



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

**to be held on Wednesday 26 September 2018 at  
6.30pm in Meeting Rooms 1 & 2  
at the Richmond Town Hall**

**Rostered Councillor membership**

Councillor Amanda Stone  
Councillor James Searle (Substitute for Cr Mi-Lin Chen Yi Mei)  
Councillor Mike McEvoy (Substitute for Cr Jackie Fristacky)

- I. ATTENDANCE**  
Nikolas Muhllechner (Principal Planner)  
Amy Hodgen (Co-Ordinator Statutory Planning)  
Cindi Johnston (Governance Officer)
- II. DECLARATIONS OF PECUNIARY INTEREST AND CONFLICT OF INTEREST**
- III. CONFIRMATION OF MINUTES**
- IV. COMMITTEE BUSINESS REPORTS**

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



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

### **POLICY**

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

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

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

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

**Governance Branch  
2008**

## 1. Committee business reports

Item		Page	Rec. Page
1.1	PLN17/0081 - 84 Type Street, Richmond, VIC 3121 - Development of the land for two (2) dwellings and a reduction in the car parking requirements of the Yarra Planning Scheme.	5	29
1.2	12 The Vaucluse, Richmond - PLN18/0008 - Part demolition and construction of a double-storey extension to the rear of the existing dwelling	33	52
1.3	PLN18/0118 - 8 Rogers Street, Richmond; Part demolition and construction of a ground and first floor addition with associated roof terrace to the existing dwelling, and construction of a carport.	55	85
1.4	2-20 Kerr Street, Fitzroy - PLN17/0379 - Construction of dwellings, including associated demolition works and a reduction in car parking	87	116
1.5	PLN17/1094 - 195 Lennox Street Richmond - Use and development of the land for construction of two buildings for dwellings, buildings and works to an existing building and part demolition [CONFIDENTIAL ITEM].		

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**1.1 PLN17/0081 - 84 Type Street, Richmond, VIC 3121 - Development of the land for two (2) dwellings and a reduction in the car parking requirements of the Yarra Planning Scheme.**

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**Purpose**

1. This report provides an assessment of planning permit application PLN17/0081 at No. 84 Type Street in Richmond for the development of the land for two (2), three (3) storey dwellings and a reduction in the car parking requirements and recommends approval, subject to conditions.

**Key Planning Considerations**

2. Key planning considerations include:
  - (a) Clause 15.01 – Urban Environment;
  - (b) Clause 21.05 – Built form
  - (c) Clause 22.10 – Built Form and Design Policy;
  - (d) Clause 22.13 – Residential Built form Policy;
  - (e) Clause 32.08 – General Residential Zone (Schedule 2);
  - (f) Clause 52.06 – Car Parking; and
  - (g) Clause 55 - ResCode

**Key Issues**

3. The key issues for Council in considering the proposal relate to:
  - (a) Planning Policy Framework and Local Planning Policy Framework;
  - (b) Neighbourhood Character Assessment;
  - (c) Clause 55 (ResCode);
  - (d) Clause 52.06 (Car parking); and
  - (e) Objector concerns.

**Submissions Received**

4. A total of sixteen (16) objections were received to the application. These can be summarised as:
  - (a) The three storey height with three bedrooms is not typical and sets precedence for future developments,
  - (b) Overdevelopment of the site resulting in amenity impacts including overlooking, overshadowing, loss of views and impact to value of nearby properties,
  - (c) Insufficient on-site car parking, constrained vehicle/pedestrian access from Dove Place and loss of on-street car parking, and
  - (d) Construction management issues including footpath closures, dust management, builders parking vehicles on-street, overlooking during construction and damage to neighbouring properties.

**Conclusion**

5. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported subject to the following key recommendations:
  - (a) The plans being amended to detail the changes shown on the submitted sketch plans and
  - (b) Overlooking being adequately treated.

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

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**1.1 PLN17/0081 - 84 Type Street, Richmond, VIC 3121 - Development of the land for two (2) dwellings and a reduction in the car parking requirements of the Yarra Planning Scheme.**

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Trim Record Number: D18/140947

Responsible Officer: Senior Coordinator Statutory Planning

**Proposal:** Development of the land for two (2), three (3) storey dwellings and a reduction in the car parking requirements

**Existing use:** Dwelling

**Applicant:** John Chow Architect

**Zoning / Overlays:** General Residential Zone (Schedule 2)

**Date of Application:** 03/02/2017

**Application Number:** PLN17/0081

**Planning History**

1. Planning permit 980780 issued 5 November 1998 to *construct a double storey alterations and additions to the rear of the existing dwelling*. This permit was acted upon.

**Background**

2. The application was received by Council on 3 February 2017, with additional information received on 25 August 2017. The application was subsequently advertised on 7 September 2017, with eleven (11) objections received.

Lodgement of S57A plans

3. In response to objector and officer concerns, revised section 57A amended plans were lodged on 16 February 2018, with these plans subsequently advertised on the 18 May 2018. A further five (5) objections were received, resulting in a total of sixteen (16) objections received.
4. These plans showed the following changes:
  - (a) Reduced footprint of the ground floor and a re-arranged car parking layout.
  - (b) Removed the angled wall and balcony layout at first floor and replaced them with flush wall forms.
  - (c) Increased second floor setback from the front and rear boundary.
5. A planning consultation meeting was held on the 25 June 2018 and was attended by the applicant, 10 objectors and Council officers. In response to issues raised at the meeting, the applicant submitted sketch plans on the 21 August 2018. The assessment of the application will be based on the advertised/decision plans with conditions requiring that the changes shown on the sketch plans are formalised. A copy of the sketch plans were sent to objectors with the Internal Development Approval Committee (IDAC) invitation letters.
6. The sketch plans show the following changes:
  - (a) Recessed area to the pedestrian entry of unit B with the internal southern garage wall and southern bedroom wall reconfigured;
  - (b) Overlooking screens added to the second floor balconies to both units and the first floor balcony of unit B;
  - (c) The second-floor balcony setbacks for unit A increased to a minimum of 0.7m from the north boundary, 0.9m from the south boundary and 3.2m from the east boundary;
  - (d) The second-floor balcony setbacks for unit B increased to a minimum of 0.4m from the north boundary, 1.8m from the south boundary and 5.2m from the west boundary;
  - (e) Reduction in the maximum height of the development from 8.5m to 8.2m; and
  - (f) The southern wall has a staggered height of 7.95m on its western and eastern ends and the central portion (above the bedrooms) being 8.2m high.

## The Proposal

7. The proposal is for the construction of two (2) dwellings and a reduction in the car parking requirements of the Yarra Planning Scheme. The floor layout of the dwellings are similar to each other and are arranged as follows:

### *Ground floor*

- (a) Each unit would contain a car space in a garage, with unit A accessing a new crossover proposed to Type Street and unit B accessed from Dove Place.
- (b) Each dwelling will be provided with a bedroom with en-suite and stair providing access to the upper levels.
- (c) Private open space to the rear of unit B would have a minimum depth of 5.35m with the front setback to unit A measuring 3.9m.
- (d) The northern and southern walls will be built to the boundary for a length of approx. 20.2m (apart from some setbacks on the north to accommodate an irregular boundary).
- (e) Black metal blade fences (1.73m high) are proposed to the remaining boundaries. This fence will be a sliding-stacking fence on the southern boundary of unit B to provide vehicle access.
- (f) The front and rear driveways will be a permeable turf grid surface with grass to be grown between the pavers. A landscape bed is to be provided to the north and west side of the driveway of unit B, with the north and south side of the pedestrian path to Unit A to be flanked with landscape beds.
- (g) A 1,150ltr water tank will be provided to each dwelling (in rear garden for unit B and in the front setback for unit A). Each tank will be connected to landscaping and toilets.

### *First-floor*

- (h) The first-floors mirror each other and will accommodate an open plan living/kitchen and a balcony each. The balcony to the living area of unit A would be 7.5sqm, with unit B measuring 7.8sqm.
- (i) The north and south walls will be built to the boundaries for a length of approx. 23.67m (apart from some setbacks to the north to accommodate an irregular boundary).
- (j) The first floor is setback 2.8m from the front and rear boundary.

### *Second-floor*

- (k) Each unit will contain two bedrooms with en-suites and a European laundry and balcony at the second-floor.
- (l) The northern wall will be setback between 0.5m and 0.8m from the north boundary and will measure 17.7m in length. The southern boundary wall will measure 18m in length.
- (m) A maximum building/wall height of 8.5m is proposed.
- (n) The balcony for unit A will be built to the north boundary for a distance of 2.2m and to the south boundary for a distance of 1.5m, will measure 5m in width, yielding an area of 12.6sqm.
- (o) The balcony for unit B will be built to the north and south boundary for a distance of 2.2m, will measure 5m in width, yielding an area of 11sqm.
- (p) Flat metal deck roof forms are proposed.

### *Materials*

- (q) Ground floor-brick (burwood blue), which is a red brick finish with hints of blue.
- (r) First-floor- exposed concrete borat grey- which is a polished concrete finish which exposes the aggregate inside the concrete revealing a speckled finish.
- (s) Second-floor- a recycled ironbark weatherboard cladding.
- (t) Balcony screens will be a mixture of clear glazing and timber or timber look metal louvers.

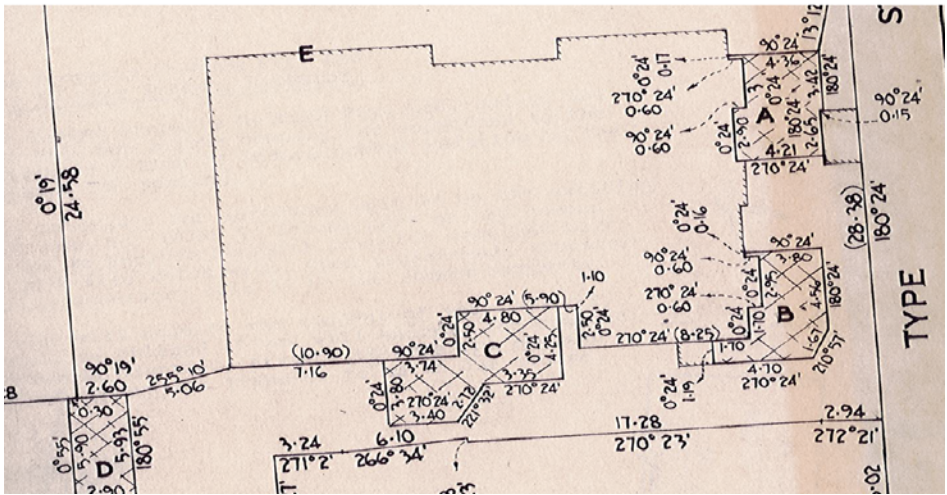
## Existing Conditions

### Subject Site

8. The subject site is located on the west side of Type Street, 45m south of Boland Street. Type Street terminates 25m south of the site. The site has north and south boundaries of 29.5m long and front and rear boundaries of 5.4m wide, with a total area of 159.3sqm. The site is occupied by a part single and part double storey dwelling. The dwelling has a 6m setback to Type Street with the rear open space also being 6m in length.

Surrounding Land

9. The immediate surrounds are an eclectic mix of development types ranging from single and double storey modern and period dwellings, two and three storey 1970's walk-up apartments and residential conversions of historic industrial/manufacturing buildings.
10. To the immediate north of the subject site is a two storey 1970's era apartment building accommodating a total of 12 units (No. 76-82 Type Street). The building has a southern wall which is setback between 4m and 6m from the shared boundary with the subject site, with 12 windows on this wall and a balcony at first floor. Two car spaces are located in the side setback and adjacent to the rear of the subject site.
11. Based on subdivision documents for this site, there are three ground floor private open spaces areas located opposite the subject site (See figure 1). Two of them are located side by side and are setback between 1m and 3.3m from the shared boundary with the subject site. There is a small first floor balcony located above this open space area.

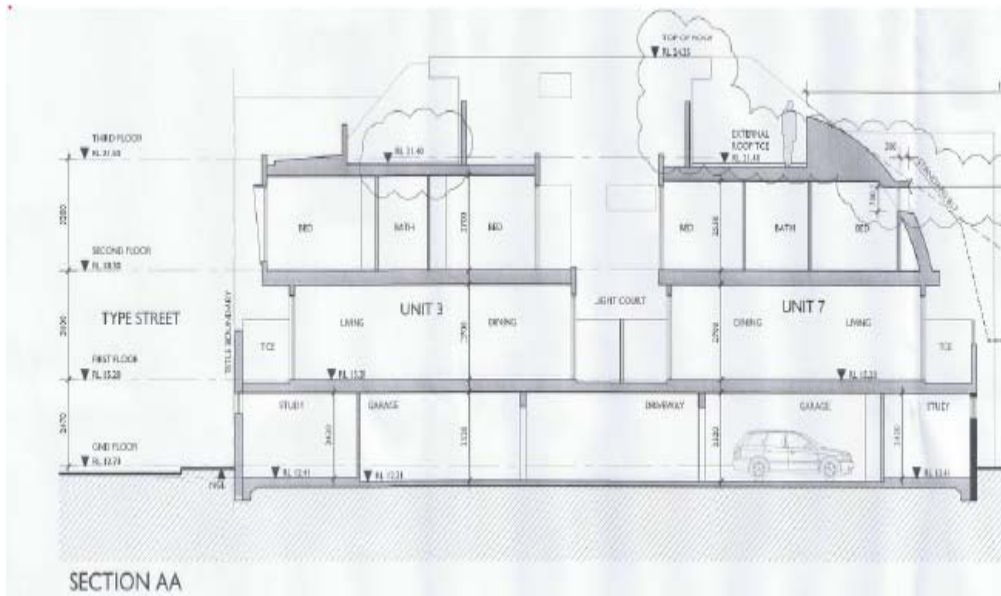


**Figure 1: Subdivision plan for No's 76-82 Type Street.**

12. The third ground floor private open space is located opposite the front setback of the subject site. This open space is setback approx. 3.7m from the shared boundary with the subject site (and is 1.19m wide at this point) with the remainder wrapping around the south-east corner of the apartment building (3.8m deep and 6m long).
13. The remainder of the open space in the side setback (adjacent to the subject site) accommodates a communal landscape bed in the front setback, communal clothes drying area in the central section and with two car spaces at the rear of the communal area (adjacent to the rear private open space at the subject site). This communal area is inaccurately depicted on the plans submitted with this application as private open space. More car parking for the apartment building is located to the north and west of the building and is accessed from both Dove Place and Type Street.
14. Opposite the rear boundary of the subject site is a vehicle access for the northern apartment building and with some car spaces located further west. To the west of these car spaces is a three-storey modern dwelling that is setback 20.5m from the subject site.



15. Opposite the subject site (on the south-east corner of Glasshouse Street and Type Street) is a manufacturing building which is currently being developed into a four-storey townhouse development under planning permit PLN14/0554. Immediately opposite the subject site, this development will have two storey street wall, a 1m setback at second floor and a 4m setback to the terraces at the third floor (see figure 2).



**Figure 2: No. 69 Type Street currently under construction.**

16. Immediately south of the subject site is Dove Place measuring 3.18m in width (with the road widening on its western end). On the opposite side of Dove Place is an historic redbrick industrial style building that has been converted to a residential use (No. 89 Type Street). The building contains two sections, with the section fronting Type Street (and immediately opposite the subject site) accommodating 5 townhouses and the section to the rear also accommodating 5 townhouses. The 5 townhouses opposite the subject site have a landscape bed (in common property) adjacent to Dove Place measuring 0.93m in width with Dove Place.
17. Based on development plans for planning permit 980752, the townhouse with a direct interface with Type Street is three storeys within the existing building shell. The wall of this townhouse facing Dove Place is part three storey's (approx. 9.8m tall) and part two storeys (approx. 8.5m high) with three openings on this wall (one at ground floor and two at first-floor). The first-floor openings are not glazed and service a terrace to the living room. The ground floor opening services a 1m wide terrace to a bedroom.
18. Based on information contained in relevant planning files, the remaining four townhouses have two bedrooms/habitable rooms at ground floor, with a 1m deep terrace servicing these bedrooms fronting Dove Place and behind the existing northern wall. These ground floor terraces have two openings each in the wall (approx. 2.5m high x 1.6m wide) which are enclosed by a mixture of slatted screens (approx. 1.8m high) or glazed bricks.
19. Living areas are at first-floor, with three of the dwellings having second-floors with terraces and bedroom/studios. The first-floor living areas do not have private open space. Each dwelling has two habitable windows on the first-floor north wall servicing the living areas. The bottom sills of the first-floor northern windows are located approx. 5m above Dove Place and with 1m high slatted wooden screen on the bottom part of the windows.



Figure 3: Townhouses on the opposite side of Dove Place and subject site.

## Planning Scheme Provisions

### Zoning

#### *General Residential Zone (Schedule 2)*

20. The subject site is zoned General Residential Zone (Schedule 2). The following provisions apply:
- (a) Pursuant to clause 32.08-6 of the Yarra Planning Scheme (the Scheme), a permit is required to construct two or more dwellings on a lot. A development must meet the requirements of clause 55;
  - (b) A building used as a dwelling or residential building must not exceed the height of 9 metres;
  - (c) The zone at clause 32.08-4 requires a mandatory minimum garden area requirement for lots greater than 400 square metres and above. As the subject site has a total area of 159sqm, this provision is not applicable.

### Overlays

21. The subject site is not affected by any overlays.

### Particular Provisions

#### *Clause 52.06 – Car Parking*

22. Pursuant to Clause 52.06-2, the car parking spaces required under Clause 52.06-5 must be provided on the land. Clause 52.06-3 requires a planning permit to reduce the number of car parking spaces required under this clause.
23. The Clause 52.06-5 requirements, the proposal provision and the subsequent shortfall are shown below:

Land Use	Rate	No. of dwellings proposed	Spaces required	Spaces proposed	Reduction sought
Dwelling	2 car spaces to each 3 or more bedroom dwelling.	2	4	2	2

*Clause 52.34 – Bicycle facilities*

24. The above clause only requires bicycle facilities for development of four or more storeys. As such, the above provision is not applicable to this application, however two spaces are provided in each garage.

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

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

General Provisions

*Clause 65 – Decision guidelines*

26. 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.
27. Amongst other things, the Responsible Authority must consider the relevant State Planning Policy Frameworks, Local Planning Policy Frameworks and any Local Policy, as well as the purpose of the Zone, Overlay or any other Provision

State Planning Policy Framework (SPPF)

*Clause 15.01-1S – Urban Environment*

28. The relevant objectives of this clause are:
- (a) *To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.*
29. Relevant strategies include:
- (a) *Require development to respond to its context in terms of character, cultural identity, natural features, surrounding landscape and climate.*
- (b) *Ensure development contributes to community and cultural life by improving the quality of living and working environments, facilitating accessibility and providing for inclusiveness.*
- (c) *Ensure the interface between the private and public realm protects and enhances personal safety.*
- (d) *Ensure development supports public realm amenity and safe access to walking and cycling environments and public transport.*
- (e) *Ensure that the design and location of publicly accessible private spaces, including car parking areas, forecourts and walkways, is of a high standard, creates a safe environment for users and enables easy and efficient use.*

*Clause 15.02 – Sustainable Development*

30. The objective of this clause is:

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

*Clause 16 – Housing*

- 31. The relevant objective of this clause is:
  - (a) *Planning should ensure the long term sustainability of new housing, including access to services, walkability to activity centres, public transport, schools and open space.*

*Clause 18.01 – Integrated Transport*

- 32. The objective (clause 18.01-1S) of this clause is:
  - (a) *To create a safe and sustainable transport system by integrating land use and transport.*

Local Planning Policy Framework (LPPF)

*Clause 21 – Municipal Strategic Statement (MSS)*

*Clause 21.03 – Vision*

- 33. Clause 21.03 of the Scheme outlines strategic objectives for land use, built form, transport and environmental sustainability within the City. Strategies to achieve the objectives are set out in the following clauses of the MSS.

