelines or presenting submissions at Committee meetings generally, please contact the Governance Branch on (03) 9205 5110.

**Governance Branch
2008**

1. Committee business reports

Item		Page	Rec. Page
1.1	PLN17/1061 - 93-97 Webb Street, Fitzroy - Part demolition and use and development of the land for the construction of a mixed use building (permit required for dwelling use) and a reduction in the car parking requirements.	5	50
1.2	PLN17/1113 - 81-89 Queens Parade, Fitzroy North – Construction of an 8 storey building (including stair enclosure to the roof, plus basement levels), use part of the land for a residential hotel (Serviced apartments), alteration of access to a Road Zone (category 1), reduction in car parking associated with a residential hotel (serviced apartments), supermarket and offices (permit not required for supermarket or office uses). (CONFIDENTIAL ITEM)		

1.1 PLN17/1061 - 93-97 Webb Street, Fitzroy - Part demolition and use and development of the land for the construction of a mixed use building (permit required for dwelling use) and a reduction in the car parking requirements.

Executive Summary

Purpose

1. This report provides an assessment of planning permit application PLN17/1061 and recommends approval, subject to conditions. The application proposes the part demolition of the existing building and development of the land for a 7 storey building (plus 2 levels of basement levels with 22 car spaces) containing 16 dwellings and 1 office (158sqm) fronting Webb Street and nine (9) four (4) storey townhouses fronting the eastern laneway and Charles Street.

Key Planning Considerations

2. Key planning considerations include:
 - (a) clause 22.02 - Development Guidelines for Sites Subject to the Heritage Overlay;
 - (b) clause 22.05 – Interface uses policy;
 - (c) clause 34.01 – Commercial 1 Zone;
 - (d) clause 43.01 – Heritage Overlay;
 - (e) clause 52.06 – Car parking;
 - (f) clause 53.06 – Live music and entertainment noise;
 - (g) clause 55 – Two or more dwellings on a lot; and
 - (h) clause 58 – Apartment developments.

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Strategic context;
 - (b) Dwelling use;
 - (c) Built form, Heritage and Urban design;
 - (d) Clause 55 and 58 (Rescode);
 - (e) Car & Bicycle parking/traffic/access/layout; and
 - (f) Objector concerns.

Objector Concerns

4. A total of 62 objections were received to the application, these can be summarised as:
 - (a) Increased traffic and pressure on public transport, on-street car parking and infrastructure;
 - (b) Amenity impacts (including overlooking, reduced privacy and daylight, increased security risks and overshadowing (including to plants) and obstruction of views);
 - (c) Negative impact on heritage character of area;
 - (d) Excessive height/visual bulk;
 - (e) Construction issues (including property damage, vibration, dust, noise and disruption to nearby business operations);
 - (f) Limit development potential of nearby properties; and
 - (g) Loss of artwork on the existing western wall.

Conclusion

5. 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) Plans amended to show the changes shown on the submitted sketch plans, as follows:

Townhouses

- (i) Increased setbacks of third floor east wall;
- (ii) Increased setbacks of roof terraces from east and west boundaries;
- (iii) Overall reduction in height by 0.7m;
- (iv) New privacy screens to roof terraces; and
- (v) Colour palette lightened to the northern, western and eastern walls.

Apartment building

- (vi) Setbacks of the south-east and south-west corners of the 5th and 6th floor increased as well as north-west and north-east corners; and
- (vii) Lightening of the western boundary wall material at first to fourth floor.

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TITLE: Senior Statutory Planner
TEL: 92055016

1.1 PLN17/1061 - 93-97 Webb Street, Fitzroy - Part demolition and use and development of the land for the construction of a mixed use building (permit required for dwelling use) and a reduction in the car parking requirements.

Trim Record Number: D18/160145

Responsible Officer: Senior Coordinator Statutory Planning

Proposal: Part demolition and development of the land for a maximum 7 storey building (plus basement levels), use of the land as dwellings, with a reduction in the car parking requirement associated with office and dwellings

Existing use: Office building

Applicant: OP Webb Pty Ltd

Zoning / Overlays: Commercial 1 Zone and Heritage Overlay

Date of Application: 11 December 2017

Application Number: PLN17/1061

Planning History

1. There is no planning history for the subject site.

Background

2. The application was received by Council on 11 December 2017, with additional information received on 9 March 2018. The application was subsequently advertised on April 2018 by way of 1010 letters sent to the surrounding area and 3 signs at the site, with 62 objections received.
3. A planning consultation meeting was held on the 12 June 2018 and was attended by the applicant, 7 objectors and Council officers and applicant representatives. In response to issues raised by objectors and referral comments, the applicant submitted sketch plans dated 9 July 2018 (corrected on 26 September 2018).
4. The sketch plans show the following changes:
 - (a) Revised sectional shadow diagrams to the Patterson's building, and
 - (b) Revised perspectives.

Townhouses

- (c) The third floor eastern wall and the eastern roof terrace wall of townhouse 1, 3, 5 and 7 splayed allowing for 0m setback on the southern end and 1.5m setback on the northern end of the splay,
- (d) The setback of the second and third floor western walls of townhouses 1, 3, 5 and 7 increased by 0.3m,
- (e) Overall reduction in the height of townhouse 1-8 by 0.7m through a reduction in the roof terrace wall heights,
- (f) New privacy screens on the south and west side of the roof terraces to townhouses 1-8 and the east side of the terraces to townhouse 1-4,
- (g) The setback of the roof terrace western walls of townhouse 1, 3, 5 and 7 increased by 0.94m,
- (h) The setback of the roof terrace western walls of townhouse 2, 4, 6 and 8 increased by approx. 0.3m,
- (i) Reduction in the size of the proposed roof terrace of townhouse 1, 3, 5 and 7 from 24sqm to 19sqm,

- (j) Reduction in the size of the proposed roof terrace of townhouse 2, 4, 6 and 8 from 24sqm to 22sqm, and
- (k) The colour palette lightened to the western and eastern wall of townhouses 1-8.

Apartment building

- (l) The setback of the south-east corner of the fifth and sixth floor and roof above increased to allow a minimum setback of 5.169m to Webb Street boundary, a minimum setback of 3.084m to the eastern boundary,
 - (m) The setback of the south-west corner of the fifth floor and sixth floor and roof above increased to allow a minimum setback of 5.075m to Webb Street boundary and a minimum setback of 2.6m to the western boundary,
 - (n) The setback north-west and north-east corner of the fifth, sixth floors and roof above increased to allow a minimum setback of 3.165m to the eastern boundary and 3.695m to the western boundary, and
 - (o) The lightening of the western boundary wall material at first to fourth floor.
5. The assessment of the application will be based on the advertised/decision plans with conditions requiring that the changes shown on the sketch plans (dated 26 September 2018) are formalised.

Planning Scheme Amendments

Amendment VC148

- 6. On 31 July 2018, Planning Scheme Amendment VC148 was gazetted by the Minister for Planning. Amongst other changes the amendment has deleted the State Planning Policy Framework (SPPF) and has replaced it with a new integrated Planning Policy Framework (PPF) in Clauses 10 to 19 of the Scheme.
- 7. The introduction of VC148 amended Clause 52.06 (Car parking) so that the car parking rates of Column B applies if any part of the subject site is identified as being within the Principal Public Transport Network Area (PPTN).
- 8. The subject site is located within the PPTN Area and, therefore, the Column B car parking rates apply to this planning permit application which means there is no longer a requirement to provide any visitor car parking spaces as part of the proposal.

The Proposal

- 9. The application proposes the part demolition of the existing building and development of the land for a 7 storey building (plus 2 levels of basement levels with 24 car spaces) containing 16 dwellings and 1 office (158sqm) fronting Webb Street and nine (9) four (4) storey townhouses (and 14 car spaces) fronting the eastern laneway and Charles Street, with a reduction in the car parking requirement associated with the office. More specifically:

Demolition

- 10. The existing garage door and window openings (bricked-in) to Chares Street are to be removed with the remainder of the façade retained.
- 11. The existing windows, part of the brick work on the western side of the façade and roller door to the Webb Street frontage are to be removed.
- 12. The majority of the eastern wall to the laneway is to be removed apart from the southern and northern ends.

13. Demolition of the western boundary wall abutting Union Club Hotel (shown on floor plan) and the northern section abutting No. 96 Charles Street apartments.
14. The entire existing roof form is to be removed.

Townhouses

15. A total of nine (9) four (4) storey townhouses are proposed along the northern and eastern boundaries with an office and 7 storey apartment building along Webb Street. The townhouses would have a west-east orientation, with 8 having roof terraces. All would have individual vehicle access from the eastern laneway. Pedestrian access to townhouse 1-8 would be provided via a first floor walkway (above the garages) along the western boundary, with townhouse 9 accessing directly from Charles Street. The townhouses would have a maximum height of 13.3m.

Townhouse 1-8

Ground floor

16. The floor layout of townhouse 1-8 mirror each other on all floors, apart from townhouse 1, 3, 5 and 7 having two car spaces each and the remaining townhouses each having one. The use of the second rooms at ground floor to townhouse 2, 4, 6 and 8 is not marked on the plans. However, the rooms can clearly be used as another bedroom and therefore will be included as such. The townhouses will be built to the west boundary and with eastern garage doors and east walls setback 1m from the eastern laneway.

First floor

17. The first floors would accommodate a bedroom with ensuites. Setbacks from the west boundary range from approx. 1.9m to 2.2m and accommodates the pedestrian walkway for townhouse 1-8 accessed from Charles Street. This varied western setback is due to the west boundary being slightly angled. The east wall would be built to the boundary, apart from an approx. 1m wide x 1.8m deep window recess on the north-east corner of each townhouse.

Second floor

18. The second floors would accommodate 2 bedrooms and a bathroom. Setbacks to the west boundary range from approx. 1m to 2.6m. The east wall would be built to the boundary, apart from an approx. 1m wide x 1.8m deep window recess on the north-east corner of each townhouse (mirroring these setbacks on the level below).

Third floor

19. The third floors would accommodate living and kitchen areas. The east wall would be built to the boundary, apart from an approx. 1m wide x 1.8m deep window recess on the north-east corner of each townhouse (mirroring the setbacks on the level below).
20. The west wall would have varied setbacks. Townhouse 1, 3, 5 and 7 have similar setbacks ranging from approx. 1m to 1.8m, with a further recess on their north-west corner. The western walls of townhouse 2, 4, 6 and 8 rake back from the level below allowing for maximum setback of between approx. 2.8m and 3.8m, with further recess on their north-west corner.

Roof terraces

21. Each dwelling will be provided with a 24sqm roof terrace. The east wall would be built to the boundary, apart from an approx. 1m wide x 1.8m deep recess on the north-east corner of each townhouse. The terraces are setback between approx. 4.8m to 5.8m from the west boundary.

Townhouse 9

Ground floor

22. Townhouse 9 fronts Charles Street. The ground floor façade would accommodate a living room, dwelling entry and the entry gate to the pedestrian walkway to townhouse 1-8. This dwelling is consequently setback between approx. 2m and 4m from the western boundary to accommodate the pedestrian entry to dwelling 1-8 with two visitor bicycle spaces provided inside the gate. The remainder of this level is built to the northern and western boundary, with the existing walls retained (apart from the new garage door to the eastern laneway). Two car spaces would be provided accessed from the eastern laneway.

First floor

23. The first floor accommodates the living area and would be built to the east boundary, setback approx. 1.9m from the west boundary and 3.2m from Charles Street. An 18sqm terrace is located in this setback.

Second floor

24. The second floor would accommodate two bedrooms with ensuites and would be built to the east boundary, setback approx. 1.9m from the west boundary and 3.2m from Charles Street.

Third floor

25. The third floor would accommodate two bedrooms with ensuite and walk-in-robe and is contained within a raked roof form. This raking form results in sloped new facade wall to Charles Street upper levels ranging in height from a minimum of 8.8m (east side) to a maximum 12.4m (west side). This floor would be built to the east boundary, setback approx. 1.9m from the west boundary and 3.2m from Charles Street.

Colours and materials

26. Light and dark grey brick finishes alternating between each townhouse are proposed to the east wall. Light and dark grey metal cladding finishes alternating between each townhouse are proposed to the west wall. A dark grey brick finish is proposed to the new Charles Street wall.

Apartment building

27. The apartment building is proposed to be 7 storeys over two basement levels and fronts Webb Street. The building will have an overall maximum height of 24.4m to the top of the sixth floor. The fourth floor podium will have a maximum height of 18.76m.

Basement levels

28. The basement is generally positioned beneath the footprint of the apartment building. Basement 2 contains 9 car spaces accessed by a car lift. It also contains a services area, a 13,000ltr water tank, 1 motorbike space and is accessed by a lift and stairs. Basement 1 contains 15 car spaces also accessed by car lift, 1 motor bike space and with stair and lift access.

West and north wall

29. The west wall will be built to the west boundary for a distance of 12m with the remainder (toward Webb Street) setback approx. 1.5m between ground and fourth floor. The setbacks to the west boundary at floor 5 and 6 will be between approx. 1.8m and 2.8m.
30. The north wall adjacent to the boundary wall on the apartment building at No.174 Gore Street will be setback between 0.39m and 0.99m from ground to floor six.

Ground floor

31. The ground floor contains a 25.5sqm services area, a 158sqm office, the apartment entry lobby (with water metres cupboard and mail boxes), 26 bicycle spaces and the car lift platform.
32. New full height glazing would be installed to the existing Webb Street openings with a solid wooden door providing access to the car stacker. A new roller door is proposed to be installed to part of the office frontage to the laneway in the existing wall.

First floor

33. Four apartments are proposed at first floor. Two of them would be 1 bedroom with the remaining two being 2 bedrooms. Terraces would run around the east and south side of the existing building allowing for the dwellings to be setback to the existing walls/boundaries by 2m and 2.5m. The existing parapets would act as terrace walls ranging in height from 1m to 2m.

