



YARRA CITY COUNCIL
Internal Development Approvals Committee
Agenda

**to be held on Wednesday 11 July 2018 at 6.30pm
in Meeting Rooms 1 & 2 at the Richmond Town Hall**

Rostered Councillor membership

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

- I. ATTENDANCE**
Ally Huynh (Senior Coordinator Statutory Planning)
Sarah Thomas (Principal Planner & Advocate 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	PLN17/1070 - 188 - 196 Gertrude Street, Fitzroy - Use and development of the land for a Restricted Recreation Facility (Gym), partial demolition, external alterations and the display of business identification signage.	5	23
1.2	1/19-21 Walker Street, Clifton Hill - Planning Application No. PLN17/0827 - Alterations and additions to an existing dwelling, including an outbuilding and associated demolition works.	26	40
1.3	1/430 Rae Street, Fitzroy North - Planning Application No. PLN18/0019 - Use of the land as a medical centre and a reduction of the car and bicycle parking requirements.	42	54

1.1 PLN17/1070 - 188 - 196 Gertrude Street, Fitzroy - Use and development of the land for a Restricted Recreation Facility (Gym), partial demolition, external alterations and the display of business identification signage.

Executive Summary

Purpose

1. This report provides Council with an assessment of planning application PLN17/1070 at 188-196 Gertrude Street, Fitzroy for the use and development of the land for a Restricted Recreation Facility (Gym), partial demolition, external alterations and the display of business identification signage; and recommends approval subject to conditions.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Clause 13.04 – Noise and Air
 - (b) Clause 22.04 – Advertising Signs Policy
 - (c) Clause 21.04-2 – Activity Centres
 - (d) Clause 34.01 – Commercial 1 Zone

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Land use;
 - (b) Off-site amenity impacts;
 - (c) Heritage and signage;
 - (d) Car parking, traffic, and bicycle facilities, and;
 - (e) Objector concerns.

Objector Concerns

4. 77 objections were received to the application, the grounds of which can be summarised as:
 - (a) Concerns regarding the proposed signage and its effect on the heritage place and streetscape;
 - (b) Car parking and traffic impacts;
 - (c) Amenity impacts from noise and vibrations associated with the use;
 - (d) The proposed hours being inappropriate;
 - (e) Whether the proposed use is warranted in the location.

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 conditions.

Key Recommendations

6. The application proposes signage of a large scale that has been considered to have a detrimental effect on the significance of the heritage place and was a key issue raised in numerous objections as well as at the community consultation meeting. The applicant produced sketch plans which have significantly reduced the scope of the proposed signage. The sketch plans form a key recommendation and have been discussed in more detail throughout this report.

CONTACT OFFICER: Chris Stathis
TITLE: Senior Statutory Planner
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1.1 PLN17/1070 - 188 - 196 Gertrude Street, Fitzroy - Use and development of the land for a Restricted Recreation Facility (Gym), partial demolition, external alterations and the display of business identification signage.

Trim Record Number: D18/102983

Responsible Officer: Senior Coordinator Statutory Planning

Proposal:	Use and development of the land for a Restricted Recreation Facility (Gym), partial demolition, external alterations and the display of business identification signage.
Existing use:	Arts supplies shop (ground floor) Vacant (first floor)
Applicant:	Metropol Planning Solutions Pty Ltd
Zoning / Overlays:	Commercial 1 Zone Heritage Overlay (Schedule 334)
Date of Application:	13 December 2017
Application Number:	PLN17/1070

Planning History

1. The following paragraphs outline the planning permit history relevant to the subject building.
2. Planning Permit PLN16/0560 was granted on 22 September 2016 for the development of the land for buildings and works for alterations including partial demolition.
3. Planning application PLN14/1155 was lodged on 09 December 2014 for the removal of an air conditioning unit. A letter from Council dated 24 December 2014 informed the applicant that a planning permit was not required for the works.
4. Planning application PLN14/0067 was refused on 25 July 2014 for buildings and works to allow for the installation of an evaporative air conditioning unit located at the rear of the existing building.
5. Planning Permit PLN13/0071 was granted on 09 May 2013 for the construction and display of business identification signage.
6. Planning Permit PLN13/0062 was granted on 03 May 2013 for the development of the land for part demolition and the installation of bi-fold doors, associated with the use of a grocery / health food shop.
7. Planning Permit PL05/0421 was granted on 16 September 2005 for the painting of [the] shop façade.
8. Planning Permit PL01/1307 was granted on 27 September 2002 for the construction of a below-verandah, internally illuminated business identification sign.

Background

Sketch plans

9. Objectors raised concerns during the Consultation Meeting about the proposed business identification signage associated with the application, specifically the size, design and proportion of the signage. Council's Heritage Advisor echoed these sentiments and commented that the proposed signage could not be supported from a heritage perspective.

In response to these concerns, the applicant submitted sketch plans on 20 April 2018, which significantly reduced the size and proportion of the signage. These sketch plans will be referred to where relevant throughout the report.

Defining the subject site

10. This report refers to both a subject building and a subject site. The subject building is a double-storey commercial building fronting Gertrude Street with the street address 188-196 Gertrude Street and a width of five shopfronts as shown at figure 2 below. The subject site refers to the westernmost tenancy within the subject building, and generally comprises the two westernmost shopfronts. The subject site is further defined in the following paragraph.

Existing Conditions

Subject Site

11. The subject site is located on the south side of Gertrude Street, Fitzroy, approximately 13 metres east of George Street. The site forms part of 188-196 Gertrude Street Fitzroy (the subject building), which is irregular in shape with a frontage to Gertrude Street of 29.95m a depth of 99.17m and an area of approximately 789sqm. There is no appreciable fall across the site.
12. The subject site varies from ground floor to first floor under existing conditions. At ground floor, the existing floor plan shows that the subject site is limited to the two westernmost shopfronts. At the front section of the first floor, the existing floor plan shows that the subject site is limited to the three westernmost shopfronts. The rear section of the first floor plan shows that the subject site expands across the entire width of the subject building with internal access to the east-adjointing property.
13. The subject site is currently used as an art supplies shop at ground floor. The submitted application form indicates that the first floor of the subject site is currently vacant.
14. The subject site is proposed to change from existing conditions to proposed conditions as part of this application. At ground floor, the subject site would be limited to the width of the two-westernmost shopfronts, whereas at first floor, the subject site would expand across the three western-most shopfronts at the front of the site. Towards the rear of the first floor, the subject site would generally be limited to the width of the two westernmost shopfronts. The subject site features an under-verandah lightbox which has internally-illuminated business identification signage.

Restrictive Covenants/Easements

15. The title shows no restrictive covenants or easements on the land

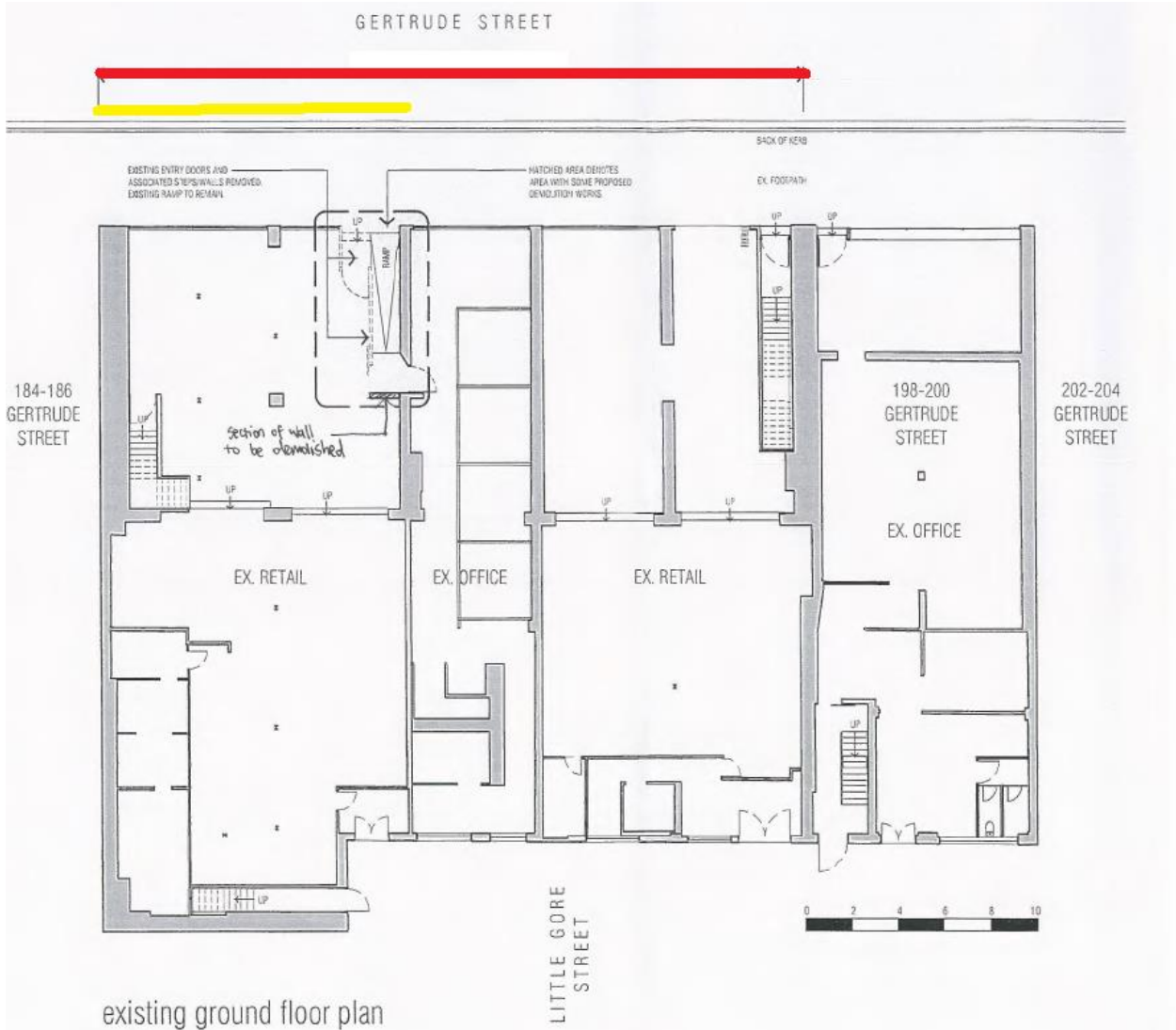


Figure 1: The extent of the subject building (red line) and subject site (yellow line) as they relate to the ground floor of the subject building.



Figure 2: The subject building (red) and subject site (yellow) as viewed from Gertrude Street

Surrounding Land

16. The surrounding land is characterised by the commercial spines of both Gertrude Street and Smith Street with predominantly residential hinterlands beyond, including Gore Street (to the west) and George Street (to the east).
17. The subject is located on Gertrude Street which forms an east-west commercial strip between Nicholson and Smith Streets in southern Fitzroy and is classified as a Neighbourhood Activity Centre pursuant to Clause 21.08-7 (Neighbourhoods – Fitzroy). The predominant land uses along Gertrude Street are retail and hospitality businesses including clothing, homewares, cafes, restaurants and bars. Businesses typically cater to the surrounding area as well as the Fitzroy-based arts industry. Commercial offerings are of a bespoke nature with many retailers having their sole establishment located on the street. A number of art galleries are also located along the street. Gertrude Street is zoned Commercial 1 with residential areas to the north and south largely zoned as Neighbourhood Residential 1 (refer figure 3 below). Importantly, the subject site is located on the eastern end of Gertrude Street, closer to the Smith Street Major Activity Centre which is home to a number of bars, pubs and nightclubs with late-night trading.
18. Gertrude Street has interfaces with residentially-zoned land both to the north and south. These areas are largely zoned Neighbourhood Residential 1 and are characterised by 1-3 storey, Victorian-era dwellings on narrow allotments. Dwellings are typically constructed flush to side boundaries and exhibit modest rear areas of secluded private open space (SPOS).



Figure 3: Zoning Context of the subject building (red outline) and surrounding area. Purple indicates the distribution of the Commercial 1 Zone, with land generally zoned Neighbourhood Residential Zone (pink) beyond the commercial strips.

Nearby properties

19. To the east of the subject site are the two easternmost tenancies within the subject building:
 - (a) A business catering for flexible office spaces (i.e. hot desks) under the name of ‘Pods on Gertrude’. The use comprises the central shopfront at ground floor;
 - (b) A shop providing health food and produce under the business name ‘Aunt Maggie’s’ which comprises the two easternmost shopfronts at ground floor only.
20. To the west of the subject site is 184 Gertrude Street, which is a double-storey, Victorian-era building that is currently being used as a community recreation centre for indigenous youth.

21. Further west is No. 164 Gertrude Street, located on the southwest corner of Gertrude and George Streets. A mixed-use development of 5 storeys has recently been constructed on this site (approved under Planning Permit PLN14/0419). The approval includes apartments at first floor and above. Along the eastern elevation of the building, the apartments feature east-facing balconies and habitable room windows. At ground floor, a mix of commercial uses have been approved:
 - (a) A Restaurant located on the corner of Gertrude and George Street, with a maximum of 170 patrons;
 - (b) A café located on the corner of Gertrude and Little George Street, with a maximum of 90 patrons;
 - (c) Two shops located centrally within the business.
22. The café and restaurant uses outlined above have no restrictions with regard to their operating hours. The permit states that the sale and consumption of liquor must only occur between the hours of 10am and 11pm, seven days a week.
23. To the south of the subject site, the most immediate properties are two dwellings, one located directly to the south on George Street and the other to the southeast, on Gore Street:
 - (a) 70 George Street is a double-storey dwelling of the Victorian-era and is constructed flush to the subject building (and No. 184-186 Gertrude Street) along the entirety of its building footprint. A medium-sized area of SPOS is located to the rear. The site is bound by Little Gore Street to the rear, as well as, a laneway to the north that separates the subject building from the property along the rear half of the property's northern boundary.
 - (b) 67 Gore Street is a three-storey contemporary dwelling approved under Planning Permit PLN13/0845. The property does not have any direct interface with the subject site, however it does have two areas of SPOS towards the rear of the site – a ground floor open area and a west-facing balcony.

