

**YARRA CITY COUNCIL**  
**Internal Development Approvals Committee**  
**Agenda**

**to be held on Wednesday 12 September 2018 at  
6.30pm in Meeting Rooms 1 & 2  
at the Richmond Town Hall**

**Rostered Councillor membership**

Councillor Stephen Jolly  
Councillor James Searle  
Councillor Mike McEvoy

- I. ATTENDANCE**  
Gary O'Reilly (Senior Statutory Planner)  
Ally Huynh (Senior Co-Ordinator Statutory Planning)  
Cindi Johnston (Governance Officer)
- II. DECLARATIONS OF PECUNIARY INTEREST AND CONFLICT OF INTEREST**
- III. CONFIRMATION OF MINUTES**
- IV. COMMITTEE BUSINESS REPORTS**

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



## Guidelines for public participation at Internal Development Approval Committee meetings

### **POLICY**

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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	PLN17/0941 - 390-394 Brunswick Street, Fitzroy - Part demolition of the existing building for the construction of a mixed-use building and a reduction in the statutory car parking requirement.	5	44
1.2	PLN17/1113 - 81-89 Queens Parade Fitzroy North - Construction of an eight (8) storey building (plus basement levels), use part of land for a residential hotel (serviced apartments), alteration of access to Road Zone (Category 1), reduction in the car parking requirements associated with a residential hotel (serviced apartments), supermarket and offices (permit not required for supermarket or office uses).	50	81

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**1.1 PLN17/0941 - 390-394 Brunswick Street, Fitzroy - Part demolition of the existing building for the construction of a mixed-use building and a reduction in the statutory car parking requirement.**

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## **Executive Summary**

### **Purpose**

1. This report provides Council with an assessment of Planning Permit Application PLN17/0941 which affects the land at 390-394 Brunswick Street, Fitzroy and recommends approval, subject to conditions.

### **Key Planning Considerations**

2. Key planning considerations include:
  - (a) Built form and heritage (Clauses 15.01, 15.03, 21.05 and 22.02);
  - (b) Off-site amenity impacts (Clauses 15.01 and 22.05);
  - (c) Internal amenity (Clause 58);
  - (d) Car parking (Clauses 18.02, 21.06 and 52.06).

### **Key Issues**

3. The key issues for Council in considering the proposal relate to:
  - (a) Strategic context;
  - (b) Built form, design and heritage;
  - (c) Clause 58 – apartment developments;
  - (d) Off-site amenity impacts;
  - (e) Car parking; and
  - (f) Objector concerns.

### **Objector Concerns**

4. A total of 18 objections were received to the application. Issues raised in these objections can be summarised as follows:
  - (a) Height/massing of proposed development;
  - (b) Heritage issues and lack of integration with neighbourhood character;
  - (c) Potential off-site amenity impacts (loss of views and natural daylight, overlooking, noise etc.)
  - (d) Potential 'agent of change' issues with noise from entertainment venues (internal amenity and impacts on existing venues)
  - (e) Noise/impacts from car stackers and garage location;
  - (f) Reduction in property values (non-planning issue);
  - (g) Loss of original nursery on the site
  - (h) Waste management issues; and
  - (i) Reduction in car parking.

### **Conclusion**

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

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**1.1 PLN17/0941 - 390-394 Brunswick Street, Fitzroy - Part demolition of the existing building for the construction of a mixed-use building and a reduction in the statutory car parking requirement.**

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Trim Record Number: D18/93601

Responsible Officer: Senior Coordinator Statutory Planning

**Proposal:** Part demolition of the existing building for the construction of a mixed-use building and a reduction in the statutory car parking requirement.

**Existing use:** Nursery

**Applicant:** Simson Property Development Pty Ltd

**Zoning / Overlays:** Commercial 1 Zone  
Heritage Overlay (HO311 – Brunswick Street Precinct)  
Environmental Audit Overlay  
Special Building Overlay

**Ward:** Nicholls

**Date of Application:** 2/11/2017

**Application Number:** PLN17/0941

**Planning History**

5. Planning Permit No. 1874 was issued by the City of Fitzroy on 28 April 1992 *to erect a wind sculpture.*

**Amendment VC148**

6. Planning Scheme Amendment VC148 made changes to the Victorian Planning Provisions (VPP) and all Planning Schemes arising from the Victorian Government’s Smart Planning Program. Amendment VC148 was gazetted on 31 July 2018 and now forms part of the Yarra Planning Scheme. The assessment of this application is therefore against the provisions of the Scheme after the introduction of VC148.

**Background**

7. The application was submitted in November 2017, and following the submission of additional information, was advertised in March 2018. A total of 18 objections were received.
8. A planning consultation meeting was held on 15 May 2018 and attended by the applicant, objectors and planning officers. Following this meeting, amended ‘sketch’ plans were submitted by the applicant on 19 June 2018. The modifications included in these plans are as follows;
  - (a) Minor alterations to the design of the corner entrance (addition of garden bed and modifications to layout of services along the northern boundary);
  - (b) Increased setback of third & fourth-floors from eastern boundary from 5.35m to 5.5m;
  - (c) The first-floor wall increased in height from 6.35m to 6.47m on the southern and eastern elevations;
  - (d) The second-floor wall increased in height from 9.55m to 9.67m on the southern and eastern elevations;
  - (e) Overall reduction in building height from 18.1m to 17.9m (not including roof-top plant platform);
  - (f) Amended finished floor levels;

- (g) Additional notations and information on details requested by Engineering and Heritage referral comments, including alterations to paint colours, detailed overlooking diagrams and shadow plans.

9. The objectors have been notified of these sketch plans (along with all changes incorporated into the design) with the invitations to this meeting. The sketch plans are attached to this report and will be referenced throughout this assessment.

## Existing Conditions

### Subject Site

- 10. The subject site is located on the south-east corner of Brunswick Street and Leicester Street, Fitzroy. The site comprises two allotments (No. 390 Brunswick Street and No. 392-394 Brunswick Street) with a combined frontage to Brunswick Street of 14.9m. The site's northern boundary extends along Leicester Street for a length of 36.8m, with an overall area of approximately 547sqm.
- 11. No. 390 Brunswick Street is occupied by a double-storey, Victorian-era building, with a modified shop-front window at ground level located beneath a bull-nose verandah. The first-floor façade is largely intact. The building extends along both side boundaries at ground level, with the first-floor partly set back 1.1m from the southern boundary. A single-storey covered greenhouse is attached to the rear wall of the building, with a 3m high fence set back within the site, 2.4m from the rear boundary. An informal single car-parking space is located within this setback area, which connects directly with the adjacent right-of-way (ROW) to the east.



View of subject site from Brunswick Street

12. No. 392 – 394 Brunswick Street, directly on the corner, does not contain any buildings. This section of the site provides the external nursery area, with the only structures within the land being a pergola, fencing, latticework and seating. The fencing around the north-east corner of the land is set back from both respective boundaries, providing a single car parking space directly accessible from the adjacent ROW to the east.

Surrounding Land

13. The site is located within the Brunswick Street Major Activity Centre (MAC) and is well serviced by retail facilities, public transport options and public open space, including;
  - (a) Immediate access to the shopping and entertainment facilities of the Brunswick Street MAC.
  - (b) Access to Brunswick Street, Smith Street and Nicholson Street tram services; directly in front of the subject site is Tram Stop 17 on Routes 11 (West Preston - Docklands) and 112 (West Preston – St. Kilda). Tram Route 96 (East Brunswick) is located along Nicholson Street, approximately 350m to the west, with Tram Route 86 (Bundoora) located along Smith Street, 460m to the east.
  - (c) A large number of buses operate along Johnston Street (310m to the south) and Alexandra Parade (200m to the north).
  - (d) Fitzroy Swimming Pool, 170m to the north-east and Carlton Gardens, 300m to the west.
  - (e) Convenient access to the Melbourne CBD.
14. Built form surrounding the land is predominantly double-storey in scale (along Brunswick Street), with a range of heights (single to triple-storey) visible within land to the east.



Aerial image of subject site outlined in red

15. The immediate interfaces and zoning of the surrounding land are outlined below;

*North*



16. Land to the north is located within the Commercial 1 Zone, with Leicester Street extending along the site's northern boundary. Leicester Street is a one-way street (running east to west) extending between Nicholson Street in the west to Smith Street in the east. It has a carriageway of 7.35m, with parallel parking on both sides of the road.
17. On the opposite side of Leicester Street is a single-storey commercial building addressing Brunswick Street. The direct interface with the subject site is a single-storey boundary parapet wall with an entry at its eastern end. Further to the east are single and double-storey commercial buildings.



Zone map with subject site outlined in red

18. Land to the north-east of the site is zoned Neighbourhood Residential and contains a row of single-storey dwellings (one with a highly visible first-floor addition). To the east of these dwellings is a triple-storey residential building.

*South*

19. Land to the south is located within the Commercial 1 Zone. The two adjoining buildings are double-storey and have been modified at both levels. These properties are currently occupied by a licensed restaurant/bar (soon to be re-opened as Saint Charlie), operating until 3am Monday to Saturday (1am Sunday) with a maximum of 290 patrons. An external courtyard is located at the rear of this site, with Planning Permit No. 000300 restricting the use of this courtyard until 10pm each night. The planning permit also restricts the number of patrons on-site to 70 after 1am.
20. Further to the south are double-storey retail premises addressing Brunswick Street.

*East*

21. To the rear of the site is a bluestone laneway, with land zoned Mixed Use further to the east. The laneway is approximately 3.5m wide and provides vehicle access to properties along both sides of the ROW.

22. Located opposite the subject site on the eastern side of the ROW is No. 100 Leicester Street. The direct interface with the subject site is the western wall of the dwelling, which features a fully obscured glass window in the original extent of the building, and small highlight windows at each level of the double-storey addition at the rear. Secluded private open space (SPOS) is to the south of the dwelling, and to the south-east of the subject site (with no direct interface with the subject site).
23. To the south of this site (and south-east of the subject site) is a four-storey modern apartment development (No. 103 Rose Street). This development is substantial in scale, and extends along the rear laneway, with access from Rose Street to the south.
24. Further to the east, at No. 110 Leicester Street, a planning permit for a 5-storey residential building was issued by VCAT in 2012 (PLN12/0035). Whilst this permit was not acted upon, a subsequent permit for a four-storey building with roof terraces (PLN15/0121) was issued for this site by Council on 28 November 2015, for the construction of a four-storey building with roof terraces. Construction on the site has begun.

#### *West*

25. Brunswick Street extends along the western side of the site, with double-storey buildings along the western streetscape. The building directly opposite the site contains a shop at ground level, with a bar at first-floor (Glamorama Bar). This venue operates until 5am on weekends, with live DJs playing at this time. A small section of the venue, towards the front of the site, is unroofed.

### **The Proposal**

26. The proposal seeks part demolition and development of the land for the construction of a five-storey mixed-use building, and a reduction in the statutory car parking requirement. In summary, the following is proposed;

#### Use

##### *Ground level;*

- (a) Retail (Plant Nursery/Landscape Garden Supplies) – internal and external areas with combined floor area of 173.3sqm.
- (b) Food and drink premises (Café) – floor area of 65.3sqm;

##### *First-floor;*

- (c) Offices – floor area of 181sqm;

##### *First to fourth floors;*

- (d) Seven (7) dwellings. The proposal includes five (5) x 2 bedroom dwellings and two (2) x 3 bedroom dwellings.

#### Development

##### *Demolition (No. 390 Brunswick Street)*

- (e) Demolition of the majority of the building, with the boundary walls maintained for a depth of 13.4m on the southern boundary and 3m on the northern boundary;
- (f) First-floor shopfront windows to be removed and replaced to match existing;
- (g) Demolish rear structures and fencing;
- (h) Existing timber framed bullnose verandah to be retained and repainted. Metal decking on verandah to be replaced.
- (i) Small section of roofing above the first-floor (at the rear) to be demolished.

##### *No. 392 Brunswick Street*

- (j) Full demolition of all elements within this site, including sheds, fencing, gates, pergola;
- (k) Existing crossover on Leicester Street to be widened to the west, to increase ROW crossing.

### *Buildings and works*

- (l) Construction of a five-storey building, with a two/three storey streetwall constructed directly to the Brunswick Street boundary (to a maximum height of 10m) and a two-storey tower above (maximum height of 18.1m, not including the plant platform (1.5m higher);
- (m) The podium element will be constructed to all four-boundaries, with the exception of a large lightcourt addressing Leicester Street (set back 7.5m from the northern boundary) and a garage set back 2.6m from the laneway at ground level;
- (n) The tower element will extend along the southern boundary for a length of 19.5m, with a 10.8m setback from the front boundary. A deck will be located in this setback at level 3 (setback 6m from front boundary);
- (o) The tower will be set back 3m from the northern boundary and 5.35m from the eastern boundary;

### *General*

- (p) Proposed at ground level is a Nursery/Landscape Garden Supplies, with a floor area of 173.3sqm and a Café with a floor area of 65.3sqm;
- (q) This level will also contain shared facilities, bin storage, bicycle storage and the garage;
- (r) The garage will contain 9 car spaces for residents within a mechanical car stacker;
- (s) 16 bicycle spaces will be provided (16 spaces are shown on the plans, with the associated reports indicating that 11 spaces are provided. As there is floor space to accommodate 16 bicycles, a condition will ensure that any relevant reports must be amended to reflect this);
- (t) Three office tenancies will be located within the front section at first-floor (total floor area of 181sqm, with two, 2 bedroom dwellings at the rear;
- (u) Three 2 bedroom dwellings and a shared storage area (with individual storage units) will be located at second-floor, with floors three and four containing two, split level, 3 bedroom dwellings;
- (v) The dwellings will range in floor area from 80.3sqm to 194.9sqm;
- (w) Balconies will be provided for each dwelling, ranging in area from 8.8sqm to 35.4sqm.

### *ESD Measures*

- (x) Two solar arrays on roof (6kW);
- (y) A 7,000L rainwater tank connected to ground and first-floor toilets (STORM score of 105%);
- (z) Sunshades for north and west-facing windows;
- (aa) Natural daylight and ventilation for all dwellings.

### *Materials*

- (bb) The materials and colours schedule comprises a combination of precast concrete, masonry block and brick, glass and zincalume and a neutral colour palette which aside from the use of red brick mainly comprises off-whites, grey and charcoal. A textured precast concrete wall is proposed on the southern boundary above level 2.

## **Planning Scheme Provisions**

### Zoning

#### *Clause 34.01 – Commercial 1 Zone*

- 27. Pursuant to Clause 34.01-1 of the Yarra Planning Scheme (the Scheme) a planning permit is not required for the following uses on the land;
  - (a) Accommodation (dwellings); as the proposed frontage at ground level does not exceed 2m in width;
  - (b) Office;
  - (c) Retail premises (Plant Nursery & Food and Drinks Premises);

28. Pursuant to Clause 34.01-4 of the Scheme, a planning permit is required to construct a building and construct or carry out works.
29. The decision guidelines at Clause 34.01-8 specify that for an apartment development, the objectives, standards and decision guidelines of Clause 58 apply.

#### Overlays

##### *Clause 43.01 – Heritage Overlay (HO311 – Brunswick Street Precinct)*

30. Pursuant to Clause 43.01-1 of the Scheme, a planning permit is required to demolish a building and construct a building or construct or carry out works. External paint controls apply to the Brunswick Street Heritage Precinct.

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

31. The building on the subject site is located within the Brunswick Street Heritage Precinct (Schedule 311) and identified as ‘contributory’ to this precinct as outlined in the incorporated document.

##### *Clause 44.05 - Special Building Overlay*

32. A very small portion of the site (north-east and north-west corners) is located within the Special Building Overlay.
33. Pursuant to Clause 44.05-1 of the Scheme, a planning permit is required to construct a building or to construct or carry out works in this overlay.
34. Pursuant to Clause 44.05-5 an application must be referred to the relevant floodplain management authority under Section 55 of the Act unless in the opinion of the responsible authority, the proposal satisfies requirements or conditions previously agreed to in writing between the responsible authority and the floodplain management authority.

##### *Clause 45.03 – Environmental Audit Overlay*

35. Pursuant to Clause 45.03-1 of the Scheme, *before a sensitive use (residential use, child care centre, pre-school centre or primary school) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, either:*
  - (a) *A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or*
  - (b) *An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.*
36. A note will be added to any permit issued reminding the permit applicant of these obligations.

#### Particular Provisions

##### *Clause 52.06 - Car Parking*

37. Pursuant to Clause 52.06-2, the car parking spaces required under Clause 52.06-5 must be provided on the land. Clause 52.06-3 requires a planning permit to reduce the number of car parking spaces required under this clause.
38. It is noted that the introduction of VC148 amended Clause 52.06 so that the car parking rates of Column B applies if any part of the land is identified as being within the Principal Public Transport Network Area. The subject site is within this area and therefore the Column B car parking rates apply to this planning permit application.

39. The Clause 52.06-5 requirements, the proposal provision and the subsequent shortfall are shown below:

Use	Bedrooms/ Floor Area	Rate	No. required	No. proposed	Reduction sought
Dwelling	5 x 2 bedroom apartment	1 space per 2 bedroom dwelling	5	9	0
	2 x three-bedrooms or more apartment	2 spaces per 3 bedroom or more dwelling	4		
	Visitors	0 to every 5 dwellings	0		
Office	181sqm	3 spaces per 100sqm of net floor area	5	0	5
Landscape Garden Supplies (Nursery)	173.3sqm	10% of the site area (17sqm)	1	0	1
Food and drink premises (café)	65.3sqm	3.5 spaces to each 100sqm of leasable floor area	2	0	2
<b>Totals</b>			<b>17</b>	<b>9</b>	<b>8</b>

40. In this instance a planning permit is required to reduce the statutory requirement by 8 spaces.

*Clause 52.34 – Bicycle Facilities*

41. Pursuant to Clause 52.34-1, a new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land.
42. The Clause 52.34-5 requirements are shown below:

Use	Number/ Floor Area	Rate	No. required
Dwelling	7	Residential – 1 to each 5 dwellings	2
		Visitor – 1 to each 10 dwellings	0
Office	181sqm	Employee and visitor - 1 to each 300sqm of net floor area if the net floor area exceeds 1000sqm	0
Retail (Nursery and café)	238.6sqm	Employee and shopper - 1 to each 300sqm of leasable floor area and 1 to each 500sqm of leasable floor area respectively	1
<b>Totals</b>			<b>3</b>

43. With 16 bicycle parking spaces proposed, the statutory rate is exceeded. Table 3 to Clause 52.34-5 specifies that 1 change room/shower must be provided.

*Clause 53.06 – Live music and entertainment noise*

44. The purpose of this clause is;
- (a) *To recognise that live music is an important part of the State’s culture and economy.*
  - (b) *To protect live music entertainment venues from the encroachment of noise sensitive residential uses.*
  - (c) *To ensure that noise sensitive residential uses are satisfactorily protected from unreasonable levels of live music and entertainment noise.*
  - (d) *To ensure that the primary responsibility for noise attenuation rests with the agent of change.*
45. This clause applies to an application required under any zone of this scheme to use land for, or to construct a building or construct or carry out works associated with;
- (a) *a noise sensitive residential use that is within 50 metres of a live music entertainment venue.*

*Clause 58 - Apartment developments*

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

General Provisions

*Clause 65 – Decision Guidelines*

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

*Clause 65.01 – Approval of an application or plan*

48. *Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:*
- (a) *The matters set out in section 60 of the Act.*
  - (b) *The Municipal Planning Strategy and the Planning Policy Framework.*
  - (c) *The purpose of the zone, overlay or other provision.*
  - (d) *The orderly planning of the area.*
  - (e) *The effect on the amenity of the area.*
  - (f) *The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.*

Planning Policy Framework (PPF)

*Clause 11.03-1S Activity Centres*

49. The relevant objectives of this clause include:
- (a) *To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community.*

*Clause 13.04-1S Contaminated and potentially contaminated land*

50. The relevant objective of this clause is:
- (a) *To ensure that potentially contaminated land is suitable for its intended future use and development, and that contaminated land is used safely.*

*Clause 13.05-1S Noise abatement*

51. The relevant objective of this clause is:  
(a) *To assist the control of noise effects on sensitive land uses.*

*Clause 13.07 Amenity  
Clause 13.07-1S Land use compatibility*

52. The objective of this clause is:  
(a) *To safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects.*

*Clause 15.01-1S Urban design*

53. The relevant objective of this clause is:  
(a) *To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.*

*Clause 15.01-2S Building design*

54. The relevant objective of this clause is:  
(a) *To achieve building design outcomes that contribute positively to the local context and enhance the public realm.*

*Clause 15.01-5S Neighbourhood character*

55. The relevant objective of this clause is:  
(a) *To recognise, support and protect neighbourhood character, cultural identity, and sense of place.*

*Clause 15.02 Sustainable Development*

56. The objective of this clause is:  
(a) *To encourage land use and development that is energy and resource efficient, supports a cooler environment and minimises greenhouse gas emissions.*

*Clause 15.03 Heritage*

57. The objective of this clause is:  
(a) *To ensure the conservation of places of heritage significance.*

*Clause 16.01 Residential Development*

58. The relevant objectives and strategies of this clause are:  
(a) *To promote a housing market that meets community needs.*  
(b) *Ensure housing developments are integrated with infrastructure and services, whether they are located in existing suburbs, growth areas or regional towns.*

*Clause 16.01-2S Location of residential development*

59. The objective of this clause is:  
(a) *To locate new housing in designated locations that offer good access to jobs, services and transport.*

*Clause 17.02 Commercial*

60. The relevant objective of this clause is:  
(a) *To encourage development that meets the communities' needs for retail, entertainment, office and other commercial services.*

*Clause 18.01 Integrated Transport*

61. The objective of this clause is:
- (a) *To create a safe and sustainable transport system by integrating land use and transport.*

*Clause 18.02 Movement Networks*

62. The relevant objectives of this clause are:
- (a) *To promote the use of sustainable personal transport.*
  - (b) *Require the provision of adequate bicycle parking and related facilities to meet demand at education, recreation, transport, shopping and community facilities and other major attractions when issuing planning approvals.*
  - (c) *Ensure provision of bicycle end-of-trip facilities in commercial buildings.*

*Clause 18.02-2S Public Transport*

63. The objective of this clause is:
- (a) *To facilitate greater use of public transport and promote increased development close to high-quality public transport routes.*

*Clause 18.02-2R Principal Public Transport Network*

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

Local Planning Policy Framework (LPPF)

*Clause 21.04-1 Accommodation and Housing*

65. The objectives of this clause are:
- (a) *To accommodate forecast increases in population.*
  - (b) *Support residual population increases in established neighbourhoods.*
  - (c) *To reduce potential amenity conflicts between residential and other uses.*
  - (d) *To reduce potential amenity conflicts between residential and other uses.*
  - (e) *Ensure new residential development in the Mixed Use, Business 1, Business 2, and Business 5 Zones and near Industrial and Business Zones is designed to minimise the potential negative amenity impacts of existing non-residential uses in the vicinity.*
  - (f) *Apply the Interface Uses policy at clause 22.05.*

*Clause 21.04-2 Activity Centres*

66. The relevant objectives of this clause are:
- (a) *To maintain the long term viability of activity centres.*
  - (b) *Permit residential development that does not compromise the business function of activity centres.*

*Clause 21.04-3 Industry, Office and Commercial*

67. The objective of this clause is:
- (a) *To increase the number and diversity of local employment opportunities.*

*Clause 21.05 Built Form*

68. The relevant objectives of this clause are:



- (a) *To protect and enhance Yarra's heritage places.*
- (b) *To reinforce the existing urban framework of Yarra.*
- (c) *To retain Yarra's identity as a low-rise urban form with pockets of higher development.*
- (d) *Development on strategic redevelopment sites or within activity centres should generally be no more than 5-6 storeys unless it can be demonstrated that the proposal can achieve specific benefits such as:*
  - (i) *Significant upper level setbacks*
  - (ii) *Architectural design excellence*
  - (iii) *Best practice environmental sustainability objectives in design and construction*
  - (iv) *High quality restoration and adaptive re-use of heritage buildings*
  - (v) *Positive contribution to the enhancement of the public domain*
  - (vi) *Provision of affordable housing.*
- (e) *To ensure that new development contributes positively to Yarra's urban fabric.*
- (f) *Ensure development is designed having particular regard to its urban context and specifically designed following a thorough analysis of the site, the neighbouring properties and its environs.*
- (g) *Support new development that contributes to the consolidation and viability of existing activity centres.*

#### *Clause 21.06 Transport*

69. The objectives of this clause are:

- (a) *Use rear laneway access to reduce vehicle crossovers.*
- (b) *To facilitate public transport usage.*
- (c) *Require new development that generates high numbers of trips to be easily accessible by public transport.*
- (d) *To reduce the reliance on the private motor car.*

#### *Clause 21.07 Environmental Sustainability*

70. The relevant objectives of this clause are:

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

#### *Clause 21.08 Neighbourhoods*

71. Clause 21.08-7 of the Scheme describes the Fitzroy neighbourhood as *'a mixed commercial and residential neighbourhood notable for the consistency of its Victorian streetscapes. It comprises a dense combination of residential areas, shopping precincts and commercial industrial activities. The role of the Brunswick Street centre can be characterised as hospitality, entertainment, clothing and footwear, art galleries and studios, and non-government community services, all with a metropolitan focus'*.
72. The Figure 18 - Built Form Character Map: Fitzroy shows the subject site located within the heritage overlay. The guiding urban design principle is to *'ensure that development does not adversely affect the significance of the heritage place'*.