*Clause 21.04 – Land use*

*Clause 21.04-1 – Accommodation and Housing*

- 34. The objectives of this clause are:
  - (a) *To accommodate forecast increases in population.*
  - (b) *To retain a diverse population and household structure.*
  - (c) *To reduce potential amenity conflicts between residential and other uses.*

*Clause 21.05 Built form*

*Clause 21.05-2 – Urban design*

- 35. This clause incorporates the following relevant objectives:
  - (a) *Objective 16 - To reinforce the existing urban framework of Yarra; and*
  - (b) *Objective 20 - To ensure that new development contributes positively to Yarra's urban fabric.*

*Clause 21.06 – Transport*

- 36. The objectives of this clause are:
  - (a) *To provide safe and convenient pedestrian and bicycle environments.*
  - (b) *To facilitate public transport usage.*
  - (c) *To reduce the reliance on the private motor car.*
  - (d) *To reduce the impact of traffic.*

*Clause 21.07 – Environmental Sustainability*

- 37. The relevant objectives of this clause are:
  - (a) *To promote environmentally sustainable development.*
  - (b) *To improve the water quality and flow characteristics of storm water run-off.*

*Clause 21.08 Neighbourhoods – Richmond Central*

38. The policy describes this area as: *The land use character of this neighbourhood is predominantly residential, with the area closest to Punt Road comprising early to mid Victorian cottages and terraces, and an increasing amount of Edwardian dwellings towards the east of the neighbourhood.*
39. The Built Form Character Map for the area (figure 23) nominates the site to be within an “Inner Suburban Residential” area. The map provides the following design guidelines:
- (a) *Maintain the existing pattern of front setbacks.*
  - (b) *Limit variations in height to a maximum of one storey compared to the adjacent properties, on single house sites/small development sites in areas with generally consistent building heights.*

Relevant Local Policies

*Clause 22.07 – Development abutting laneways*

40. The relevant objectives of this policy are to:
- (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 22.10 – Built form and design policy*

41. This policy applies to all new development not included in a Heritage Overlay. The relevant objectives of this policy are to:
- (a) *“Ensure that new development positively responds to the context of the development and respects the scale and form of surrounding development where this is a valued feature of the neighbourhood character.*
  - (b) *Ensure that new development makes a positive contribution to the streetscape through high standards in architecture and urban design.*
  - (c) *Limit the impact of new development on the amenity of surrounding land, particularly residential land”*
42. The clause includes various design objectives and guidelines that can be implemented to achieve the above objectives. The design elements relevant to this application relate to:
- (a) Urban form and character;
  - (b) Setbacks and building heights;
  - (c) Street and public space quality;
  - (d) Environmental sustainability.

*Clause 22.13 – Residential Built Form Policy*

43. This policy applies to the residentially zoned in areas not covered by a Heritage Overlay and refers to the Built Form Character Type as set out in the Built Form Character Maps in Clause 21.08. It is policy that development within each of the character types responds positively to the matters set out in clauses 22.12-3.1 to 22.12-3.4 referable to the location of the development.

44. The site is categorised as an *Inner Suburban Residential* built form type. Clause 22.13-3.2 outlines that *Inner Suburban Residential* is: “residential areas with spacious garden settings and generous setbacks and spaces between buildings”.
45. The design guidelines set out in this policy are as follows:
- (a) *Maintain the existing pattern of front setbacks.*
  - (b) *Landscape the front setback in a style that reinforces the garden character (if any) of the streetscape.*
  - (c) *Where the general pattern of development includes gaps between buildings, include a setback on at least one side of the building.*
  - (d) *Orient buildings at right angles to the street frontage.*
  - (e) *Provide front fencing that is open (unless the building is zero front setback).*
  - (f) *On single house sites in areas with generally consistent building heights, limit variations in height to a maximum of one storey compared to the adjacent properties.*

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

46. This policy applies to new buildings. The objective of this clause is:
- (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).*

*Clause 22.17 – Environmentally Sustainable Design*

47. This policy was introduced to the Scheme on 31 August 2017, 6 months after the application was lodged. Clause 22.17-7 stipulates the policy does not apply to applications received by the responsible authority before the gazettal date. As such a condition will not require a BESS assessment is provided.

## **Advertising**

48. The application was received by Council on 3 February 2017, with additional information received on 25 August 2017. The application was subsequently advertised on 7 September 2017 via letters (total 83) to nearby and adjoining properties and signs displayed to Dove Place and Type Street, with eleven (11) objections received.

### Lodgement of S57A plans

49. In response to objector and officer concerns, revised section 57A amended plans were lodged on 16 February 2018, with these plans subsequently advertised on the 18 May 2018 via letters to nearby and adjoining properties and objectors (total 53 letters). A further five (5) objections were received, resulting in a total of sixteen (16) objections. The grounds of which are summarised as follows:
- (a) The three storey height with three bedrooms is not typical and sets precedence for future developments,
  - (b) Overdevelopment of the site resulting in amenity impacts including overlooking, overshadowing, loss of views and impact to value of nearby properties,
  - (c) Insufficient on-site car parking, constrained vehicle/pedestrian access from Dove Place and loss of on-street car parking, and
  - (d) Construction management issues including footpath closures, dust management, builders parking vehicles on-street, overlooking during construction and damage to neighbouring properties.

## **Referrals**

### External Referrals

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

#### Internal Referrals

51. The following internal referrals were made:
- (a) Engineering Services Unit.
  - (b) Urban Design Unit.
52. Referral responses are contained in the appendices to this report.

### **OFFICER ASSESSMENT**

53. The key issues for Council in considering the proposal relate to:
- (a) Planning Policy Framework and Local Planning Policy Framework;
  - (b) Neighbourhood Character Assessment;
  - (c) Clause 55 (ResCode);
  - (d) Clause 52.06 (Car parking); and
  - (e) Objector concerns.

#### Planning Policy Framework

54. When assessed against the Planning Policy Framework and Local Planning Policy Frameworks (PPF & LPPF), there is strategic support for the development with regards to its location within close proximity to an activity centre (AC) and within the General Residential Zone (GRZ). The purposes of the GRZ are as follows:
- (a) *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
  - (b) *To encourage development that respects the neighbourhood character of the area.*
  - (c) *To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.*
55. It is considered that the proposed development fulfils these objectives, and allows for modern medium sized development within an inner-city context that is ideally located to take advantage of existing public transport services including tram services available along Bridge Road (380m north), Swan Street (400m south) and Burnley Train Station (420m south).
56. Clause 11 of the Scheme aims for an increase in diversity of choice, economic viability, accessibility and land use and transport integration, whilst facilitating sustainable development that takes full advantage of existing settlement patterns. The future residents of the dwellings will use the services available in the nearby commercial environments on Swan Street and Bridge Road. Objectors cited that most recent developments in the area have two bedrooms and raised concerns that the proposed three bedroom dwellings are an anomaly in this regard. However, the Scheme encourages variety in dwelling types approved to allow for the needs of larger families to be met.
57. The development also accords with a number of key strategic policies within the Scheme, in particular clause 15.01-1S and 18.01-1S, by providing higher density housing with connections to public transport/cycling networks and by increasing and consolidating the supply and diversity of housing in existing urban areas. For all of the reasons outlined above, the proposal is considered to achieve sufficient compliance with the relevant planning policies.

#### Neighbourhood Character Assessment



58. The following section will consider the design response to relevant Local policy, including the advice of Council Urban Design officer. Clause 22.10 (*Built form and design policy*) and Clause 22.13 (*Residential Built Form Policy*) provide specific guidance on assessing appropriate height and scale of new developments in residential contexts. Clause 22.10 provides design guidelines at Clause 22.10-3.2 (*Urban form and character*), Clause 22.10-3.3 (*Setbacks & building heights*), and Clause 22.10-3.4 (*Street and Public Space Quality*).
59. The site is categorised as an *Inner Suburban Residential* built form type. Clause 22.13-3.2 outlines the *Inner Suburban Residential* design guidelines as follows:
- (a) *Maintain the existing pattern of front setbacks.*
  - (b) *Landscape the front setback in a style that reinforces the garden character (if any) of the streetscape.*
  - (c) *Where the general pattern of development includes gaps between buildings, include a setback on at least one side of the building.*
  - (d) *Orient buildings at right angles to the street frontage.*
  - (e) *Provide front fencing that is open (unless the building is zero front setback).*
  - (f) *On single house sites in areas with generally consistent building heights, limit variations in height to a maximum of one storey compared to the adjacent properties.*

Clause 22.13-3.2- *Building orientation, front fence, landscaping and front and side setbacks.*

60. In compliance with policy objectives, unit A is oriented at a right angle to Type Street and unit B to Dove Place. Clause 22.13-3.2 also encourages side setbacks where this is the existing street pattern. A pattern of side setbacks does not exist on this southern end of Type Street and so this policy element is not relevant to this application. The policy also encourages open fencing to the street. However, the detail of the fence spacing is not clearly detailed on the plans. A condition will address this. The height of the fence at 1.75m is also acceptable as it is comparable to the existing fence heights to the immediate north and south and the existing fence at the subject site.
61. The policy also encourages retaining a landscape pattern when this is clearly established in the street. However, with only small communal landscape beds provided in the frontage of the buildings to the north and south, the small landscape beds proposed either side of the pedestrian path to unit A is reflective of the established pattern in the street. Further the turf grid driveway will have the appearance of a lawn (in response to Council's urban design advice), and so will further contribute to the landscape character of the street (which is more solid walls/garage doors and high front fences particularly at this end of Type Street).
62. This policy also encourages new development to replicate established front setback patterns. The setback pattern on this southern end of Type Street is eclectic. The immediate building to the north is setback 5m from Type Street; the building to the immediate south setback 1.5m; and the new development opposite to be constructed to the footpath edge. The proposed first and second floor facades generally align with the adjoining apartment development to the north (setback 5m) and so acknowledges the established streetscape character in the immediate context.
63. The ground floor is setback 4m, with first-floor balcony cantilevers 1m over the ground floor and the second-floor balcony extends 1.8m from the second-floor facade. These protruding elements are considered acceptable as they will sit behind the façade setback of the redbrick building to the south (which is setback 1.5m to Type Street). For this reason, the protruding ground floor and first and second floor balconies will not appear an incongruous element in the streetscape and will sit within the back drop of this building to the south. Council's urban design referral comments also support the proposed front setback.



64. Of concern is the proposed water tank in the front setback. As the water tank is only 0.6m wide and 1.8m high and is generally located below the cantilevering first floor balcony, it is considered that it would be a recessive element and would generally be screened by the 1.75m high front fence. Council's urban design team requested the tank be relocated underground, but given it will not be highly visible from the street, moving the tank is not warranted and cannot be accommodated within the dwelling.
65. For all the reasons and subject to the conditions outlined above, the proposed building orientation, front fencing, landscaping and front and side setbacks are considered acceptable.  
*Clause 22.13-3.2 and clause 22.10- façade articulation, massing/modulation and building height.*
66. Clause 22.10-3.2 (*Urban form and character*) encourages new development to '*express the original fine-grained subdivision pattern in building design, massing, modulation and facade articulation*'. The width of unit A and its presentation to Type Street will be reflective of the original subdivision pattern and so is acceptable in this regard.
67. In terms of façade articulation, the applicant responded to Council's Urban Design advice by providing a garage door with frosted glass sections allowing activation and light spill to the front setback (shown in the photo montage material schedule). However, the material schedule says the door will be a roller door. A condition will require that plans are corrected to confirm the door will be similar to the image provided in the photo montage materials schedule.
68. The Urban Design and Traffic Engineers comments also raised concerns with the lack of visibility to of unit B entry from Dove Place. To address this, the sketch plans show an angled wall and a landscape bed to the entry lobby, thus improving the wall articulation and the visibility from of the entry from Dove Place.
69. However, the façade articulation and particularly the extent of glazing to the first-floor façade to Type Street is considered to be out of context with the existing nearby buildings generally having a larger solid wall ratio to glazing. In contrast, the entire width of this façade is glazed, with this issue compounded by the first and second floor east-facing balcony balustrades also proposed to be clear glazed.
70. To address this issue, the applicant has agreed to a condition requiring the first and second floor east-facing balcony balustrades be replaced with a material of a more solid/non-glazed appearance. This will allow for the façade to increase the extent of solid surfaces and so tie in better with the existing solid to void ratio typically found in the streetscape. Further the solid second floor balcony will also tie in with the existing façade articulation established by the masonry parapets commonly found on older dwellings in the street.
71. This consideration of the visibility of the second floor also responds to issues surrounding the massing, modulation and height raised by Clause 22.10-3.2 and 22.13-3.2 which encourage '*on single house sites in areas with generally consistent building heights, limit variations in height to a maximum of one storey compared to the adjacent properties*'. Objectors raised concerns the proposed three storey height would be out of context in the streetscape, with this view further reiterated by Council's Urban design referral comments.
72. Council's Urban Design comments indicate given the development would sit forward of the two-storey apartment building to the north, its three-storey mass would be highly visible in the street. The comments acknowledge the proposed building height is reflective of the height of three storey height of the front part of the building to the immediate south. However, the comments continue to argue given this building is a historic building it is preferable that it retains dominance in the street and should not be used for justification for the increased height at the subject site.

73. While the building to the south is an older industrial building, it is not located in a heritage overlay and the area is not subject to heritage policies requiring that new development and additions be subservient to original heritage fabric. The applicable policies allow for *variations in height to a maximum of one storey compared to the adjacent properties*. With the apartment building to the north being two storeys, the building to the south being part two/part three storeys and the building under construction on the opposite side of Type Street being four storeys, the proposed three storey building is considered an acceptable outcome in terms of its visual presentation to the neighbourhood (with amenity impacts of the height discussed in the following clause 55 assessment).
74. Further, the second-floor façade being recessed 2m behind the level below allows for modulation in building form and so appropriately treats the building mass allowing for a transition between the existing two and three storey buildings located to the north and south.
75. The 3m façade recess of the second floor of unit B from the level below also allows for the rear of the building to provide an appropriate transition and for these reasons it is not considered necessary to further reduce the size of the second floor as suggested by the Urban Design comments. The sketch plans increase the setbacks of the second floor balconies from the side boundaries. This narrows the building as read from Type Street further reducing this building form and making it less dominating.
76. However, the sketch plans introduce a 1.7m overlooking screen (increased from 1m high) to the second-floor east-facing balcony, which creates unnecessary additional height and bulk to the streetscape. As will be discussed in the following clause 55 assessment, overlooking is not a concern from this side of the balcony and so a condition will require its height be reduced to a maximum of 1.2m to remove this unnecessary height and bulk to the front of building.
77. Based on development plans for the townhouses development to the south (No. 86 Type Street), the two-storey wall on the opposite side of Dove Place is approximately 8.5m high. From an urban design perspective, the visual presentation of the proposed three-storey wall to the north-side of Dove Place is considered acceptable, as at between 7.95m and 8.2m in height it will be lower than this existing two-storey wall on the south side of Dove Place. Further given the position of this proposed three-storey wall near the end of Type Street, the wall will only be visible when viewed from Dove Place, with oblique views to the south blocked by the opposite townhouses at No. 86 Type Street.
78. Of concern is the visual bulk presentation of three-storey northern wall, particularly given the large separation to the northern apartment building which allows for oblique views to the wall from the street. However, the incorporation of a different wall material on each floor (with these materials supported by Council's Urban Design comments), along with the second-floor windows and the recessed second floor north wall is considered to sufficiently articulate this wall (particularly as it is common to see tall boundary walls in the area). Further the sketch plans increases the setback of the second-floor balconies from the north and south boundaries which further articulates and reduces the dominance of this three-storey built form.
79. The overall built form is considered acceptable form an urban design perspective, given the incorporation of the combined design features identified above. For all of the reasons outlined above, the proposed development is considered to present an appropriate design response to the surrounding neighbourhood character. The following clause 55 assessment will consider the amenity impacts of the proposal.

Clause 55 (Rescode)

80. Clause 55 (ResCode) provides an assessment tool for the appropriateness of the design of two or more dwellings on a lot. Given the site's location within a built-up inner-city residential area, strict application of the standard is not always appropriate. The relevant test is whether the proposal meets the objectives. The following provides an assessment against the relevant standards of ResCode and shows the proposal achieves a reasonable level of compliance with relevant objectives.

*Standard B1 – Neighbourhood Character*

81. This standard encourages proposed development to respond to the existing neighbourhood character or to contribute to a preferred neighbourhood character of the area. An assessment of the proposed development in relation to neighbourhood character has been carried out in the previous *Neighbourhood Character Assessment* and found the proposal provides an appropriate design response to respect both the existing and preferred neighbourhood character.

*Standard B2 – Residential Policy*

82. As discussed previously the proposal achieves a reasonable level of consistency with State and Local planning policies contained within the Scheme, including relevant components of the MSS. Accordingly, the proposed development is considered to adequately respond to the requirements of this Standard.

*Standard B3 – Dwelling Diversity*

83. This standard seeks, “to encourage a range of dwelling sizes and types in developments of ten or more dwellings”. Accordingly, this standard is not applicable to this development.

*Standard B4 – Infrastructure*

84. The development is located within an existing established residential area. It is not expected that a second dwelling would overload the utility services and infrastructure. The proposed development would be readily connected to the required utility services and infrastructure which are present at the site.
85. Furthermore, the application has been referred to Council's Engineering Services Unit who has not objected to this aspect of the proposed development. As such the site is considered capable of supporting the proposed dwellings.

*Standard B5 – Integration with the street*

86. Unit A will be oriented to Type Street with Unit B oriented to Dove Place. Unit A will allow for passive surveillance to the main street frontage in compliance with policy objectives, subject to a condition requiring the tall second-floor east-facing balcony privacy screen reduced in height to improve passive surveillance to Type Street. The first and second floor windows and balcony edges to Dove Place will be treated to prevent overlooking in non-compliance with policy objectives. However, this is acceptable given this is not the principal street frontage but a laneway context with lower levels of passive surveillance being common in laneway contexts.
87. A timber or timber look metal screen is proposed to the large ground floor windows to Dove Place. As these windows service a stair, there is no requirement that the screen have a maximum transparency of 25%. A condition will require that the spacing between the slats is noted on the plans with a view to demonstrating that some light spill and passive surveillance will be achieved to further activate the lane.

*Standard B6 – Street setback*

88. Under the above standard a front setback of 3.9 metres is required. A minimum ground floor setback of 3.9 metres is proposed, meeting the above standard. The first-floor balcony cantilevers over the ground floor by 1m, but given the balconies located on the façade of the apartment building to the north, the proposed balcony will not appear out of character.

*Standard B7 – Building height*

89. The total overall building height of 8.2 metres is proposed (subject to sketch plans). This is in accordance with the maximum 9 metres prescribed by the standard and the 9 metres mandatory height control of the General Residential Zone – Schedule 2.

*Standard B8 – Site coverage*

90. The site coverage is proposed to increase to approximately 80%, which does not comply with the maximum 60% recommended by the standard. The decision guidelines of the standard require consideration of the site coverage of adjacent sites and the effect of visual bulk and whether this is acceptable in the neighbourhood context.
91. With very high site coverages being typical of the immediate context, the proposed non-compliance is considered acceptable. For example, the development currently under construction at No. 69 Type Street will have 100% site coverage, with No's 91 and 93 Type Street displaying coverages in the region of 95%. Average site coverages for other properties in the immediate vicinity would range from approx. 70% to 80% and so the proposal will not be an anomaly in the area.
92. Issues in relation to visual bulk/building modulation associated with high site coverage have been discussed previously in the *Urban Design and Neighbourhood Character Assessment* with the proposal considered to be acceptable in this regard.

*Standard B9 – Permeability*

93. A site permeability of approx. 31% of permeable surfaces located within the front and rear setbacks, exceeds the 20% recommended by the standard. The proposal also complies with Clause 22.16 Stormwater Management (WSUD) and meets the required on-site stormwater treatment as demonstrated by achieving 196% STORM rating.

*Standard B10 – Energy efficiency*

94. In compliance with the standard, the ground floor and second-floor open space will be oriented to the north. The first-floor open space areas are enclosed by walls on their north side. However, as they have westerly (unit B) and easterly (unit A) aspect, they will receive adequate sunlight access. The roof overhangs to these open spaces will provide shading to the principle living areas, reducing overheating issues in the summer months.
95. Subject to condition, all habitable rooms would have access to operable windows ensuring adequate ventilation. The sketch plans do not show a window to ground floor bedroom of unit B. A condition will address this to ensure the room has access to a natural light source. The impact of the proposed development on neighbour's energy efficiency will be discussed in the following Standard B19 (Daylight to existing windows), Standard B20 (North-facing windows) and Standard B21 (Overshadowing) assessments.