The Proposal

24. The application is for the use and development of the land for a Restricted Recreation Facility (Gym), partial demolition, external alterations and the display of business identification signage. More specifically, the application includes:

Demolition

- (a) demolition of selected internal walls at both ground and first floor;
- (b) demolition of ground floor front door, ramp and associated returns;

External alterations

- (c) new entrance ramp opening (1.8m width) and associated return
- (d) new glazed shopfront to match existing to replace existing door and ramp;

Internal alterations

- (e) new internal wall at first floor to restrict the subject site to a width of the two westernmost shopfronts of the subject building at first floor

Use

Use of the land for a Restricted Recreation Facility with the following operational details:

- (f) a maximum of 30 patrons at any one time;
- (g) operating hours of 24 hours a day, 7 days a week;
- (h) staffed hours typically between the following times;
 - (i) 8:30am to 12:30pm and then 3:30pm-7:30pm Monday to Thursday, and;
 - (ii) 7:30am to 11:30am Saturday, and;
 - (iii) unstaffed Sundays;
- (i) maximum 3 staff on premises at any one time;
- (j) 428sqm of floor area associated with the use;
- (k) no speaker systems installed for music;

- (l) one television with background noise level only, any additional televisions will not have any audio function;
- (m) installation of rubber-style flooring in areas with equipment is located; and;
- (n) no group classes, child-minding services or pool/sauna/steam facilities.

Signage

- (o) The display of eight (8) business identification signs (total area of 22.6sqm – refer figure 4 below) with the following specifications:
 - (i) Large horizontal sign located above shopfront glazing with dimensions of 0.93m by 9.77m (area of 9.09sqm);
 - (ii) Vertical sign located on eastern section of shopfront glazing with dimensions of 1.28m by 2.12m (area of 2.71sqm);
 - (iii) Second vertical sign located on western section of shopfront glazing with dimensions of 2.08m by 1.47m (area of 3.05sqm);
 - (iv) Three semi-transparent, horizontal decal signs located centrally across the shopfront glazing. All decal signs would have a width of 1.06m and lengths of 1.28m, 1.49m and 2.96m and total an area of 5.16sqm.
 - (v) the display of a sign on both side of the existing lightbox – each sign having dimensions of 2.35m by 0.55m (area of 2.59sqm).

Car and Bicycle Facilities

- (p) zero provision of car parking or bicycle facilities on site.

Planning Scheme Provisions

Zoning

- 25. The subject site is located within the Commercial 1 Zone. The following provisions apply:
 - (a) pursuant to Clause 34.01-1, a planning permit is required to use the land for a Restricted Recreation Facility, and;
 - (b) pursuant to Clause 34.01-4, a planning permit is required to construct and carry out works, including an alteration to an existing building façade where less than 80 per cent of the building façade at ground floor level is maintained as an entry or window with clear glazing.

Overlays

- 26. The subject site is located within a Heritage Overlay (Schedule 334). Pursuant to Clause 43.01-1, a planning permit is required to:
 - (a) demolish or remove a building, and;
 - (b) construct and carry out works.
- 27. It is noted that all proposed signage requires a planning permit under this provision. This includes the display of signage within the existing lightbox, which otherwise does not require a planning permit (see following paragraphs).

Particular Provisions

Clause 52.05 – Advertising Signs

- 28. The subject site is located within the Commercial 1 Zone and as such is classified as Category 1 – Commercial area (minimum limitation). The following proposed signs (all greater than 1.5sqm each in area each) require a planning permit as together they result in greater than 8sqm of total advertisement area:
 - (a) Large horizontal sign located above shopfront glazing with dimensions of 0.93m by 9.77m (area of 9.09sqm);
 - (b) Vertical sign located on eastern section of shopfront glazing with dimensions of 1.28m by 2.12m (area of 2.71sqm);

- (c) Second vertical sign located on western section of shopfront glazing with dimensions of 2.08m by 1.47m (area of 3.05sqm);
- (d) The largest of the three semi-transparent, horizontal decal signs located centrally across the shopfront glazing. This sign has a width of 1.06m and a length of 2.96m (total area of 3.14sqm).

29. The following signs do not require a planning permit under this provision:

- (a) The two smaller decal signs located centrally on the shopfront glazing, as each of these signs have an area of less than 1.5sqm and are below-verandah;
- (b) The proposed signage for the existing lightbox. Pursuant to Clause 52.05-7, this sign does not require a planning permit as it is an internally-illuminated sign with an area of less than 1.5sqm, located under a verandah and more than 30m from residentially-zoned land or traffic light. Therefore the existing lightbox and proposed signage within are both as-of-right signs under this provision.

Clause 52.06 – Car parking

- 30. Clause 52.06-1 requires that a new use must not commence or the floor area of an existing use must not be increased until the required car spaces pursuant to Table 1 have been provided on the land.
- 31. Pursuant to clause 52.06-5A, where a use of land is not specified in Table 1, car parking spaces must be provided to the satisfaction of the responsible authority prior to a new use commencing. Neither ‘Restricted recreation facility’, nor its parent use ‘Minor sports and recreation facility’, is listed within Table 1 of Clause 52.06-5, therefore car parking must be provided to the satisfaction of the Responsible Authority.

Clause 52.34 – Bicycle Facilities

- 32. 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. The table below outlines the bicycle parking requirements for the proposed use pursuant to clause 52.34-3:

Land Use	Units/Area proposed	Rate	No. required	No. proposed	Reduction sought
Minor sports and recreation facilities	3 staff max.	1 space to each 4 employees.	0	0	2
	429m ² net floor area	1 visitor space to each 200m ² of net floor area.	2 (2.15)		

- 33. Given that no employee spaces are required by the proposed use, the provision of change room/ shower facilities (pursuant to Clause 52.34-3) is not required for this application.

General Provisions

Clause 65 – Decision Guidelines

- 34. The decision guidelines outlined at clause 65 of the Scheme are relevant to all applications. Before deciding on an application, the Responsible Authority must consider a number of matters. Amongst other things, the Responsible Authority must consider the relevant State Planning Policy Frameworks, Local Planning Policy Frameworks and any local policy, as well as the purpose of the zone, overlay or any other provision.

State Planning Policy Framework (SPPF)

Clause 11.01 – Activity Centres

35. The objective of this policy is: *‘To build up activity centres as a focus for high-quality development, activity and living for the whole community by developing a network of activity centres.’*

Clause 11.04 – Metropolitan Melbourne

36. The vision outlined under this policy is that Melbourne will be a global city of opportunity and choice. The relevant objective is: *‘to create a city structure that drives productivity, supports investment through certainty and creates more jobs’.*

Clause 13.04-1 – Noise abatement

37. The objective of this clause is: *‘To assist the control of noise effects on sensitive land uses.’*

Clause 17.01-1 – Business

38. The objective of this clause is: *‘To encourage development which meet the communities’ needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.’*

Clause 18.02-5 – Car parking

39. The objective of this clause is: *‘To ensure an adequate supply of car parking that is appropriately designed and located.’*

Local Planning Policy Framework (LPPF)

Municipal Strategic Statement

40. The MSS provides a broad demographic overview of the municipality and is structured into four themes at clause 21.03 consisting of ‘land use’, ‘transport’ and ‘environmental sustainability’. Relevant clauses are as follows:

Clause 21.04-3 – Industry, office and commercial

41. *‘Within Yarra the volume of commercial and associated uses is so significant that they form clusters of interrelated activity. The commercial and industrial sectors underpin a sustainable economy and provide employment. Yarra plans to retain and foster a diverse and viable economic base.’* The objective of this clause is: *‘To increase the number and diversity of local employment opportunities.’*

Clause 21.06-3 – The road system and parking

42. The relevant objectives and strategies of this clause are:
- (a) *‘To reduce the reliance on the private motor car.’*
 - (b) *‘To reduce the impact of traffic.’*
 - (c) *‘Ensure access arrangements maintain the safety and efficiency of the arterial and local road networks.’*

43. *Clause 21.08-7 – Neighbourhoods (Fitzroy)*

44. This Clause describes the neighbourhood of Fitzroy in the following way:

Fitzroy is 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.

45. Further, the Gertrude Street NAC is described as having: *a number of eclectic and innovative retailers as well as heritage buildings which help to give the centre an individual and unique sense of place.*

Relevant Local Policies

Clause 22.05 – Interface Uses Policy

46. Pursuant to Clause 22.05 of the Scheme, this policy applies to applications for use or development within Mixed Use, Commercial and Industrial Zones (amongst others). The policy contains the following relevant objective and policy:
- (a) *'To ensure that residential uses located within or near commercial centres or near industrial uses enjoy a reasonable level of amenity.'*
 - (b) *'New non-residential use and development within Business [i.e. Commercial] and Mixed Use and Industrial Zones are designed to minimise noise and visual amenity impacts upon nearby, existing residential properties.'*

Advertising

47. The application was advertised pursuant to Section 52 of *the Planning and Environment Act 1987* (the Act), by way of 190 letters sent to surrounding property owners and occupiers and the display 2 signs – one located on the Gertrude Street frontage and one located along the rear boundary to face the rear R.O.W.
48. A total of 77 objections were received, the grounds of which are summarised as follows:
- (a) Concerns regarding the proposed signage and its effect on the heritage place and streetscape
 - (b) Car parking and traffic impacts;
 - (c) Amenity impacts from noise and vibrations associated with the use;
 - (d) The proposed hours being inappropriate;
 - (e) Whether the proposed use is warranted in the location.

Referrals

External Referrals

49. No external referrals were required for this application under Clause 66 of the Scheme. The application, however, was referred externally to SLR Acoustic Consulting for peer review of the applicant's submitted acoustic report. The peer-review was generally supportive of the proposed use and concluded that the proposed use would be considered a low risk use with regard to noise impacts to nearby residential uses. The peer review advice is discussed in further details throughout the report and included in the appendices to the report.

Internal Referrals

50. The application was referred to Council's Traffic Engineering Unit and Heritage Advisor. Advice received is included within the appendices to this report and discussed in the officer assessment as relevant.

OFFICER ASSESSMENT

51. The primary considerations for this application relate to
- (a) Land-use and strategic justification;
 - (b) Off-site amenity;
 - (c) Heritage and signage;
 - (d) Car parking and traffic;
 - (e) Objector concerns.

Land-use and strategic justification

52. The subject site is located within the Commercial 1 Zone, where a purpose is:

To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.

53. The site is also located within the Gertrude Street Neighbourhood Activity Centre (**NAC**), which Clause 21.08-7 (Neighbourhoods – Fitzroy) identifies as having:

a number of eclectic and innovative retailers as well as heritage buildings which help to give the centre an individual and unique sense of place.

54. Clause 21.08-7 also provides a general description for the neighbourhood of Fitzroy and acknowledges that:

Fitzroy is a mixed commercial and residential neighbourhood notable for the consistency of its Victorian streetscapes. It comprises a dense combination of residential area, shopping precincts and commercial/industrial activities.

55. Clause 21.04-2 (Activity Centres) outlines the need for the *provision of shops and services to provide for local day-to-day needs must be met in all activity centres so as to maintain the character of activity centres as local destinations*. This Clause also acknowledges that Neighbourhood Activity Centres must meet the service needs of the surrounding area and seeks that individual centres are provided with an increased range of *retail, personal and business services, community facilities and recreation activities*.

56. The proposed 'restricted recreation facility' (gym) supports the aforementioned purpose of the zone purpose given that it would provide additional employment opportunities and economic activity within the centre. At the same time, the modest scope of the proposed use (as evidenced by a maximum of only 30 patrons at any one time) will ensure that the use caters predominantly to the local area and is therefore considered to be appropriate for the more neighbourhood-focused Gertrude Street NAC. The low patronage is indicative of a small-scale gym and is thus not anticipated to become a destination recreation venue.

57. The impact of the use on demand for existing on-street car parking will be discussed later in this assessment. However given patrons are likely to be attracted from nearby residential and commercial areas, the use is unlikely to detrimentally impact on available on-street car parking. Given the nature of the use, it will not require deliveries to the site and so will not compete with local business for access to on-street loading bays. For all of these reasons, the proposed use would not have an unreasonable impact on surrounding commercial uses as encouraged by the Commercial 1 Zone.

58. Given the low patron numbers proposed (maximum of 30 at any one time), it is not considered that the proposed use would place any unreasonable burden on the available of services for the site, in accordance with the Commercial 1 Zone decision guidelines.

59. It is acknowledged that the use is not considered to be an *eclectic* or *innovative retailer* as described at Clause 21.08-7, however this does not mean that the use is discordant with the Gertrude Neighbourhood Activity Centre. Rather, it is considered that the use would complement the predominantly retail and hospitality-focused businesses along Gertrude Street and generally cater to the recreation needs of the surrounding area. Internet searches undertaken by the planning officer revealed that there are no gyms located in southern Fitzroy aside from a sports gym associated with the Australian Catholic University. In a similar vein, the existing nearby uses are not expected to unduly affect the proposed use, given its commercial nature.

60. Given the 24 hour-nature of the use requires an assessment of safety considerations to ensure it's appropriateness for the Gertrude Street NAC. The management plan provided by the applicant states that the gym will be staffed typically between the hours of:
- (a) 8:30am to 12:30pm and then 3:30pm-7:30pm Monday to Thursday, and;
 - (b) 7:30am to 11:30am Saturday, and;
 - (c) unstaffed Sundays.
61. In light of the above, it is evident that during large portions of the day and evening periods, the use would be unstaffed. The management plan has outlined a number of security measures to ensure safety for both patrons and the surrounding area:
- (a) Unique authorisation entry swipe cards for patrons;
 - (b) Installation of a CCTV security system which would be monitored by a control centre during unstaffed hours;
 - (c) Personal safety buttons and pendants for patrons to use during unstaffed hours.
62. For all of these reasons it is considered that sufficient security measures will be implemented to ensure that the gym will operate in a safe and secure manner at times when staff are not present at the site. As such, the 24 hour-nature of the proposed use is considered to be appropriate for the Gertrude Street NAC. Should a permit issue, the submitted management plan would form part of the permit, which would require the operator to comply with all recommendations and commitments made within document.

