



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

**to be held on Wednesday 14 March 2018 at 6.30pm  
in Meeting Rooms 1 & 2 at the Richmond Town Hall**

**Rostered Councillor membership**

Councillor Daniel Nguyen  
Councillor Misha Coleman  
Councillor Danae Bosler

- I. ATTENDANCE**  
Ally Huynh (Senior Co-Ordinator Statutory Planning)  
Patrick Sutton (Senior Planner)  
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	66 Cecil Street, Fitzroy - PLN17/0398 - Full demolition of the existing building, and development of the land for the construction of three dwellings.	5	32
1.2	2 - 4 St Georges Road, Fitzroy North - Planning permit application number PLN13/0204.03 - Section 72 amendment to allow for the sale and consumption of liquor and an increase to patron numbers associated with a food and drinks premises (cafe), including buildings and works to modify the ground floor openings of the as-approved building.	36	55

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**1.1 66 Cecil Street, Fitzroy - PLN17/0398 - Full demolition of the existing building, and development of the land for the construction of three dwellings.**

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## **Executive Summary**

### **Purpose**

1. This report provides Council with an assessment of a planning permit application submitted 66 Cecil Street, Fitzroy. The report recommends approval of the application, subject to a number of conditions.

### **Key Planning Considerations**

2. Key planning considerations include:
  - (a) Built form (Clauses 15.01, 21.05, 22.02, 32.04 & 43.01);
  - (b) On & off-site amenity impacts (Clause 22.05 & 55).

### **Key Issues**

3. The key issues for Council in considering the proposal relate to:
  - (a) State and Local Planning Policy Framework Summary;
  - (b) Built form and design;
  - (c) Heritage;
  - (d) Off-site Amenity Impacts;
  - (e) Internal Amenity;
  - (f) Objector concerns.

### **Objector Concerns**

4. Thirty (30) objections were received to the application, these can be summarised as:
  - (a) Overdevelopment of the site/excessive height;
  - (b) Potential off-site amenity impacts (overshadowing, loss of daylight to windows/skylights, overlooking, noise from car stackers and noise from the roof terraces)
  - (c) Loss of existing use of the building as an arts space;
  - (d) Does not respect the neighbourhood character;
  - (e) Does not respect the heritage precinct;
  - (f) Disruption of the Fitzroy Street footpath due to vehicle crossovers;
  - (g) Pressure on surrounding car parking resources;
  - (h) Reduction of green space in Cecil Street;
  - (i) Increase of traffic impacts.

### **Conclusion**

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

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

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**1.1 66 Cecil Street, Fitzroy - PLN17/0398 - Full demolition of the existing building, and development of the land for the construction of three dwellings.**

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Trim Record Number: D18/15408

Responsible Officer: Principal Statutory Planner

<b>Proposal:</b>	Full demolition of the existing building and development of the land for the construction of three dwellings.
<b>Existing use:</b>	Performing Arts Hall
<b>Applicant:</b>	Antelope Investments Trust & Peppavers Trust
<b>Zoning / Overlays:</b>	Mixed Use Zone (MUZ) Heritage Overlay (HO334) Environmental Audit Overlay (EAO) Special Building Overlay (SBO)
<b>Date of Application:</b>	25/05/2017
<b>Application Number:</b>	PLN17/0398

### Planning History

1. Planning Permit No. 97/587 was issued on 20 June 1997 for *change of use from office to dance studio with caretaker's residence*.

### Background

2. The application was submitted in May 2017, with additional information submitted in July 2017. Council raised a number of concerns with the original application regarding height, massing, design, integration and visual impacts. No amendments were made to the plans at this time, with the application proceeding to advertising in August 2017. A total of 30 objections were received.
3. The application was referred to a number of Council departments, with the issues outlined above also raised by Council's Urban Design Unit and Heritage Advisor.
4. In response, amended plans were submitted under Section 57A of the *Planning and Environment Act 1987* (the Act) on 25 January 2018. These plans included the following modifications to the design and form the decision plans for this application;
  - (a) The number of townhouses reduced from 4 to 3;
  - (b) The number of levels reduced from 4 to 3 (with the roof terrace maintained);
  - (c) Extent of brickwork, metal cladding and window configurations amended;
  - (d) Amended designs to dwelling entrances and the Cecil Street façade;
  - (e) Subsequent internal layout changes to each dwelling.
5. The amended plans were readvertised on 29 January 2018. Fifteen (15) objections were received to the amended plans, with all of these submissions associated with current objectors. The total number of objections to the proposal remains at 30.

### Existing Conditions

#### Subject Site

6. The subject site is located on the south-west intersection of Cecil Street and Fitzroy Street, Fitzroy. The site has a frontage to Cecil Street of 10.08m, with a secondary frontage to Fitzroy Street of 25m, yielding an overall site area of approximately 253sqm.

7. A post-war style building constructed of cream bricks occupies the site. The building is constructed to the side and rear boundaries at both levels, with the façade set back 1.66m from Cecil Street. A small degree of vegetation is located within this front setback. The main pedestrian entrance is located within the Cecil Street frontage, with a 3.8m wide laneway extending along the site's rear southern boundary. A performing arts centre currently operates on the land.



*Existing building on subject site*

### Surrounding Land

8. The land is located 80m to the west of Brunswick Street and 70m to the south of Alexandra Parade. Land to the north and west is located within the Neighbourhood Residential Zone (NRZ), with land further to the east within the Commercial 1 Zone (C1Z). The site is located within a small pocket of the Mixed Use Zone (MUZ).
9. This section of Cecil Street is mostly residential with a mix of former warehouses, some of which have been converted into apartments.
10. The adjoining properties to the west of the subject site are a pair of townhouses constructed c.2000 from a converted warehouse shell. These dwellings have been constructed behind the original façade, with the façade maintained along the street frontage to form a high rendered and timber front fence. Secluded private open space (SPOS) is on the northern side of the site, with the dwelling façade set back 5.4m from the front boundary. The abutting dwelling is attached to the double-storey wall of the subject building along the shared boundary for its entire length.
11. To the east, on the opposite side of Fitzroy Street, is a large, modern triple-storey residential building, with visible elements projecting higher than the triple-storey built form in some areas. This building is constructed to the Cecil Street and Fitzroy Street boundaries at its lower levels, with minimal setbacks in the levels above. The building extends along the entire length of Fitzroy Street, to Westgarth Street in the south, and was constructed c.2000 from a converted warehouse shell.



12. Directly to the south, on the opposite side of the laneway, is a contemporary triple-storey development, constructed to all boundaries at ground and first-floor, with minor setbacks of the second floor from the laneway. A balcony is located at first-floor, in the north-east corner of the site, addressing Fitzroy Street.
13. Also to the south and south-west of the site are garage doors and rear fences associated with dwellings addressing Westgarth Street, with areas of SPOS further to the south. These dwellings are predominantly single and double-storey in scale.
14. To the north, on the opposite side of Cecil Street, is a collection of single-storey, attached masonry dwellings of the Victorian-era.



*Subject site and surrounds*

## **The Proposal**

15. The application seeks full demolition of the existing building and development of the land for the construction of three dwellings. The dwellings are three storeys, plus roof terraces. In summary, the following works are proposed.

### *Demolition*

16. Full demolition of the existing building, including the front brick and wire fence.

### *Buildings and works*

17. Construction of three townhouses, with pedestrian and vehicle entrances from Fitzroy Street. Each townhouse will be three-storeys, with a roof terrace. The development will be constructed to all four boundaries at ground and first-floor.
18. At ground level, three single vehicle crossovers are proposed along the Fitzroy Street frontage. Recessed pedestrian entrances are located directly adjacent to each vehicle entrance, with separate enclosed bin storage areas also along this frontage.



19. Each dwelling will be provided with a double car-stacker. Multi-purpose rooms will be located at ground level, as will storage spaces (6 cubic metres), bathrooms and lifts.
20. At first-floor, each dwelling will have three bedrooms (one with walk-in-robe and ensuite). A second bathroom will be provided, with Townhouse 2 having access to a small terrace abutting the western boundary.
21. The second-floor will contain open-plan living spaces, with kitchens and dining areas. This level will be set back 1.25m from the western boundary, with walls raked away from the north, south and east. The setback dimensions of these raked walls are not clearly shown on the floor plans and can be required if a planning permit is to issue.
22. Roof terraces will be set back from all four boundaries (the setback dimensions are not clearly shown on the floor plans and can be required if a planning permit is to issue). Lifts and stairs will access these terraces.
23. The maximum height of the townhouses (based on the Fitzroy Street NGL) will be 13.3m, with the lift shaft and staircases projecting 1.62m above this height. The building will be composed of face brickwork and colourbond metal cladding, with breeze block detailing. The garage doors will be powdercoat finish.

#### *ESD Measures*

24. The ESD report indicates that the following ESD features will be incorporated into the development;
  - (a) Each dwelling will be provided with an underground rainwater tank (2,000L capacity), with the ESD report indicating that these tanks will be connected to toilets within the development;
  - (b) The development will achieve an average of 6.6 stars;
  - (c) Energy efficient mechanical equipment will be used throughout, with ceiling fans used in some habitable rooms to negate the need for air-conditioning;
  - (d) Water efficient appliances will be provided;
  - (e) Natural ventilation and daylight will be provided to all habitable rooms;
  - (f) The garage doors will also contain openings to allow for natural ventilation from these spaces;
  - (g) Internal or external clothes drying lines will be installed;
  - (h) Double-glazed windows will be used for all habitable rooms to improve thermal performance, with internal blinds used to prevent solar glare;
  - (i) Ample internal space for bicycle storage will be provided at ground level for each dwelling;
  - (j) Provision for electric car charging will be provided within each garage.

### **Planning Scheme Provisions**

#### Zoning

##### *Mixed Use Zone*

25. Pursuant to clause 32.04-2 of the Yarra Planning Scheme (the Scheme), a planning permit is not required to use the site for dwellings.
26. Pursuant to clause 32.04-6 of the Scheme, a planning permit is required to construct two or more dwellings on a lot.
27. Pursuant to Clause 32.04-10, a building must not be constructed that exceeds the maximum building height specified in a schedule to this zone. There is no maximum building height specified in the schedule to the Mixed Use Zone.

## Overlays

### *Heritage Overlay*

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

### *Environmental Audit Overlay*

29. 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.*
30. A note will be added to any permit issued reminding the permit applicant of these obligations.

### *Special Building Overlay*

31. 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.
32. Pursuant to clause 44.05-5 of the Scheme, 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.
33. The initial design was referred accordingly to Melbourne Water, however no comments were received. The amended design was also referred, with comments received and attached to this report.

## Particular Provisions

### *Clause 52.06 – Car Parking*

34. Clause 52.06-2 requires that before a new use commences, the number of car spaces specified under Clause 52.06-5 must be provided. The Clause 52.06-5 requirements are outlined below.

Use	Bedrooms	Rate	No. required	No. proposed
3 x Dwellings	3 Bedrooms	2 spaces per 3 or more bedroom dwelling	6	6

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35. With six on-site car parking spaces proposed, no car parking reduction is required.

### *Clause 55 – Rescode*

36. Clause 55 is applicable for a development of two or more dwellings. A development should meet all the standards and must meet all the objectives.

## General Provisions

*Clause 65 – Decision Guidelines*

37. 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, amongst other things, the relevant State Planning Policy Frameworks, Local Planning Policy Frameworks and any Local Policy, as well as the purpose of the Zone, Overlay or any other Provision.

State Planning Policy Framework (SPPF)

38. The following SPPF provisions of the Scheme are relevant:

*Clause 11 – Settlement*

39. *Planning is to recognise the need for, and as far as practicable contribute towards (as relevant);*
- (a) *Diversity of choice.*
  - (b) *Adaptation in response to changing technology.*
  - (c) *Economic viability*
  - (d) *A high standard of urban design and amenity.*
  - (e) *Energy efficiency.*
  - (f) *Accessibility*
  - (g) *Land use and transport integration*
40. *Planning is to facilitate sustainable development that takes full advantage of existing settlement patterns, and investment in transport and communication, water and sewerage and social facilities.*

*Clause 11.02 – Urban growth*

41. The objective of this clause is: *to ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.*

*Clause 11.04-2 – Housing Choice and Affordability*

42. The objective of this clause is: *to provide a diversity of housing in defined locations that cater for different households and are close to jobs and services.*

*Clause 11.04-4 – Liveable Communities and Neighbourhoods*

43. The objective of this clause is: *to create healthy and active neighbourhoods and maintain Melbourne's identity as one of the world's most liveable cities.*

*Clause 15 – Built Environment and Heritage*

*Clause 15.01-1 – Urban design*

44. 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 15.01-4 – Design for safety*

45. The Objective of this Clause is *'to improve community safety and encourage neighbourhood design that makes people feel safe'.*

*Clause 15.01-5 – Cultural identity and neighbourhood character*

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

*Clause 15.02-1 – Energy and resource efficiency*

47. The objective of this clause is *'to encourage land use and development that is consistent with the efficient use of energy and the minimisation of greenhouse gas emissions'*.