*Standard B11 – Open Space*

96. Not applicable. No communal open space is proposed.

*Standard B12 – Safety*

97. The pedestrian entry to unit A will be located along Type Street and will be clearly visible from the street, with a pathway leading up to the door entry. The angled wall to entry of unit B (shown in the sketch plans, to be conditioned) will allow views of this entry from both Dove Place and Type Street. The recessed Dove Place pedestrian entry also provides refuge and reduces conflicts between pedestrians and vehicles. A condition will require lighting is provided to the pedestrian and vehicle entry of both units to improve safety.
98. A clear line of sight is also available of the Dove Place entry, given it is only 18m from Type Street. Further there are examples of dwelling entries provided from Hofert Lane, demonstrating that laneway pedestrian entries are not uncharacteristic of the immediate context.

*Standard B13 - Landscaping*

99. As discussed previously the proposal is considered to be acceptable in this regard.

*Standard B14 – Access*

100. This standard encourages the number and design of vehicle crossovers to respect the character of the area through minimising the width of crossover to a maximum of 40% of the frontage. In non-compliance, the crossover will occupy 63% of the Type Street frontage resulting in the loss of one on-street car space.
101. In instances where non-compliance is proposed, the standard requires consideration of the impact of the loss of on-street cars spaces, the design response and loss of landscape opportunities and its impact on neighbourhood character. In this instance, given the additional available access point from Dove Place, considerable consideration (in consultation with Council's traffic engineers) was given to the possibility of both dwellings accessing from Dove Place.
102. However, given the narrow width of Dove Place and the narrow width of the subject site, a large on-site turning area and wider garage door is required, similar to the turning area provided to unit B. In order to achieve a similar access arrangement from Dove Place for unit A, the width of the front setback would need to be increased by approximately 2m and the garage door widened. This would result in a significant redesign of the ground floor of the development including the likely removal of the front door to accommodate a larger garage door and insufficient depth to accommodate a car space in the garage. The presentation of only a larger garage door to Type Street is not considered acceptable from an urban design and street activation perspective.
103. Further, vehicles would also need to carry out a large number of reversing correction movements in order to leave the site in an easterly direction to access Type Street. This awkward arrangement would likely result in vehicles exiting the site in a westerly direction onto Dove Place and attempting a 360 degree turn at the western of Dove Place. Given these significant obstacles to gaining access from Dove Place, it is considered the non-compliant width of the access and the loss of the on-street car space is justified.
104. Finally, in compliance with policy objectives, the vehicle access to Type Street is minimised to a single width crossover which will not look out of context given the presence of single width crossover's serving the two apartment buildings to the immediate north. Further the design has maximised landscaping opportunities in the front setback through incorporation a turf grass crossover and two landscaping beds. For all of these reasons, the proposed crossover to Type Street is considered acceptable.

*Standard B15 – Parking location*

105. In compliance, the garages are directly accessible to the interior of the dwellings ensuring reasonable and convenient access. The garages doors and fences ensure the parking areas would be reasonably secure.
106. This standard encourages vehicle accessway to be located 1.5m away from habitable windows. There are existing ground floor openings located on the north wall of the townhouse development on the opposite side of Dove Place, with the habitable room windows set back a further 1m behind the northern wall. As this is an existing condition and with vehicles currently using Dove Place, the introduction of the new vehicle access to Dove Place will not significantly alter existing levels vehicle movements. For this reason, the proposed vehicle access would not have an unreasonable impact to these existing windows, particularly as the windows are located 1m behind the existing northern wall and with the wall openings screened with either glazed brick or slatted timber screens.
107. The proposed ground floor bedroom windows of unit A and B (subject to condition) face Dove Place. Given the narrow width of the lot, requiring a 1.5m setback from the laneway as suggested by the standard would result in unworkable floor layouts for the dwellings. Further as it is typical of the area for narrow lots to have habitable windows on laneway boundaries, it is not considered justified to require ground floor setbacks to Dove Place. However, to further protect these bedrooms from vehicle noise/light intrusions, a condition will require the windows have a minimum sill height of 1.4m above the Dove Place road pavement.

*Standard B17 – Side and rear setbacks*

108. This standard stipulates the following:

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

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

109. Of relevance is second floor north wall of both units and the west wall of unit B. The following table identifies the variations required:

<b>Boundary</b>	<b>Setback required</b>	<b>Setback provided (Sketch plans)</b>	<b>compliance</b>
Second floor north 8.2m high	3.29m	0.5m-0.8m	No
Balcony 7.7m high	2.79m	0.5m-0.8m	No
West wall 8.2m high	3.29m	4.6m (min)	Yes
Balcony 7.7m	2.79m	3.2m	Yes

110. A variation in the above standard for the second-floor north wall is considered acceptable in this instance as it adjoins either the car parking area or common property (laundry area) of the apartment development to the north. The nearest private open space on this property is setback a minimum of 1m with the others setback between 3m and 3.7m from the non-compliant wall which is considered sufficient separation to reduce visual bulk impacts to an acceptable level. Further as the existing double storey part of the dwelling at the subject site is located opposite the private open space with the 1m setback, this open space currently experiences visual bulk impacts.
111. The use of a different wall material on the second level will also help alleviate this visual bulk impacts. Further the second floor is recessed from the levels below allowing for some views and aspect out of these open space areas in a westerly and easterly direction. Further these open space areas are not shadowed by the non-compliant wall and so on balance the wall is not thought to have a detrimental off-site amenity impact.

*Standard B18 – Walls on boundaries*

112. This standard stipulates the following:

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

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

113. Of relevance is the three-storey southern wall (7.95m and 8.2m high) and the two-storey northern boundary wall (5.79m high). The walls heights do not comply with the standard. The lengths of these walls also do not comply with the 14.8m stipulated by the standard. The standard provides the following relevant decision guidelines to assess non-compliances:

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

114. For the same reasons outlined in the Standard B17 (*Side and rear setbacks*) the proposed double storey wall on the northern boundary is considered acceptable (ie the wall is opposite common areas with private open space setback and no shadow impact and reflects the existing two storey wall on the boundary). In relation to the presentation of the south wall, this is considered acceptable as Dove Place offers a separation to reduce visual bulk impacts to an acceptable level. The decision guidelines require consideration of the lot width and at only 5.4m wide, requiring further setbacks will have significant impacts on the internal amenity/workability of the proposed dwellings.

115. The decision guidelines also require consideration of walls on the boundary being characteristic of the area. As the existing wall on the opposite side of Dove Place is approx.8.5m high and is much longer than that proposed at the subject site, in this context it is considered there is insufficient justification to require that wall is lowered in height or further setback. Further as will be discussed in detail in the following Standard B21 (*Overshadowing*) and Standard B20 (*North-facing windows*) assessments the wall will not generate detrimental amenity impacts to these properties opposite.

*Standard B19 – Daylight to existing windows*

116. This standard stipulates the following:

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

117. Based on a maximum wall height of 8.2m, a minimum separation of 4.1m is required to habitable room windows opposite. In compliance, a minimum separation of 4.5m is provided to nearest habitable room windows to the north and 4.1m to the nearest habitable room windows to the south.

*Standard B20 – North-facing windows*

118. This standard stipulates the following:

*'If a north-facing habitable room window of an existing dwelling is within 3 metres of a boundary on an abutting lot, a building should be setback from the boundary 1 metre, plus 0.6 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres, for a distance of 3 metres from the edge of each side of the window'.*

119. There are six ground floor habitable room windows and six first floor habitable windows servicing 3 townhouses located opposite the proposed southern boundary wall. The sketch plans depict a separation of 3.9m between the proposed southern wall and the northern wall of the townhouse. But based on an officer assessment (as outlined in the *Site and Surrounds*) the separation is 4.1m. As such the proposal complies with the standard as the separation is greater than the 3m stipulated by the standard.

120. However, objectors have raised concerns with the impact of the proposed three storey wall on their north-facing windows. Thus, while the proposal complies with the standard, the relevant decision guidelines of this standard will be used as a guide to address these objector concerns.

121. The standard provided the following relevant decision guidelines to assess non-compliances:

- (a) *Existing sunlight to the north-facing habitable room window of the existing dwelling.*
- (b) *The impact on the amenity of existing dwellings.*

122. As described in the *Site and Surrounds* the ground floor habitable room windows of these townhouses are currently setback 1m behind their own northern wall with the openings in the wall screened by tall screens with very limited transparency or glazed brick. Further the level above is built to the northern wall and so these 1m wide terrace areas would currently be heavily overshadowed by a combination the screens to the openings in the north wall, the level above and their own northern wall. Given these existing circumstances and that proposed three-storey south wall complies with the standard, it is reasonable to support the proposed southern wall.

123. Objectors also raised concerns with the impact on their first-floor habitable windows/open space and second-floor windows/open space. As discussed above, as the separation satisfies the standard, it is reasonable to support the proposed wall. Given their height above the ground these first-floor (min 5m above Dove Place) and second-floor windows/open space will continue to enjoy full access to direct sunlight between a minimum of approx. 9.30am and 3pm on September 23 (equinox). The shadow plans also demonstrate that that this situation will be improved for a number of these windows which are also not affected by new shadow in the early morning and late afternoon, which is considered an acceptable outcome (the sun sections provided by the applicant with the sketch plans were not relied upon for this assessment as they do not accurately depict the height of the northern walls of the townhouses nor the separation between the proposed and existing walls).

*Standard B21 – Overshadowing*

124. As described in the previous Standard B20 (*North-facing windows*) any first floor open space (unit 1, 86 Type Street) and second floor/first floor open space will not be shadowed as a result of the proposed development between the hours of approx. 9.30am and 3pm at the equinox. This complies with the standard.



125. As demonstrated by the shadow diagrams, the ground floor 1m wide terraces will not receive a minimum of 5 hours sunlight throughout the day. However, given these terraces are currently heavily shadowed (as described in detail in the previous Standard B20 (*North-facing windows*)) and that the terraces service bedrooms rather than living areas, they are not principal open space areas. As such, it is acceptable that these areas receive additional shadow.

*Standard B22 – Overlooking*

126. The above standard requires that any habitable room windows or balconies be located or designed to avoid direct views into the secluded private open space and habitable room windows of an existing dwelling within a horizontal distance of 9 metres.
127. Along the ground floor, 1.73m fences are proposed along the northern, southern and western boundaries. The transparency of these metal fences is not noted on the plans however the applicant has since confirmed a transparency of 50%. The applicant has also confirmed the transparent fence to the northern boundary was included in error and should be a 1.8m high solid metal fence. A condition will address this and this fence will prevent overlooking to the open space to the north.
128. As the western fence adjoins vehicle access area, it is not required to be compliant with this standard and so is acceptable. The ground floor east and south fences to unit A enclose the front setback/vehicle accessway and not a private open space area and so are not required to comply with this standard.
129. In relation to overlooking from the ground south-facing bedroom windows and the southern fence of unit B, there are habitable windows located 1m behind the 8 openings on the southern wall of No. 86 Type Street (within the 45 degree 9m radius overlooking arc stipulated by the standard). All of these wall openings are treated either with existing screens with very limited transparency (max 25% transparent) or glazed brick walls, all with a minimum height of 1.7m above the proposed floor level of the bedrooms and ground floor open space of unit B. For this reason, it is not required to treat the proposed windows or ground level open space to unit B for overlooking.
130. However, the first and second floor habitable windows and balconies need to be assessed. While some proposed habitable room windows are noted to have minimum sill heights of 1.7m (as per the standard), limited openings and privacy screens, insufficient detail is provided to demonstrate compliance with the standard. A condition will address this ensuring no windows or secluded private open space (SPOS) is overlooked within 9m.
131. The north and south sides of the first-floor balconies will be enclosed by 2.6m high walls in compliance with the standard. The east side of the first-floor balcony of unit A overlooks the front setback of the apartment development to the north, Dove Place to the south and Type Street to the east (within the stipulated 9m overlooking radius arc) and so is not required to be treated for overlooking. The second floor north-facing windows service bathrooms and so are not required to be treated for overlooking.
132. However, the west side of the first and second-floor balcony to unit B will be able to overlook habitable windows on the opposite side of Dove Pace and to the north. The sketch plans show full height walls on the north and south side of the first-floor unit B balcony with a tall screen to the south end of the western edge of the balcony. This screen prevents views to habitable rooms and private open space within 9m, however, detail of the screen is not provided. Further the bottom part of the west-facing screen to the first-floor balcony is glazing. A condition will ensure this balcony screen is appropriately treated to prevent views to windows or secluded private open space (SPOS) within 9m.

133. The sketch plans show the north, south and west side of the second-floor balcony to unit B to be treated with 1.75m high screens but again detail of the screens is not provided. Further the bottom part of the west-facing screen is glazing. A condition will ensure these balcony screens are appropriately treated to prevent views to windows or secluded private open space (SPOS) within 9m.
134. A tall screen is proposed to east side of the second-floor balcony of unit A. However as previously discussed to maintain passive surveillance and activation to Type Street, a condition will require this screen is a maximum of 1.2m high. Further this side of the balcony overlooks the front setback of the apartment development to the north, Dove Place to the south and Type Street to the east (within the stipulated 9m overlooking radius arc) and so is not required to be treated for overlooking. However, the north and south side of this second-floor balcony to unit A have direct views to habitable windows and open space to the properties to the immediate north and south. The plans do not provide adequate detail to demonstrate proposed screens will comply with the standard. A condition will address this.
135. A further condition will require the material of privacy screens is confirmed, with plans indicating screens will be both timber and timber look metal, with materials for second floor balconies not being clear. Council's Urban Design comments indicated a preference that the screens be timber rather than timber look metal, raising concerns that the timber look metal might clash with the timber cladding to the second floor. However, it is not considered detrimental to the design that metal slat overlooking screens would be proposed and therefore not considered warranted to condition to this effect. However, a condition will require that the screen materials are confirmed on plan.

*Standard B23 – Internal views*

136. Given the layout of the proposed dwellings, no internal overlooking within the development will be available.

*Standard B24 – Noise impacts*

137. The dwellings are not located in close proximity to existing noise sources and it is not considered necessary to require additional acoustic treatments for the proposed dwellings. With no large plant areas proposed, it is not necessary to require to protect nearby dwellings (especially as the use as dwellings do not require a planning permit).

*Standard B25 – Accessibility*

138. With the dwellings having ground floor entries and bedrooms, they should be easily accessible to people with limited accessibility. The lift to unit A also improves its accessibility to the upper levels, in compliance with policy objectives.

*Standard B26 – Dwelling entry*

139. Both entries provide a sense of shelter and address and will be easily identifiable from Type Street and Dove Place (subject to the sketch plans and conditions regarding lighting).

*Standard B27 – Daylight to new windows*

140. The above standard requires all habitable room windows to face an “*outdoor space clear to the sky or a light court with a minimum area of 3 square metres and minimum dimension of 1 metre clear to the sky*”.

141. All of the proposed windows will face an area with a minimum space of 3sqm and minimum dimension of 1m clear to the sky, apart from the living room windows which are overhung by the roof above and unit B ground floor bedroom window (required by condition) which would be partially recessed. In relation to the living areas, the overhang above would be only 1.5m wide and so will not unreasonable restrict daylight access. The large size of the living room windows will allow for plentiful light access, which is further supplemented by the compliant south-facing living windows. Further for ESD reasons, it is preferable these windows are overhung to protect from harsh summer sun. In relation to the ground floor bedroom window of unit B, it would not be located under a deep recess (ie- max 0.7m deep) and so is considered to achieve reasonable access to daylight.

*Standard B28 – Private open space*

142. Standard B28 generally requires that:

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

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

143. The balcony to the living area of unit A will measure 4.73m X 1.598m yielding 7.5sqm (not 8sqm). However, as the level of non-compliance is small and a secondary open space balcony is provided at second-floor, the non-compliance is acceptable.

144. The balcony to the living area of unit B will measure 4.88m X 1.6m yielding 7.8sqm (not 8sqm). Again, as the level of non-compliance is small and a secondary open space balcony is provided at second-floor, the non-compliance is acceptable. A further large open space area is also provided to the rear of the property at ground floor which provides options for residents when not being used as a vehicle access.

*Standard B29 – Solar access to open space*

145. The open spaces to dwellings will have an outlook to the front (eastern boundary), side (northern and southern boundary) and rear (western boundary) in the form of a ground floor rear courtyard and first and second floor balconies. While the north side of the first-floor balconies will be enclosed by 2.6m high walls, their width complies with the minimum 4.3m required. The second-floor and ground floor open spaces are not enclosed by walls on their north-sides. The open spaces are considered to receive sufficient solar access throughout the day, with no dwelling relying on a south-facing open space.

*Standard B30 – Storage*

146. The standard requires that all dwellings are provided with 6 cubic metres of externally accessible storage. Given the need for vehicle access it would be difficult to accommodate storage outside the dwellings. However, there is ample room inside the dwellings to accommodate storage (particularly in under stair areas or above bonnet storage in the garages). A condition will address this to ensure 6 cubic metres of storage is provided. The applicant has agreed to a condition to this effect.

*Standard B31 – Design detail*

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

*Standard B32 – Front fences*

148. A 1.75m high front fence is proposed, in non-compliance with the maximum 1.5m height recommended by the standard. However as discussed previously, taller existing fences are located at the subject site, on the property to the south and the two apartment buildings to the immediate north. For this reason, the taller fence will not appear out of context. A condition will require a visually permeable finishes ensuring activation to the street is achieved.

*Standard B33 – Common property*

149. No common property areas are proposed.

*Standard B34 – Site Services*

150. There is ample ground floor open space to accommodate bins and meters etc on site. A note on permit will remind that all services are to be contained within boundaries.

*Standard B35 –B49. Energy efficiency*

151. Not applicable- only relevant to apartment developments.

Clause 52.06 – Car Parking

152. Pursuant to clause 52.06 of the Scheme, a development is required to provide a total of 4 car spaces. A total of 2 have been provided. Encouraging the use of public transport as well as walking and cycling as modes of transport is central to Council policy objectives relating to sustainable transport. Forcing developments to provide additional parking, as set out in the Scheme, will encourage achieving the objectives of sustainable transport that are outlined in clauses 18.02 and 21.06 of the Scheme. The reduced rate of on-site car parking will mean a reduced impact on traffic within the surrounding street network, which is considered a positive outcome in an area that is already experiencing significant traffic and parking congestion.
153. The car parking reduction has been supported by Council's Traffic Engineers and a note will indicate that future occupiers are ineligible to obtain on-street visitor car parking permits. This will ensure that the development does not generate unreasonable demand for existing public on-street car parking spaces (with all of Type Street subject to 2 hour parking restrictions). Based on Council's Traffic Engineers support for the application and the assessment provided above, it is considered that the proposed reduction in car spaces is acceptable.
154. Comments received from Council's Traffic Engineering Unit outline a number of standard conditions and notes to be included to deal with the following issues:
- (a) protection of and/or reinstatement of council/other authorities assets including service/telecommunication pits, poles, the bollards on the south-east corner of the site, street signs, road line marking, footpaths and road surfaces,
  - (b) crossover to be built to Council's satisfaction, and
  - (c) services/meters etc associated with the development to be located within title boundaries.

155. The engineers have also reviewed the garage internal widths and access arrangements (including the sketch plans) and have indicated they are satisfactory subject to the following condition:
- a. *The stacking-sliding gate to the southern boundary providing vehicle access to unit B to provide an opening with a minimum width of 4m commencing a minimum of 1m from the south-west corner of the site,*
156. Further access issues (including justification for the loss of the on-street car space) have been discussed in detail previously in the clause 55 assessment.

### Objector Concerns

157. The objections received raised the following (summarised) concerns with the proposal:
- (a) The three-storey height with three bedrooms is not typical and sets precedence for future developments,
    - (i) Refer to paragraphs 66-79 for discussion of issues relating to the three-storey height. Objectors cited that most recent developments in the area have been two bedroom. However, the Scheme encourages variety in dwelling types to allow for the needs of larger families to be met. In relation to precedent, all applications are assessed on their own merits and compliance with the *Planning and Environment Act 1987* and Yarra Planning Scheme. Developments are not determined on the precedent of other developments.
  - (b) Overdevelopment of the site resulting in amenity impacts including overlooking, overshadowing, loss of views which impacts value of nearby properties,
    - (i) Refer to paragraphs 116-135. Property values and loss of views are not a planning relevant planning consideration.
  - (c) Insufficient on-site car parking, constrained vehicle/pedestrian access from Dove Place and loss of on-street car parking, and
    - (i) Refer to paragraphs 97-104 and 152-156.
  - (d) Construction management issues including footpath closures, dust management, builders parking vehicles on-street, building overlooking during construction and damage to neighbouring properties.
    - (i) All of these issues are not planning matters but are dealt with as part of the building permit process, apart from construction workers parking on the street and overlooking during construction. Construction workers will be subject to on-street car parking restrictions and breeches can be reported to Council Parking Services team. The Planning Scheme does not have the ability to restrict overlooking during the construction period and is not a relevant planning matter.