#### Relevant Local Policies

##### *Clause 22.02 Development Guidelines for Sites Subject to the Heritage Overlay*

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

##### *Clause 22.05 Interface Uses Policy*

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

*Clause 22.07 Development Abutting Laneways*

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

*Clause 22.12 Public Open Space Contribution*

76. This policy applies to all residential proposals, mixed use proposals incorporating residential uses and proposals incorporating residential subdivision. The subject site is in an area where land in lieu of cash is the preferred method of public open space contribution (area 3065A). However considering the size of the site, it is not practical to provide the preferred area of land and therefore cash will be provided.

*Clause 22.16 Stormwater Management (Water Sensitive Urban Design)*

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

*Clause 22.17 Environmentally Sustainable Development*

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

Other Documents

*Urban Design Guidelines for Victoria (DELWP, 2017)*

79. These guidelines are policy guidelines within the State Planning Policy Framework of the Victoria Planning Provisions. The guidelines must be considered when assessing the design and built form of new development where relevant. The guidelines use best practice knowledge and advice underpinned by sound evidence.

*Apartment Design Guidelines for Victoria (DELWP, 2017)*

80. These guidelines are policy guidelines within the State Planning Policy Framework of the Victoria Planning Provisions. The guidelines must be considered when assessing the design and built form of new apartment developments, where relevant. The guidelines use best practice knowledge and advice underpinned by sound evidence.

**Advertising**

81. The application was advertised in accordance with Section 52 of the *Planning and Environment Act 1987* [the Act] by way of 152 letters sent to the surrounding property owners/occupiers and by two signs displayed on site, one facing Brunswick Street and the second addressing Leicester Street.
82. A total of 18 objections were received to the application. Issues/concerns raised can be summarised as follows:
- (a) Height/massing of proposed development;
  - (b) Heritage issues and lack of integration with neighbourhood character;
  - (c) Potential off-site amenity impacts (loss of views and natural daylight, overlooking, noise etc.)
  - (d) Potential 'agent of change' issues with noise from entertainment venues (internal amenity and impacts on existing venues)
  - (e) Noise/impacts from car stackers and garage location;
  - (f) Reduction in property values (non-planning issue);
  - (g) Loss of original nursery on the site
  - (h) Waste management issues; and
  - (i) Reduction in car parking.
83. A planning consultation meeting was held on 15 May 2018 and attended by the applicant, objectors and planning officers. Following this meeting, amended 'sketch' plans were submitted by the applicant on 19 June 2018. The modifications included in these plans are as follows:
- (a) Minor alterations to the design of the corner entrance (addition of garden bed and modifications to layout of services along the northern boundary);
  - (b) Increased setback of third & fourth-floors from eastern boundary from 5.35m to 5.5m;
  - (c) The first-floor wall increased in height from 6.35m to 6.47m;
  - (d) The second-floor wall increased in height from 9.55m to 9.67m;
  - (e) Overall reduction in building height from 18.1m to 17.9m (not including roof-top plant platform);
  - (f) Amended finished floor levels;
  - (g) Additional notations and information on details requested by Engineering and Heritage referral comments, including alterations to paint colours, detailed overlooking diagrams and shadow plans.
84. All objectors were notified of the changes outlined in these sketch plans within the invitation to the IDAC meeting, with the plans attached to this report. They will be referenced throughout this assessment.

## Referrals

85. The application was referred to the following internal departments and external authorities and their recommendations are contained below:

### Referral Authorities

#### *Melbourne Water*

86. The following response was received from Melbourne Water;
- (a) *This site is not affected by any flooding from any Melbourne Water asset. It is more than likely that any flooding is from the Council system.*

### Internal Referrals

87. The application has been referred to the following units within council:
- (a) Urban Design;
  - (b) Heritage;
  - (c) ESD advisor;

- (d) Engineering Services Unit;
- (e) City Works;
- (f) Acoustic (External).

88. All comments have been included as attachments to this report.

## **OFFICER ASSESSMENT**

89. The considerations for this application are as follows:
- (a) Strategic context;
  - (b) Built form, design and heritage;
  - (c) Clause 58 – apartment developments;
  - (d) Off-site amenity impacts;
  - (e) Car parking;
  - (f) Objector concerns.

### Strategic justification

90. The proposal is consistent with the various development objectives outlined in State and Local Planning Policy Frameworks, by providing an acceptable level of compliance with the relevant policies within the Scheme and is considered to provide a positive strategic opportunity for development within a well-resourced inner-urban environment.
91. The provision of a mixed-use development including shops at ground level and offices/residential uses above is consistent with the general strategies contained within the Scheme. These strategies encourage urban consolidation and employment generating uses in such locations, where full advantage can be taken of existing settlement patterns and transport, communication, water, sewerage and social facilities that already exist.
92. The subject land is located within the Brunswick Street MAC. The proposal meets the objectives and strategies of the LPPF by incorporating a range of uses including increased housing and active spaces on the ground floor to create and reinforce an active street environment. The proximity of the site to a variety of public transport options and provision of bicycle facilities on the site encourages less reliance on cars as a means of travel.
93. The C1Z which applies to the site is readily acknowledged as a zone capable of accommodating a greater density and higher built form, subject to individual site constraints. It is noted that policy support for more intensive residential development needs to be balanced with built form and heritage guidance at Clauses 15.03, 21.05-1 and 21.05-2 of the Scheme. These policies call for development that responds to the surrounding context with regard to urban character and cultural heritage. More specifically, Council's local policy at Clause 22.02 seeks to maintain and conserve the significant historic character of the area.
94. As will be discussed in detail within this report, it is considered that the proposal sufficiently achieves State and local policy guidance in relation to high quality developments and protection of heritage values. It is on this basis that the submitted proposal should be supported.

### Built form, design and heritage

95. In considering the design and built form of the proposed development, the most relevant aspects of the Scheme are provided at Clause 15 (Built Environment and Heritage), Clause 21.05 (Built Form) and Clause 22.07 (Development Abutting Laneways).

As supplementary guidance, the Department of Environment, Land, Water and Planning's *Urban Design Guidelines for Victoria* (UDGV) and *Apartment Design Guidelines for Victoria* (ADGV) are also of relevance.

96. These provisions and guidelines seek a development that responds to the existing or preferred neighbourhood character and provides a contextual urban design response reflective of the aspirations of the area. Particular regard must be given to the context, height and massing, relationship to adjoining buildings, energy efficiency and architectural quality. These matters, and others, will be assessed in turn below.

*Context*

97. The existing character of the surrounding area is somewhat varied, with the majority of built form along Brunswick Street single to triple-storey in height, with high site coverage and commercial typologies. Higher elements of built form have emerged in the residential neighbourhood to the east of the site; with a four-storey building approved 30m to the east along Leicester Street and a four-storey building constructed to the south-east, addressing Rose Street.
98. Considering the strategic direction of the C1Z to encourage higher density developments, the expectation for intensive development of the subject site and surrounding land within the Brunswick Street MAC is anticipated.
99. Whilst it is acknowledged that this application would be one of the highest developments in the immediate area, it is clear that the wider Fitzroy neighbourhood is undergoing change, with strong state policy support for increased density in this neighbourhood.
100. Within the decision *Daniel Stevens (Zero Nine Pty Ltd) v Yarra CC* [2011] VCAT 467 (this decision relates to No. 105-107 Johnston Street Collingwood), the following comments were made in relation to developments in commercial areas (previously called business zones):

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

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

101. Based on this context, the addition of this higher built form is considered to be an acceptable outcome.

*Height, Scale and Massing*

102. With no specific built form guidance or height limits associated with the land, it is important for the assessment of building height to balance the range of influencing factors affecting this area, including policy provisions, existing height characteristics of nearby built form and preferred future character development.
103. The site is located within the C1Z and a MAC. As previously noted, the zoning and location of the site clearly identifies that the land will be more intensively developed, with a purpose of the C1Z to provide for residential uses at densities complementary to the role and scale of the commercial centre. Clause 11.03-1S (Activity Centres) encourages a diversity of housing types at higher densities in and around activity centres. This outcome is supported by the Tribunal, with the following view expressed in *Ciullo & Yarra CC & Ors* [2016] VCAT 921 as follows:

*[9] I find that there are various factors that combine to result in the proposed building height and design as being appropriate to its setting. These include:... its inclusion in the commercial zone where such building height is discretionary – this being a key distinguishing factor. Even though the buildings fronting Queens Parade are included in the Heritage Overlay, I consider that they maintain capacity for increased height, particularly to the rear in line with planning policies that seek to activate commercial areas and increase the potential of sites within activity centres. The built form proposed would be consistent with these expectations of emerging built form character and would provide a reasonable transition between these more substantial commercial buildings and the ‘finer grain’ character of narrow residential properties further north.*

104. Strategy 17.2 at clause 21.05-2 of the Scheme states that development within activity centres should generally be no more than 5-6 levels unless it can be demonstrated that the proposal can achieve specific benefits such as significant upper level setbacks, architectural design excellence, best practice environmental sustainability objectives in design and construction, high quality restoration and adaptive re-use of heritage buildings, positive contribution to the enhancement of the public domain and provision of affordable housing.
105. At a height of five-stories, the recommended height of new built form within the activity centre is met. Further, the additional features that would allow the consideration of a higher building have also been achieved, with the proposal making a positive contribution to the enhancement of the public domain, as well as best practice environmental sustainability objectives in design, high architectural design excellence and upper level setbacks.
106. The height of the development is supported in Council’s Urban Design comments, which note that the *‘deep setback for upper floors from Brunswick Street makes the overall 5 storey form less dominant and respectful towards the valued heritage streetscape of the street’*. Setbacks have also been incorporated into the Leicester Street interface, with the two upper levels set back 3m from the northern boundary. The addition of the generous lightwell within the lower levels softens the built form response within this streetscape. The setbacks to the eastern boundary of levels 3 & 4 allow for a good transition in height to the residential land to the east, with the separation provided by the ROW further reducing any visual dominance that may be created by higher built form on this corner site.
107. The proposal matches the streetwall height of the existing double-storey façade on the site, with the existing buildings along Brunswick Street predominantly double-storey in height (to the street). Further Urban Design comments state; *‘the design uses vertically proportioned windows and continues the established sill and lintel datum lines on the new façade, making the Brunswick Street façade integrating positively with the heritage fabric. There is good balance between void and massing. The design of Leicester Street streetwall presents an interesting composition with use of large voids and mix of brick colours’*. Hence, the proposed streetwall heights are supported.
108. The only alteration to the building’s street interface recommended in these comments was to relocate the proposed services along Leicester Street and increase planting opportunities along the northern boundary. The amended sketch plans responded to these suggestions, by reducing the height of the services within the northern wall and increasing the extent of glazing to Leicester Street. Additional landscaping was also provided. These changes provide visual interest to the corner and are supported. If a planning permit is to issue, a condition will ensure that these amendments are incorporated into the building’s design.

## Heritage

109. The primary heritage considerations for this application relate to whether compliance is achieved with Clause 43.01-4 (Heritage Overlay: Decision guidelines) and Clause 22.02 (Development Guidelines for Sites Subject to the Heritage Overlay) of the Scheme. The site is located within the Brunswick Street Heritage Precinct, with the building at No. 390 Brunswick Street classified as 'contributory' to this precinct.
110. Comments from Council's Heritage Advisor indicate that Nos. 384 Brunswick Street to No. 390 Brunswick Street originally formed a row of four identical buildings. Original plans (Melbourne Metropolitan Board of Works) show that these buildings shared a verandah and that No. 394 Brunswick Street may always have been a vacant site. The ground and first-floor facades of Nos. 386-388 Brunswick Street have been highly modified, as has the ground floor façade of No. 384 Brunswick Street. There are minimal consistent details remaining within any of these facades.

*Demolition*

111. The key consideration for assessing this aspect of the works is whether the proposed demolition will adversely affect the significance of the heritage building or the broader heritage precinct. Clause 22.02-5.1 of the Scheme generally discourages the demolition of part of a contributory building or removal of contributory elements unless:
- (a) *that part is not visible from the street frontage (other than a laneway), abutting park or public open space, and the main building form including roof form is maintained; or*
  - (b) *the removal of the part would not adversely affect the contribution of the building to the heritage place.*
112. A small section of the original roof form (at No. 390 Brunswick Street) is proposed to be removed; however this section of roof is not visible from Brunswick Street. The visibility of the rear section of this roof from Leicester Street is not considered contributory to that streetscape, as the building is setback from Leicester Street and would typically be obscured by any building constructed on the corner. The extent of roof form to be demolished is therefore acceptable.
113. The remaining demolition works within the site are also considered acceptable, with the structures at the rear of the main building not original. Further, the removal of sections of the northern wall associated with No. 390 Brunswick Street is supported on heritage grounds, as the proposed openings in the side wall will not be visible from the street once the site is developed.
114. The most visible demolition works proposed are associated with the façade of No. 390 Brunswick Street. Council's Heritage Advisor acknowledged that the existing shopfront (at ground level) does not appear to be original; however its configuration, timber frames and large panes of glass are typical of Victorian style shopfronts. Removing this shopfront for the purposes of achieving DDA compliance is considered acceptable as no original fabric will be lost, on the proviso that the proposed replacement shopfront window should similarly be of Victorian configuration and constructed of timber. The design of the proposed shopfront will be discussed later within this assessment.
115. The existing upper level façade window frames appear to be original. Based on the proposal to replace these frames with double-glazing, the removal of the original elements are not supported, as the double-glazed timber window units will be 'chunkier' than the existing window frames due to the additional weight of the extra glazing. Council's Heritage Advisor recommended that the existing window frames should be either repaired or replaced with identical single-glazed window units. The amended sketch plans specify that any replacement windows will match the existing thickness of the frames, with this change facilitated via a permit condition. On this basis, the demolition works are acceptable.

116. The proposal seeks to replace the existing verandah roof with Zinalume. Zinalume is a highly reflective material and is not generally supported on heritage buildings. The most appropriate material would be unpainted galvanised, corrugated Heritage Grade Z600 steel. This material has been amended to reflect this specification within the sketch plans, and on this basis the removal of the existing roofing is acceptable. A condition will ensure that all of these details are reflected in the final plans, should a planning permit issue.

*Buildings and works*

117. Clause 22.02-5.7.1 of the Yarra Planning Scheme encourages the design of new development 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.*
- (e) *Not remove, cover, damage or change original historic fabric.*
- (f) *Not obscure views of principle façades.*
- (g) *Consider the architectural integrity and context of the heritage place or contributory element.*
- (h) *Encourage setbacks from the principal street frontage to be similar to those of adjoining contributory buildings; where there are differing adjoining setbacks, the greater setback will apply.*
- (i) *Encourage similar façade heights to the adjoining contributory elements in the street. Where there are differing façade heights, the design should adopt the lesser height.*

118. The proposed development is considered to achieve these outcomes.

119. The new development will match the hard-edge built form to Brunswick Street to a height that is consistent with the double-storey façades to the south. Levels above will be set back between 3m to 10.8m from the front boundary (with decks protruding into the larger setbacks), thereby reducing visibility of the higher built form along Brunswick Street and ensuring that the higher levels will not dominate the heritage streetscape. This design response will also be reflected along Leicester Street. Whilst the appearance of the proposed new building fronting Leicester Street is of less heritage concern than the Brunswick Street façade, the proposed lightwell recess is considered to be a good design approach by breaking up the impact of the massing along this secondary streetscape. From a heritage perspective, the setbacks, scale and height of the proposed façade is acceptable.

120. The contemporary design of the new section of façade integrates well with the contributory features within the existing heritage façade on the site. The proportions of the proposed window openings, the proposed materials and the colours (subject to minor changes) will be consistent with the façade of the adjoining heritage building. The proposed external materials for the new development will be off-white masonry blockwork with white framed windows. As the majority of the nearby shopfronts are painted render finishes, the material and colouring of the proposed blockwork façade is acceptable. The simple appearance of the lightweight cladding at the upper levels is also supported.

121. External paint controls apply to the Brunswick Street heritage precinct. Clause 22.02-5.4 states that it is policy to *encourage paint colours to be consistent with the period of the heritage place*. The proposal seeks an off-white finish to the original façade of No. 390 Brunswick Street, with matching white details for the timber joinery and window frames. Council's Heritage Advice notes that the original rendered walls of the façade were likely to range from beige to salmon pink, with timber joinery painted in dark contrasting colours (deep Brunswick green or dark crimson).



The proposed “white on white” scheme is not consistent with the heritage character of the building and is contrary to the intent of the heritage controls.

122. In response, an amended colour scheme has been incorporated into the sketch plans, with the walls altered to a beige finish and the timber window frames and door joinery, both at ground and upper floor levels, finished in a dark ‘Indian red’. This outcome is acceptable and if a planning permit is to issue, a condition will be added to ensure this colour scheme is retained.
123. Based on these changes, the proposed development integrates well with the heritage character of the streetscape and respects the significance of the heritage place. Compliance with the provisions of Clause 22.02 is achieved.

#### *The Public Realm & Pedestrian spaces*

124. The introduction of a café at ground level addressing Brunswick Street and the proposed retention of the nursery within the new corner building provides an active frontage within the MAC. This outcome is consistent with the public realm, pedestrian spaces and street and public space quality policies at clauses 15.01-2 and 21.04-2 of the Scheme.
125. Further improvements to this interface were recommended within the Urban Design advice, which acknowledged the unique character that the existing nursery contributes to this section of Brunswick Street. Whilst the proposed extent of glazing within the new shopfront will provide interaction between the footpath and internal space, it was recommended that additional landscaping could be incorporated into both the Leicester Street frontage, with vertical and roof-top landscaping also suggested.
126. The current design locates the services within the Leicester Street interface at ground level; this outcome is not supported within the Urban Design comments, which state that this is ‘*not the best outcome for the corner as it does not contribute in providing interesting and positive public realm*’. The relocation of these services to the rear of the building were recommended, however this would impact upon the size and location of the proposed garage. Instead, the amended sketch plans reduced the scale of the services in the same location and increased the extent of glazing within this wall. The design of the corner entrance was also altered, to allow for further landscaping opportunities in this location.
127. Whilst these changes result in an improvement to this interface, it is considered that further landscaping could be provided, particularly in the form of vertical green walls or cascading planter boxes. This is provided to a small extent, however further provision would soften the built form along Leicester Street and create a more visually interesting outcome. The changes shown in the sketch plans, along with further landscaping opportunities as suggested, will be required via permit conditions, should one be issued. A Landscape Plan will also be required, outlining the full extent of landscaping, details on proposed plant species and how these will be maintained.

#### *Laneway interface*

128. Council’s local policy at Clause 22.07 relates to development abutting laneways. Relevantly, the policy seeks to provide an environment which has a feeling of safety for users of the laneway and to ensure that development along a laneway acknowledges its unique character. The policy specifically calls for development that respects the scale of the surrounding built form.
129. The ground floor of the development is proposed to be set back 2.6m from the laneway, allowing additional space for vehicle movements. This will increase the safety of cars and pedestrians within the ROW. Council’s Engineers have confirmed that this setback allows for suitable vehicle navigation into the proposed garage, and as will be discussed in greater detail within the traffic assessment, the additional vehicle movements generated by the proposed development are not expected to be detrimental to the operation of the laneway.

130. There is no pedestrian access proposed from the laneway, with all pedestrian entries restricted to Brunswick and Leicester Streets. This complies with policy, which encourages pedestrian entries to be separated from vehicle entries.
131. The windows addressing the laneway at the first and second-floors will allow for passive surveillance, but do not unreasonably overlook private open space or habitable rooms on the opposite side of the laneway. This detail will be discussed in further detail later within this assessment.
132. The scale of the proposed wall abutting the laneway is considered acceptable, with a degree of articulation provided via the location of the second-floor balcony, and the upper levels provided with generous setbacks from this interface. The proposed height reflects the height of existing built form addressing the laneway to the south-east, associated with the four-storey development at the laneway's southern end.
133. It is considered that the proposed height of the wall on the laneway, when combined with the setback to the upper levels, adequately acknowledges the character of the laneway and provides a suitable transition to the low-rise residential developments to the east. The development will not obstruct the laneway and access for emergency vehicles will be maintained. The provisions of this policy will be met.

#### *Light and Shade*

134. The height of the double-storey façade and the proposed setbacks of the levels above from Brunswick Street ensure that there will be no overshadowing affecting the western footpath along Brunswick Street at any time of the day. Whilst shadows will affect the eastern footpath until 12midday, this is an existing condition and is acceptable. No overshadowing will affect this footpath during the afternoon.

#### *Energy and Resource Efficiency*

135. Referral comments provided by Council's ESD Officer indicated that the development meets Council's ESD standards. The following commitments are outlined on the plans and in the Sustainable Management Plan (SMP) submitted with the application;
  - (a) 6.5 Star NatHERS thermal energy ratings;
  - (b) A BESS Score of 63% (indicating best practice is achieved);
  - (c) A STORM report with a score of 105% that relies on at least 362m2 in total of roof connected to 7,000 litre rainwater tank provided for all non-residential toilet-flushing;
  - (d) Non-residential spaces to exceed NCC energy efficiency requirements by at least 10%;
  - (e) 6 kWp solar PV array to contribute to common area electricity consumption;
  - (f) Good access to daylight and natural ventilation.
  - (g) Energy efficient lighting, heating, cooling and hot water;
  - (h) Water efficient fixtures and taps;
  - (i) 16 bike parking spots (the ESD report incorrectly states that 12 bicycle spaces are available, whilst the SMP states 11), however the drawings indicate that 12 horizontal and 4 wall-hung spaces will be provided). This exceeds Council's best practice standard with regards to the residential use (1 space per dwelling). It is noted also that end-of-trip facilities have been provided at first-floor. If a planning permit is to issue, an amended SMP stating 16 spaces will be required via condition.
136. The only outstanding information highlighted in the ESD comments was a request for further detail on the proposed sun-shading to north and west-facing windows. These details have been incorporated into the sketch plans and can be required via a condition, if a permit is to issue.
137. Also requested, prior to occupation of the building, was the provision of the JV3 energy modelling report, demonstrating that the 10% energy efficiency target will be reached. Again, a condition can require this, if a permit is to issue.

138. Whilst not specifically requested by Council's ESD Officer, there are additional features which could be included in the development to further improve its energy efficiency. These include the provision of electric bicycle charging facilities and the addition of external clothes drying racks on each dwelling balcony. Further, the SMP states that 2 x 240 litre bins will be provided for organic waste, with this detail confirmed in the WMP, however this is not clearly shown on the plans. If a planning permit is issued, these features will be required via permit conditions.
139. Overall, it is considered that subject to the conditions discussed, the proposed development would achieve best practice in environmentally sustainable development in accordance with the overarching objectives under Clause 22.16 (Stormwater Management (Water Sensitive Urban Design)) and Clause 22.17 (Environmentally Sustainable Development) of the Scheme.