*Clause 16 – Housing*

*Clause 16.01-1 – Integrated housing*

48. The objective of this clause is *'to promote a housing market that meets community needs'*.

*Clause 18.02-1 - Sustainable personal transport*

49. The objective of this clause is *'to promote the use of sustainable personal transport'*.

Local Planning Policy Framework (LPPF)

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

*Clause 21 – Municipal Strategic Statement (MSS)*

*Clause 21.04 – Land use*

*Clause 21.04-1 – Accommodation and Housing*

51. The relevant Objectives and Strategies of this clause are:

- (a) *Objective 1 To accommodate forecast increases in population.*
- (b) *Objective 2 To retain a diverse population and household structure.*

*Clause 21.05-2 – Urban design*

52. This clause incorporates the following objectives to achieve this:

- (a) *Objective 16 - To reinforce the existing urban framework of Yarra;*
- (b) *Objective 18 - To retain, enhance and extend Yarra's fine grain street pattern;*
- (c) *Objective 20 - To ensure that new development contributes positively to Yarra's urban fabric.*

*Clause 21.06 – Transport*

*Clause 21.06-1 – Walking and cycling*

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

*Clause 21.07 Environmental Sustainability*

54. The relevant objective of this clause is:

- (a) *Objective 34 To promote ecologically sustainable development:*

*Clause 21.08 Neighbourhoods*

55. *Clause 21.08-7 – Fitzroy. Fitzroy is a mixed commercial and residential neighbourhood notable for the consistency of its Victorian streetscapes. It comprises a dense combination of residential areas, shopping precincts and commercial/ industrial activities.*

Relevant Local Policies

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

56. *Clause 22.02 of the Scheme applies to all development where a planning permit is required under the Heritage Overlay. The objectives of the policy include:*
- (a) *to conserve Yarra's natural and cultural heritage;*
  - (b) *to conserve the historic fabric and maintain the integrity of places of cultural heritage significance;*
  - (c) *to retain significant view lines to, and vistas of, heritage places;*
  - (d) *to preserve the scale and pattern of streetscapes in heritage places;*
  - (e) *to encourage the preservation, maintenance, restoration and where appropriate, reconstruction of heritage places;*
  - (f) *to ensure that additions and new works to a heritage place respect the significance of the place;*
  - (g) *to encourage the retention of 'individually significant' and 'contributory' heritage places.*
57. *Clause 22.02-5.7 (New Development, Alterations or Additions)*
- (a) *Encourage the design of new development and alterations and additions to a heritage place or a contributory element to a heritage place to:*
  - (b) *Respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape.*
  - (c) *Be articulated and massed to correspond with the prevailing building form of the heritage place or contributory elements to the heritage place.*
  - (d) *Be visually recessive and not dominate the heritage place.*
  - (e) *Be distinguishable from the original historic fabric.*
  - (f) *Not remove, cover, damage or change original historic fabric.*
  - (g) *Not obscure views of principle façades.*
  - (h) *Consider the architectural integrity and context of the heritage place or contributory element.*
58. *This policy refers to an incorporated document (City of Yarra Review of Heritage Areas 2007 Appendix 8, revised March 2017), which identifies the level of significance for all buildings/sites within the Heritage Overlay. In this instance, the site is identified as 'not-contributory' to the South Fitzroy Heritage Precinct.*

*Clause 22.05 (Interface Uses Policy)*

59. This policy applies to applications for development within Mixed Use Zones (amongst others).
60. The relevant objectives of this clause is;
- (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;*
  - (b) *To ensure that residential uses located within or near commercial centres or near industrial uses enjoy a reasonable level of amenity.*
61. This policy outlines recommendations for dwelling design to incorporate measures to protect future residents from noise, fumes, vibration, light spillage and other likely disturbances. Further it encourages the location of noise-sensitive rooms and openings away from the interface; the provision of acoustic assessment reports where necessary; and appropriate siting, setbacks, articulation and screening to prevent overlooking.

*Clause 22.07 – Development Abutting Laneways*

62. The objectives at Clause 22.07-2 include;
- (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.*
- (c) *To ensure that where development is accessed off a laneway, all services can be provided to the development*
- (d) *To ensure that development along a laneway is provided with safe pedestrian and vehicular access.*

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

63. This policy applies to new buildings and contains the following (relevant) objectives;
- (a) *To achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999 (or as amended);*
  - (b) *To promote the use of water sensitive urban design, including stormwater re-use.*
  - (c) *To mitigate the detrimental effect of development on downstream waterways, by the application of best practice stormwater management through water sensitive urban design for new development.*

*Clause 22.17 (Environmentally Sustainable Design)*

64. This policy applies to residential development with more than one dwelling. The overarching objective is that development should achieve best practice in environmentally sustainable development from the design stage through to construction and operation. The considerations are energy performance, water resources, indoor environment quality, storm water management, transport, waste management and urban ecology.

**Advertising**

65. The application was advertised under the provisions of Section 52 of the Act with 62 letters sent to surrounding owners and occupiers and two signs displayed on site.
66. Thirty (30) objections were received to the application, these can be summarised as:
- (a) Overdevelopment of the site/excessive height;
  - (b) Potential off-site amenity impacts (overshadowing, loss of daylight to windows/skylights, overlooking, noise from car stackers and noise from the roof terraces)
  - (c) Loss of existing use of the building as an arts space;
  - (d) Does not respect the neighbourhood character;
  - (e) Does not respect the heritage precinct;
  - (f) Disruption of the Fitzroy Street footpath due to vehicle crossovers;
  - (g) Pressure on surrounding car parking resources;
  - (h) Reduction of green space in Cecil Street;
  - (i) Increase of traffic impacts.
67. Amended plans were submitted under Section 57A of the Act on 25 January 2018. These plans included the following modifications to the design;
- (a) The number of townhouses reduced from 4 to 3;
  - (b) The number of levels reduced from 4 to 3 (with the roof terraces maintained);
  - (c) Extent of brickwork, metal cladding and window configurations amended;
  - (d) Amended designs to dwelling entrances and the Cecil Street façade;
  - (e) Subsequent internal layout changes to each dwelling.
68. The amended plans were readvertised on 29 January 2018. Fifteen (15) objections were received to the amended plans, with all of these submissions associated with current objectors. The total number of objections to the proposed remains at 30.

69. A Consultation Meeting was held on 13 February 2018, where the key issues raised in the objections were discussed with the Permit Applicant, Objectors and Planning Officers present. No changes to the plans were made following this meeting.

## **Referrals**

### External Referrals

70. The application was required to be referred to Melbourne Water under Section 55 of the Act. No comments were received on the original design, however the following comment was received on the amended application;
- (a) *The finished floor level of town house 1 must be the same as for the other two town houses*

### Internal Referrals

71. The original application was referred to Council's Engineering Services Unit, Urban Design Unit, Heritage Advisor and ESD Officer, with referral comments attached to this report. The amended application was not re-referred, as the altered plans addressed the recommendations and concerns raised by the initial referred comments.

## **OFFICER ASSESSMENT**

72. This assessment will be framed around the following:
- (a) Clause 55 Assessment  
(b) Heritage;  
(c) Objector concerns.

### Clause 55 – ResCode

#### *B1 – Neighbourhood character objectives*

73. The character surrounding the site is mixed with regards to design, style and scale, with traditional dwellings interspersed with contemporary townhouses (double to triple-storey in scale). The site is located in an area undergoing a degree of change, with the C1Z to the east and the pocket of MUZ in which the subject site is located providing for less restrictive outcomes with regards to height and built form. This is evident in the previous warehouse conversions that have occurred on adjacent sites.
74. The location of the subject site provides an appropriate response for the construction of three dwellings. The design of the northern-most townhouse will retain a degree of integration with Cecil Street, with the use of articulation and different materials providing a degree of verticality along Fitzroy Street that clearly defines the individual dwellings and retains the fine-grain pattern of the adjacent streetscape.
75. The proposal responds appropriately to the height of the residential building to the east and the triple-storey townhouse to the south, with setbacks of the upper levels providing a degree of transition to the west. This design responds effectively to the context of each site.
76. Concerns were raised by Council's Urban Design team with the original design, regarding the integration of the ground level frontage to Fitzroy Street, noting that the *'proposed car parking has an unduly dominating impact at ground floor level, occupying about 78% of the street frontages and more than half of the floor area at ground floor level. This results in a lack of visual interaction between inside and outside, a very disrupted footpath and an unengaging pedestrian experience in the public realm which surrounds the site'*.



77. The reduction in the number of townhouses has subsequently reduced the dominance of these garage entrances, with the inclusion of recessed pedestrian entrances and detailed designs in front of each entrance drawing the focus away from the garage doors. The proposed breeze block design allows views to the dwelling entrances and creates a visually interesting focal point that differentiates each dwelling from its vehicle entrance. The amended design has improved this integration with the street and is supported.
78. The design response will provide an environment which has a feeling of safety for users of the laneway to the south, with the permeable breeze block bricks within the ground level wall and the windows at first-floor providing a degree of interaction with this space. This outcome is consistent with objectives outlined at Clause 22.07 (Development Abutting Laneways) of the Scheme.
79. Based on the above, the proposed development will adequately respect the existing and emerging neighbourhood character and the objective of the Standard will be met.

*B2 – Residential policy objectives*

80. The subject site is located 80m from the Brunswick Street MAC, with the development of the site resulting in efficient use of existing infrastructure and supporting an increase in population in established areas, consistent with Clause 21.04-1 of Council's MSS. The objectives of the Standard are met.

*B3 – Dwelling diversity objective*

81. This Standard does not apply to developments with less than 10 dwellings.

*B4 – Infrastructure objectives*

82. The proposal is located within an area with existing utility services and infrastructure, with the site already accommodating a building which is connected to all necessary services. The objectives of the Standard are met.

*B5 – Integration with the street objective*

83. Whilst all three dwellings will be accessed via Fitzroy Street, the northern wall of Dwelling 1 has been designed to create the appearance of a façade to Cecil Street. The image on the following page demonstrates how the use of openings, breeze blocks and upper level windows within this wall create a degree of integration with the Cecil Street footpath, thereby maintaining a connection with the adjacent streetscape. The windows at all levels will also allow for a degree of passive surveillance to Cecil Street.
84. Vertical windows have been incorporated into the dwelling entrances addressing Fitzroy Street, with the permeability of the breeze blocks in front of these entrances allowing for a good degree of interaction with the street. Windows at the upper levels will also provide surveillance opportunities between the public and private realm. To ensure that this interaction is suitably achieved, a condition of any permit issued can require the permeability of the breeze blocks and security gates facing Fitzroy Street to be a minimum of 50%. Based on this condition, the objective of the Standard has been met.



*Proposed Cecil Street façade*

### *B6 – Street setback objective*

85. The existing double-storey building currently extends along the Fitzroy Street footpath, with the Cecil Street façade set back 1.66m from this frontage. The development will be constructed directly to both street frontages at ground and first-floor.
86. To achieve this Standard for a corner site, a new building should be set back the same distance as an existing building on the abutting allotment facing the same street frontage, or 9 metres, whichever is the lesser.
87. Whilst the double-storey façade of the dwellings to the west are set back over 5m from the Cecil Street boundary, the height and design of the front fence extending along the street frontage (which is a part of the retained warehouse façade) provides the perception of hard-edged built form along Cecil Street, as can be seen in the image below. This fence is approximately 2m-3m in height.



*No. 64 & No. 66 Cecil Street*

88. This outcome, when combined with the direct abuttal to Cecil Street of the multi-level building to the east, provides a pattern of hard-edge built form in the immediate surrounds. This is demonstrated in the images below, with the second image demonstrating the direct abuttal of built form that continues along both sides of Fitzroy Street further to the south.



*No. 498 Fitzroy Street (east)*



*No. 498 Fitzroy Street (south-east) and No. 467 Fitzroy Street (south).*

89. The Standard also states that side walls of new development fronting the side street of a corner site should be setback at least the same distance as the setback of the front wall of any existing building on the abutting allotment facing the side street or 2m, whichever is the lesser. As outlined above, the walls to the south, along Fitzroy Street, have zero setbacks. Given the prevailing setbacks of these existing buildings, the proposed abuttal of the two street frontages is considered to respect the existing neighbourhood character and make efficient use of the site.

90. The second floor and roof parapet will be set back from both street frontages, with these levels raked to a total of 1.3m from the respective facades (these setbacks are not dimensioned on all drawings. These details will be required via a permit condition, if a permit is to issue). This setback references the articulation provided within the upper levels of the development to the east, and allows the double-storey facades to maintain their prominence within both streetscapes. The objective of the Standard is met.

*B7 – Building height objective*

91. Pursuant to Clause 32.04-10, a building must not be constructed that exceeds the maximum building height specified in a schedule to this zone. It is noted that there is no maximum building height specified in the schedule to the MUZ.
92. The original design proposed a four-storey development, with roof terraces. Urban Design advice provided for the original design included the following comments;
- (a) *Viewed from the northwest, the proposal is significantly taller than the adjoining house at 64 Cecil St, which has an open space behind the retained single-storey wall which acts as its front fence. The top of the proposed 2-storey blank side wall will be visible, as will the two metal-clad levels above, which are set back 1.25m from the west boundary. This interface would be improved by deleting a level from Townhouse 1, and the resultant 3-storey height would be more consistent with other residential developments in the vicinity, including those to the immediate east and south*
93. The amended design incorporated this advice into the revised scheme, with a level deleted not only from Townhouse 1, but from the entire development. The 1.25m setback of the second floor and roof terrace from the western boundary was maintained. This alteration has created a more sympathetic transition in height with the dwellings to the west, particularly as the highest element of the roof terrace will be set back 6.5m from the front (Cecil Street) boundary. This will allow for a single-storey transition to the double-storey built form to the west, and creates an acceptable graduation in height from the triple-storey buildings to the east and south.
94. The amended design is considered to be consistent with the provisions outlined above and the Standard is met.

*B8 – Site coverage objective*

95. The development will be constructed to encompass 100% of the site, thereby exceeding the 60% coverage recommended by the standard. The existing building covers approximately 94% of the land. Surrounding development, in particular the converted warehouse buildings within proximity to the site also cover a significant portion of adjacent land, as demonstrated in the image below. Given the existing context, this outcome is acceptable.



*B9 – Permeability objectives*

96. The development will provide no on-site permeability, given the 100% built form coverage proposed. Currently there is extremely limited on-site permeability, with the existing building covering the majority of the site.
97. To alleviate the shortfall in permeable surfaces, each dwelling will be provided with a 2,000L rainwater tank to manage stormwater impacts, with the ESD Report indicating that these tanks will be connected to toilets within each dwelling and a STORM rating of 149% will be achieved. This STORM rating is based on the original scheme, which proposed four dwellings and four tanks, however the Applicant has confirmed that a similar figure can be achieved with the new design. To ensure consistency, a notation confirming that the rainwater tanks will be connected to toilets should be included on the floor plans, and an amended STORM report (with a minimum rating of 100%), should be provided. These requirements can be facilitated via a condition, should a permit be issued.