Off-site amenity

63. State and local policies encourage the concentration of commercial uses within and around activity centres whilst providing adequate protection against off-site amenity impacts. Specifically, Clauses 13.04-1 (Noise abatement), 21.04-2 (Activity centres) and 22.05 (Interface Uses Policy) identify that noise and the interface between uses must be managed appropriately, particularly in a municipality such as Yarra where *almost all residents are within 400m of an activity centre... Abutting uses along the length of the strips are generally residential, creating interface conflicts where some uses are not well managed or inappropriate uses are permitted* (Clause 21.04-2). The proposed use is located within the Commercial 1 Zone but with directly-abutting residential uses. Therefore careful consideration of amenity impacts is warranted. The critical amenity consideration for this application is noise impacts. Waste impacts and light spill will also be discussed.
64. The applicant submitted a letter (dated 22 January 2018) which, for the purposes of this assessment will be referred to as the applicant's management plan. The plan makes the following commitments pertaining to noise:
- (a) no speakers would be installed for the playing of music across the site;
 - (b) one television on site to feature background-level audio (any additional televisions to have no audio function)
 - (c) no group classes would take place on site;
 - (d) installation of rubber-style flooring in the areas where equipment is located;
 - (e) signs would be placed at the exit to remind patrons to leave quietly, and;
 - (f) patron ingress/ egress would be restricted to the Gertrude Street entrance.
65. As part of the planning application, the applicant was required to submit an acoustic report produced by a suitable qualified consultant. A report by Cogent Acoustics, dated 15 February 2018 was submitted to Council (refer to relevant attachment).

The acoustic report identified the most sensitive noise receivers as being No. 70 George Street (to the south) and the east-facing apartments associated with the mixed use development at 166 Gertrude Street (to the west). The report refers to the noise management measures outlined in the aforementioned management plan written by the applicant in the letter dated 22 January 2018.

66. The submitted acoustic report assessed the following potential noise sources:
 - (a) patron arrival and departure;
 - (b) music noise;
 - (c) gym activity noise – airborne;
 - (d) gym activity noise – structure-borne, and;
 - (e) mechanical plant noise

67. The submitted acoustic report found that the proposed use would result in noise at an acceptable level for nearby dwellings subject to the inclusion of the following measures:
 - (a) *The operational parameters and noise management measures for the gym should be generally as proposed in Plus Fitness's letter dated 22 January 2018.*
 - (b) *Once the volume of the television has been set to an appropriate level, the volume controls on the television should be disabled to prevent volume levels being changed by gym patrons.*
 - (c) *The conditions of entry should restrict patrons and trainers from bringing their own music players, other than personal music devices that play through headphones /earplugs.*
 - (d) *Windows and external doors to the gym should be kept closed outside of staffed hours.*
 - (e) *The conditions of entry should restrict patrons from opening windows and external doors (other than for entry or exit) outside of staffed hours.*
 - (f) *If any new mechanical plant such as air-conditioning units, toilet / bathroom exhaust fans, or the like is to be installed, it should be designed to comply with the requirements of SEPP N-1.*

68. The acoustic report was peer reviewed by Council through an independent acoustic engineer. The peer review found that the proposed use would be low risk from an acoustic perspective and that the submitted acoustic report had adequately addressed all potential noise impacts. Given this finding, it is recommended that the submitted acoustic report (including all operational recommendations/commitments) be endorsed to form part of the permit, should a permit issue. In light of the above considerations and subject to the inclusion of recommended conditions, it is considered that the proposal will not result in unreasonable noise impacts for nearby dwellings.

69. Further to the above, SEPP N-1 and N-2 noise requirements will be included as permit conditions, should a permit issue. This will ensure that the use comply with these provision at all times, thereby ensuring further noise protection for nearby residential uses.

70. With regards to waste, the proposed use is not anticipated to generate significant waste production. This is due to the relatively low patronage being proposed (maximum 30 patrons), as well as, the fact that the proposed use inherently produces little waste – no food or other products are being produced on the site. As such, a Waste Management Plan is not required for this application.

71. The proposal is unlikely to impact nearby residentially-zoned dwellings via light spill. This is due to the lack of openings towards the rear of the site. Some light spill would be expected to occur along the Gertrude Street frontage of the site, however this is considered to be commensurate with a commercially-zoned activity centre.
72. Finally, it is noted that the proposed works would not result in any new overlooking from the subject site into nearby residential dwellings, thereby in accordance with overlooking policy at Clause 22.05.

Heritage and Signage

73. A heritage assessment is warranted for two elements of the proposal – demolition/ external alterations to the front façade and display of signage. These will be discussed in the following paragraphs.

Demolition/ external alterations

74. The proposal seeks to demolish the existing door and ramp associated with the second-westernmost shopfront of the subject building and replace them with a single ramp with a width of 1.8m. The demolition of the existing door and ramp are supported as these are not considered to be original elements of the building. The proposed ramp, however, is considered to be very wide and not typical of a Victorian-era shopfront. Council's Heritage Advisor provided the following comments on this detail:

1800mm is a very wide opening and not in keeping with the traditional appearance of a Victorian-era shopfront (usually 600-900mm wide). My understanding of DDA regulations is that a minimum of 1000mm is required for clear DDA access. If the opening was 1500mm wide, then there would be room for essential fixtures and fittings (e.g. hose reel, fire extinguisher etc). Accordingly, the proposed 1800mm wide opening is not supported. The opening should be reduced to 1200-1500mm max.

75. In light of the above advice, a condition is recommended for the width of the proposed ramp to be reduced to a maximum of 1.5m, should a permit issue. The planning officer discussed DDA requirements with Council's Building Department and it was found that the recommended condition would allow enough space for relevant requirements to be met.

Signage

76. The application proposes to display a significant amount of signage along the Gertrude Street shopfront of the subject site, as shown at figure 4 below. Clause 22.04-3.8 (Advertising Signs Policy – Heritage Areas) directs that new signage in heritage areas should be small and restrained in size and that the number of new signs should be limited. The proposed signage is considered to be excessive both in terms of size and design. As such, it is considered that the proposed signage would detract from the significance of the heritage place. Council's Heritage Advisor shares this concern and stated that:

The extent of window signage is excessive. Not only will it block views to the commercial interior (making the shop window look more like a wall), but the extent of advertising would overwhelmingly detract from the historic character of the row. Accordingly, the extent of signage is not supported. Signage should be restricted to:

- 1 x new decal in existing under-awning light box
- No more than 1/3 of principal glass windows
- No signage above principal glass windows (i.e. no signage in transom window area, which appears to have been concealed with sheeting or painted).



Figure 4: Excerpt of the proposed signage as part of the decision plans

77. In response to the heritage advice received (as well as the concerns of objectors heard at the consultation meeting), the applicant provided sketch plans which significantly reduced the extent of signage, both in terms of size and design. An excerpt of the sketch plans have been provided below at figure 5. The revised signage scheme is limited to the following:
- Under-verandah, internally-illuminated business identification signage (to be located within an existing hanging lightbox) with business logo in bright orange and blue colours;
 - Business identification signage applied to the shopfront glazing (including the entrance return) with business logo, descriptive text and no colour;
 - Business identification signage applied to the glazing of the proposed front door with business logo, descriptive text and bright orange and blue colours.

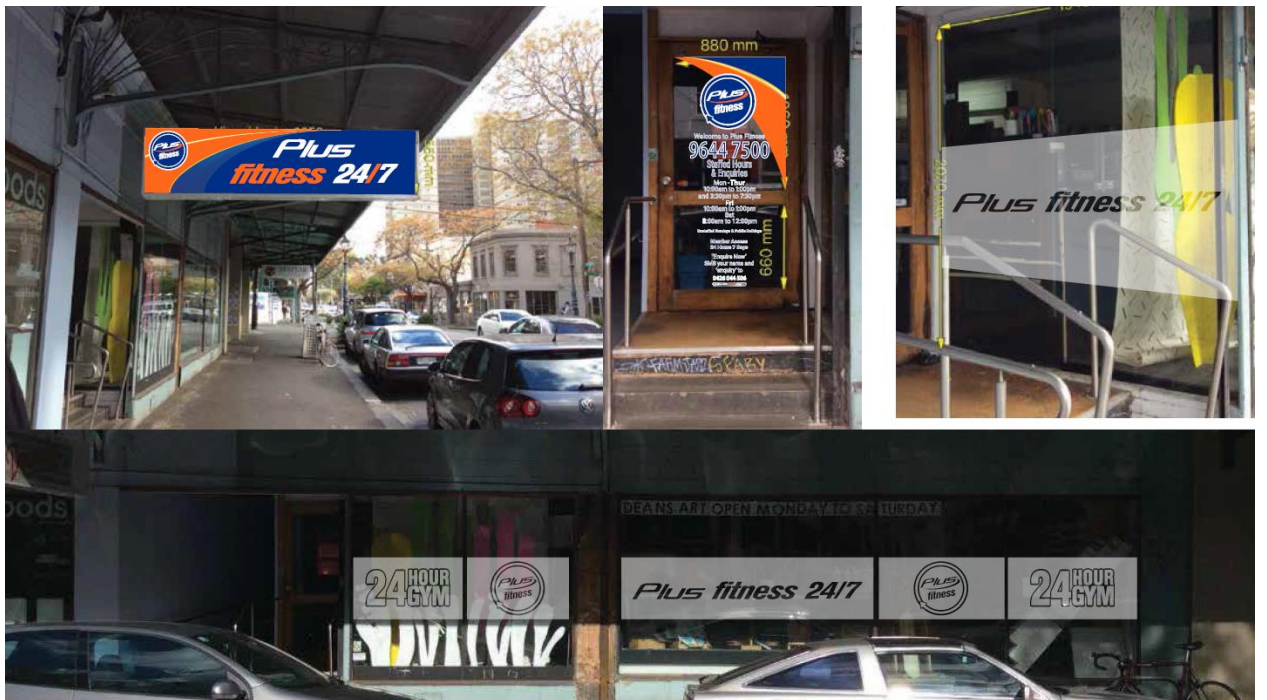


Figure 5: Sketch plans produced by the applicant showing a reduction in the scope of the proposed signage.

78. The revised signage scheme is considered to represent a significant improvement from the decision plan scheme, to an extent that the signage is no longer considered to detrimentally affect the significance of the heritage place. The sketch plans were shown to Council's Heritage Advisor who confirmed that they were an acceptable outcome from a heritage perspective. As such, the reduced scope of signage will be included as a permit condition, should a permit issue.
79. The sketch plans do not provide clear dimensions nor do they accurately show the proposed signage in accordance with the proposed external alterations. A further condition will require that the sketch plans are modified to provide these details, should a permit issue.
80. The Planning Officer has assessed the sketch plans, and whilst they do not provide dimensions, was able to roughly calculate that the total signage proposed under the sketch plans would exceed 8sqm (excluding the lightbox signage), thus continuing to require a planning permit under Clause 52.06-5 (Advertising Signs). In addition to being satisfactory from a heritage perspective, the sketch plan scheme is also considered to be acceptable when assessed against the relevant decision guidelines at Clause 52.05-3, specifically:
 - (a) The proposed signage will be generally in accordance with the neighbourhood character and streetscape of the surrounding area, specifically the character/streetscape defined by the heritage context;
 - (b) The scale and form of the proposed signage is considered to complement the scale, proportion and glazing of the host building;
 - (c) The proposed signage associated with the existing lightbox will be internally-illuminated. As outlined earlier within this report, pursuant to Clause 52.05-5 (Existing signs), a permit is not required for this component of the application. As such, impacts associated with existing lightbox signage are not within the scope of this assessment;
 - (d) Given the commercial nature of Gertrude Street and the high degree of signage along the strip, it is considered that the proposed signage will not obscure views to traffic signs or intersections and will not dazzle drivers.

Car parking, traffic and bicycle facilities

Car parking

81. This section of the assessment will be guided by clause 52.06 of the Scheme. As outlined earlier, car parking for the proposed use must be provided to the satisfaction of the Responsible Authority.
82. The proposed use would not provide any car parking on site. This is supported given the following:
 - (a) the proposed use would have a maximum of 30 patrons at any one time. This is considered to be a relatively low patronage for a gymnasium and illustrates the low-scale nature of the proposed use. As such, the proposal is not anticipated to generate unreasonable car parking demand.
 - (b) the subject site enjoys excellent access to public transport, including:
 - (i) direct access to the 86 tram service which connects the site to the CBD and through to the north-east suburbs of Melbourne;
 - (ii) tram services along Victoria Parade (250m south) which connect the site to the CBD and the eastern suburbs of Melbourne;
 - (iii) the 11 tram service located on Brunswick Street (350m west) which connects to the CBD and through to Fitzroy North, Northcote and Preston;
 - (c) the provision of cycling infrastructure including Copenhagen-style lanes on Wellington Street which is a highly utilised north-south route for cyclists;

- (d) the subject site's proximity to both the Gertrude Street NAC and the Smith Street MAC will enable multi-purpose trips for patrons who arrive by private vehicle;
- (e) residentially-zoned properties on nearby George and Gore Streets are largely protected by permit restrictions, which would ensure that patrons arriving by private vehicle would not unduly affect these streets. Both streets provide some 1 hour parking towards Gertrude Street during the day, which are transient spaces that would provide for patrons arriving by private vehicle during the day;
- (f) the existing use - a retail shop - does not provide for car parking on the land. The shortfall in the existing car parking provision is considered transferrable to the subject application, and;
- (g) Council's Engineering Unit raised no objection to the zero-provision of on-site car parking and stated that the *waiver of parking for this site is considered appropriate in the context of the development and the surrounding area. The site can easily be reached by public transport services.*
- (h) In addition to the above, Council's Engineering Unit provided evidence of recent approvals of car parking provision associated with Restricted Recreation Facilities, as shown in the table below. The majority have zero provision of car parking, including for facilities with patron numbers exceeding 30 (that of the subject application).