Second, third and fourth floor

34. The apartment layout would mirror each other on these floors. Each level would have one apartment with 3 bedrooms and two apartments with 2 bedrooms. The eastern 2 bedroom apartments would be provided with an 8sqm terrace fronting the eastern laneway. The 2 bedroom apartments fronting Webb Street would have 14sqm terraces. The three-bedroom apartments fronting Webb Street would have 11sqm terraces. These levels would be setback approx. 1m from the east boundary and 1.45m from Webb Street with terraces to Webb Street floors 2 - 4 recessed a further 2m.

Fifth and sixth floor

35. The fifth floor would have two apartments each with 2 bedrooms and with a 3 bedroom penthouse proposed at floor six. The walls at these levels have an irregular layout. Setbacks to the east boundary would range from 2.5m to 3.16m. Setbacks to the west boundary would range from 1.7m to 2.79m. Setbacks to Webb Street would range from approx. 3.45m to 3.85m.

Materials

36. Wall materials would be a dark grey brick finish to floor 1 to four, with glazed finishes to the fifth and sixth floors overlaid by external horizontal venetian style blinds. New terrace balustrades would be black steel pickets.

Existing Conditions

Subject Site

37. The subject site is located on the north side of Webb Street and on the south side of Charles Street, generally east of Gore and west of Smith Streets in Fitzroy. The site has an L-shape configuration with a frontage of 23.1m to Webb Street, a frontage of 13m to Charles Street and a maximum depth of 63.4m, yielding an area of approximately 989m². The site is currently developed with two, single storey warehouse style buildings used as offices.

Surrounding Land

38. The site is located within a Commercial 1 Zone, noting that the site is west of the Smith Street Activity Centre with a range of commercial and residential land uses.

West- Union Hotel

39. To the west is the side of the Union Club Hotel which is located in a Neighbourhood Residential Zone – Schedule 1. The hotel abuts the wider section of the subject site (Webb Street end) and adjoins the boundary for a distance of 18.36m. The hotel is a 2 storey red brick building and is setback from the shared boundary with the subject site approximately 5m at ground floor with a courtyard located in this setback. At first floor the hotel setback is staggered at approx. 5m (on the southern end of the shared boundary) and 12m (on the northern end). Within the 5m setback area is an approximately 2m wide terrace which overhangs the ground floor courtyard. The operator has confirmed that this first-floor terrace is not accessible to the public and is generally used as a staff break area and for storage.
40. The 12m setback area is occupied by a large first floor terrace that is built to the shared boundary and overhangs the courtyard below. This terrace has an approx. 3m wide open-sided roof structure which adjoins the shared boundary with subject site. The hotel operates licence permits operation until 1am every day, except 11pm on Sundays with a maximum of 150 patrons (liquor licence no. 31915127). The courtyards operate until 11pm every night, except for 1am on the day before ANZAC Day. The operator has confirmed that music in the indoor and outdoor areas is played at background levels. The operator also confirmed amplified acoustic live music sessions are regularly held on Saturday and Sunday afternoons inside the building. Music is played beyond background levels at these times.

West- No.96 Charles Street apartment building

41. The remainder of the western boundary is occupied by a part 3 and part 5 storey residential building with a three storey frontage to Gore Street and a four storey frontage to Charles Street (approved under planning permit PL06/1016).
42. This building presents as six stories opposite the subject site with the basement level being located at ground level and adjoins the western boundary wall of the subject site. At the north end along the shared boundary, the building is setback 5.6m from Charles Street with upper level balconies located within this setback. The building then extends to the shared boundary for two levels with a balcony to the boundary at floor 2. The remaining 5 levels of the building is setback 3.1m from the shared boundary with ground floor open space (above the elevated basement) for four dwellings located in this setback. The four levels above containing four dwellings on each level, each have a balcony setback 2.6m from the shared boundary. Living areas and bedrooms face the subject site on all levels.

South

43. To the south, across Webb Street, are 1 and 2 storey dwellings. The dwellings are early Victorian (albeit some have been altered) and some also present bluestone plinths to the street (as with the dwellings in Charles Street) due to the land falling from west down to the east. A first floor balcony (above a dwelling garage) is located opposite the site. Further east between Little Smith Street and Smith Street a mixture of double storey commercial buildings and a single storey dwelling fronting Webb Street.

East

44. To the east of the subject site, across a 3.5m to 3.7m wide lane, is the rear of buildings fronting Smith Street. The buildings range from 2 to 5 storeys in height. On the corner of Web Street and Smith Street is a two storey *individually significant* heritage building formerly used as a bank (No. 171 Smith Street). The building is now used as a shop and tavern (Sandy V's) at ground floor and office at first floor.
45. This site has a large courtyard to the rear which is used for car parking and storage. The clothes shop occupies most of the ground floor with the tavern located along a narrow strip adjoining the north boundary. The tavern has a small open courtyard at the Smith Street frontage with the remainder of the tavern located at ground floor within a two storey building. The tavern was approved under planning permit PLN16/1134, has a total floor area of 41sqm, a maximum patron capacity of 38 and closes at 11pm Monday to Sunday. Permit conditions require that music from the tavern comply with State Environment Protection Policy- Control of Music Noise from Public Premises (SEPP N-2).
46. Adjacent to this building is Patterson's building which has shops at ground floor fronting Smith Street and dwellings over four floors above (under planning permit PLN12/0521). Based on the endorsed plans for planning permit PLN12/0521, adjoining the rear laneway to the rear are ground floor services/bicycle storage areas. At first floor 3 units adjoin the rear laneway, all with a balcony each servicing living areas and fronting the laneway. Each balcony is serviced by two openings in the existing boundary wall. The remaining opening (third opening from the south) accommodates a bedroom window.
47. At second floor, the south-west corner of the building is occupied by large unroofed balcony (with south-facing windows/doors accessing the balcony). Three windows on the south end of the laneway service a living area and a bedroom, with the two northern openings servicing a balcony to a living area. At third floor there are two small unroofed balconies located on the south-east corner of the building. Three windows on the south end of the laneway service a living area and a bedroom, with the two northern opening to the laneway servicing a balcony to a living area. All the balconies on floor 1 to 3 facing the laneway are overhung by the level above and enclosed by side walls. The fourth floor is an addition to the building with unroofed balconies adjoining the full laneway frontage.
48. Adjoining the Patterson's building to the north is a restaurant with single storey built form adjoining the rear laneway. To the north of the restaurant is a Cabaret Club with two storey built form adjoining the laneway. The club has operating hours until 1m Sunday to Wednesday and 3am Thursday to Saturday and a maximum patron capacity of 100 patrons (Licence No. 32261987). The operator has confirmed that the Cabaret only operates from ground floor with the business office and staff areas at first floor. The stage is located approximately 3m from the rear boundary with performers change room located on the rear boundary at ground floor.
49. To north of the Cabaret Club are three, two storey commercial properties fronting Smith Street occupied by either shops or restaurants. None of these properties have an interface with the rear laneway. Two dwellings that front Charles Street are located to the rear of these three commercial properties. The double storey wall of the westernmost of these Victorian era dwellings adjoins the rear laneway. This dwelling has one window fronting the laneway at ground floor and three at first floor. A small services yard to the rear adjoining the lane with ground floor windows facing the yard which is entirely roofed with corrugated Perspex.

North

50. The opposite side of Charles Street is occupied by single storey dwelling and a double storey side wall of a shop with frontage to Smith Street (with a storage yard to rear).

51. The site is well serviced by public transport and services, with a tram route servicing Smith Street and a range of services and facilities given Smith Street is an Activity Centre including shops, offices and restaurants.

Planning Scheme Provisions

Zoning

Commercial 1 Zone

52. The subject site is zoned Commercial 1.
53. The use of the site as dwellings requires a planning permit under clause 34.01-1 of the Yarra Planning Scheme as the ground floor frontage exceeds 2m.
54. The use of the site for office does not require a planning permit under clause 34.01-1 of the Yarra Planning Scheme as there is no specified amount of floor area in the Schedule.
55. Under clause 34.01-4 of the Scheme, a permit is required to construct a building or construct or carry out works.
56. Clause 34.01-4 states that a development must meet the requirements of Clause 58.
57. Decision guidelines for both use and buildings and works are contained at Clause 34.01-8. These decision guidelines also list Clause 55 as a relevant decision guideline for the townhouses.

Overlays

Heritage Overlay (HO334- South Fitzroy Precinct)

58. Clause 43.01-1 (Heritage Overlay) states that a planning permit is required to demolish or remove a building and construct a building or construct or carry out works.

City of Yarra Review of Heritage Areas 2007 Appendix 8 (as updated from time to time)

59. The building on the subject site is located within Schedule 334 and identified as 'contributory' to this precinct as outlined in the incorporated document.

Particular Provisions

Clause 52.06 - Car Parking

60. Pursuant to Clause 52.06-2, the car parking spaces required under Clause 52.06-5 must be provided on the land. Clause 52.06-3 requires a planning permit to reduce the number of car parking spaces required under this clause.
61. It is noted that the introduction of VC148 amended Clause 52.06 so that the car parking rates of Column B applies if any part of the land is identified as being within the Principal Public Transport Network Area. The subject site is within this area and therefore the Column B car parking rates apply to this planning permit application.
62. The Clause 52.06-5 requirements, the proposal provision and the subsequent shortfall are shown in the table below:

Use	Bedrooms/ Floor Area	Rate	No. required	No. proposed	Reduction sought
Apartments and townhouses	2 x 1 bedroom dwellings	1 space per 1 bedroom dwelling	2	1	1
	10 x 2 bedroom apartment	1 space per 2 bedroom dwelling	10	15	0 (+5)
	13 x three-bedrooms or more apartment/townhouses	2 spaces per 3 bedroom or more dwelling	26	22	4
	158 sqm of Office	3 per 100sqm nett floor area	4	0	4
Totals			42	38	4

Clause 52.34 – Bicycle Facilities

63. 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.
64. As the floor area of the office does not exceed 300 square metres, no bicycle parking is required for the office. No end of trip facilities (i.e. showers or change rooms) are required by the Scheme as the leasable floor areas of the office do not trigger any bicycle parking spaces.
65. The Clause 52.34-5 requirements are shown below:

Use	Number/ Floor Area	Rate	No. required
Dwelling	25 dwellings	Residential – 1 to each 5 dwellings	5
		Visitor – 1 to each 10 dwellings	2
Totals			7

66. With 26 bicycle parking spaces proposed to the apartment building, and a bike space in each of the garages to the townhouses, the statutory rate is exceeded.

Clause 53.06 – Live music and entertainment noise

67. The purpose of this clause is;
- (a) *To recognise that live music is an important part of the State’s culture and economy.*
 - (b) *To protect live music entertainment venues from the encroachment of noise sensitive residential uses.*
 - (c) *To ensure that noise sensitive residential uses are satisfactorily protected from unreasonable levels of live music and entertainment noise.*
 - (d) *To ensure that the primary responsibility for noise attenuation rests with the agent of change.*

Clause 55 – Two or more dwellings on a lot and residential buildings

68. Pursuant to clause 55 of the Scheme this provision applies to an application to construct or extend two or more dwellings on a lot. A development must meet the objectives of Clause 55 but does not need to meet the standard.

Clause 58 - Apartment developments

69. This clause applies as the development is for the construction of an apartment development. A development should meet all the standards and must meet all the objectives.

General Provisions

Clause 65 – Decision Guidelines

70. The decision guidelines outlined at Clause 65 of the Scheme are relevant to all applications. This clause notes *'because a permit can be granted does not imply that a permit should or will be granted. The responsible authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause'*.

Clause 65.01 – Approval of an application or plan

71. *Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:*

- (a) The matters set out in section 60 of the Act.*
- (b) The Municipal Planning Strategy and the Planning Policy Framework.*
- (c) The purpose of the zone, overlay or other provision.*
- (d) The orderly planning of the area.*
- (e) The effect on the amenity of the area.*
- (f) The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.*

Planning Policy Framework (PPF)

72. Relevant clauses are as follows:

Clause 11.02 (Managing Growth)

Clause 11.02-1S (Supply of Urban Land)

73. The objective is:

- (a) To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.*

Clause 11.03 (Planning for Places)

Clause 11.03-1S Activity Centres

74. The relevant objectives of this clause include:

- (a) To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community.*

Clause 13.05-1S Noise abatement

75. The relevant objective of this clause is:

- (a) *To assist the control of noise effects on sensitive land uses.*

Clause 13.07 Amenity

Clause 13.07-1S Land use compatibility

76. The objective of this clause is:

- (a) *To safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects.*

Clause 15.01-1S Urban design

77. The relevant objective of this clause is:

- (a) *To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.*

Clause 15.01-2S Building design

78. The relevant objective of this clause is:

- (a) *To achieve building design outcomes that contribute positively to the local context and enhance the public realm.*

Clause 15.01-4S Healthy neighbourhoods

79. The objective is:

- (a) *To create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.*

Clause 15.01-4R Healthy neighbourhoods - Metropolitan Melbourne

80. The strategy is:

- (a) *Create a city of 20 minute neighbourhoods, that give people the ability to meet most of their everyday needs within a 20 minute walk, cycle or local public transport trip from their home.*

Clause 15.01-5S Neighbourhood character

81. The relevant objective of this clause is:

- (a) *To recognise, support and protect neighbourhood character, cultural identity, and sense of place.*

Clause 15.02 Sustainable Development

Clause 15.02-1S Energy Efficiency

82. The objective of this clause is:

- (a) *To encourage land use and development that is energy and resource efficient, supports a cooler environment and minimises greenhouse gas emissions.*

Clause 15.03 Heritage

Clause 15.03-1S – Heritage conservation

83. The objective of this clause is:

- (a) *To ensure the conservation of places of heritage significance.*

84. Strategies include:

- (a) *Identify, assess and document places of natural and cultural heritage significance as a basis for their inclusion in the planning scheme.*
- (b) *Provide for the protection of natural heritage sites and man-made resources.*
- (c) *Provide for the conservation and enhancement of those places that are of aesthetic, archaeological, architectural, cultural, scientific or social significance.*
- (d) *Encourage appropriate development that respects places with identified heritage values.*
- (e) *Retain those elements that contribute to the importance of the heritage place.*
- (f) *Encourage the conservation and restoration of contributory elements of a heritage place.*
- (g) *Ensure an appropriate setting and context for heritage places is maintained or enhanced.*
- (h) *Support adaptive reuse of heritage buildings where their use has become redundant.*