*B10 – Energy efficiency objectives*

98. The proposal will achieve a good level of energy efficiency, with the ESD report describing the following features to be incorporated into the design;
- (a) Each dwelling will be provided with an underground rainwater tank (2,000L capacity), with the ESD report and a permit condition ensuring that these tanks will be connected to toilets within the development;
  - (b) The development will achieve an average of 6.6 stars;
  - (c) Energy efficient mechanical equipment will be used throughout, with ceiling fans used in some habitable rooms to negate the need for air-conditioning;
  - (d) Water efficient appliances will be provided;
  - (e) Natural ventilation and daylight will be provided to all habitable rooms;
  - (f) The garage doors will contain openings to allow for natural ventilation from these spaces;
  - (g) Internal or external clothes drying lines will be installed;
  - (h) Double-glazed windows will be used for all habitable rooms to improve thermal performance, with internal blinds used to prevent solar glare;
  - (i) Internal space for bicycle storage will be provided at ground level for each dwelling;
  - (j) Provision for electric car charging will be provided within each garage.
99. To ensure these measures are provided, the following features will be required to be notated or demonstrated on the plans via permit conditions, if a permit is to issue.
- (a) The openings within the garage doors;
  - (b) External clothes drying lines (with an external option preferable to internal as it is more effective for drying clothes with less impact on the overall energy consumption of the dwelling. The roof terraces provide space for these features);
  - (c) Bicycle storage for each dwelling; and
  - (d) Provision for electric car charging within each garage.
100. It is not considered that the energy efficiency of adjacent sites will be unreasonably impacted by the proposed development. Overshadowing to areas of SPOS within sites to the south & south-west will be discussed in detail later within this assessment.
101. On this basis, the proposed development satisfies the requirements of Clause 22.16 (Stormwater Management) and Clause 22.17 (Environmentally Sustainable Development) of the Scheme.

*B11 – Open space objective*

102. This standard does not apply as no public or communal open space is proposed.

*B12 – Safety objective*



103. The dwelling entrances are clearly visible along Fitzroy Street, with sliding security gates located in front of each individual entrance and a transitional space provided for each dwelling. The permeable design of the breeze blocks will provide views to these spaces from the footpath. The Standard will be met.

*B13 – Landscaping objectives*

104. There is no landscaping proposed on site, with the limited degree of vegetation within the existing front setback to be removed. There is no landscaping evident within the residential development to the east, however there is some landscaping provided within the front setback to the west, with visible vegetation within areas of SPOS to the south of the site (at the rear).
105. Whilst landscaping is not a predominant characteristic in the immediate mixed-use area, the provision of some vegetation may assist in softening the built form response to the street. Planter boxes located behind the breeze blocks, in front of each dwelling entrance addressing Fitzroy Street could assist in achieving this outcome. A condition, if a permit is issued, can ensure this occurs.
106. Further planting to the roof terraces, if visible from both streetscapes, would also assist in incorporating some vegetation onto the site and providing a softened response. This will be discussed in more detail within Standard B22 – Overlooking, of this assessment.

*B14 – Access objectives*

107. This standard seeks to ensure that the number of vehicle crossovers respects the character of the street, whilst maximising the retention of on-street car parking spaces. The proposed development seeks to provide three new vehicle crossings on Fitzroy Street. As parking is prohibited on the western side of this street, no on-street car parking spaces will be affected by these works.
108. The original proposal, which involved the construction of four vehicle crossovers along this streetscape, was referred internally to Council Engineers, who raised no objection to these works. The reduction to three crossovers will subsequently result in less disruption to the street and continues to be an acceptable outcome.
109. Crossovers are a relatively common characteristic within this section of Fitzroy Street, with a double and single crossing accessing the building to the east and a double crossover providing vehicle access to the townhouse to the south.
110. Advice from Council Engineers confirmed that the submitted swept path diagrams using the B99 design vehicle satisfactorily demonstrate vehicle movements into and out of the garages. In addition, the development allows adequate access for service, emergency and delivery vehicles.
111. The only issues raised relate to the location of an existing grated side entry pit and telecommunications pit in the area of the new vehicle crossing for Townhouse 1. In addition, a parking sign requires relocation. Council Engineers have provided conditions that must be met to accommodate this new vehicle crossing and the relocation of infrastructure. These conditions will be incorporated into a planning permit, should one be issued.

*B15 – Parking location objectives*

112. The on-site car parking spaces for the three dwellings will be provided in car-stacker units, with a transitional vehicle space provided on-site in front of each stacking system. The car stacker device to be used for this development is the Wöhr Parklift 450-195.

The device has a pit length of up to 5.4m and a usable platform width of 2.6m, with Council Engineers confirming that the device can comfortably accommodate B85 design vehicles.

The stacker device contains platforms with vehicle clearance heights of 1.8m and satisfies *Design standard 4: Mechanical parking*.

113. The swept path diagrams also satisfactorily demonstrate vehicle turning movements into and out of the stacker platforms using the B99 design vehicle.
114. The car spaces are conveniently located and secure, with the design of the garage doors providing openings to allow for natural ventilation. A condition of the permit requires these openings to be shown on the plans. The objective of the Standard is met.

*B17 – Side and rear setbacks objective*

*Western setback*

115. The setback from the western boundary is outlined below;

Wall location	Wall height	Setback required	Setback provided	Complies?
Second floor/roof terrace	Maximum 13.3m	8.39m	1.25m	No

116. The setback of these upper levels does not comply with the Standard; however the majority of the new development directly abuts a double-storey wall extending along the shared boundary. This will limit unreasonable amenity impacts to the western site.
117. The SPOS associated with the dwelling to the west is located at the front of this site, with an existing double-storey wall already extending along the interface with this space. The height of the existing wall (approximately 7.4m) will be replicated by the new boundary wall. The section of wall directly opposite this open space will extend in height to 10.35m, with a glazed balustrade above, extending along the western boundary of the roof terrace. If a permit is to issue, amended plans will be required to confirm that this balustrade is composed of glazing.
118. The scale of the 7.4m high double-storey wall along the western boundary will inhibit a significant degree of visibility from the adjacent SPOS to the higher section of wall above. The clear balustrade will also alleviate visual impacts to this space.
119. The setback of the stairway access and lift core associated with the roof terrace of Dwelling 1 from the front boundary will ensure that none of these higher structures will be directly opposite the SPOS. This will further alleviate unreasonable visual impacts from this space and the objective of the Standard will be met.

*Southern elevation*

120. The setbacks from the southern boundary are outlined below.

Wall location	Wall height	Setback required	Setback provided	Complies?
Second floor/roof terrace	12m	7.09m	1.3m	Yes

121. The raked design of the second-floor mirrors the design provided to the existing southern townhouse, as can be seen in the image below, although the existing setback of this townhouse appears to be less than that proposed for this application. Whilst this setback does not comply with the Standard, there are no sensitive interfaces directly to the south, with this wall adjacent to the laneway and not addressing any windows within the second floor of the southern dwelling. The setback provided will allow for a double-storey wall to directly abut the laneway, which is considered to be an appropriate outcome given the prevalence of surrounding double-storey walls and the character of the laneway. The raked design will alleviate visual impacts from the south and the objective of the Standard is met.





*B18 – Walls on boundaries objective*

*Western boundary*

122. To comply with this standard, any new wall constructed along the western boundary should not exceed 13.75m in length. The standard also notes that the average wall height should not exceed 3.2m, with no part higher than 3.6m unless abutting a higher existing or simultaneously constructed wall.
123. The development proposes a 7.4m high double-storey wall along the full length of this boundary. This wall will replace an existing double-storey wall of an equivalent height, with another existing wall also extending along the boundary associated with the dwelling to the west. The only area of wall that will not abut the existing wall is at the northern end of the land, with this wall directly adjacent to SPOS to the west. As an existing double-storey wall currently abuts this SPOS, no additional impacts will occur and the objective of the Standard will be met.

*Southern boundary*

124. A double-storey wall (7.4m above NGL) will extend along the full length of the southern boundary. This wall will replace an existing double-storey wall along this boundary (with the existing wall approximately 6.4m high). Given the existing built form along this interface, and the characteristic of double-storey boundary walls immediately to the south and east of the site, this outcome is acceptable. It is not anticipated that the boundary wall will result in any unreasonable impacts to adjacent sites and the objective of the Standard will be met.

*B19 – Daylight to existing windows objective*

125. There are a number of windows addressing the subject site within the residential building to the east; this building is separated by Fitzroy Street for a distance of 10m. The majority of these windows are located at first and second floors. The distance and elevated height of the windows ensures that no unreasonable loss of daylight will occur and the Standard will be met.
126. There are four windows within the townhouse to the south. These windows are located at ground and first-floor and are separated from the subject site by a 3.8m wide laneway. The separation provided by the laneway will ensure that all of these windows will continue to have access to a minimum area of 3sqm and minimum dimension of 1m clear to the sky, as per the first part of Standard B19.

127. Floor plans for this southern dwelling indicate that these windows are associated with bedrooms/bathrooms at ground floor, and living areas at first-floor. The plans also indicate that the ground floor bedroom also has access to an east-facing window, with the first-floor living space also provided with east and west-facing windows.
128. The maximum height of the wall opposite these windows will be 12.2m, with this wall set back a total of 5.1m from the windows. For the second part of the Standard to be met for the ground floor windows, a setback of 6.1m should be provided. For the first-floor windows, this setback would reduce to approximately 4.5m (based on the first-floor of the adjacent dwelling being 3m above NGL). In this instance, whilst the ground-floor windows do not meet this Standard, the outcome is acceptable based on the following;
- (a) The two ground floor windows are limited in size, with the western-most window associated with a bathroom (non-habitable room);
  - (b) As can be seen in the image on the previous page, the rooms associated with these windows have access to larger light source within the eastern wall of the dwelling;
  - (c) The windows are currently directly opposite a 6.4m high wall associated with the existing building on the subject site;
  - (d) It is not anticipated that an additional section of wall above this existing height will result in unreasonable impacts to daylight, with the existing context already inhibiting daylight (and direct solar access) to these windows.
129. On this basis, the objective of the Standard is met.

*B20 – North-facing windows objective*

130. The laneway along the southern boundary of the site is 3.8m in width; therefore this Standard does not apply to the four north-facing windows within the townhouse to the south. Loss of daylight to these windows has been discussed in Standard B19.

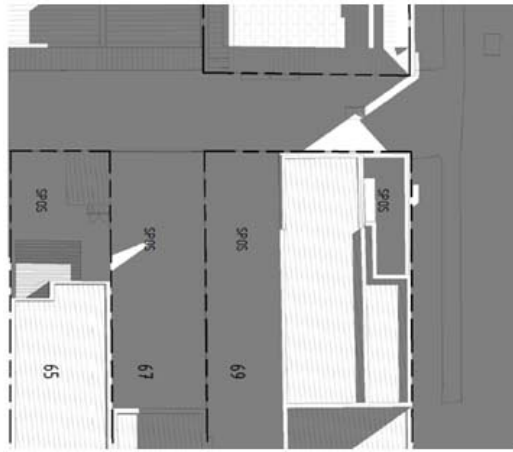
*B21 – Overshadowing open space objective*

131. The shadow diagrams demonstrate that additional overshadowing will affect three sites to the south-west at 9am, with these impacts reducing throughout the day and falling largely within the Fitzroy Street road reserve by 3pm.
132. The most significantly impacted site would be No. 69 Westgarth Street, with an area of SPOS entirely in shadow at 9am of the September equinox. However, the first image below demonstrates the existing shadow conditions in this site, with the majority of this land already shadowed at this time. The red circle indicates the existing area not in shadow.



*Existing shadows at 9am*

133. The image below indicates that the entire site will be in shadow at 9am, with shadows increasing slightly within the two sites further to the south-west.



134. However, the shadow diagrams do not depict the correct layout of the land at No. 69 Westgarth Street, with a recessed garage door set back from the adjacent laneway. This is evident within the aerial image below. The garage door is circled in red.



135. When comparing the photograph above to the existing shadow diagram, it is clear that the small area of land not currently in shadow is the area directly adjacent to the garage door. Being on the northern side of this door, this area is not SPOS. The space immediately to the south of the garage door would already be in shadow at this time.
136. A minor degree of additional overshadowing will affect SPOS further to the south-west at 9am, with these shadows cast within the rear yards of Nos. 65 & 67 Westgarth Street. However shadows will dissipate quickly, with no additional shadows affecting these sites by midday. Given the location of these properties to the west of the subject site, it is likely that any additional shadows will move easterly earlier than that.
137. Additional overshadowing will affect No. 69 Westgarth Street at midday; however as outlined above, the area of space that will be shadowed either sits on the northern side of the garage door, or is located immediately to the south of the garage door and would be largely shadowed at this time. The shadow diagram below indicates the location of shadows at midday within this site, with the red line providing the indicative location of the existing garage door.



138. The area of SPOS of No. 69 Westgarth Street measures approximately 45sqm. At midday, existing shadows fall on the northern side of the existing garage door, with no part of these shadows impacting the area of SPOS. The proposed shadows will increase by approximately 8sqm, with a section of additional shadows cast on the southern side of the garage door. However, as demonstrated in the image above, these shadow diagrams do not include existing shadows cast by the garage door. Given the height of the garage door, it is likely that all new shadows will fall within the existing shadows, and no additional area of SPOS will be impacted at this time.
139. The only remaining area of SPOS to the south that may be impacted is the first-floor balcony also associated with the dwelling at No. 69 Westgarth Street (also referred to as No. 467 Fitzroy Street). As the balcony is elevated and the rear wall of the development is raked away from the balcony at the upper level, the additional shadows in this space will be limited.
140. At 3pm, there will be no additional overshadowing within any adjacent areas of SPOS. The balconies within the residential building on the eastern side of Fitzroy Street are at first or second floor, ensuring that no shadows will extend to these areas.

#### *B22 – Overlooking objective*

141. The standard states that a habitable room window should be located and designed to avoid direct views into the SPOS of an existing dwelling (or a habitable room window) within a horizontal distance of 9m (measured at ground level). Views should be measured within a 45 degree angle from the plane of the window and from a height of 1.7m above floor level. This Standard does not apply to windows associated with non-habitable rooms (i.e. bathroom, staircase).
142. All views from the north-facing windows associated with Dwelling 1 will fall within the public realm, being oriented towards Cecil Street. There will also be no unreasonable overlooking to the north from the roof terrace of this dwelling.