Development Site	Approved Parking
Fitzroy	
Gymnasium (24 hour) 224 Brunswick Street PLN14/0892 issued 14 January 2015	No on-site car parking (40 patrons)
Collingwood	
Fitness Studio 157-159 Langridge Street PLN16/0019 issued 20 March 2017	1 on-site space (20 patrons)
Richmond	
Gymnasium 377-379 Bridge Road PLN17/0568 issued 12 October 2017	No on-site car parking (16 patrons)
Personal Training Studio Floor 1, 446 Church Street PLN14/0397 issued 8 August 2014	No on-site car parking (25 patrons)
Gymnasium 66-68 Blazey Street PLN16/0211 issued 28 June 2016	3 on-site spaces (50 patrons)
Gymnasium and Personal Training Studio 9-11 Rooney Street PLN15/0810 issued 5 March 2016	No on-site car parking (45 patrons)
Abbotsford	
Gymnasium (24 hour) 563 Victoria Street PLN16/0948 issued 3 February 2017	No on-site car parking (40 patrons)

83. Given all of the above, the omission of on-site car parking is appropriate.

Traffic

84. For the same reasons that the car parking demand from the proposal is likely to be adequately catered for on the existing street network, the traffic volumes associated with the proposal are also unlikely to result in any significant impact to traffic flows: namely, the site is well serviced by public transport, features a wide pedestrian and cycling catchment area and is located near both a NAC and a MAC which promotes multi-purpose trips.
85. In addition to support for the proposal offered by Council's Traffic Engineering Unit, it is noted that State policies found at clause 18 (Transport) encourages the clustering of trip generators in and around activity centres in order to encourage the use of sustainable transport modes. Further, clause 21.06 of the Scheme outlines objectives to promote walking, cycling and public transport use in order to reduce car dependency.

Bicycle facilities

86. The decision plans do not show any bicycle spaces proposed on site and thus fail to meet the relevant bicycle facility requirements associated with the proposed use (a reduction of two bicycle spaces. The requirement for two bicycle spaces on site can be easily accommodated, and as such a permit condition is recommended for a minimum of two bicycle spaces to be provided on site, should a permit issue. The proposed front ramp would ensure appropriate bicycle access for patrons.

Objector Concerns

87. All objector concerns have been addressed within this report, including:
 - (a) *Concerns regarding the proposed signage and its effect on the heritage place and streetscape* – paragraphs 76-80.
 - (b) *Car parking and traffic impacts* – paragraphs 81-85;
 - (c) *Amenity impacts from noise and vibrations associated with the use* – paragraphs 63-69;
 - (d) *The proposed hours being inappropriate* – paragraphs 60-62, and;
 - (e) *Whether the proposed use is warranted in the location* – paragraphs 52-59.

Conclusion

88. The proposal is considered to be acceptable having regard to the relevant State and Local Policies, the Commercial 1 Zone and relevant heritage and signage policy outlined in the above assessment and should therefore, be approved, subject to conditions.

RECOMMENDATION

That having considered all relevant planning controls and policies, it is recommended that a Notice of Decision to Grant a Planning Permit (PLN17/1070) be issued for use and development of the land for a Restricted Recreation Facility (gym) for partial demolition, external alterations and the display of business identification signage at 188-196 Gertrude Street, Fitzroy, generally in accordance with the decision plans and subject to the following conditions:

1. Before the use or 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 but modified to show:
 - (a) Front entrance ramp opening reduced in width to a maximum of 1.5m;
 - (b) Provision of at least 2 on-site bicycle spaces;

- (c) Reduction in the scope of advertising signage in accordance with sketch plans produced by 'BannerShop' received by Council on 20 April 2018;

but further modified to show;

- (i) Signage in accordance with the proposed shopfront scheme as required by condition 1(a);
- (ii) All signage fully dimensioned.

2. The use and 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. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
4. The provisions, recommendations and requirements of the endorsed Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Use conditions (5 -12)

5. A maximum of 30 patrons are permitted on the land at any one time.
6. A maximum of 3 staff are permitted on the land at any one time.
7. Except with the prior written consent of the Responsible Authority, no group classes are to be held on site.
8. The provision of music on the land must be internal and at a background noise level.
9. Speakers external to the building must not be erected or used.
10. The amenity of the area must not be detrimentally affected by the use, including through:
- (a) the transport of materials, goods or commodities to or from land;
- (b) the appearance of any buildings, works or materials;
- (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
- (d) the presence of vermin.
- to the satisfaction of the Responsible Authority.
11. The use must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
12. The use must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).

Development Conditions (13 - 14)

13. 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; and
- (b) to the satisfaction of the Responsible Authority.
14. 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; or
- (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

Signage Conditions (15-17)

15. The location and details of the signs, including the supporting structure, 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.
16. The signs must be constructed, displayed and maintained to the satisfaction of the Responsible Authority.
17. This permit expires 15 years from the date of the permit.

Permit Expiry

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

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: Chris Stathis
TITLE: Senior Statutory Planner
TEL: 9205 5352

Attachments

- 1 PLN17/1070 - 188-196 Gertrude Street Fitzroy - Advertising S52 - Application Form
- 2 PLN17/1070 - 188-196 Gertrude Street Fitzroy - Advertising S52 - Copy of Title
- 3 PLN17/1070 - 188-196 Gertrude Street Fitzroy - Advertising S52 - Acoustic Report
- 4 PLN17/1070 - 188-196 Gertrude Street Fitzroy - Advertising S52 - Management Plan
- 5 PLN17/1070 - 188-196 Gertrude Street Fitzroy - Advertising S52 - Plans
- 6 PLN17/1070 - 188-196 Gertrude Street Fitzroy - Advertising S52 - Signage Plans
- 7 PLN17/1070 - 188 - 196 Gertrude Street Fitzroy - Engineering comments
- 8 PLN17/1070 - 188 - 196 Gertrude Street Fitzroy - IDAC Attachments - Acoustic Report Peer Review (SLR Referral)
- 9 PLN17/1070 - 188 - 196 Gertrude Street Fitzroy - IDAC Attachment - Sketch Plans (Signage)
- 10 PLN17/1070 - 188 - 196 Gertrude Street Fitzroy - IDAC Attachment - Engineering Comments - Empirical Evidence
- 11 PLN17/1070 - 188 - 196 Gertrude Street Fitzroy - IDAC Attachment - Heritage Advice

1.2 1/19-21 Walker Street, Clifton Hill - Planning Application No. PLN17/0827 - Alterations and additions to an existing dwelling, including an outbuilding and associated demolition works.

Executive Summary

Purpose

1. This report provides an assessment of the above planning application, which seeks approval for alterations and additions to an existing dwelling, including an outbuilding and associated demolition works.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Clause 22.02 – Development Guidelines for Sites Subject to the Heritage Overlay;
 - (b) Clause 32.09 – Neighbourhood Residential Zone (Schedule 1)
 - (c) Clause 43.01 – Heritage Overlay; and
 - (e) Clause 54 – One dwelling on a lot.

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Clause 54 of the Yarra Planning Scheme (Rescode);
 - (b) Heritage; and
 - (c) Objector concerns.

Objector Concerns

4. Eleven objections were received to the application, these can be summarised as:
 - (a) Overlooking from studio;
 - (b) Overshadowing;
 - (c) Unknown use of studio;
 - (d) Excessive site coverage and reduced site permeability;
 - (e) Stormwater run-off;
 - (f) Visual bulk/loss of views due to proposed studio;
 - (g) Additions to dwelling and the studio require authorisation from Owners Corporation; and
 - (h) Negative impact on heritage area and sets a precedent for future development.

Conclusion

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

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

1.2 1/19-21 Walker Street, Clifton Hill - Planning Application No. PLN17/0827 - Alterations and additions to an existing dwelling, including an outbuilding and associated demolition works.

Trim Record Number: D18/93498

Responsible Officer: Senior Coordinator Statutory Planning

Proposal:	Alterations and additions to an existing dwelling, including an outbuilding and associated demolition works
Existing use:	Dwelling
Applicant:	Green Solar Designs
Zoning / Overlays:	Neighbourhood Residential Zone (Schedule 1) and Heritage Overlay (HO316)
Date of Application:	4 October 2017
Application Number:	PLN17/0827

Planning History

1. Planning permit No.1116 issued 11 March 1981 to *construct 6, 2-storey dwellings, 5, 3 - bedrooms and 1, 2-bedrooms* at No's.19-21 Walker Street. The permit was acted upon and the subject site is one of these 6 approved dwellings.
2. Planning permit No.1487 was refused of 31 August 1982 for the *provision of common open space, retention of 1.83m high bluestone wall and construction of an additional bluestone wall* at No's.19-21 Walker Street.
3. Planning permit No. 1606 issued 31 March 1983 for *landscaping and front fence* at No's.19-21 Walker Street.

Background

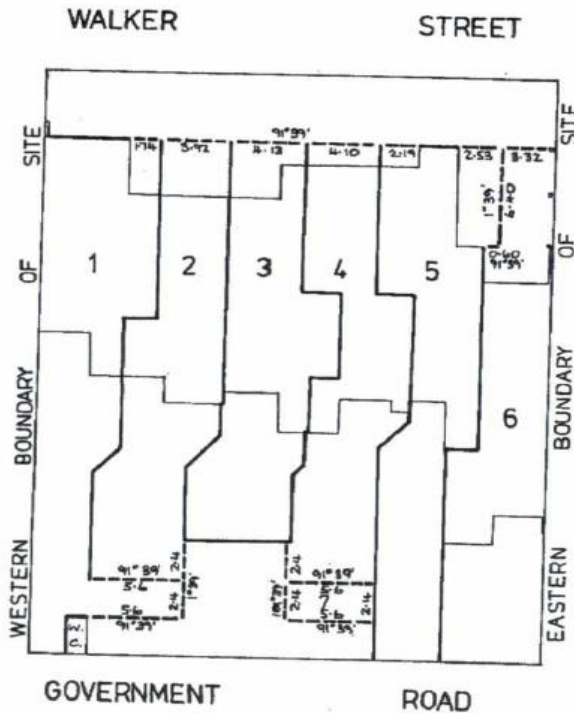
4. The application was lodged for Lot 1 of No's.19-21 Walker Street, Clifton Hill. The application plans show it is proposed to demolish a water closet (WC) located in common property to construct part of the studio (outside the title boundaries of Lot 1). The common property was not formally included as part of the application site.
5. As Council does not have the ability to approve works outside of title boundaries, a condition will require all works to be located within title boundaries. Should the parcel of common property be purchased and a new title be lodged showing the land parcel to formally be part of Lot 1, the proposed demolition of the WC and construction of the studio will satisfy this condition. Should the land purchase not proceed, the condition requires the part of the studio located in common property be deleted and the existing WC retained.

Existing Conditions

Subject Site

6. The subject site is located the southern side of Walker Street, with Fenwick Street to the west and Dwyer Street to the east. The site is occupied by a double storey, single fronted modern brick dwelling which is the westernmost dwelling in a row of six attached matching dwellings (known as Lot 1). The site has an irregular configuration with the front boundary adjoining a common property area that provides shared pedestrian access area to the townhouse development. The rear boundary is staggered (to accommodate an on-site car space) and measures 9.44m. The site has a depth of 33.13m and has an area of 180sqm.

7. The dwelling is setback 3.5m from the front boundary, is built along the east boundary for a length of 15.5m and the west boundary for 12.5m at ground floor. The dwelling is built to the east and west boundary for a distance of 12.5m at first floor. Private open space is located to the rear.
8. A water closet/outbuilding adjoins the south-east corner of the site and is located in common property (and marked on the plan of subdivision as WC). There is a communal car park located to the rear, with some of the dwellings having their car spaces located within their site boundaries but accessed through the common property. The subject sites car space is located north of the water closet/outbuilding and is within title boundaries.



Surrounding Land

9. The area surrounding the subject site is residential in nature. Dwellings are predominantly from the Victorian and Edwardian era, with some modern examples. The dwelling to the east of the subject site is also a part of the six attached dwellings which are all similar in style. This dwelling has a similar rear setback as the dwelling at the subject site. Private open space is located to the rear of this dwelling.
10. To the west of the site is a single storey weatherboard dwelling. Private open space is located to the rear of the dwelling with an outbuilding in the south-east corner of the site. This outbuilding is single storey and abuts the shared boundary with the subject site for a distance of 5.45m. The dwelling adjoins the shared boundary with the subject site for a distance of 7m and the remainder of the dwelling is setback 1.3m from the shared boundary. A non-habitable (laundry) and habitable (dining room) window are located on this wall.
11. Across the rear laneway to the south are outbuildings and private open space of dwellings that front onto Wright Street. To the north of the subject site and on the opposite side of Walker Street are a row of attached brick double storey townhouses.

The Proposal

12. The proposal is for alterations and additions to an existing dwelling, including an outbuilding and associated demolition works. Details are as follows:

Demolition

13. The existing WC is proposed to be demolished (outside title boundaries).
14. The ground floor roof, western wall and part of the southern wall of the laundry/WC to the dwelling are to be demolished. The rear decks, southern fence and some brick paving in the rear yard would also be demolished.