Clause 16.01 Residential Development

Clause 16.01-1S – Integrated housing

85. The objective of this clause is ‘*to promote a housing market that meets community needs*’.

Clause 16.01-1R – Integrated housing- Metropolitan Melbourne

86. Strategies for this clause are:

- (a) *Provide certainty about the scale of growth by prescribing appropriate height and site coverage provisions for different areas.*
- (b) *Allow for a range of minimal, incremental and high change residential areas that balance the need to protect valued areas with the need to ensure choice and growth in housing.*

Clause 16.01-2S Location of residential development

87. The objective of this clause is:

- (a) *To locate new housing in designated locations that offer good access to jobs, services and transport.*

88. Relevant strategies for this clause are:

- (a) *Increase the proportion of new housing in designated locations within established urban areas and reduce the share of new dwellings in greenfield and dispersed development areas.*
- (b) *Encourage higher density housing development on sites that are well located in relation to jobs, services and public transport.*
- (c) *Ensure an adequate supply of redevelopment opportunities within established urban areas to reduce the pressure for fringe development.*
- (d) *Facilitate residential development that is cost effective in infrastructure provision and use, energy efficient, water efficient and encourages public transport use.*

- (e) *Identify opportunities for increased residential densities to help consolidate urban areas.*

Clause 16.01-2R – Housing opportunity areas- Metropolitan Melbourne

89. Relevant strategies for this clause are:

- (a) *Identify areas that offer opportunities for more medium and high density housing near employment and transport in Metropolitan Melbourne.*
- (b) *Manage the supply of new housing to meet population growth and create a sustainable city by developing housing and mixed use development opportunities in locations that are:*
 - (i) *In and around the Central City.*
 - (ii) *Urban-renewal precincts and sites.*
 - (iii) *Areas for residential growth.*
 - (iv) *Areas for greyfield renewal, particularly through opportunities for land consolidation.*
 - (v) *Areas designated as National Employment and Innovation Clusters.*
 - (vi) *Metropolitan activity centres and major activity centres.*
 - (vii) *Neighbourhood activity centres - especially those with good public transport connections.*
 - (viii) *Areas near existing and proposed railway stations that can support transit oriented development.*
- (c) *Facilitate increased housing in established areas to create a city of 20 minute neighbourhoods close to existing services, jobs and public transport.*

Clause 16.01-3S – Housing diversity

90. The objective of this clause is 'to provide for a range of housing types to meet increasingly diverse needs'.

91. Strategies of this policy are:

- (a) *Ensure housing stock matches changing demand by widening housing choice.*
- (b) *Facilitate diverse housing that offers choice and meets changing household needs through:*
 - (i) *A mix of housing types.*
 - (ii) *Adaptable internal dwelling design.*
 - (iii) *Universal design.*
- (c) *Encourage the development of well-designed medium-density housing that:*
 - (i) *Respects the neighbourhood character.*
 - (ii) *Improves housing choice.*
 - (iii) *Makes better use of existing infrastructure.*
 - (iv) *Improves energy efficiency of housing.*
- (d) *Support opportunities for a range of income groups to choose housing in well-serviced locations.*
- (e) *Ensure planning for growth areas provides for a mix of housing types through a variety of lot sizes, including higher housing densities in and around activity centres.*

Clause 16.01-3R – Housing diversity - Metropolitan Melbourne

92. The strategy of this policy is:

- (a) *Create mixed-use neighbourhoods at varying densities that offer more choice in housing*

Clause 16.01-4S – Housing affordability

93. The objective of this clause is *'to deliver more affordable housing closer to jobs, transport and services'*.

Clause 18.01 Integrated Transport

Clause 18.01-1S – (Land use and transport planning)

94. The objective of this clause is:

- (a) *To create a safe and sustainable transport system by integrating land use and transport.*

Clause 18.02 Movement Networks

Clause 18.02-1S – Sustainable personal transport

95. The relevant objectives of this clause is:

- (a) *To promote the use of sustainable personal transport.*

Clause 18.02-2S Public Transport

96. The objective of this clause is:

- (a) *To facilitate greater use of public transport and promote increased development close to high-quality public transport routes.*

Clause 18.02-2R Principal Public Transport Network

97. A relevant strategy of this clause is to:

- (a) *Maximise the use of existing infrastructure and increase the diversity and density of development along the Principal Public Transport Network, particularly at interchanges, activity centres and where principal public transport routes intersect.*

Clause 18.02-4S – Car Parking

98. The objective of this clause is:

- (a) *To ensure an adequate supply of car parking that is appropriately designed and located.*

99. A relevant strategy is:

- (a) *Protect the amenity of residential precincts from the effects of road congestion created by on-street parking.*

Local Planning Policy Framework (LPPF)

Clause 21.04-1 Accommodation and Housing

100. The objectives of this clause are:

- (a) *To accommodate forecast increases in population.*
(b) *To retain a diverse population and household structure.*

- (c) *To reduce potential amenity conflicts between residential and other uses.*

Clause 21.04-2 Activity Centres

101. The relevant objectives of this clause are:

- (a) *To maintain the long term viability of activity centres.*

102. A relevant strategy is:

- (a) *Permit residential development that does not compromise the business function of activity centres.*

Clause 21.05-1 Heritage

103. This clause acknowledges that new development can still proceed whilst paralleling the objective to retain the nineteenth century character of the City. Conservation areas seek to conserve the City's heritage places whilst managing an appropriate level of change.

104. Relevant objectives include:

- (a) *Objective 14 To protect and enhance Yarra's heritage places:*
- (i) *Strategy 14.1 Conserve, protect and enhance identified sites and areas of heritage significance including pre-settlement ecological heritage.*
 - (ii) *Strategy 14.2 Support the restoration of heritage places.*
 - (iii) *Strategy 14.3 Protect the heritage skyline of heritage precincts.*
 - (iv) *Strategy 14.4 Protect the subdivision pattern within heritage places.*
 - (v) *Strategy 14.6 Protect buildings, streetscapes and precincts of heritage significance from the visual intrusion of built form both within places and from adjoining areas.*
 - (vi) *Strategy 14.8 Apply the Development Guidelines for Heritage Places policy at clause 22.02.*

Clause 21.05-2 – Urban design

105. The relevant objectives of this clause are:

- (a) *Objective 16 - To reinforce the existing urban framework of Yarra;*
- (b) *Objective 17 - To retain Yarra's identity as a low-rise urban form with pockets of higher development:*
- (i) *Strategy 17.2 Development on strategic redevelopment sites or within activity centres should generally be no more than 5-6 storeys unless it can be demonstrated that the proposal can achieve specific benefits such as:*
 - 1. *Significant upper level setbacks*
 - 2. *Architectural design excellence*
 - 3. *Best practice environmental sustainability objectives in design and construction*
 - 4. *High quality restoration and adaptive re-use of heritage buildings*
 - 5. *Positive contribution to the enhancement of the public domain*
 - 6. *Provision of affordable housing.*
- (c) *Objective 18 - To retain, enhance and extend Yarra's fine grain street pattern;*
- (d) *Objective 20 - To ensure that new development contributes positively to Yarra's urban fabric;*
- (e) *Objective 21 - To enhance the built form character of Yarra's activity centres;*

- (i) *Strategy 21.1 Require development within Yarra's activity centres to respect and not dominate existing built form; and*
- (ii) *Strategy 21.3 Support new development that contributes to the consolidation and viability of existing activity centres.*
- (f) *Objective 22 - To encourage the provision of universal access in new development.*

Clause 21.05-4 Public environment

106. The relevant objective and strategies of this clause are:

- (a) *Objective 28 - To provide a public environment that encourages community interaction and activity:*
 - (i) *Strategy 28.2 Ensure that buildings have a human scale at street level.*
 - (ii) *Strategy 28.3 Require buildings and public spaces to provide a safe and attractive public environment.*
 - (iii) *Strategy 28.5 Require new development to make a clear distinction between public and private spaces.*
 - (iv) *Strategy 28.8 Encourage public art in new development.*

Clause 21.06 – Transport

107. This clause builds upon the objectives outlined at clause 18, promoting cycling, walking and public transport as alternatives to private motor vehicle usage.

Clause 21.06-1 – Walking and cycling

108. This Clause builds upon the Objectives outlined at Clause 18, promoting cycling, walking and public transport as alternatives to private motor vehicle usage.

- (a) *Objective 30 - To provide safe and convenient bicycle environments:*
 - (i) *Strategy 30.2 Minimise vehicle crossovers on street frontages.*
- (b) *Objective 32 - To reduce the reliance on the private motor car.*
- (c) *Objective 33 - To reduce the impact of traffic.*
 - (i) *Strategy 33.1 Ensure access arrangements maintain the safety and efficiency of the arterial and local road network.*

Clause 21.07-1 Environmental Sustainability

109. The relevant objectives of this clause are:

- (a) *To promote environmentally sustainable development.*

Clause 21.08 Neighbourhoods

110. Clause 21.08-7 of the Scheme describes the Fitzroy neighbourhood as '*a mixed commercial and residential neighbourhood notable for the consistency of its Victorian streetscapes. It comprises a dense combination of residential areas, shopping precincts and commercial industrial activities.*

111. The Figure 18 - Built Form Character Map: Fitzroy shows the subject site located within the heritage overlay. The guiding urban design principle is to '*ensure that development does not adversely affect the significance of the heritage place*'.

Relevant Local Policies

Clause 22.02 Development Guidelines for Sites Subject to the Heritage Overlay

112. This policy applies to all new development included in a heritage overlay. The relevant objectives of this clause includes to conserve Yarra's natural and cultural heritage, to conserve the historic fabric and maintain the integrity of places of cultural heritage significance, to retain significant view lines to, and vistas of, heritage places and to preserve the scale and pattern of streetscapes in heritage places.

Clause 22.05 Interface Uses Policy

113. This policy applies to applications for use or development within Commercial 1 Zones (amongst others). The objectives of this clause is to enable the development of new residential uses within and close to activity centres, near industrial areas and in mixed use areas while not impeding the growth and operation of these areas as service, economic and employment nodes and to ensure that residential uses located within or near commercial centres or near industrial uses enjoy a reasonable level of amenity.

Clause 22.07 Development Abutting Laneways

114. This policy applies to applications for development that are accessed from a laneway or has laneway abuttal. The objectives of this policy include to provide an environment which has a feeling of safety for users of the laneway, to ensure that development along a laneway acknowledges the unique character of the laneway, to ensure that where development is accessed off a laneway, all services can be provided to the development and to ensure that development along a laneway is provided with safe pedestrian and vehicular access.

Clause 22.12 Public Open Space Contribution

115. This policy applies to all residential proposals, mixed use proposals incorporating residential uses and proposals incorporating residential subdivision. The subject site is in an area where land in lieu of cash is the preferred method of public open space contribution. However considering the size of the site, it is not practical to provide the preferred area of land and therefore cash will be required.

Clause 22.16 Stormwater Management (Water Sensitive Urban Design)

116. This policy applies to applications for new buildings and aims to achieve the best practice water quality performance objectives and to promote the use of water sensitive urban design, including stormwater re-use.

Clause 22.17 Environmentally sustainable Development

117. This policy applies throughout the City of Yarra to residential and non-residential development that requires a planning permit. The overarching objective is that development should achieve best practice in environmentally sustainable development from the design stage through to construction and operation.
The considerations are energy performance, water resources, indoor environment quality, storm water management, transport, waste management and urban ecology.

Advertising

118. The application was advertised in accordance with Section 52 of the *Planning and Environment Act 1987* (the Act) by way of 1010 letters sent to the surrounding property owners/occupiers and by three signs (one to the laneway, Webb Street and Charles Street).
119. A total of 62 objections were received to the application, these can be summarised as:

- (a) Increased traffic and pressure on public transport, on-street car parking and infrastructure;
- (b) Amenity impacts (including overlooking, reduced privacy and daylight, increased security risks and overshadowing (including to plants) and obstruction of views);
- (c) Negative impact on heritage character of area;
- (d) Excessive height/visual bulk;
- (e) Construction issues (including property damage, vibration, dust, noise and disruption to nearby business operations);
- (f) Limit development potential of nearby properties; and
- (g) Loss of artwork on the existing western wall.

120. The grounds of objection will be considered and addressed as relevant throughout the 'Officer Assessment' section of this report.

Referrals

121. The following referrals were carried out on the advertised plans:

Advertised plans

122. *Internal departments*

- (a) Heritage;
- (b) Engineering Services Unit;
- (c) Waste Services; and
- (d) ESD Advisor.

123. *External consultants*

- (a) Urban Design (Hansen Consultants);
- (b) Acoustic (SLR Consultants); and
- (c) Traffic engineers (Cardno Consultants).

124. Referral comments are attachments to this report.

Sketch plans

125. Following the receipt of the sketch on 10 July 2018, additional comments were sought from the following referrals:

126. *Internal departments*

- (a) Heritage advisor; and
- (b) ESD Advisor.

127. *External consultants*

- (a) Urban Design (Hansen Consultants).

128. The referral comments for these plans are attachments to this report. It was not required to re-refer the sketch plans to the remaining units as the plans/proposed conditions largely addressed their concerns.

OFFICER ASSESSMENT

129. The considerations for this application are as follows, as required:

- (a) Strategic context;
- (b) Dwelling use;
- (c) Built form, Heritage and Urban design;
- (d) Clause 55 and 58 (Rescode);
- (e) Car & Bicycle parking/traffic/access/layout; and
- (f) Objector concerns.