143. This outcome is similar for easterly views from all dwellings within the development, with the closest habitable room windows and balconies being over 10m away. These are located within the residential building on the eastern side of Fitzroy Street.
144. There are two south-facing windows at first-floor within Dwelling 3, with the 1m height of the roof terrace balustrade also potentially allowing views to the south and south-west. The Applicant has indicated that they are willing to appropriately restrict views to the south, without increasing the height of the roof terrace balustrade, which may increase visual impacts from the adjacent sites. This could be achieved via the installation of a fixed structure (such as a planter box) within the roof terrace of Dwelling 3, to inhibit future occupants from standing directly behind the balustrade and looking downwards. An additional setback of the roof terrace from the southern boundary could also alleviate these concerns. If a planning permit is to issue, a condition could be added to provide these changes.
145. To prevent overlooking into these adjacent windows, the first-floor windows should also be treated with measures to restrict overlooking. If a planning permit is to issue, a condition could be added to provide these changes.
146. All three dwellings have west-facing windows at second-floor, with roof terraces above also allowing a degree of westerly views. The most sensitive areas to the west are the SPOS on the northern side of the adjacent site, and a skylight within the roof of this dwelling. Again, the Applicant has indicated that measures can be incorporated into the roof terrace and windows to inhibit overlooking in accordance with the Standard. As with the southern interface, the measures incorporated into the design of the roof terrace should not increase visual bulk or height. Planter boxes, which would provide a degree of landscaping within the streetscape, or an additional setback of the western balustrade from this boundary, could achieve this objective. If a planning permit is to issue, a condition can be added accordingly.

*B23 – Internal views objective*

147. The location of the lift and stairways will partially restrict views between the roof terraces of each dwelling, with a 1m high balustrade extending along the remainder of each terrace. The objective of this Standard is to limit views into the SPOS of dwellings within a development. To achieve this objective, the balustrades should be a minimum of 1.7m in height, with a maximum transparency of 25%. If a permit is to issue, a condition can ensure this change occurs.

*B24 – Noise impacts objective*

148. Concerns have been raised about potential noise impacts that may be generated by the vehicle stackers at ground level. All three of these stacker units are directly adjacent to the shared boundary wall to the west, with the adjacent dwelling directly abutting this wall. To ensure that no unreasonable noise impacts are generated by this mechanical equipment, an Acoustic Report can be required via a condition if a permit is to issue. This Acoustic Report should highlight the potential noise levels of the vehicle stackers within the abutting dwelling and discuss whether any noise attenuation measures are required. The report should also address the potential for internal noise impacts to the bedrooms within the level above the proposed stackers.
149. Other noise generated by the new dwellings will be residential in nature; it is not considered that the proposed development of the site will generate unreasonable noise impacts on surrounding sites. The Scheme does not include reference to applicable noise control legislation, instead the *Environment Protection (Residential Noise) Regulations 2008* is the relevant legislation regarding residential noise impacts and how they can be controlled.

*B25 – Accessibility objective*

150. Due to the location of the dwellings within the SBO, higher finished floor levels are required to alleviate impacts from potential flooding, therefore steps will be required between the footpath level and the ground level of all dwellings. This is unavoidable based on this requirement. However, lifts are provided within each dwelling, providing access for people with limited mobility to the upper levels. The Standard will be met.

*B26 – Dwelling entry objective*

151. A degree of shelter and transitional space will be provided around the entrances to each dwelling, with these entrances clearly visible within the Fitzroy Street frontage. The Standard will be met.

*B27 – Daylight to new windows*

152. All new habitable room windows will receive adequate daylight in accordance with the Standard, being oriented to face an outdoor space clear to the sky with a minimum area of 3sqm and minimum dimension of 1m. Bedroom 3 of Dwelling 2 will address a small light court (3sqm), ensuring that adequate daylight will access this space.
153. The ground floor multi-purpose rooms will have windows addressing the covered verandah above each dwelling entrance. Whilst daylight to these rooms will be restricted, given they are not a principal living area this outcome is acceptable. The objective of the Standard will be met.

*B28 – Private open space objective*

154. Each dwelling will have access to a roof terrace, ranging in size from 52sqm to 62sqm. These terraces will be directly accessible from the principal habitable living spaces in the level below via stairs and lifts. The size and location of these terraces are considered acceptable, with the objectives of the Standard met.

*B29 – Solar access to open space objective*

155. Direct solar access will be available to the roof terraces of the three townhouses, ensuring that the Standard is met.

*B30 – Storage objective*

156. Each dwelling will be provided with 6 cubic metres of secure storage at ground level, ensuring that the Standard is met.

*B31 – Design detail objective*

157. The proposed development is contemporary in design and incorporates modern materials, whilst the use of face brickwork references more traditional materials used in the area. The materials have been articulated to provide a visually interesting response, with the use of breeze blocks also providing a design detail that integrates well with the predominant brick finish of the façade. The objective of the Standard is met.

*B32 – Front fences objective*

158. There is no front fence proposed.

*B33 – Common property objective*

159. There is no common property proposed as part of the development.

*B34 – Site services objectives*

160. Enclosed bin storage areas and individual mail boxes will be provided for each dwelling within the Fitzroy Street frontages, ensuring that the Standard is met. The ground floor plans indicate that outward opening doors will access the bin storage spaces; this may create obstruction issues on the Fitzroy Street footpath and is not supported. To increase pedestrian safety, alternative designs can be required for these doors via a permit condition, if a permit is to issue.

#### Heritage

161. The relevant purpose of the Heritage Overlay is to ensure that development does not adversely affect the significance of heritage places. The subject site is included in HO334, which applies to the South Fitzroy Heritage Precinct. The site is identified as 'not-contributory' within this precinct. Clause 22.02 articulates Council's local planning policy in relation to development guidelines for sites subject to the heritage overlay.

#### *Demolition*

162. In accordance with Clause 22.02-5.1 of the Yarra Planning Scheme, full demolition of the subject building may be supported as the property has been identified as being 'not-contributory' to the South Fitzroy Heritage Precinct.

#### *Buildings and works*

163. The key heritage consideration for assessing the proposed works is whether the development will adversely affect the significance, character or appearance of the broader heritage precinct, with objectives at Clause 22.02-4 aiming to preserve the scale and pattern of streetscapes in heritage places and ensuring that additions and new works to a heritage place respect the significance of the place. The proposed setbacks, height and design details associated with the development are the appropriate ways in which to assess whether these objectives have been met.
164. The proposed front setback for the new development at ground level will be zero metres from both street frontages, with the southern wall also abutting the laneway at the rear. Clause 22.02-5.7.1 of the Scheme encourages setbacks from the principal street frontage to be similar to those of adjoining contributory buildings, and where there are differing adjoining setbacks, the greater setback will apply.
165. Front setbacks of the adjacent non-contributory former warehouse properties are also zero metres, with contributory dwellings further to the west having minor front setbacks. Given that the immediate context consists of former industrial buildings (now converted) constructed directly to the street frontages, the proposed zero setbacks are considered appropriate.
166. There are minor setbacks from all boundaries proposed at the upper levels. Council's Heritage Advisor noted that these setbacks are appropriate, given they are similar to the setbacks of the uppermost levels of Nos. 467 and 494 Fitzroy Street (to the south and east of the subject site). This outcome is acceptable.
167. Clause 22.02-5.7.1 encourages new development to respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape. In this instance, the proposed roof form for the new development will be flat. As this is consistent with the other originally non-residential roof forms of the adjacent properties in the area, this outcome is acceptable.
168. A contemporary design approach has been adopted for the proposed new building. This approach is acceptable provided that adequate respect is given to the heritage character of the surrounding area through details such as external materials, proportions and fenestration.

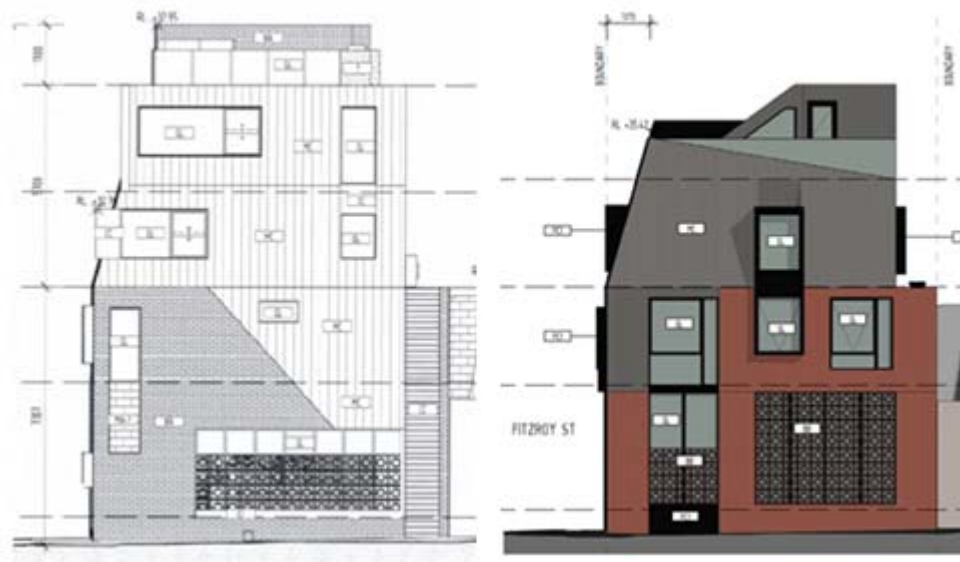


Initial concerns regarding these elements were raised by Council's Heritage Advisor, who was not supportive of the original proposal, recommending the following changes to be made to the design;

- (a) *The height of the proposed new building must be reduced to three-storeys or generally similar to the heights of the adjacent developments (maximum RL 33.5);*
- (b) *The proposed Cecil Street façade of the new building must be modified to be more interactive with the street, using the fenestration of the existing building as a design reference;*
- (c) *The extent of decorative grille proposed for the Cecil Street facade must be reduced in prominence;*
- (d) *The colours of the proposed external materials must be reflective of the predominant colours in the vicinity and must be submitted and approved prior to the commencement of works;*

169. The amended design reduced the height of the development to three storeys, with the modified height generally similar to the existing built form heights to the east and south. Whilst the maximum RL level outlined in the heritage advice has been exceeded, this outcome is acceptable, with the lower height adequately referencing the scale of the adjacent multi-level buildings and providing for a transition in height along both streetscapes.

170. The appearance of the Cecil Street frontage was amended to create a more interactive interface with the street, with additional openings provided and the design modified to appear more as a façade. Whilst breeze blocks continued to be utilised in the design, this outcome is considered acceptable and provides a degree of visual interest to this wall. The images below show the original and amended design respectively and clearly demonstrate the changes incorporated into the Cecil Street façade.



171. The colours of the development were amended, with the revised design incorporating a lighter colour scheme than the original proposal, thereby becoming more reflective of the predominant colours and materials within the neighbourhood, and integrating better with the existing heritage streetscape.

172. Overall, the amended proposal appropriately responds to the particular requirements contained within Clause 22.02 of the Scheme, and is an acceptable response to new built form within the South Fitzroy Heritage Precinct.

#### Objector concerns

173. Concerns raised in the objections have either been discussed previously throughout this report, or are addressed below.

(a) *Overdevelopment of the site/excessive height;*

These aspects of the development have been discussed in paragraphs 91 to 95 of this assessment.

(b) *Potential off-site amenity impacts (overshadowing, loss of daylight to windows/skylights, overlooking, noise from car stackers and noise from the roof terraces)*

These aspects of the development have been discussed in paragraphs 91 to 95 of this assessment.

(c) *Loss of existing use of the building as an arts space;*

The use of the land for dwellings is an 'as-of-right' use within the Mixed Use Zone, with no planning permit required for this use.

(d) *Does not respect the neighbourhood character;*

These aspects of the development have been discussed in paragraphs 73 to 79 of this assessment.

(e) *Does not respect the heritage precinct;*

These aspects of the development have been discussed in paragraphs 162 to 172 of this assessment.

(f) *Disruption of the Fitzroy Street footpath due to vehicle crossovers;*

These aspects of the development have been discussed in paragraphs 107 to 111 of this assessment.

(g) *Pressure on surrounding car parking resources;*

Each dwelling will be provided with 2 on-site car parking spaces, thereby meeting the statutory requirement of the Yarra Planning Scheme (Clause 52.06). On this basis, an assessment against car parking is not required. However the on-site provision of car spaces for each dwelling will limit any increased requirement for off-street car parking.

(h) *Reduction of green space in Cecil Street;*

These aspects of the development have been discussed in paragraphs 104 to 106 of this assessment.

(i) *Increase of traffic impacts.*

The increased traffic associated with three townhouses is not expected to result in unreasonable traffic impacts within the surrounding street networks.

## Conclusion

174. The proposal, subject to conditions outlined in the recommendation below, is an acceptable planning outcome that demonstrates compliance with the relevant Council policies. Based on the above report, the proposal complies with the relevant Planning Scheme provisions and planning policy and is therefore supported.

## RECOMMENDATION

That having considered all objections and relevant planning policies, the Internal Development Approvals Committee resolves to issue a Notice of Decision to Grant a Planning Permit PLN17/0398 for full demolition of the existing building and development of the land for the construction of three dwellings at 66 Cecil 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 by BG Architecture received by Council on 25 January 2018 but modified to show:
  - (a) The dimensions of all setbacks from site boundaries on relevant floor plans and elevations (second-floor and roof terrace);
  - (b) The breeze blocks & security doors to Fitzroy Street to have a minimum transparency of 50%;
  - (c) The material of the west-facing balustrade to Townhouse 1 to be glazing;
  - (d) The following measures to be shown or notated on the relevant plans, as outlined in the ESD Report;
    - (i) The design of the garage doors to allow for ventilation;
    - (ii) External clothes drying lines;
    - (iii) The location of internal bicycle parking spaces for each dwelling;
    - (iv) The location of the electric car charging points within each garage;
    - (v) A notation confirming that the rainwater tanks will be connected to toilets within each dwelling, with an updated STORM report achieving a minimum rating of 100%;
  - (e) An amended design of the bin storage doors, with no outward-opening elements;
  - (f) Amended plans in accordance with the Melbourne Water condition outlined at Condition 10;
  - (g) The provision of planter boxes in front of each entrance to Fitzroy Street (behind the breeze blocks);
  - (h) Compliance with Standard B22 of the Yarra Planning Scheme for the following;
    - (i) First-floor south-facing windows of Townhouse 3;
    - (ii) All west-facing windows;
    - (iii) Southern and western balustrades of roof terraces, with overlooking measures designed to have no increase in the height of these balustrades (i.e. planter boxes/increased setbacks from boundaries);
  - (i) The balustrades between each roof terrace to be minimum heights of 1.7m and maximum transparency of 25%;
  - (j) Any changes to the plans (if any) required by the Acoustic Report at Condition 4.
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. The provisions, recommendations and requirements of the endorsed Sustainable Design Assessment (prepared by Low Impact Development Consulting and dated 23 February 2017) must be implemented and complied with to the satisfaction of the Responsible Authority.
4. Before the development commences, 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 assess the following:
  - (a) Potential noise impacts to No. 64 Cecil Street generated by the proposed car stacker systems;

- (b) Potential internal noise impacts to the bedrooms within the development at first-floor.