Ground floor addition

15. The ground floor addition will accommodate a new kitchen to the rear of the dwelling. The part of the existing south wall to be retained will be extended to the west boundary with a metal skillion roof proposed. The roof/wall will have a max height of 4.087m on its east side (reduced from existing 4.235m) and will slope down to a max height of 3.4m on the west boundary. This new wall on the west boundary will measure 2.8m in length. Bi-fold doors with glazing above will be installed on the south wall.
16. A new 2,300ltr bladder tank is to be installed below a new deck to the rear of the dwelling. The deck will generally occupy the same footprint as the existing deck, albeit will be 0.4m longer on the east side and will contain new steps on the south side. This deck will have a maximum height of 0.63m above natural ground level (NGL), with the two steps accessing the living area having a max height of approx. 0.9m above NGL.
17. The existing deck planks will be added to the existing western and eastern fences and provide a minimum fence height of 1.75m above FFL of the deck. The eastern fence extension will measure 5.5m in length while the western will measure 7m (although these are not shown clearly on the plans). A 1.8m high (above deck FFL) services enclosure will be built to the east boundary and adjoining the proposed addition. A 3.6sqm and a 0.9sqm rain garden are proposed in the rear yard.

Studio

18. A double storey studio is proposed to the rear of the site. The studio contains a bathroom at ground floor, with mezzanine (used as a storage area), with a floor-to-ceiling height ranging from 1m to 2m).
19. The studio will have a maximum wall height of 3.8m to the east boundary and 4m to the west. The north and south gable end walls will have a maximum height of 4.84m. The south wall (to the laneway) will contain 3 windows, with the north wall being predominately glazed at ground and first floor (with bi-fold doors at ground). A large skylight is proposed on the east side of the roof.

Planning Scheme Provisions

Zoning

Neighbourhood Residential Zone (Schedule 1)

20. Pursuant to Clause 32.09-2, a planning permit is not required to use the land a dwelling.
21. Pursuant to Clause 32.09-5, a planning permit is required to 'Construct or extend a dwelling on a lot less than 500sqm'.
22. Pursuant to Clause 32.09-4, no minimum garden area requirement applies, as the lot is less than 400sqm.

23. Pursuant to Clause 32.09-9, a dwelling must not exceed 9m; or contain more than 2 storeys at any point.
24. Pursuant to clause 74 (*Land Use Terms*), a dwelling is defined as *'a building used as a self-contained residence which must include:*
 - (a) *a kitchen sink;*
 - (b) *food preparation facilities;*
 - (c) *a bath or shower; and*
 - (d) *a closet pan and wash basin.*
25. As the studio does not contain a kitchen sink or food preparation facilities, it does not qualify as a second dwelling.

Overlays

Heritage Overlay [HO316]

26. Pursuant to Clause 43.01-1 of the Scheme, a planning permit is required to demolish a building and to construct a building or construct or carry out works.

Particular Provisions

Clause 54 (One dwelling on a lot)

27. These provisions apply to construct or extend a dwelling on a lot less than 500sqm under the provisions of the NRZ1.

General Provisions

28. The Decision Guidelines outlined at Clause 65 of the Scheme are relevant to all applications. Because a permit can be granted does not imply that a permit should or will be granted. Before deciding on an application, the Responsible Authority must consider a number of matters. Amongst other things, the Responsible Authority must consider the relevant State Planning Policy Frameworks, Local Planning Policy Frameworks and any Local Policy, as well as the purpose of the Zone, Overlay or any other Provision.

29. State Planning Policy Framework (SPPF)

Clause 11 – Settlement

30. The relevant policy objective is to *'encourage a diversity of housing types at higher densities in and around activity centres'*.

Clause 15 – Built Environment and Heritage

Clause 15.01-1 – Urban design

31. The objective of this clause is *'to create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity'*.

Clause 15.01-5 – Cultural identity and neighbourhood character

32. The objective of this clause is *'to recognise and protect cultural identity, neighbourhood character and sense of place'*.

Clause 15.02-1 – Energy and resource efficiency

33. The objective of this clause is *'to encourage land use and development that is consistent with the efficient use of energy and the minimisation of greenhouse gas emissions'*.
- Clause 16 – Housing*
Clause 16.01-1 – Integrated housing
34. The objective of this clause is *'to promote a housing market that meets community needs'*.
- Local Planning Policy Framework (LPPF)
- Clause 21 – Municipal Strategic Statement (MSS)*
- Clause 21.03 – Vision*
35. Clause 21.03 of the Scheme outlines strategic objectives for land use, built form, transport and environmental sustainability within the City. Strategies to achieve the objectives are set out in the following clauses of the MSS.
- Clause 21.04 – Land Use*
36. The relevant objectives and strategies of this clause are *'to accommodate forecast increases in population'* and to *'support residual population increases in established neighbourhoods'*.
- Clause 21.05 Built Form*
Clause 21.05-1 – Built Form: Heritage
37. The relevant objective of this clause is:
- (a) *Objective 14 – To protect and enhance Yarra's heritage places.*
- Clause 21.05-2 – Urban design*
38. This clause incorporates the following relevant objectives:
- (a) *Objective 16 - To reinforce the existing urban framework of Yarra; and*
- (b) *Objective 20 - To ensure that new development contributes positively to Yarra's urban fabric.*
- Clause 21.07 Environmental Sustainability*
Clause 21.07-1 – Ecologically sustainable development
39. The relevant objective of this clause is:
- (a) *Objective 34 To promote ecologically sustainable development.*
- Clause 21.06 – Transport*
40. This clause builds upon the Objectives outlined at Clause 18, promoting cycling, walking and public transport as alternatives to private motor vehicle usage. The clause encourages the following:
- (a) *Yarra needs to reduce car dependence by promoting walking, cycling and public transport as viable and preferable alternatives.*
- Clause 21.08 Neighbourhoods*

41. The subject site is contained in the neighbourhood of Clifton Hill. The policy describes the character of Clifton Hill as a largely residential neighbourhood which has good open space including the parklands associated with the Yarra River and Merri Creek to its east and Darling Gardens and Mayors Park located within the neighbourhood.
42. The neighbourhood section is silent for the subject site. Therefore in this instance, the built form guidelines contained in Clause 22.02 'Development Guidelines for sites subject to the Heritage Overlay' and Clause 54 (ResCode) are the principal policies against which the proposal will be assessed.

Relevant Local Policies

Clause 22.02 – Development Guidelines for Sites Subject to the Heritage Overlay

43. The applicable objectives of this policy are:
 - (a) *To conserve the historic fabric and maintain the integrity of places of cultural heritage significance.*
 - (b) *To retain significant view lines to, and vistas of, heritage places.*
 - (c) *To preserve the scale and pattern of streetscapes in heritage places.*
 - (d) *To ensure that additions and new works to a heritage place respect the significance of the place.*
 - (e) *To encourage the retention of 'individually significant' and 'contributory' heritage places.*
44. Pursuant to the incorporated document 'City of Yarra Review of Heritage Overlay Areas 2007, Graeme Butler and Associates 2007: Appendix 8 (revised Sept 2015) City of Yarra Heritage Database' the site is nominated as "not contributory" within the Precinct.

Clause 22.02-5.1 Demolition - Full Demolition or Removal of a Building

45. *Removal of Part of a Heritage Place or Contributory Elements*

- (a) *Generally encourage the retention of a building in a heritage place, unless*
 - (i) *The building is identified as being not contributory.*

Clause 22.02-5.7 New Development, Alterations or Additions

Clause 22.02-5.7.1 - General

46. *Encourage the design of new development and alterations and additions to a heritage place or a contributory element to a heritage place to:*
 - (a) *Respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape;*
 - (b) *Be articulated and massed to correspond with the prevailing building form of the heritage place or contributory elements to the heritage place;*
 - (c) *Be visually recessive and not dominate the heritage place;*
 - (d) *Be distinguishable from the original historic fabric; and*
 - (e) *Not remove, cover, damage or change original historic fabric.*
47. *This policy refers to an incorporated document (City of Yarra Review of Heritage Areas 2007 Appendix 8, revised March 2017), which identifies the level of significance for all buildings/sites within the Heritage Overlay. In this instance, the site is identified as 'not-contributory' to the Heritage Precinct.*

Clause 22.16 – Stormwater Management (Water Sensitive Urban Design)

48. This policy to new buildings and extensions to existing buildings which are 50sqm in floor area or greater. The relevant objective of this policy is to achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

Advertising

49. The application was advertised. A total of 20 letters were sent and a sign placed along the laneway. A total of eleven (11) objections were received and can be summarised as follows:
- (a) Overlooking from studio;
 - (b) Overshadowing;
 - (c) Unknown use of studio;
 - (d) Excessive site coverage and reduced site permeability;
 - (e) Stormwater run-off;
 - (f) Visual bulk/loss of views due to proposed studio;
 - (g) Additions to dwelling and the studio require authorisation from Owners Corporation;
and
 - (h) Negative impact on heritage area and sets precedence for future development.

Referrals

External Referrals

50. The application was not required to be referred (or notice given) to any referral authorities under Clause 66 of the Scheme.

Internal Referrals

51. No internal referrals were required.

OFFICER ASSESSMENT

52. The following key issues and policies will be used to frame the assessment of this planning permit application:
- (a) State and Local Planning Policy Framework;
 - (b) Clause 54 of the Yarra Planning Scheme (Rescode);
 - (c) Heritage; and
 - (d) Objector concerns.

State and Local Policy Frameworks (SPPF and LPPF)

53. When assessed against the State and Local Planning Policy Frameworks, there is strategic support for the development with regards to its location within close proximity to an activity centre (AC) and within the Neighbourhood Residential Zone (NRZ). The purposes of the NRZ are as follows:
- (a) *To recognise areas of predominantly single and double storey residential development.*
 - (b) *To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.*
54. It is considered that the proposed development fulfils these objectives, and allows for the modernisation of a family home in an inner city context that is ideally located to take advantage of existing services including Clifton Hill train station (500m west) and trams and services along Queens Parade (700m north-west).

55. Clause 11 of the Scheme aims for an increase in diversity of choice, economic viability, accessibility and land use and transport integration, whilst facilitating sustainable development that takes full advantage of existing settlement patterns. The residents of the dwelling will use the services available in the nearby commercial environment at Queens Parade, in accordance with clause 11.02.
56. The development also accords with a number of key strategic policies within the Scheme, in particular clause 11.04-2 and 21.06, by providing housing with connections to public transport and cycling networks. For all of the reasons outlined above, the proposal is considered to achieve sufficient compliance with the relevant State and Local Planning policies. Clause 22.16 Stormwater Management (WSUD) and State ESD objectives at clause 15.02-1 will be discussed in the following Clause 54 assessment. Relevant State (Clause 21.05-1) and Local (Clause 22.02) heritage consideration will be discussed in the *Heritage* assessment.

Clause 54 of the Yarra Planning Scheme (Rescode)

57. Clause 54 of the Yarra Planning Scheme relates directly to the construction and extension of a dwelling on a lot less than 500sqm. Under the requirements of this clause a development must meet all of the objectives of this clause and should meet all of the standards of this clause. The following standards are applicable to this application.

Standard A1 – Neighbourhood Character

58. The proposal will not alter the existing streetscape character as it is not proposed to change the appearance of the two storey dwelling from the street frontage. The rear dwelling addition and studio will not be visible from behind the existing dwelling and so will not impact the existing neighbourhood character of Walker Street. Studios and outbuildings constructed to rear boundaries/laneways are very of the context, and so the proposed studio will not have a detrimental impact on the existing laneway character.

Standard A2 – Integration with the street

59. Presentation to the street is unchanged.

Standard A3 – Street setback

60. Setback to the street is unchanged.

Standard A4 – Building Height

61. A maximum building height of the addition/studio of 4.84m is proposed, in compliance with the standard maximum building height of 9m.

Standard A5 – Site Coverage

62. The site occupies approximately 180sqm. A total site coverage of approx 115.4sqm, or approx. 62.8% is proposed, which exceeds the maximum 60% site coverage prescribed by the standard. However, with existing site coverage in the area being typically high (with No's 45 to 55 Walker Street all having site coverage of approx 70%- 80%), it is considered that the increase of site coverage is acceptable in the context.

Standard A6 – Permeability Objectives

63. With proposed permeable surfaces of approx 19.7sqm/ 10%, the proposal does not achieve compliance with the standard, which seeks a minimum of 20% permeability. The non-compliance is largely due to the installation of a bladder water tank under the deck.

Despite this non-compliance, the proposal satisfies the objectives of this standard via compensating for the proposed low site permeability through the retention of storm water on-site in the tank which will be connected to toilets. For this reason and on-balance the proposed non-compliance is considered acceptable.

Standard A7 – Energy Efficiency, Clause 15.02-1 – Energy and resource efficiency and Clause 22.16 Stormwater Management.

64. Best practice stormwater management is illustrated through the inclusion of 3.6sqm and 0.9sqm raingardens and 2300ltr rainwater bladder tank (installed under the rear deck) achieving a 145% STORM score. The rear addition and studio has ample operable glazing allowing for good access to daylight and natural ventilation.
65. The floor plans and elevations shows the studio roof and proposed east and west wall extend beyond the north-facing windows to offer shade to these large expanses of ground and first floor glazing over the summer months. However a roof plan is not provided to clearly demonstrate this. A condition will require this for both the dwelling and studio.
66. The windows to the dwelling addition are south-facing and so will not receive excessive sun exposure. Due to these features, it is considered the proposal achieves a reasonable level of compliance with applicable ESD policy objectives.

Standard A8 – Significant Trees

67. No significant trees are proposed to be removed as part of this application.

Standard A10 – Side and rear setbacks

68. Of relevance to this standard is the proposed south wall to the ground floor rear addition. With a maximum wall height of 4.08m and a rear setback of 17.7m, the proposed setback is in excess of the required 1.14m setback.