Strategic context

130. The proposal satisfies the various land use and development objectives within the PPF, providing an acceptable level of compliance with the relevant policies within the Scheme, and is considered to provide a positive strategic opportunity for development within a well-resourced inner-urban environment.
131. State and Local Policies (such as clause 16.01-2S) encourage the concentration of development near activity centres and intensifying development on sites well connected to public transport such as the subject site. It is clear that this part of Fitzroy is undergoing change and there is strong policy support for increased density in this area as shown through Clause 16.01-1S (amongst others).
132. In this instance the site is located close to several public transport options with trams operating along Smith Street to the immediate east, as well as further south on Gertrude Street and west on Brunswick Street. Bicycle tracks along Wellington Street and Brunswick Street cater for better connected journey for cyclists. This ensures efficient use of infrastructure and supports Council's preference that established residential areas experience residual increases in population and density. Locating such a development in this area also satisfies the objectives of clauses 11.02-1S, 11.03-1 and 18.01-1S of the Scheme.
133. The site is located in an area suitable for redevelopment, with a proposed built form that generally responds to the diverse pattern of urban form in the neighbourhood and with limited off-site amenity impacts (as will be discussed in detail later in this assessment). The importance of urban consolidation, which clauses 16.01-2S and 21.04-1 (amongst others) encourage, was raised in the Tribunal decision *NJJJKT v Whitehouse CC* [2008] VCAT 1410, where Senior Member Liston stated:
- [14] I think there needs to be a greater emphasis on the importance of metropolitan policies in relation to urban consolidation, housing diversity, and affordability. I do not say that neighbourhood character is of less importance, rather I say that in each decision consolidation diversity and affordability need to be at the forefront of our thinking, and not merely a background hum.
134. The C1Z which applies to the site is readily acknowledged as a zone capable of accommodating a greater density and higher built form, subject to individual site constraints. It is noted that policy support for more intensive residential development needs to be balanced with built form and heritage guidance at clauses 15.03, 21.05-1 and 21.05-2 of the Scheme. These policies call for development that responds to the surrounding context with regard to urban character and cultural heritage. More specifically, Council's local policy at Clause 22.02 seeks to maintain and conserve the significant historic character of the area.
135. As will be discussed in detail within this report, it is considered that the proposal sufficiently achieves State and local policy guidance in relation to high quality developments and protection of heritage values. It is on this basis that the submitted proposal should be supported.

Dwelling use

136. The use of the site as a residential building is supported by both State and Local policy, as outlined previously, and promotes urban consolidation near a MAC that is well serviced by existing infrastructure and services. Ordinarily dwellings are an as-of-right use within the C1Z, except where they have a frontage at ground floor exceeding two metres, which is the case for the proposed development.
137. The appropriateness of the dwelling use requires consideration against Council's Interface Uses Policy at clause 22.05 (*Interfaces Use policy*). For new dwellings, this policy requires consideration of building design to ensure that the ongoing viability of surrounding industrial and commercial properties is not impacted through the introduction of dwellings. Specifically, the policy outlines recommendations for dwelling design to incorporate measures to protect future residents from noise, fumes, vibration, light spillage and other likely disturbances. The current uses around the site are not thought to have any unreasonable light spill, fume or vibration impacts on the proposal. The proximity of the site to two taverns and a cabaret club does raise concerns in relation to noise impacts on the proposed dwellings. This item will be discussed in greater detail later in this assessment.
138. A more detailed discussion regarding the internal amenity of the proposed dwellings will be undertaken within the Clause 55 and 58 assessments, however strategically the provision of dwellings in the proposed location is accorded with a high level of policy support, particularly as it immediately interfaces with Neighborhood Residential zones to the north, south and west. The site use for dwellings provides an appropriate transition in uses to these more sensitive residential zones.

Built form, Heritage and Urban design

139. In considering the design and built form of the proposed development, the most relevant aspects of the Scheme are provided at Clause 15 (*Built Environment and Heritage*), Clause 21.05 (*Built Form*), Clause 22.02 (*Development Guidelines for Sites subject to the Heritage Overlay*) and Clause 22.07 (*Development Abutting Laneways*) as well as *Standard B1 – Neighbourhood Character* within Clause 55 and *Standard D1 – Urban context* within Clause 58 of the Yarra Planning Scheme. As supplementary guidance, the Department of Environment, Land, Water and Planning's *Urban Design Guidelines for Victoria* (UDGV) and *Apartment Design Guidelines for Victoria* (ADGV) are also of relevance.
140. All of the provisions and guidelines support development that responds to the existing or preferred neighbourhood character. Particular regard must be given to the acceptability of the design in terms of height and massing, street setbacks and relationship to nearby buildings. This assessment will also consider the building design response to ESD and noise considerations with applicable policy Clause 22.16 (*Stormwater Management*), clause 22.17 (*Environmentally Sustainable Development*) and clause 53.06 (*Live music and entertainment noise*).

Context

141. The existing character of the surrounding area is somewhat varied, with the majority of built form along Smith Street single to triple-storey in height with taller historic buildings including the Patterson's Building to the immediate east at four storeys (with a fifth level added). The Smith&Co/Coles development on the opposite side of Smith Street has a 3 to 7 storey street walls with recessed levels above.
142. Whilst it is acknowledged that this application would be one of the highest developments in the immediate area (apart from the Smith&Co/Coles development), it is clear that the wider Fitzroy neighbourhood is undergoing change, with strong state policy support for increased density in this neighbourhood.

Considering the strategic direction of the C1Z to encourage higher density developments, the expectation is for intensive development of the subject site and surrounding land within the Smith Street MAC is anticipated.

143. Within the decision *Daniel Stevens (Zero Nine Pty Ltd) v Yarra CC* [2011] VCAT 467 (this decision relates to No. 105-107 Johnston Street Collingwood), the following comments were made in relation to developments in commercial areas (previously called business zones):

[16] However it needs to be said that (for the reasons set out above) there is very strong strategic policy support for this Business 1 zoned land to be developed more intensively over the longer term.

[17] In this situation where not just the subject land but the other nearby properties are going through a transition period where considerably more intensive built form can be expected in the future, I accept that it would be an inappropriate and overly timid planning outcome to temper the new built form on the subject land by reference to the more low key current situation at the rear of the other nearby properties.

144. Based on this context, the addition of this higher built form is considered to be an acceptable outcome, subject to further considerations.

Demolition

145. Prior to ascertaining if the proposed buildings are acceptable, one must consider if the demolition satisfies Council's policy. The subject site is graded as being 'contributory' within the Fitzroy South Heritage Overlay Precinct (HO334). Council's heritage advisor has confirmed that the extent of demotion proposed to the Charles Street and Webb Street facades is respectful of the original fabric.
146. The demolition to Charles Street reinstates the original building openings that have been unsympathetically bricked in. Council's heritage advisor has also supported the extent of demolition to the eastern laneway wall stating the wall does not make a significant contribution to the heritage character of the area. Further the existing roof forms are not visible in the streetscape and are not contributory features and so their removal is acceptable.

Heritage and Urban Design

147. The site is currently underutilised given its location within a Commercial 1 Zone and adjacent to a MAC. It would be a reasonable expectation that this site would experience intensification in use and development, particularly as along this strip, it is one of the few larger sites. Any development on this site must strike the appropriate balance between the competing heritage and urban consolidation objectives.

Heritage and Urban Design (Height, Scale, Massing and Setbacks) Townhouses

148. Neither Council's heritage advisor nor the external urban design advice have objected to the townhouses. Council's heritage advisor is supportive of the setback of the townhouse to the heritage Charles Street wall.
The townhouse behind this wall has been sensitively designed by not incorporating a roof top terrace (as proposed to the remaining townhouses), and a raking roof to minimise the bulk and visual impact of this dwelling on the heritage façade.
149. The remaining townhouses at four storeys (with roof top terraces) are a modest built form typology in a Commercial 1 Zone. The height and massing of this buildings have been restrained to ameliorate amenity impacts to the Patterson's building dwellings and the 6 storey residential building to the west at No.96 Charles Street (aka 174 Gore Street).

This lower built form typology also ensures a reasonable amenity to the lower levels of the proposed townhouses. This could not be achieved had the design attempted to replicate the height and setbacks of the Paterson's Building and the apartments to the west.

150. Given the capacity of the site to accommodate higher built form typologies given its location in a Commercial 1 Zone, the restrained height and setbacks proposed are very responsive to the specific site constraints. For these reasons, the height, scale and massing of the townhouses are acceptable from both a heritage and urban design perspective.
151. This is further supported by the fact the urban design and heritage design advice did not request changes to the proposed townhouses, apart from the urban design advice seeking overlooking screens to be reduced in height to improve outlook to the west. In response to this advice the previously solid overlooking screens have been replaced with perforated metal. This will improve the sense of space and outlook of the terrace while also addressing overlooking concerns (subject to detail of the screens being provided). Finally, the sketch plans provide further setbacks from the east and west boundary and a reduced height, mitigating any concerns relating to the scale and massing of the townhouses.

Apartment building

152. Strategy 17.2 at clause 21.05-2 of the Scheme states that development within activity centres should generally be no more than 5-6 levels unless it can be demonstrated that the proposal can achieve specific benefits such as significant upper level setbacks, architectural design excellence, best practice environmental sustainability objectives in design and construction, high quality restoration and adaptive re-use of heritage buildings, positive contribution to the enhancement of the public domain and provision of affordable housing.
153. At a height of seven storeys and located just outside the Activity Centre, the recommended height of new built form is not met. However as discussed earlier, given the emerging tall built character along Smith Street and Wellington Street (and the streets in between them), there is insufficient contextual justification to argue that the additional height cannot be reasonably considered. Further, the additional features that would allow the consideration of a higher building have also been achieved, with the proposal making a positive contribution to the enhancement of the public domain, as well as best practice environmental sustainability objectives in design, high architectural design excellence and upper level setbacks (as will be discussed in detail later in this assessment).
154. In contexts where a site is within a Commercial 1 Zone, adjacent to a MAC and also within a heritage overlay, one must consider the balancing of the competing heritage and urban consolidation policy directives, together with the existing and emerging character of the area. Whilst heritage concerns may limit some expectations of intensity, it doesn't necessarily mean that the site is unsuitable for redevelopment. Comments were made by the Tribunal with the *Rescom QOD Lennox Street Pty Ltd v Yarra CC* [2013] VCAT 1799 (Rescom 2013) decision which further expanded upon this point:

[41] The decision guidelines of the Heritage Overlay require consideration of whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place; and whether it will adversely affect the heritage significance. Mr McCarthy said the proposed building is like no other new building in the precinct and I agree with him.

However, that does not mean it is not in keeping with the adjacent buildings and the precinct; and it does not mean the new building will adversely affect the heritage significance. In my opinion, the term "in keeping with" does not mean new development should be more of the same; and it does not mean there cannot be differences in setbacks, height, shape or materials and finishes.

[42] ..

The Heritage local planning policy does not seek additions and new works to be invisible, but rather to respect the significance of the place.

[43] The new building overall is unashamedly modern. The chosen architectural presentation is bold and dominant because of the façade detailing, dark colours and materials. The proposed building may well be different in these aspects to the existing buildings, but it does not automatically mean the proposed building adversely affects the significance of the Richmond Hill (north) heritage precinct.

[Emphasis Added]

155. Council's heritage advisor has indicated that while the setbacks of new built form to Webb Street is acceptable, the height of floors 5 and 6 are unacceptable and should be deleted. The advisor has argued the proposed apartment building should not exceed the height of the Patterson's building and the Charles Street apartments, and so allows for the *individually significant* Patterson's building to remain the dominant contributor to the heritage streetscape. However, given the separation of the proposed development from Patterson's, it is not considered the additional height proposed would detrimentally impact the contribution this building makes to the heritage street.
156. Had the proposed apartments a direct abuttal the Patterson's building, there may be stronger justification to require the height be tempered. But given the Patterson's building faces Smith Street, while the proposed apartment building is to face Webb Street and not immediately opposite the Paterson building it is difficult to reasonably argue the proposed height at only approx. 5m taller than the Patterson's building, will detrimentally impact on the heritage contribution the Patterson's building makes to the heritage precinct.
157. Further the Patterson's building has an individually significant grading while the subject site is contributory, with relevant policies anticipating taller built form typologies can be contemplated on contributory sites. To argue that this proposal must match the height of the Patterson's building is not reasonable, as it is effectively imposing the extra policy restrictions applicable to individually significant sites onto a contributory site.
158. Requiring new buildings to respond to existing individually significant buildings would be reasonable in instances where views to the individually significant building frontage would be impeded. With the proposed apartment building to be located to the rear and south of the Patterson's building, it will not block any views of the individually significant frontage nor the side wall of Patterson's when viewed from Smith Street. Some views of the rear of Patterson's will be prevented when approaching from Gore Street. However, requiring the deletion of two levels to protect the views of the rear an individually significant building is not considered reasonable, particularly when all the principal direct and oblique views of the Patterson's building from Smith Street will not be impacted.
159. Given its setback from Smith Street, the new apartment building will be obscured by the existing buildings fronting Smith Street when viewed from the east and west side of Smith Street (apart from the intersection with Webb Street where the building will come into view). This lack of visibility of the building within the Smith Street heritage streetscape is also in compliance with heritage policy objectives.
160. Views from the intersection of Gore Street and Webb Street are also considered acceptable. The western boundary wall will only be two levels above the Union Hotel with the upper setbacks reducing the visual impact of floor 5 and 6 to an acceptable level when viewed from the residential areas to the west.
161. Finally, in relation to the height and setbacks, subject to the changes shown on the sketch plans the external urban design advice has supported the top two levels as follows:

- (a) *A review of the amended plans demonstrates a design proposition with significant upper level setbacks, high architectural quality and positively contributes to the public realm that should be rewarded with an additional 1 storey - as is invited in the relevant provisions of the scheme.*
- (b) *Our previous advice recommended that there is contemplation for a commensurate mid-rise form (up to 6-7 storeys). However – this was on the basis that there were increased upper level setbacks, particularly taking into account the site’s infill characteristics (as opposed to a corner location).*
- (c) *The amended plans have been refined to minimise the visibility of the upper levels from the street. It has done so by trimming the previous jagged corners of the upper levels, which accentuated the mass and jutted out above the mid-rise section of the proposal. In this midblock context, the presentation of the ‘base’ should be more dominant which will reinforce the anticipated urban hierarchy and legibility of the centre. The profile of the upper levels also draws people’s eyes down towards the lower levels –which is a positive (as demonstrated below). We consider this is an apt response within the Smith Street Activity Centre...*
- (d) *Having inspected the amended plans against the Yarra Planning Scheme, we are satisfied that the proposed development represents a design response that should be rewarded with an increase in development scale (to 7 storeys).*