#### *Site Coverage*

140. The proposal will occupy 100% of the site area. Whilst this increases the existing coverage found on the site, this would be inevitable for any development proposed, given the current lack of built form within the land. The degree of built form coverage proposed is similar to that found on many sites within the Brunswick Street MAC, with intensive development a characteristic of the surrounding neighbourhood. Further, the EAO affecting the site would likely require extensive capping to occur over the land due to potentially contaminated soil. These works would cover 100% of the site and reduce permeability accordingly. This outcome is acceptable.

#### *Architectural Quality*

141. The development is considered to be of high architectural quality and integrates well with the existing streetscape. The contemporary design is appropriate, with a number of features incorporated into the scheme that reflect heritage characteristics found within adjoining buildings.
142. The proposed off-white bricks provide texture to the façade and will be consistent with the proposed paint finish for the existing façade at No. 390 Brunswick Street. Elements of red brickwork within the Leicester Street façade will reflect traditional materials found in the area, and will positively contribute to the Leicester Street interface. A good balance between the ratio of solid to void is achieved, with the provision of landscaping and reduction in scale of the services along the northern boundary (as outlined in the sketch plans) providing a good response at the lower levels.
143. White metal cladding (colourbond surfmist) is proposed for the majority of the upper levels, with this material lightweight and contrasting well with the heavy masonry of the podium below.
144. The southern wall of the tower element is proposed to be finished in textured pre-cast concrete, with no further articulation provided. Until such time that the site to the south may be developed, this wall will be highly visible within the Brunswick Street streetscape. Articulation to this wall would reduce its visual impact. This could be achieved through the addition of horizontal and vertical joints, breaking up each level and reducing the sheer finish of this wall. If a permit is to issue, a condition will facilitate this change.
145. Overall, the proposal presents a sophisticated design that has been actively informed by the adjacent heritage building and the wider streetscape and is considered to contribute to the surrounding area based on its architectural quality and well perceived design.

#### Clause 58

*Standard D1 – Urban context*

146. The purpose of this Standard is to ensure that the design responds to the existing urban context or contributes to a preferred future development of the area. These aspects have been discussed in detail earlier within this report, with the proposal considered to be an acceptable response within the existing and emerging character of the Brunswick Street MAC and Fitzroy neighbourhood. The Standard is met.

*Standard D2 – Residential Policies*

147. As outlined within the Strategic Context section of this report, the proposed development has strong policy support under the purpose of the C1Z and relevant policies of the Scheme. The site can clearly support higher density residential development, based on its proximity to public transport, community infrastructure and services, and limited off-site amenity impacts. The Standard is met.

*Standard D3 – Dwelling diversity*

148. The proposal will provide 5 x 2 bedroom apartments, with 2 x 3 bedroom dwellings, thereby allowing for a range of dwelling types. The Standard is met.

*Standard D4 - Infrastructure*

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

*Standard D5 – Integration with the street*

150. The building will address Brunswick Street and Leicester Street at all levels, with the proposed commercial uses at ground level providing an active frontage within the activity centre. The Standard is met.

*Standard D6 – Energy efficiency*

151. Of the seven apartments proposed, five will be provided with northerly orientations for their principal habitable rooms and areas of SPOS, thereby maximising solar access. Sunshades have been provided above all north-facing windows, with automated external roller blinds incorporated into the west-facing windows at the upper levels (this detail is noted on the sketch plans and if a permit is issued, will be required via a condition to be included on the final plans).
152. The layout of each dwelling is considered to provide good opportunities for access to daylight and natural ventilation, thereby reducing reliance on artificial heating/cooling, generally in accordance with the requirements of the Standard.
153. The Standard notes that dwellings located in a climate zone identified in Table D1 of this clause should not exceed the maximum NatHERS annual cooling load specified. In this instance, the development is in Climate Zone 21 (Melbourne) and should not exceed 30MJ/m<sup>2</sup> per annum. This detail has not been provided within the SMP, with an amended SMP required if a permit is to issue.

*Standard D7 – Communal open space*

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

*Standard D8 – Solar access to communal open space*

155. No communal open space is proposed as part of this development.

*Standard D9 – Safety*

156. The residential entrance will be slightly recessed (300mm) from the Leicester Street boundary. Providing the residential entrance from the secondary frontage is an acceptable outcome, with Leicester Street a residential street and the entrance clearly visible, without being obscured or isolated from the street. The Standard is met.

*Standard D10 – Landscaping*

157. Landscaping does not play a role in the character of Brunswick Street, with the subject site currently providing the only visible vegetation within the streetscape. This is based however on the current use of the land as a nursery, and is not due to any prevalent landscape character found within the commercial centre.
158. Small areas of landscaping are visible within the front setbacks of residential sites along Leicester Street, however these are relatively limited. The plans indicate that a number of garden beds will be incorporated into this interface at ground level; this vegetation will provide visual interest to the façade and soften the built form response, whilst responding to the residential land to the east.
159. An increase in the extent of landscaping has been discussed previously within this report, with this reflecting the ongoing use of the site as a nursery, and further softening the built form response of the northern wall. A condition has addressed this requirement.
160. The site is less than 750sqm; therefore no deep soil area is required. On this basis, the Standard is achieved.

*Standard D11 – Access*

161. This Standard seeks to ensure that the number and design of vehicle crossovers respects the urban context, whilst maximising the retention of on-street car parking spaces. In this instance, the development will be largely reliant on an existing ROW at the rear of the site, with all vehicle access limited to this interface. The proposal seeks to widen the existing crossover to this ROW to a total width of 6.2m to enhance access to the internal garage.
162. The widening of this crossover will encroach 2m into the Leicester Street frontage. With a northern boundary length of 36.8m, the crossover will constitute approximately 5% of this frontage, comfortably meeting the maximum 40% required by the Standard.
163. No on-street car parking spaces will be affected by these works, with parking currently prohibited in the area to be widened. Access for service, emergency and delivery vehicles is available. The Standard is met.

*Standard D12 – Parking location*

164. The location provided for car parking achieves a good design response, with all vehicle access restricted to the rear ROW. The internal garage will be set back 2.6m from the rear (eastern) boundary of the site, providing additional space for vehicle movements. The swept path diagrams for the B85 design vehicle entering and exiting the car stackers are considered satisfactory by Council Engineers. In some instances, a correctional movement would be required to enter and exit the car stackers; however this is permissible under AS/NZS 2890.1:2004.

165. The car spaces are accommodated within a Klaus Trendvario 4200 shuffle type stacker. Tilt-panel doors with emergency door access will be provided, with the residential entrance 9m to the west along Leicester Street. Convenient access for residents is provided.
166. A number of bedrooms will be located directly above the garage at first-floor. Potential noise impacts from the mechanical equipment will be discussed in Standard D16.

*Standard D13 – Integrated water and stormwater management*

167. A STORM report with a 105% STORM score was submitted with the application; this report demonstrates best practice and relies on 362sqm of roof connected to an underground 7,000L rainwater tank. The tank will be connected to all non-residential toilets at ground and first-floor. This is in line with the policy direction under clause 22.16 (Stormwater Management (Water Sensitive Urban Design)) and the Standard is met.

*Standard D14 – Building setbacks*

168. As outlined earlier in this report, the setbacks of the building are considered to achieve an acceptable design response to the character of the surrounding area. The direct abuttal of the development to the southern boundary provides opportunities for future development on this site, with the setbacks from the north, east and west reducing the prominence of the highest elements of built form at the upper levels.

*Standard D15 – Internal views*

169. The only potential internal overlooking opportunities are restricted to the first and second-floors, with windows associated with an office and dwellings addressing the large central lightcourt. The floor plans indicate that the operability of these windows is restricted in order to alleviate any unreasonable views. This outcome would be acceptable. To ensure this feature is incorporated into the design, notations and sections confirming this will be required via a permit condition, if a planning permit is to issue.

*Standard D16 – Noise impacts*

170. The subject site is located within an activity centre and therefore within proximity of a number of noise sources which may result in unreasonable internal noise levels to the new dwellings. The most prominent noise sources include the following;
- (a) Tram and traffic noise from Brunswick Street (directly in front of the site);
  - (b) Traffic noise from Alexandra Parade (200m to the north);
  - (c) Patron and live music noise from Glamarama Bar (20m to the west);
  - (d) Patron and music noise from Saint Charlie (immediately to the south).
171. In addition, noise from mechanical equipment and the car stacker system associated with the development may result in unreasonable noise impacts to future occupants.
172. The Standard notes that new dwellings should be designed and constructed to include attenuation measures to reduce noise levels from off-site noise sources, with new buildings that are located within a noise influence area specified in Table D3 of this Standard to be designed to achieve the following noise levels:
- (a) *Not greater than 35dB(A) for bedrooms, assessed as an LAeq,8h from 10pm to 6am.*
  - (b) *Not greater than 40dB(A) for living areas, assessed LAeq,16h from 6am to 10pm.*
173. An Acoustic Report, prepared by Clarity Acoustics on behalf of the applicant, acknowledges that the proposed development would be located in proximity to a noise influence area as specified in this table, with the site located within 300m of Alexandra Parade, a major arterial road carrying more than 40,000 annual average daily traffic volumes.

174. Further, the site is located within 50m of a live music venue (Glamarama Bar), which requires the development to be assessed against Clause 53.06 (Live music and entertainment noise) of the Scheme. The purpose of this clause is to protect live music entertainment venues from the encroachment of residential uses, whilst ensuring that residential uses are satisfactorily protected from unreasonable levels of live music and entertainment noise. The primary responsibility for noise attenuation rests with the agent of change, which in this instance is the proposed development on the subject site.
175. A number of noise attenuation measures have been outlined in the Acoustic Report, including the following;
- (a) Specific glazing systems;
  - (b) Solid material for garage doors, with absorptive material to be used internally;
  - (c) Sound insulation for roof/ceiling construction;
  - (d) Maximum sound power specified for air-conditioning units on balconies; and
  - (e) Vibration isolation to limit structure-borne noise from car stacking system.
176. The acoustic report was referred for review to SLR Acoustic Consulting (SLR). A discussion of each potential noise source, with comments from SLR, is undertaken below.

*Traffic Noise*

177. To identify traffic noise levels within proximity to the site, measurements were undertaken at the corner of Leicester and Brunswick Streets between 8am and 8:40am on Tuesday 12 December, and between 10:20pm and 10:40pm Friday 16 December 2017.
178. Based on these calculations, Clarity Acoustics confirmed that noise mitigation treatment measures would be required to achieve compliance with the internal noise levels outlined in the Standard. These mitigation measures are outlined in detail within the acoustic report and based on the use of specific construction materials and glazing; it was assessed that the internal criteria detailed in this Standard will be achieved.
179. In their review of the calculations and proposed attenuation measures, SLR noted that the advice provided in the report appears reasonable for addressing the measured levels of traffic noise, and internal noise levels associated with traffic within each dwelling will be acceptable.

*Music/Patron Noise*

180. Measurements were undertaken to assess music and patron noise on Friday 16 December between 10:20pm and 10:40pm and Sunday 17 December between 1:45am and 2:15am (Saturday night). During these measurements, the Glamorama Bar was holding an event with DJ's playing from 10pm to 5am. Saint Charlie was operational during the measurements conducted on the Friday night and closed on the Saturday.
181. SLR raised concerns with the location of this noise testing, noting that the measurements were undertaken at ground level, and that music noise emissions may also be available via the uncovered outdoor patron area at first-floor. Subsequent testing was undertaken within the venue itself, with these measurements highlighting that additional attenuation measures were required for the fourth-floor bedrooms of Apt. 3.1. SLR reviewed the amended results and was satisfied (in conjunction with the current mitigation measures proposed for the remainder of the façade) that this issue has been addressed to a satisfactory level.
182. With regards to patron noise from the venue to the south, it was noted that since the original noise measurements were undertaken in December 2017, the Cider House has closed for refurbishment and has reopened as Saint Charlie. The details of the original planning permit (No. 000300) include the following restrictions.
- (a) The use must only operate between the following hours;

- (i) Monday to Saturday between 7am and 3am the following day;
  - (ii) Sundays between 10am and 1am the following day;
  - (iii) Good Friday and Anzac Day between 12noon and 1am the following day.
- (b) The number of patrons on-site is restricted to 70 after 1am and all patrons must be seated after this time.
- (c) An external courtyard is located at the rear of this site, with the use of this space restricted after 10pm each night.
183. No maximum patron numbers are outlined on the Planning Permit; however the liquor licence (No. 32223840) specifies a maximum capacity of 290 patrons. There are no requirements on the liquor licence for patron numbers to be reduced to 70 after 1am, or for the external courtyard to be closed at 10pm.
184. Whilst this licence is a late-night (on-premises) licence, it includes the requirement for seating to be provided for at least 75% of patrons, with the predominant activity on the premises to be the preparation and serving of meals. There is no live music permitted.
185. To assess the likely risk of noise impacts from the refurbished bar, noise predictions were conducted based on the following:
- (a) 100 patrons within the rear outdoor area; and,
  - (b) 10 patrons on Brunswick Street;
186. The initial testing indicated that patron noise from Saint Charlie is predicted to comply with the relevant internal patron noise criteria based on the façade sound insulation outlined in Section 5.1 of the acoustic report. In their review, SLR noted that patron noise has been assessed to internal targets of 35 dBA Leq, with the assessment indicating that exceedances of up to 2 dB represent no risk of nuisance to future occupants. SLR did not accept this outcome, stating that a lower noise target of 30 dBA Leq should be provided to bedrooms, and there should be no tolerance of higher noise levels in the design. SLR also questioned the patron sound power level nominated by Clarity (91 dBA Leq) and recommended higher patron noise levels be relied upon, given the proposed use of the venue.
187. In response, Clarity reduced the internal target for bedrooms from 35 dBA Leq to 30 dBA leq (section 3.7) and increased the patron sound power level from 91 dBA Leq to 97 dBA Leq. Both of these changes are generally in line with the recommendations provided by SLR, with the original patron sound power level not considered to adequately address the potential level of noise that may be generated from the venue. SLR undertook indicative calculations using the proposed glazing and the updated design targets and patron noise levels. Based on these revisions, SLR was satisfied that acceptable noise levels would be achieved.

#### *Mechanical plant treatment*

188. Noise from the centralised mechanical plant (including car park doors and car stackers) associated with the proposed development must comply with the SEPP N-1 noise limits. Preliminary mechanical plant selections were provided, with specific recommendations outlined within the report to ensure that no unreasonable impacts would affect future occupants of the building.
- In their review, SLR noted that whilst the location of the noise measurement was not clearly indicated, the results achieved were consistent with those achieved by SLR and the measured levels achieved SEPP N-1 compliance. This outcome was acceptable.
189. The original Acoustic report included recommendations to relocate the air-conditioning units of Apts. 1.1 and 2.1 to the roof top plant platform. The decision plans indicate that this has been done.

#### *Car park treatment*



190. The garage includes two noise sources covered under SEPP N-1; the car stackers and the garage doors. It is proposed to install a Klaus Trendvario 4200 car stacker system and automatic car park entry doors, with the stacking system only able to operate when the external doors are closed. Further clarification of this operating system was provided from Traffic Group, as follows;
- (a) *The doors remain closed at all times, except when the driver physically moves their car in or out of the system.*
  - (b) *The gates are closed when no one is using the system for safety reasons. When the machine is activated, the platforms move around as required and the gates remain closed so no one can enter the system while it is moving. When it is finished moving, the gates open and the driver moves their car in or out of the stacker. When the driver is finished with the car stacker, the gates close again until the next person needs to use the system.*
191. This will ensure that noise levels will be reduced, with the garage door closed whenever the car stacker is operational. Given that each movement takes no longer than 60 seconds (also confirmed by the traffic engineers) this outcome is considered appropriate and is not considered to result in queuing within the adjacent ROW.
192. The acoustic report recommended that the garage doors be constructed of a solid material, with the exception of the top 1200mm, which may be perforated. Further, it is recommended that both the garage doors and the car stackers incorporate appropriate vibration isolation to limit structure-borne noise transfer to the apartments above.
193. Based on these recommendations, maximum noise levels associated with these noise sources were predicted to comply with the 65 dB L<sub>Amax</sub> criteria at all existing residential properties and predicted to comply with the 55 dB L<sub>Amax</sub> internally for residents associated with the development. In this instance, the most affected existing residential site is No. 100 Leicester Street, directly opposite the site on the eastern side of the ROW.
194. SLR reviewed these findings and confirmed that whilst the proposed noise targets were appropriate for the existing dwelling, the targets nominated for the apartments within the development were too high. SLR provided recommended targets of 40 dBA in bedrooms and 45 dBA in living rooms, rather than the 55 dBA proposed. The final Acoustic Report was amended to confirm that the maximum noise levels associated with the stackers were predicted to comply with the more stringent criteria of 40 dBA within the development.
195. Given the close proximity of residential receivers, it was recommended that if a planning permit is to issue, a condition should be incorporated into the permit to ensure that post construction testing demonstrating compliance with both SEPP N-1 and L<sub>max</sub> targets should be undertaken at existing and future dwellings. This condition will be incorporated into any permit issued.
196. A further condition will also ensure that all of the recommended noise attenuation measures outlined in the Clarity Acoustics report (9 July 2018) will be required to be clearly demonstrated on the final plans. On this basis, the provisions of Clause 53.06 (Live music and entertainment noise), Clause 22.05 (Interface Uses Policy) and Standard D16 will be met.

*Standard D17 – Accessibility objective*

197. To ensure the design of dwellings caters for people with limited mobility, the Standard notes that at least 50% of new dwellings should provide;
- (a) *A clear opening width of at least 850mm at the entrance to the dwelling and main bedroom;*
  - (b) *A clear path with a minimum width of 1.2m that connects the dwelling entrance to the main bedroom, an adaptable bathroom and the living area;*
  - (c) *A main bedroom with access to an adaptable bathroom;*

(d) *At least one adaptable bathroom that meets all of the requirements of either Design A or Design B specified in Table D4.*

198. The floor templates indicate that all 7 dwellings will provide a clear opening width of at least 850mm at the entrance to the dwelling and main bedroom, as well as a clear path with a minimum width of 1.2m that connects the dwelling entrance to the main bedroom, an adaptable bathroom and the living area. Further, all bedrooms will have access to an adaptable bathroom.
199. The main bathrooms of all dwellings will comply with either Design Option A or Design Option B requirements of *Table D4 – Bathroom Design* under this Standard.
200. Whilst apartments 3.1 and 3.2 will be split level, the principal habitable rooms, one bedroom and an adaptable bathroom will be located on the lower level of each dwelling. This design will ensure that these dwellings will also meet the Standard.

*Standard D18 – Building entry and circulation*

201. The entrances to the commercial and residential components have been clearly separated, with the retail uses to be accessed via Brunswick Street. The entrance for the dwellings and office tenancies will be located on Leicester Street; this outcome is acceptable, with the residential entrance clearly identifiable and providing a sense of address within this secondary frontage. The Standard is met.

*Standard D19 – Private open space*

202. Of relevance to this development, the dwellings should have access to balconies that meet the dimensions outlined in Table 5 of this Standard. This table specifies that a 2 bedroom dwelling should have access to a balcony with a minimum area of 8sqm and minimum dimension of 2m, with convenient access from a living room, with the balcony dimensions for a 3 bedroom dwelling increasing to 12sqm and 2.4m respectively.
203. All of the dwellings will meet these requirements, with balconies ranging from 8sqm to 36.1sqm, and widths between 2m to 4.7m. Further, all of the balconies will be directly accessed from the main habitable rooms of each dwelling.
204. Air-conditioning units will be located within three balconies; two of these balconies have maximum areas of 8.8sqm. The location of the units will reduce these spaces to 8.36sqm, with no impact on the depth of each balcony. This outcome is acceptable and the Standard is met.

*Standard D20 – Storage*

205. This Standard notes that the following usable and secure storage space should be provided for each dwelling;
- (a) 2 bedroom – a minimum of 14 cubic metres, with 9 cubic metres located within the dwelling;
  - (b) 3 bedrooms – a minimum of 18 cubic metres, with 12 cubic metres located within the dwelling.
206. The floor templates indicate that all of the apartments will exceed these requirements and the Standard will be met.

*Standard D21 – Common property*

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

*Standard D22 – Site services*

208. Site services are located within the Leicester Street frontage, with a generous bin storage room also accessed from this interface. Mailboxes are directly adjacent to the residential entrance. These locations are acceptable and the Standard is met.

*Standard D23 – Waste and recycling*

209. A Waste Management Plan (WMP) was prepared by Waste Audit Consultants and referred to Council's City Works Unit. A number of deficiencies were highlighted within this document and the associated management procedures to be undertaken. These are outlined as follows;
- (a) There is no reference to a hard waste storage area;
  - (b) Dimensions of required bins as well as hard waste area and total area of bin storage room need to be shown to prove the bins will fit and able to be manoeuvred;
  - (c) The waste generation rates must be consistent with those adopted for the City of Yarra;
  - (d) The bins may obstruct the footpath on Leicester St whilst waiting for collection, which is not appropriate;
  - (e) An e-waste to landfill ban will come into effect 01/07/2019. Please detail how e-waste will be separated and disposed of (City of Yarra would not collect this as part of the kerbside collection service, so all waste streams should be collected by a private contractor should be engaged).
210. If a planning permit is to issue, an amended WMP reflecting all of these comments will be required via condition of the permit.

*Standard D24 – Functional layout*

*Bedrooms*

211. This Standard notes that main bedrooms should have a minimum width of 3m and minimum depth of 3.4m, with other bedrooms to be 3m x 3m in dimension. Only one bedroom within the development does not meet this Standard, with dimensions of 2.89m x 3.86m. This is bedroom 2 of Apt. 3.2, and is therefore not a main bedroom for this dwelling. As the lack of compliance is minor, and the generous depth of the bedroom compensates for the non-compliant width, this outcome is acceptable.

*Living areas*

212. This Standard notes that living rooms associated with 2 or more bedroom dwellings should have minimum widths of 3.6m and minimum areas of 12sqm. All of the dwellings meet this Standard.

*Standard D25 – Room depth*

213. Of the 7 dwellings, only two have single-aspect habitable rooms (Apts. 1.1 and 2.1). These dwellings have been designed to meet the following requirements;
- (a) The room combines the living area, dining area and kitchen;
  - (b) The kitchen is located furthest from the window; and,
  - (c) The ceiling heights are 2.7m.
214. The Standard is met.

*Standard D26 – Windows*

215. All habitable rooms within the proposed development contain a window within an external wall to the building, with no reliance on 'borrowed light'.
216. The principal habitable room windows of apts. 1.1 and 1.2 are located beneath a balcony overhang associated with dwellings above, however this outcome is acceptable given the minimal depth of each overhang and the generous size of these windows.
217. One bedroom associated with Apartment 2.3 will be oriented to the internal lightcourt, which has an area of 50sqm. Whilst this open space is substantial in size, the window will be located directly beneath the partially covered section of this lightcourt. Section BB at TP021 (which incorrectly notes this apt. as 2.1) indicates the height of the window will be 1.2m. To ensure that adequate daylight can access this room, the height of the window should be increased to a minimum of 2m. This will be required via a permit condition (as will a corrected Section drawing), if a planning permit is to issue.

*Standard D27 – Natural ventilation*

218. All of the dwellings will allow for natural cross-ventilation opportunities, with the floor templates indicating with the maximum breeze path dimensions will be met. The Standard is achieved.

Off-site amenity

219. The context of the site, being located within a C1Z, with commercially zoned land to the north, south and west, limits potential off-site amenity impacts on surrounding, more sensitive, sites. The only sensitive interface with the subject site is the dwelling directly to the east, at No. 100 Leicester Street. The following assessment will therefore focus on potential amenity impacts to this residential use.