The Acoustic Report must make recommendations to limit the noise impacts in accordance with the State Environment Protection Policy (Control of noise from industry, commerce and trade) or any other requirement to the satisfaction of the Responsible Authority.

- 5. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
- 6. Before the building 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.
- 7. 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.
- 8. 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.
- 9. 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.

#### **Melbourne Water condition 10**

- 10. The finished floor level of townhouse 1 must be the same as for the other two townhouses (i.e. FFL+ 24.05).

#### **Engineering conditions 11-14**

- 11. Within 2 months of the completion of the development, 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 by the re-sheeting of the entire Fitzroy Street and Cecil Street footpath and the ROW to the south for the width of the property frontage if required by the Responsible Authority and relocation of the grated pit on Fitzroy Street):
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
- 12. The footpath cross-fall must be no steeper than 1 in 40.
- 13. The pram crossing on the south-west corner of the Cecil Street and Fitzroy Street intersection (in front of the property) must be reconstructed and made DDA compliant;
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
- 14. 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.

15. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the car stackers must be installed in accordance with the manufacturer's specifications by a suitably qualified person. The car stackers must be maintained thereafter to the satisfaction of the Responsible Authority.
16. 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;
17. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
  - (a) Monday-Friday (excluding public holidays) before 7 am or after 6 pm;
  - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm; or
  - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.
18. 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:**

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

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.

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

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

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

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

**Attachments**

- 1**   PLN17/0398 - 66 Cecil Street Fitzroy North - Advertising S57B - Plans
- 2**   PLN17/0398 - 66 Cecil Street Fitzroy - Heritage advice
- 3**   PLN17/0398 - 66 Cecil Street Fitzroy - Engineering comments
- 4**   PLN17/0398 - 66 Cecil St Fitzroy - Urban Design referral comments final
- 5**   PLN17/0398 - 66 Cecil Street, Fitzroy - ESD Referral comments
- 6**   PLN17/0398 - 66 Cecil Street, Fitzroy - MW referral comments
- 7**   PLN17/0398 - 66 Cecil Street, Fitzroy - WMP referral comments

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|------------|---|
| <b>1.2</b> | <b>2 - 4 St Georges Road, Fitzroy North - Planning permit application number PLN13/0204.03 - Section 72 amendment to allow for the sale and consumption of liquor and an increase to patron numbers associated with a food and drinks premises (cafe), including buildings and works to modify the ground floor openings of the as-approved building.</b> |
|------------|---|
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## **Executive Summary**

### **Purpose**

1. This report provides Council with an assessment of amendment application PLN13/0204.03 at No's 2-4 St Georges Road, North Fitzroy to introduce a liquor licence with an increase to the patron number to the previously approved food and drink premises (café) and modify the ground floor openings of the as-approved building. The report recommends approval of the application subject to the conditions as outlined within the 'Recommendation' section of this report.

### **Key Planning Considerations**

2. Key planning considerations include:
  - (a) Clause 13.04 – Noise and Air;
  - (b) Clause 15 – Built Environment and Heritage;
  - (c) Clause 17 – Economic Development;
  - (d) Clause 21.03 – Vision;
  - (e) Clause 21.04 – Land Use;
  - (f) Clause 22.01 - Discretionary Uses in Residential 1 Zone;
  - (g) Clause 22.02 – Development Guidelines for Sites Subject to the Heritage Overlay;
  - (h) Clause 22.07 – Development Abutting Laneways; and
  - (i) Clause 22.09 – Licensed Premises.

### **Key Issues**

3. The key issues for Council in considering the proposal relate to:
  - (a) Strategic justification;
  - (b) Off-site amenity impacts; and
  - (c) Objector concerns.

### **Key Issues**

4. The key issues for Council in considering the proposal relate to:
  - (a) Strategic justification;
  - (b) Liquor Licence & Use;
  - (c) Heritage and buildings and works;
  - (d) Objector concerns; and
  - (e) Other matters.

### **Objector Concerns**

5. Seven objections were received to the application that can be summarised as:
  - (a) Amenity impacts (i.e. noise from excessive patron numbers, hours of operation associated with the serving of alcohol and subsequent antisocial behaviour); and
  - (b) Increased demand for on-street car parking.



## **Conclusion**

6. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported subject to the conditions outlined in the 'Recommendation' section.

**CONTACT OFFICER:** John Theodosakis  
**TITLE:** Senior Statutory Planner  
**TEL:** 9205-5307

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- 1.2      2 - 4 St Georges Road, Fitzroy North - Planning permit application number PLN13/0204.03 - Section 72 amendment to allow for the sale and consumption of liquor and an increase to patron numbers associated with a food and drinks premises (cafe), including buildings and works to modify the ground floor openings of the as-approved building.**
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Trim Record Number: D18/37836

Responsible Officer: Coordinator Statutory Planning

**Proposal:** Section 72 amendment to allow for the sale and consumption of liquor and increase the patron number of the approved café, including modification to the openings at the ground floor of the as-approved building.

**Existing use:** Currently under construction.

**Applicant:** Milieu Hospitality Pty. Ltd.

**Zoning / Overlays:** General Residential Zone (Schedule 1) / Heritage Overlay (Schedule 327) / Special Building Overlay.

**Date of Application:** 01 May 2017

**Application Number:** PLN13/0204.03

#### **Amendment C209**

7. On 01 February 2018, Planning Scheme Amendment C209 was gazetted by the Minister for Planning replacing the previous Clause 22.09 (Licensed Premises) of the Yarra Planning Scheme (the 'Scheme') provisions to improve the way licensed venues are managed in the City of Yarra.
8. Among various changes, this amendment revised what constitutes a higher risk licence venue and provides:
  - (a) clarity for the appropriate location of licenced venues;
  - (b) preferred hours for different zones (being 9.00am to 8.00pm for land zoned General Residential);
  - (c) provisions for when an acoustic report is required;
  - (d) further considerations for amendments to existing permits; and
  - (e) scenarios for when a cumulative impact assessment is required.
9. There are no transitional provisions at Clause 22.09 of the Scheme and therefore the amendment application is subject to an assessment against these.

#### **Planning History**

10. The subject site has the following planning history:
  - (a) Planning permit 26/5/60 was issued on 1 March 1962 *'to have buildings and works erected thereon in accordance with the attached endorsed plan and to be used for the purpose of a petrol filling station'*.
  - (b) Planning application 2347 for a *'Building extension to the existing service station'* was refused on 12 August 1982.
  - (c) Planning permit 96/1034 was issued on 26 September 1996 for the *'Development and use of part of the land for the purpose of ancillary office and associated staff room'*.

- (d) Planning permit PLN13/0204 was issued on 09 September 2014 for *'Demolition of the former service station buildings to develop the land with the construction of a four-storey residential building plus a semi-exposed basement car park, including a reduction in the car parking requirement of the Yarra Planning Scheme and the construction of a vehicle crossover*. The former service station has been demolished to make way for the development and excavation works hence the planning permit has been activated.
  - (e) An amendment, pursuant to Section 72 of the *Planning and Environment Act 1987* to planning permit PLN13/0204 was approved on 01 February 2016. This amendment allowed for a fully modified building with a more modern and robust design (currently under construction).
11. In addition to the above, amendment application no. PLN13/0204.02 (also made pursuant to Section 72 of the *Planning and Environment Act 1987*) was approved by delegation on 03 February 2017. The changes to this permit include (amongst others):
- (a) Internal rearrangement to consolidate units 3.05 & 3.06 and 3.07 and 3.08 into two single dwellings, subsequently reducing the number of dwellings to 26;
  - (b) The number of car spaces increased from 26 to 30;
  - (c) The provision of a mezzanine level;
  - (d) The internal reconfiguration of the cafe;
  - (e) The reconfiguration of the apartments;
  - (f) The expansion of the mesh screen to the north-east and south-east corners of the building; and
  - (g) The location of roof plant revised to accommodate further ancillary services.
12. It is this planning permit that the current amendment application relates to. The amended permit is included as an appendix to this report as are the most up-to-date, endorsed plans.

## Background

- 13. The application was lodged on 01 May 2017, with additional information submitted on 30 June 2017. The application was subsequently advertised and a statutory declaration was received on 25 August 2017. A total of 7 objections were received.
- 14. A consultation meeting was organised for the 23 January 2018. The permit applicant and Council Officers attended this meeting. No objectors attended.

## Existing Conditions

- 15. The following description of the subject site and surrounding land is extracted from the previous Officer's report to IDAC on 13 August 2014 which is still relevant to the current application. Where not in Italics, the descriptions have been updated.

### Subject Site

- 16. *The subject site is located on the eastern side of St Georges Road in North Fitzroy, opposite the 'Y' junction with Nicholson Street to the west. The subject site is bounded by Laura Place to the north and York Street to the south and has an angled frontage to St Georges Road. The site is located approximately 120m north of Alexandra Parade.*
- 17. *The subject site is an irregular shaped lot with a boundary length to St Georges Road of 28.48m, a boundary length to Laura Place of 19.55m to the north, a boundary length to York Street of 29.41m to the south, and a boundary length of 26.67m to the east. The site has a total area of 666sqm. The land gradient is relatively flat.*
- 18. *The site comprises three (3) titles, which are namely:*

<b>Title Vol/ Folio number</b>	<b>Easements or restrictions</b>
Lot 1 – Vol. No.08303 Fol. No. 065	Party wall easement.
Lot 2 – Vol. No. 08347 Fol. No. 944	Party wall easement.
Lot 1 – Vol. No. 02948 Fol. No. 447	No easements or restrictions.

19. The land is currently being developed with the as-approved building.

Surrounding Land

20. *The site is located at the western end of a residential pocket, bound by Percy Street to the north, York Street to the south, St Georges Road / Nicholson Street to the west and Rae Street to the east. The residential area is primarily single storey in scale, with some two storey dwellings, including a two-storey block of flats to the immediate east. Dwellings in the area are predominantly of the Victorian era with a mixture of Edwardian, Interwar and infill developments.*
21. *The area is well serviced by infrastructure, with the site being within walking distance of a number of restaurants and shops along Nicholson Street. The Brunswick Street Major Activity Centre is also within walking distance of the site (approximately 260m to the east). The site is within close proximity of public transport, with a tram route along Nicholson Street to the west and a bus route along Alexandra Parade to the south and is located within a 3km radius of the CBD.*
22. *To the north of the site is Laura Place and beyond that is the side of a dwelling that forms one in a row of single-storey terraces that front onto St Georges Road. Directly opposite and to the west of these dwellings is a petrol station and to the north of this are properties that front onto Nicholson Street. To the east of these dwellings is a laneway and on the opposite side is a larger redevelopment of a former factory site that is developed with two-storey town houses addressed to Laura Place. The dwellings within Laura Place are located behind existing dwellings that currently face to a street i.e. York Street (to the south), Percy Street (located 75m north of the subject site) and St Georges Road. Access to these dwellings is from St Georges Road, or Laura Place (off York Street), where it opens up to a common area consisting of a forecourt, covered car parking spaces, mail boxes, bin refuge and water tank storage associated with properties at Laura Place.*
23. *To the south side of York Street, is a large parcel of land occupied by the Roman Catholic Church. The site is developed with a double-storey building in the south-western corner (corner of Nicholson Street and Alexandra Parade) that is used as an office at ground floor and residential use at first floor, a centrally located church and a school ('formerly St Brigid's Primary School' now known as Simonds Catholic College [St Brigid's VCE Campus]), located on the northern and eastern sides of this site.*
24. *To the west of the site and beyond the 'Y' junction of St Georges Road and Nicholson Street, is the San Remo Ballroom. The building is two storeys and according to Council records is occupied by six separate tenancies (three at the ground floor and three at the first floor). To the north of the San Remo Ballroom is a row of single-storey terraces.*
25. *To the east of the subject site is a two-storey block of flats. The building is setback approximately 6m from the shared boundary where the site provides an open air car park and vehicle access. The building appears to be of the 1970's era, and is of masonry construction with a relatively flat roof.*

**The Proposal**

26. This application seeks to introduce the sale and consumption of liquor to the approved food and drink premises (café), by modifying:
- (a) the preamble of the permit to make reference to the liquor licence;

- (b) Condition 10 to allow for the operation of the food and drink premises (café) and the serving of liquor between:
    - i. 7.30am to 11.00pm, Monday to Sunday (seven days a week).
  - (c) Condition 11 to increase the patron numbers from 26 patrons to 46 patrons.
27. The application also seeks to make the following changes to the layout of the food and drink premises:
- (a) The layout of the tables and chairs reconfigured to make way for the increase in patronage / seats available to the public;
  - (b) The amenities on the mezzanine deleted; and
  - (c) the ground level shop-front windows by reducing their size and increasing the extent of masonry walls all limited and within the as-approved framework of the building (i.e. no increase in building footprint).

### **Legislative Provisions**

28. The amendment has been requested pursuant to Section 72 of the *Planning and Environment Act 1987* [the Act]. Section 72 of the Act states:
- (1) *A person who is entitled to use or develop land in accordance with a permit may apply to the responsible authority for an amendment to the permit.*
  - (2) *This section does not apply to—*
    - (a) *a permit or a part of a permit issued at the direction of the Tribunal, if the Tribunal has directed under section 85 that the responsible authority must not amend that permit or that part of the permit (as the case requires); or*
    - (b) *a permit issued under Division 6.*
29. The original permit PLN13/0204 (issued on 09 September 2014) was not issued under Division 6 of the Act.
30. Section 73 of the Act states that Sections 47 to 62 of the Act apply to the amendment application. This allows the Responsible Authority to apply the abovementioned sections of the Act to the amendment application as if it was an application for a permit.
31. Accordingly, the relevant sections will be addressed in this report.