Standard A11 – Walls on boundaries

69. The proposed height (max 3.4m) of the western wall to the dwelling addition does not comply with the standard, while the length (2.8m) does comply. This wall is located opposite a non-habitable room window on the dwelling to the west. As the proposed wall is only 0.2m higher than the average max. 3.2m height recommended by the standard, the position of this wall opposite the non-habitable room window is considered acceptable.
70. This wall will also be located opposite approximately one-third of a dining room window of the dwelling to the west. However as the wall is single storey, is setback 1.3m from this window and is located opposite only part of the window, it is considered that the wall will not have an unreasonable visual bulk impact to this window. Impacts to daylight will be discussed in the following Standard A12 assessment (*Daylight to existing windows*).
71. The proposed height of the east (max 3.8m) and west (max 4m) studio wall and their length (6.25m) do not comply with the standard. The proposed height (minimum 3.47m and maximum 4.84m) and length (3.65m) of the southern boundary wall to the studio also does not comply with the standard. The south-east corner of the building is located on-common property and outside of title boundaries; however as discussed at the start of this report, a condition will require all works to be shown within title boundaries.
72. These non-compliant walls are acceptable as the southern wall will adjoin a laneway while the eastern wall will adjoin an open car park area. Given their position, these walls will not have an unreasonable visual impact to sensitive private open space or habitable room windows.

73. The western boundary wall is also acceptable as it will predominantly adjoin an outbuilding on the neighbouring property to the west. An 0.8m long x 3.7m high section of the wall will adjoin the open space of this dwelling, but as this part of the wall is located away from the main dwelling and the section of wall is only 0.8m long and is only 0.5m higher than the average max. 3.2m height recommended by the standard, it is considered the wall will not have an unreasonable visual bulk impact to the open space or rear of the dwelling. The shadow impact of this wall will be discussed later in this assessment.

Standard A12 – Daylight to existing windows

74. Of relevance is the position of the 3.4m high wall of the dwelling addition opposite the dining room window to the west. In order to comply, this wall should be setback 1.7m from the window. In non-compliance a 1.3m setback is proposed. However this is considered acceptable as the wall is located opposite only one-third of the window. This allows for the windows to receive adequate access to daylight and outlook to the south-east and so the position of the non-compliant wall is considered reasonable.

Standard A13 – North-facing windows objective

75. There are no north-facing windows within 3m of the site.

Standard A14 – Overshadowing open space

76. This standard requires, where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75%, or 40 square metres with a minimum dimension of 3 metres should receive a minimum of five hours of sunlight between 9am and 3pm on 22 September. If existing sunlight to the secluded private open space (POS) of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.
77. The proposed studio and fence screen generates shadow to the open space to the west in the morning. With less than 40sqm of this open space in full sun for a minimum of 5 hours throughout the day; in order to comply with the standard the available sun to this open space should not be further reduced.
78. The shadow generated by the studio is generally contained within the existing shadow generated by the existing boundary fence, apart from approx 0.1sqm of additional shadow beyond the boundary fence line (adjacent to rear outbuilding). The privacy screen added to the western fence also will cast approx. 1sqm of additional shadow to this open space at 9am. However, given the area of additional shadow is small, with approx. 30sqm of the open space in full sun at this time and the property is not affected by additional shadow as a result of the proposal from noon, the non-compliance is considered acceptable.
79. The remainder of the shadow from the proposed studio is limited to the rear lane and the open car spaces to the east and so does not affect sensitive private open space areas.
80. Similarly the shadow generated by the addition to the dwelling at 9am is limited to the side setback (not POS) of the neighbouring dwelling to the west, which is currently fully overshadowed by the existing boundary fence at this time. At noon, shadow from the addition is limited to the subject site. At 3pm additional shadow is contained within the subject site or within the existing fence and dwelling shadow of the adjoining dwelling to the east.
81. This site is affected by approx. 3.5sqm of additional shadow at 3pm as a result of the new overlooking screen to the shared boundary fence, in non-compliance with the standard. However, given the site is only affected by additional shadow in the afternoon, that the area of additional shadow is small and that a minimum of approx. 20sqm of the open space is in full sun throughout the day, on-balance the additional overshadowing is considered acceptable.

Standard A15 – Overlooking

82. The above standard requires that any habitable room windows or balconies/decks 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.
83. The ground floor south-facing windows to the dwelling addition are over 0.8m above ground level and therefore require screening. The plans show the use of deck planks along the eastern and western fences for part of the site. However, there are no details of the level of transparency for these screens, and the screens are not shown clearly on the plans (lengths on elevations appear to be different to that shown on floor plans). It appears that there will be overlooking from the kitchen into both properties within the 9m radius (45 degree arc). As such a condition will require details of screening demonstrating compliance with this standard.
84. The new deck to the dwelling and the ground floor studio both have floor levels of less than 0.8m above ground level and have fence heights of a minimum of 1.8m and so are not required to be treated for overlooking. Regardless of this, the planks from the existing deck will be used as an extension to the existing western and western boundary fences (adjacent to the deck with max height of 0.63m above FFL) to improve privacy for the occupants and the adjoining site.
85. The services area on the deck will also be screened by a 1.8m high fence (above FFL of the deck), in compliance with the standard. The steps accessing the dwelling from the deck have a maximum height of 0.9m in non-compliance. However this is acceptable as occupants will only be traversing the steps and so any overlooking generated will not be significant.
86. In relation to the mezzanine to the studio, as this will be used as a storage area, and given the low floor-to-ceiling heights proposed (ranges from 1m to 2m) it is not required to be treated for overlooking. The floor-to-ceiling height only exceeds a height of 1.8m (average height of a person) for a 1m wide strip through the centre of the storage area. Given that the inhabitants will be unable to stand up in the majority of this room, this confirms the area cannot be used as a habitable room (which requires a minimum floor-to-ceiling height of 2.1m under the building regulations) and so overlooking treatments are not required.

Standard A16 – Daylight to new windows

87. The new windows would be installed immediately adjacent to open space of at least 1m clear to the sky, therefore complying with this standard which seeks to achieve adequate daylight into new habitable room windows.

Standard A17 – Private open space objective

88. The 50sqm area of private open space to the rear of the dwelling would be in excess of the minimum standard requirement of 40sqm of private open space.

Standard A18 – Solar access to open space

89. This standard does not apply to extensions to an existing dwelling.

Standard A19 – Design Detail

90. The proposed dwelling and studio is not considered to compromise the existing neighbourhood character. The design incorporates appropriate details though the use of an articulated contemporary design that will be of an appropriate height and massing to the surrounding streetscape.

Standard A20 – Front fences

91. The existing front fence is to be retained.

Heritage

92. The decision guidelines of the Heritage Overlay at clause 43.01 are considered to be incorporated in the requirements of clause 21.05-1 (Built Form: Heritage) and clause 22.02 of the Scheme (Development Guidelines for sites subject to the Heritage Overlay) and an assessment is contained below.
93. The proposed demolition includes the west wall, part of the southern wall and roof of the existing ground floor laundry and bathroom to the rear of the dwelling. The rear deck, southern fence and some paving in the rear yard are also to be removed. This demolition is acceptable as they are modern structures and so will not result in the removal of heritage fabric. However, the plans do not clearly show the parts of the southern dwelling wall and fence to be removed or a roof demolition plan. A condition will require these details.
94. The demolition of the rear WC/shed is considered acceptable, should the applicant successfully purchase and obtain title the structure. Photographs provided by the applicant demonstrate the WC/shed is a highly modified utilitarian/non-ornate structure of limited heritage value (with modern roof form, window and door). The WC also does not form part of a row of in-tact heritage WC buildings whose demotion would be discouraged by clause 22.02 had it formed part of a similar grouping of buildings.
95. Further the site is identified as non-contributory to the heritage overlay, thus the WC was not considered to be of sufficient significance to warrant a contributory heritage grading as part of *City of Yarra Review of Heritage Overlay Areas 2007, Graeme Butler and Associates 2007: Appendix 8 (revised Sept 2015)*. For all of these reasons, proposed demolition is considered acceptable. However the elevations do not show the WC structure to be demolished. A condition will require the elevations are updated to show this detail (if applicable).
96. Given the position of the dwelling addition and studio to the rear of the site behind the existing double storey dwelling, the proposal will have no impact on the heritage streetscape and the proposed structures are considered acceptable for this reason. While the sightline requirements of clause 22.02 do not apply to the site, the proposal still achieves full compliance with them further demonstrating the proposal is acceptable from a heritage perspective.
97. Objectors have raised concerns that the studio is visually bulky which is out of context in the heritage area and will set precedence for future developments in rear laneways. However the intention of heritage policies is to protect the frontage of heritage buildings and heritage streets from visually intrusive/bulky or inappropriate new built form and the position of the studio to the rear laneway is acceptable in this regard. Further, each application must be considered on its own merits.
98. In relation to the studio setting precedence for future development, it is considered that the precedence for studios is already well established in the area. While outbuildings fronting the rear lane adjoining the subject site appear to be all single storey, this laneway appears to be the anomaly in the area, with other laneways having double storey structures abutting the laneway (eg No 30 Walker Street, No's 48, 50, 54 and 55 Little Walker Street and No's 147 and 161 Spensley Street, all with double storey built form abutting Little Walker Street). For this reason the studio cannot be said to be outstanding or unusual in the heritage laneway context. Further, it is usual for garages and other non-heritage buildings to be constructed on the laneway. For all of these reasons the proposal achieves a high level of compliance with relevant heritage policies and is considered acceptable for these reasons.

Objector Concerns

99. The majority of concerns raised by the objectors have been addressed in the above assessment as follows:
- (a) Overlooking from studio.
 - (i) Issues in relation to overlooking have been discussed in detail in *Standard A15 – Overlooking* assessment section (paragraph 82 to 86).
 - (b) Overshadowing;
 - (i) Issues in relation to overlooking have been discussed in detail in *Standard A14 – Overshadowing* assessment section (paragraph 76 to 81).
 - (c) Unknown use of studio;
 - (i) The plans show the ground floor to be used as a studio and bathroom with storage mezzanine (accessed only by a ladder, rather than stairs).
 - (d) Excessive site coverage and reduced site permeability.
 - (i) Issues in relation to site coverage and reduced site permeability have been discussed in detail in *Standard A5 - Site Coverage and Standard A6 – Permeability Objectives* assessment section (paragraph 62 and 63).
 - (e) Stormwater run-off.
 - (i) Stormwater issues are discussed at *Standard A7 – Energy Efficiency, Clause 15.02-1 – Energy and resource efficiency and Clause 22.16 Stormwater Management* between paragraphs 64-66.
 - (f) Visual bulk/loss of views due to proposed studio.
 - (i) Issues in relation to visual bulk have been discussed throughout the clause 54 and heritage assessment at paragraphs 58, 61, 69-73 and 91-97. Loss of views from private property is not a relevant planning matter.
 - (g) Additions to dwelling and the studio require authorisation from Owners Corporation.
 - (i) Objectors have raised concerns that part of the studio is to be constructed within common property which requires authorisation from the Owners Corporation. The development will be unable to proceed without all the relevant permissions being in place.
 - (ii) However as mentioned at the start of the report, the application has been made only to the subject site and a condition will require all works to be contained wholly within title boundaries. Should the applicant purchase the land allowing for the common property to be included within title boundaries, the development will be able to proceed as proposed.
 - (h) Negative impact on heritage area and sets precedence for future development.
 - (i) Issues in relation to heritage have been discussed in the heritage assessment (paragraph 92 to 98).

Conclusion

100. Based on the report, the proposal is considered to generally comply with the relevant policies of the Yarra Planning Scheme and is recommended for approval subject to conditions.

RECOMMENDATION

That a Notice of Decision to grant planning permit PLN17/0827 be issued for alterations and additions to the existing dwelling, including an outbuilding and associated demolition works at No.1/ 19-21 Walker Street, Clifton Hill, 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 the 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/advertised plans (Sheet 2, 3, 4, 5, 6 and 7 (all issue 3) dated 21/11/2017 and drawn By Green Solar Designs) and further modified to include the following:
 - (a) All demolition and proposed works to be located wholly within title boundaries;
 - (b) An existing/demolition and proposed roof plan;
 - (c) Existing/demolition elevations and floor plans to clearly show the full extent of all proposed demolition (including fences);
 - (d) Screening details demonstrating no overlooking from the extended ground floor to the dwelling in accordance with Standard A15 of Clause 54 of the Yarra Planning Scheme; and
 - (e) Proposed roof plan.
2. The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. 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.
4. Within 2 months of the works being completed, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
5. 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; or
 - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.
6. Within 2 months of the works being completed, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls are to be cleaned and finished to the satisfaction of the Responsible Authority.
7. 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 5095 to confirm.

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

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

Attachments

- 1 Site plan
- 2 Decision plans

1.3 1/430 Rae Street, Fitzroy North - Planning Application No. PLN18/0019 - Use of the land as a medical centre and a reduction of the car and bicycle parking requirements.

Executive Summary

Purpose

1. This report provides Council with an assessment of a planning permit application submitted for No. 1/430 Rae Street, Fitzroy North VIC 3068, which seeks approval for the use of the land as a medical centre and a reduction of the car and bicycle parking requirements. The report recommends approval, subject to conditions.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Clause 21.04 – Land Use;
 - (b) Clause 22.01 – Discretionary uses in the residential 1 Zone;
 - (c) Clause 22.02 – Development guidelines for sites subject to the heritage overlay;
 - (d) Clause 32.08 – General Residential Zone (Schedule 1);
 - (e) Clause 43.01 – Heritage Overlay;
 - (f) Clause 52.06 – Car Parking
 - (g) Clause 52.34 – Bicycle Facilities
 - (h) Clause 65 – Decision guidelines.

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Use;
 - (b) Car parking;
 - (c) Bicycle parking; and
 - (d) Objector concerns.

Objector Concerns

4. Six (6) objections were received to the application, these can be summarised as:
 - (a) Inappropriate use in a residential zone;
 - (b) Increased traffic congestion and loss of on-street parking; and
 - (c) Potential future expansion of the medical centre.