*Daylight to windows*

220. The only habitable room windows (HRW) within proximity to the site are located within this dwelling on the eastern side of the laneway and are separated from the rear boundary of the subject site by 3.6m (width of the ROW). One larger window at ground level in the original section of dwelling is directly opposite the rear boundary of the site; however this window is associated with a bathroom and therefore considered non-habitable for the purposes of this assessment.



Western wall and HRW of No. 100 Leicester Street

221. Further to the south along the laneway are two rows of small highlight windows within the ground and first-floor levels of the addition at the rear of the dwelling. The ground floor windows (five in total) are associated with the kitchen and dining room, with three windows to a bedroom at first-floor. These windows are demonstrated in the image on the previous page.
222. The sketch plans submitted on 19 June 2018 include some minor alterations to wall heights and setbacks associated with the eastern interface of the development. As these plans were submitted to respond to concerns from the occupants of this dwelling, the details shown on the amended plans will be relied upon throughout the assessment below.
223. These sketch plans included the following specific changes with regards to this interface;
- (a) Increased setback of levels 3 & 4 from the eastern boundary from 5.35m to 5.5m;
  - (b) The first-floor wall increased in height from 6.35m to 6.47m on the southern and eastern elevations;
  - (c) The second-floor wall increased in height from 9.55m to 9.67m on the southern and eastern elevations;
224. Whilst it is noted that the amended plans included minor increases in wall heights, this outcome was considered acceptable given the restricted increases proposed, the separation provided by the laneway and the associated increases in setbacks which would reduce visual impacts accordingly.
225. The south-eastern corner of the proposed development is the only section of the new building that will be located directly opposite these windows. The design has responded to this sensitive interface by incorporating balconies and setbacks into this section of the building accordingly. The following built form is proposed directly opposite these windows, with the setback calculations including the 3.6m width of the ROW and the height calculated from the NGL of the ROW;
- (a) Ground level – 3.8m high wall set back 6.2m from the windows;
  - (b) First-floor – 6.47m high wall set back 3.6m from the windows;
  - (c) Second-floor – 9.67m high wall set back 5.7m from the windows;
  - (d) Third floor – 13.8m high wall set back 9.1m from the windows;
  - (e) Fourth-floor – 17.9m high wall set back 9.1m from the windows.

226. Whilst an assessment against Standard B19 (Daylight to existing windows) at Clause 55 of the Scheme is not strictly applicable in this instance, it provides guidance as to whether these windows will be unduly impacted by the proposed development. This Standard notes that walls more than 3m in height opposite a HRW should be set back from the window at least 50% of the height of the new wall.
227. The table below indicates the requirements outlined in this Standard and assesses whether the development will comply with these measures. As the ROW provides an additional degree of separation between the windows and the proposed development, the inclusion of the width of the ROW is considered acceptable.

Wall	Height	Required Setback	Proposed setback	Complies
Ground level	3.8m	1.9m	6.2m	Yes
First-floor	6.47m	3.2m	3.6m	Yes
Second-floor	9.67m	4.8m	5.7m	Yes
Third-floor	13.8m	6.9m	9.1m	Yes
Fourth-floor	17.9m	8.95m	9.1m	Yes

228. As demonstrated, the setbacks proposed for all levels will comply with this Standard. In addition, the Standard notes that *'where the existing window is above ground floor level, the wall height is measured from the floor level of the room containing the window'*. All of the measurements above are based on the windows being located at ground level. This therefore increases the compliance achieved for the first-floor windows, as the most conservative measurement has been assessed.
229. Even though compliance with the Standard is met, there are further considerations that ensure adequate daylight to the associated habitable rooms will be maintained. The floor plans of No. 100 Leicester Street indicate that large south-facing windows are located along the southern wall of this dwelling, addressing an area of private open space. The small highlight windows within the western wall are considered to be secondary light sources to these rooms.
230. As noted, this assessment was based on the sketch plans. To ensure these details are incorporated into the final design, a condition will be added to the planning permit if a permit is to issue. Based on this, it is not considered that the degree of natural daylight available to this dwelling will be unreasonably impacted by the development of the subject site.

#### Overlooking

231. As with above, the only potential overlooking impacts to HRW or SPOS is associated with No. 100 Leicester Street to the east. Standard B22 (Overlooking) at Clause 55, whilst again not strictly applicable to this application, provides guidance as to whether any unreasonable overlooking impacts from the proposed development will occur. This Standard notes that any *'habitable room window, balcony, terrace, deck or patio should be located and designed to avoid direct views into the secluded private open space of an existing dwelling within a horizontal distance of 9m (measured at ground level) of the window, balcony, terrace, deck or patio. Views should be measured within a 45 degree angle from the plane of the window'*.
232. Overlooking diagrams have been provided by the applicant. With regards to the above Standard and based on these drawings, the only overlooking would be associated with the first and second-floor balconies in the south-east corner of the building. Both of these balconies have been screened with 1.7m high solid walls. This meets the requirements outlined in the Standard, and on this basis, no unreasonable overlooking impacts will affect the site to the east.

#### Overshadowing

233. Given the context of the surrounding land, the only potential overshadowing to SPOS will occur in the afternoon, as the shadows move to the east. The amended sketch plans indicate that a small extent of additional overshadowing will fall within the SPOS to the east (No. 100 Leicester Street) at 2pm. Prior to this time, no additional shadows will affect this space. At 3pm, when the existing and proposed shadows are combined, this entire area of SPOS will be in shadow.
234. The amended shadow diagrams are based on the additional setbacks that have been incorporated into the eastern walls at the two upper levels (5.35m to 5.5m). The diagrams outline the area of SPOS that will remain unaffected by shadows (existing and proposed) throughout the day on the equinox between 9am and 3pm, as follows;
- (a) 9am – 47.4sqm;
  - (b) 10am – 55.5sqm;
  - (c) 11am – 57.1sqm;
  - (d) 12 midday – 57.6sqm;
  - (e) 1pm – 52.1sqm;
  - (f) 2pm – 40.2sqm;
  - (g) 3pm – 0sqm.
235. As guidance, Standard B21 (Overshadowing open space) at Clause 55 notes; *‘where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9am and 3pm on 22 September’.*
236. The figures outlined above indicate that this Standard will be met, with in excess of 40sqm of SPOS receiving sunlight between 9am-2pm. The development is therefore not considered to result in unreasonable overshadowing impacts to this SPOS.

#### *Visual bulk*

237. The height and appearance of the proposed development has been discussed previously within this assessment, with the setbacks of the highest levels appropriately set back from all sensitive interfaces to reduce potential visual impacts to surrounding sites. Whilst the height of the proposed wall along the eastern boundary would exceed the requirements of Standard B19 (Walls on boundaries) if a Clause 55 assessment was applicable, the context of the site in a C1Z and the direct abuttal with the laneway allows this additional height to be acceptable. Further, the dwelling to the east of the laneway has a direct abuttal with land in the C1Z, with a number of Tribunal decisions acknowledging that amenity expectations of residents with direct commercial interfaces should be lower than those located solely within residential land.

#### *Noise*

238. The residential component of the proposal is unlikely to result in unacceptable noise emissions to any nearby commercial or residential properties. Furthermore, as the residential use does not require a planning permit, there is no further control that can be applied in regards to the use of dwellings. Similarly, the use of the land for offices, nursery and a café are all ‘as-of-right’ under the C1Z. Based on the context of the land within a C1Z and the nature of existing uses located along Brunswick Street, these uses are not considered to result in unreasonable noise impacts within this environment.
239. All services/plant equipment will be located on the roof. A condition would require that the noise and emissions from plant equipment must comply at all times with the State Environment Protection Policy – *Control of Noise from Commerce, Industry and Trade* (SEPP N1). The potential noise impacts of the garage door to No. 100 Leicester Street has been discussed in detail at paragraphs 186 to 191 of this report.

*Equitable Development*

240. Given the planning controls on the surrounding land and the context of the location, it is anticipated that future development to a similar scale may occur on the site to the south, with this site currently occupied by a double-storey heritage building. Whilst a wall will extend along the shared boundary with this site for the full height of the proposed development, the length of this wall will reduce as the height increases. Further, it is noted that the southern site has a relatively generous depth in comparison to a number of sites further to the south. This depth will allow for northern setbacks to be incorporated into higher levels of any potential development on this site, with boundary to boundary development possible at the lower levels (as proposed on the subject site). This outcome is considered acceptable.

Car parking and traffic

*Car parking*

241. Under the provisions of Clause 52.06-5 of the Yarra Planning Scheme, the development’s parking requirements are as follows:

Use	Bedrooms/ Floor Area	Rate	No. required	No. proposed	Reduction sought
Dwelling	5 x 2 bedroom apartment	1 space per 2 bedroom dwelling	5	9	0
	2 x three- bedrooms or more apartment	2 spaces per 3 bedroom or more dwelling	4		
Office	181sqm	3 spaces per 100sqm of net floor area	5	0	5
Landscape Garden Supplies (Nursery)	173.3sqm	10% of the site area (17sqm)	1	0	1
Food and drink premises (café)	65.3sqm	3.5 spaces to each 100sqm of leasable floor area	2	0	2
<b>Totals</b>			<b>17</b>	<b>9</b>	<b>8</b>

242. Based on the above, the development meets the statutory car parking rate associated with the dwelling use, with a parking shortfall of 5 office spaces, 1 space associated with the nursery and 2 with the café. Before a requirement for car parking is reduced, the applicant must satisfy the Responsible Authority that the provision of car parking is justified having regard to the assessment requirements of Clause 52.06-6.

*Availability of Car Parking.*

243. The subject site is located within an area containing predominantly time-restricted car parking, with periods ranging from ¼ hour to 4 hours. Within the residential neighbourhood to the east, a large proportion of parking is restricted by permits, with ticketed parking (restricted to 2 hours) extending along both sides of Brunswick Street.



244. There are currently four car parking spaces provided along the Leicester Street frontage of the site; these will not be impacted by the development or the widening of the existing vehicle crossover. There is no existing car parking allowed along the Brunswick Street frontage, given the location of the tram stop immediately in front of the site. This also will not alter.
245. To ascertain parking availability within the surrounding area, Traffix Group undertook a parking occupancy survey on Thursday 28 July 2016 at 11:00am. The survey area encompassed sections of Brunswick Street, Fitzroy Street, Young Street, Rose Street, Leicester Street and Westgarth Street. The time and extent of the survey was considered appropriate by Council Engineers.
246. A parking inventory of 209 publicly available parking spaces was identified, with 57 of these spaces vacant. This equates to an occupancy rate of 73%, which indicates that parking was in moderate demand. This data suggests that short-stay parking overflow from the site could be accommodated on-street.

*Parking Demand for Office Use.*

247. Parking associated with office type developments is generally long-stay parking for employees and short-term parking. In practice, the parking demand generated by the office is expected to be lower than the statutory parking rate of 3.5 spaces per 100sqm of floor space, since the area has very good access to public transport services. Council's Engineers highlighted that Council often approves small scale office developments with no on-site car parking. This is based largely on the inner-city location of these offices and the proximity they have to public transport. The proposed office has a similar context and the provision of no on-site parking for the proposed office use is considered appropriate.

*Parking Demand for Cafe*

248. It is anticipated that café customers would be drawn from employees of the office, nearby workplaces and local residents. It is unlikely that the proposed café would be a specific destination in its own right. Employees would be aware with the scarcity of long-stay parking in the surrounding area and would choose to commute to the site by alternative transportation modes.

*Parking Demand for Nursery Use*

249. The plant nursery use has a parking shortfall of one space. This space would be accommodated on-street, assuming the site is operating at peak capacity. The existing nursery, which encompasses a large area than proposed, does not provide any on-site car parking spaces.

*Appropriateness of Providing Fewer Spaces than the Likely Parking Demand*

250. The additional reduction in car parking being sought by the proposal is supported by the following:
- (a) The site is located within an area which consists of a number of retail, entertainment and commercial premises, with the majority of these uses offering no on-site car parking provision;
  - (b) Visitors to the site might combine their visit by engaging in other activities or business whilst in the area;
  - (c) A tram stop is located directly in front of the site, with additional tram services operating along Smith Street and Nicholson Street. The site is also within walking distance of bus services operating along Johnston Street and Alexandra Parade;
  - (d) The site has good connectivity to the on-road bicycle network, with a generous amount of on-site bicycle parking spaces proposed;

- (e) It is considered that the café would heavily rely on walk-up trade. Pedestrians in the area and employees at local businesses would account for the majority of patrons to the cafe throughout the day;
- (f) The lack of opportunities to park on-street in the surrounding area would be a disincentive for employees to commute to work by car, with the short-term parking restrictions allowing café patrons and nursery customers to park for limited periods if necessary;
- (g) The proposed development is considered to be in line with the objectives contained in Council's *Strategic Transport Statement*. The site is ideally located with regard to sustainable transport alternatives and the reduced provision of on-site car parking would potentially discourage private motor vehicle ownership and use.
- (h) A Flexicar car share pod is located in Westgarth Street, approximately 80m north of the site.
- (i) Practice Note 22 – *Using the Car Parking Provisions* indicates that car parking should be considered on a centre-basis rather than on a site/individual basis. This is applicable to activity centres, such as Brunswick Street, where spare on-street car parking capacity would be shared amongst sites within the activity centre.

251. The reduction in the car parking requirement associated with the office, nursery and café uses is considered appropriate in the context of the development and the surrounding area.

#### *Car park access and layout*

252. The proposed car parking layout and access was assessed by Council's Traffic Engineers, who confirmed that the entranceway and headroom clearance was satisfactory and met all relevant standards and guidelines, and the dimensions of the garage were suitable for the type of car stacking system proposed.

253. Swept path diagrams were submitted, which demonstrated that entering and exiting the car stackers is satisfactory for the B85 design vehicle. In some instances, a correctional movement would be required, however this is permissible under AS/NZS 2890.1:2004 and supported by Council Engineers. As all of the car parking spaces are allocated to the dwellings, users of the car stackers will become accustomed to the manoeuvres required to access this space.

254. The following recommendations were included in the Engineering advice;

- (a) The provision of a convex mirror at the car park entrance to improve sight lines to the west;
- (b) The setback area (inside the property) should be constructed in a different material to the bluestone ROW;
- (c) The finished floor levels along the edge of the slab must be set 40mm above the edge of the ROW.

255. The last two suggestions have been incorporated into the amended sketch plans. A condition will ensure they are maintained in the final plans, along with the provision of a convex mirror, if a permit is to issue.

256. The development proposes to increase the width of the existing crossover associated with the ROW, to result in a 6.2m wide crossing at the Leicester Street entrance to the ROW. These works are acceptable, with further approval from Council's Local Laws. A permit condition will ensure that these works are undertaken to Council's satisfaction, if a permit is to issue.

#### *Bicycle parking*

257. The proposal generates a demand of 3 statutory spaces and provides a total of 16 spaces, thereby exceeding the requirement outlined at clause 52.34 of the Scheme. Bicycle parking spaces are proposed in an internal bike store accessed from the pedestrian entrance along Leicester Street, with a mixture of wall mounted and horizontal spaces provided. The provision of hanging and horizontal spaces accords with the requirements of AS2890.3-2015, with Clause 2.1(e) of this Standard noting that a minimum of 20% of the bicycle spaces must be provided in the form of horizontal rails. In addition, shower, change and locker facilities are proposed at level 1 for use by the office tenancies. These outcomes are supported.

#### *Traffic*

258. Given the allocation of all on-site car parking spaces to the dwellings, any traffic generated by the site will be restricted to the residential use. Traffix Group estimated that each dwelling could be expected to generate traffic of a rate of 5 trips per dwelling, per day. With 7 dwellings proposed, this results in an estimate of 35 car trips per day, with approximately 3.5 trips per hour during the AM and PM peak.
259. This level of traffic is considered to be low, and it is unlikely that the traffic associated with the development would have a discernible impact upon traffic levels in Leicester Street or Brunswick Street. The primary use of the ROW used to access the garage is for vehicles, with no principal access for pedestrians to any adjacent dwelling provided from this interface. Increased use of the laneway by vehicle traffic is therefore considered reasonable, with this outcome supported Council's Traffic Engineers.

#### *Loading and unloading*

260. There is no provision for on-site loading; this is similar to existing conditions. There is a loading zone directly to the south of the site, on Brunswick Street, with ¼ hour restricted car parking directly in front of the Leicester Street boundary. This will provide acceptable loading and unloading opportunities for the café and nursery uses proposed on the land.

#### Other Matters

261. It is noted that a section of the southern boundary wall to be demolished is shown within the site to the south (No. 286 Brunswick Street). If a planning permit is to issue, a condition will specify that all works must be maintained within the title boundaries.

#### Objector Concerns

262. *Height/massing of proposed development;*

- (a) The height and scale of the proposed development have been discussed within paragraphs 95 to 108 of this assessment.

263. *Heritage issues and lack of integration with neighbourhood character;*

- (a) Heritage matters have been discussed at paragraphs 109 to 123 of this report, with the neighbourhood context addressed within paragraphs 95 to 101.

264. *Potential off-site amenity impacts (Loss of views and natural daylight, overlooking, noise etc.);*

- (a) All potential off-site amenity impacts have been discussed at paragraphs 219 to 239 of this assessment.

265. *Noise concerns (including 'agent of change' issues with noise from entertainment venues (internal amenity and impacts on existing venues) and noise impacts from car stackers and garage location;*

- (a) All noise issues have been discussed in depth from paragraphs 170 to 196 of this report.

266. *Reduction in property values;*

- (a) The impact on surrounding property values is not a planning matter and cannot be discussed as part of this assessment.

267. *Loss of original nursery on the site;*

- (a) The development proposes to maintain a nursery on the land. Irrespective of this, as all of the proposed uses are 'as-of-right' in the C1Z, there are no planning controls to restrict the uses proposed.

268. *Waste management issues;*

- (a) The management of waste has been addressed in Standard B23 at paragraph 209 of this assessment.

269. *Reduction in car parking;*

- (a) Car parking issues have been discussed within paragraphs 241 to 260 of this report..

## **Conclusion**

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

## **RECOMMENDATION**

That having considered all objections and relevant planning documents, the Committee resolves to issue a Notice of Decision to Grant a Permit (PLN17/0941) for part demolition and development of the land for the construction of a mixed-use building, and a reduction in the statutory car parking requirement at 390-394 Brunswick Street, Fitzroy subject to the following conditions:

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans, prepared by Clare Cousins Architects, dated 18/10/2017 (TP001, TP002, TP004, TP006, TP011, TP012, TP017, TP018, TP020-T031 inclusive) , and plans dated 30/01/2018 (TP003, TP005, TP008, TP010, TP013, TP016, TP019, TP032) but amended to include:
  - (a) All details as shown in the sketch plans (received by Council 19 June 2018) as follows;
    - (i) Increased setback of the third & fourth-floors from the eastern boundary from 5.35m to 5.5m;
    - (ii) The first-floor wall increased in height from 6.35m to 6.47m;
    - (iii) The second-floor wall increased in height from 9.55m to 9.67m;
    - (iv) Reduction in building height from 18.1m to 17.9m (not including roof-top plant platform);
    - (v) Details of the sun-shading devices to the north and west-facing windows at all levels;

- (vi) Alterations to the design of the nursery entrance on the site's north-west corner, including the addition of a garden bed and modifications to the extent of services and glazing within the northern wall;
  - (vii) The replacement shop window at ground level to be of Victorian style and constructed of timber;
  - (viii) The replacement first-floor windows to match the thickness of the existing window frames;
  - (ix) The verandah roofing to be unpainted galvanised, corrugated Heritage Grade Z600 steel;
  - (x) The existing façade to be painted beige, with the timber window frames and door joinery finished in 'Indian red';
  - (xi) A convex mirror to be located at the car park entrance to improve sight lines to the west;
  - (xii) The proposed eastern setback in front of the ground floor garage to be constructed in a different material to the bluestone ROW;
  - (xiii) The finished floor levels along the edge of the garage slab to be set 40mm above the edge of the ROW.
- (b) All demolition works located within the title boundaries;
  - (c) Additional provision for landscaping on the northern wall of the development, with any alterations required by the Landscape Management Plan at Condition 7;
  - (d) A notation on the first and second-floor plans and amended sections confirming that all windows addressing the internal lightwell have restricted operability;
  - (e) The bedroom window associated with Apartment 2.3 addressing the internal lightcourt to be increased in depth to a minimum of 2m, with Section BB at TP021 amended accordingly;
  - (f) The addition of vertical/horizontal lines to the southern boundary wall at third and fourth floors to provide greater visual interest;
  - (g) A notation confirming that organic waste storage will be provided;
  - (h) Any alterations to the development required by the updated Sustainable Management Plan at Condition 3.
2. The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. Before the development commences, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Management Plan will be endorsed and will form part of this permit. The amended Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by Ark Resources and dated 24 October 2017, but modified to include or show:
- (a) A JV3 energy modelling report, demonstrating that the 10% energy efficiency target will be achieved;
  - (b) The provision of electric bicycle charging facilities;
  - (c) An external clothes drying rack for each dwelling;
  - (d) A total of 16 bicycles;
  - (e) Details of the organic waste system/storage;
  - (f) That the dwellings will not exceed the maximum NatHERS annual cooling load specified (30MJ/m<sup>2</sup> per annum) for Climate Zone 21 (Melbourne).
4. The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

5. Prior to occupation of the development, an Acoustic Report to the satisfaction of the Responsible Authority must be prepared by a suitably qualified acoustic engineer and must be submitted to and approved by the Responsible Authority. When approved, the Acoustic Report will be endorsed and will form part of this permit.

The Acoustic Report must demonstrate compliance of the car stackers with both SEPP N-1 and to sleep disturbance targets at existing residences and within the proposed development.

6. The provisions, recommendations and requirements of the endorsed Acoustic Report, prepared by Clarity Acoustics and dated 9 July 2018, must be implemented and complied with to the satisfaction of the Responsible Authority.
7. Before the development commences, a Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Landscape Plan will be endorsed and will form part of this permit. The Landscape Plan must:
  - (a) indicate additional areas of landscaping/vegetation on the development's northern wall;
  - (b) show the type, location, quantity, height at maturity and botanical names of all proposed plants; and
  - (c) provide a specification of works to be undertaken prior to planting, to the satisfaction of the Responsible Authority.
8. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:
  - (a) implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
  - (b) not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
  - (c) replacing any dead, diseased, dying or damaged plants, to the satisfaction of the Responsible Authority.
9. Before the development commences, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Waste Management Plan will be endorsed and will form part of this permit. The amended Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by Waste Audit Consultants and dated September 2017, but modified to include:
  - (a) references to the hard waste storage area;
  - (b) Dimensions of bins, the hard waste area and total area of bin storage room in order to confirm that all bins will fit and able to be manoeuvred;
  - (c) Details of the organic waste system/storage;
  - (d) The waste generation rates must be consistent with those adopted for the City of Yarra;
  - (e) How the bins will be collected from Leicester Street without obstructing the footpath;
  - (f) Details on how e-waste will be separated and disposed of.
10. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
11. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated (including the reconstruction of the footpath immediately outside the property's Brunswick Street and Leicester Street road frontages if required by the Responsible Authority):
  - (a) at the permit holder's cost,
  - (b) to the satisfaction of the Responsible Authority.

12. Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.
13. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the car park and pedestrian entrances must be provided within the property boundary. Lighting must be:
  - (a) located;
  - (b) directed;
  - (c) shielded; and
  - (d) of limited intensity,to the satisfaction of the Responsible Authority.
14. 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.
15. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
16. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the car stackers must be installed in accordance with the manufacturer's specifications by a suitably qualified person. The car stackers must be maintained thereafter to the satisfaction of the Responsible Authority.
17. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
18. Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:
  - (a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
  - (b) works necessary to protect road and other infrastructure;
  - (c) remediation of any damage to road and other infrastructure;
  - (d) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land;
  - (e) facilities for vehicle washing, which must be located on the land;
  - (f) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
  - (g) site security;
  - (h) management of any environmental hazards including, but not limited to,:
    - (i) contaminated soil;
    - (ii) materials and waste;
    - (iii) dust;
    - (iv) stormwater contamination from run-off and wash-waters;
    - (v) sediment from the land on roads;
    - (vi) washing of concrete trucks and other vehicles and machinery; and
    - (vii) spillage from refuelling cranes and other vehicles and machinery;
  - (i) the construction program;
  - (j) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
  - (k) parking facilities for construction workers;

- (l) measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;
  - (m) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
  - (n) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced;
  - (o) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads;
  - (p) a Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with Noise Control Guideline 12 for Construction (Publication 1254) as issued by the Environment Protection Authority in October 2008. The Noise and Vibration Management Plan must be prepared to the satisfaction of the Responsible Authority.  
In preparing the Noise and Vibration Management Plan, consideration must be given to:
    - (i) using lower noise work practice and equipment;
    - (ii) the suitability of the land for the use of an electric crane;
    - (iii) silencing all mechanical plant by the best practical means using current technology;
    - (iv) fitting pneumatic tools with an effective silencer;
    - (v) other relevant considerations.
19. During the construction:
- (a) any stormwater discharged into the stormwater drainage system must be in compliance with Environment Protection Authority guidelines;
  - (b) stormwater drainage system protection measures must be installed as required to ensure that no solid waste, sediment, sand, soil, clay or stones from the land enters the stormwater drainage system;
  - (c) vehicle borne material must not accumulate on the roads abutting the land;
  - (d) the cleaning of machinery and equipment must take place on the land and not on adjacent footpaths or roads; and
  - (e) all litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly.
20. The provisions, recommendations and requirements of the endorsed Construction Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
21. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
- (a) Monday-Friday (excluding public holidays) before 7 am or after 6 pm;
  - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm;
  - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.
22. This permit will expire if:
- (a) the development is not commenced within two years of the date of this permit; or
  - (b) the development is not completed within four years of the date of this permit.

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

Notes:

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



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

Provision must be made for drainage of the site to a legal point of discharge. Please contact Council's Building Services on 9205 5585 for further information.

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

These premises will be required to comply with the Food Act 1984. The use must not commence until registration, or other approval, has been granted by Council's Health Protection Unit.

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

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

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

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

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:** Lara Fiscalini  
**TITLE:** Senior Statutory Planner  
**TEL:** 9205 5372

### **Attachments**

- 1 PLN17/0941 - 390-394 Brunswick Street, Fitzroy - Floor plans and elevations
- 2 PLN17/0941 - 390-394 Brunswick Street, Fitzroy - Shadow diagrams
- 3 PLN17/0941 - 390-394 Brunswick Street, Fitzroy - Detailed shadow diagrams including Brunswick Street
- 4 PLN17/0941 - 390-394 Brunswick Street, Fitzroy - Sketch plans
- 5 PLN17/0941 - 390-394 Brunswick Street, Fitzroy - Colour renders and floor plans
- 6 PLN17/0941 - 390 - 394 Brunswick Street Fitzroy - Heritage advice
- 7 PLN17/0941 - 390-394 Brunswick Street, Fitzroy - Urban Design comments
- 8 PLN17/0941 - 390-394 Brunswick St Fitzroy - SLR Acoustic comments
- 9 PLN17/0941 - 390 - 394 Brunswick Street Fitzroy - Engineering comments
- 10 PLN17/0941 - 390-394 Brunswick Street, Fitzroy - ESD Referral comments
- 11 PLN17/0941 - 390-394 Brunswick Street - Waste Management Referral comments
- 12 PLN17/0941 - 390-394 Brunswick Street , Fitzroy- Supplementary SLR Acoustic comments

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- 1.2 PLN17/1113 - 81-89 Queens Parade Fitzroy North - Construction of an eight (8) storey building (plus basement levels), use part of land for a residential hotel (serviced apartments), alteration of access to Road Zone (Category 1), reduction in the car parking requirements associated with a residential hotel (serviced apartments), supermarket and offices (permit not required for supermarket or office uses).**
- 

## **Executive Summary**

### **Purpose**

1. This report provides an assessment of planning permit application PLN17/1113 which affects land at 81-89 Queens Parade, Fitzroy North.

### **Key Planning Considerations**

2. Key planning considerations include:
  - (a) clause 22.05 – Interface uses policy;
  - (b) clause 22.10 – Built form and design policy;
  - (c) clause 22.16 – Stormwater management (water sensitive urban design);
  - (d) clause 22.17 – Environmentally sustainable development;
  - (e) clause 34.02 – Commercial 2 Zone;
  - (f) clause 43.02 – Design and Development Overlay
  - (g) clause 44.05 - Special Building Overlay;
  - (h) clause 52.06 – Car parking; and
  - (i) clause 52.34 – Bicycle facilities.

### **Key Issues**

3. The key issues for Council in considering the proposal relate to:
  - (a) buildings and works;
  - (b) off-site amenity;
  - (c) on-site amenity and ESD;
  - (d) car parking and traffic;
  - (e) bicycle parking;
  - (f) waste; and
  - (g) objector concerns.

### **Submissions Received**

4. A total of sixteen (16) objections were received to the application, these can be summarised as:
  - (a) The proposal is an overdevelopment and is not responsive to neighbourhood character and heritage;
  - (b) Excessive visual bulk, height and scale;
  - (c) Lack of permanent dwellings;
  - (d) Overshadowing to the public realm and adjoining properties;
  - (e) Inadequate car parking and loading of vehicles and increased traffic;
  - (f) Pedestrian safety concerns with regards to increased traffic and number of crossovers; and
  - (g) Loss of amenity from increased noise for proposed uses.

### **VCAT Proceedings**

5. The applicant lodged a Section 79 Failure to Grant a Permit appeal with the Victorian Civil and Administration Tribunal on the 10 July 2018. A compulsory conference is scheduled 21 September 2018 and a subsequent 3 day hearing date is scheduled to start 26 November 2018.

### **Conclusion**

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

**CONTACT OFFICER:** Shannon McCaughey  
**TITLE:** Principal Planner  
**TEL:** 9205 5046

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- 1.2 PLN17/1113 - 81-89 Queens Parade Fitzroy North - Construction of an eight (8) storey building (plus basement levels), use part of land for a residential hotel (serviced apartments), alteration of access to Road Zone (Category 1), reduction in the car parking requirements associated with a residential hotel (serviced apartments), supermarket and offices (permit not required for supermarket or office uses).**
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Trim Record Number: D18/140950

Responsible Officer: Senior Coordinator Statutory Planning

<b>Proposal:</b>	Construction of an eight (8) storey building (plus basement levels), use part of the land for a residential hotel (serviced apartments), alteration of access to a Road Zone (category 1), reduction in the car parking requirements associated with a residential hotel (serviced apartments), supermarket and offices (permit not required for supermarket or office uses).
<b>Existing use:</b>	Warehouses
<b>Applicant:</b>	81-89 Queens Parade Pty Ltd
<b>Zoning / Overlays:</b>	Commercial 2 Zone, Special Building Overlay and Development Design Overlay – Schedule 20
<b>Date of Application:</b>	20 December 2017
<b>Application Number:</b>	PLN17/1113

### Planning History

7. The relevant planning history on Council's files include:
- (a) Planning Permit Application PL09/0470 for advertising signage was lodged in 2009 but no permit was granted and the application subsequently lapsed.

### Background

8. The application was lodged on the 20 December 2017 and further information was subsequently requested on the 16 January 2018. A response to the request for further information was received on the 16 February 2018. The further information provided by the applicant was found to be insufficient and a second request for further information was sent to the applicant on the 02 March 2018. Further information was received on the 13 March 2018 and the application was advertised.
9. A total of sixteen (16) objections were received as a result of advertising. A consultation meeting was held on the 14 June 2018. Planning Officers, Councillors (Cr Misha Coleman, Cr Jackie Fristacky and Cr Mike McEvoy), the applicant and a number of objectors were present.
10. The applicant lodged a Section 79 Failure to Grant a Permit appeal with Victorian Civil and Administration Tribunal on the 10 July 2018. A compulsory conference is scheduled 21 September 2018 and a subsequent 3 day hearing date is scheduled to start 26 November 2018.
11. At the time of the lodgement of the Section 79 appeal, concerns and key issues required to be addressed by the applicant related to daylight to the serviced apartments and Melbourne Water's request for further information relating to the location of its main drain. In addition, Council officers also raised concerns of overshadowing to the Commercial 2 zoned properties fronting Alexandra Parade to the south of the subject property.

12. Following discussions with the permit applicant, Melbourne Water, pursuant to Section 56(1) of the *Planning and Environment Act 1987*, advised Council that they do not object to the proposal subject to conditions.

#### Lodgement of sketch plans

13. The applicant responded to an ESD Assessment from Council officers dated 19th April and the design was subsequently reviewed. Proposed amendments to the layout to reduce the number of bedrooms with borrowed light and the provision of greater general access to daylight were submitted to Council on the 27 July 2018. The submission included sketch plans and an updated Sustainable Management Plan (SMP) produced by AMP Consulting.
14. Compared to the previous design, the amended design delivers improvement in daylight amenity for twenty-three (23) bedrooms across four (4) different levels.
15. The amended design improves natural ventilation by replacing 1 bedroom units with studio units. The studio units include sliding doors that open onto balconies. This improvement in natural ventilation applies to 16 bedrooms across 4 different levels.

### **The Proposal**

16. The application is for the construction of an eight (8) storey building (plus basement levels), use part of the land for a residential hotel (serviced apartments), alteration of access to a Road Zone (category 1), reduction in the car parking requirements associated with a residential hotel (serviced apartments), supermarket and offices (permit not required for supermarket or office uses). More specifically:

#### Buildings and works

- (a) Demolition all existing buildings and removal of the two trees within the boundaries of the site (no permit required).
- (b) The construction of an eight (8) storey building over basement level car parking with vehicle access from the Queens Parade service lane and additional service access from George Street.
- (c) The existing crossover to the Queens Parade service lane will be modified to suit the basement ramp.
- (d) The existing crossover to George Street will be slightly widened on the north side to allow for two way access.

#### Layout

17. The proposal is for an eight (8) - storey (34.8m high) mixed use development comprising:
  - (a) Eight (8) storey building with 2 levels of basement car parking. The basement car park is accessed via the north-west corner of the site from the Queens Parade service road.
  - (b) At ground level a 1,732m<sup>2</sup> supermarket with frontage to George Street and the rear laneway widen to accommodate loading facilities. The supermarket has a total leasable floor area of 1732m<sup>2</sup> including access and back of house (BOH) areas.
  - (c) At ground level on the Queens Parade frontage, there are 2 centrally located entries, one forming a lobby for the office use at levels 5 to 7 and the other for the serviced apartments on levels 1 to 4.
  - (d) Levels 1 to 4 inclusive are dedicated to serviced apartments, providing a range of studio and 2-bedroom units (110 in total). The apartments are arranged around the perimeter of the building with gym, conference room etc located centrally around the lift and stair core. Each apartment is provided with outward facing balcony.
  - (e) Levels 5 to 7 inclusive are dedicated office spaces with perimeter balconies and services located centrally around the lift/ stair core. Offices located at Levels 5-7 have a net floor area of 4074m<sup>2</sup>.

### Basement Levels 1 & 2

18. The basement comprises two levels with a total of 153 car spaces. Provision is also made for waste enclosures, storage rooms and bicycle spaces at Basement Level 1.
19. A central core lift core will provide access from the basement to the ground floor lobbies and the office and serviced apartment floor levels. An additional lift and escalator will provide separate access to the supermarket from Basement Level 1 where supermarket parking is provided.

### Setbacks

20. The proposal is built to its George Street frontage and the western boundary at ground level. Along its Queens Parade frontage the ground level is setback 3m, and from its southern rear boundary it is setback 3.98m to facilitate widening of the existing laneway.
21. At levels 1-6 the proposal is setback 4.5m from the western boundary. At level 5 the setbacks increase to a minimum 7.1m to Queens Parade, minimum 5m from George Street, and between 6.2 and 15m from the south boundary.
22. Level 7 is increasingly recessed being setback in excess of 20m and 17m from the Queens Parade and Alexandra Parade respectively.



*View from Queens Parade, artist impression*

23. The roof top contains a lift overrun, solar panels and plant equipment which are sited towards the centre of the building and screened, with significant setbacks that make the them only visible from distant oblique views.

### Landscaping

24. The proposal includes a green façade consisting of deciduous vines. Landscaped terraces for office use are to be provided at Levels 5 and 7.

### Car parking and bicycle parking

25. The basement will comprise two levels with a total of 153 car spaces including 57 office spaces, 33 serviced apartment spaces (at Basement Level 2) and 63 supermarket spaces (at Basement Level 1). Provision is also made for 58 bicycle spaces at Basement Level 1.



26. A further 14 bicycle parking spaces will be provided at ground level along the northern frontage of the site at ground level. The total bicycle parking provision is 72 spaces.

### Colours and materials

27. Materials and finishes include a combination of red brick, clear glazing, black steel, timber batten soffits and cladding and white concrete exposed aggregate

### **Existing Conditions**

#### Subject Site

28. The subject site is located on the south-west corner of Queens Parade and George Street in Fitzroy North. The site has a frontage of 54.5m to Queens Parade and a frontage of 86.6m to George Street, yielding an area of approximately 3,254m<sup>2</sup>.
29. The site is currently developed with a series of single storey warehouse buildings. Vehicular access is provided via George Street and via the slip lane along Queens Parade.



#### Surrounding Land

30. The site is within a unique pocket of Fitzroy North, being located within a Commercial 2 Zone, with a Public Park and recreation zone further west. Queens Parade (north), Alexandra Parade (south) and George Street (east) are all Road Zones (Category 1). North of Queens Parade are a number of zones, including Mixed Use, General and Neighbourhood Residential. To the east is a Public Use Zone (Schedule 1 – Service and Utility).
31. To the west of the subject site, also fronting Queens Parade, is a part 1 part 2 storey building used as a personal training studio. Further west is a single storey commercial/industrial building and further west are two (2) single storey, Victorian era dwellings (assumed non-conforming use rights). South of these dwellings and fronting Napier Street, is a row of single and double storey dwellings. Napier Street does not provide vehicular access at the southern end to Alexandra Parade.
32. To the north of the subject site, is the Queens Parade service lane. Queens Parade itself is a 60m wide road, consisting of a service lane on the northern and southern side, 2 lanes of 2-way traffic, pedestrian footpaths and an avenue of street trees. On the opposite side of the road is a 5-storey apartment development at 86 Queens Parade.



*Looking north east along Queens Parade*

33. To the east of the subject site, across George Street, is the Council depot or the former Gas and Fuel site. The depot is developed with a range of buildings and includes open areas for building/material storage. The subject site forms part of the greater North Fitzroy Gasworks Precinct under the Urban Design Framework prepared and adopted by Yarra City Council. The Precinct is generally bound by Queens Parade, Alexandra Parade and Smith Street. Further east is an open air car park, with a double-storey building and a single storey office building further south along Smith Street.



*Looking north east along Queens Parade*

34. To the south of the subject site, across a ROW is the side of a single storey workshop fronting George Street. To the south-west (also across the ROW) is the rear of single storey, Victorian era dwellings that front Alexandra Parade.



*Terraces with frontage to Alexandra Parade*

35. On the opposite side of the laneway is 161-177 Alexandra Parade, all are attached single storey attached terraces except for 175-177 Alexandra Parade, which is a 2 storey commercial premises sited on the corner of Alexandra Parade and George Street.



*Looking south along George Street, Gasworks opposite*



36. Queens Parade and George Street present a significant barrier to pedestrian and cyclist connectivity to the site from the north and from the east. The nearest pedestrian crossing to access the site from the north is at Smith Street. The existing footpath along George Street is very narrow and includes street light poles which further limit the effective width of the footpath
37. Queens Parade includes a bicycle lane, however this ends at George Street and cyclists must merge across two lanes of traffic to continue along Queens Parade to access the site.
38. The site is well serviced by public transport, with a bus route servicing Queens Parade and a tram route servicing Brunswick Street (approx. 450m to the west).

## Planning Scheme Provisions

### Zoning

#### *Commercial 2 Zone*

39. Under clause 34.02-1 of the Yarra Planning Scheme [**the Scheme**], the use of the land as an office and supermarket is a section 1, permit not required use (the supermarket meets the conditions that the leasable floor area is less than 1,800m<sup>2</sup> and the site adjoins a Road Zone [Queens Parade] and the site is within the urban growth boundary in Metropolitan Melbourne). Under the same clause, the use of the land for a residential hotel (serviced apartments) is a section 2, permit required use)
40. Under clause 34.02-4 of the Scheme, a permit is required to construct a building or construct or carry out works. An application for building and works under this zone is exempt from third party notice and appeal rights.

### Overlays

#### *Development Design Overlay – Schedule 20*

41. A permit is required under clause 43.02 of the Scheme to construct a building or to construct or carry out works.
42. Development Design Overlay – Schedule 20 (DDO20) introduces built form controls on an interim basis. The *Queens Parade, Clifton Hill, Built Form Review, 2017* provides the strategic basis for the built form controls. The interim controls will be in place while Amendment C231 which seeks to apply the controls on a permanent basis undergoes the planning scheme amendment process, including public notification.
43. *The general design objectives of the Development Design Overlay – Schedule 20:*
  - (a) *To recognise and respond to the distinct character, heritage streetscape and varying development opportunities defined by the four precincts along Queens Parade.*
  - (b) *To support a new mid-rise character behind a consistent street wall in precincts 2-5.*
  - (c) *To ensure development respects the architectural form and qualities of heritage buildings and streetscapes and maintains the visual prominence of the St John the Baptist church belfry and spire, the former ANZ Bank building, the former United Kingdom Hotel and the former Clifton Motors garage.*
  - (d) *To ensure new development responds to the grand, tree-lined boulevard character of Queens Parade.*
  - (e) *To ensure that the overall scale and form of new buildings provides a suitable transition to low scale residential areas and protects these properties from unreasonable loss of amenity through visual bulk, overlooking and overshadowing.*
44. In addition to the general design objectives, the following precinct specific design requirements apply:

- (a) *Not diminish or detract from the heritage values of the boulevard streetscape, the heritage street wall and the heritage trees along Queens Parade;*
- (b) *Deliver an appropriate interface arrangement to neighbouring properties and minimise visual bulk and mass when viewed from the adjoining properties;*
- (c) *Avoid a repetitive stepped form within the 45 degree angle profile;*
- (d) *Maintain the prominence of heritage buildings along Napier Street when viewed from Napier Reserve;*
- (e) *Be appropriately setback at upper levels from the heritage buildings along Napier Street;*
- (f) *Provide an appropriate transition in scale from the heritage buildings along Napier Street and Alexandra Parade;*
- (g) *Provide vehicular access from laneways; and*
- (h) *Provide building separation to reduce visual bulk.*

45. The DDO20 applies to land in five precincts along Brunswick Street and Queens Parade, Fitzroy North and Clifton Hill between Alexandra Parade and Hoddle Street. The subject site at 81 – 89 Queens Parade is located within the proposed Precinct 2C.

**Table 2 – Street wall height, building height and setbacks for Precincts 2C and 2D**

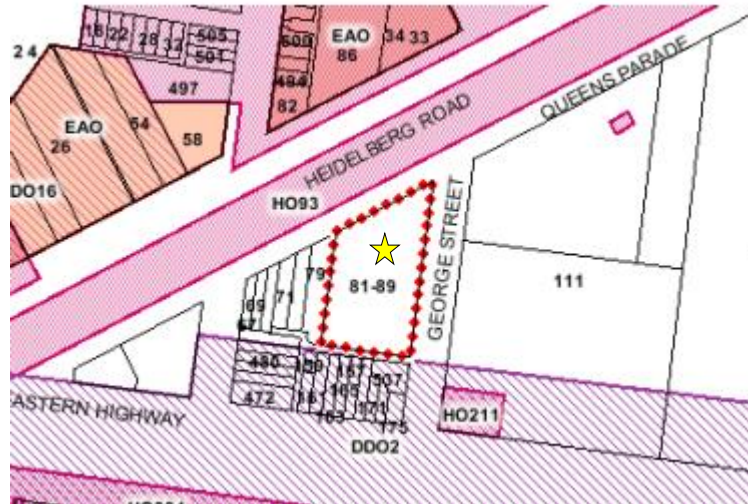
<b>Built form</b>	<b>Mandatory requirement</b>	<b>Preferred requirement</b>
<b>Precinct 2C</b>		
Building height		Maximum 28 metres
Front street wall height		Development on Napier Street should not exceed the parapet height of the adjoining heritage buildings. Maximum 18 metres for development on Queens Parade, George Street and
<b>Precinct 2D</b>		
		Alexandra Parade
Upper level setback		Minimum 5 metres
Setback(s) from boundary of 472 to 484 Napier Street		Setback within a 45 degree angle line measured from 18 metres.
Side and rear setbacks		ResCode B17
<b>Precinct 2D</b>		
Building height		Maximum 18 metres
Front street wall height	Retain existing parapet height	
Upper level setback	Minimum 6 metres	

*Special Building Overlay*

46. A permit is required under clause 44.05-1 of the Scheme to construct a building or to construct or carry out works. Melbourne Water is a Section 55 Referral Authority under this Overlay (Determining Referral Authority). Further, an application for building and works under this overlay is exempt from third party notice and appeal rights.

*Heritage Overlay*

47. While the site is not affected by a Heritage Overlay, it is noted that Heritage Overlays both about the site, and are within close proximity to the site as follows:



Subject site = ★

48. These Heritage Overlays include the following:
- (a) HO93 – Queens Parade, Between Alexandra Parade and Delbridge Street Clifton Hill/North Fitzroy – tree controls apply; and
  - (b) HO221 – 370-374 Queens Parade, North Fitzroy – ANZ bank (included on the Victorian Heritage Register – H892);
  - (c) HO468 – 111 Queens Parade, Fitzroy North – Porter prefabricated iron store (included on the Victorian Heritage Register – H2243).

Particular Provisions

*Clause 52.06 – Car Parking*

49. Under clause 52.06-3 of the Scheme, a permit is required to reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5. In this instance, an office has a car parking requirement for 3 spaces per 100m<sup>2</sup> of net floor area and a supermarket has a car parking requirement for 5 spaces to each 100m<sup>2</sup> of leasable floor area. A residential hotel (serviced apartment) does not have a specified parking rate and car parking is to be provided to the satisfaction of the Responsible Authority.
50. With a net office floor area of 4074m<sup>2</sup> and a leasable supermarket floor area of 1732m<sup>2</sup>, the application has a requirement for 208 car parking spaces. With 153 spaces being provided, a reduction of 55 is sought. Decision guidelines are listed at clause 52.06-6 of the Scheme and include a car parking demand assessment.
51. The introduction of VC148 amended Clause 52.06 so that the car parking rates of Column B applies if any part of the land is identified as being within the Principal Public Transport Network Area. The applicant’s traffic report and Council’s engineering comments are based on the previous car parking rates (ie. 3.5 car spaces per 100sq.m. for office; the supermarket rate remains the same).

*Clause 52.29 – Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road*

52. Under clause 52.29 of the Scheme, a permit is required to create or alter access to a road in a Road Zone, Category 1. The Application must be referred to VicRoads (Determining Authority under Section 55 of the Act).

*Clause 52.34 – Bicycle Facilities*

53. Under clause 52.34-2, a permit is required to vary, reduce or waive any requirement of clause 52.34-3 and clause 52.34-4 of the Scheme.