### **Conclusion**

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

### **RECOMMENDATION**

That having considered all objections and relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant Planning Permit PLN17/0081 for the development of the land for two (2) dwellings and a reduction in the car parking requirements of the Scheme. at No.84 Type Street, Richmond, subject to the following conditions:

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the decision/advertised plans (by Cric Architecture A.01.5, A.01.6, A.01.7, A.01.8, A.02.2, A.02.3, A.02.4, A.02.5, A.02.6, A.03.1, A.03.2 and A.04.1 dated 14 February 2018) and further modified to changes the sketch plans (by Cric Architecture A.01.5, A.01.6, A.01.7, A.01.8, A.02.2, A.02.3, A.02.4, A.02.5, A.02.6, A.03.1, A.03.2 and A.04.1 dated 21 August 2018) which show the following changes:
  - (a) Recessed area to the pedestrian entry of unit B with the internal southern garage wall and southern bedroom wall;
  - (b) Overlooking screens added to the second floor balconies to both units and the first floor balcony of unit B;
  - (c) The second-floor balcony setbacks for unit A increased to a minimum of 0.7m from the north boundary, 0.9m from the south boundary and 3.2m from the east boundary;
  - (d) The second-floor balcony setbacks for unit B increased to a minimum of 0.4m from the north boundary, 1.8m from the south boundary and 5.2m from the west boundary;
  - (e) Reduction in the maximum height of the development from 8.5m to 8.2m, and
  - (f) The southern wall has a staggered height of 7.95m on its western and eastern ends and the central portion (above the bedrooms) being 8.2m high;

But further modified to show the following:

  - (g) Fence to Type Street to be a minimum of 50% visually transparent;
  - (h) A solid 1.8m high fence to enclose open space areas on the north boundary;
  - (i) Written material schedule and elevations corrected to confirm the garage door will be a frosted glazed finish as depicted in image 9 of the material schedule photo montage;
  - (j) The first and second floor east-facing balcony balustrades to unit A to be replaced with a non-glazed and solid style material with low or no visual transparency,
  - (k) The second-floor east-facing balcony screen to unit A to be a maximum of 1.2m high;
  - (l) Details of the screen spacing to the ground floor stair windows of unit A and B demonstrating some visual transparency allowing for passive surveillance to Dove Place;
  - (m) The provision of a window to the south wall ground floor bedroom of unit B and the ground floor south-facing bedroom windows to have a minimum sill height of 1.4m above the road pavement of Dove Place;
  - (n) The first and second floor balconies and habitable room windows to demonstrate compliance with the objectives of clause 55.04-6 (*Overlooking objective*) of the Yarra Planning Scheme including relevant details of windows opening mechanisms, height and visual transparency of screens and section details of any louvers screens demonstrating louvers will be appropriately fixed (as applicable).
  - (o) Demonstrate all habitable room windows will be operable;
  - (p) The stacking-sliding gate to the southern boundary providing vehicle access to unit B to provide an opening with a minimum width of 4m commencing a minimum of 1m from the south-west corner of the site;
  - (q) Material schedule and elevations updated to correctly show all screening and materials including a detailed image of the Exposed concrete – borat grey and demonstrating a visually interesting finish will be achieved; and
  - (r) A minimum of 6 cubic metres of storage areas to be provided inside the proposed dwellings in the form of under stair or above car bonnet storage.
  
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.

## Engineering

3. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
4. 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.
5. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the footpath and the kerb and channel to the front of the subject site to Type Street (outside the area occupied by the proposed crossover) must be demolished and re-instated:
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
6. Prior to the completion of the development, subject to the relevant authority's consent, the relocation of any service poles, the concrete bollards on the south-east concrete corner of the subject site, street line markings, service structures or service/telecommunication pits necessary to facilitate the development must be undertaken:
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.

#### General

7. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating the pedestrian and car parking entry area of unit A and B must be provided within the property boundary. Lighting must be:
  - (a) located;
  - (b) directed;
  - (c) shielded; and
  - (d) of limited intensity,
  - (e) to the satisfaction of the Responsible Authority.
8. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
9. Before the buildings are occupied, any wall located on a boundary facing public property must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.
10. 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.
11. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
12. 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.

13. This permit will expire if:
- (a) the development is not commenced within two years of the date of this permit; or
  - (b) the development is not completed within four years of the date of this permit.
- The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six months afterwards for commencement or within twelve months afterwards for completion.

Notes:

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

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

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

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

**Attachments**

- 1 PLN17/0081- 84 Type Street- Subject Site
- 2 PLN17/0081- 84 Type Street - Decision plans
- 3 PLN17/0081- 84 Type Street- Sketch plans
- 4 PLN17/0081 - 84 Type Street, Richmond - Urban Design Unit comments
- 5 PLN17/0081 - 84 Type Street - Engineering comments



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**1.2 12 The Vaucluse, Richmond - PLN18/0008 - Part demolition and construction of a double-storey extension to the rear of the existing dwelling**

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## **Executive Summary**

### **Purpose**

1. This report provides Council with an assessment of a planning permit application submitted for No. 12 The Vaucluse, Richmond, which seeks approval for part demolition and construction of a double-storey extension to the rear of the existing dwelling. The report recommends approval, subject to conditions.

### **Key Planning Considerations**

2. Key planning considerations include:
  - (a) Clause 43.01 – Heritage Overlay; and
  - (b) Clause 54 – Rescode.

### **Key Issues**

3. The key issues for Council in considering the proposal relate to:
  - (a) Clause 54;
  - (b) Heritage;
  - (c) Objector concerns; and
  - (d) Other matters.

### **Objector Concerns**

4. Twelve (12) objections were received to the application, these can be summarised as:
  - (a) Adverse heritage impacts;
  - (b) Overdevelopment of the site/excessive site coverage;
  - (c) Visual bulk;
  - (d) Overlooking;
  - (e) Noise and overflow impacts associated with the swimming pool;
  - (f) Impact on trees;
  - (g) Impact on structural integrity and maintenance of adjoining buildings/Lack of details on the plans.

### **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: Catherine Balagtas**  
**TITLE: Statutory Planner**  
**TEL: 03 9426 1425**

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**1.2 12 The Vaucluse, Richmond - PLN18/0008 - Part demolition and construction of a double-storey extension to the rear of the existing dwelling**

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Trim Record Number: D18/138969

Responsible Officer: Senior Coordinator Statutory Planning

<b>Proposal:</b>	Part demolition and construction of a double-storey extension to the rear of the existing dwelling
<b>Existing use:</b>	Dwelling
<b>Applicant:</b>	Hugh Falcon Clare Cousins Architects
<b>Zoning / Overlays:</b>	Neighbourhood Residential Zone (Schedule 1) Heritage Overlay (HO332)
<b>Date of Application:</b>	04/01/2018
<b>Application Number:</b>	PLN18/0008

### Planning History

1. Planning Permit PL08/0596 was issued on 17 October 2008 for *'installation of bluestone paving and steel pedestrian cross-over (partial demolition)'*.

### Background

2. The application was received by Council on 4 January 2018. Following the submission of further information, the application was advertised and twelve (12) objections were received.
3. A consultation meeting was held on 31 July 2018 and was attended by the applicant, eight (8) objectors and Council officers.
4. In response to objector and Council planning officer concerns, the applicant submitted amended plans on 12 July 2018 pursuant to Section 57A of the *Planning and Environment Act 1987* (the Act). In summary, the changes to the application include:
  - (a) Deletion of the stair leading from the side garden to the lower ground floor;
  - (b) Addition of a privacy screen to the western side of the staircase of the terrace; and
  - (c) Relocation of the pool equipment and rainwater tanks to the garage.
5. The amended application was advertised and further comments were received from existing objectors.
6. In response to queries raised by Council's planning officer and engineers, sketch plans were submitted via email on 22 August 2018 to provide clarification in terms of exact dimensions and show details on the plans as described in the applicant's previous emails. These sketch plans show the following additional information:
  - (a) The materials/finishes of the terrace;
  - (b) The street setback of the proposed extensions;
  - (c) The diameter of the Silver Birch at 1.5m above ground level and at ground level;
  - (d) Notations confirming the bluestone paving to the north of the existing retaining wall is re-laid for reinstatement to suit a new path;
  - (e) The extent of excavation works to the south of the retaining wall shown on the plans;
  - (f) The setbacks of all new walls from the boundaries;
  - (g) The setback of the garage door and intercom wall from the south boundary, the width of the garage door opening, and internal dimensions of the garage;
  - (h) The width of the laneway;
  - (i) The natural ground level (NGL) on the proposed elevations consistent with the NGL line on the existing elevations;

- (j) The sill height of windows on the south elevation;
  - (k) The street setback, material and transparency of the fence proposed to the west of the dwelling (next to the bin area); and
  - (l) A section diagram (from north to south) showing details of the elevated planter to the east of the dining room.
7. These sketch plans do not alter the proposed development in any way. The amended plans submitted under section 57A on 12 July 2018 will continue to be the basis of the following assessment, with the sketch plans referred to.

## **Existing Conditions**

### Subject Site

8. The subject site is located on the south side of The Vaucluse, approximately 200m west of Church Street and 250m east of Lennox Street, in Richmond. The site has a rear abuttal to Firebell Lane.
9. The lot is generally rectangular in shape with a frontage to The Vaucluse of 11.20m, depth of approximately 45m and a total site area of 499.9sqm. The land generally slopes downwards from east to west and north to south (towards Firebell Lane). The northern (front) half of the site has a modest slope of approximately 0.15m, which then drops by approximately 1.3m.
10. The existing dwelling on site is one of a pair of part-two, part-three storey, semi-detached Victorian-era terrace buildings known as Brinsley Place, built in 1878 for W.A. Brinsley Tobin, inspector of distilleries. The dwelling forms a pair with the eastern adjoining property at No. 14 The Vaucluse, which forms a significant surviving component of The Vaucluse residential precinct.
11. The existing dwelling is setback approximately 8m from the street with a mature front garden and tile paved area occupying the front setback. The dwelling is constructed on the eastern boundary and setback approximately 3m from the western boundary, where a tiled pathway leads to a brick wall and gate, which provides access to the rear of the site.
12. Secluded private open space (SPOS) is provided within the rear setback (which varies between approximately 8m and 17m). It consists of a lawn area with a mature Silver Birch tree and some smaller trees. The rear fence to the site consists of a timber paling fence with trellis.
13. Internally, the dwelling contains a cellar, two studio rooms, store, and outhouse at lower ground; a living room, dining room, meals/kitchen area with access to a rear deck, laundry and water closet at ground floor; and three bedrooms, ensuite, walk-in-robe (WIR), bath and office at first floor.
14. There are no restrictive covenants associated with the certificate of title provided with the application. Two 0.12m wide party wall easements extend along part of the western and eastern boundaries.

### Surrounding Land

15. The surrounding area is characterised by a mix of single- and double-storey semi-detached Victorian- and Edwardian-era dwellings and a number of significant church and school buildings. Dwellings on the southern side of the street are generally set behind mature front gardens.
16. In the statement of significance for heritage precinct (HO332), The Vaucluse is referenced as follows:

- (a) *The Vaucluse area was laid out in the 1860s and a private street was created to link Rowena Parade and Church Street, for the use of abutting landholders only. The Vaucluse, thought to be the only Victorian-era private street in the inner suburbs, has its eastern entry at St Ignatius Church. Large houses were erected on this section, including Richmond Hill for James Henty (Waltham Street, 1851) and a two-storey Italianate house for distinguished architect, James Blackburn Jr.*

17. The existing pattern of development in the immediately surrounding area is shown in the below image:



18. Immediately to the east of the site is a part-double, part-triple storey, Victorian-era dwelling, which is in a pair (almost a mirror-image) with the subject site. It has an elevated deck to the rear which is constructed to the shared boundary and a glass-roofed swimming pool along the rear boundary. Further east are double-storey detached Victorian-era student accommodation, church and school buildings.
19. Immediately to the west is a part-single, part-double-storey Victorian-era semi-detached dwelling, known as Tobin's house or St Leonards, which was built in 1877 and features a brick gothic tower. Towards the front of the dwelling are windows which are within 4m of the shared boundary and face the subject site. The south-easternmost (rear) room of the dwelling is constructed along the shared boundary. The western adjoining property also has a double-storey semi-detached weatherboard cottage, which is constructed along the shared boundary and contains an original outhouse. Secluded private open space is located to the rear of the dwelling, west of the cottage. A double carport is constructed along the south-western corner. Further west are single-storey period dwellings and double-storey units/townhouses.
20. To the north is The Vaucluse – a two-way street with on-street parallel parking on the southern side. Further north, across The Vaucluse, are single- and double-storey period school and church-related buildings.
21. To the south is Firebell Lane – a laneway which is approximately 3.6m wide and serves as rear access to properties facing The Vaucluse and Richmond Terrace. Further south are the secluded private open spaces (SPOS), outbuildings and single- and double-storey dwellings facing Richmond Terrace. These southern properties generally consist of fine-grain development, with higher site coverage and smaller lot sizes than those along The Vaucluse. The property directly to the south-east (No. 113A Richmond Terrace) recently obtained a planning permit for construction of ground and first floor extensions with a roof deck (PLN17/0469).

## The Proposal

22. The application is for part demolition and construction of double-storey extensions to the rear of the existing dwelling. Details of the proposal are as follows:

### Demolition

- (a) Demolition of the rear deck and stairs, outhouse, west-facing windows/doors and a section of the southern wall (for a new door opening) at lower ground floor, three west-facing windows at upper ground floor (with its sills lowered), and sections of the southern walls at upper ground floor;
- (b) Demolition of part of the northern (front) wall at first floor to create a new door opening;
- (c) Demolition of some internal walls and doors at lower ground, upper ground and first floors (no permit required);
- (d) Demolition of the brick wall and gate to the west of the dwelling and the timber paling fence and gate to the rear of the site; and
- (e) Demolition of sections of the roof to create openings for skylights.

### Dwelling extensions

- (f) Construction of double-storey extensions to the rear of the dwelling, consisting of:
  - (i) A store room with a void, tree planter, pool equipment storage, and a double garage to the rear at lower ground floor; and
  - (ii) A dining room and study above the proposed garage, and a terrace with a pool along the western boundary at upper ground floor.
- (g) The proposed double-storey extensions are contemporary in form and constructed of bagged brick walls with flat metal deck roof. The proposed built form will primarily be constructed to the southern end of the dwelling, with a terrace constructed to the western side of dwelling linking the existing living areas with the new dining/study area.
- (h) The extensions (including terrace and pool) will be setback 26.8m from The Vaucluse; and will be constructed between 0.09m and 0.18m from the west boundary, within 0.18m from the east boundary and between 0-0.7m from the southern boundary. The garage door and pedestrian entry will be recessed from the southern boundary by 1.27m and 1.1m respectively.
- (i) The proposed extensions will have an overall building height of 7.37m.
- (j) A new external staircase from the western side garden would provide access to the upper ground floor terrace. The staircase will be setback 2.13m from the west boundary, with a 1.7m high metal batten screen on the western side of the staircase.
- (k) The store room at lower ground floor will have a void along the western boundary which is 1.6m by 1.2m. A 1m high balustrade is also proposed to the north of the void, above the existing retaining wall.
- (l) Excavation works are proposed to the south of the existing retaining wall west of the dwelling to level the lower ground floor.

### Other works

- (m) Construction of a 1.49m high semi-transparent metal batten fence on the west side of the dwelling setback 19.9m from the street.
- (n) Relocation of the bluestone-paved path to the west of the dwelling to suit a new path.
- (o) Installation of a north-facing access door to the first floor balcony. The door would be of timber-construction with mouldings, highlight window and stone threshold to match the existing period door at ground floor.
- (p) Installation of skylights on the roof of the existing dwelling, which will serve non-habitable rooms at first floor (no permit required as it will not be visible from the street).
- (q) Installation of solar panels and a skylight on the roof of the proposed extensions (as shown in the north elevation, only the westernmost solar panels would be visible from the street and would require a permit).

- (r) Provision of three 2000-litre rainwater tanks within the garage and lane entry (no permit required).
- (s) Provision of four bicycle spaces within the garage (no permit required).

## Planning Scheme Provisions

### Zoning

#### *Neighbourhood Residential Zone (Schedule 1)*

- 23. Pursuant to Clause 32.09-2, a planning permit is not required to use the land a dwelling.
- 24. Pursuant to Clause 32.09-5, a planning permit is required to construct or extend a dwelling on a lot less than 500sqm. This does not include a domestic swimming pool or spa and associated mechanical and safety equipment if associated with one dwelling on a lot as these do not require a planning permit under Clause 62.02-2.
- 25. Pursuant to Clause 32.09-4, an application to construct or extend a dwelling on a lot which is between 400-500sqm must provide a minimum 25% garden area. Given the subject site has an area of 499.sqm, a minimum 125sqm of garden area is required. As shown on the plans, the site will be provided with at least 152sqm of garden area, which includes the 132sqm front garden and 20sqm pool.
- 26. Pursuant to Clause 32.09-9, a dwelling must not exceed the maximum building height of 9m or contain more than 2 storeys at any point. The proposed extension has an overall height of 7.37m and does not contain more than 2 storeys, therefore, complying with the mandatory height requirement of the zone.

### Overlays

#### *Heritage Overlay (HO332)*

- 27. Pursuant to Clause 43.01-1 of the Scheme, a planning permit is required to (amongst others):
  - (a) *Demolish or remove a building;*
  - (b) *Construct a building or construct or carry out works, including:*
    - (i) *A fence, if the fence is visible from a street (other than a lane) or public park.*
    - (ii) *A domestic swimming pool or spa and associated mechanical and safety equipment, if the swimming pool or spa and associated equipment are visible from a street (other than a lane) or public park.*
    - (iii) *Services normal to a building other than a dwelling, including chimneys, flues, skylights, heating and cooling systems, hot water systems, security systems and cameras, downpipes, window shading devices, or similar, if the works are visible from a street (other than a lane) or public park.*
    - (iv) *Externally alter a building by structural work, rendering, sandblasting or in any other way.*
- 28. Pursuant to the schedule of the Heritage Overlay, no external paint controls, internal alteration controls or other specific heritage controls apply to the Richmond Hill Precinct (HO332).
- 29. Pursuant to Clause 43.01-4, an application under the Heritage Overlay for any of the following classes of development is exempt from the notice requirements of section 52(1) (a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act:
  - (a) *Demolition or removal of a fence.*
  - (b) *External alteration of a building.*
  - (c) *Construction of a fence.*
  - (d) *Domestic services normal to a dwelling.*

- (e) *Construction of a domestic swimming pool or spa and associated mechanical equipment and safety fencing.*
- (f) *Construction of a rainwater tank.*

Particular Provisions

*Clause 54 (One dwelling on a lot)*

30. The provisions of Clause 54 of the Scheme apply to extend a dwelling on a lot less than 500sqm.

General Provisions

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

32. Planning Policy Framework (PPF)

*Clause 15.01-1S – Urban design*

33. The objective of this clause is:

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

*Clause 15.01-2S – Building design*

34. The objective of this clause is:

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

*Clause 15.01-5S – Neighbourhood character*

35. The objective of this clause is:

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

*Clause 15.02-1S – Energy and resource efficiency*

36. The objective of this clause is:

- (a) *To encourage land use and development that is consistent with the efficient use of energy and the minimisation of greenhouse gas emissions.*

*Clause 15.03-1S – Heritage conservation*

37. The objective of this clause is:

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

Local Planning Policy Framework (LPPF)

*Clause 21.05-1 – Heritage*

38. The objective of this clause is:

(a) *Objective 14 – To protect and enhance Yarra’s heritage places;*

39. The relevant strategies supporting this objective, specific to this proposal, are:

- (i) *Protect buildings, streetscapes and precincts of heritage significance from the visual intrusion of built form both within places and from adjoining areas.*
- (ii) *Apply the Development Guidelines for Heritage Places policy at clause 22.02.*

*Clause 21.05-2 – Urban Design*

40. The relevant objectives of this clause are:

- (a) *Objective 16 - To reinforce the existing urban framework of Yarra.*
- (b) *Objective 17 - To retain Yarra’s identity as a low-rise urban form with pockets of higher development.*
- (c) *Objective 18 - To retain, enhance and extend Yarra’s fine grain street pattern.*
- (d) *Objective 20 - To ensure that new development contributes positively to Yarra’s urban fabric.*
- (e) *Objective 22 - To encourage the provision of universal access in new development.*

*Clause 21.08-10 – Central Richmond (Neighbourhoods)*

41. The character of Central Richmond is described as follows:

(a) *The land use character of this neighbourhood is predominantly residential, with the area closest to Punt Road comprising early to mid-Victorian cottages and terraces, and an increasing amount of Edwardian dwellings towards the east of the neighbourhood.*

42. The map at *Figure 24: Built-form character Map: Central Richmond* identifies the site as being included in the ‘Heritage Overlay’ area, in which the specific development guideline is to:

(a) *Ensure that development does not adversely affect the significance of the heritage place.*

Relevant Local Policies

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

43. *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 ensure that additions and new works to a heritage place respect the significance of the place;*
- (f) *to encourage the retention of ‘individually significant’ and ‘contributory’ heritage places;*  
*and*

44. *Clause 22.02-5.1* generally encourages the retention of a building in a heritage place, unless the building is identified as being not-contributory.