Architectural Quality

- 162. Given the height and massing have been discussed at length above, the architectural quality really comes down to the materials and finishes, fenestration patterns and the ability to combine the various components of the building into a cohesive design.
- 163. Policy at clause 15.01-2S encourages high standards in architecture and urban design. The proposed design is considered overall to be of a high architectural standard, offering a modern built form that revitalises the existing frontage to the street. The design response of the apartment building is such that it provides articulation to all façades through the inclusion of windows and inset balconies with a combination of materials as well as setbacks for the upper levels. The townhouse (sketch plans) present a multifaceted setback to the laneway allowing a visually interesting finish. Further these aspects of the proposal have been supported by the heritage advisor.
- 164. The external urban design advice has also commended the architectural quality as follows:
 - (a) *It has been well established at the Tribunal that architectural design excellence is not about individual taste for architectural styles, rather the architectural composition and functional aspects.*
 - (b) *We are generally supportive of the proposed massing strategy to the Webb Street frontage which has adopted a 4 parts approach which has been articulated so that it does not present an overwhelming scale. The ground floor is a heritage form, comprising active uses and an appropriate level of street engagement. Through the use of a rebate level above with incidents of shade and shadow gives a sense of visual depth and distinction between the heritage form and new upper levels. The mid-section has been designed with a defined street wall of brick vertical division reflecting the vertical rhythm of the heritage building at ground level. The upper reaches present as a light weight material comprising metal cladding and extensive glazing arranged with a series of angular edges to provide a more subservient appearance from the lower levels. It is our opinion that the relationship between the different parts fits together as a coherent whole.*

165. As mentioned earlier, the increased setback to floor 5 and 6 have been supported by the urban designers. Further they, along with Council's heritage advisor recommended the western boundary wall be a lighter colour. This change has been adopted in the sketch plans although there is nothing to break up the mass. The heritage advisor requested that floor 1-4 to Webb Street and the front wall of townhouse 9 be a red brick finish complimenting the red brick on the existing façade. However, policy discourages mimicking heritage fabric so it is considered better to contrast the brick colour so that the new addition is clearly distinguishable as non-original heritage fabric, a design approach that is specifically encouraged by clause 22.02. The lighter colour shown in the sketch plans is less of a stark contrast and so will sit more comfortably with the heritage fabric and will be required by way of condition.
166. The advisor also requested the wooden batten screens, the external blinds to floor 5 and 6 and the perforated metal screens be removed as they tend to gather dirt/deteriorate over time. With the batten screens located on the west wall of the townhouses and perforated screens on the townhouses roof terraces, they will not be highly visible and are acceptable for this reason. Given the setback and the height above street level of the floor 5 and 6 external blinds, they will not be prominent element and are acceptable. A condition will also require detail of the fire booster cupboard to Charles Street to ensure a visually compatible finish.

Public realm, light and shade and pedestrian spaces

167. This principle requires the design of interfaces between buildings and public spaces to enhance the visual and social experience of the user. In this respect, the proposal represents an improvement in streetscape, public space quality and perceived safety.
168. The construction of a residential building with an office, dwellings and pedestrian entry areas located along the street frontages is an improvement on the streetscape compared to existing conditions which are largely blank walls, roller doors and vehicle crossings. Additionally, the proposal will be removing the redundant vehicle crossing to Charles Street and reconstructing the footpath. The applicant has also agreed to reconstruct the lane. All of these improvements satisfy public realm, pedestrian spaces and street and public space quality policies at clauses 15.01-2S, 18.02-1S and 21.05-2.
169. Now turning to shadows to the public realm. The proposal would result in shadows cast across Webb Street at 9am and noon, with shadow substantially moved off the opposite footpath by 1pm. After 2pm all additional shadow is limited to the street. Further the shadow path moves throughout the day and so only shades part of the opposite side of Webb Street at these times.
170. An objector raised concern regarding the shadow impact of the apartment building on the vine growing on the wall on the opposite side of Webb Street. The streetscape sectional shadow diagrams show only part of the vine is affected between 10am and noon, and so this is not anticipated to have a detrimental impact.

Environmentally Sustainable Design

171. Redevelopment of the site located in an existing built up area would make efficient use of existing infrastructure and services, and the proximity of the subject site to numerous public transport modes which reduce residents and visitors from relying on private vehicles. Policy at clauses 15.01-2S, 21.07, 22.16 and 22.17 of the Scheme, encourage ecologically sustainable development, with regard to water and energy efficiency, building construction and ongoing management.
172. Council's ESD officer has reviewed the applicant submitted ESD advice and outlined the following application ESD commitments and application ESD deficiencies;

ESD Commitments:

- (a) *An average 6.5 Star average NatHERS rating equivalent for all dwellings. A 10% improvement on the minimum NCC required energy efficiency requirements in non-residential areas.*
- (b) *A STORM rating of 103% has been received which relies on a minimum of 699m2 of roof connected to a 13,000 litre tank and connected to toilets in dwellings with 35 occupants for flushing.*
- (c) *A 5kWp solar photovoltaic system to contribute to common area electricity consumption.*
- (d) *5 Star gas instantaneous hot water to apartments.*
- (e) *4 Star reverse cycle heating/cooling.*
- (f) *Energy efficient lighting system comprising LEDs and sensor controls at least 20% better than NCC minimum standard.*
- (g) *26 secure bike parking spaces have been provided, including 6 on ground hoops for apartments, plus an additional 2 hoops at the rear of the development for visitors.*

ESD Deficiencies:

- (h) *Daylight to proposed dwellings is only just satisfactory. The impact on adjoining developments (both 175 Smith St & 166 Gore St) is unacceptable, as demonstrated by the submitted daylight report. Recommend complete redesign of the development to be more responsive to access to daylight in dwellings of adjoining developments. Recommend greater side setback to eastern boundary (166 Gore St) to mirror setbacks down to ground level. Recommend introduction of a setback at ground level to laneway (western side) and/or reduce the height of the townhouses, to increase access to daylight to both proposed and adjoining dwellings.*
- (i) *Most dwellings have good access to natural ventilation, except apartments 1.03 and 1.04. Recommend redesign apartments 1.03 and 1.04 to setback the bedroom glazing by <0.5m to assist create an air pressure differential between bedroom and living room windows and enable natural ventilation through the dwelling.*
- (j) *Please provide completed energy report (JV3 or equivalent) demonstrating how these non-residential energy efficiency targets have been met prior to occupation.*
- (k) *BESS report relies on all toilets across the development being connected to rainwater for flushing. Please update to confirm that all toilets are connected to rainwater for flushing.*
- (l) *There are large areas of east and west facing glazing exposed to summer sun angles and unwanted summer heat gain. External blinds to upper east and west facing glazing will assist. Please provide additional thermal energy analysis to demonstrate that cooling loads to all dwellings are lower than 30MJ/m2 without relying on tinted glazing that will exacerbate daylight issues.*
- (m) *External clothes drying facilities have been included in the BESS energy section and are required to validate the BESS report, but are not visible on plans. Please clearly mark the clothes drying racks/lines on architectural drawings.*
- (n) *The four Innovation credits in BESS are not considered innovative and should be removed. All entered materials and management practices are considered commonplace and not innovative. Please update BESS report removing these from the Innovation section.*

173. All of these recommendations/deficiencies bar two have been translated into conditions. The condition relating to the removal of the 'innovation' credits from the BESS is not a significant issue and is not considered warranted. Council's ESD officer has also provided supplementary advice stipulating this is acceptable.
174. The ESD officer suggested two windows be setback 0.5m to improved cross-ventilation. The applicant has requested that the permit condition allow for the windows to be setback between 0.25m and 0.5m to allow them some flexibility in this regard. Council's ESD officer has agreed to this.
175. Council's ESD officer raised significant concerns with the extent of the reduction in daylight shown in the daylight modelling documentation to the lower levels of the Patterson's building and the No.96 Charles Street apartments (ESD officer confirmed that the 166 Gore Street referred to in his comments is an incorrect address).
176. The submitted sketch plans allow for further setbacks to both of these buildings, along with a lightening of the colour palette of the proposed walls to improve light access. The ESD officer has reviewed these plans and indicated that they are likely reach the target daylight factor standards to approximately 50% of the floor area. On this basis the ESD officer is satisfied the sketch plans satisfactorily address this concern.

Off-site amenity to nearby dwellings

177. The policy framework for amenity considerations is contained within the decision guidelines of the Commercial 1 Zone, clause 15.01-2S (*Building Design*), clause 22.05 (*Interface uses policy*) and the UDG. Whilst Clause 22.05 applies to this proposal, the policy is mainly centred on impacts from a mixture of uses, eg commercial use impacts onto residences, or new dwelling impacts onto commercial areas. However this is not the instance in this case with regards to the surrounding residences, particularly given the proposed office use is unlikely to generated unreasonable off-site amenity impacts.
178. The noise, overshadowing, overlooking, shadowing and daylight access to windows issues will be discussed in detail in the Rescode assessments. The remaining off-site amenity impacts outlined in the policy above is limited to visual bulk and equitable development.

Visual Bulk

179. In terms of visual bulk impacts to nearby dwellings, with the Patterson's building and No. 96 Charles Street being located opposite the townhouses, the proposal (subject to the changes in the sketch plans) would not have unreasonable visual bulk impacts to these dwellings. The setback of the upper levels and the separation offered by Gore Street is thought to reduce visual bulk to an acceptable level to the dwellings on the opposite side of Gore Street.

Equitable Development

180. With No.96 Charles Street apartments and the Patterson's building already being developed, equitable development considerations to these buildings is not a relevant consideration. The external urban designers raised concerns in relation equitable development opportunities for No.171 Smith Street (to the east of the proposed apartment building) and the Union Hotel. After further consideration, the urban designers provided further comments saying this issue is no longer a concern.

181. As the Union Hotel is located in a Neighbourhood Residential Zone (max 9m in height) and being '*individually significant*' to heritage overlay, this site is unlikely to be intensively developed, thus removing equitable development concerns. In relation to No.171 Smith Street, given the presence of large balconies on the south wall of the Patterson's building, these structures will temper the development potential of No.171 Smith Street. With intensive building form outcomes unlikely to the rear at this site for this reason, this site also does not present equitable development concerns.
182. Final equitable development considerations relate to the three buildings adjoining the eastern laneway to the north of the Patterson's building. Given the small area and width of these sites, they are unlikely to experience intensive development. Further with the proposed four storey townhouses located opposite, this lower built form typology does not present significant constraints on the future development potential of these sites.

Noise

183. The proposal is unlikely to result in unacceptable noise emissions to any nearby commercial or residential properties given the compatible residential uses and as-of-right office use. Based on the context of the land within a C1Z and the nature of existing uses on abutting sites, the dwelling use is not considered to result in unreasonable noise impacts. A services zone is located on the roof of the apartment building and the car lift proposed at ground floor. A condition would require that the noise and emissions from mechanical equipment must comply at all times with the State Environment Protection Policy – *Control of Noise from Commerce, Industry and Trade* (SEPP N1).

Live Music and Entertainment Noise and patron noise

184. With the Union Hotel adjoining the site to the west, a small tavern to the east at No. 171 Smith Street and a cabaret club at No. 185 Smith Street, patron and music noise to the proposed development is a concern. The operator of the Union Hotel has confirmed that live music is played at hotel. The applicant submitted an acoustic report to address these nearby noise issues. The bar at No.171 Smith Street has not been assessed and this will be addressed by way of condition. While Council's acoustic engineer was satisfied the proposal could be made compliant, it was requested the following items be clarified and addressed:
185. *Union hotel*
- (a) *Confirmation from the venue that the assessment was conducted on a night representative of typical worst case noise emissions.*
 - (b) *What music levels are used for predicting impacts? Are the levels presented in Table 4 of the report used, or have they been adjusted in any way and if so, how? This information should be transparent because it has implications for the venue and their future operations.*
 - (c) *Acoustic advice should be provided in the report for façade wall constructions to the affected apartments. Even masonry walls have potential to contribute to internal levels if appropriate linings and insulation are not used.*
186. *Bar 86*
- (a) *The assessment has been carried out on a single Saturday night, for which high background noise levels have been identified. Unless a supporting statement is provided by the venue operator indicating that the night in question is typical of their worst case noise impacts, we recommend that long term noise logging or a series of attended measurements over different nights be conducted to quantify worst case impacts, and*
 - (b) *There are a number of additional apartments in the development that are in close proximity to those at which non-compliance has been identified. This means that any reduction in noise limits, or increase in music emissions is likely to result in more apartments requiring an internal SEPP N-2 assessment.*

- (c) *The venue appears to operate up to 3 am. Background noise levels at 3 am (and subsequent noise limits) could be lower than those measured at 1 am.*

187. These concerns will be addressed by way of condition. Council's acoustic advisor has indicated that this further information may result in increased levels of acoustic glazing and an acoustic treatment to the western boundary wall, however this would not result in a significant redesign of the building. The applicant is agreeable to conditions to this effect.

Development Abutting Laneways

188. The proposal is considered to meet a number of the clause 22.07-3 (Development Abutting Laneways) policy objectives in that:

- (a) Traffic impacts on the laneway have been assessed by Council's internal and external traffic engineers and found to be satisfactory;
- (b) Any lighting to the garages will be appropriately baffled, subject to condition ensuring light spill is avoided;
- (c) Access arrangement have been assessed by Council's internal and external traffic engineers and multiple movements will not be required; and
- (d) The applicant has agreed to rebuild the lane as Council's engineers raised concerns that the laneway would be damaged during construction (particularly the basement construction). This upgrade of the lane on completion of the development allows for a significant public realm improvement for the benefit of local community.

Clause 55 (Rescode) and 58 (Apartment Development)

189. Clause 55 (ResCode) provides an assessment tool for the appropriateness of the design of two or more dwellings on a lot (ie the townhouses). Clause 58 (Apartment Development) provides an assessment tool for the appropriateness of the design of the apartment building. Both Clause 55 and 58 contain a number of the same standards (including the same objectives and decision guidelines) and so the following will assess these standards for both the townhouses and apartments together. The relevant Clause 55 standards are identified as the 'B' standards with Clause 58 identified as the 'D' standards. The remaining clause 55 and 58 standards will then be assessed separately.