Conclusion

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

CONTACT OFFICER: Emily Zeng
TITLE: Statutory Planner
TEL: 03 9205 5363

1.3 1/430 Rae Street, Fitzroy North - Planning Application No. PLN18/0019 - Use of the land as a medical centre and a reduction of the car and bicycle parking requirements.

Trim Record Number: D18/107980

Responsible Officer: Senior Coordinator Statutory Planning

Proposal: Use of the land as a medical centre and a reduction of the car and bicycle parking requirements.

Existing use: Vacant office

Applicant: Alison Clarke

Zoning / Overlays: General Residential Zone (Schedule 1)
Heritage Overlay (Schedule 327)

Date of Application: 10 January 2018

Application Number: PLN18/0019

Planning History

1. Planning Application No. 571 was refused by City of Fitzroy on 20 June 1973 for an *air gun shooting of a night* at Nos. 430-438 Rae Street, North Fitzroy.
2. Planning Permit No. 4558 was issued by City of Fitzroy on 17 November 1987 to *construct alterations and additions to the existing buildings at 430-438 Rae Street, North Fitzroy, and to use the buildings for the purpose of offices, in accordance with the attached endorsed plans.*

Existing Conditions

Subject Site

3. The overall site is located on the east side of Rae Street, between Liverpool Street (to the north) and Scotchmer Street (to the south), in Fitzroy North. The site has a dual street frontage onto both Rae Street and Moss Street at the rear (eastern boundary). The site is generally rectangular in shape with street frontages of 34.44m to both Rae Street and Moss Street and an average depth of approximately 38.12m along the northern and southern boundaries. The site has an overall area of approximately 1,313sqm.
4. The site is occupied by a single-storey warehouse style, brick building. The principle façade along Rae Street incorporates large glazed windows as well as a recessed pedestrian entrance.
5. The site contains five separate tenancies within the building. The subject site (Unit 1 is also referred to as Suite 3) is located within the north-eastern corner of the overall building and is setback approximately 18m from Rae Street and 11m from Moss Street. The subject site is bordered by an adjoining suite to the south and west; tandem car parking associated with the overall site to the east, and private open space of a dwelling fronting Rae Street to the north.
6. There are 18 existing car parking spaces available on the overall site. The subject site is currently provided with four tandem car parking spaces shown on the plans as No. 14, 15, 20 and 21. This car park is accessible via Moss Street.
7. There are no restrictive covenants listed on the title provided.

Surrounding Land

8. The surrounding neighbourhood is predominantly residential in nature consisting of single-storey Victorian-era dwellings interspersed with several double-storey Victorian-era dwellings and contemporary first floor additions.
9. To the north is an attached, single-storey Victorian-era dwelling with a contemporary first floor addition at the rear, and an existing double-storey brick outbuilding built along Moss Street.
10. To the east is Moss Street which contains bluestone kerbs, on-street parallel parking and a streetscape which is lined with rear garages and rear boundary fencing of dwellings fronting Rae Street and Brunswick Street North.
11. To the south is a semi-attached, single-storey Victorian-era dwelling with decorative bi-chromatic brick detailing along the Rae Street façade, contemporary first floor addition at the rear of the dwelling and a single-storey rear garage accessible via Moss Street.
12. To the west is Rae Street which contains a mixture of on-street parallel parking along the eastern side and 45 degree parking along the western side. Further across Rae Street are a row of single-storey Victorian-era dwellings each with distinctive parapets, concave verandahs and a small garden setback. Approximately 65m to the west of the overall site is the Fitzroy North Depot for Transdev; a public transport company for bus services.

The Proposal

13. The application seeks approval to use the land as a medical centre and a reduction of the car and bicycle parking requirements. Details are as follows:

Use

- (a) Use of the subject site as a medical centre; operating Monday to Friday between 8.00am and 7.00pm and Saturday between 9.00am and 5.00pm;
- (b) The maximum number of practitioners on site would be 6 at any given time;

Car Parking

- (c) Four (4) existing car parking spaces will be retained on site, with a reduction of sixteen (16) car parking spaces from the statutory requirement; and
- (d) No bicycle parking spaces are to be provided on site.

Planning Scheme Provisions

Zoning

Clause 32.08 General Residential Zone (Schedule 1)

14. Pursuant to Clause 32.08-2 of the Yarra Planning Scheme (the Scheme), the use of the land for a medical centre is a Section 1 – “permit not required” use, provided *the gross floor area of all buildings must not exceed 250 square metres, the use must not require a permit under clause 52.06-3 (Car Parking), and the site must adjoin, or have access to, a road in a Road Zone.*
15. While the proposed medical centre has a gross floor area of approximately 150sqm, a permit is required as it does not abut a Road Zone and it requires a reduction of car parking under clause 52.06-3.
16. Therefore, pursuant to Clause 32.08-2 of the Scheme, the use of the land as a medical centre requires a permit.

Overlays

Clause 43.01 Heritage Overlay

17. Pursuant to Clause 43.01-1 of the Scheme, a permit is required to subdivide land, demolish or remove a building and to construct a building or construct or carry out works. As the application is for the use of land with no buildings and work proposed, a permit is not triggered under this overlay.

Particular Provisions

Clause 52.06 Car parking

18. Pursuant to Clause 52.06-2 of the Scheme, before a new use commences, the required car parking spaces must be provided on the land. The following table identifies the car parking requirement under Clause 52.06-5, the provision on site, and the subsequent reduction below the statutory requirement:

Use	No. of Practitioners	Statutory Requirement	Spaces Required	On-site Provision	Reduction sought
Medical Centre	6	5 to the first person providing health services plus 3 to every other person providing health services.	20	4	16

19. Four (4) car parking spaces are proposed to be provided on-site in association with the proposed use and therefore a reduction of sixteen (16) spaces is proposed.

Clause 52.34 Bicycle Facilities

20. Pursuant to Clause 52.34-1 of the Scheme, 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. The following table identifies the bicycle facility requirement under Clause 52.34-3:

Use	No. of Practitioners	Statutory Requirement	Spaces Required	On-site Provision	Reduction sought
Medical Centre	6	1 to each 8 practitioners for employees and 1 to each 4 practitioners for visitors.	3	0	3

21. The proposed number of practitioners requires a total of 3 bicycle parking space. As no bicycle parking spaces will be provided on-site, a permit is required to reduce or waive the number of bicycle parking spaces required under Clause 52.64-3.

General Provisions

Clause 65 Decision Guidelines

22. The decision guidelines outlined at Clause 65 of the Scheme are relevant to all applications. Because a permit can be granted does not imply that a permit should or will be granted. Before deciding on an application, the Responsible Authority must consider a number of matters.

Amongst other things, the Responsible Authority must consider the relevant State and Local Planning Policy Frameworks, as well as the purpose of the zone, overlay or any other provisions.

State Planning Policy Framework (SPPF)

23. The following clauses are of relevance to this application:

Clause 17.01 Commercial

24. The objective of this clause is:

- (a) *To encourage development which meets the communities' needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.*

Clause 18.02 Movement Networks

25. The objectives of this clause are:

- (a) *To promote the use of sustainable personal transport.*
(b) *To integrate planning for cycling with land use and development planning and encourage as alternative modes of travel.*
(c) *To ensure an adequate supply of car parking that is appropriately designed and located.*

Clause 19.02-1 Health Facilities

26. The objective of this clause is:

- (a) *To assist the integration of health facilities with local and regional communities.*

Local Planning Policy Framework (LPPF)

27. The following LPPF provisions of the Scheme are relevant:

Clause 21 – Municipal Strategic Statement (MSS)

Clause 21.03 – Vision

28. Clause 21.03 of the Scheme outlines strategic objectives for land use, built form, transport and environmental sustainability within the City. In relation to land use, relevant visions are:

- (a) *Yarra will have increased opportunities for employment*
(b) *The complex land use mix characteristic of the inner City will provide for a range of activities to meet the needs of the community*

Clause 21.04 Land Use

29. Relevant objectives of this clause are:

- (a) *To reduce potential amenity conflicts between residential and other uses.*
(b) *To increase the number and diversity of local employment opportunities.*
(c) *To provide community services that meets the needs of a diverse and changing community.*
(d) *To provide accessible community services.*

Clause 21.04-1 – Accommodation and Housing

30. Relevant objective of this clause are:
- (a) *To reduce potential amenity conflicts between residential and other uses.*
31. The following strategies are of relevance:
- (a) *Ensure the location, design and operation of community facilities minimises the potential for negative amenity impacts on the surrounding area.*
 - (b) *Apply the Discretionary Uses in the Residential 1 Zone policy at clause 22.01.*

Clause 21.04-4 Community facilities, hospitals and medical services

32. The relevant objectives of this clause are:
- (a) *To provide community services that meet the needs of a diverse and changing community.*
 - (b) *To provide accessible community services.*
33. The following strategies are of relevance:
- (a) *Encourage community facilities and services to co-locate and to locate within or adjacent to activity centres and locations that support multi-purpose trips and shared parking arrangements for people of all abilities.*
 - (b) *Encourage community facilities to locate where they are easily accessible by public transport.*

Clause 21.08-1 – North Fitzroy

34. The subject site is located within the North Fitzroy neighbourhood which is “*known for the beautiful Edinburgh Gardens which combine open space, sportsgrounds, barbecue area, gardens with long-established European elm trees, skate bowl, tennis and basketball courts, bandstand, bowling greens and bocce links, remnants of the old Melbourne rail loop, and a heritage listed grandstand.*”

The neighbourhood is largely residential. The northern part of North Fitzroy has a low density residential character consisting of late Victorian and early Edwardian double fronted dwellings. Further south dwellings are more likely to be single fronted and one or two storeys.

The North Fitzroy Village neighbourhood activity centre is a mixed use centre with strong convenience retailing located on St Georges Road. Further north along St Georges Road is the North Fitzroy neighbourhood activity centre. This centre provides a number of specialist business services. Linkages between the two parts of the centre should be improved”

35. Figure 19, the built form character map, shows the subject site covered by a Heritage Overlay. The objective is to “*ensure that development does not adversely affect the significance of the heritage place*”.

Relevant Local Policies

Clause 22.01 - Discretionary Uses in the Residential 1 Zone

36. The objective is *to ensure that residential amenity is not adversely affected by non-residential uses.*
37. It is policy that:
- (a) *Existing buildings constructed for non-residential purposes are the preferred location for non-residential uses.*
 - (b) *Food and drink premises, places of assembly, places of worship and plant nurseries should have access to and adjoin a road in a Road Zone.*
 - (c) *Except on land adjoining and gaining direct access from a road in a Road Zone:*
 - (i) *all required car parking should be on-site.*

- (ii) *the scale of the proposed use should be compatible with providing service to the local residential community.*
- (d) *Hours of operation should be limited to 8am to 8pm except for convenience shop.*
- (e) *New buildings and works should be consistent with the scale, bulk and character of the area.*
- (f) *Noise emissions should be compatible with a residential environment.*

Advertising

- 38. The application was advertised in accordance with Section 52 of the *Planning and Environment Act 1987*, by way of 171 letters sent to surrounding property owners and occupiers and the display of two signs on-site along Rae Street and Moss Street.
- 39. Six objections were received, and raised the following concerns:
 - (a) Inappropriate use in a residential zone;
 - (b) Increased traffic congestion and loss of on-street parking; and
 - (c) Potential future expansion of the medical centre.

Referrals

External Referrals

- 40. The application was not required under the Yarra Planning Scheme to be referred to any external authorities.

Internal Referrals

- 41. The application was referred to Council's Engineering Department. The comments are attached as an appendix to this report.
- 42. The application was informally referred to Council's Transport Department who advised that the bicycle parking as proposed by the applicant could be accommodated on the footpath, subject to the following condition:

Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, 3 bike hoops (6 bike spaces) must be installed:

- (a) *at the permit holder's cost; and*
- (b) *in a location and manner,*

to the satisfaction of the Responsible Authority."

OFFICER ASSESSMENT

- 43. The key planning considerations for Council in considering the proposal are:
 - (a) Use;
 - (b) Car and bicycle parking; and
 - (c) Objector concerns.

Use

- 44. The relevant decision guidelines of the General Residential Zone at Clause 32.08-12 are as follows:

General

- (a) *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- (b) *The purpose of this zone.*
- (c) *The objectives set out in a schedule to this zone.*
- (d) *Any other decision guidelines specified in a schedule to this zone*

Non-residential use and development

- (a) *Whether the use or development is compatible with residential use*
- (b) *Whether the use generally serves local community needs.*
- (c) *The scale and intensity of the use and development*
- (d) *The provision of car and bicycle parking and associated accessways.*
- (e) *The safety, efficiency and amenity effects of traffic to be generated by the proposal.*

45. The relevant policy within the Discretionary Uses in the Residential 1 Zone at Clause 22.01-3 is as follows:

It is policy that:

- (a) *Existing buildings constructed for non-residential purposes are the preferred location for non-residential uses.*
- (b) *Except on land adjoining and gaining direct access from a road in a Road Zone:*
 - (i) *all required car parking should be on-site*
 - (ii) *the scale of the proposed use should be compatible with providing service to the local residential community*
- (c) *Hours of operation should be limited to 8am to 8pm except for convenience shop.*
- (d) *Noise emissions should be compatible with a residential environment.*

46. In regards to the scale and intensity of the use, a maximum of six (6) practitioners to the medical centre is considered to be generally consistent with servicing the local community, which aligns with one of the key objectives of the General Residential Zone, “*to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations*”. A condition will restrict the number of practitioners on-site at any one time to a maximum of six (6) to ensure the use does not intensify without further consideration.

47. The proposed use is considered to be compatible with the surrounding residential use given the existing context of the overall site. The site has been utilised for commercial purposes since Permit No. 4558 was issued by City of Fitzroy on 17 November 1987 to *construct alterations and additions to the existing buildings at 430-438 Rae Street, North Fitzroy, and to use the buildings for the purpose of offices, in accordance with the attached endorsed plans*. Currently, the building is occupied by five different businesses with a limited number of on-site parking accessible via Moss Street.