*Clause 22.02-5.7 New Development, Alterations or Additions*



45. Relevant policies are as follows:

- (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) *Respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape.*
  - (ii) *Be articulated and massed to correspond with the prevailing building form of the heritage place or contributory elements to the heritage place.*
  - (iii) *Be visually recessive and not dominate the heritage place.*
  - (iv) *Be distinguishable from the original historic fabric.*
  - (v) *Not remove, cover, damage or change original historic fabric.*
  - (vi) *Not obscure views of principle façades.*
  - (vii) *Consider the architectural integrity and context of the heritage place or contributory element.*
  
- (b) *Minimise the visibility of new additions by:*
  - (i) *Locating ground level additions and any higher elements towards the rear of the site.*
  - (ii) *Encouraging upper level additions to heritage places to be sited within the 'envelope' created by projected sight lines (for Contributory buildings refer to Figure 2 and for Individually significant buildings refer to Figure 3).*
  - (iii) *Encouraging additions to individually significant places to, as far as possible, be concealed by existing heritage fabric when viewed from the front street and to read as secondary elements when viewed from any other adjoining street.*
  
- (c) *Discourage elements which detract from the heritage fabric or are not contemporary with the era of the building such as unroofed or open upper level decks or balconies, reflective glass, glass balustrades and pedestrian entrance canopies.*

*Clause 22.02-5.7.2 Specific Requirements*

46. This policy offers the following relevant policy guidance:

*Residential Upper Storey Additions*

- (a) *Encourage new upper storey additions to residential heritage places or contributory elements to heritage places to:*
  - (i) *Preserve the existing roof line, chimney(s) and contributory architectural features that are essential components of the architectural character of the heritage place or contributory elements to the heritage place.*
  - (ii) *Respect the scale and form of the heritage place or contributory elements in the heritage place by stepping down in height and setting back from the lower built forms.*
  
- (b) *Sightlines should be provided to indicate the 'envelope' from the street of proposed upper storey additions (refer to the sightline diagrams in 22.02-5.7.2)*

*Clause 22.07 Development Abutting Laneways*

47. The objectives of this clause are:

- (a) *To provide an environment which has a feeling of safety for users of the laneway.*

- (b) To ensure that development along a laneway acknowledges the unique character of the laneway.
- (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)*

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

**Advertising**

49. The application was advertised in accordance with Section 52 of the *Planning and Environment Act (1987)* by way of 14 letters sent to surrounding property owners and occupiers and the display of two signs on site (one facing The Vaucluse and another facing Firebell Lane).
50. A total of twelve (12) objections were received, which raised concerns on the following matters (as summarised):
- (a) Adverse heritage impacts;
  - (b) Overdevelopment of the site/excessive site coverage;
  - (c) Visual bulk;
  - (d) Overlooking;
  - (e) Noise and overflow impacts associated with the swimming pool;
  - (f) Impact on trees;
  - (g) Impact on structural integrity and maintenance of adjoining buildings/Lack of details on the plans.
51. Following the submission of amended plans pursuant to Section 57A of the Act, the application was advertised under the provisions of Section 57B by letters sent to surrounding owners and occupiers and objectors. There were no additional objections to the application.

**Referrals**

External

52. The application was not required to be referred to any external Referral Authorities.

Internal

53. The following internal referrals were made:
- (a) Heritage Advisor
54. Informal comments were also sought from Council's Arborist and Engineering Services Unit.
55. The referral responses and informal comments are contained in the appendices to this report.

## OFFICER ASSESSMENT

56. The considerations for this application are:
- (a) Clause 54 of the Yarra Planning Scheme (Rescode);
  - (b) Heritage;
  - (c) Objector concerns; and
  - (d) Other matters.

### Clause 54 of the Yarra Planning Scheme (Rescode)

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

#### *Standard A1 – Neighbourhood Character and Standard A19 – Design Detail*

58. The surrounding streetscape comprises of single- and double-storey period dwellings with a number of significant church and school buildings on the eastern end of the street. Dwellings on the southern side of the street are predominantly set behind mature front gardens, with built form constructed to one side boundary and secluded private open space to the rear.
59. The proposal retains almost the entire built form of the existing dwelling and locates the additions to the rear. The proposed additions are substantially setback by approximately 27m from the street and present as a single-storey built form when viewed from The Vacluse frontage. As will be discussed in the heritage assessment later in this report, minor modifications to the proposal (with regard to the new door to the first floor balcony and the original brick wall to the west of the dwelling) will be required to ensure the proposed alterations would not adversely impact on the heritage significance of the existing dwelling and wider precinct.
60. The large front garden to the front of the site will also be maintained, in keeping with the vegetated character of the streetscape along The Vacluse and, together with the proposed swimming pool, would comply with the minimum garden area requirement of the zone. While the garden area to the rear of the site will be replaced with built form and hard surfaces, it is considered acceptable and consistent with the existing built-up character of Firebell Lane, which comprises a mix of outbuildings, garages and dwelling extensions constructed to the laneway.
61. Also, with regards to the development abutting the laneway, policy at Clause 22.07 requires development to respect the scale of surrounding built form. When viewed from the ROW, the proposed double-storey additions will be in keeping with the emergent rear double-storey extensions and outbuildings of adjoining and surrounding properties. The on-boundary, brick construction of the proposed additions will also be consistent with other buildings found along the ROW. In this regard, the proposed additions will be in keeping with the 'lanescape'. Furthermore, the generous internal dimensions and recessed doorway of the proposed garage and the separate pedestrian entry would ensure the development is provided with safe pedestrian and vehicle access, as confirmed by Council's Engineering Services Unit.
62. From a detailed design perspective, the recessive built form will appropriately present as a secondary element in the context of the original dwelling when viewed from the principal street frontage. The flat-roofed form and contemporary materials and finishes of the proposed extensions will assist in identifying the additions as non-original and are compatible with the building materials of the emergent development found in the rear ROW.
63. Based on the above assessment, it is considered that the Neighbourhood Character and Design Detail objectives and standards are adequately satisfied.
- #### *Standard A2 – Integration with the street*

64. The presentation of the existing dwelling will remain unchanged, with the existing front fence retained and no extensions proposed to the front of the site.

*Standard A3 – Street setback*

65. The street setback of the existing dwelling will remain unchanged.

*Standard A4 – Building Height*

66. The overall building height of the proposed extensions is 7.37m, which is in compliance with the standard maximum building height of 9m.

*Standard A5 – Site Coverage*

67. As shown on the submitted plans, the site is 499.9sqm and a total site coverage of 319sqm, or approximately 64% is proposed, which exceeds the maximum 60% site coverage prescribed by the standard. However, this is consistent within the inner city suburban area, where site coverage is often between 60% and 80%. In addition, the proposed additions would present as a single-storey form when viewed from The Vaucluse frontage and as a double-storey form when viewed from the rear laneway. This would fit in with the single- and double-storey buildings along The Vaucluse and Firebell Lane and therefore would not negatively impact on the public realm.

*Standard A6 – Permeability*

68. With proposed permeable surfaces of approximately 120sqm (or 24%), the proposal achieves compliance with the standard, which seeks a minimum of 20% permeability. Therefore, the proposed development will maintain adequate on-site stormwater infiltration as required policy.

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

69. The proposed development is considered to achieve a good level of energy efficiency given:

- (a) The proposed dining room and study are provided with north-facing clear-glazed doors and windows, which would maximise solar access into these habitable rooms.
- (b) The family room and kitchen area are provided with additional south-facing clear-glazed doors, which would maximise daylight and natural ventilation into these areas. All new habitable rooms will also have operable windows/doors for daylight and ventilation.
- (c) Skylights are to be installed on the existing roof for the new bathrooms/ensuites and hallway at first floor as well as on the proposed terrace to serve the store at lower ground floor, reducing reliance on artificial lighting.
- (d) Solar panels are to be installed on the proposed additions, improving the energy efficiency of the existing dwelling.

70. The proposed development also involves the installation of three 2000-litre rainwater tanks. Based on the submitted STORM rating report, this will achieve a STORM rating of 100%, which would improve stormwater management on site and satisfy the requirements of Clause 22.16 of the Scheme. However, the plans do not show whether the tanks will be connected for toilet flushing and/or garden irrigation. It is appropriate to include this information on the plans to ensure efficient use of the rainwater tanks, consistent with the STORM report. This will form a condition.

71. In addition, the proposed development will not impact on the energy efficiency and daylight access of adjoining properties as the proposed addition is not adjacent to any existing windows, skylights or solar panels.

*Standard A8 – Significant Trees*

72. A mature Silver Birch tree (as shown in the image below) is proposed to be removed from the site. However, this tree is not listed in Council's Significant Tree Register nor does it classify as a significant tree under Council's Local Law as it has a diameter of less than 400mm when measured at ground level and at 1.5m above ground level. Nonetheless, the proposed development incorporates a tree planter at the centre of the terrace which will accommodate a canopy tree to replace the tree to be removed.



73. The impact of the proposed development on the existing tree of the western adjoining property was also raised as a concern in the objections (the tree is pointed with a red arrow in the below image). This tree is located adjacent to the western boundary, east of the tower of No. 10 The Vauclose. In response to this concern, the application was amended which deleted the stairs going down to the store room at lower ground floor and removed excavation works within close proximity of the adjacent tree. The only excavation works now proposed are to the south of the existing retaining wall on site (as depicted with three blue arrows in the below image), which as confirmed by Council's Arborist, will occur outside the 3.5m wide tree protection zone of the adjacent tree. The footings of the existing retaining wall are also deeper than the proposed excavation works; hence, the retaining wall would continue to serve as a root barrier between the adjacent tree and proposed development. Accordingly, it is considered that the proposed development would not adversely impact on the adjacent tree (which is also not classified under the significant tree register).



*Standard A10 – Side and rear setbacks*

74. The proposed development will mostly be constructed on or within 200mm of the boundaries. The only exceptions are the southern wall of the garage and pedestrian entry at lower ground floor (which is setback from the laneway by at least 1.1m in compliance with the standard) and the eastern wall of the first floor dining room (which is setback 2.38m from the boundary exceeding the 2.09m setback required for a 7m high wall). Hence, these walls will not cause unreasonable visual bulk impacts. The remaining walls will be assessed against Standard A11 below.

*Standard A11 – Walls on boundaries*

75. Pursuant to the standard:
- (a) The total length of walls should not exceed 18.61m along the western boundary, 18.59m along the eastern boundary and 10.33m along the southern (rear) boundary, unless abutting an existing or simultaneously constructed wall;
  - (b) The maximum height of all boundary walls should not exceed an average 3.2m height, with no part higher than 3.6m unless abutting a higher or simultaneously constructed wall on an adjoining lot.

*Eastern boundary*

76. Currently, the existing dwelling has walls on the eastern boundary for a length of approximately 29m and maximum height of approximately 11m. Hence, the existing eastern boundary walls already do not comply with the requirements of the standard.
77. With the proposed extensions, the eastern boundary wall will be extended to the rear boundary for a total length of approximately 37m. The new wall will have a maximum height of 4.81m. While this wall exceeds the length and height requirements of the standard, it is considered that this wall will not cause unreasonable visual bulk and amenity impacts to the eastern adjoining property due to the following:
- (a) The eastern boundary wall is adjacent to the balcony/deck of No. 14 The Vauclose. Given the adjacent balcony is elevated from natural ground level, the proposed wall will effectively have a height of 1.9m when viewed from the adjacent balcony, which would have a similar visual effect as a standard boundary fence.
  - (b) While the eastern boundary wall is adjacent to the glass-roofed swimming pool of No. 14 The Vauclose, the northern and eastern sides of the pool will be uninterrupted by development. The eastern adjoining property is also approximately 11m wide, hence, it will continue to maintain some outlook of the sky without feeling enclosed.

- (c) The additional overshadowing from the proposed wall to the adjacent swimming pool is minimal, as will be discussed further in the overshadowing assessment later in this report.
- (d) Boundary walls exceeding the length and height requirements of the standard are common elements of the built-up inner-city area and are reflective of the existing site conditions.

*Western boundary*

78. The proposed development involves the construction of a new wall within 200mm of the western boundary. This new western boundary will have a total length of approximately 18m and varying heights of 3.91m and 7.37m above natural ground level. While this wall exceeds the standard requirements, it is considered that it will not cause unreasonable visual impact given:
- (a) The new wall will be mostly adjacent to the existing built form of No. 10 The Vauclose. The only exception is the open area where the adjacent dwelling at No. 10 The Vauclose is separated from the double-storey cottage and outhouse to the rear. This open area/building separation is only approximately 1m wide and serves only as a walkway to the rear outhouse and not as secluded private open space.
  - (b) The existing buildings of No. 10 The Vauclose which are constructed on the shared boundary serve as a buffer between the proposed development and the primary SPOS area of the adjoining property located further west.
  - (c) The double-storey section of the wall is located at the southernmost end, which prevents additional overshadowing to the SPOS area of the adjoining property.

*Southern boundary*

79. While the southern boundary wall of the proposed extensions has a length of 10.95m and height between 6.93m and 7.37m, it is adjacent to a 3.6m wide ROW, which serves as a buffer to residential properties further south, reducing visual impact from this boundary wall. This southern boundary wall is also consistent with other buildings found along the ROW, which exceeds the height limits of the standard.
80. Accordingly, the proposed variations to the standard are acceptable and the objective is reasonably satisfied.

*Standard A12 – Daylight to existing windows*

81. There are no existing windows directly opposite the new walls of proposed extensions.

*Standard A13 – North-facing windows objective*

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

*Standard A14 – Overshadowing open space*

*To the east*

83. As shown in the shadow diagrams, the proposed development will result in additional overshadowing to the SPOS area of the eastern adjoining property. Given the existing sunlight received by the SPOS area of the eastern adjoining property is less than the standard, any additional overshadowing to these SPOS areas would not comply with Standard A14. However, given the site's location within a built up inner city residential area, strict application of the standard is not always appropriate, whether the proposal meets the objective is the relevant test. The objective of Clause 54.04-5 of the Scheme is "to ensure buildings do not unreasonably overshadow existing secluded private open space".

84. It is considered that the proposed development will not unreasonably overshadow the SPOS area of the eastern adjoining property for the following reasons:
- (a) The additional shadows to the SPOS area of the eastern adjoining property are limited in duration between 2pm and 3pm. There is no additional overshadowing between 9am and 1pm.
  - (b) The extent of additional overshadowing is minimal, with the most additional shadows being approximately 7sqm at 3pm to the south-west corner of the pool of No. 14 The Vaucluse. At 2pm, the proposed development will only create approximately 0.2sqm of additional shadow to the southernmost (rear) end of the adjacent pool. These additional shadows are expected to reduce during summer when the pool would be mostly in use.
  - (c) The proposed development will not cast any additional overshadowing to the primary SPOS area of the eastern adjoining property, which is located further east.
  - (d) The extent of additional overshadowing is consistent with inner-city overshadowing situations, where it is often difficult to avoid any additional overshadowing due to the narrow lot sizes and orientation of lots.

*To the west and south*

85. The proposed development will cast an additional shadow of approximately 1.7sqm to the SPOS area of the western adjoining property at 9am. This adjacent SPOS area will continue to receive at least 40sqm of sunlight between 10am and 3pm (five hours) on the Equinox, in compliance with the standard.
86. In addition, the proposed development will not cause additional overshadowing to the SPOS areas of the southern adjacent properties as the shadows of the proposed development will fall only over existing shadows, laneway and fences, not SPOS areas.

*Standard A15 – Overlooking*

87. Standard A15 requires that any habitable room windows or balconies/decks be located or designed to avoid direct views into the secluded private open space and habitable room windows of an existing dwelling within a horizontal distance of 9 metres and a 45-degree arc.
88. It is considered that no unreasonable overlooking can occur from the proposed extensions to the existing habitable room windows or SPOS areas of the adjoining and surrounding properties for the following reasons:
- (a) The eastern and southern boundary walls of the proposed extensions serve as 1.9m high visual barriers, which would restrict overlooking to properties to the east and south of the site.
  - (b) The south-facing window of the ground floor study has a minimum sill height of 1.97m, which is in excess of the 1.7m minimum required under the standard.
  - (c) The western boundary wall serves as visual barrier between the proposed terrace and the SPOS area of the western adjoining property. As demonstrated in the Overlooking Section in TP036, the western boundary wall, combined with the pool in between, would obstruct downward views to the SPOS area of No. 10 The Vaucluse. The existing habitable room windows of No. 10 The Vaucluse are also more than 9m away from the proposed terrace.
  - (d) While the western boundary wall is only effectively 1.2m high above the terrace to the south of the pool, the double-storey cottage of No. 10 The Vaucluse would obstruct any views from the southern terrace to the existing habitable room windows and SPOS area of the adjoining property.



89. Objections also raised concerns regarding overlooking from the northern staircase of the terrace and from the pool. While the staircase is not required to be screened (as it is a non-habitable area), the application was amended to provide a 1.7m high balustrade to the west of the staircase and landing to restrict overlooking to the habitable room windows of the adjoining property.
90. A swimming pool associated with one dwelling on a lot does not require a planning permit under the zone and amenity impacts associated with the pool would be beyond the considerations of the application. Nonetheless, the western boundary wall of the proposed extensions would serve as a 1.7m high visual barrier from the shallow end of the pool and 3m high visual barrier at the deep end of the pool, which would adequately restrict overlooking to the adjoining property.

*Standard A16 – Daylight to new windows*

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

*Standard A17 – Private open space objective*

92. With the construction of the proposed extensions, the site will be provided with 75sqm of secluded private open space to the rear of the dwelling. This includes the terrace and pool which has convenient access from the family room, kitchen and new dining area. The large garden to the front of the site would also be maintained, which along with the proposed terrace, would well exceed the 40sqm of standard requirements for private open space.

*Standard A18 – Solar access to open space*

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

*Standard A20 – Front fences*

94. The existing front fence is to be retained.

Heritage

95. The decision guidelines of the Heritage Overlay at clause 43.01 are considered to be incorporated in the requirements of clause 21.05-1 (Built Form: Heritage) and clause 22.02 of the Scheme (Development Guidelines for sites subject to the Heritage Overlay). An assessment against these policies is contained below.

*Demolition*

96. The proposed demolition includes the rear deck, stairs, outhouse, internal walls, west-facing windows and sections of the southern walls at the rear of the dwelling as well as sections of the roof to create openings for the skylights and the timber fence and gate along the rear boundary. These structures are not visible from the street; therefore their removal will not detract from the heritage significance or contribution of the dwelling to the streetscape and wider precinct.
97. A section of the northern (front) wall of the dwelling is also proposed to be demolished to create a door opening for access to the first floor balcony. While this section of the wall is visible from the street, it is considered that its removal would not adversely impact on the significance of the heritage place. The door opening will have similar proportions as the fenestration of the existing dwelling and is acceptable.

98. The existing brick wall (with gate) to the west of the dwelling is also proposed to be demolished. As indicated by Council's heritage advisor, this wall is original contributory fabric which is visible from the street and forms part of the early garden elements which contribute to the significance of Nos. 12 and 14 The Vacluse, as described in the Richmond Conservation Study. Hence, its removal would negatively affect the significance of the existing heritage place. Also, constructing external stairs to the north of the proposed terrace to create a void for daylight access to the store room (a non-habitable space) at lower ground floor is not a reasonable justification for removing original historic fabric. At the consultation meeting, the applicant indicated that they are open to retaining this original brick wall. Hence, the retention of the brick wall and gate to the west of the dwelling will form a condition.