190. Given the site's location within a built-up inner-city residential area, strict application of the standard is not always appropriate. The relevant test is whether the proposal meets the objectives. The following provides an assessment against the relevant standards of ResCode and shows the proposal achieves a reasonable level of compliance with relevant objectives.

Clause 55 and 58

Standard B1 – Neighbourhood Character and Standard D1 – Urban context

191. These standards encourage proposed developments to respond to the existing neighbourhood character or to contribute to a preferred neighbourhood character of the area. An assessment of the proposed townhouses and apartments in relation to neighbourhood character has been carried out in the previous *Built form, Heritage and Urban design* assessment and found the proposal provides an appropriate design response to respect both the existing and preferred neighbourhood character.

Standard B2 and D2– Residential Policy

192. As discussed previously in the *Strategic context* assessment the proposed townhouses and apartments achieve a reasonable level of consistency with State and Local planning policies contained within the Scheme, including relevant components of the MSS. Accordingly, the proposed development is considered to adequately respond to the requirements of this Standard.

Standard B3 and D3– Dwelling Diversity

193. These standards seek, “to encourage a range of dwelling sizes and types in developments of ten or more dwellings”. With 2 x 1, 10 x 2 and 13 x 3 bedroom dwellings proposed across the development, the proposal complies with these standards.

Standard B4 and D4 – Infrastructure

194. The development is located within an existing established commercial/residential area. There is no evidence to suggest that the proposed development would unreasonably overload the capacity of these existing services. The proposed development would be readily connected to the required utility services and infrastructure which are present at the site.
195. Furthermore, the application has been referred to Council’s Engineering Services Unit who has not objected to this aspect of the proposed development. As such, the standards and their objectives are met.

Standard B5 and D5 – Integration with the street

196. Townhouse 9 will be oriented to Charles Street and the apartments to Webb Street in compliance with policy objectives. The residential entries to Charles Street and Webb Street along with the ground floor office and windows and terraces facing the street on the levels above will allow for passive surveillance and activation to the street. Further the removal of the existing garage door and its replacement with a habitable room will improve the interface on this frontage. High front fences are not proposed in further compliance with policy objectives. As will be discussed, a condition will require the gate to the townhouse entry walkway to be visually permeable.

Standard B12 and D9 – Safety

197. The Standards are as follows:
- (a) *Entrances to dwellings should not be obscured or isolated from the street and internal accessways.*
 - (b) *Planting which creates unsafe spaces along streets and accessways should be avoided.*
 - (c) *Developments should be designed to provide good lighting, visibility and surveillance of car parks and internal accessways.*
 - (d) *Private spaces within developments should be protected from inappropriate use as public thoroughfares.*
198. With the pedestrian entry to townhouse 9 located on Charles Street and the apartment building on Webb Street, they will be clearly visible from the street. The pedestrian entry from Charles Street to townhouses 1-8 will also be visible from Charles Street. However material details of this door are not provided. Of concern is the door would have a very solid finish making it more difficult to identify the entry from the public domain.
199. A condition will require that the entry gate is visually permeable which will ensure visitors to the site will also be able to see the walkway to these dwellings, making the townhouse access clearly identifiable from the public domain. A condition will also require that the entry area behind the gate and the walkway are appropriately illuminated to further facilitate public access at night. A further condition will require the entries to the apartment building and townhouse 9 are appropriately illuminated.

200. The small size of the planter beds to the townhouse 1-8 walkway will prevent large areas of landscaping creating unsafe spaces. No private spaces within the development will be used as public thoroughfares. Accordingly, the standard is met (subject to condition).

Standard B13 and D10- Landscaping

201. Small landscaping beds are proposed inside the pedestrian entry area and along the edges of the walkway to townhouse 1-8. While the landscape areas are not large and no landscaping areas are proposed to the apartment building, landscaping is not typical of the immediate commercial context and is considered to be acceptable in this regard. Further the existing building does not allow for any landscape areas and so the proposal improves existing conditions in this respect.

Standard B14 and D11– Access

202. This standard encourages the number and design of vehicle crossovers to respect the character of the area through minimising the width of crossover to a maximum of 40% of the frontage. In compliance, no crossovers are proposed to Charles Street. An existing crossover to Charles Street will become redundant and the Right-of-Way to its east will be utilised for its access instead. This is a significant improvement on existing conditions.
203. An existing 3.8m wide crossover to Webb Street will be removed and replaced by a 3m wide crossover further west. This width is less than the 40% stipulated by the standard. However, the plans do not clearly show the reinstatement of the crossovers as footpath. A condition will require this detail, with a further condition requiring the demolition plans be updated to show the removal of existing crossovers.

Standard B15 and D12– Parking location

204. The proposal includes two basement levels for the apartment building with cars accessing parking via a car lift. There is stair or lift access from the parking spaces up to the ground floor or to upper level apartments. In each instance, mechanical equipment associated with car parking is not located abutting any habitable rooms.
205. In compliance, the garages to the townhouses are directly accessible to the interior of the dwellings ensuring reasonable and convenient access. The garages doors ensure the parking areas would be reasonably secure. This complies with the objective and the standard.

Standard B23 and D15 – Internal views

206. This standard stipulates *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.* The layout of the proposed townhouses do not allow for internal views, apart from between the roof terraces (as a result of the roof sketch plans reducing the height of the terrace screens by 0.7m). The sketch plans also show perforated overlooking screens will be provided to the south side of the terraces to prevent internal views. However, the sketch plans do not clearly identify the height or level of transparency of the screens. A condition will require this detail to ensure compliance is achieved.
207. In relation to the apartment building, the east, west and south-facing balconies and windows being stacked above or cantilevering over each other allow for general compliance with this standard. However the penthouse will overlook the terraces on the level below, with the north-facing floor 5 and 6 windows overlooking the townhouse roof terraces. This will be addressed by way of condition.

Remaining clause 55 (Rescode) standard applicable to the townhouses.

Standard B6 – Street setback

208. With the existing wall to Charles Street being retained, this standard is not applicable to the townhouse development.

Standard B7 – Building height

209. The total overall building height of 12.6 metres is proposed (subject to sketch plans). This is in excess of the maximum 9 metres prescribed by the standard. However, given the position of the townhouses in a Commercial 1 Zone where more robust built forms are anticipated, this non-compliance is considered acceptable. Further given the much taller buildings in the immediate context (Patterson's building to the east and No.96 Charles Street to the west) the non-compliant building height will not appear out of context.

Standard B8 – Site coverage

210. The site coverage for the townhouses is proposed to be 100% which does not comply with the maximum 60% recommended by the standard. The decision guidelines of the standard require consideration of the existing site, the site coverage of adjacent sites and the effect of visual bulk and whether this is acceptable in the neighbourhood context.
211. The site retains the existing contributory building which responds to the heritage context. Further with very high site coverages being typical of the immediate context, the proposed non-compliance is considered acceptable. For example, the Patterson's building has 100% site coverage, and with No.96 Charles Street and the Union Hotel being in the region of 95% and so the proposal will not be an anomaly in the area. Further this portion of the site currently has 100% site coverage and so the proposal will improve existing conditions through the pedestrian entrance from Charles Street.
212. Issues in relation to visual bulk/building modulation associated with high site coverage have been discussed previously in the *Built form, Heritage and Urban design* assessment with the townhouses considered to be acceptable in this regard.

Standard B9 – Permeability

213. The townhouses do not allow for any permeable surfaces apart from a small garden bed adjacent to the pedestrian gate accessing the walkway to dwellings 1-8. However, as the existing building does not allow for any permeable surfaces, this non-compliance is considered acceptable. The proposal also complies with Clause 22.16 Stormwater Management (WSUD) and meets the required on-site stormwater treatment as demonstrated by achieving 103% STORM rating.

Standard B10 – Energy efficiency

214. This standard requires:
- (a) *buildings should be orientated to make appropriate use of solar energy,*
 - (b) *sited and designed to ensure that the energy efficiency of existing dwellings is not unreasonably reduced.*
215. The shadow diagrams submitted with the proposal demonstrate that the roof terraces will receive access to sunlight throughout the day, in compliance with policy objectives. The shadow diagrams show the east-facing windows will receive access to sunlight in the morning between 10am and noon. The west-facing windows will receive access to sunlight between approx. noon and 2pm with the upper level windows receiving sun later in the afternoon.

This is considered sufficient to allow for reasonable internal amenity, particularly as the third floor living areas have east and west-facing windows and will receive direct sun in both the morning and afternoon.

216. The impact of the proposed development on neighbour’s energy efficiency will be discussed in the following Standard B19 (*Daylight to existing windows*) and Standard B21 (*Overshadowing*) assessments.

Standard B11 – Open Space

217. No communal open space is proposed.

Standard B17 – Side and rear setbacks

218. This standard stipulates the following:

“A new building not on or within 200mm of a boundary should be set back from side or rear boundaries:

- (a) *At least the distance specified in a schedule to the zone, or*
- (b) *If no distance is specified in a schedule to the zone, 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres”.*

219. Of relevance is the western wall (based on the sketch plans as these increase setbacks). It is noted that the wall heights are taken from the pedestrian walkway level on the west side (above the garages) instead of from natural ground level. This is acceptable as the No. 96 Charles Street ground level open space on the shared boundary is also elevated above their basement carpark and with this open space being approx. 0.5m higher than the pedestrian walkway at the subject site. The following table identifies the variations required:

Boundary	Setback required	Setback provided (Sketch plans)	Compliance
Second floor west			
5.26m high (Type A)	1.77m	1.3m-1.9m	Partial compliance
6.83m high (Type B)	1.96m	1.3m-1.9m	No
Third floor western wall and roof terrace max 9.9m high	4.9m	5.1m-5.8m	Yes

220. A variation in the above standard for the second-floor west wall is considered acceptable as it is located opposite the 5 storey wall of the apartment building to the west. Given the presence of the retained boundary wall, only the top 6m of the wall will be visible above the existing wall. Given the majority of the upper parts of these visible walls rake away from the shared boundary, they are not considered to have unreasonable visual bulk impact. Further with only townhouse 1 and 2 being non-compliant with the standard and the remaining complying, on–balance the non-compliance is considered acceptable. Further the following shadow and daylight to windows assessments demonstrates the proposed townhouses amenity impact to the apartments opposite is acceptable. While the plans are to scale, the plans do not clearly show setbacks, a condition will require this detail.

Standard B18 – Walls on boundaries

221. This standard stipulates the following:

'The height of a new wall constructed on or within 200mm of a side or rear boundary or a carport constructed on or within 1 metre of a side or rear boundary should not exceed an average of 3.2 metres with no part higher than 3.6 metres unless abutting a higher existing or simultaneously constructed wall.

A new wall constructed on or within 200mm of a side or rear boundary of a lot or a carport constructed on or within 1 metre of a side or rear boundary of lot should not abut the boundary for a length greater than 10 metres plus 25 per cent of the remaining length of the boundary of an adjoining lot'.

222. Of relevance is the four storey eastern wall (12.6m). The wall height and length do not comply with the standard. The standard provides the following relevant decision guidelines to assess non-compliances:

- (a) *The extent to which walls on boundaries are part of the neighbourhood character.*
- (b) *The impact on the amenity of existing dwellings.*
- (c) *The width of the lot.*
- (d) *Whether the wall abuts a side or rear lane.*

223. The wall length is an existing condition which will be maintained. The proposed non-compliant wall height is considered acceptable given its location in a Commercial 1 Zone where more robust built form typologies are expressly anticipated by the Scheme. Tall boundary walls are characteristic of the neighbourhood as demonstrated by the much taller Patterson's Building located on the opposite side of the lane boundary.

224. The standard also anticipates that where walls adjoin the lane, this can justify the non-compliance with the standard, with this laneway measuring 3.5m to 3.7m in width. Further the sketch plans provide a splay to every second townhouse to a maximum setback of 1.5m to the third floor and roof terrace walls to further articulate and ameliorate visual bulk. The sketch plans also significantly lighten the colours of these walls to reduce bulk and amenity impacts.

225. For these reasons the proposed non-compliant wall is considered acceptable. Further as will be discussed in detail in the following Standard B19 (*Daylight to existing windows*) and Standard B21 (*Overshadowing*) assessments the wall will not generate detrimental amenity impacts to the residential properties opposite in the Patterson Building and the dwelling opposite (fronting Webb Street).

Standard B19 – Daylight to existing windows

226. This standard stipulates the following:

Buildings opposite an existing habitable room window should provide for a light court to the existing window that has a minimum area of 3 square metres and minimum dimension of 1 metre clear to the sky. The calculation of the area may include land on the abutting lot. Walls or carports more than 3 metres in height opposite an existing habitable room window should be set back from the window at least 50 per cent of the height of the new wall if the wall is within a 55 degree arc from the centre of the existing window.

227. Based on a maximum wall height of 9.59m to the west, a minimum separation of 4.7m is required to habitable room windows opposite. In compliance, a minimum separation of 5.9m is provided to nearest habitable room windows to the west (No.96 Charles Street).