### **Planning Scheme Provisions**

#### Zoning

##### *General Residential Zone – Schedule 1*

32. The subject site is located within the General Residential Zone. Pursuant to Clause 32.08-2 (Table of uses) of the Yarra Planning Scheme (the 'Scheme'), the use of the land for a food and drink premises (café) is a Section 2, Permit Required Use. This has been approved under the current permit. However, this proposal includes an increase in patrons and hours of operation, and hence the use will be reconsidered with respect to these matters.
33. Pursuant to Clause 32.08-8 of the Scheme a permit is also required to construct a building or construct or carry out works for a use in Section 2 of Clause 32.08-2.

#### Overlays

##### *Heritage Overlay (Schedule 327)*

34. The subject site is located within a heritage overlay (Schedule 327 – North Fitzroy Precinct).
35. Pursuant to Clause 43.01-1 of the Scheme, a planning permit is required to *construct or carry out works*.

*Special Building Overlay (SBO)*

36. The subject site is located within a Special Building Overlay.
37. Pursuant to Clause 44.05-1 of the Scheme, a planning permit is required to construct a building.
38. Pursuant to Clause 44.05-5 of the Scheme, the original application was referred to the relevant floodplain management authority (being Melbourne Water) and relevant conditions that will be maintained were placed on the permit.
39. The proposed increase in the hours for the sale and consumption of liquor including patron number on the premises do not trigger a planning permit under the overlay provisions.

Particular Provisions

*Clause 52.27 – Licensed Premises*

40. Pursuant to Clause 52.27 of the Scheme, a planning permit is required to use land to sell or consume liquor if any of the following apply:
  - (a) *a licence is required under the Liquor Control Reform Act 1998;*
  - (b) *a different licence, or category of licence is required from that which is in force;*
  - (c) *the hours of trading allowed under any licence are to be extended;*
  - (d) *the number of patrons allowed under any licence is to be increased; and*
  - (e) *the area that liquor is allowed to be consumed or supplied under a licence is to be increased.*

General Provisions

*Clause 65 – Decision Guidelines*

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

State Planning Policy Framework (SPPF)

42. The following SPPF provisions of the Scheme are relevant:

*Clause 13.04 – Noise and Air*

43. The objective of this clause is '*to assist the control of noise effects on sensitive land uses*'.

*Clause 15.01-1 – Urban design*

44. The objective of this clause '*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 – Urban design principles*

45. The objective of this clause is *'to achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties'*.

*Clause 15.03-1 Heritage Conservation*

46. The objective of this clause is *'to ensure the conservation of places of heritage significance'*.
47. Supporting strategies are:
- (a) *Encourage appropriate development that respects places with identified heritage values and creates a worthy legacy for future generations.*
  - (b) *Ensure an appropriate setting and context for heritage places is maintained or enhanced.*

*Clause 17.01 - Commercial*

48. The relevant objective of this clause is *'to encourage development which meets the communities' needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities'*.

Local Planning Policy Framework (LPPF)

*Clause 21 – Municipal Strategic Statement (MSS)*

*Clause 21.03 – Vision*

49. The relevant sections of this clause are:
- (a) *Yarra will have increased opportunities for employment.*
  - (b) *The complex land use mix characteristic of the inner City will provide for a range of activities to meet the needs of the community.*
  - (c) *Yarra's exciting retail strip shopping centres will provide for the needs of local residents, and attract people from across Melbourne.*

*Clause 21.04 – Land Use*

50. The relevant objective of this clause is *'to reduce potential amenity conflicts between residential and other uses'*.

*Clause 21.05-1 Heritage*

51. A relevant objective is *'to protect and enhance Yarra's heritage places'* through the application of the following relevant strategies:
- (a) *Strategy 14.6: Protect buildings, streetscapes and precincts of heritage significance from the visual intrusion of built form both within places and from adjoining areas;*
  - (b) *Strategy 14.8: Apply the Development Guidelines for sites subject to a Heritage Overlay policy at clause 22.02.*

*Clause 21.08 – Neighbourhoods*

52. Clause 21.08-8 (North Fitzroy) describes the neighbourhood in which the site is located as a predominantly residential area, primarily of a low density residential character made up of Victorian and Edwardian buildings.

53. Consideration against the applicable objectives and strategies of the MSS is included in the assessment section of this report.
54. Figure 20 – Built Form Character Map: North Fitzroy, identifies the site as being located in a Heritage Overlay Area where it is encouraged to:
- (a) *Ensure that development does not adversely affect the significance of the heritage place.*

#### Relevant Local Policies

##### *Clause 22.01 - Discretionary Uses in Residential 1 Zone*

55. This policy applies to land in the Residential 1 Zone (now diversified into several different residential zones) and is designed to guide assessment of impacts from non-residential use.
56. This clause has the following policies:
- (a) *Existing buildings constructed for non-residential purposes are the preferred location for non-residential uses;*
  - (b) *Food and drink premises, places of assembly, places of worship and plant nurseries should have access to and adjoin a road in a Road Zone;*
  - (c) *Except on land adjoining and gaining direct access from a road in a Road Zone:*
    - (i) *all required car parking should be on-site;*
    - (ii) *the scale of the proposed use should be compatible with providing service to the local residential community;*
  - (d) *Hours of operation should be limited to 8am to 8pm except for convenience shop;*
  - (e) *New buildings and works should be consistent with the scale, bulk and character of the area;*
  - (f) *Noise emissions should be compatible with a residential environment*

##### *Clause 22.02 Development Guidelines for sites subject to the Heritage overlay*

57. The applicable objectives of this policy are:
- (a) *To conserve Yarra's natural and cultural heritage.*
  - (b) *To conserve the historic fabric and maintain the integrity of places of cultural heritage significance.*
  - (c) *To retain significant view lines to, and vistas of, heritage places.*
  - (d) *To preserve the scale and pattern of streetscapes in heritage places.*
  - (e) *To ensure the adaptation of heritage places is consistent with the principles of good conservation practice.*
  - (f) *To ensure that additions and new works to a heritage place respect the significance of the place.*
58. Pursuant to the incorporated document 'City of Yarra Review of Heritage Overlay Areas 2007, Graeme Butler and Associates 2007: Appendix 8 City of Yarra Heritage Database' the subject site is nominated as "not-contributory" within the North Fitzroy Precinct. Nevertheless, a new building is currently under construction.

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

59. It should be noted that Clause 22.05 does not apply to this amendment as the subject site is more than 30m from the nearest business/industrial use or commercial/industrial zone.



*Clause 22.07 - Development Abutting Laneways*

60. The relevant objective of this clause is '*to ensure that development along a laneway acknowledges the unique character of the laneway*'.

*Clause 22.09 – Licensed Premises*

61. The objectives of this clause are:
- (a) *To protect the amenity of nearby properties and areas by effectively managing the location, size, operation and hours of licensed premises;*
  - (b) *To encourage best practice venue design and venue operation for licensed premises;*
  - (c) *To protect residential and other commercial uses from excess noise, traffic and car parking issues; and*
  - (d) *To provide for daytime trade and active street frontages in retail strips, while providing reasonable commercial opportunities for the trading of licensed premises.*

**Advertising**

62. As described in the background section, the application was advertised under section 52 of the *Planning and Environment Act, 1987* by way of 118 letters sent to surrounding owners and occupiers, and three signs, with one displayed to St Georges Road, another to York Street and another to Laura Place.
63. Seven objections were received to the application that can be summarised as:
- (a) Amenity impacts (i.e. noise from excessive patron numbers, hours of operation associated with the serving of alcohol and subsequent antisocial behaviour); and
  - (b) Increased demand for on-street car parking.

Consultation Meeting

64. A consultation meeting was scheduled for 23 January 2018 and was not attended by any of the objectors.

**Referrals**

External

*Melbourne Water*

65. The original application was referred to Melbourne Water and these conditions will be maintained.

Internal

*Civic Compliance Unit*

66. The application was referred to Council's civic compliance unit who did not raised any concerns with the hours of operation but recommended that no background music be provided after 10pm between Sunday to Wednesday due to the dwellings above. The advice is included as an attachment to this report.

**OFFICER ASSESSMENT**

67. The primary considerations for this assessment are as follows:
- (a) Strategic justification;

- (b) Liquor Licence;
- (c) Heritage and buildings and works;
- (d) Objector concerns; and
- (e) Other matters.

#### Strategic justification

68. Land uses are controlled under the provisions of the General Residential Zone, whereby a planning permit is specifically required for the use of the land as a food and drink premises (café). This has previously been considered and supported. However, the current amendment application now intends to introduce a liquor licence and as such use will be re-considered in that context.
69. A positive attribute of the proposal is the maintenance of an active street frontage at ground floor that will be further modified with revised openings (all within the framework of the as-approved building) and through the inclusion of the food and drink premises (café). It is maintained that the use and provision of large openings (albeit not as large as currently endorsed, but comparable) would provide some visual interest, while also allowing for increased surveillance of the general area. The food and drink premises (café) continues to be worthy of support in this location given that it would provide some visual interest due to the proposed activity while also allowing for increased surveillance of the general area .
70. In terms of potential impacts on existing residential properties, it is appropriate to ensure that operating hours are such that surrounding residences are offered protection. The current hours of operation permitted under the existing permit accord with Clause 22.01-3 of the Scheme (Discretionary Uses in a Residential 1 Zone) being 8.00am to 8.00pm. The application proposes to extend these hours, but these will also be required to be tempered against the hours permitted under Clause 22.09 of the Scheme that discourages liquor from being served before 9.00am and after 8.00pm on any day. These hours will be applied to this amendment via a condition on any permit and will ensure, ongoing compliance with the policy objective at Clause 22.01-2 (Discretionary Uses in the Residential 1 Zone) that is '*to ensure that residential amenity is not adversely affected by non-residential uses*'.

#### Liquor Licence & Use

71. The decision guidelines at Clause 52.27 of the Scheme include the consideration of the impact of the sale or consumption of liquor on the amenity of the surrounding area, the impact of the hours of operation and number of patrons on the amenity of the surrounding area and the cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.
72. Most of the above considerations will be taken into account in the assessment of the proposal against Council's local licensed premises policy (Clause 22.09 – Licensed Premises) which provides a local perspective to the ambitions of the planning policy within the State Planning Policy Framework.
73. In addition to the above, it is necessary to give consideration to potential cumulative impacts associated with the introduction of a liquor licence. The "Corner Hotel" decision (*Swancom Pty Ltd T/as Corner Hotel v Yarra City Council & Ors*) provides a potential assessment methodology for considering applications that may result in cumulative impact. The decision also acknowledges that depending on the nature of the use (i.e. premise type, patron numbers and operating hours) the required level of assessment will vary.
74. Since the "Corner Hotel" decision Council has developed an assessment tool to determine the likelihood of cumulative impact occurring as a result of a proposal based on risk factors associated with the type of premises, size of premises and closing hours of the premises, to help determine what level of assessment is appropriate, as follows:

Type of Premise	Risk Factor
<b>Café / Restaurant</b>	<b>0</b>
Bar / Restaurant / Café	1
Bar	3
Hotel / Tavern	3
Night Club	3
Place of Assembly	2
Size of Premise	Risk Factor
<b>0 – 49 patrons</b>	<b>0</b>
50 – 99 patrons	1
100 – 199 patrons	2
200+	3
Closing hours	Risk factor
<b>11pm</b>	<b>0</b>
12am	1
1am	2
2am	3
3am	3
After 3am	4

75. Applying the matrix table, the provision of a liquor licence in this instance is of 'no risk' and a full assessment against cumulative impact in this instance is not required. This is due to the type of premises, the patron numbers are less than 49 and the closing hours are less than 11pm, (that will be made to be further compliant with policy).

*Clause 22.09 – Licensed Premises*

76. Clause 22.09 (Licensed premises policy) of the Scheme is Council's local policy to guide the assessment of the liquor licence. This clause has the following objectives:
- (a) *To protect the amenity of nearby properties and areas by effectively managing the location, size, operation and hours of licensed premises;*
  - (b) *To encourage best practice venue design and venue operation for licensed premises;*
  - (c) *To protect residential and other commercial uses from excess noise, traffic and car parking issues; and*
  - (d) *To provide for daytime trade and active street frontages in retail strips, while providing reasonable commercial opportunities for the trading of licensed premises.*
77. In achieving the above objectives, it is policy at Clause 22.09-3 of the Scheme:

*Location and Access*

78. *Licensed premises should be located where:*
- (a) *The land is not zoned Residential (excluding the Mixed Use Zone).*
  - (b) *Potential amenity impacts from (but not limited to) patron noise, ingress and egress of patrons, queuing of patrons, smoking areas for patrons, and dispersal of patrons from the site can be appropriately managed or buffered.*
  - (c) *There is opportunity for a high level of public safety and surveillance of patrons as they enter and leave the premises.*
  - (d) *The premises would not result in an unreasonable cumulative impact on the amenity of the surrounding area.*

79. Whilst it is acknowledged that policy discourages licensed premises from being located on residentially zoned land, in this instance the inclusion of the sale and consumption of liquor to the already approved food and drink premises (café) is acceptable. This is due to it not being located in a purely residential area. The site abuts an arterial road which carries a high volume of traffic, is located opposite land zoned Commercial 1 to the west (which is used for the San Remo Ballroom reception centre), and is also opposite a large parcel of land occupied by the Roman Catholic Church to the south. As such, the use of the site as a licensed food and drinks premises (café) at this intersection is not out of context with surrounding non-residential land uses and can continue to be supported in its current location. Additionally, the surrounding residential land uses are separated by either the width of a street/lane or by the built form associated with the approved development. The area proposed for the sale and consumption of liquor is separated from the residences to the east by the residential lobby and vehicular entrance of the approved development. These areas and the external walls of the building provide a buffer from potential amenity impacts to these surrounding residents. This ensures that patrons will stay in the front portion of the building facing St Georges Road away from more sensitive land uses. Therefore, the location is considered acceptable. However, its location is only one aspect that is required to be tempered against the hours for the sale and consumption of liquor (that will be further reduced as discussed in the paragraph below) and the patrons permitted on site.
80. Policy at Clause 22.09-3 of the Scheme is quite restrictive in terms of the hours associated with the sale and consumption of liquor within residentially zoned land. The liquor licence will be associated with a food and drink premises (café) with up to 46 seats available to the public and in this regard is supported, as these factors minimise potential amenity impacts. Patrons would also have the ability to smoke on the footpath. However, the full extent of the proposed hours for serving liquor are not supported and will be appropriately conditioned to comply with the licensed premises policy. This will further assist to reduce potential amenity impacts, particularly to the dwellings within the development and those to the immediate north and east of the site.
81. The display of windows across the St Georges Road and York Street interfaces will also provide for a high level of public safety and surveillance of patrons as they enter and leave the premises, and in this regard the food and drink premises (café) continues to be supported.