*Dwelling additions*

99. In relation to the additions, Clause 22.02 of the Scheme seeks to ensure that new additions respect the significance of the heritage place and are visually recessive and distinguishable from the original historic fabric. Clause 22.02-5.7.1 also encourages additions to individually significant places to be *"concealed behind existing heritage fabric when viewed from the front street and to read as secondary elements when viewed from any other adjoining street"*, with Figure 3 providing direction to the appropriate siting for new additions to individually significant buildings.
100. The proposed additions are sited to the rear of the existing dwelling and within the envelope created by the Figure 3 projected sightline under Clause 22.02 of the Scheme. While the proposed additions will be visible through the western side setback of the existing dwelling, the additions are substantially setback from the street (27m to the terrace and 38m to the dining/study extension), which assists in reading the additions as secondary to the existing heritage building. Also, the sections of the additions visible from the principal street frontage will appear as a low single-storey built form due to its flat roof and the slope of the land. When viewed from the rear laneway, the proposed additions will appear double-storey, which is lower in height than the rear three-storey section of the existing dwelling. It will also be in keeping with the existing and emergent double-storey buildings along the laneway (including the adjacent sites).
101. In addition, the contemporary materials/finishes of the proposed additions will assist in identifying the additions as non-original, which is encouraged by policy. While Council's Heritage Advisor indicated a preference for the southern wall of garage (facing the laneway) to be constructed of recycled red brickwork to retain a traditional appearance in the laneway, it is considered that the use of lightly-bagged brickwork and grey metal roller door to the proposed garage is acceptable and would be integrate well with the proposed additions and other newer built form along the laneway. Further, the use of contemporary materials would ensure the proposed additions would not look 'faux' heritage. Also, the material/finish of the proposed garage will not appear out of character in a laneway where fences and buildings are constructed of a mix of red bricks, timber paling, corrugated iron and metal sheet materials.
102. Overall, the proposed additions are visually recessive as they are mostly concealed behind the existing dwelling, low in scale and have a simple flat-roof form, which is sympathetic to the period of the dwelling. Any visible elements would be minimal and clearly read as secondary to the heritage dwelling. It is considered that the original dwelling will not be dominated when viewed from the street and the character and presentation of the heritage place will be reasonable respected and remain intact, as is generally encouraged by policy.
103. Furthermore, it is considered that the proposed additions will not adversely impact on the heritage significance of the adjoining individually significant buildings. While the proposed development will cover the eastern walls of the adjacent buildings when viewed from Firebell Lane, these eastern walls are not the primary aspects to the adjacent historic buildings. The overall form and appearance of the double-storey cottage, outhouse and rear section of the dwelling at No. 10 The Vacluse are mainly appreciated when viewed from the west (from within the western adjoining property) where its windows, doors and other detailing are visible.

Hence, it is considered that the heritage significance of the adjacent historic buildings will remain intact.

*Other works*

104. A new north-facing access door to the first floor balcony is proposed which is Victorian-style similar to the door at the ground floor of the dwelling and will be constructed of timber with mouldings, arched detailed highlight window and a stone threshold. As recommended by Council's Heritage Advisor, it is appropriate to simplify the construction of the door so that it does not appear as "faux" heritage. A condition will therefore require the new door to be of simple timber construction with clear-glazing which reflects the existing fenestration of the building and have no detailing.
105. A 1.49m high fence is also proposed to be installed on the west side of the dwelling which is setback approximately 20m from the street. As shown on the proposed north elevation, this fence is semi-transparent and would continue to allow views to contributory the contributory elements of the heritage place on site and adjoining property.
106. As clarified by the sketch plans, the bluestone-paved path to the west of the dwelling is to be re-laid for the reinstatement of a new path. Given the original materials will be re-used, the construction of a new path would not negatively impact on the significance of the heritage place.
107. Solar panels are also proposed to be installed on the roof of the additions; hence, they will not cause any damage to the original historic fabric. They will also not have any major supporting structures, ensuring they would not detract from the heritage significance of the streetscape.
108. Accordingly, the proposal appropriately responds to the particular requirements contained within *Clause 22.02* (Development Guidelines for sites subject to the Heritage Overlay) and *Clause 43.01* (Heritage Overlay) of the Scheme, and therefore is considered acceptable in relation to the heritage context of the street.

Objector Concerns

109. The majority of objector concerns have been addressed throughout the report. Below is a summary response.

*Adverse heritage impacts;*

110. This matter has been addressed in the heritage assessment in paragraphs 95-108 of this report.

*Overdevelopment of the site/excessive site coverage;*

111. This matter has been addressed in the assessment of Standards A1 (Neighbourhood Character) and A5 (Site coverage) in paragraphs 58-63 and 67 of this report.

*Visual bulk;*

112. This matter has been addressed in the assessment of Standards A10 (Side and rear setbacks) and A11 (Walls on boundaries) in paragraphs 74-80 of this report.

*Overlooking;*

113. This matter has been addressed in the assessment of Standard A15 (Overlooking) in paragraphs 87-90 of this report.

*Impact on trees;*

114. This matter has been addressed in the assessment of Standard A8 (Significant trees) in paragraphs 72-73 of this report.

*Noise and overflow impacts associated with the swimming pool;*

115. As detailed earlier, the residential use of the dwelling does not require a planning permit. Residential noise associated with the dwelling and swimming pool is considered normal and reasonable in an urban setting. Overflow impacts from a pool are also not a planning consideration and would be addressed under the building permit stage, or are a civil matter.

*Impact on the structural integrity and maintenance of adjoining buildings/Lack of details on the plans*

116. While the proposed additions will be constructed within 200mm of the western boundary abutting the original double-storey cottage, outhouse and the south-easternmost part of No. 10 The Vaucluse, there is no evidence to suggest that the proposed additions will cause damage to the adjacent buildings. Moreover, impacts on the structural integrity of adjacent buildings are beyond planning considerations and would be considered during the building permit process.
117. Also, the impact of constructing on-boundary walls on the maintenance of the adjacent weatherboard wall at No. 10 The Vaucluse is a civil matter. The applicant has offered to allow the landowners of No. 10 The Vaucluse time and access to the subject site to undertake works necessary to protect the existing weatherboard wall before the development on the subject site commences.

#### Other matters

*Details on the sketch plans*

118. The additional details shown on the sketch plans regarding setbacks, dimensions and materials/finishes should be shown on the plans for endorsement for clarity. Hence, these will form conditions.

*Engineering condition*

119. With regard to the requirements of Clause 22.07 (Development abutting laneways), Council's Engineering Services Unit also recommended the edge of the slab of the garage be set 40mm above the edge of the Right-of-Way to ensure safe vehicular movements along the laneway, should the laneway be resurfaced in the future. This will form a condition.

### **Conclusion**

120. Based on the above report, the proposal is considered to substantially comply with the relevant Planning Scheme provisions and planning policy and therefore should be supported subject to conditions.

### **RECOMMENDATION**

That having considered all relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant Planning Permit PLN18/0008 for construction of double-storey extensions to the rear of the existing dwelling, including partial demolition at No. 12 The Vaucluse, Richmond, subject to the following conditions:

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans (prepared by Clare Cousins Architects, received by Council on 12 July 2018) but modified to show:
  - (a) The extent of demolition clearly shown on the existing south elevation (to match floor plans);
  - (b) A notation confirming the rainwater tanks will be connected for toilet flushing and/or garden irrigation;
  - (c) The locations of rainwater tanks confirmed (not “indicatively”);
  - (d) The brick wall and gate to the west of the dwelling retained;
  - (e) The new north-facing door to the first floor balcony to be of simple timber construction with clear-glazing and no detailing;
  - (f) Details depicted on the sketch plans submitted to Council on 22 August 2018, as follows:
    - (i) The materials/finishes of the terrace;
    - (ii) The street setback of the proposed extensions;
    - (iii) The diameter of the Silver Birch at 1.5m above ground level and at ground level;
    - (iv) Notations confirming the bluestone paving to the north of the existing retaining wall is re-laid for reinstatement to suit a new path;
    - (v) The extent of excavation works to the south of the retaining wall shown on the plans;
    - (vi) The setbacks of all new walls from the boundaries;
    - (vii) The setback of the garage door and intercom wall from the south boundary, the width of the garage door opening, and internal dimensions of the garage;
    - (viii) The width of the laneway;
    - (ix) The natural ground line (NGL) on the proposed elevations consistent with the NGL line on the existing elevations;
    - (x) The sill height of windows on the south elevation;
    - (xi) The street setback, material and transparency of the fence proposed to the west of the dwelling (next to the bin area); and
    - (xii) A section diagram (from north to south) showing details of the elevated planter to the east of the dining room.
  - (g) A notation confirming the finished level along the edge of the slab of the garage is set 40mm above the edge of the Right-of-Way as per Council's Infrastructure Requirement.
2. The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
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. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority.
5. 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.

6. 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.
  
7. This permit will expire if:
  - (a) the development is not commenced within two years of the date of this permit; or
  - (b) the development is not completed within four years of the date of this permit.

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

**Notes:**

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

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

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

A local law permit (e.g. Asset Protection Permit, Road Occupation Permit) may be required before development is commenced. Please contact Council's Construction Management Branch on Ph. 9205 5585 to confirm.

A local law permit may be required for tree removal. Please contact Council's Compliance Branch on 9205 5166.

**CONTACT OFFICER: Catherine Balagtas**  
**TITLE: Statutory Planner**  
**TEL: 03 9426 1425**

**Attachments**

- 1 PLN18/0008 - 12 The Vaucluse Richmond - Locality Map
- 2 PLN18/0008 - 12 The Vaucluse Richmond - Decision Plans
- 3 PLN18/0008 - 12 The Vaucluse Richmond - Sketch plans
- 4 PLN18/0008 - 12 The Vaucluse Richmond - Heritage Referral Comments
- 5 PLN18/0008 - 12 The Vaucluse Richmond - Arborist Referral Comments
- 6 PLN18/0008 - 12 The Vaucluse Richmond - Engineering Referral Comments

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**1.3 PLN18/0118 - 8 Rogers Street, Richmond; Part demolition and construction of a ground and first floor addition with associated roof terrace to the existing dwelling, and construction of a carport.**

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## **Executive Summary**

### **Purpose**

1. This report provides Council with an assessment of an application at 8 Rogers Street, Richmond, for part demolition and construction of a ground and first floor addition with associated roof terrace to the existing dwelling, and construction of a carport. The report recommends approval of the application subject to conditions.

### **Key Planning Considerations**

2. Key planning considerations include:
  - (a) Clause 32.09 – Neighbourhood Residential Zone (Schedule 1):
  - (b) Clause 43.01 – Heritage Overlay: and
  - (c) Clause 54 – Rescode.

### **Key Issues**

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

### **Submissions Received**

4. Nine objections were received to the application, these can be summarised as:
  - (a) Neighbourhood character inconsistencies.
  - (b) Off site amenity impacts.
  - (c) Heritage impacts.
  - (d) Non-planning considerations.

### **Conclusion**

5. The proposal, is considered to achieve an appropriate balance between all relevant policies in the Scheme, including heritage policies and the provisions of ResCode, subject to the conditions as detailed within the "Recommendation" section of this report.
6. The conditions require an increased setback of the first floor and roof terrace from the south and north title boundaries.

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**1.3 PLN18/0118 - 8 Rogers Street, Richmond; Part demolition and construction of a ground and first floor addition with associated roof terrace to the existing dwelling, and construction of a carport.**

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Trim Record Number: D18/156167

Responsible Officer: Coordinator Statutory Planning

<b>Proposal:</b>	Part demolition and construction of a ground and first floor addition and associated roof terrace to the existing dwelling, and construction of a carport.
<b>Existing use:</b>	Single dwelling on a lot
<b>Applicant:</b>	Oliver Du Puy
<b>Zoning / Overlays:</b>	Neighbourhood Residential Zone (Schedule 1) Heritage Overlay (Schedule 332)
<b>Date of Application:</b>	26/02/2018
<b>Application Number:</b>	PLN18/0118

### Planning History

1. Planning permit application PLN12/0806 was submitted to Council on 18 September 2012 for *the demolition of the car port and the construction of a garage*. The application was refused by Council on 22 February 2013 on heritage and neighbourhood character grounds.
2. Council's Notice of Refusal was upheld at the Tribunal on 20 August 2013 (VCAT order ref P392/2013). Of relevance, the Tribunal:
  - (a) supported the demolition of the existing carport located at the north east corner of the subject site to Rogers Street; and
  - (b) did not oppose the construction of a carport within the front setback, but noted that *"it should be simple, generally open and supported by posts so that it does not obscure the host building. It would accept a wall along the northern boundary"*.
3. Planning Permit PLN14/1139 was approved by Council on 9 June 2015 for *the development of the land for the construction of a carport and front fence, including part demolition*. The permit (as shown on the endorsed plans) approved the following:
  - (a) A front picket fence a maximum height of 1.5 metres above NGL;
  - (b) A carport with a maximum height of 2.8 metres above NGL and a depth of 8.15 metres, with a colorbond roof, located at the north-east corner of the site (to Rogers Street); and
  - (c) An enclosed storage room associated with the car port constructed with rendered clay brick (to the rear of the proposed carport).
4. The planning permit has been acted on and the fence has been constructed; however, the works for the carport and associated storage room have not been undertaken. As works have commenced, the permit is still live (due to lapse on 9 June 2019).

### Background

5. The application was received by Council on 26 February 2018. Additional information was requested by Officers, at which time preliminary concerns with the submitted proposal were also raised, including issues regarding overlooking and heritage (sight line and perceived separation from the original dwelling).



The additional information requested was submitted to Council on 28 March 2018. The submitted application was advertised in April 2018 and seven (7) objections were received.

6. The applicant lodged amended plans by way of a section 57A Amendment on 19 June 2018. Changes were made to the submitted plans in attempt to address heritage concerns relating to the visibility of the proposed extension beyond the original dwelling.
7. The 57A plans made the following changes to the originally submitted plans:
  - (a) Reduction of the overall height of the proposed extension by 700mm (from 7.65 metres to 6.95 metres) as a result of excavating by approximately 700mm.
  - (b) An increased front setback of the first floor and roof terrace from the eastern site boundary by 700mm, providing a 900mm setback from the existing chimneys of the heritage dwelling.
  - (c) Deletion of the 2.2 metre long planter box from the northern elevation at First Floor **(FF)**.
  - (d) Replacement of the two windows on the first floor (FF) north elevation with of one centrally located window, 1.7metres above finished Floor Level.
  - (e) Alteration to the size and position of the windows in the first floor west elevation.
  - (f) Sliding timber batten screens added to the windows on the west elevation (FF).
  - (g) Alteration to the size and height of the window on the east elevation (FF).
  - (h) Inclusion of a new window on the east elevation (FF).
  - (i) Alterations to the size and location of the windows in the south elevation (FF).
8. The 57A plans were advertised on 25 June 2018. An additional two (2) objections were received and some further comments were also submitted to original objections.
9. A total of nine (9) objections have therefore been received to the application.
10. A consultation meeting was held on the 10 July 2018 and attended by the applicant, owners, Council Officers and seven objectors. The objectors had been advertised copies of the 57A plans prior to the meeting. Discussions were largely in relation to overlooking concerns and the sill height for habitable room windows (with objectors requesting that they be 1.8metres above Floor Level). No resolution was made at the consultation meeting and no further details or sketch plans were lodged to Council following the meeting.
11. The 57A plans are the “decision plans”.

## **The Proposal**

12. The proposed development is for part demolition and construction of a ground and first floor addition with associated roof terrace to the existing dwelling, and the construction of a carport in the north-east corner of the subject site (with existing access from Rogers Street).
13. The development can be summarised as follows:

### Demolition

14. The latter extension to the rear will be completely removed, inclusive of the semi-attached outbuilding in the north-west corner of the site.
15. The carport will be removed (north-east corner of the site).
16. The original heritage dwelling, including two chimneys, will be retained and integrated into the development.

### Extension

17. At ground floor the extension will be built to:
  - (a) The west (rear) boundary for its entire length (11.73 metres) at a maximum height of 3.07 metres:
  - (b) The northern boundary for a length of 6.63 metres at 2.5 metres high:
  - (c) The southern boundary for a length of 4.76 metres at a height of 3 metres. A lightcourt will be created on the southern boundary (6sqm) between the existing dwelling and the rear extension.
18. The extended ground floor will accommodate a master suite with associated walk in robes and ensuite, a bathroom, powder room, laundry and staircase.
19. At first floor the extension will be set back by:
  - (a) 600mm from the north, west and south boundaries:
  - (b) 900mm from the existing chimneys (resulting in an 18 metre setback from the front (east) boundary).
20. The first floor will accommodate an open living, kitchen and dining area with staircase.

### Roof terrace

21. A roof terrace will be constructed atop the first floor extension, accessed via a staircase along the eastern elevation to provide the dwelling with secluded private open space (**SPOS**).
22. It will be setback 600mm from the south, west and north site boundaries.
23. Fixed planter boxes will be provided around the perimeter on all sides so that the trafficable area of the terrace equates to an area of 27sqm and is setback a distance of 1.6metres from the north and south boundaries and 1.25metres from the western boundary.
24. The roof terrace is not enclosed. The height of the terrace (measured from NGL to the top of the hand rails around the interior of the planter boxes) is 7.29 metres.
25. The roof terrace incorporates a 'splash pool' in the south-west corner.
26. The rooftop terrace will be screened with planter boxes and hand rails (with a width of 1metre to the south; 1.2 metres to the east; 700mm to the north; 700mm to the west and a height of 1 metre above the rooftop terrace level) along all boundaries with the exception of the staircase in the south-east corner.

### Carport

27. A carport (providing cover for one car) will be constructed toward the north-east corner of the site, with an existing crossover to Rogers Street. The proposed carport allows a 2.8metre separation from the front verandah of the dwelling.
28. Constructed with unpainted timber and aluminium beams (no solid roof), to a height of 2.25 metres.
29. Setback 1.7 metres from the eastern (front) boundary and built to the northern (side) boundary for a length of 6.03 metres.

### General

30. The design of the works are contemporary, incorporating sheer rendered walls (white), timber screens and glazing.
31. The front fence will remain and the picket gate will be motorized.

32. Two 120Lt bin storage enclosures will be provided on the northern boundary behind the proposed carport.
33. A 3000Lt rainwater tank will be installed behind the proposed carport.
34. The following table provides an overview of the proposed development:

No of dwellings	One
Site area	280sqm
Max building height	6.61m and 7.29m to the balcony terrace planter boxes (south-west corner)
Site coverage	44%
Permeability	32%

35. It has been identified that some of the dimensions are incorrectly shown on elevations. The following assessment relies upon the reduced levels (RL), as such, the dimension errors are of no consequence (the notated dimensions provided on the submitted plans have overestimated the real heights). A condition will be included on any permit issued requiring these to be corrected.

### Existing Conditions

#### Subject Site

36. The subject site is located on the west side of Rogers Street in Richmond, between Firebell Lane to the south and Rowena Parade to the north. Swan Street is located approximately 400 metres to the south and Bridge Road is approximately 350 metres to the north of the subject site.
37. The subject site is rectangular in shape and has a street frontage to Rogers Street 11.7 metres in width and a site depth of 23.9 metres, yielding an overall site area of approximately 280square metres.
38. Rogers Street has a notable slope from north to south. The subject site as a result slopes from north to south by 600mm and west to east by 100mm. The rear north-west corner is the highest point of the subject site.
39. The subject site is currently developed with a double-fronted, single-storey Victorian-era, dwelling, with a front verandah, rendered walls, and a slate hipped roof. The dwelling is setback a distance of 12.6 metres from Rogers Street with landscaping and the existing carport provided within this front setback.
40. A carport (allowing for one car space) is located on the northern site boundary, set back 4 metres from the front (eastern) boundary. The car port is constructed with four steel beams and a flat corrugated roof and is approximately 2 metres in height. An existing crossover exists to Rogers Street.
41. A ground floor extension is constructed to the rear of the dwelling (although there is no planning permit for this found on Council records). The extension is constructed generally flush to the south and west site boundaries.
42. An awning is shown, overhanging the western title boundary, in the Existing/Demolition Floor Plan. A site visit has established that the awning no longer exists; thus, a condition will be placed on any permit issued requiring the deletion of the awning from the Demolition Floor Plan.
43. The layout of the subject site is atypical compared to built form in the rest of the street. The dwelling is positioned to the rear of the site. As a result, there is a significant setback from the street, dissimilar to adjacent properties which have built form closer to Rogers Street.
44. The front fence (as approved under Planning Permit PLN14/1139) is picket and 1.5metres in height.