228. The dwelling across from townhouse 9 on the opposite side the eastern laneway has a first floor stained glass window on the boundary and one at ground floor. With a maximum wall height of 8.8m proposed, a separation of 4.4m is required, with an approx. 3.5m separation provided by the laneway. As the existing boundary wall in this position measures 6.3m in height, the proposed increased wall height is not considered to generate detrimental amenity impacts on these windows beyond existing conditions.
229. There is an existing first floor window located above this dwelling's rear courtyard. Measuring approximately from the floor level of this room, the proposed wall opposite would measure approx 10m with a required setback of 5m. In compliance the setback would be approx. 5.4m. There are also ground floor windows inside the courtyard with the proposed 5.4m setback to these windows not complying with the standard. However, as these windows are located in close proximity to their own boundary fence and are covered by perspex roofing, these windows would not currently enjoy a high level of amenity. Given this and that the proposed eastern wall will be setback approx. 5.8m from these window's, it is considered that the proposed wall would not have a detrimental impact.
230. Based on a maximum wall height of 12.6m to the east (sketch plans), a minimum separation of 6.3m is required to habitable room windows opposite in the Patterson's building. However as there are no ground floor windows on the Patterson's building it is appropriate to take the measurement of the proposed eastern wall height from first floor. At a maximum height of approx. 10m a 5m separation is required to the nearest habitable first floor room window opposite. The windows located opposite are setback a minimum of approx. 3.7m (boundary wall windows) and 5.2m (windows recessed in balconies). The position of the walls opposite the windows recessed in the balconies complies with the standard.
231. In relation to the non-compliant setbacks to the windows on the boundary wall, given the position of these windows in a Commercial 1 Zone it is not considered reasonable to require full compliance with the standard. Further, subject to the sketch plans, the increased setback splays to a maximum of 1.5m to the third and second floor of every second townhouse allows for portions of the walls to achieve compliance with the standard. The lighter colour palette of the walls opposite these windows will also improve daylight access. Council's ESD officer has also indicated that the rooms will receive adequate daylight in accordance with BESS requirements.
232. The remaining windows on the opposite side of the laneway service commercial buildings and so this standard is not applicable to them.

Standard B20 – North-facing windows

233. There are no north-facing windows located within 3 m of the townhouses, in compliance with the standard.

Standard B21 – Overshadowing

234. The submitted shadow plans show three small areas of additional shadowing in the region of 2sqm each which will affect only ground floor courtyards adjoining the western boundary at No.96 Charles Street. As these open space areas are unaffected by additional shadow from the proposal for the remainder of the day, this additional shadowing is considered acceptable.
235. The sectional shadow diagrams (sketch plans) demonstrate the impact to the balconies on the Patterson's building to the east. The diagrams show that none of the balconies are affected by additional shadow as a result of the proposal at noon and enjoy full sun until this time. By 1pm additional shadow will extend into the first floor balconies and for the remainder of the afternoon. However, the existing conditions shadows show that by 2pm these balconies are partially shaded by the existing wall at the subject site and are fully shaded by 3pm.

For this reason, the additional shadow experienced beyond existing conditions between 1pm and 2pm is considered an acceptable impact (particularly given the Commercial zoning of the land).

236. The second floor balconies will be affected by additional shadow at 2pm and 3pm as a result of the development. As they are not affected by additional shadow before this time, the proposed additional shadowing is acceptable. The diagrams demonstrate the third floor balconies will be marginally affected by 3pm and are unaffected by additional shadow before this time. Given this limited impact, the additional shadow is considered acceptable.

Standard B22 – Overlooking

237. The above standard requires that any habitable room windows or balconies be located or designed to avoid direct views into the secluded private open space and habitable room windows of an existing dwelling within a horizontal distance of 9 metres.
238. It appears that the windows adjacent to the lane for No. 104 Charles Street may be overlooked by the townhouses. A condition will address this. The plans (including sketch plans) show the eastern windows to level one, two and three of townhouse 1, 2, 3 and 4 will be treated with non-removable film and the east side and south side of the terraces treated with overlooking screens. However the height of the film and screens or the transparency of the screens has not been noted. This will be addressed by way of condition.
239. Similarly, the transparency to the western second floor timber batten overlooking screen, the sill height of the third floor west-facing windows and the height and transparency of the wet-facing terrace privacy conditions have not been noted. A condition will address this to ensure compliance.

Standard B24 – Noise impacts

240. As previously discussed, a revised acoustic report will be required to ensure the townhouses are adequately protected from the cabaret club at No. 185 Smith Street. With no large plant areas proposed to the townhouses, it is not necessary to require protection to nearby dwellings.

Standard B25 – Accessibility

241. With the townhouses 1-8 having first floor entries accessed via steps, they would not be easily accessible to people with limited accessibility. Given all of the apartments are accessible by lift, this area of non-compliance is on-balance considered acceptable.

Standard B26 – Dwelling entry

242. Subject to conditions discussed earlier, the dwelling entries will be easily identifiable from Charles Street and provide a sense of address.

Standard B27 – Daylight to new windows

243. All of the proposed windows will face an area with a minimum space of 3sqm and minimum dimension of 1m clear to the sky, in compliance with the standard.

Standard B28 – Private open space

244. Standard B28 generally requires that:

..a dwelling or residential building should have private open space consisting of:

- (a) *An area of 40 square metres, with one part of the private open space to consist of secluded private open space at the side or rear of the dwelling or residential building with a minimum area of 25 square metres, a minimum dimension of 3 metres and convenient access from a living room, or*
- (b) *A balcony of 8 square metres with a minimum width of 1.6 metres and convenient access from a living room, or*
- (c) *A roof-top area of 10 square metres with a minimum width of 2 metres and convenient access from a living room.*

245. All of the roof terraces (sketch plans) and the terrace to unit 9 complies with this requirement.

Standard B29 – Solar access to open space

246. The shadow diagrams demonstrate that the roof terrace will have ample access to sunlight throughout the day. The width of the terraces also complies with this standard. The northern orientation of the terrace to townhouse 9 along with its low northern balustrade allow for compliance with this standard.

Standard B30 – Storage

247. The standard requires that all dwellings are provided with 6 cubic metres of externally accessible storage. The plans do not show storage areas. The applicant has confirmed that this standard can be complied with through the provision of under stair and/or above bonnet storage. A condition will require this detail.

Standard B31 – Design detail

248. This standard requires material details, façade articulation and garage presentation respect the existing character of the area. These issues have been discussed in detail in the report. That assessment demonstrates the proposal complies with the design detail objectives of this standard, subject to clarification of materials.

Standard B32 – Front fences

249. No front fences are proposed.

Standard B33 – Common property

250. The common property pedestrian walk-way is appropriately located to allow for its efficient management, in compliance with this standard.

Standard B34 – Site Services

251. There is ample ground floor space to accommodate bins and meters etc on site.

Standard B35 –B49. Energy efficiency

252. These standard are only relevant to apartment developments in Residential Zones.

Remaining Clause 58 standards – Apartments

Standard D6 – Energy efficiency

253. The development is orientated to make use of solar energy through its numerous west and east-facing windows. A large number of dwellings have multiple aspects to receive daylight with this also facilitating cross-ventilation.

254. The proposed apartment building will not unreasonably impact the energy efficiency of the existing dwellings in the Patterson's building and No. 96 Charles Street as they are not shadowed by the apartment building. A roof top dwelling has been approved to the Union Hotel. However as this development has not been constructed, it is not appropriate to require the proposed apartment building is re-designed in light of this approval (as the dwelling may not be constructed).
255. Regardless of this, with this dwelling being located at the second floor and the western boundary wall being two storeys higher, it is not considered this will generate excessive visual bulk. A terrace for this dwelling is proposed adjacent to this boundary wall but will be unaffected by additional shadow as a result of the proposal in the afternoon, which is considered an acceptable outcome.
256. As outlined previously the proposal complies with the relevant NaTHERS requirements of this standard. As already outlined, a condition can be included on the permit for an updated Sustainability Management Plan (SMP) which will include a number of improvements as outlined by Council's ESD Advisor. This will improve the energy efficiency of the development. These have already been discussed.

Standard D7 – Communal open space

257. This Standard only applies to developments which propose forty (40) or more dwellings.

Standard D8 – Solar access to communal open space

258. With no communal open space proposed, with standard is not applicable.

Standard D10 – Landscaping

259. Whilst the apartment building does not provide for landscaping or a canopy tree as required by the standard, this is acceptable as the existing building occupies 100% of the site. As such the proposal will not change the existing landscape character of this portion of the site, which is considered acceptable for this reason.

Standard D13 – Integrated water and stormwater management

260. The advertised application proposed the installation of a rainwater collection tank which would be connected to all toilets within the development. The STORM report provided with the advertised application achieved a score of 103%, which is in line with the policy direction under clause 22.16 – *Stormwater Management (Water Sensitive Urban Design)*. This complied with the objective and the standard, subject to a condition showing the rain tank will be connected to toilets.

Standard D14 – Building setbacks

261. This Standard aims to avoid direct views into habitable room windows and private open space of new and existing dwellings, thereby reducing the reliance on screening to inhibit these views. Of concern is overlooking to the approved (but not constructed) roof top dwelling at the Union Hotel. However with no windows proposed to the western boundary wall and the height of floor 5 and 6 in combination with their setback will prevent unreasonable overlooking of the proposed terrace and windows should this dwelling be constructed.
262. Similarly, of concern is overlooking from the east side of floor 5 and 6 to the open space areas and habitable room windows on the south-west corner of the Patterson's building, particularly as the plans do not clearly articulate proposed overlooking treatments. However it is considered appropriate the level 5 terraces be treated as they are located closer.

The same issue existing for the proposed east-facing windows and balconies on floor 1-4. This will be addressed by way of condition to ensure that unreasonable overlooking is mitigated.

Standard D16 – Noise impacts

263. The proposed development would not be located in proximity to a noise influence area specified in Table D3 to this Standard. According to VicRoads, Smith Street is not a road that generates in excess of 40,000 Annual Average Daily Traffic Volume, thus does not meet the threshold for a noise influence area in Table D3 of this Standard. As discussed previously an acoustic report will be required via condition to protect the proposed apartment building from nearby tavern noise.

Standard D17 – Accessibility objective

264. To ensure the design of dwellings caters for people with limited mobility, the Standard notes 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;*
 - (d) *At least one adaptable bathroom that meets all of the requirements of either Design A or Design B specified in Table D4.*
265. The applicant has submitted apartment layout diagrams that show a total of 10 apartments (1.01, 1.02, 1.03, 2.01, 3.01, 4.01, 2.03, 3.03, 4.03 and 5.01) will have the ability to meet the design requirements for accessible living. This equates to 62% of the apartments.

Standard D18 – Building entry and circulation

266. The proposed entry to the apartment building is clearly visible along Webb Street. The wide entry lobby at ground floor will provide shelter for residents. Within the development, apartments will have their own entry at each level which will be directly accessible from the lift or stairs.

Standard D19 – Private open space

267. Of relevance to this development, a dwelling should provide balconies meeting the dimensions outlined in Table 5 of this Standard. This table specifies that:
- (a) *A two bedroom dwelling should have access to a balcony with a minimum area of 8sqm and minimum dimension of 2m, with convenient access from a living room*
 - (b) *A three (or more) bedroom dwelling should have access to a balcony with a minimum area of 12sqm and minimum dimension of 2.4m, with convenient access from a living room.*
268. One bedroom apartments will have a balcony area of 14 square metres with a width of 2.5 metres. Two bedroom apartments will have a balcony area of at least 8 square metres with a minimum width of 2 metres. Three bedroom apartments will have a balcony area of at least 13 square metres with a minimum width of 2.4 metres. All of the proposed balconies comply with this standard.

Standard D20 – Storage

269. Of relevance to this development, the total minimum storage space (including kitchen, bathroom and bedroom storage) should meet the requirements specified in Table 6 of this Standard. This table specifies that:

- (a) A two bedroom dwelling should have a total minimum storage volume of 14 cubic meters with a minimum storage volume within the dwelling of nine cubic meters.
- (b) A three (or more) bedroom dwelling should have a total minimum storage volume of 18 cubic meters with a minimum storage volume within the dwelling of 12 cubic meters.

270. The following table demonstrates the storage provisions for the apartments. While some minor non-compliances are proposed, in general the storage provision is met or exceeded and so is considered acceptable.

The provision of storage area is described in the table below.

Apt	Total Required (internal)	Proposed Total (internal where external storage provided)	Compliance
1.01	14 (9)	13	Minor Variation – exceeds internal provision
1.02	14 (9)	12.6 (9.1)	Minor Variation – exceeds internal provision
1.03	10 (6)	11.6	✓
1.04	10 (6)	13.3 (9.8)	✓
2.01, 3.01, 4.01	14 (9)	11.5 (8)	Minor Variation
2.02, 3.02, 4.02	18 (12)	17.8 (14.3)	✓
2.03, 3.03, 4.03	14 (9)	36.6	✓
5.01	14 (9)	15.3	✓
5.02	14 (9)	15	✓
6.01	18 (12)	40.4	✓

Standard D21 – Common property

271. The common property areas within the development are generally clearly delineated and would not create areas which were difficult to maintain into the future. The lobby and vehicle access areas are cohesive with the overall building design and are therefore considered to be in line with the objectives of this Standard.

Standard D22 – Site services

272. Services are located in different locations within the site with some facing the street and some being internal. Locations are all easily accessible and maintained. The location of mailboxes are provided in the lobby.

Standard D23 – Waste and recycling

273. The applicant's Waste Management Plan (WMP) prepared by One Mile Grid and dated 29/11/2017 has been found to be satisfactory by Council's Waste Management Unit. This document will be endorsed to form part of the permit.

Standard D24 – Functional layout

274. This Standard requires that main bedrooms should have a minimum width of 3m and minimum depth of 3.4m, with other bedrooms to be 3m x 3m in dimensions (any wardrobes should be additional to this). Living area dimensions (excluding dining and kitchen areas) should have a minimum width of 3.6m and minimum area of 12sqm.
275. All main bedrooms have a minimum width of 3 metres and depth of 3.4 metres and all secondary bedrooms have a minimum width and depth of 3 metres. All apartments will meet the minimum living area dimensions of 10 square metres for one bedroom dwellings and 12 square metres for two or more bedroom dwellings. Accordingly the standard is met.

Standard D25 – Room depth

276. This standard requires that single aspect habitable rooms should not exceed a room depth of 2.5 times the ceiling height. All apartments will have a minimum ceiling height of 2.9 metres. The maximum room habitable room depth is therefore calculated at 7.25 metres for single aspect rooms. The depth of open living/kitchen plans to the rear of kitchen metres for all single aspect habitable room windows comply with this maximum.