<b>Proposed Use</b>	<b>Quantity/ Size</b>	<b>Statutory Parking Rate</b>	<b>No. of Spaces Required</b>	<b>No. of Spaces Allocated</b>
Office (other than specified in the table)	4074 sqm	1 employee space to each 300 sqm of net floor area if the net floor area exceeds 1000 sqm	14 employee spaces	
		1 visitor space to each 1000 sqm of net floor area if the net floor area exceeds 1000 sqm	4 visitor spaces	
Residential building (other than specified in the table)	110 lodging rooms	In developments of four or more storeys, 1 resident space to each 10 lodging rooms	11 resident spaces	
		In developments of four or more storeys, 1 visitor space to each 10 lodging rooms	11 visitor spaces	
Shop	1,732 sqm	1 employee space to each 600 sqm of leasable floor area if the leasable floor area exceeds 1000 sqm	3 employee spaces	
		1 visitor space to each 500 sqm of leasable floor area if the leasable floor area exceeds 1000 sqm	3 visitor spaces	
<b>Bicycle Parking Spaces Total</b>			<b>28 resident / employee spaces</b>	<b>56 bicycle spaces</b>
			<b>18 visitor spaces</b>	
<b>Showers / Change rooms</b>		1 to the first 5 employee spaces and 1 to each additional 10 employee spaces	<b>3 showers / change rooms</b>	<b>6 showers / change rooms</b>

54. The application has a bicycle parking requirement for eleven (11) residents, seventeen (17) staff and eighteen (18) visitor spaces. The application provides a total of ten (10) additional bicycle spaces above that required by the Scheme.
55. Pursuant to clause 52.34-3, three (3) showers and change rooms are required onsite.

General Provisions

56. 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.

Planning Policy Framework (PPF)

*Clause 11.02 (Managing Growth)*

57. Clause 11.02-1 (Supply of Urban Land) the objective is: *To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.*

*Clause 11.03-1 – Activity centres*

58. The objective of this clause is: *To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community*

*Clause 13.15 – Noise abatement*

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

*Clause 15.01-1 – Urban design*

60. 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 15.01-2 – Building design*

61. The objective of this clause is: *To achieve building design outcomes that contribute positively to the local context and enhance the public realm.*

62. A list of 11 design principles is listed for development proposals for non-residential development or residential development not covered by Clause 54, Clause 55 or Clause 56.

*Clause 15.01-5 – Neighbourhood character*

63. The objective of this clause is: *To recognise, support, neighbourhood character, protect cultural identity, and sense of place.*

*Clause 15.02-1 – Sustainable Development*

64. 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 17.01-1 – Diversified economy*

65. The objective of this clause is: *To strengthen and diversify the economy.*

*Clause 18.02-1 - Sustainable personal transport*

66. The objective of this clause is: *To promote the use of sustainable personal transport.*

*Clause 18.02-4 – Car parking*

67. It is an objective: *To ensure an adequate supply of car parking that is appropriately designed and located.*

Local Planning Policy Framework (LPPF)

*Clause 21.04-3 – Industry, office and commercial*

68. The objective of this clause is: *Objective 8 To increase the number and diversity of local employment opportunities.*

*Clause 21.05-2 – Urban design*

69. The relevant objectives and strategies of this clause are:
- (a) *Objective 16 To reinforce the existing urban framework of Yarra.*
  - (b) *Objective 17 To retain Yarra's identity as a low-rise urban form with pockets of higher development.*
    - (i) *Strategy 17.2 Development on strategic redevelopment sites or within activity centres should generally be no more than 5-6 storeys unless it can be demonstrated that the proposal can achieve specific benefits such as:*
      - *Significant upper level setbacks*
      - *Architectural design excellence*
      - *Best practice environmental sustainability objectives in design and construction*
      - *High quality restoration and adaptive re-use of heritage buildings*
      - *Positive contribution to the enhancement of the public domain*
      - *Provision of affordable housing.*
  - (c) *Objective 18 To retain, enhance and extend Yarra's fine grain street pattern.*
  - (d) *Objective 20 To ensure that new development contributes positively to Yarra's urban fabric.*
    - (i) *Strategy 20.1 Ensure development is designed having particular regard to its urban context and specifically designed following a thorough analysis of the site, the neighbouring properties and its environs.*
  - (e) *Objective 22 To encourage the provision of universal access in new development.*

*Clause 21.05-4 – Public environment*

70. The relevant objective and strategies of this clause are:
- (a) *Objective 28 To provide a public environment that encourages community interaction and activity:*
    - (i) *Strategy 28.1 Encourage universal access to all new public spaces and buildings.*
    - (ii) *Strategy 28.2 Ensure that buildings have a human scale at street level.*
    - (iii) *Strategy 28.3 Require buildings and public spaces to provide a safe and attractive public environment.*
    - (iv) *Strategy 28.5 Require new development to make a clear distinction between public and private spaces.*
    - (v) *Strategy 28.8 Encourage public art in new development.*
    - (vi) *Strategy 28.9 Apply the Public Open Space Contribution policy at clause 22.12.*

*Clause 21.06-1 – Walking and cycling*

71. The relevant objective and strategies of this clause are:
- (a) *Objective 30 To provide safe and convenient pedestrian and bicycle environments.*
    - (i) *Strategy 30.1 Improve pedestrian and cycling links in association with new development where possible.*
    - (ii) *Strategy 30.2 Minimise vehicle crossovers on street frontages.*
    - (iii) *Strategy 30.3 Use rear laneway access to reduce vehicle crossovers.*

*Clause 21.06-2 – Public transport*

72. The relevant objective and strategies of this clause are:
- (a) *Objective 31 To facilitate public transport usage.*
    - (i) *Strategy 31.1 Require new development that generates high numbers of trips to be easily accessible by public transport.*

*Clause 21.06-3 – The road system and parking*

73. The relevant objective and strategies of this clause are:
- (a) *Objective 32 To reduce the reliance on the private motor car.*
    - (i) *Strategy 32.1 Provide efficient shared parking facilities in activity centres.*

- (ii) *Strategy 32.2 Require all new large developments to prepare and implement integrated transport plans to reduce the use of private cars and to encourage walking, cycling and public transport.*
- (b) *Objective 33 To reduce the impact of traffic.*
  - (i) *Strategy 33.1 Ensure access arrangements maintain the safety and efficiency of the arterial and local road networks.*

*Clause 21.07-1 – Ecologically sustainable development*

74. The relevant objective of this clause is '*Objective 34 To promote ecologically sustainable development*'.

*Clause 21.08-2 – North Fitzroy*

75. The following relevant elements are offered at this Clause:

*North Fitzroy 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.*

Relevant Local Policies

*Clause 22.05 – Interfaces Uses Policy*

76. This policy applies to applications within Business Zones (now Commercial Zones, among others), and aims to reduce conflict between commercial, industrial and residential activities. The policy acknowledges that the mix of land uses and development that typifies inner city areas can result in conflict at the interface between uses.
77. The relevant objective is:  
(a) *To ensure that residential uses located within or near commercial centres or near industrial uses enjoy a reasonable level of amenity.*
78. It is policy that:  
(a) *New non-residential use and development within Business and Mixed Use and Industrial Zones are designed to minimise noise and visual amenity impacts upon nearby, existing residential properties.*
79. A number of decision guidelines for non-residential use and development within the business zones are outlined, including the extent to which the proposal may cause overlooking, overshadowing, noise, fumes and air emissions, light spillage, waste management and other operational disturbances that may cause unreasonable detriment to the residential amenity of nearby residential properties.

*Clause 22.07 – Development abutting laneways*

80. A right-of-way (ROW) abuts the rear of the site. The relevant objectives of this policy are:  
(a) *To provide an environment which has a feeling of safety for users of the laneway.*  
(b) *To ensure that development along a laneway acknowledges the unique character of the laneway.*

*Clause 22.10 – Built form and design policy*

81. This policy applies to all new development not included in a Heritage Overlay. The relevant objectives of this policy are to:
- (a) *Ensure that new development positively responds to the context of the development and respects the scale and form of surrounding development where this is a valued feature of the neighbourhood character.*
  - (b) *Ensure that new development makes a positive contribution to the streetscape through high standards in architecture and urban design.*
  - (c) *Limit the impact of new development on the amenity of surrounding land, particularly residential land.*
  - (d) *Design buildings to increase the safety, convenience, attractiveness, inclusiveness, accessibility and 'walkability' of the City's streets and public spaces.*
  - (e) *Create a positive interface between the private domain and public spaces.*
  - (f) *Encourage environmentally sustainable development.*
82. This clause includes various design objectives and guidelines that can be implemented to achieve the above objectives.
- Clause 22.16 – Stormwater Management (water sensitive urban design)*
83. This policy applies to applications for new buildings, amongst others. The policy aims to achieve best practice water quality performance.
- Clause 22.17 – Environmentally Sustainable Development*
84. This policy applies to developments for non-residential buildings with a gross floor area greater than 100m<sup>2</sup>. In this instance, the policy calls for the submission of a Sustainable Management Plan [**SMP**]. This has been provided.
85. The relevant objective of this policy is: *...that development should achieve best practice in environmentally sustainable development from the design stage through to construction and operation.*

## **Advertising**

86. Notice of the application was given by way of 816 letters and 2 signs on the Queens Parade and George Street frontages as per Section 52 of the *Planning and Environment Act 1987* [**the Act**].
87. Under clause 34.02-6 of the Scheme (C2Z), the buildings and works component of this application is exempt from third party notice and appeal rights as the site is not within 30m of a residential zone, land used for a hospital or an education centre or land in a Public Acquisition Overlay to be acquired for a hospital or an education centre. The application for buildings and works is also exempt from third party notice and review rights under clause 44.05-4 (Special Building Overlay). The application for buildings and works is not exempt from third party notice and review rights under clause 43.02 (Design and Development Overlay).
88. A total of sixteen (16) objections were received to the application, these can be summarised as:
- (a) The proposal is an overdevelopment and is not responsive to neighbourhood character and heritage;
  - (b) Excessive visual bulk, height and scale;
  - (c) Lack of permanent dwellings;
  - (d) Overshadowing to the public realm and adjoining properties;
  - (e) Inadequate car parking and loading of vehicles and increased traffic;
  - (f) Pedestrian safety concerns with regards to increased traffic and number of crossovers;
- and



- (g) Loss of amenity from increased noise for proposed uses.
- 89. The grounds of objections raised will be considered and addressed where relevant throughout the following assessment.
- 90. A Consultation Meeting was held on the 12 June 2018 where key issues raised in objections were discussed with the Permit Applicant, Objectors, Ward Councillors and Planning Officers present. No resolutions or outcomes resulted from the meeting.

### Referrals

- 91. Melbourne Water and VicRoads are Referral Authorities under Section 55 of the *Planning and Environment Act 1987 [the Act]*. Their advice is attached to this report as attachments.
- 92. The application was referred to the following, with advice included as appendices to this report:
  - (a) ESD Advisor;
  - (b) Urban Design Unit;
  - (c) Heritage Advisor;
  - (d) Engineering Services Unit;
  - (e) Open Space Unit;
  - (f) Strategic Transport Unit;
  - (g) Waste Services;
  - (h) External engineering consultant (Cardno); and
  - (i) External urban designer (Hansen).
- 93. Referral comments are attachments to this report.

### OFFICER ASSESSMENT

- 94. The planning considerations in this instance will be framed around the following:
  - (a) Planning Policy Frameworks (PPF);
  - (b) Use;
  - (c) Buildings and Works (Built Form and Design);
  - (d) Off-site amenity;
  - (e) On-site amenity and ESD;
  - (f) Car parking and Traffic;
  - (g) Bicycle Parking;
  - (h) Waste; and
  - (i) Objector concerns.

#### Planning Policy Frameworks (PPF)

- 95. The proposal satisfies the various land use and development objectives within PPF and LPPF, providing an acceptable level of compliance with the relevant policies within the Scheme, and is considered to provide a positive strategic opportunity for development within a well-resourced inner-urban environment.
- 96. Policies (clause 11.02 and 17.01) encourage the supply of land and encourage development which meet the community's 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.
- 97. There is clear policy support for the provision of higher density development in Queens Parade with the site being within walking distance to a tram / bus interchange (located in front of the subject site) and to two train stations (Rushall Station – 1km to the north; Clifton Hill Station – 1km to the north-east).

Policy encourages the concentration of higher density commercial developments in established areas and supports proposals which achieve the urban growth objectives at clauses 11.01, 11.03-1 and 17.01 of the Scheme through the provision of a mixed-use development on land close to existing transport corridors and services.

98. In addition to this, the lack of sensitive interfaces (with the exception of future development to the north and south) and the site's location abutting a wide boulevard, are features which allow for a substantial increase in height from what currently exists.
99. The development would strengthen the Queens Parade long term viability by adding additional people and uses to the area and ensuring the longevity of the surrounding businesses. This satisfies policies within Clause 21.04-3. Considering the current need for a mixture of housing and employment choices in existing urban areas, the proposal will provide for a diversity of employment within the wider area as guided within policy at Clauses 21.04-3 and 21.04-4. The location of the proposal provides an opportunity for the redevelopment of the site, and accords with clause 11.02 (Managing Growth), which aims to consolidate, redevelop and intensify existing urban areas.
100. The site is located in an area suitable for redevelopment, with a proposed built form that generally responds to the diverse pattern of urban form in the neighbourhood and with limited off-site amenity impacts. Clauses 11.06-2 and 15.01-2 specifically encourage housing diversity and choice. Clause 17.01-1 includes the objective 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.
101. This immediate locality of North Fitzroy is undergoing considerable change, where public transport and services are readily available. This is consistent with strategic directions found in Plan Melbourne and Planning Policy (Clauses 11, 15 and 17). Local policy also provides support for more intensive development to be accommodated along higher order road (such as Queens Parade), where residential, or heritage sensitivities can be managed successfully.
102. Despite being located outside the Queens Parade Neighbourhood Activity Centre proper, the site is surrounded by light industrial sites, suitable for future renewal as demonstrated by the State Government led urban renewal project of the Former Gasworks site located across George Street and the proposed mixed-use development at Nos. 26-56 Queens Parade across the road.
103. While the site has not been identified as a Key Redevelopment Site (KRS) under Clause 21.08-8, its notable size, multiple street frontages (3 sides), limited immediate residential sensitivity and absence of on-site heritage constraints mean there is some 'give' in facilitating greater development opportunity of a commercial nature on this site.
104. The policy framework for amenity considerations is contained within Clause 22.10-3.8 (Offsite amenity), clause 22.05 (Interface uses policy) and the GHDRD. Clause 55 of the Scheme provides some guidance on these matters (although not strictly applicable). The subject site is uniquely located in an island-like precinct (containing approx. 15-20 parcels of land all within a Commercial Use Zone) with three, wide, arterial roads separating the precinct from any residential zones. In addition, the local character shows a high level of site coverage and boundary-to-boundary development within the subject site and those surrounding it.
105. Period residential properties exist along the southern end of Napier Street (as identified in GJM report) in low scale, fine grained format. For a successful 'fit' for an 8-storey form in this context the development needs to respond to this constraint.

106. Currently, this part of Queens Parade is characterised by a mix of low rise light industrial and residential forms, with some recent mid-rise infill on the north side. Considering an 8-storey form represents a reasonable transition between potential high-rise infill forms (up to 14 storey form on the Former Gasworks site), a potential 10 storey form (on 26-56 Queens Parade) and finer grain 1-2 storey residential forms around Alexandra Parade/ Napier Street junction, where reasonable moderate infill greater than 2-storey can reasonably be expected.
107. Clause 22.03 (Landmarks and Tall Structures) seeks to maintain the prominence of Yarra's valued landmarks. The Shot Tower on Alexandra Parade is over 700m to the east of the site and the spire of St John's Church is over 500m to the east, both are identified landmarks. The 8-storey proposal, located on topographically lower ground is unlikely to have any visual impact on these landmarks.
108. The subject site does not sit in a static urban context and some moderate to high level of change is reasonably anticipated in the short to long terms.

### Use

109. As mentioned previously, the office and supermarket use do not require a planning permit and therefore no conditions can be applied to these uses. Therefore the only use consideration is for the serviced apartments.
110. The use is considered an appropriate balance between the expected commercial operation of the Commercial 2 zone and the residentially zone land to the north and south-east. The serviced apartments would be accessed from Queens Parade (which is a main road) away from the more residentially developed land to the west and south. The location of the residentially zoned land to the north and south-east along main roads (which carry significant traffic), combined with the width of Queens Parade ensures that impacts from the serviced apartments is limited. The non-conforming dwellings within the Commercial 2 zone to the south and south-west are not entitled to the same level of residential amenity. However, the serviced apartments are variously setback 4-8.5m from the southern boundary, with only 8 apartments fronting the laneway.
111. With the purpose of the Commercial 2 zone "*To encourage commercial areas for offices.....and associated business and commercial services*" the serviced apartments sit comfortably in this context (ie. interfacing with commercial premises to the immediate west, a council depot to the east, and residentially zoned land to the south-east). A condition will require a management plan detailing how the serviced apartments will be operated to ensure that amenity impacts are limited.

### Buildings and Works (Built Form and Design)

#### *Heritage Interface*

112. There is no Heritage Overlay near the development site other than for Queens Parade itself which is included in a Heritage Overlay specifically to protect the street trees. Queens Parade has been the focus of multi-level development over at least the last 10-15 years including the approved development on the K G Luke site (No 26 – 56 Queens Parade), which is diagonally opposite this site. This part of Queens Parade has historically, and more recently, been the location of timber yards, industrial sites, gasworks and the Council Depot and as such it has been a concentration of industrial and commercial sites in contrast to the housing in Queens Parade and Fitzroy North.
113. Further, Queens Parade is a major thoroughfare with median strips and side service roads and mature street trees so the impact of any development will be mitigated to some extent by the built form context and the nature of the roadway.

#### *Street Tree*

114. Queens Parade has been included in a Heritage Overlay to specifically protect the street trees (Platanus), which are considered fundamental in creating its character as a leafy boulevard. The removal of one tree to accommodate a new vehicle crossover is generally not acceptable (as suggested by Council’s Urban Design unit). However the tree to be removed is located on the service road (not Queens Parade), and maintains the more mature trees on either side which have a greater presence in the street. In addition, the suggestion to retain the splitter island is outside the scope of this application as this would necessitate a redesign of the access/basement and may mean a greater width of vehicle crossover, rather than the lesser width proposed.
115. Given the location of the existing vehicle crossovers adjacent this tree, and the inability for it to grow to full maturity in existing conditions, the removal of this tree is considered acceptable in this context. Further, the existing vehicle crossover would be reduced in size due to the removal of the existing splitter island.

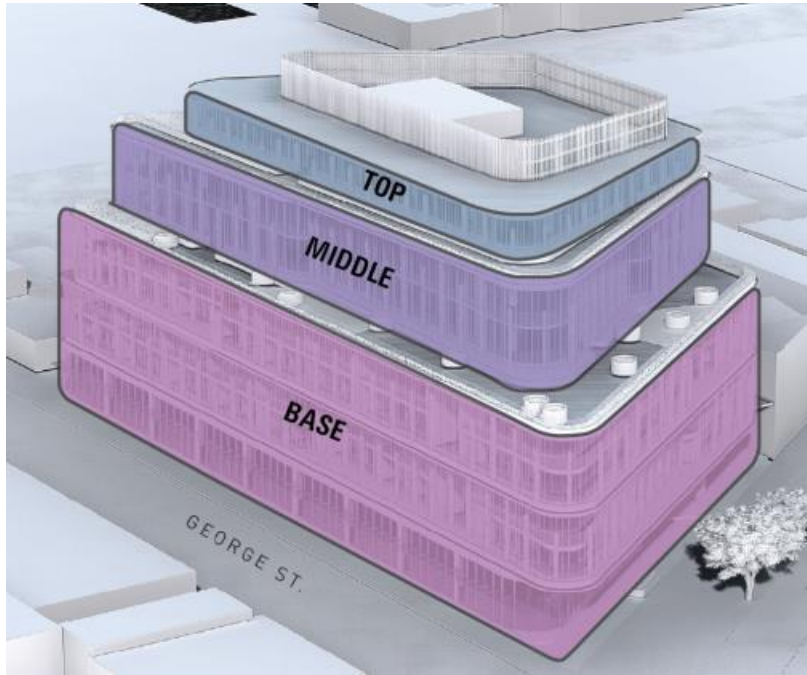
Built Form and Design

116. The proposal generally complies with the Development Design Overlay – Schedule 20 over the subject site that aims to manage the scale and form of the new buildings by guiding the heights and setbacks of new development so that their scale and form responds to the heritage character of Queens Parade and the adjoining low scale residential areas. The table below sets out the mandatory and preferred heights for this section of Queens parade as follows:

Precinct 2C			
Built Form	Mandatory requirement	Preferred requirement	Proposed Development
Building height		Maximum of 28 metres (8 storeys)	Maximum of 31.14 metres (8 storeys)
Front street wall height		Development on Napier Street should not exceed the parapet height of the adjoining heritage buildings. Maximum 18 metres for development on Queens Parade, George Street and Alexandra Parade	Queens Parade street wall height varies between 18-19.4m George Street street wall height 18m.
Upper level setback (height above the street wall)		Minimum 5 metres	At level 5 the setbacks increase to 7.1m (minimum) to Queens Parade, 5m to George Street, between 6.2 and 15m to the south boundary and 4.5m to the west boundary.
Setback(s) from boundary of 472 to 484 Napier Street		Setback within a 45 degree angle line measured from 18 metres.	At 484 Napier Street (closest property) setback complies except for the corner of level 7.
Side and rear setbacks		ResCode B17	Partly complies (setbacks vary between 4.5m – 15m)

117. The building’s 5-storey street wall definition is consistent with the preferred measure found in the DDO with upper levels setback either meeting the 5m preferred setback or greater. The 7m minimum setback from the Queens Parade frontage puts a greater emphasis on the lower levels, visually reducing the dominance of upper levels. These setback measures also ensure the boulevard effect remains prominent (to Queens Parade) and a comfortable pedestrian scale is achieved along George Street, where the street profile is narrower.

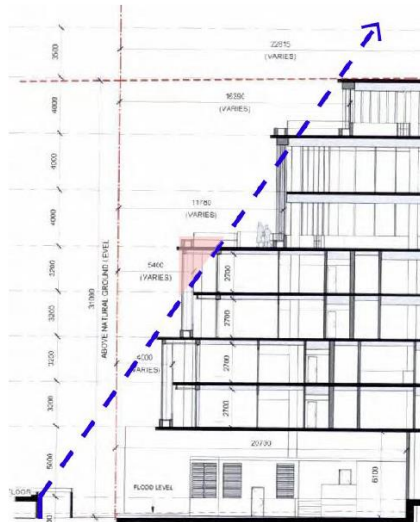
118. The Queens Parade street wall height varies marginally above the 18m preferred height, however this difference would not be noticeable from in front of the site, or from longer range views.
119. As the building rises, greater setbacks are provided from the south-western corner in response to heritage / residential sensitivity present at that location. As mentioned above, the greater increase in setback from its street frontages also assist in reducing the prominence of the upper levels to good effect. The level, sits as a cap, completing the architectural form. As this capping element is highly recessive, it will only be visible from distant oblique views. The services on the roof have been appropriately sited into the centre of the building and screened so that they do not detract from the overall architectural response of the proposal and will not be read as part of the building.



*Proportions*

120. The overall building is considered to create a further successful sense of depth and 3-dimensionality by adopting a continuous double height void with balconies (within upper levels) setback from the primary façade line. The overall building mass is further articulated by adopting a hit and miss floor arrangement to avoid a wedding cake profile. In addition, each elevation has adopted a continuous vertical rod façade with climber planting to minimise the effect of visual bulk despite its overall breadth and height.
121. The development is setback from its southern boundary (laneway) at ground level to provide both improved two way vehicle movement and greater building articulation. Levels 1-7 are setback between 3.9 and 5.4 metres from the laneway and the office levels are further recessed. At this interface, the building will essentially present as three / four storeys with recessive upper levels and it will create an appropriate laneway environment. While the side and rear setbacks would not meet Rescode B17, this does not take into account the specific context of the site.
122. The land to the south and west is zoned Commercial 2 which prohibits residential development. The zone anticipates buildings of a commercial scale and form, which does not require setbacks as they are not for residential uses. The setbacks from the rear boundary (adjacent non-conforming residential uses along Alexandra Parade) have been carefully recessed to maintain an appropriate transition to the lower forms to the south. The inclusion of the laneway further assists these setbacks to not dominate buildings in the area (see diagram below).