45. The predominant private open space for the dwelling is within the front setback, this is largely visible from Rogers Street and offers limited privacy. A very small area of secluded private open space is located within the northern setback (a depth of 2.2 metres), providing an area of approximately 8sqm.
46. There are no restrictive covenants or easements which affect the subject site shown on the submitted title plan.

#### Surrounding Land

47. The surrounding land is predominantly residential in nature and a mixture of architectural styles and periods are present within Rogers Street. The general presentation of the dwellings to the street, in regards to front setback, entry design, car access ways and fencing, is notably varied.
48. To the immediate north is No. 4 Rogers Street, developed with a semi-detached, single storey dwelling which has been considerably modified from an Edwardian style and graded as not-contributory to the local heritage precinct. Details of this property relevant to the proposal include the following:
  - (a) The dwelling is setback 3.6 metres from the street frontage (at Rogers Street).
  - (b) The dwelling is setback 7 metres from the shared boundary with the subject site; a carport, shed and principal area of Secluded Private Open Space (**SPOS**) being located within this setback along the boundary.
  - (c) The site slopes from north to south. As a result, the dwelling is elevated approximately 1metre higher than the shared boundary with the subject site.
  - (d) The SPOS is approximately 50sqm.
  - (e) The carport is constructed with a gable roof (reaching 3.8 metres above NGL) and a solid wall for a length of 6 metres along the southern (shared) boundary. The structure is setback approximately 1.9 metres Rogers and was approved by Council under Planning Permit #5406 on 31 January 1990.
  - (f) The shed is located in the south-west corner and is built to the shared boundary for a length of 5.7 metres.
  - (g) 3 Habitable Room Windows (**HRW**) face the subject site from the dwelling.
49. To the immediate west is No. 16 Derby Street which is developed with a double-storey, modern block of 2-storey walk up units with pedestrian access via Derby Street to the west (subdivision approved under Permit 7954 on 23 March 1995). There are 14 units in total all of which face inwards in an enclave style. Details of this development relevant to the proposal include the following:
  - (a) Some of the units have east facing windows and courtyards (facing the subject site).
  - (b) The development includes an at-grade, open car parking area located on the south and east side, where it abuts the subject site.
  - (c) 4 Habitable Room Windows (associated with Unit 4 located at ground floor and Unit 11 at first floor on the eastern side of the development) are within 7.9 metres of the subject site. (It is noted that the 7.9 metre measurement is taken from the subdivision plan of No. 16 Derby Street. The submitted plans show a distance of 8.015 metres).
  - (d) A courtyard (associated with Unit 3) is located 1 metre from the north-west corner of the subject site.
50. To the immediate south is No 10 Rogers Street which is developed with a single-storey dwelling (constructed circa 1960) with brown brick and a hipped roof. Details relevant to the property include the following:
  - (a) The dwelling is setback 2.8 metres from the street frontage (at Rogers Street).

- (b) The dwelling is setback 1.7 metres from the shared boundary and has 4 HRW facing the subject site from the northern elevation.
  - (c) The site has notably high site coverage, being developed with a garage and verandah within the rear (western) setback.
  - (d) The verandah (approved under PLN12/1172.01) is constructed in the north-west corner, abutting the rear of the subject site for a length of 5.9 metres. It is fully enclosed (though the endorsed plans require it to be open) and is constructed with polycarbonate sheeting.
  - (e) The site has no SPOS open to sky.
51. To the east is Rogers Street, beyond which are single, double and triple storey dwellings fronting the street, varying from the Victorian-era to contemporary in-fill.

## Planning Scheme Provisions

### Zoning

#### *Neighbourhood Residential Zone (Schedule 1)*

52. The subject site is zoned Neighbourhood Residential Zone (Schedule 1). The following provisions apply:
- (a) Pursuant to clause 32.09-1 of the Yarra Planning Scheme (the Scheme), a permit is not required to use the land for a dwelling.
  - (b) Pursuant to clause 32.09-5 of the Scheme, a permit is required to construct one dwelling on a lot that is less than 500sqm (as specified by Schedule 1 of the Neighbourhood Residential Zone). As the lot is 280sqm, a permit is required to extend the dwelling. The development must meet the requirements of clause 54.
  - (c) In accordance with clause 32.09-8 a building used as a dwelling or residential building must not exceed a height of 9 metres or two storeys. The proposal is a height of 7.29 metres and two storeys and therefore meets the requirement (a storey is defined as *“that part of a building between floor levels. If there is no floor above, it is the part between the floor level and ceiling. It may include an attic, basement, built over car parking area, and mezzanine”* pursuant to Clause 73.01 of the Scheme; thus, the roof terrace is not considered a storey).
  - (d) Pursuant to clause 32.09-4 of the Scheme a mandatory minimum garden area requirement for lots greater than 400 square metres and above applies. As the subject site is has a total area of 280sqm, the garden area requirements do not apply.

### Overlays

#### *Heritage Overlay (Schedule 332)*

53. The subject site is located within the Heritage Overlay (Schedule 332). The following provisions apply:
- (a) Pursuant to clause 43.01-1 a permit is required to:
    - (i) *Demolish or remove a building*
    - (ii) *Construct or carry out works*

### Particular Provisions

#### *Clause 54 – One dwelling on a lot*

54. Pursuant to clause 54 of the Scheme this provision applies to an application to construct a dwelling on a lot less than 500sqm. A development must meet the objectives of Clause 54.

### General Provisions

#### *Clause 65 – Decision guidelines*

55. 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.
56. Amongst other things, the Responsible Authority must consider the relevant State Planning Policy Frameworks, Local Planning Policy Frameworks and any Local Policy, as well as the purpose of the Zone, Overlay or any other Provision.

### Planning Policy Framework (PPF)

#### *Clause 11.02 – Managing growth*

57. The clause includes several strategies to achieve this objective including *'planning for urban growth should consider opportunities for the consolidation, redevelopment and intensification of existing urban areas.'*

#### *Clause 15 – Built Environment and Heritage*

##### *Clause 15.01-1S – Urban design*

58. 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 15.03-1S – Heritage conservation*

59. The objective of this clause is *'to ensure the conservation of places of heritage significance.'*

#### *Clause 16 – Housing*

##### *Clause 16.01-3S – Housing diversity*

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

### Local Planning Policy Framework (LPPF)

#### *Clause 21 – Municipal Strategic Statement (MSS)*

##### *Clause 21.03 – Vision*

61. Clause 21.03 of the Scheme outlines strategic objectives for land use, built form, transport and environmental sustainability within the City. Strategies to achieve the objectives are set out in the following clauses of the MSS.

##### *Clause 21.04 – Land use*

##### *Clause 21.04-1 – Accommodation and housing*

62. The relevant objectives and strategies of this clause are *'to retain a diverse population and household structure'* and to *'encourage the retention of dwellings in established residential areas that are suitable for families with children.'*

##### *Clause 21.05 Built form*

##### *Clause 21.05-1 – Heritage*

63. This clause incorporates the following relevant objectives and strategies:

- (a) *Objective 14 - To protect and enhance Yarra's heritage place; and*
- (b) *Strategy 14.1 – Conserve, protect and enhance identified sites and areas of heritage significance including pre-settlement ecological heritage;*
- (c) *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; and*
- (d) *Strategy 14.8 – Apply the Development Guidelines for sites subject to a Heritage Overlay policy at clause 22.02.*

*Clause 21.05-2 – Urban design*

64. This clause incorporates the following relevant objectives;

- (a) *Objective 16 – To reinforce the existing urban framework of Yarra;*
- (b) *Objective 17 – To retain Yarra's identity as a low-rise urban form with pockets of higher development; and*
- (c) *Objective 20 – To ensure that new development contributes positively to Yarra's urban fabric.*

*Clause 21.08-10 - Neighbourhoods – Central Richmond*

65. The policy describes this area as: *“predominantly residential, with the area closest to Punt Road comprising early to mid-Victorian cottages and terraces, and an increasing amount of Edwardian dwellings towards the east of the neighbourhood”* and to ensure that *“new residential development includes the provision of ample private open space”*.

Relevant Local Policies

*Clause 22.02 – Development guidelines for sites under the heritage overlay*

66. This policy applies to all land within a Heritage Overlay. The clause incorporates the following relevant objectives;

- (a) *To conserve the historic fabric and maintain the integrity of places of cultural heritage significance;*
- (b) *To retain significant view lines to, and vistas of, heritage places;*
- (c) *To ensure that additions and new works to a heritage place respect the significance of the place; and*
- (d) *To encourage the retention of ‘individually significant’ and ‘contributory’ heritage places.*

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

67. This policy applies to extensions greater than 50sqm in area. The objective of this clause is:

- (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).*

68. In response to the above provision, a STORM assessment has been submitted. The assessment provides a 3000Lt rainwater tank, achieving a STORM rating of 100%.

Incorporated Document

69. Appendix 8 to the City of Yarra Review of Heritage Areas, 2007 – The site is identified as being Contributory to the Richmond Hill Precinct (Schedule 332).

**Advertising**

70. The originally submitted application was advertised in April 2018 with 47 letters sent to surrounding owners and occupiers, and by a sign on site. Nine (9) objections were received. Issues raised in the objections are summarised as follows:

Planning considerations:

- (a) Neighbourhood character: the height of the rear extension and inclusion of a roof terrace is at odds with the prevailing character and scale of Rogers Street and surrounding area.
- (b) Off site amenity impacts to surrounding properties: overlooking and overshadowing.
- (c) Building bulk (height and scale) and setbacks: will have an unreasonable impact on adjoining secluded private open space areas and dwelling.
- (d) Heritage: The proposed extension is not in keeping with the heritage elements of the surrounding area and will dominate the subject site.

Non-planning considerations:

- (e) Off-site amenity impacts from the use of the site for residential purposes (noise, light spill)
- (f) Construction management: plumbing, excavation and destruction of neighbouring trees.

**Referrals**

External Referrals

71. The application was not required to be referred to any external referrals.

Internal Referrals

72. The originally submitted application (plans dated 28 March 2018) was referred to Council's Heritage Advisor and their referral comments are located in the Appendix of this report. In short the key recommendations in their advice were for the removal of the roof terrace, an increased setback of the extension from the northern boundary, and overall height of 6.5metres.
73. The 57A plans sought to address the concerns by reducing the height of the addition (including terrace) to less than 6.5 metres as viewed from Rogers Street and deleting the first floor planter box which protruded from the north elevation. These comments will be discussed and responded to in the heritage assessment.

**OFFICER ASSESSMENT**

74. The following key issues and policies will be used to frame the assessment of this planning permit application:
- (a) Clause 54 (Res Code)
  - (b) Heritage
  - (c) Objector concerns

Clause 54 of the Yarra Planning Scheme (Res Code)



75. The particular provision comprises 19 design objectives and standards to guide the assessment of new residential development. Given the site's location within a built up inner city residential area, strict application of the standard is not always appropriate, whether the proposal meets the objective is the relevant test. Where relevant, assessment will also be made in this section against clause 22.16 (Stormwater Management).

### **Neighbourhood Character**

#### *Standard A1 – Neighbourhood Character*

76. The subject site is situated in an established residential area. Whilst the area is located within the Richmond Hill Heritage Precinct (Schedule 332), the streetscape is characterised by a mix of heritage buildings as well as modern flats and contemporary infill development.
77. The Richmond Hill Precinct statement of significance acknowledges the area's diversity but that the diversity forms "*distinct sub-areas that are defined by the street pattern and building stock*". The subject site is located within the defined Richmond Hill Heritage Overlay West sub-area which is described as follows:

*"The area is set out on an irregular plan, as an accumulation of small private subdivisions, diverse lot sizes, and small cottage development"*.

78. In this part of West Richmond there is a mix of dwellings and construction eras and as the below aerial indicates, the subject site is located within an area where irregular subdivision and contemporary infill development has occurred resulting in an atypical lot layout and dwelling siting:



Image 1: Aerial of subject site, 8 Rogers Street Richmond, and surrounds

79. Vehicle access along Rogers Street is uncommon and limited to Nos. 4 and 8 Rogers Street and is accompanied with open-sided carports located close to the street frontage.
80. The proposed carport adopts an open form and is setback 1.7metres from the street, consistent with the style and siting of the carport at No. 4 Rogers Street adjacent. It is therefore considered to be consistent with the design and siting of the existing carports in the street.
81. In regard to the siting of the dwellings, front setbacks of adjoining properties are minimal with dwellings clearly visible from the street. For the subject site, the 12.6 metre setback of the dwelling limits the visibility of the dwelling from the street.
82. In regard to the proposed works to the dwelling, the proposed extensions will largely be located behind existing built form. The siting of the dwelling back from the street, the slope of the site and the scale of the heritage dwelling will assist in obscuring views of the extensions from oblique angles within the street. To illustrate this, the images below (2 and 3) are taken from Rogers Street, showing the view to the subject site from the north and south approach of Rogers Street.



*Image 2: Taken from the eastern side of Rogers Street facing north-west to the site – the front of the carport and partial roof form of No 8 Roger Street is visible*



*Image 3: Taken from the eastern side of Rogers Street facing south-west (car port of No 4 Rogers Street in foreground and No 47 Richmond Terrace beyond) – the dwelling of No 8 Rogers Street is not visible*

83. The surrounding context would largely restrict views to the extension unless one is standing directly in front of the site. Further to this, the extension which will be significantly setback from the street frontage, would likely appear as its own, separate built form. The built form beyond the site to the west, in relation to No. 16 Derby Street and No. 47 Richmond Terrace, is robust and the proposed extension would not be out of place in the context of the view line.
84. In consideration of the above, it is acknowledged that because of shallow sight line over the original roof form, the proposed development will be visible from the street. In terms of harm however, it is considered that the development has been designed in a way that will allow it to be appropriately integrated with the surrounding built form in terms of its scale and contemporary style. On balance it must be acknowledged that the existing dwelling on the subject site is an anomaly in the streetscape due to its large front setback. Overall, it is considered that the proposed extensions and carport have been designed, as far as practicable, to be respectful to the existing streetscape and neighbourhood character. Further discussion provided within the heritage assessment later in this report.
85. The proposal is considered to comply with the Neighbourhood Character Standard A1.

*Standard A2 – Street Integration*

86. The carport is proposed in the north-east corner (front setback) of the site, set back 1.7metres from the street. It will be constructed in an open form with timber and aluminium beams.
87. The design of the proposed carport is consistent with the adjacent carport at No. 4 Rogers Street in regards to the setback; however, is more sympathetic to the heritage dwelling of the site due to the open side and open, beamed roof form. Further to this, the proposed car port is significantly more restrained, in size and materials, than the carport previously approved under PLN14/1139 (which is not constructed).
88. Further to this, the proposed carport is considered to be an improvement from the previously approved carport, due to the open form allowing views through it to the heritage dwelling behind. For these reasons, the carport was supported by Council's Heritage Advisor. In terms of context, the location of the proposed carport, setback 1.7 metres from the street and 2.8 metres from the dwelling's front wall, is appropriate when considering the setbacks of built form on both adjacent properties.
89. In consideration of all of the above, the proposal is considered to meet the Street Integration Standard A2.

**Site Layout and Building Massing**

*Standard A3 – Street setback objective*

90. Pursuant to Standard A3, where there is an existing building on both the abutting allotments facing the same street, the minimum setback from the street frontage is required to be the average distance of the setbacks of the front walls of the existing buildings on the abutting allotments.
91. The setback of No. 10 Rogers Street (located to the south) is 2.8 metres and the setback for the carport at No. 4 Rogers Street to the north is 1.9 metres. Thus the Standard requires the proposed carport to be setback a minimum of 2.35 meters from Rogers Street.

92. The proposed carport will be setback 1.7 metres from Rogers Street which therefore fails to meet the prescribed setback by approximately 650mm. This component of the proposal does not comply with the Standard.
93. The policy objective is *to ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.*
94. Given that the carport is located towards the site's northern boundary, adjacent to the similarly sited carport at No. 4 Rogers Street, it will sit comfortably within the streetscape. The carport is also respectfully distanced from the existing dwelling and makes efficient use of the site and the existing crossover. Additionally front setbacks are highly irregular, and therefore on balance, it is considered that the carport complies with the policy objective.

*Standard A4 – Building Height Standard.*

95. The building height must not exceed 9metres (as specified in Schedule 1 of the Neighbourhood Residential Zone). The maximum height of the proposed works (dwelling extension and carport) is 7.29 metres to the terrace hand rail. This complies with the Building Height prescribed at Standard A4.

*Standard A5 – Site Coverage Standard*

96. As no minimum site coverage is specified in Schedule 1 of the Neighbourhood Residential Zone, the maximum site coverage under the Standard of 60% applies.
97. The proposal has an overall site coverage of 44% which is within the 60% prescribed under the Site Coverage at Standard A5.

*Standard A6 – Permeability Standard*

98. As no minimum permeability is specified in Schedule 1 of the Neighbourhood Residential Zone, pervious surfaces must cover at least 20% of the site.
99. The proposed development will result in site permeability of 32% which exceeds the requirement of the Standard.
100. Clause 22.16 (Stormwater Management [Water Sensitive Urban Design]) applies to extensions to a dwelling that are greater than 50sqm in area. The proposed extension measures 166sqm in area. A STORM Rating Report has therefore been submitted with the application and includes a 3000Lt water tank which provides a score of 100%.
101. Although the size and location of the tank has been confirmed on plans, a condition will be included on any permit issued requiring a plan notation to confirm that the rainwater tank will be connected to toilets for flushing and/or an irrigation system. Subject to this condition, the proposal is considered to meet the objectives of Clause 22.16.

*Standard A7 – Energy Efficiency Protection Standard*

102. The proposal provides an appropriate level of energy efficiency opportunities for cross-ventilation and solar access to the new dwelling. The proposal includes windows in all elevations for solar access and daylight into the main living area. The daylight access to the ground floor (in the form of a light court to the south, skylights and an east facing doorway to the master suite) is considered a reasonable design response for the constraints of the site.
103. The operability of the windows (to allow for cross-ventilation) is not shown in the plans, thus a condition will be included on any permit issued requiring the windows to be operable.



104. The location of the proposed works to the rear, where it abuts boundary walls and a carpark, ensure that the energy efficiency of neighbouring dwellings is not unreasonably reduced.
105. The proposal therefore complies with the Energy Efficiency Protection Standard.

*Standard A8 – Significant Trees Standard*

106. There is an existing tree adjacent to the western site boundary within the property of No. 16 Derby Street. This is not an overly large tree and would not be readily visible from the public realm. Furthermore, it is unlikely that the proposal will unduly impact the tree given that built form already exists along the western boundary.

**Amenity Impacts**

*Standard A10 Side and Rear Setbacks*

107. The proposed extension to the rear of the existing dwelling is built to the north, west and southern site boundaries at ground floor. At first floor it is ‘tiered away’ from the site boundaries.
108. The setbacks of the dwelling are summarised in the below table:

<b>Proposed wall</b>	<b>Wall height</b>	<b>Proposed setback</b>	<b>Setback prescribed under Standard A10</b>	<b>Complies/ Variation required</b>
Northern Elevation	6.41m	600mm	1.8m	Variation of 1.2metres required
Western Elevation	6.61m	600mm	1.9m	Variation of 1.3metres required
Southern Elevation	6.61m	600mm	1.9m	Variation of 1.3metres required
Northern planter box of roof terrace	7m	1.6m	2.1m	Variation of 500mm required
Western planter box of roof terrace	7.29m	1.25m	2.38m	Variation of 1.13metres required
Southern planter box of roof terrace	7.29m	1.6m	2.38m	Variation of 780mm required

109. The table above demonstrates that the proposed walls of the first floor and roof terrace will be constructed closer to the site boundaries than ResCode prescribes.
110. Based on the site context and site constraints, it is considered that some variation to the setbacks prescribed under the Standard is reasonable. In particular, the ‘heritage constraints’ limit the development opportunities within the front setback area.
111. The question at hand is whether the variations to the required setbacks will meet the objective of Standard A10 (Side and Rear Setbacks); *to ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood characters and make efficient use of the site.* To assess the proposal, the following decision guidelines of Clause 54.03-1 are drawn upon:
- (a) *Any relevant neighbourhood character objective, policy or statement set out in this scheme;*
  - (b) *The design response;*
  - (c) *The impact on the amenity of the habitable room windows and secluded open space of existing dwellings;*

- (d) *Whether the wall is opposite an existing or simultaneously constructed wall built on boundary; and*
- (e) *Whether the wall abuts a side or rear laneway.*

112. It is considered that the first two guidelines are achieved due to the constraints of the site and the general neighbourhood character. The surrounding area includes a mixture of development, with walls on boundaries and limited setbacks being a notable character of built form.