#### *Venue Design*

82. Policy states the following:
- (a) *The layout and design of new licensed premises incorporate safe design principles as detailed in the Design Guidelines for Licensed Venues (Victorian Commission of Gambling and Liquor Regulation 2017).*
  - (b) *The entry and exits points of a licensed premise and the areas for queuing of patrons are located away from sensitive land uses.*
  - (c) *Waste management and storage is provided on-site, and noise enclosures are provided where bottle crushers are to be used.*
83. The layout of the approved food and drink premises (café) will be modified to accommodate the increase in patron numbers whilst maintaining the two entry and exit points to St Georges Road and York Street. The locations of the entry and exit points are well removed from other adjoining sensitive land uses, and where located within the development, are adjacent to solid walls that will buffer any noise volumes from patrons thus reducing the potential for impacts to dwellings inside the development. Further, the footpaths along York Street and St Georges Road have the ability to absorb any queuing of patrons which is unlikely to occur given the small number of patrons proposed. Waste will also continue to be stored on-site and there is no bottle crusher intended to be used.

### *Hours of operation*

84. A relevant policy at Clause 22.09-3 as relevant to this application is that:
  - (a) *Licensed premises in a Residential zone (other than a Mixed Use Zone) should not provide for the sale and consumption of liquor beyond 8pm, unless the responsible authority is satisfied that it will not adversely affect the amenity of the area; and*
  - (b) *Licensed premises (including packaged liquor outlets) should not commence the sale and consumption of liquor before 9am.*
85. The proposed hours for the sale and consumption of liquor being sought as part of this amendment are 7.30am to 11.00pm, Monday to Sunday (seven days a week) whilst the approved food and drinks premises (café) has operating hours of 8am to 8pm, Monday to Sunday (seven days a week). The extended hours of operation of the use must also be considered within this assessment.
86. Clause 22.09 states that licensed premises in a General Residential Zone should not provide for the sale and consumption of liquor beyond 8pm, unless the responsible authority is satisfied that it will not adversely affect the amenity of the area. It is also indicated that licenced premises should not commence the sale and consumption of liquor before 9am. Whilst it has been acknowledged that the land use further west and south is not sensitive, the subject site is not void of any sensitive interfaces. The subject site abuts land zoned Neighbourhood Residential with dwellings to the immediate north and east, including dwellings within the development. Therefore, the serving liquor beyond 8pm and earlier than 9am may impact the amenity of the surrounding more sensitive uses and therefore should be required to comply with Council's policy (i.e. 9.00am and 8.00pm, Monday to Sunday). This would also result in no increase in the hours of operation for approved food and drinks premises (café) and the current approved hours will be maintained as per the existing permit.
87. Additionally, with a closing time of 8pm, sleep should not be impacted upon, particularly as the number of patrons is low, with only 46 being allowed on the premises at any one time. It should be noted that whilst the location of the licensed premises within residentially zoned land has been found to be acceptable, this is on the basis of having restricted hours of operation and low patron numbers.
88. According to the NAAP all employees will be trained in the responsible service of alcohol and seated drinking is provided. The amendment would also maintain music at background levels only. With these factors in mind, and subject to conditions reducing the hours to bring them into compliance with policy, the sale and consumption of liquor can be supported.

### *Patron Numbers*

89. Policy at Clause 22.09-3 states:
  - (a) *The number of patrons should not exceed the safe and amenable operating capacity of the premises. An assessment of the maximum number of patrons that can be physically accommodated within a venue should be based on the VCGLR Liquor Licensing Fact Sheet – Maximum Patron Capacity (2016).*
  - (b) *The number of patrons reflects the strategic and physical context of the site and will not adversely affect the amenity of nearby properties and the surrounding area, including by any unreasonable cumulative impact.*
90. The proposed maximum number of patrons is 46 patrons and the area of the café is 137.7sq.m. The previously approved food and drinks premises (café) is currently limited to 26 patrons, this would also result in an increase in 20 compared to the existing permit.

91. The floor area for the premises is considered to be a reasonably sized area for the proposed number of patrons which will hence not posing any risk to the safe and amenable operation of the food and drink premises (cafe). The proposed number of patrons is low and considered to be acceptable given the zoning of the land and sensitive surrounding interfaces to the north and east. This is also considered to be a number of patrons that can be accommodated comfortably on the site with liquor served as a complementary component to food.
92. These low patron numbers ensure that the number of patrons does not adversely affect the amenity of the surrounding area. The low number of patrons is also well below the operating capacity of the premises. Additionally, any residences to the rear of the site are separated by the car parking areas within the overall building.

#### *Noise*

93. The NAAP submitted with the application outlines measures to ensure that the sale and consumption of liquor would not be detrimental to the amenity of the area in terms of noise. This will be further improved with the reduced hours. A NAAP would be endorsed as part of any amended planning permit to be issued. This document aims to ensure that business activities associated with the site do not cause adverse impacts to neighbouring residents.
94. As stated in the NAAP, music will be limited to background music and there is no live music proposed. In addition to being referenced in the NAAP, this is also enshrined within a condition of the planning permit and will be maintained.
95. A new condition will also require that the noise from the venue comply with EPA requirements, notably SEPP N-2 which controls music from public premises. This combined with the restricted hours, will tightly regulate the premises in terms of noise emissions.
96. Additionally, the existing planning permit allows the emptying of bottles between 7:00am and 10:00pm. This will continue to be in force and further minimises any potential off-site amenity impacts from noise.
97. The applicant provided an acoustic report prepared by Watson Moss Growcott Acoustics dated December 2016. The report confirmed noise emissions will be required to be designed to comply with the State Environment Protection Policy SEPP N-1 (Control of Noise from Commerce, Industry and Trade) and SEPP N-2 (Control of Music Noise from Public Premises). These have already been noted as being required by way of condition. Considering the low number of patrons and the restricted hours of operation, the proposal is not considered to be of a high risk of noise amenity impacts. Nevertheless, a condition will require that an updated acoustic report be provided with the amended hours of operation as per the condition of permit. Additionally, a clerical error was found on page 10 of the report which stated the land was located at '10 Oleander Drive, Mill Park'. This will also be required to be corrected.
98. A condition will also require the submission of an updated NAAP with revised hours, and will be further required to reference the updated acoustic report.

#### *Car Parking*

99. The layout will result in an increase to the floor area of 0.2sq.m. that is a negligible increase to the floor area currently endorsed and hence no increase in the car parking requirement. Car parking was also previously assessed and a reduction in the car parking requirement at Clause 52.06 of the Scheme was supported.

#### *Noise and Amenity*

100. It is policy that *licensed premises be managed in accordance with a Noise and Amenity Action Plan.*
101. Clause 22.09-3 notes that all licenced premises should comply with a detailed NAAP. Accordingly one was submitted as part of this application and contains details outlining procedures to be followed in the daily operation of the premises.
102. A number of these procedures have been discussed previously within this assessment; however the NAAP provides further details regarding responsible serving of alcohol within the premises, security arrangements, waste collection and complaint procedures. The NAAP will be required to be amended to reflect the reduced hours discussed in this report.
103. The following is provided in response to current policy (where not previously considered)
- (a) *Procedures to be undertaken by staff in the event of complaints by a member of the public, the Victoria Police, an 'authorised officer' of Council or the Victorian Commission for Gambling and Liquor Regulation.*
104. A complaint handling process has been satisfactorily provided as part of the NAAP. Accordingly, any complaints will be maintained through a detailed log book and will be immediately followed up to ensure that similar circumstances that lead to the initial complaint do not re-occur.
- (b) *The management and dispersal of patrons, including patrons loitering around the venue after the venue has closed.*
  - (c) *The management of large group bookings.*
  - (d) *The management of smokers and on and off-site smoking areas (particularly where liquor may not be allowed to be sold and consumed within the smoking area after a particular time).*
  - (e) *The management of external queues.*
  - (f) *How the movement and exit of patrons is to be managed, particularly where there is a requirement to close different sections of the venue at different times.*
105. The restricted hours will ensure that patrons leave the premises at a reasonable closing time (given the residentially zoned land), and given the small scale low risk operation, it is anticipated that patrons will disperse in an orderly manner. It is highly unlikely that patrons associated with the venue will congregate in the surrounding area.
106. Patrons are able to smoke on the footpath and it is unlikely that the venue will result in any external long queues. The NAAP with the reduced hours required by condition will ensure the orderly operation of the site with minimal impact to the surrounding neighbourhood.
- (g) *Details of the provision of music including the frequency and hours of entertainment provided by live bands and DJs.*
107. There are no live bands and DJs proposed as part of the amendment application. Music is limited to background music only.
- (h) *Any other measures to be undertaken to ensure no unreasonable amenity impacts from the licensed premises.*
108. In summary, the site is located within a General Residential Zone and a condition will require an updated Noise and Amenity Action Plan that reflects hours of operation that are consistent with policy as discussed within the body of this assessment. The business will be required to operate in accordance with the NAAP and the existing conditions of the planning permit to reduce any potential detriment on the surrounding area, particularly with regard to the sensitive uses beyond Laura Place to the north and to the immediate east.

109. Conditions that limit the provision of music to background music and disallow any external speakers to the building will be maintained and combined with the conditions limiting the hours to accord with policy, the liquor licence is considered to be worthy of support. In addition, the buildings and works proposed are confined to the frame of the approved building and in relation to fumes/air emissions and waste management, there are existing permit conditions / controls that will be maintained.
110. Council's Civic Compliance unit did not raise concerns with the hours of operation and similarly to the above, the Scheme is clear in its policy direction. The comments provided by this internal unit were to recommend that no background music be provided after 10pm between Sunday to Wednesday. As already discussed, the hours will be restricted to earlier than 10pm and only background music is already being proposed by the applicant.
111. The permit applicant's NAAP documents specific management procedures to be followed at all times; including staffing levels, security operations, complaint resolution and the responsible service of alcohol. An amended NAAP is required to be endorsed with the hours discussed that will also include the management procedures.
112. Furthermore, the site is within close proximity to other establishments that are rightfully located on land zoned commercial that can cater to the needs of patrons wishing to be served liquor at a later time (i.e. the Brunswick Street Major Activity Centre located approximately 350m-370m east).

Heritage and buildings and works

113. Of greatest relevance to the heritage assessment are the decision guidelines of the Heritage Overlay (at Clause 43.01-5 of the Scheme) and local policy development guidelines for sites subject to the Heritage Overlay (at Clause 22.02 of the Scheme).
114. While Clause 22.07 (Development Abutting Laneways) is also applicable, due to the subject site abutting Laura Place, as the proposed buildings and works are of a modest scope and do not affect laneway access, it is considered that the heritage assessment adequately addresses any laneway character considerations.
115. Relevant to the proposal, policy at clause 22.02-5.7.1 of the Scheme, relating to general policies for new development, alterations and additions, specifies that it is policy to:
  - (a) *Encourage the design of new development and alterations and additions to a heritage place or a contributory element to a heritage place to:*
    - (i) *Be visually recessive and not dominate the heritage place.*
    - (ii) *Be distinguishable from the original historic fabric.*
    - (iii) *Not remove, cover, damage or change original historic fabric.*
    - (iv) *Not obscure views of principle façades.*
116. In relation to the revised windows at the ground floor forming part of the amendment application, the proposal is considered to meet the above heritage policies and guidelines. In particular, it is noted that the modifications to the shopfront windows are to a new building with a non-contributory grading under the heritage overlay. The works are confined to the framework of the approved building and are located at the ground floor.
117. The new shopfront windows and subsequent revised solid-to-void ratio adopted at the St Georges Rd and York Street interfaces must also be assessed in relation to the decision guidelines at Clause 32.08-12 (Decision Guidelines) of the Scheme (associated with the General Residential Zone).



These must also be assessed against Clause 22.01 (Discretionary Uses in the Residential 1 Zone) which requires that new *buildings and works should be consistent with the scale, bulk and character of the area* and Clause 22.05 (Interface Uses Policy) which requires consideration of the off-site amenity impacts related to residential properties from commercial development (including overshadowing and visual bulk).

118. The amendments to the windows are considered be fully compliant with the clauses of the Scheme mentioned above given that these are limited in their scope and confined to the framework of the approved building. The windows are at ground floor and would not cause any material detriment or result in off-site amenity impacts to neighbouring properties, particularly with regard to overlooking and visual bulk given that the new windows would face St Georges Road and York Street.

#### Objector concerns

119. Seven objections were received to the application, with grounds summarised as:
- (a) Amenity impacts (i.e. noise from excessive patron numbers, hours of operation associated with the serving of alcohol and subsequent antisocial behaviour);
120. Noise from patrons has been considered within the body of the assessment and the patron numbers are considered to be appropriate and worthy of support. Numerous conditions have been proposed to ensure that amenity impacts are reduced and the likelihood of any anti-social behaviour for this type of license is low. The proposed recommendations are a significant improvement towards ameliorating any concerns relating to the behaviour of patrons.
121. To reduce any impacts from anti-social behaviour, a NAAP will be endorsed as part of any planning permit with reduced hours. The submitted NAAP has also been considered within the body of the assessment. Council's Local Law No.8 prohibits the consumption of liquor in public places and Council's Civic Compliance Unit and Victoria Police are charged with ensuring these venues operate in an appropriate manner. Victoria Police generally focus on patron behaviour on the street and Council's Civic Compliance Unit generally deals with issues of noise from within premises. This is considered sufficient to address the potential for anti-social behaviour.
- (b) Increased demand for on-street car parking;
122. Car parking has been considered within the body of the assessment.