123. Further, compared with the existing conditions, the development improves safety for users of the laneway. Whereas the current development interfaces with the laneway with a series of high blank walls and a car park, the proposed use and development will activate the area and upper floor balconies will provide a sense of surveillance.



*Sightline from Alexandra Parade properties*

124. The setbacks from the western boundary are also considered appropriate as this interfaces with an existing commercial development which presents a blank wall to the boundary. Future development on the adjacent site would also anticipate walls to the boundary at the lower levels (ie. 5 storeys), given the relatively limited width of that site. The 4.5m setback proposed allows adequate light to all west-facing windows and balconies (especially as the balconies are to serviced apartments rather than dwellings), and provides an adequate 'break' through the building should the adjacent site be similarly developed. Given the lack of a residential zoned land to the south or west, and that the heights and setbacks are not mandatory, the proposed development is considered to provide an appropriate response.



*QPBFR preferred built form outcome*

125. Whilst the built form is generally compliant with DDO20, the proposal does cast new shadow to the south onto the private open space of the non-conforming dwellings with frontage to Alexandra Parade. New shadow is largely confined to the morning, primarily between 9am to 11am. Overshadowing is addressed in detail later in the report.

*Public Realm*

126. The development provides a number of entry points into the site, which is an improvement over the existing hard-edged building. Ramps and stairs connect George Street and Queens Parade to the entry areas along Queens Parade, and bicycle parking is proposed along Queens Parade adjacent the vehicle access point. It is considered that the bicycle spaces should be moved closer to the supermarket entrance, away from the vehicle access to provide a more bicycle friendly response. Details of these racks are also required. This can be dealt with by condition.
127. Seating has been suggested along the footpath of Queens Parade, however the site is not located in a highly pedestrianised area (given the commercial zoning) and as set out earlier in the report is effectively an island site. Without any comprehensive works identified by Council to create pedestrian priority access/connection to other parts of Yarra, it is unreasonable to require this.
128. George Street currently contains two light poles at the northern end of the site and two towards the southern end. The southern-most light pole would need to be removed as it is in the middle of the proposed truck access (although it is still shown on plans). The remaining light poles restrict footpath widths to approximately 900mm. Given the number of bicycles proposed, and the likelihood of people accessing the serviced apartments by means other than vehicles, the light poles should be removed or relocated to ensure an appropriate footpath width and to encourage pedestrians. A condition will require the footpath along George Street to have a minimum 1.5m width. This condition allows flexibility in whether additional land is provided to accommodate this adjacent the light poles, or the light poles are removed/relocated.

*Landscape architecture*

129. Landscaping is proposed for the serviced apartments and office balconies. Significant landscaping does not form part of the neighbourhood character however the proposal is considered to provide this as an improvement to the amenity of future occupants in terms of landscape opportunities, and reflects similar landscaping on the northern side of Queens Parade (albeit this is in a residential area).
130. The proposal attempts to 'green' this commercial pocket, where landscaping is not a feature. Council's Open Space Unit is supportive of the proposal subject to additional detail regarding planting depths and clarification of details. It has been suggested that additional planter or seats be added in front of the foyer and on planters. However additional planting would interfere with pedestrian flows to and from the serviced apartments, supermarket and office area. As such this will not form a condition. Subject to the further clarification of planting information by condition, the proposed landscaping is considered an acceptable contribution to the greening of this urban area.

*Architectural Quality*

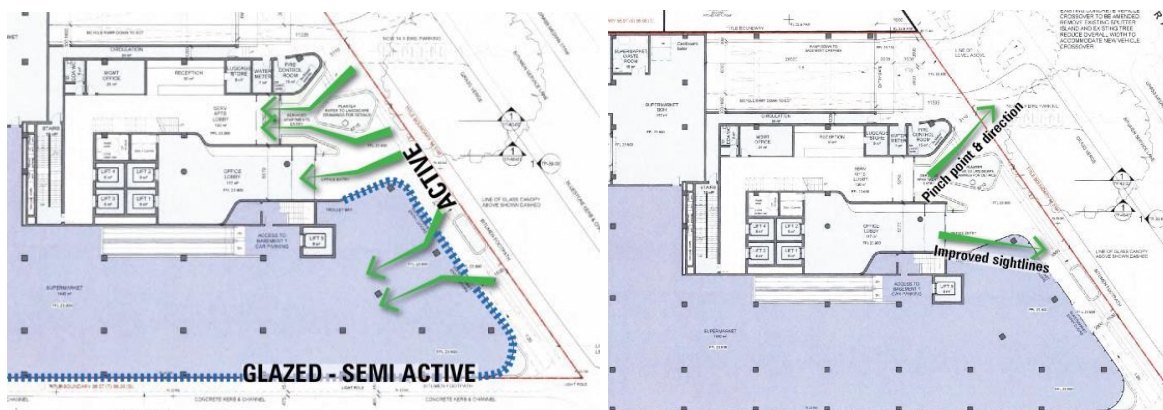
131. The contemporary design is appropriate and responds well to the emerging character along this section of Queens Parade. The proposed design is considered overall to be of a high architectural standard, offering a modern built form that revitalises all frontages and provides articulation. This is achieved through the inclusion of windows, decorative elements, varied setbacks, various materials and limited (but appropriate) landscaping within the site context.



132. Council’s Urban Design Consultant was generally supportive of the architectural elements of the proposal commenting, *“each elevation has adopted a continuous vertical rod façade with climber planting to minimise the effect of visual bulk despite its overall breadth and height. Visible ceilings appear to be timber lined, contributing to the overall façade articulation. The overall massing strategy has been enhanced by its intelligent façade and material treatment, including material palette referencing its light industrial and heritage context. When viewed in the round, the overall form appears dynamic and cohesive, whilst also providing a ‘calm’ backdrop to its heritage surrounds.”*

*Site Layout*

133. The proposed site plan is considered to offer a clear structure that maximises continuous active frontage and uninterrupted pedestrian flow around the Queens Parade / George Street junction. Vehicular access and servicing have generally been compartmentalised at site edges (north-western corner and along the southern laneway), or within the central core of the building. Active frontages are presented to George Street and Queens Parade, which is an improvement on the currently blank warehouse walls.
134. Pedestrian entries are arranged along the Queens Parade frontage in a staggered format through varied setbacks, terraced steps and each entry point is framed by landscape ‘pods’. This design strategy is deemed generally positive, but Council’s urban design consultant’s Hansen suggests - *“a more careful assessment around sight lines and desire pedestrian lines, including facilitation of a more seamless pedestrian experience around each entry points should be considered and perhaps improved. For example, the ‘pinch point’ around entry to Service Apartment may benefit from reorganisation of the landscape pod to avoid pedestrian being directed to vehicular zone. Further chamfering of the supermarket corner will assist with improving sightline to office / service apartment entries from the eastern approach.”*
135. The service apartment entrance is considered to be an appropriate response that would not conflict with the vehicle zone. However a condition will require the corner of the supermarket to be chamfered to provide a better visual connection to the office foyer from the east (see diagrams below).



Active frontage to both street frontages & Entry arrangements

Environmental Sustainability Design (ESD) & On-site Amenity

136. Redevelopment of the site located in an existing built up area would make efficient use of existing infrastructure and services, and the proximity of the subject site to numerous public transport modes would reduce the need of occupants relying on private vehicles. Policy at clauses 15.02-1, 21.07, 22.16 and 22.17 of the Scheme, encourage ecologically sustainable development, with regard to water and energy efficiency, building construction and ongoing management.



137. Initially, Council planning officers raised concerns with the internal amenity of apartments (while acknowledging they are serviced apartments). The applicant responded to these concerns through the amended sketch plans dated 19<sup>th</sup> April 2018 that were referred to Council’s ESD adviser for review. Further changes were made by the applicant and submitted on the 27<sup>th</sup> July, with amended SMP advice. The changes reduce the number of bedrooms with borrowed light, and improves daylight for 23 bedrooms as well as improving natural ventilation to 16 bedrooms by replacing 1 bedroom units with studio apartments. These changes significantly improve the internal amenity of the building and Council’s ESD is satisfied with the changes subject to conditional approval.

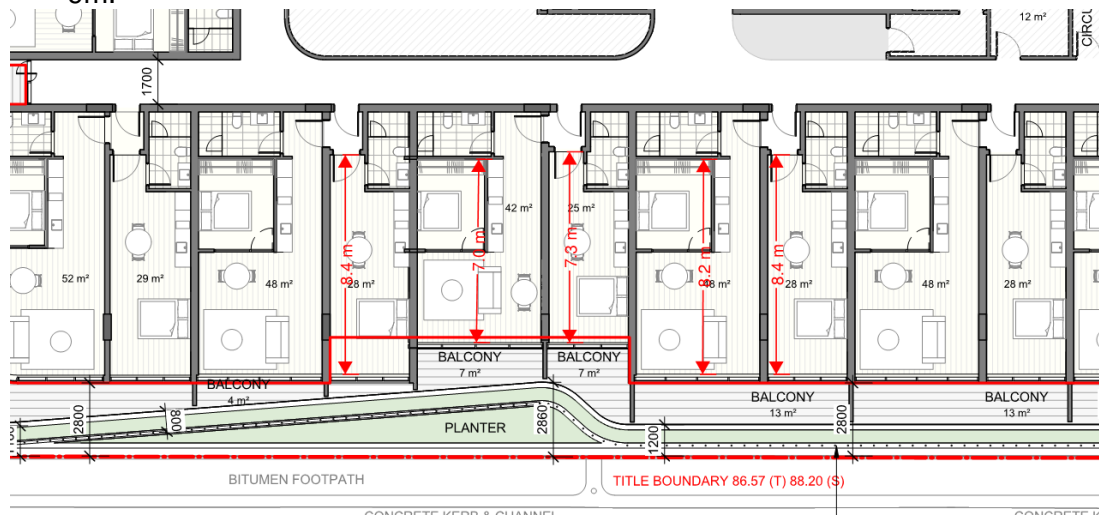
138. In general, Built Environment Sustainability Scorecard (BESS) and Better Apartments Design Standards (BADs) are applicable to residential apartments, or NCC Class 2 buildings. Strictly speaking BESS and BADs are not applicable to serviced apartments / hotels. Despite this, the project generally demonstrates BADs compliance.

139. The revised design meets the following BADs clauses:

- (a) Under “Functional Layout”, minimum dwelling living area (excluding kitchen) of at least 10m<sup>2</sup> for studio and 1-bedroom dwellings.



- (b) Under “Room Depth”, a single aspect open plan habitable room depth not exceeding 9m.



**Energy Efficiency**

140. In addition to the improvements in daylight and ventilation amenity proposed above, the development demonstrates an overall 20% improvement over minimum NCC energy efficiency requirements via a JV3 report. Plans show all serviced apartments propose operable internal blinds, which will provide glare control and reduce further heat gain into the indoor spaces.

141. NatHERS cooling load and star rating targets are not applicable to serviced apartments (hotel). However, the applicant demonstrated the following ESD performance for the serviced apartments:
- (a) Average NatHERS annual cooling of no more than 30MJ/m<sup>2</sup>
  - (b) 6.5-star average house energy rating (NatHERS)
142. In addition, the design includes a 20kW PV system on the roof that will offset the building's power usage, and the system will be managed by the embedded network provider. Council's ESD Advisor was largely satisfied with the proposal subject to conditional approval and plans generally in accordance with the sketch plans submitted.

#### Car parking and traffic

143. Pursuant to Clause 52.06-2, car parking spaces required under Clause 52.06-5 must be provided on the land. Clause 52.06-3 requires a planning permit to reduce the number of car parking spaces required under this clause.
144. The introduction of VC148 (gazetted 31 July 2018) amended Clause 52.06 so that the car parking rates of Column B applies if any part of the land is identified as being within the Principal Public Transport Network Area. The subject site is located within the Principal Public Transport Network Area and therefore the Column B car parking rates apply to this planning application.
145. The proposed development has a statutory car parking requirement of 208 car spaces for the office and supermarket uses under Clause 52.06-5 of the Planning Scheme and the provision of 153 car spaces results in a shortfall of 55 car spaces.
146. The traffic engineering assessment submitted with the application by Traffix references plans prepared by COX Architecture, in particular Drawing No.'s TP-20-01 rev 1 & TP-20-02 rev 1 dated 01/12/17, and TP-21-00 rev 2 dated 07/03/18. The Traffic Engineering Assessment was peer reviewed by Cardno (at the request of Council) and is generally supported.
147. The proposal includes:
- (a) Basement parking comprising of two levels with a total of 153 car spaces including 57 office spaces, 33 serviced apartment spaces (at Basement Level 2) and 63 supermarket spaces (at Basement Level 1). Provision is also made for 56 bicycle spaces at Basement Level 1.

#### *Existing Car parking Availability*

148. A total of 22 existing on-site car parking spaces have been identified during a site inspection, in line with the number of existing spaces noted within the Traffix Group report submitted with the application. It is anticipated that the supermarket and serviced apartment uses would generally experience peak parking demands outside of commercial business hours.
149. The existing warehouse building (covered) appears to have a floor area of approximately 2,700 sqm. Adopting the statutory car parking requirements for 'Warehouse' use under Clause 52.06-5 of the Yarra Planning Scheme, a deficiency of 20 car spaces would apply to the existing use which can be considered as part of the proposed 55 car park reduction (as set out under clause 52.06).

#### *Anticipated Parking Demand*

150. The proposed development generates a statutory requirement of 208 car parking spaces, with a reduction of 55 car parking spaces sought.

151. As stated in referral comments, office developments within the City Of Yarra previously undertaken by Cardno and other consultancies indicate that a high proportion of employees are displaying a preference to choose alternative transport modes, despite available on-site parking being unconstrained in some instances. As noted by Traffix within the supplied traffic report, office developments commonly enforce travel demand management by default, by way of suppressing car parking demands (i.e. by not providing the full statutory on-site car parking requirement).
152. It is reasonable to assume that staff and visitors of the proposed office component are likely to choose alternative transport modes due to the site location with respect to sustainable transport modes, further supported by the observed high occupancy levels of long term / unrestricted parking in the vicinity of the site.
153. Considering the above and in respect of the various Council relevant policies identified throughout this report, the proposed on-site reduced car parking provision rate of 1.4 spaces per 100 square metres of floor area for office component is considered to be consistent with Council strategies to strongly encourage the use of alternative transport modes.
154. Cardno has undertaken car parking surveys of a number of supermarkets in and around Melbourne, with recorded parking demands generally in the range of 3.0 to 5.0 spaces per 100 square metres, inclusive of staff parking demands. The case study data held by Cardno for supermarkets includes supermarkets with a range of floor areas, varying between smaller supermarkets of 2,000 square metres (similar to the subject proposal) and "full line" supermarkets of up to 4,000 square metres.
155. Considering, a supermarket provisional rate of 3.7 car parking spaces per 100 sqm of supermarket floor area is in line with the identified case study data and a reduced provision of parking is anticipated to meet the likely car parking demands generated by this use.
156. Parking demand surveys at similar sized supermarkets in inner Melbourne recorded average weekday peak parking demands in the order of 3.27 spaces per 100 sqm of supermarket floor area. During the average Saturday peak demand period, demand rose to approximately 3.6 parking spaces per 100 sqm of supermarket floor area. It is noted by Cardno that the on-site car park did not reach capacity during the survey periods and therefore these sites were considered to be unconstrained with regards to parking provision.
157. Car parking for the 'Serviced Apartments' component of the proposed has no statutory rate as specified for this land use within Clause 52.06-5 of the Planning Scheme. The applicant's traffic engineer (Traffix's) opinion that the surrounding amenities afforded to the development's occupants combined with further opportunities for serviced apartment guests to travel to and from the site via public transportation means significant demands for car parking is generally not necessary. This is supported by both Council Engineers and Council's Traffic Consultants.
158. It is considered reasonable to assume that prospective serviced apartment guests are likely to seek alternative accommodation should they require the use of a car parking space.
159. For the reasons listed above, the proposed car parking rate of 0.3 spaces per serviced apartment supported as this rate is considered to correspond car parking rates sourced from recent case study data for serviced apartments within inner-city suburbs.
160. In summary, a shortfall of 55 car spaces is considered appropriate in this instance given strategic goals and visions for the locality and the site's proximity to public transport.

#### *Traffic Generation*

161. The level of traffic generated as a result of this proposal is acceptable and will have limited impact on the operation of the surrounding network, particularly given that the proposal will generate limited additional traffic to the intersection of George Street / Alexandra Parade in the AM peak hour, when that intersection currently experiences its highest traffic demands
162. The traffic impact of the intersection of Queens Parade and George Street was assessed by the applicant's traffic consultant using the SIDRA program, which measures intersection performance. Council's Civil Engineering Unit commented that SIDRA modelling works well under free flowing traffic conditions but may have limitations, such as queuing of downstream traffic. Notwithstanding this observation Council's Civil Engineers have found the results of the post-development modelling suggest that intersection is expected to operate satisfactorily. *'The post development conditions would see an increase in the right turn movement from Queens Parade into George Street and the through movement along Queens Parade (in the northeast bound direction). It is agreed that the increase in traffic volumes at these movements should not adversely impact on the operation of the intersection once the development is operational.'*
163. Neither VicRoads or Council's engineers (internal and external) have concerns with traffic impacts in this instance.

#### *Car Parking Layout & Access Arrangements*

164. Cardno has reviewed Section 4.4 and Appendix B of the Traffic report which relates to the development's car park layout, access arrangements and swept path analyses, offering the following comments for consideration:
- (a) Cardno is satisfied that the proposed car park layout has been generally designed in accordance with the relevant Planning Scheme and Australian Standard requirements;
  - (b) Proposed motorcycle parking within Basement Level 2 has not been referenced within the Traffix Group report. Cardno has assessed these motorcycle parking spaces against the requirements of the Australian Standard for off-street car parking (AS/NZS 2890.1). Spaces appear to be provided in accordance with the minimum dimension requirements of the standard, being 1.2m wide and 2.5m long; and
  - (c) A corner splay is required to be shown on the egress side of the site access ramp in accordance with Design Standard 1 – Accessways within Clause 52.06-9 of the Yarra Planning Scheme. However, this is not anticipated to be a significant issue in this instance given the buffer / setback provided along the western boundary and can be dealt with by way of a condition.
165. A concern was also raised by Council's engineering in relation to exiting motorists onto Queens Parade not being able to view pedestrian movements to the west (given the building does not provide a sight triangle). It was suggested that a CCTV monitor and camera be installed. A condition will require either a splay as per above, or alternate method to ensure safety of pedestrians.
166. Council's engineers requested the directional arrows shown on the ROW to the rear be removed as the laneway must be maintained as two-way (not single access); and that materials other than bluestone be used to differentiate the public and private realm, and to ensure that levels match into Council assets so there are no tripping hazards. Conditions will address this.

#### *Loading Considerations*

167. No loading bay is specifically required under the Scheme. However, the widening of the existing ROW to the south to approximately 7 metres is proposed to accommodate vehicular access to the proposed supermarket loading bay and waste collection area.

168. Clause 65 contains the decision guideline that requires the responsible authority to consider “The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.” In consideration of the above and with regard to the proposed loading and waste collection facilities, Cardno’s peer review and Council’s officers are satisfied that:

- (a) *Sufficient manoeuvring area appears to be provided within loading bays to allow for appropriate access manoeuvres by the nominated loading and waste collection vehicles;*
- (b) *Swept path diagrams provided as Appendix B to the Traffix Group report are considered generally appropriate when considering manoeuvring pathways and clearance line offsets internal to the site.*

Bicycle facilities

169. The application has a bicycle parking requirement for eleven (11) residents, seventeen (17) staff and eighteen (18) visitor spaces. The application provides a total of twenty-one (21) additional bicycle spaces above that required by the Planning Scheme. Pursuant to clause 52.34-3, three (3) showers and change rooms are required onsite as follows:

Proposed Use	Quantity/ Size	Statutory Parking Rate	No. of Spaces Required	No. of Spaces Allocated
Office (other than specified in the table)	4074 sqm	1 employee space to each 300 sqm of net floor area if the net floor area exceeds 1000 sqm	14 employee spaces	
		1 visitor space to each 1000 sqm of net floor area if the net floor area exceeds 1000 sqm	4 visitor spaces.	
Residential building (other than specified in the table)	110 lodging rooms	In developments of four or more storeys, 1 resident space to each 10 lodging rooms	11 resident spaces	
		In developments of four or more storeys, 1 visitor space to each 10 lodging rooms	11 visitor spaces.	
Shop	1,732 sqm	1 employee space to each 600 sqm of leasable floor area if the leasable floor area exceeds 1000 sqm	3 employee spaces	
		1 visitor space to each 500 sqm of leasable floor area if the leasable floor area exceeds 1000 sqm	3 visitor spaces.	
<b>Bicycle Parking Spaces Total</b>			<b>28 resident / employee spaces</b>	<b>56 bicycle spaces</b>
			<b>18 visitor spaces</b>	
<b>Showers / Change rooms</b>		1 to the first 5 employee spaces and 1 to each additional 10 employee spaces	<b>3 showers / change rooms</b>	<b>6 showers / change rooms</b>

170. Based on a review of submitted plans, a total of 72 bicycle parking spaces (58 proposed on-site within Basement Level 1 with the remainder at ground level within the Queens Parade service road verge) are proposed for the development. Of these 72 spaces, 36 are proposed as vertical wall-mounted racks, with the remaining 36 bicycle parking spaces proposed in the form of horizontal ground-mounted hoops.

171. Conditions will require bicycle hoops along the Queens Parade frontage to be located away from the vehicle access (closer to the supermarket entry), with details of the 18 visitor bicycle spaces shown on plans demonstrating that they are on horizontal rails and easily accessible to visitors.
172. Given the number of car parking spaces to be waived, it is considered that additional bicycle spaces should be required. A condition will require no less than 44 employee / residential hotel guest spaces to be provided in a secure compound within the car park level, and confirmation that there are at least 5 change rooms (with showers).
173. A Green Travel Plan will be required by way of condition given the development has a total non-residential floor area of more than 1,000sqm, pursuant to Clause 22.17-4 of the Planning Scheme; and a minimum 40A single phase electrical sub circuit installed within the car parking area, for the future provision of electric vehicle charging points will also be conditioned.

### Waste

174. Council's Services Contracts Unit reviewed the Waste Management Plan [WMP] prepared by Leigh Design which sets out that a private contractor will be engaged to collect waste utilising bulk bins from the rear loading bay.
175. The WMP includes initiatives for noise minimisation, litter reduction, hours for waste collection under Council's Local Law and a range of other amenity initiatives that will be implemented as part of the development. The WMP was considered not satisfactory, with issues to be rectified including swept path diagrams of truck movements as well as proposed entry and exit locations for the waste vehicles and hours of collection. A condition will require an amended WMP to the satisfaction of the Responsible authority.

### Off-site Amenity

176. The subject site is surrounded by properties all within the Commercial 2 Zone in which the subject site is located. Properties to the west are used for commercial purposes and properties to the south-west and south are either used for commercial purposes and/or prohibited/non-conforming dwellings under the Commercial 2 Zone provisions.
177. It is an accepted planning principle that residential amenity expectations need to be tempered against the purpose of the Commercial 2 Zone which does not include providing for residential use. Indeed, residential use is "prohibited", with caretaker's house being the exception. If the protection of the residential amenity is elevated to a matter of primary or significant importance, this could stifle the proper development of the area for its primary purpose, which is to encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services.
178. Notwithstanding the above, Clause 22.05 of the Local Planning Policy Framework relates to interface uses and it provides guidance to manage potential conflict where there is a mix of land uses.
179. As per Clause 22.05-3, it is the objective of the policy:
  - (a) *To enable the development of new residential uses within and close to activity centres, near industrial areas and in mixed use areas while not impeding the growth and operation of these areas as service, economic and employment nodes ; and*
  - (b) *To ensure that residential uses located within or near commercial centres or near industrial uses enjoy a reasonable level of amenity.*
180. The proposal also includes measures to minimise noise and visual amenity impacts upon nearby, existing residential properties as follows:

- (a) Adequate upper level setbacks are proposed from the south boundary (as discussed in the built form section);
- (b) All facades, including the south and west elevations, have an architectural treatment and the development will present well where it is visible in both public and private domains.
- (c) Pedestrian entries to the uses will be via the basement and Queens Parade and away from residential properties.