48. As the medical centre is a non-residential use within an existing commercial building, this meets Council’s local policy at Clause 22.01 which is “*Existing buildings constructed for non-residential purposes are the preferred location for non-residential uses*”. Additionally, the location of site on a residential street is considered appropriate given it is:

- (a) Accessible by public transport:
 - (i) The site is 300m east of Nicholson Street tram stop for Route 96;
 - (ii) The site is 450m west of St Georges Road tram stop for Route 11;
- (b) Accessible via two major arterial roads within a Road Zone:
 - (i) Nicholson Street;
 - (ii) St Georges Road; and
- (c) Located in a residential area which already supports a number of commercial uses.

49. Additionally, policy at Clause 22.01 of the Scheme also specifies that “*the scale of the proposed use should be compatible with providing service to the local residential community, except on land adjoining and gaining direct access from a road in a Road Zone*”.

Although the site is not adjoining or has access to a road in a Road Zone, it is anticipated that the services provided by the medical centre will be to both the local and wider community. The scale and intensity of the proposed medical centre is appropriate to the local area and would not be comparable to more intensive medical use which draws users from a regional/state catchment (eg. St Vincent's or Epworth).

50. The proposed hours of operation – 8.00am to 7.00pm, Monday to Friday; and 9.00am to 5.00pm, Saturday – are within the suggested hours of operation for non-residential uses under Clause 22.01 of the Scheme (8.00am to 8.00pm). The proposed hours of operation are not anticipated to cause conflicts with surrounding residential uses, given they largely represent standard business hours and reflect the operating hours of existing business/offices within the overall site.
51. With regards to noise emissions, the proposed medical centre is not anticipated to create unreasonable noise within the surrounding residential neighbourhood. The medical centre will be located within an existing commercial building which is occupied by four additional businesses with an existing car park along Moss Street. Further to this, no new equipment or services are proposed to the site in order to facilitate the use. It is unlikely that the type of equipment required for a medical centre of this size would create noise emissions greater than typical domestic services and any noise would be within restricted hours (i.e. not after 10.00pm which could cause sleep disturbance). Nonetheless, standard conditions relating to noise emissions which ensure full compliance with relevant State Environment Protection Policy [SEPP], will be included. This will ensure the use is consistent with policies at Clause 22.01 of the Scheme regarding noise.
52. In relation to waste management, the plans show existing bin storage located at the rear of the site along the Moss Street car park. Given the existing context of the commercial building and the previous use of the subject site as an office, the proposed medical centre is not likely to have a detrimental impact on surrounding residential properties. However, a condition will require a waste management plan to ensure this does not impact on the surrounding residential area. Additionally, a standard condition will ensure that the use does not detrimentally affect the amenity of the area.
53. While the proposed use of the land as a medical centre triggers a planning permit under the requirements of the General Residential Zone at Clause 32.08-2, the trigger for a permit also limits the scope of discretion required in determining whether to grant a permit.
54. In the matter of *Alex Kanzburg v Bayside CC* (VCAT Ref: P1294/2014) Member Wright makes the following findings under Paragraph 21 of his decision:
 - (a) *It follows that where a use is permitted as of right and the only bar is noncompliance with a specified requirement the only considerations relevant to the exercise of discretion to grant a permit are those which arise from that requirement. So where, as in this case, the requirement relates to the provision of car parking, the adequacy of the proposed parking in the circumstances of the particular case is the only relevant consideration.*
55. With the above in mind, the discretion for this application relates primarily to the permit trigger for the use which includes the non-compliance with statutory car parking requirements at Clause 52.06 (Car Parking) of the Scheme, as well as the location of the subject site which does not adjoin or have access to a road in a Road Zone.
56. Car parking will be considered in the following section, however it is considered that the proposed use, subject to conditions, will not cause material detriment to the surrounding residential properties and will be compatible with the existing site and surrounding land use context. The proposal addresses the relevant decision guidelines at Clause 32.08 and policies at Clause 22.01, and would be suitable within the surrounding land use context, which already supports interspersed non-residential uses.

Car Parking

57. State and local planning policies including Clause 18.01-2 (Cycling), Clause 18.02-5 (Car parking) and Clause 21.06 (Transport) encourage less private motor vehicle dependence and improved sustainable transport use. Hence, there is strategic support for the provision of less car parking than required under the provisions of the Scheme. However, each application for a reduction must be assessed on the individual merits of the proposal.
58. As mentioned earlier in the report, the proposed use of the land as a medical centre for a maximum of six (6) practitioners generates a statutory car parking requirement of 20 spaces. As four (4) spaces are to be provided on-site; a reduction of 16 spaces is sought.
59. In assessing a proposal for car parking reduction, the Responsible Authority must consider the relevant decision guidelines at Clause 52.06-6 (Car Parking) of the Scheme. The decision guidelines will frame the assessment; address the associated car parking demand the use may generate; assess the availability and proximity of alternative transport options; assess any provisions for bicycle parking upon the site and the likelihood of multi-purpose trips within the locality. The relevant considerations frame the assessment below and reference will also be made, where relevant, to Clause 52.34 (Bicycle facilities).

The car parking demand assessment

60. The car parking demand associated with the medical centre is likely to be less than that stated under the Scheme for the following reasons:
 - (a) The site has good access to public transport and on-road cycling network thus reducing reliance on car parking for both staff and patients;
 - (b) The medical centre is likely to have patients from the local area who can walk or cycle to the site;
 - (c) The site is located within an existing commercial building which has had businesses operating from the site for at least 30 years;
 - (d) The site is located approximately 300m east of Nicholson Street and 450m west of St Georges Street which contain commercial activities including retail, food and drink and community services premises. Therefore, patients to the medical centre may choose to combine their visits with other nearby businesses within the surrounding area; and
 - (e) The limited availability of car parking in the vicinity will encourage patients and staff to consider alternative travel arrangements.

The availability of alternative car parking in the locality of the land.

61. With regards to Rae Street, there are two sections of permit-only parking on the east and west side of Rae Street. There is a section of unrestricted parking along the east side of Rae Street between Liverpool Street and Park Street, as well as restricted 1P (one hour parking) along the remainder of Rae Street between Scotchmer Street and Park Street between 7.30am and 4.30pm, Monday to Friday. With regards to Moss Street, parking along both sides of the street is restricted to 1P between 7.30am and 4.30pm, Monday to Friday, and 7.30am to 12.30pm on Saturday.
62. The availability of long-term on-street parking (besides permit-only parking) within the surrounding area is limited to almost non-existent. As detailed above, the time restricted parking controls that exist along Rae Street and Moss Street would generate controlled parking turnover throughout the day to improve opportunities for patients to the site. Considering the limited on-street parking, patients with the means and ability to use other forms of transport may be encouraged to do so by the knowledge that parking in the area can be difficult to access.

63. Additionally, as noted by the Applicant and the submitted Traffic Impact Assessment Report, many of the patients are likely to be children and adolescents. As such, there is the opportunity for patients to be picked up and dropped off at the medical centre which would not require any demand for on-street car parking.
64. In relation to the staff demand for car parking, it is considered that limited availability of longer-term car parking within the surrounding area, combined with the accessibility of frequent public transport services (i.e. trams along Nicholson Street and St Georges Street) would act as an incentive for staff to take public transport or find other alternatives. The existing four spaces on-site accessed via Moss Street would be utilised by the practitioners of the medical centre (given the spaces are in tandem which would make it impractical for visitors to use). As a maximum of six practitioners will be on the site at any given time, two practitioners would need to utilise alternative transport or find unrestricted car parking in the area. The applicant has noted one ancillary staff member to attend reception and administrative tasks. However, as the car parking rate is based on the number of medical practitioners (those providing health services), this would not have any impact on the car parking requirement.
65. Council's Engineering Department have confirmed that from a traffic engineering perspective, the waiver of 16 spaces associated with the medical centre is considered appropriate in the context of the subject site and the surrounding area. The site's location allows for good accessibility to existing public transport services which would provide an alternative option and reduce private car dependency. As such, Council's Engineering Department have no objection and support the proposed reduction of car parking.

On street parking in residential zones in the locality of the land that is intended to be for residential use.

66. There are sections of permit-only parking, or permit-only parking outside of restricted hours within the residential streets surrounding the subject site. For example, Rae Street has a section of permit-only parking directly opposite the commercial building site which consists of 11 on-street parking spaces and restricted 1P parking to the north and south along the street.
67. The operating hours of the medical centre (other than Saturdays) would largely coincide with times when residents are likely to be at work and/or away from home. This would reduce the level of competition with residents for car parking.

Access to or provision of alternative transport modes to and from the land.

68. The site is well serviced by public transport. The following public transport modes are within walking distance to the subject site:
 - (a) St George Street tram services – Route 11 (approx. 450m south-east);
 - (b) Nicholson Street tram services – Routes 96 (approx. 300m north-west);
 - (c) Reid Street bus service – Route 504 (approx. 400m south); and
 - (d) Holden Street bus service – Routes 250 and 251 (approx. 500m north-west);
69. Public transport options present a viable alternative to private motor vehicles to both staff and patients of the premises and would effectively reduce the demand for car parking. The surrounding street network also provides good conditions and links for cyclists. Scotchmer Street itself has a bike lane on each side and the site is approximately 180m south of the Capital City Trail which provides connects to the Merri Creek Trail and the Upfield Bike Path.
70. The Applicant has proposed to provide three (3) bicycle racks off-site, along the footpath of Rae Street. As assessed in the Applicant's Traffic Impact Assessment Report, the installation of three bicycle racks would provide for six bicycle parking spaces. As no existing bicycle parking spaces are available on the overall site at No.430 Rae Street, the provision of bicycle parking spaces would assist in encouraging access to the site by bike. Council's Transport Department considered the proposed bicycle racks and location to be acceptable.

As such, a condition will require the installation of 3 bicycle racks on the footpath to the satisfaction of Council.

The need to create safe, functional and attractive parking areas.

71. The existing car parking area fronting Moss Street contains 18 spaces which will not be altered as part of this proposal. Given the existing streetscape of Moss Street which consists of rear vehicle accessways, garage and high boundary fencing; the continual use of the car park area would not create any detrimental impacts in terms of safety, functionality or attractiveness.

Local traffic management in the locality of the land.

72. The traffic generated by the proposed use would not drastically increase in relation to the existing amount of traffic to the site given the commercial use of the building with an additional four businesses. As detailed previously, the medical centre provides pre-booked appointments. This would mean that the flow of patients to and from the site would be in a controlled manner, thus reducing the overall turnover of visitors and the likelihood of multiple coinciding visits.
73. Council's Engineers did not raise any issue in regards to traffic generated by the proposed use in their advice.
74. On balance, the additional traffic to be generated by the use will not detrimentally impact traffic conditions in the area.
75. Having regard to the above assessment in conjunction with comments received from Council's Engineering Department, it is considered that the use of the land for a medical centre (for six practitioners) would not unreasonably impact the parking conditions of the surrounding area and the reduction of car parking associated with the use is acceptable and can be supported.

Objector Concerns

76. The issues raised by objectors have been addressed within the assessment section of this report. For ease of reference, the concerns raised and corresponding report sections and or paragraph numbers are outlined below as relevant:
- (a) Inappropriate use in a residential zone;
 - (i) This has been discussed at paragraphs 44-56.
 - (b) Increased traffic congestion and loss of on-street parking; and
 - (i) This has been discussed at paragraphs 57-75.
 - (c) Potential future expansion of the medical centre.
 - (i) Any future intensification of the subject site would trigger a planning permit and require assessment of the relevant decision guidelines, policies and any future amendments to the Yarra Planning Scheme.

Conclusion

77. The proposal demonstrates a good level of compliance with the policy requirements outlined in the Yarra Planning Scheme. Based on the above report, the proposal is considered to comply with relevant planning policy and should be supported, subject to conditions.

RECOMMENDATION

That having considered all relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant a Planning Permit PLN18/0019 for the use of the land as a medical centre and a reduction of the car and bicycle parking requirements at 1/430 Rae Street, Fitzroy North VIC 3068, in accordance with the plans and reports received by Council (on 9 March 2018 and 20 March 2018) and subject to the following conditions:

1. The use as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
2. No more than six (6) practitioners are permitted to operate from the land at any one time.
3. Except with the prior written consent of the Responsible Authority, the use authorised by this permit may only operate between the following hours:
 - (a) Monday to Friday 8.00am – 7.00pm
 - (b) Saturday 9.00am – 5.00pm
4. Before the use commences, or by such later date as approved in writing by the Responsible Authority, 3 bike hoops (6 bike spaces) must be installed:
 - (a) at the permit holder's cost; and
 - (b) in a location and manner,

to the satisfaction of the Responsible Authority.
5. Before the use commences, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Once approved, the Waste Management Plan will be endorsed and will form part of this permit.
6. The amenity of the area must not be detrimentally affected by the use, including through:
 - (a) the transport of materials, goods or commodities to or from land;
 - (b) the appearance of any buildings, works or materials;
 - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
 - (d) the presence of vermin.

to the satisfaction of the Responsible Authority.
7. The use must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
8. This permit will expire if:
 - (a) the use is not commenced within two years from the date of this permit; or
 - (b) the use is discontinued for a period of two years.

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

Notes:

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

These premises will be required to comply with the Public Health and Wellbeing Act 2008. The use must not commence until registration has been granted by Council's Health Protection Unit.

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

CONTACT OFFICER: Emily Zeng
TITLE: Statutory Planner
TEL: 03 9205 5363

Attachments

- 1 PLN18/0019 - 1 / 430 Rae Street Fitzroy North - Subject Land
- 2 PLN18/0019 - 1 / 430 Rae Street Fitzroy North - S52 Advertising Plan
- 3 PLN18/0019 - 1 / 430 Rae Street Fitzroy North - S52 Advertising Traffic Impact Assessment Report
- 4 PLN18/0019 - 1 430 Rae Street Fitzroy North - Engineering comments