Standard D26 – Windows

277. All habitable rooms within the proposed development contain a window within an external wall to the building, with no reliance on 'borrowed light' for any habitable rooms. Apartments 2.03, 3.03 and 4.03 have a small secondary area with a width of 1.2 metres and depth of 0.9 metres, in compliance with the standard specifying a maximum depth of 1.5m time the width of the window.
278. Whilst some habitable room windows are located beneath a balcony overhang associated with dwellings above, these overhangs are a maximum of only 2m wide and so would not unreasonable affect amenity. Additionally, the windows allowing for light access to be maximised.

Standard D27 – Natural ventilation

279. The standard requires that at least 40 percent of dwellings should be provided with effective cross-ventilation that has a maximum breeze path through the dwelling of 18m and a minimum breeze path of 5m. The information provided by the applicant demonstrates that 68% of the apartments (1.01, 1.02, 2.01, 3.01, 4.01, 2.02, 3.02, 4.02, 5.01, 5.02 and 6.01) will have effective cross ventilation with a maximum breeze path of 18 metres, in compliance with the standard.

Car & Bicycle parking/traffic/access/layout

280. Under clause 52.06 of the Scheme, the applicant is seeking a car parking reduction for 4 car spaces as outlined within the table included in the *Particular Provisions* section earlier in the report. The rates referred to the internal and external engineers are no longer applicable (Amendment VC148 which reduced car parking rates). However as both engineers ultimately supported the proposed car parking reduction at a higher rate, it was not considered necessary to seek further comments from them in this regard.
281. Before a requirement for car parking is reduced, the applicant must satisfy the Responsible Authority that the provision of car parking is justified having regard to the assessment requirements of Clause 52.06-6.

Given the proposal exceeds the requirements for the provision of car space for the dwellings and only a reduction sought of 4 spaces sought for the office, consideration will be limited to the demand generated by the office use.

Parking Demand for Office Use.

282. As outlined by Council's traffic engineers, parking associated with office type developments is generally long-stay parking for employees and short-term parking. In practice, the parking demand generated by the office is expected to be lower than the statutory parking rate of 3 spaces per 100sqm of floor space, since the area has very good access to public transport services. Council's Engineers highlighted that Council often approves small scale office developments with no on-site car parking. This is based largely on the inner-city location of these offices and the proximity they have to public transport. The proposed office has a similar context and the provision of no on-site parking for the proposed office use is considered appropriate.
283. The external engineers suggested that Council require a car parking survey be done to demonstrate available car parking in the area, with a view to further justifying the proposed car parking reduction. However given the high provision of car parking and with a reduction of only 4 car spaces required, it is not considered justified to require this. Further the removal of the crossover to Charles Street will also potentially allow for an additional on-street car space to further compensate for the proposed reduction.

Traffic

284. The traffic report submitted with the advertised application adopts a rate of 4 trips per day for the townhouse and 3 for the apartments resulting in a total of 81 movements from the site. The internal and external engineering referral comments indicated that this number is not unduly high and should not adversely affect the traffic operation of the Right-of-Way, Charles Street and Webb Street.
285. In terms of the car lift and its associated queuing analysis, the applicant's traffic report states the proposed car lift is capable of servicing a vehicle every 136 seconds. Both the internal and external engineering referral comments indicated that this ensure cars will not need to queue in Charles street for long periods of time to gain access to the car lift and should not adversely affect the traffic operation of Webb Street.

Access and Layout

286. The proposal includes a car lift for the apartment building accessed from Charles Street and individual garages for each of the townhouses accessed from the Right-of -Way. The access arrangements were found to be satisfactory to Council's and the external traffic engineers.
287. The functionality of all car spaces was deemed to be acceptable. The engineers raised concerns with minor non-compliance with relevant standards but ultimately determined these were acceptable and did not require that they be addressed by way of conditions, apart from the following the headroom clearance to the Webb Street access and column depths and setback to be noted on the plans.

Bicycle parking and facilities

288. With 26 bicycle spaces to the apartment building and each of the townhouses has a bike space in the garage proposed and with 7 required, the proposal far exceeds the Scheme requirements in this regard. The bicycle spaces will be easily accessible to residents. Two visitor spaces are available inside the entry gate to the townhouses and 20 spaces available at ground floor for the apartments; this will also cater to the needs of visitors cycling to the site.

Other

289. Council's Senior Traffic Engineer has recommended the inclusion of a number of conditions relating to civil works to, road protection, impacts on assets, vehicle crossings and drainage and replacement of removed street line markings, car parking sensors and signs. Relevant conditions will be included, with the applicant consenting to them, some of which are improvements to Council's assets.
290. Council's engineers requested clarification on the proposed office roller door to the laneway, given the office does not show any car spaces inside. The applicant confirmed the roller door is to allow for the office to be opened to laneway during the warmer months (not for vehicle access). This is acceptable and should the area be used for parking in the future, this would require an amendment to the permit and would be further considered as part of that process.
291. The engineers requested that the light globes to the street lights be replaced to prevent light nuisance to the proposed dwellings. However, as these lights are not Council assets, it is not appropriate to require this. Council's engineers also provided non-planning related advice. However as the advice is non-planning related, it is not necessary to comment further on these items.

Objector concerns

292. The following objector concerns have been considered throughout this report:
- (a) Increased traffic and pressure on public transport, on-street car parking and infrastructure;
 - (b) Amenity impacts (including overlooking, reduced privacy and daylight, increased security risks and overshadowing (including to plants));
 - (c) Negative impact on heritage character of area;
 - (d) Excessive height/visual bulk; and
 - (e) Limit development potential of nearby properties.
293. The remaining concerns will now be addressed:
- (a) obstruction of views,
 - (i) the Planning Scheme does not offer any protection of views. As such this is not a planning related matter.
 - (b) Construction issues (including property damage, vibration, dust, noise and disruption to nearby business operations); and
 - (i) Condition 25, 26 and 27 requiring the submission of Construction Management Plan and associated documents adequately addresses these issues.
 - (c) Loss of artwork on the existing western wall.
 - (i) The wall in question is part of the western wall which faces into the ground floor beer garden of the Union Hotel. A mural has been recently painted on this wall. The applicant has explained that the wall is structurally unsound and so it is their preference to remove it. As the wall is a side wall and not an ornate principal heritage façade, there is no policy support to require its retention.

Conclusion

294. The amendments comply with the relevant elements of the Yarra Planning Scheme and are supported. The amendment necessitates amendments to the permit preamble and conditions as per below.

RECOMMENDATION

That having considered all objections and relevant planning documents, the Committee resolves to issue a Notice of Decision to Grant a Permit (PLN17/1061) for part demolition and the use and development of the land for the construction of a mixed-use building (permit required for dwelling use), and a reduction in the car parking requirement at 93-97 Webb Street, Fitzroy 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 three copies must be provided. The plans must be generally in accordance with the decision plans, prepared by Jackson Clements Burrows Architects, dated 01/03/2018 (SK0-002, SK0-201, SK0-202, SK0-203, SK2-104, SK2-205, SK2-206, SK1-101, SK1-100, SK1-102, SK1-103, SK1-104, SK1-105, SK1-106, SK1-107, SK1-108, SK1-109, SK2-101, SK2-102, SK2-103, SK2-104, SK3-101, SK3-102, SK3-105, SK3-106, SK3-107, and SK10-101 inclusive) but amended to include:
 - (a) all details as shown in the sketch plans (received by Council on 26th September 2018) as follows;

Townhouses

 - (i) Increased setbacks of third floor east wall;
 - (ii) Increased setbacks of roof terraces from east and west boundaries;
 - (iii) Overall reduction in height by 0.7m;
 - (iv) New privacy screens to roof terraces; and
 - (v) Colour palette lightened to the proposed northern, western and eastern walls.

Apartment building

 - (vi) Setbacks of the south-east and south-west corners of the 5th and 6th floor increased as well as north-west and north-east corners; and
 - (vii) Lightening of the western boundary wall material at first to fourth floor.

But further modified to show the following:

- (b) Demolition plans updated to show removal of existing vehicle crossings and the partial demolition of the existing western wall;
- (c) Notations showing re-instatement of vehicle crossovers with footpath and kerb and channel;
- (d) Details of lighting to walkway and dwelling entries of townhouse 1-8;
- (e) Detail the material finishes of any services cupboards and new windows to the ground floor Webb Street and Charles Street facades and to be compatible with the original heritage fabric;
- (f) All setbacks shown from boundaries on all floor plans;
- (g) Detail the material finish to the pedestrian entry door from Charles Street to the walkway for dwelling 1-8 demonstrating a visually permeable finish;
- (h) The townhouses to demonstrate compliance with the objectives of standard B22 (Overlooking) of clause 55 of the Scheme;
- (i) Further detail of overlooking treatments from the east side of the apartments building to limit overlooking to the Patterson's building dwellings/terraces in compliance with the objectives of standard D14 of clause 58 of the Scheme,
- (j) The western privacy screen to townhouse 1-8, the structures separating adjoined balconies on the apartment building and the windows and balconies to floor 5 and 6 of the apartment building to townhouse terraces to demonstrate compliance with the objectives of standard B23 of clause 55 and D15 (*Internal views*) of clause 58 of the Scheme;

- (k) the headroom clearance to the Webb Street vehicle access and basement column depths and setbacks to be noted on the plans;
 - (m) Any alterations to the development required by the updated Sustainable Management Plan at Condition 3; and
 - (n) Any alterations to the development required by the updated Acoustic Report at Condition 5.
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. 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 ADP Consulting dated 29 November 2017, but modified to include or show:
 - (a) A JV3 energy modelling report, demonstrating that the 10% energy efficiency target will be achieved;
 - (b) An external clothes drying rack for each dwelling;
 - (c) provide additional thermal energy analysis to demonstrate that cooling loads to all dwellings are lower than 30MJ/m² without relying on tinted glazing that will exacerbate daylight issues.
 - (d) redesign apartments 1.03 and 1.04 to setback the bedroom glazing between 0.25m to 0.5m to assist create an air pressure differential between bedroom and living room windows and enable natural ventilation, and
 - (e) confirmation toilets are connected to water tanks.
 4. The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
 5. Before the development commences, an amended Acoustic Report Plan 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 Marshall Day Acoustics dated 24 January 2018 , but modified to include or show:
 - (a) Background noise monitoring and SEPP N-2 noise limits relative to all nearby venues. The limits should be based on background noise levels conducted during the last hour of the venue operations and on the quietest nights that the venues operate;
 - (b) SEPP N-2 assessments of music for all venue operations. If based on one set of measurements only, confirmation should be provided by the venue operator that the assessment quantifies typical worst case noise impacts;
 - (c) An assessment of noise from the tavern at No.171 Smith Street (Sandy V's);
 - (d) Octave and music levels at a reference location used in assessments of music from all venues; and
 - (e) Acoustic specifications for façade walls as well as windows exposed to non-compliant levels of music and/or patron noise.

The acoustic report must make recommendations to limit the noise impacts (as necessary) inside the proposed dwellings and to the satisfaction of the Responsible Authority.

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

7. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
8. As part of the ongoing consultant team, Jackson Clements Burrows 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.
9. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the footpath frontage to the site must be demolished and re-instated as standard footpath and bluestone kerb and channel:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
10. Before the building is occupied, 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,
 - (b) to the satisfaction of the Responsible Authority.
11. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the bluestone laneway to the east of the site must be reconstructed:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
12. 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.
13. Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.
14. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating pedestrian entrances 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.
15. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the car stackers must be installed in accordance with the manufacturer's specifications by a suitably qualified person. The car stackers must be maintained thereafter to the satisfaction of the Responsible Authority.
16. 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.
17. Prior to the completion of the development, subject to the relevant authority's consent, the relocation of any service poles, street line markings, car parking sensors, service structures or service pits necessary to facilitate the development must be undertaken:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.

18. 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.
19. 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.
20. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the car stackers must be installed in accordance with the manufacturer's specifications by a suitably qualified person. The car stackers must be maintained thereafter to the satisfaction of the Responsible Authority.
21. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
22. 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;
 - (v) other relevant considerations.

23. 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.
24. The provisions, recommendations and requirements of the endorsed Construction Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
25. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
26. Before the building is occupied, any new wall/garage doors located on a boundary facing public property must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.
27. The development must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
28. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
- (a) Monday-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;
 - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.
29. 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:

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5585 to confirm.

This site is subject to a Heritage Overlay. A planning permit may be required for any 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 5585 for further information.

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

Areas must be provided inside the property line and adjacent to the footpath to accommodate pits and meters. No private pits, valves or meters on Council property will be accepted.

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

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 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 5585 to confirm.

CONTACT OFFICER: Laura Condon
TITLE: Senior Statutory Planner
TEL: 92055016

Attachments

- 1 PLN17/1061 - 93 - 97 Webb St, Fitzroy - Decisions Plans - Part1.
- 2 PLN17/1061 - 93 - 97 Webb St, Fitzroy - Decision Plans - Part2.
- 3 PLN17/1061 - 93 - 97 Webb St, Fitzroy - Decision plans - Part3.
- 4 PLN17/1061 - 93 - 97 Webb St, Fitzroy - Sketch Plans.
- 5 PLN17/1061 - 93 - 97 Webb St, Fitzroy - Subject site.
- 6 PLN17/1061 - 93 - 97 Webb St, Fitzroy - Heritage advice (Decision plans)
- 7 PLN17/1061 - 93 - 97 Webb St, Fitzroy - Heritage advice (Sketch plans).
- 8 PLN17/1061 - 93 - 97 Webb St, Fitzroy - External urban design advice (Decision plans).
- 9 PLN17/1061 - 93 - 97 Webb St, Fitzroy - External urban design advice (Sketch plans).
- 10 PLN17/1061 - 93 - 97 Webb St, Fitzroy - ESD advice (Decision plans).
- 11 PLN17/1061 - 93 - 97 Webb St, Fitzroy - ESD advice (Sketch plans).
- 12 PLN17/1061 - 93 - 97 Webb St, Fitzroy - Acoustic advice.
- 13 PLN17/1061 - 93 - 97 Webb St, Fitzroy - External Engineering advice.
- 14 PLN17/1061 - 93 - 97 Webb St, Fitzroy - Council's Engineering advice.
- 15 PLN17/1061 - 93 - 97 Webb St, Fitzroy - Waste Management advice.