181. As identified earlier, the submitted WMP includes initiatives for noise minimisation, litter reduction, hours for waste collection under Council's Local Law and a range of other amenity initiatives that will be implemented as part of the greater development and can be confirmed by way of a condition to ensure that waste collection is limited to suitable times and the loading area is appropriately managed and maintained.
182. Considering, any noise or light spill associated with the serviced apartments will be acceptable in the context of adjacent properties being located within the Commercial 2 Zone.

*Overshadowing*

183. The application is accompanied by a shadow analysis prepared by Cox Architecture which shows that the development will cast some additional shadow across the secluded private open space of residential properties facing Napier Street and Alexandra Parade between 9am and 3pm at the Equinox.
184. The shadow moves from the west in the morning toward the east in the afternoon so that between 12pm and 3pm the majority of residential properties receive reasonable sunlight to the areas of secluded private open space.
185. Residential development to the south-west would be partly impacted at 9am and 10am on the Equinox, however this would be limited only to Nos. 480-482 Napier Street. After this time there would be no further impact.
186. Residential development to the south of the laneway (fronting Alexandra Parade) would be overshadowed between 9-11am, with each property maintaining some access to sunlight after this time.
187. The southern footpath of Queens Parade will not be affected by the development and George Street will receive sunlight in the morning. Shadowing to the opposite side of George Street in the afternoon would be expected given the DDO sets out a minimum street wall of 18m, with upper level setbacks.
188. There has been clear guidance from VCAT with regards to expectations for development within a commercial zone with respect to overshadowing. The Tribunal decision *P2558/2017 1-7 Wilson Avenue Developer Pty Ltd v Moreland CC* made a number of comments directly relevant to this application relation to strategic support of higher built form and acceptable significant overshadowing to existing residential properties located within 'substantial change areas' zoned commercial.
189. The comments were as follows:

*96 There is no doubt that for all these properties, at varying times, the shadow impact will be significant. It will noticeably alter the amenity the occupants of these properties currently experience. However, the shadow patterns alter during the course of the day. Each of the private open space areas will receive some sunlight as the shadows move across these spaces. Due to the angle of the sun, the extent and depth of shadow alters so that the area in sunlight for each property will change in dimension, area and location. According to the shadow diagrams, at no stage will the shadow from the development remove all existing sunlight from any of the courtyards.*

*97 In the absence of any guidance in the Planning Scheme, it is arguably difficult to assess the acceptability or otherwise of the overshadowing. There is no measure or benchmark against which the assessment can objectively occur. I acknowledge the significance of the shadow impact, and the respondents' concerns regarding the consequences for the enjoyment of their property. However, the location of the residential properties in a C1Z within an activity centre earmarked for substantial change, including an increased presence of taller development of up to eight storeys, means that some significant shadow impact should reasonably be anticipated. On balance, as all the properties will continue to receive some solar access during the course of the day at the equinox to an area of their open space which is of useable size and dimension, the outcome does not justify a refusal of a permit or a change to the building height/setbacks. Had the properties been in a residential zone, the same conclusion is unlikely to have been reached.*

190. Whilst this decision relates to the site at No. 1-7 Wilson Avenue, Brunswick these comments from the Tribunal are directly relevant to the application for the subject site considering the comparable zoning and similar circumstances. Comparably;
- (a) Both sites involve 8-storey proposals in areas where 8-storey development is contemplated; and
  - (b) Both sites have Victorian era terraces to the south across a laneway, with small north-facing rear yards.
191. Significantly, the terraces to the south of No. 81-89 Queens Parade are located within a Commercial 2 zone where dwelling is a prohibited use and are not within a heritage overlay. Despite these circumstances, the massing of the building has been designed to limit shadow impacts to non-conforming dwellings within the Commercial 2 Zone.
192. Given the above, the proposal strikes an appropriate balance between providing for residential amenity and delivering an appropriate land use and built form outcome that is supported by the Planning Policy Frameworks.

#### Objector concerns

193. The majority of the issues which have been raised by the objectors have been addressed within this report as follows:
- (a) The proposal represents overdevelopment and is not responsive to neighbourhood character and heritage (paragraphs 105-135);
  - (b) Excessive visual bulk, height and scale (paragraphs 116-125);
  - (c) Lack of permanent residential dwellings (a commercial 2 zone prohibits dwellings, however the use of the serviced apartments has been considered at paragraphs 109-111);
  - (d) Overshadowing to the public realm and adjoining properties; (paragraphs 183-192);
  - (e) Inadequate car parking and loading of vehicles and increased traffic (paragraphs 143-168);
  - (f) Pedestrian safety concerns with regards to increased traffic and number of crossovers; (the vehicle crossovers will largely be removed and footpaths reinstated. The altered crossover to Queens Parade has been discussed at paragraphs 164-166); and
  - (g) Loss of amenity from increased noise (as identified at paragraphs 109-111 both the office and supermarket uses do not require a planning permit and the closest residentially zoned land is separated by a major road. Conditions will ensure the operation of the serviced apartments is appropriately managed).



## Conclusion

194. The proposed development is considered to demonstrate a high level of compliance with policy objectives contained within the State and Local Planning Policy Framework. Notably, the proposal achieves the State Government's urban consolidation objectives, the preference to direct higher density development in Mixed Use Zones and strategic redevelopment sites, and aligns with the State Policy as well as the direction given by the Tribunal.
195. The proposal, subject to conditions recommended, is an acceptable planning outcome that demonstrates clear compliance with the relevant Council policies.

## RECOMMENDATION

That having considered all objections and relevant planning policies, the Committee resolves to advise VCAT that had it been in a position to it would have issued a Notice of Decision to Grant a Planning Permit PLN17/1113 for construction of a mixed use building, use part of the land for a residential hotel (serviced apartments), alteration of access to a Road Zone (category 1), reduction in the car parking requirements associated with a residential hotel (serviced apartments), supermarket and offices (permit not required for supermarket or office uses) subject to the following conditions:

1. Before the use 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 plans by COX Architecture dated 01 December 2017 but modified to show:
  - (a) Additional chamfering of the supermarket corner to improve sightlines to office / service apartment entries from an eastern approach;
  - (b) A corner splay on the egress side of the site access ramp in accordance with Design Standard 1 – Accessways within Clause 52.06-9 of the Yarra Planning Scheme or alternate method (eg CCTV monitor or similar);
  - (c) A minimum 1.5m wide unobstructed footpath along the length of the George Street frontage (this may include land within and outside of the subject site title boundaries or removal and relocation of light poles);
  - (d) Directional arrows on right-of-way deleted;
  - (e) Surfaces of privately owned land within the site to match into Council assets at ground level, with use of differing material to clearly delineate the public/private realm;
  - (f) The bicycle ramp to the basement at a grade of no greater than 1:12;
  - (g) Bicycle hoops along Queens Parade service road to be located away from the vehicle access (and closer to the supermarket entry);
  - (h) No less than 18 visitor bike parking spaces, clearly marked for visitor use and provided at a horizontal rail;
  - (i) No less than 44 employee / residential hotel guest spaces to be provided in a secure compound within the car park level;
  - (j) A minimum 40A single phase electrical sub circuit installed within the car parking area, for the future provision of electric vehicle charging points;
  - (k) A minimum of 5 shower/change rooms be provided;
  - (l) A materials sample board of external colours, materials and finishes including coloured perspectives;
  - (m) Any requirement of the endorsed Sustainable Management Plan (condition 6), where relevant, to show on plans;
  - (n) Any requirement of Melbourne Water Conditions (where relevant) to show on plans; and
  - (o) Any requirement of the endorsed Waste Management Plan (condition 8), where relevant, to show on plans.

2. The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. Except with the prior written consent of the Responsible Authority, the residential building (serviced apartments) may operate 24 hours a day, seven days a week.
4. Prior to the commencement of the use as serviced apartments, an operational management to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must detail the following:
  - (a) Procedures and standards for guests to minimise amenity and parking problems in the neighbourhood;
  - (b) Measures to be taken by the permit holder to ensure serviced apartment guests and visitors do not cause any unreasonable amenity impact to persons beyond the land;
  - (c) Establishment of a line of communication with adjacent owners/occupiers aimed at identifying and addressing amenity concerns;
  - (d) An outline of house rules intended to be used to manage residents and guests including:
    - (i) guest behaviour;
    - (ii) noise;
    - (iii) alcohol consumption; and
    - (iv) methods of eviction if house rules are broken;
  - (e) Details of eviction process in the event house rules are broken;
  - (f) Standards for property maintenance, health and cleanliness; and
  - (g) Security against thefts and break-ins, including security of guests' belongings;
  - (h) management plan
5. The serviced apartments must be managed in accordance with the endorsed Serviced Apartment Management Plan.

### **Sustainable Management Plan**

6. Before the development commences, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Management Plan will be endorsed and will form part of this permit. The amended Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by Simpson Kotzman on 15 September 2016, but modified to include or show:
  - (a) A commitment to 5 Star Green Star;
  - (b) All habitable rooms, including studies with an operable window to enable natural ventilation;
  - (c) Sample NatHERS or preliminary energy model to a reference building demonstrating that the overall energy/GHG targets can be met;
  - (d) More information on what type of hot water system will be specified demonstrating that the overall energy/GHG targets can be met;
  - (e) What type of heating/cooling system will be specified demonstrating that the overall energy/GHG targets can be met;
  - (f) Solar PV array included on the roof plan to contribute to common area electricity consumption; and
  - (g) All proposed changes in layout and design in accordance with the Sketch Plans supplied to Council on the 27 July 2018.
7. The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

### **Waste Management Plan**

8. Before the development commences an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Waste Management Plan will be endorsed and will form part of this permit. The amended Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by Leigh Design (dated 15 September 2016), but modified to include:
  - (a) Internal private collection;
  - (b) Swept path diagram of truck movements as well proposed entry and exit locations of waste vehicles; and
  - (c) Operation of hours (including collections times).
9. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
10. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority

### **Landscape Plan**

11. Before the development commences, an amended Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Landscape Plan will be endorsed and will form part of this permit. The landscape plan must include (or show):
  - (a) final plant schedule and planting plan showing the location of all plants with the following detail provided:
  - (b) Planter box materials and dimensions;
  - (c) Mulch layer – something that won't blow away;
  - (d) Growing media – suitable in weight and content for roof top gardens;
  - (e) Filter media;
  - (f) Irrigation method;
  - (g) Drainage system;
  - (h) Root barrier / water proofing layer;
  - (i) Tree protection zones;
  - (j) Maintenance schedule;
  - (k) Minimum 400mm depth planting beds; and replacement of weed species.
12. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:
  - (a) implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
  - (b) not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
  - (c) replacing any dead, diseased, dying or damaged plants, to the satisfaction of the Responsible Authority.

### **VicRoads Conditions (13-20)**

13. Before the development approved by the permit starts, detailed layout plans for the accessway to the site from Queens Parade must be submitted to and approved by the Roads Corporation (VicRoads). The plans must be drawn to scale and dimensioned and two copies must be provided. The plans must show all proposed turning movements and traffic controls at the intersection of the accessway and Queens Parade.
14. Before the development starts, an independent Road Safety Audit (by a suitably qualified person) for the intersection of Queens Parade and the accessway to the site, and the intersection of Queens Parade and George Street, must be submitted to and approved the Roads Corporation (VicRoads).
15. Prior to the commencement of the use or the occupation of the buildings or works hereby approved, the access lanes, driveways, crossovers and associated works must be provided at no cost to the Roads Corporations and be:
  - (a) Formed to such levels and drained so that they can be used in accordance with the plan; and
  - (b) Treated with an all-weather seal or some other durable surface.
16. The security boom, barrier, gate or similar device controlling vehicular access to the premises must be located inside the property to allow vehicles to store clear of the pavement and footpath.
17. The crossover and driveway must be constructed to the satisfaction of the Roads Corporation and the Responsible Authority and at no cost to the Roads Corporation prior to the commencement of the use or the occupation of the works hereby approved.
18. During construction, the development must be managed so as not to compromise the operational efficiency of Queens Parade and George Street Fitzroy North or public safety.
19. Driveways must be maintained in a fit and proper state so as not to compromise the ability of vehicles to enter and exit the site in a safe manner or compromise operational efficiency of the road or public safety.
20. All redundant vehicle crossings must be removed and the area reinstated to kerb and channel.

**Melbourne Water Conditions (21-23)**

21. Prior to the development plans being endorsed to the planning permit, amended plans and relevant documentation as outlined below must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Plans must be submitted with ground and floor levels to Australian Height Datum (AHD) and all setbacks notated on the plans in accordance with the asset protection requirements.
  - (a) The exact location of Melbourne Water's underground drain along George Street is to be determined by a licensed surveyor as per Melbourne Water's Asset Proving guidelines; the drain must then be plotted on the proposed development plans with cross sections at the north-east corner and south-east corner of the property, including all basement levels.
  - (b) No permanent structures are permitted to be located within a 2 metre lateral clearance zone of the asset;
    - (i) Footings must extend below "foundation protection zone" (angle of repose line) and;
    - (ii) A statement from the structural engineer stating that the design of the building foundation has been designed to allow future excavation of the pipeline adjacent to building.(Screw piles and friction piles are not acceptable)

- (c) CCTV of the drain is required to be undertaken prior to endorsement of plans to confirm the condition of the drain. This CCTV will also be required by the design engineer to assist with the design of the structure if required. CCTV is to be in accordance the WSA 05-2013 Conduit Reporting Code of Australia.

The nearest access manhole is 4414/MH001. This manhole identification is to be referenced in the CCTV. Melbourne Water access permit to this manhole will be required;

- (d) The following assessment and design investigation is required to be carried out by a qualified structural engineer, experienced with working on brick drains:
- (i) A structural condition assessment to validate the existing drain condition. The assessment must include a baseline condition photo and/or CCTV inspection;
  - (ii) Submission of a detailed design and methodology for the construction of the structure detailing the stabilisation method to prevent brick surround from collapsing, factoring in ceramic growth;
  - (iii) Advice on the vibration limits on site during construction works to ensure the drain is not adversely impacted.
  - (iv) Consideration of the impact on the drain's bedding if a basement is to be constructed in the close proximity.
- (e) A Build Over agreement is required to be entered into for temporary structures within the lateral clearance zone;
- (i) No overhangs and eaves are permitted;
  - (ii) Footings must be independent and self-supporting.

22. The basement level must be shown to be tanked and banded to at least 300mm above the applicable 1% AEP flood level of 23.6 metres to Australian Height Datum with the apex of the basement access ramp set no lower than 23.9 metres to Australian Height Datum.
23. The floor levels of the substation, CP Air intake and gas meter room must be set at least 300mm above the applicable 1% AEP flood level of 22.90 metres to Australian Height Datum.

### **Road Infrastructure**

24. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, bike racks must be installed to accommodate at least 12 bicycles on the footpath immediately outside the property's Queens Parade frontage:
- (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
25. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all pedestrian access must be constructed to a level no steeper than 1 in 40 from the building line to the top of kerb to the satisfaction of the Responsible Authority.
26. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any new vehicle crossing must be constructed:
- (a) in accordance with any requirements or conditions imposed by Council;
  - (b) at the permit holder's cost; and
  - (c) to the satisfaction of the Responsible Authority.
27. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any redundant vehicular crossing must be demolished and re-instated as standard footpath and kerb and channel:
- (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.

28. 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.

### **Car parking**

29. Before the development is occupied, a Car Park Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Car Park Management Plan will be endorsed and will form part of this permit. The Car Park Management Plan must address, but not be limited to, the following:
- (a) the number of car parking spaces allocated to each tenancy and that each space is allocated;
  - (b) details of way-finding, cleaning and security of end of trip bicycle facilities;
  - (c) any policing arrangements and formal agreements as appropriate; and
  - (d) a schedule of all proposed signage including directional arrows and signage, informative signs indicating location of disabled bays and bicycle parking, exits, restrictions, pay parking system etc.
30. The provisions, recommendations and requirements of the endorsed Car Park Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
31. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the area set aside on the endorsed plans for the car parking spaces, access lanes, driveways and associated works must be:
- (a) constructed and available for use in accordance with the endorsed plans;
  - (b) formed to such levels and drained so that they can be used in accordance with the endorsed plans;
  - (c) treated with an all-weather seal or some other durable surface; and
  - (d) line-marked or provided with some adequate means of showing the car parking spaces; to the satisfaction of the Responsible Authority.
32. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, a notice showing the location of car parking must be placed in a clearly visible position near the entry to the land. The notice must be maintained thereafter to the satisfaction of the Responsible Authority.

### **Green Travel Plan**

33. Before the development is occupied, a Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Green Travel plan will be endorsed and will form part of this permit. The Green Travel Plan must include, but not be limited to, the following:
- (a) describe the location in the context of alternative modes of transport;
  - (b) the provision of real time passenger information displays for nearby stops within each lobby;
  - (c) employee welcome packs (e.g. provision of Myki cards);
  - (d) a designated 'manager' or 'champion' responsible for co-ordination and implementation;
  - (e) details of bicycle parking and bicycle routes;
  - (f) details of GTP funding and management responsibilities; and
  - (g) include provisions to be updated not less than every 5 years.

34. The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

### **Lighting**

35. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the pedestrian and vehicular entrances and internal laneway must be provided on the subject site. Lighting must be:
- (a) located;
  - (b) directed;
  - (c) shielded; and
  - (d) of limited intensity,
- to the satisfaction of the Responsible Authority.

### **General**

36. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
37. As part of the ongoing consultant team, Cox Architecture or an architectural firm to the satisfaction of the Responsible Authority must be engaged to:
- (a) oversee design and construction of the development; and
  - (b) ensure the design quality and appearance of the development is realised as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.
38. The amenity of the area must not be detrimentally affected by the construction and 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.
39. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
40. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
41. All pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
42. 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 9am or after 3pm; or
  - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

### **Construction Management**

43. Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:
- (a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
  - (b) works necessary to protect road and other infrastructure;
  - (c) remediation of any damage to road and other infrastructure;
  - (d) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land;
  - (e) facilities for vehicle washing, which must be located on the land;
  - (f) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
  - (g) site security;
  - (h) management of any environmental hazards including, but not limited to,:
    - (i) contaminated soil;
    - (ii) materials and waste;
    - (iii) dust;
    - (iv) stormwater contamination from run-off and wash-waters;
    - (v) sediment from the land on roads;
    - (vi) washing of concrete trucks and other vehicles and machinery; and
    - (vii) spillage from refuelling cranes and other vehicles and machinery;
  - (i) the construction program;
  - (j) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
  - (k) parking facilities for construction workers;
  - (l) measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;
  - (m) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
  - (n) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced;
  - (o) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads;
  - (p) a Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with Noise Control Guideline 12 for Construction (Publication 1254) as issued by the Environment Protection Authority in October 2008. The Noise and Vibration Management Plan must be prepared to the satisfaction of the Responsible Authority.
  - (q) In preparing the Noise and Vibration Management Plan, consideration must be given to:
    - (i) using lower noise work practice and equipment;
    - (ii) the suitability of the land for the use of an electric crane;
    - (iii) silencing all mechanical plant by the best practical means using current technology;
    - (iv) fitting pneumatic tools with an effective silencer;
    - (v) other relevant considerations; and
    - (vi) any site-specific requirements.
- During the construction:
- (r) any stormwater discharged into the stormwater drainage system must be in compliance with Environment Protection Authority guidelines;
  - (s) stormwater drainage system protection measures must be installed as required to ensure that no solid waste, sediment, sand, soil, clay or stones from the land enters the stormwater drainage system;
  - (t) vehicle borne material must not accumulate on the roads abutting the land;
  - (u) the cleaning of machinery and equipment must take place on the land and not on adjacent footpaths or roads; and



- (v) all litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly.

### **Time expiry**

44. 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; and
- (c) the residential hotel (serviced apartments) use is not commenced within five years of the date of the 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.

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

Provision must be made for drainage of the site to a legal point of discharge. Please contact Council's Building Services on 9205 5585 for further information.

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

Any services poles, structures or pits that interfere with the proposal must be adjusted, removed or relocated at the Permit Holder's expense after seeking approval from the relevant authority.

No parking restriction signs are to be removed, adjusted, changed or relocated without approval or authorisation from Council Parking Management unit and Construction Management branch

On the Queens Parade frontage of the site, pole No. 27888 (a former tram pole) is currently being used as a stay for a CitiPower electrical pole (with the same number located) about 4m west of the stay. It appears that stay is located near the edge of the new vehicle crossing. Comment from CitiPower should be sought to ascertain whether the stay could be removed or relocated.

VicRoads is currently undertaking improvement of the Queens Parade interchange to facilitate safer pedestrian movement as well as ensure that pedestrian facilities are DDA compliant. The applicant should liaise with VicRoads in relation to the interchange works and the potential impacts on pedestrians once the development is operational.

Some of the existing overhead power lines along Queens Parade have been bundled. Advice from CitiPower is required whether additional works are required to ensure that overhead power lines are outside "No Go Zone".

In the event that contaminated groundwater seeps through the walls of the basement, this water must not be discharged into Council's stormwater drainage system under any circumstances. Any contaminated groundwater that is present within the site must be treated and disposed of in accordance with a Trade Waste Agreement and as per EPA guidelines and Melbourne Water/City West Water guidelines.

VicRoads Notes

The proposed development requires reinstatement of disused crossovers to kerb and channel. Separate approval under the Road Management Act for this activity may be required from VicRoads (the Roads Corporation). Please contact VicRoads prior to commencing any works.

Separate Consent shall be required from VicRoads under the Road Management Act 2004 for all buildings and works (including projections, canopies, fixed shading devices, balcony framing etc) undertaken outside the title boundary within a Road Zone Category 1.

#### Melbourne Water Notes

Land and flood level information available at Melbourne Water indicates that the property is subject to flooding from the North Fitzroy Main Drain (Dr4414). The applicable flood level for a 1% AEP flood event grades from 23.6 metres to Australian Height Datum to 22.75 metres to Australian Height Datum.

Given the age and construction type of the drain being a brick culvert with concrete deck, undertaking works in close proximity may be a risky for the drain. Given the age of the drain, bricks forming the drain wall will exhibit ceramic growth, and thus the drain will be under compressive stresses. The design of any structure and construction methodology will need to consider and mitigate the risk of structural failure of the drain due to release of the stress during the works depending on the clearance.

A Post CCTV inspection of the underground drain is required to be carried out at the cost of the developer in accordance with WSA 05-2013 Conduit Inspection Reporting Code of Australia. The manhole identification is to be referenced in the CCTV. Melbourne Water access permit to this manhole will be required.

Prior to undertaking any works on or near a Melbourne Water asset, the contractor must be in receipt of a Melbourne Water Permit to Work. A Permit to Work can only be issued to contractors who have undertaken MW's permit recipient training. This requirement is to be included as part of the general notes on the final drawings.

No contractors are permitted to enter an underground drain or manhole unless in receipt of a Melbourne Water Permit to Work and a current Confined Space Entry ticket is held.

Melbourne Water must still have access unrestricted access to the underground drain at all times, during construction and after.

Any damage caused to Melbourne Water's assets due to the development shall be paid for by the developer.

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#### Attachments

- 1 LOCATION MAP - SUBJECT LAND 81-89 Queens Parade
- 2 PLN17/1113 - 81 - 89 Queens Parade Fitzroy North - Plans
- 3 Addition ESD Information and Amended Sketch Plans
- 4 Vic Roads Referral Comments
- 5 Melbourne Water Referral Comments
- 6 External Engineering Referral Comments (Cardno)
- 7 Internal Engineering Referral Comments
- 8 Strategic Transport Referral Comments
- 9 External Urban Design Referral Advice
- 10 Internal Urban Design Referral Advice
- 11 Heritage Referral Advice