#### Other Matters

123. Based on the above, the following changes will be required to be made to the planning permit:
124. The preamble of the planning permit modified from:
- Demolition of the former service station buildings to develop the land with the construction of a four-storey residential building and food and drink premises (café) plus a semi-exposed basement car park, including a reduction in the car parking requirement and the waiver of the loading bay requirement of the Yarra Planning Scheme and the construction of a vehicle crossover.*
125. To:

*Demolition of the former service station buildings to develop the land with the construction of a four-storey residential building and **sale and consumption of liquor associated with a** food and drink premises (café) plus a semi-exposed basement car park, including a reduction in the car parking requirement and the waiver of the loading bay requirement of the Yarra Planning Scheme and the construction of a vehicle crossover.*

126. Condition 1 and its requirements will be deleted as these have been met and the remainder of the flowing conditions will be renumbered accordingly.
127. Condition 2 will be renumbered to Condition 1 and modified to make reference to the current endorsed plans and those that are required to be endorsed as part of the amendment (highlighted in bold), and hence from:

2. *All development must accord with the endorsed plans. Any alterations must be approved in writing by the Responsible Authority.*

to:

1. *All development must accord with the endorsed plans (drawing no's TP1-102 – Revision C, TP1-103 – Revision C, TP2-102 – Revision C, **TP2-102-A – Revision E, TP2-103 - Revision E**, TP2-104 – Revision C, TP2-105 – Revision C, TP2-106 – Revision C, TP2-107 – Revision C, **TP3-101 – Revision E, TP3-103 – Revision E, TP3-103- Revision E, TP3-104 – Revision E**, TP4-101 – Revision C, TP4-102 Revision C, TP5-101 – Revision C, TP5-102 – Revision C, TP5-103 – Revision C and materials schedule dated 03 / 10 / 2016). Any alterations must be approved in writing by the Responsible Authority.*

128. New conditions 7 and 8:

7. *Before the sale and consumption of liquor commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Watson Moss Growcott Acoustics dated December 2016 but modified to include (or show, or address):*
  - (a) *The hours of operation as outlined at Condition 14; and*
  - (b) *Include the correct address.*
8. *The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.*

129. Renumbering of subsequent conditions.

130. A new Condition 11:

*Before the sale and consumption of liquor commences, an amended Noise and Amenity Action Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Noise and Amenity Action Plan will be endorsed and will form part of this permit. The amended Noise and Amenity and Action Plan must be generally in accordance with the Noise and Amenity Action Plan received by Council on 30 June 2017, but modified to include and make reference to:*

- (c) *The hours of operation as outlined at Condition 14; and*

(d) *Reference the updated acoustic report.*

131. A new Condition 12:

*The provisions recommendation and requirements of the endorsed Noise and Amenity Action Plan must be implemented and complied with to the satisfaction of the Responsible Authority.*

132. A new Condition 14 as follows:

*Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor may only occur between the hours of 9.00am to 8.00pm, Monday to Sunday (Seven days a week).*

133. Existing Condition 11 will be renumbered to 15 and modified from:

*No more than 26 patrons are permitted on the land at any one time.*

to:

*No more than 46 patrons are permitted on the land at any one time.*

134. New Conditions 18 and 19:

*The use must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).*

*The use must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).*

## **Conclusion**

135. The proposed amendment is considered to demonstrate a sound level of compliance with the policy objectives contained within the State and Local Planning Policy Framework. Notably, and subject to appropriate conditions, the proposed amendment will not result in unreasonable impacts on the surrounding area through the implementation of an amended noise and amenity action plan, and maintaining restrictions on sale and consumption of liquor to the hours permitted by the Scheme.

136. Based on the above report, the proposed amendment is considered to comply with the relevant Planning Scheme provisions and planning policy and is therefore supported, subject to conditions outlined in the recommendation below.

## **RECOMMENDATION**

That having considered all objections and relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant an Amended Planning Permit PLN13/0204 to allow for the sale and consumption of liquor associated with the approved food and drink premises (café) and modified shopfront windows at 2-4 St Georges Road, North Fitzroy, subject to the following conditions (new or amended conditions highlighted in **bold**):

*Endorsed Plans*

1. **All development must accord with the endorsed plans (drawing no's TP1-102 – Revision C, TP1-103 – Revision C, TP2-102 – Revision C, TP2-102-A – Revision E, TP2-103 - Revision E, TP2-104 – Revision C, TP2-105 – Revision C, TP2-106 – Revision C, TP2-107 – Revision C, TP3-101 – Revision E, TP3-103 – Revision E, TP3-103- Revision E, TP3-104 – Revision E, TP4-101 – Revision C, TP4-102 Revision C, TP5-101 – Revision C, TP5-102 – Revision C, TP5-103 – Revision C and materials schedule dated 03 / 10 / 2016). Any alterations must be approved in writing by the Responsible Authority.**
2. Floor levels shown on the endorsed plan(s) must not be altered or modified without the prior written consent of the Responsible Authority.
3. 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.
4. 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.
5. All screening and other measures to prevent overlooking as shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority.

*Acoustic Report*

6. Before the plans are endorsed, an acoustic report prepared by a suitably qualified expert to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Once approved, the acoustic report will be endorsed and will then form part of the permit.

The report must include an assessment of how the requirements of the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade), No. N-1 and any other relevant Australian Standards will be met and must prescribe the form of acoustic treatment to the following:

- (a) any off-site impacts;
  - (b) plant and equipment; and
  - (c) noise from nearby street traffic (i.e. trams and traffic along Nicholson Street).
7. **Before the sale and consumption of liquor commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Watson Moss Growcott Acoustics dated December 2016 but modified to include (or show, or address):**
  - (a) The hours of operation as outlined at Condition 14; and
  - (b) Include the correct address.
8. **The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.**

*Environmentally Sustainable Design Principles*

9. Before the plans are endorsed, 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 report will then form part of this permit. The Report must be generally in accordance with the Sustainable Management Plan prepared by GIW Environmental Solutions dated 24 June 2015 to include:
  - (a) Fly screens and security mechanisms to openable windows/doors to allow for convenient and effective night purging (ventilation during night) during summer months;
  - (b) Selection of clear glazing;
  - (c) Cross ventilation opportunities to all apartments;
  - (d) Intended operation of shading elements; and
  - (e) Rainwater collection areas and number of connected toilet(s).

*Food and drink premises (café)*

10. The use as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
11. **Before the sale and consumption of liquor commences, an amended Noise and Amenity Action Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Noise and Amenity Action Plan will be endorsed and will form part of this permit. The amended Noise and Amenity and Action Plan must be generally in accordance with the Noise and Amenity Action Plan received by Council on 30 June 2017, but modified to include and make reference to:**
  - (a) *The hours of operation as outlined at Condition 14; and*
  - (b) *Reference the updated acoustic report (as per condition 7).*
12. **The provisions recommendation and requirements of the endorsed Noise and Amenity Action Plan must be implemented and complied with to the satisfaction of the Responsible Authority.**
13. Except with the prior written consent of the Responsible Authority, the use authorised by this permit may only operate between the hours of 8.00am to 8.00pm, Monday to Sunday (seven days a week).
14. **Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor may only occur between the hours of 9.00am to 8.00pm, Monday to Sunday (Seven days a week).**
15. No more than **46** patrons are permitted on the land at any one time.
16. The amenity of the area must not be detrimentally affected by the use, including through:
  - (a) the transport of materials, goods or commodities to or from land;
  - (b) the appearance of any buildings, works or materials;
  - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
  - (d) the presence of vermin.

to the satisfaction of the Responsible Authority.
17. Except with the prior written consent of the Responsible Authority, the provision of music and entertainment on the land must be at a background noise level.

18. **The use must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).**
19. **The use must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).**
20. Except with the prior written consent of the Responsible Authority, speakers external to the building must not be erected or used.
21. Emptying of bottles and cans into bins may only occur between 7am and 10pm on any day.
22. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.
23. Except with the prior written consent of the Responsible Authority, delivery and collection of goods to and from the land may only occur between 7am and 10pm on any day.

#### *Landscaping*

24. 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 show the following:
  - (a) key materials and construction details for the garden beds;
  - (b) the location, quantity and maturity of all proposed plants;
  - (c) the botanical name of all new planting; and
  - (d) details of proposed irrigation drainage and maintenance methods for all proposed planting, confirming use of recycled water (where possible).
25. 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.

#### *Lighting*

26. 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 semi-exposed basement car park, and dwelling entrances must be provided. Lighting must be:
  - (a) located;
  - (b) directed;
  - (c) shielded; and
  - (d) of limited intensity.

to the satisfaction of the Responsible Authority.

#### *General Parking Areas*

27. Unless with the prior written consent of the Responsible Authority, no fewer than 14 car parking spaces must be provided on the land at all times, to the satisfaction of the Responsible Authority.
28. The area set aside for the parking of vehicles, together with the associated access lanes as delineated on the endorsed plan must:
  - (a) be designed, provided and completed to the satisfaction of the Responsible Authority prior to the commencement of the development hereby permitted;
  - (b) thereafter be maintained to the satisfaction of the Responsible Authority;
  - (c) be made available for such use at all times and not used for any other purpose;
  - (d) be properly formed to such levels that it can be used in accordance with the endorsed plan; and
  - (e) be drained and sealed with an all-weather seal coat.

all to the satisfaction of the Responsible Authority.

29. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, 24 bicycle spaces must be provided:

- (a) at the developer's cost; and
- (b) in a location and manner.

to the satisfaction of the Responsible Authority.

30. Bicycle access must at all times be clearly signed and marked, to the satisfaction of the Responsible Authority.

#### *Drainage*

31. Provision must be made for the drainage of the site including communal, landscaped and roofed areas all to the satisfaction of the Responsible Authority.

#### *Vehicle Crossings and Accessways*

32. Upon the completion of all building works and connections for underground utility services, the footpaths surrounding the development must be reconstructed to Council's satisfaction and at the developer's expense.
33. Any damaged road(s) and footpath(s) and other infrastructure adjacent to the development site as a result of the construction works including but not limited to trenching and excavation for utility service connections must be reinstated to the satisfaction of the Responsible Authority.
34. 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.
35. The development's finished floor levels relative to the existing footpath and road levels must be such that pedestrian and vehicular access accord with the Australian/New Zealand Standard AS/NZS 2890.1:2004.
36. The development's finished floor levels for pedestrian access and car parking areas must be such that pedestrian and vehicular access accords with Australian Standards.

37. Existing footpath, kerb and channel, and road pavement surface levels must not be altered unless with the prior written approval of the Responsible Authority.

*Waterproofing of Building and Management of Rainfall Run-off*

38. The designer and developer must ensure that the semi-exposed basement and any portions of the development at or below natural surface level are completely waterproofed to prevent any subterranean water or any rainfall run-off from penetrating the walls or floors of the site.
39. It is the designer's onus and responsibility to ensure that rainfall run-off does not enter the property in the event of a heavy storm. Adequate measures must be in place to prevent backwash from entering the property.

*Melbourne Water's Conditions (40-44)*

40. No polluted and / or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or watercourses.
41. The finished ground floor levels must be a minimum of 300mm above the applicable flood level.
42. The entry / exit driveway of the basement car park must incorporate a flood proof apex of a minimum of 300mm above the applicable floor level.
43. All doors, windows, vents and openings to the basement car park must be a minimum of 300mm above the applicable flood level.
44. A bund wall to a minimum of 300mm above the applicable flood level is to be constructed along the driveway to prevent flood waters entering the basement car park.

*Waste Management*

45. Before the plans are endorsed an amended Waste Management Plan generally in accordance with the Waste Management Plan prepared by Leigh Design and dated 4 October 2013 must be submitted to the Responsible Authority for endorsement. The collection of all waste must be in accordance with the approved Waste Management Plan. Rubbish, including bottles and packaging material, must at all times be stored within the building and screened from external view and be managed to the satisfaction of the Responsible Authority in accordance with the approved Waste Management Plan.

*Environmental Audit Conditions (46-51)*

46. Before commencement of construction or carrying out of any buildings and works, save for demolition, bulk excavation and site preparation/remediation works, the owner must submit to the satisfaction of the Responsible Authority either:
  - (a) A site assessment prepared by a suitably qualified environmental professional that determines if an environmental audit is required and, if not, the assessment:
    - (i) confirms that the site is or can be made suitable for sensitive uses (residential); and
    - (ii) specifies requirements to effectively manage contamination prior to the occupation of the land for residential use; or
  - (b) A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or



- (c) 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 residential use.
- 47. Any ongoing groundwater management and abatement of groundwater contamination must be in accordance with all requirements of any Clean Up Notice issued by the Environment Protection Authority under section 62A of the Environment Protection Act 1970, or any other relevant written notice or direction issued by the Environment Protection Authority, to the satisfaction of the Environment Protection Authority.
- 48. A copy of the site assessment, certificate of environmental audit and/or statement, and the complete audit report and audit area plan must be submitted to the Responsible Authority.
- 49. The use and/or development/buildings and works allowed by this permit must comply with the directions and conditions of any site assessment or statement of environmental audit issued for the land.
- 50. Prior to the occupation of dwellings a letter must be submitted to the Responsible Authority by an Environmental Auditor accredited with the EPA, to advise that all construction and remediation works necessary and required by a site assessment or an environmental audit or statement have been carried out.
- 51. Any handling and disposal of contaminated site soil must be in accordance with the requirements of any statement of environmental audit issued for the land, the requirements of the Environment Protection Authority and the Environment Protection Act 1970.

*Construction*

- 52. 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; and
  - (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.
53. The development, once commenced, must be completed to the satisfaction of the Responsible Authority.
54. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
- (a) before 7.00 am or after 6.00 pm, Monday-Friday (excluding public holidays);
  - (b) before 9.00 am or after 3.00 pm, Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday); or
  - (c) at any time on Sundays, ANZAC Day, Christmas Day and Good Friday.

*Time limits*

55. This permit will expire if:
- (a) The development is not commenced within two (2) years from the date of this amended permit;
  - (b) The development is not completed within four (4) years from the date of this amended permit; and
  - (c) The use (food and drink premises (cafe) is not commenced within 5 years of this amended 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

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

The site must be drained to the legal point of discharge to the satisfaction of the Responsible Authority.

A building permit may be required before development is commenced. Please contact Council's Building Services Unit on Ph. (03) 9205 5095 to confirm.

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

Any storm water drainage within the property must be provided and be connected to the nearest Council pit of adequate depth and capacity (legal point of discharge), to Council's satisfaction under Section 200 of the Local Government Act 1989 and Regulation 610.

**CONTACT OFFICER:** John Theodosakis  
**TITLE:** Senior Statutory Planner  
**TEL:** 9205 5307

**Attachments**

- 1 Site location and zone map - 2 - 4 St Georges Road, North Fitzroy
- 2 Noise and Amenity Action Plan
- 3 Floor plans and elevations
- 4 Planning Permit
- 5 Endorsed Plans