113. Each interface will be assessed against the remaining relevant guidelines of Clause 54.03-1 in order to determine whether the design response is reasonable for the site context.

114. The northern elevation (which faces No. 4 Rogers Street):

- (a) The table at paragraph 109 demonstrates that the proposed northern wall falls short of the setback by 1.2 metres and that the planter boxes fall short of the setback by 500mm). While the Standard is not met, the shortfalls are considered to be reasonable when assessed against the remaining relevant guidelines of the clause:
  - (i) The proposed northern elevation is largely adjacent to the existing shed of No. 4 Rogers Street which is built to the shared boundary. As a result, views to the wall from the sensitive areas of POS and habitable room windows will be buffered, lessening the visual bulk impact to the dwelling and open space area. The photos below are taken from No. 4 Rogers Street Private Open Space, presenting the view towards the proposed extension behind the shed.



*Image 4: the shed at No 4 Rogers Street, taken from the north*



*Image 5: The shed of No. 4 Rogers Street and the subject site beyond, taken from the north-east*

- (ii) No. 4 Rogers Street has a higher natural ground level (the property is 1 metre higher than the subject site), further diminishing the visual impact of a high wall with a lesser setback from the boundary.
  - (iii) As the wall is to the south, it will not result in overshadowing to the area of Private Open Space or reduce any solar access to the dwelling. In fact, as the elevation is proposed to be white render, it will actively reflect sunlight towards the property.
  - (iv) The POS of No. 4 Rogers Street is notably large for the area (approximately 50sqm) and the HRWs of the dwelling are a reasonable distance from the proposed extension (minimum distance of 10 metres from the shared boundary). Therefore, the proposed extension will not likely result in a sense of being 'cramped in'.
  - (v) Finally, as can be seen in the above photo, the built form of No. 47 Richmond Terrace (Storage King) is clearly visible beyond the subject site. As such, the dwelling extension will not dramatically alter the outlook from No. 4 Rogers Street or be out of character in the context of the varied and built up area.
- (b) In consideration of the above, the setback from the north boundary will not result in unreasonable detrimental impact to the adjacent property at No. 4 Rogers Street and is acceptable in the context.
- (c) It is noted that although the northern setback is considered acceptable from an amenity perspective, an additional setback of the first floor and roof terrace from the northern boundary will be required to address heritage matters. This will be discussed later within the report.

115. The western elevation adjacent to No. 16 Derby Street:

- (a) The western elevation requires a variation of 1.3 metres (1.13 metres for the planter boxes on the roof terrace). This variation is considered acceptable when assessed against the remaining relevant objectives of the Side and Rear Setback Standard:



- (i) The proposed western elevation is adjacent to the car parking area of No. 16 Derby Street. This interface is presented in the below picture.



*Image 6: No. 16 Derby Street as it abuts the subject site, facing north (subject site in the right corner)*

- (ii) There are three sensitive interfaces from the residential complex of No. 16 Derby Street; the ground floor courtyard of Unit 3 (seen in the photo beyond the tree and paling fence), the ground floor HRWs and courtyard of Unit 4 (shown to the left behind the paling fence) and the first floor HRWs of Unit 11 (shown top left in above photo).
- (iii) The courtyard of Unit 3 is to the rear of No. 4 Rogers Street and does not directly abut the subject site. Although the extension will be visible from the courtyard of Unit 3, the proposal will not result in unreasonable visual bulk. Furthermore, the proposed wall will not result in any overshadowing to this area.
- (iv) The ground floor courtyard and HRWs of Unit 4 are currently bound by a paling fence set back 1.34 metres from the windows, which would likely be the primary view from the dwelling and associated courtyard. As such, the proposed extension – 7.2metres beyond the paling fence at a height of 7.29metres - will not result in an unreasonable bulk.
- (v) The first floor windows of Unit 11 are located 7.9 metres from the title boundary (8.5 metres from the proposed western elevation) and are elevated at first floor; therefore, the proposal will not result in an unreasonable visual bulk to these windows.
- (vi) Further to this, the proposed west elevation complies with Standard A12 Daylight to Existing Windows (as will be discussed further in this report).
- (b) In consideration of the interface between the subject site and the adjacent dwellings of No. 16 Derby Street, the variation to the Side and Rear Setback Standard is considered reasonable.



116. The southern elevation adjacent to No. 10 Rogers Street:

- (a) The southern elevation requires a variation of 1.3 metres (the handrail of the planter box requires 780mm variation).
- (b) Although the southern elevation is adjacent to No. 10 Rogers Street’s area of POS, the area is fully enclosed by a semi-transparent verandah structure (approved under PLN12/1172.01). A site visit to inspect the space was requested by the officer but was not agreed upon by the objector; however, the below picture shows the structure from the rear.



*Image 7: The enclosed structure of No 10 Rogers Street, taken from No 16 Derby Street, facing east*

- (c) Although the outlook from the area of POS is partly obstructed by the Perspex structure, a more sensitive response is required. It is therefore recommended that the southern setback at the first floor be increased to align with the staircase and the southern planter box to be setback a further 500mm. This will result in a 1 metre setback of the first floor and a 1.5 metre setback of planter box of the roof terrace from the southern title boundary.
- (d) With this design change, the variation required for the southern elevation can be summarised as below:

Proposed wall	Proposed height	Proposed setback	Required setback	Complies/ Variation required
FF Elevation (per decision plans)	6.61m	600mm	1.9m	Variation required (-1.3m)
FF Elevation (with condition)	6.11m	1m	1.75m	Variation required (-750mm)
Roof Terrace handrail	7.29m	1.6m	2.38m	Variation required (-780mm)
Roof Terrace handrail (with condition)	7.29m	2m	2.38m	Variation required (-380mm)

- (e) Increasing the setback of the first floor and planter box from the southern boundary will reduce the variation required to Standard A10 from 1.3 metres to 800mm. This is considered to reduce the visual impact of the proposal from the POS of No. 10 Rogers Street to an acceptable degree.
- (f) In consideration of this, a condition will be placed on any permit issued, requiring the first floor and roof terrace to be setback 1 metre from the southern title boundary.
- (g) Subject to this condition, it is considered that the proposal will not result in unreasonable detriment to No. 10 Rogers Street and thereby meets the objectives of Standard A10 Side and Rear Setbacks.

*Standard A11 Walls on Boundaries*

117. The proposal includes the following walls on boundaries being constructed:
- (a) A northern wall on boundary a length of 6.63metres and a maximum height of 2.5metres
  - (b) The carport for a length of 6.025metres at a height of 2.25metres along the northern boundary
  - (c) A western wall on boundary a length of 11.73metres and a maximum height of 3.07metres
  - (d) A southern wall on boundary a length of 4.76metres and a maximum height of 3metres
118. Standard A11 (Walls on Boundaries Standard) requires the height of the northern wall not to exceed an average of 3.2metres or have a part higher than 3.6metres unless it abuts a higher existing wall.
119. The length of wall on boundary, according to the Standard, should not exceed:
- (a) 10metres plus 25% of the remaining length of the boundary of an adjoining lot; or
  - (b) The length of the existing adjacent wall on boundary
120. The below table assesses the proposal against the height and lengths prescribed under the Walls on Boundary Standard:

Proposed Boundary wall	Proposed Length	Required Length	Adjacent wall	Complies/ variation required
North + carport	6.63m +6.025	13.48m	Yes	Complies
West	11.73m	10.43m	No	No. A variation of 1.3metres is required
South	4.76m (5.3metres existing)	13.48m	Yes	Complies
	Proposed Height	Required max Height	Required average height	
North + carport	2.5m 2.25m	3.6m	3.2m	Complies
West	3.07m	3.6m	3.2m	Complies
South	3m	3.6m	3.2m	Complies

121. The table above shows that the dwelling extension largely complies with Standard A11 in regard to the heights and lengths of wall constructed on boundary. The exception to this is the length of wall on the rear western boundary which fails to meet the prescribed wall length by 1.3metres.

122. The objective of the Standard is *to ensure that the height of buildings respects the existing or preferred neighbourhood character.*
123. It is considered that the length of wall on the rear western boundary will meet the objective of the Standard for the following reasons:
- (a) The wall is located adjacent to the open and at-grade car parking area of No. 16 Derby Street (which is not a sensitive interface).
  - (b) The wall is lower than the maximum height and average height of prescribed under the Standard.
  - (c) The proposed wall on boundary replaces an existing wall that also extends the full length of the boundary.

*Standard A12 Daylight to Existing windows*

124. Five habitable room windows (HRWs) face the proposed extension, namely two ground floor windows at Unit 4/ 16 Derby Street, two first floor windows of Unit 11/ 16 Derby Street and one ground floor window at No. 4 Rogers Street to the north of the adjacent shed. It is noted that other HRWs face the subject site from No. 4 and No. 10 Rogers Street but face the existing dwelling, not the proposed extension.
125. The standard requires an assessment to be made for the 5 HRW's which is summarised in the below table:

<b>Habitable Room Window</b>	<b>Height of proposed wall opposite</b>	<b>Proposed setback</b>	<b>Required setback</b>	<b>Complies/ Variation required</b>
GF of Unit 4, 16 Derby Street	Western elevation 6.61m	8.5m	3.3m	Complies
FF of Unit 11, 16 Derby Street	Western elevation approx. 3.95m above FFL	8.5m	1.98m	Complies
Living room window of No 4 Rogers Street	Northern elevation 6.41m	Over 10metres	3.21m	Complies

126. The table demonstrates that the proposal exceeds the requirements of Standard A12 Daylight to Existing Windows in that the setbacks proposed are greater than the minimum setback prescribed by the standard.

*Standard A13 North Facing Windows*

127. No HRWs face the proposed extension from No. 10 Rogers Street although it is acknowledged that there are HRWs windows that face the original dwelling. As such, no assessment is required against this Standard.

*Standard A14 Overshadowing*

128. Pursuant to Standard A14, *where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September. If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.*

129. Due to the east-west orientation of the subject site, the proposed works will result in overshadowing across the rear of No. 10 Rogers Street between 10am and 3pm on the Equinox. While this is their only area of secluded private open space (SPOS) it is covered entirely with a perspex verandah. (It is noted that the site layout of No. 10 Rogers is incorrectly shown in the submitted shadow diagrams). The covered verandah is incorrectly labelled as a shed and the garage to the south west corner of No. 10 Rogers Street is omitted and the area is incorrectly labelled as private open space).
130. The standard applies to an area of private *open* space thus arguably this standard need not be applied to this area. Nonetheless, given it is the only area of open space available, and it is possible that the structure may be removed in the future converting this area back into an area open to sky, a more conservative approach has been taken.

As already discussed within the side setback assessment earlier in this report, a condition will be placed on any permit used requiring the southern elevation to be set back 1 metre from the southern title boundary (increasing from 600mm). Subject to this design changes, the shading to this at No. 10 Rogers Street will be reduced by a maximum of approximately 1sqm at 12noon. Further to this, the proposed white render of the southern elevation will assist in reflecting light to this area.

131. In consideration of the above, a subject to the condition to the setback of southern elevation, the proposal is considered to meet the objectives of Standard A14 Overshadowing.

#### *Standard A15 Overlooking*

132. Standard A15 requires that any new habitable room windows or terraces be located or designed to avoid direct views into secluded private open space and habitable room windows of an existing dwelling within a horizontal distance of 9metres.

#### *133. First floor*

134. The Standard applies to the following windows:

- (a) The first floor window on the north elevation. Plans show this window to be located 1.7metres above FFL which has therefore been designed to limit views to comply with the Standard (it is noted that the window is not shown in the floor plan).
- (b) The first floor window on the southern elevation. Plans show that this window has a sill height approximately 850mm above FFL which has not therefore been designed to limit views to comply with the Standard. The 9metre view line from the window would overlook the roof forms of the dwelling and enclosed verandah at No. 10 Rogers Street and the car parking associated with No. 16 Derby Street. As the roof form of No. 10 Rogers Street's verandah is Perspex, views to the private open space are not fully obscured. As such, a condition will be included on any permit issued requiring the first floor window on the southern elevation to comply with Standard A15.
- (c) The centrally located first floor window on the east elevation. Plans show that this window has not been designed to limit views to comply with the Standard. However, the 9metre view line from the window would overlook the roof form of the original dwelling on the subject site.
- (d) The first floor window to the north of the east elevation. The window has a sill height measuring 1.7metres above FFL (though not dimensioned plans), which has therefore been designed to limit views to comply with the Standard. That said, for clarity, a condition on any permit issued will require a notation on plan to confirm that the sill height will be 1.7metres above FFL.

- (e) Two first floor windows on the western elevation. Plans show neither are screened or obscured and that the windows have not therefore been designed to limit views to comply with the Standard and the sill heights are approximately 1.3metres and 750mm above FFL. Within 9 metres of these windows are the HRWs and courtyard of Units 4 and 11 at 16 Derby Street (a distance of approximately 8.5metres). To comply with the Standard, a condition on any permit issued will require the first floor windows on the western elevation to be designed to comply with the requirements of Standard A15.
135. Subject to the design changes required by way of permit conditions, the proposal will comply with Standard A15 Overlooking.
136. *Roof terrace*
137. The proposed roof terrace includes planter boxes around the perimeter which in addition to providing visual softening to the built form, restrict views from the roof terrace and associated pool.
138. The submitted Overlooking Diagrams (TP10) attempt to demonstrate that the roof terrace has been designed to comply with Standard A15. The staircase is not required to meet the Standard. While Council Officers are somewhat satisfied that the planter boxes will limit views from the roof terrace to neighbouring HRWs and areas of SPOS in accordance with the requirements of the Standard, they lack some details required to demonstrate full compliance with the Standard, as set out below:
- (a) *The HRWs of No. 10 Rogers Street:* four HRWs are located along the northern elevation of No. 10 Rogers Street, two of which are within a 9metre radius of the roof terrace. It is anticipated that the windows would be obscured by the overhanging eaves of No. 10 Rogers Street roof form, and intercepted by the roof form of the original dwelling on the subject site. However, to ensure compliance with Standard A15 is achieved based on the increased setback previously described, if a permit were to issue, a condition will require a section diagram demonstrating compliance with Standard A15 from the roof terrace to the ground floor HRWs of No. 10 Rogers Street.
  - (b) *The HRWs and courtyard of Unit 4 and 11 of 16 Derby Street:* The HRW and courtyard are located a distance of 7.9m (as per the plan of subdivision) from the shared boundary. The trafficable area of the roof terrace (the area behind the planter boxes) is set back 1.25metres. Therefore, the HRWs and courtyard of Units 4 and 11 are not within a 9metres radius of the roof terrace and would comply with Standard A15.
  - (c) *The courtyard of Unit 3 of 16 Derby Street:* The courtyard is not shown on the submitted plans but is within 9 metres horizontal line of the roof terrace. It is likely that the planter boxes will limit direct views downwards to this courtyard. Nonetheless, to ensure no unreasonable overlooking will occur, if a permit were to issue, a condition will require a detailed diagram demonstrating compliance with Standard A15 to be submitted.
  - (d) *The POS and HRWs of No. 4 Rogers Street:* The habitable room windows of No. 4 Rogers Street are located in excess of 9 metres from the roof terrace and therefore pursuant to Standard A15, screening is not required. The POS of No. 4 Rogers Street is located adjacent the shared boundary and within 9metres of the trafficable area of the roof terrace. The submitted Overlooking Diagram (TP10) shows one view line over the shed roof of No. 4 Rogers Street. Two sectional diagrams will be required to demonstrate full compliance with the Standard (directly north of the roof terrace and directly north-east) and due to the natural slope of No. 4 Rogers Street, the natural ground level would likely be higher than shown in the submitted diagram. As such, if a permit were to issue, a condition will require the following to be submitted:

- (i) A diagram from the roof terrace directly north to the HRW and SPOS of No 4 Rogers Street, showing accurate natural ground levels and a 9metre horizontal sight line. A diagram from the roof terrace directly north-east to the HRW and SPOS of No 4 Rogers Street, showing accurate natural ground levels and a 9metre horizontal sight line.
- (e) For both of the above, any additional screening measures used to achieve compliance with the Standard will be required to be detailed on the plans, where relevant.
- (f) A condition will also require that Sectional lines be shown on the Roof Terrace Plan detailing the location and direction of each Overlooking Diagram submitted to show compliance with Standard A15.
- (g) Further to all of the above conditions included on any permit issued, the requirements of the Standard will be met and overlooking limited in accordance with the policy requirements.

### **On-site Amenity and Facilities**

#### *Standard A16 Daylight to new windows*

139. The proposed design of the dwelling ensures that all new HRWs have a maximum dimension of 1metre and area of 3sqm clear to the sky. The ground floor, being built to the site boundaries is restricted in providing windows clear to sky, however the design has provided all habitable rooms with a window to Rogers Street. Skylights are also incorporated for additional light to non-habitable rooms. The proposal complies with the Standard.

#### *Standard A17 Private Open Space*

140. Standard A17 requires that *a dwelling should have private open space consisting of an area of 80 square metres or 20 per cent of the area of the lot, whichever is the lesser, but not less than 40 square metres. At least one part of the private open space should consist of secluded private open space with a minimum area of 25 square metres and a minimum dimension of 3 metres at the side or rear of the dwelling with convenient access from a living room.*
141. The subject site has an existing area of private open space (86sqm in area) located at the front of the dwelling (with an additional small area in the north setback). The principal area of private open space located within the front setback does not currently offer adequate privacy. To provide a reasonable level of privacy to this area, a taller front fence would be required, resulting in a poor public realm and heritage outcome.
142. The proposed roof terrace (27sqm in area) will be the dwelling's only area of Secluded Private Open Space and will have a minimum dimension of 3.66 metres. Subject to the provision of the roof terrace, the proposal complies with Standard A17. Without it, the proposal fails to meet the requirements at Standard A17.

#### *Standard A18 Solar Access to Open Space*

143. This Standard applies to new dwellings and therefore is not relevant to this application given that it is for an extension to an existing dwelling. Regardless, it is acknowledged that the proposed roof terrace provides for excellent solar access and would comply with the requirements of the standard.

### **Detailed Design**

#### *Standard A19 Design Detail*

144. The proposed contemporary design of the works to the dwelling responds appropriately to the existing residential character of the area. The proposed works are appropriately designed for the site context, incorporating varied materials and modulated forms. Overall, the proposed development is considered appropriate in the context of the neighbourhood.

*Standard A20 Front fence objective*

145. The existing front fence at the subject site is 1.5metres in height and was approved under Planning Permit PLN14/1139. It will be retained (although it is acknowledged that the gate will be motorised as part of this application) thus, the Standard is not relevant to the subject application.

Heritage

146. The primary heritage considerations for this application relate to whether compliance is achieved with Clause 43.01-4 (Heritage Overlay: Decision Guidelines) and Clause 22.02 (Development Guidelines for Sites Subject to the Heritage Overlay) of the Scheme.

*Demolition*

147. The subject site is recognised as Contributory and the front of the dwelling (being original heritage fabric) is being retained and integrated into the development as is encouraged and supported by Clause 22.02-5 of the Scheme.

148. The proposed demolition includes non-heritage fabric which is located to the rear of the dwelling and subject site and behind the main heritage dwelling. It includes an extension to the rear. The demolition of non-heritage fabric or parts of a heritage dwelling that are not visible from the street or do not affect the heritage fabric are supported by Clause 22.02-5 of the Scheme. Thus the extent of proposed demolition is accepted pursuant to Clause 22.02-5.1 of the Scheme.

149. Similarly, the removal of inappropriate additions is encouraged by Clause 22.02-5.1 of the Scheme. The proposed removal of the carport located within the front setback is encouraged and supported by Clause 22.02-5.1 of the Scheme.

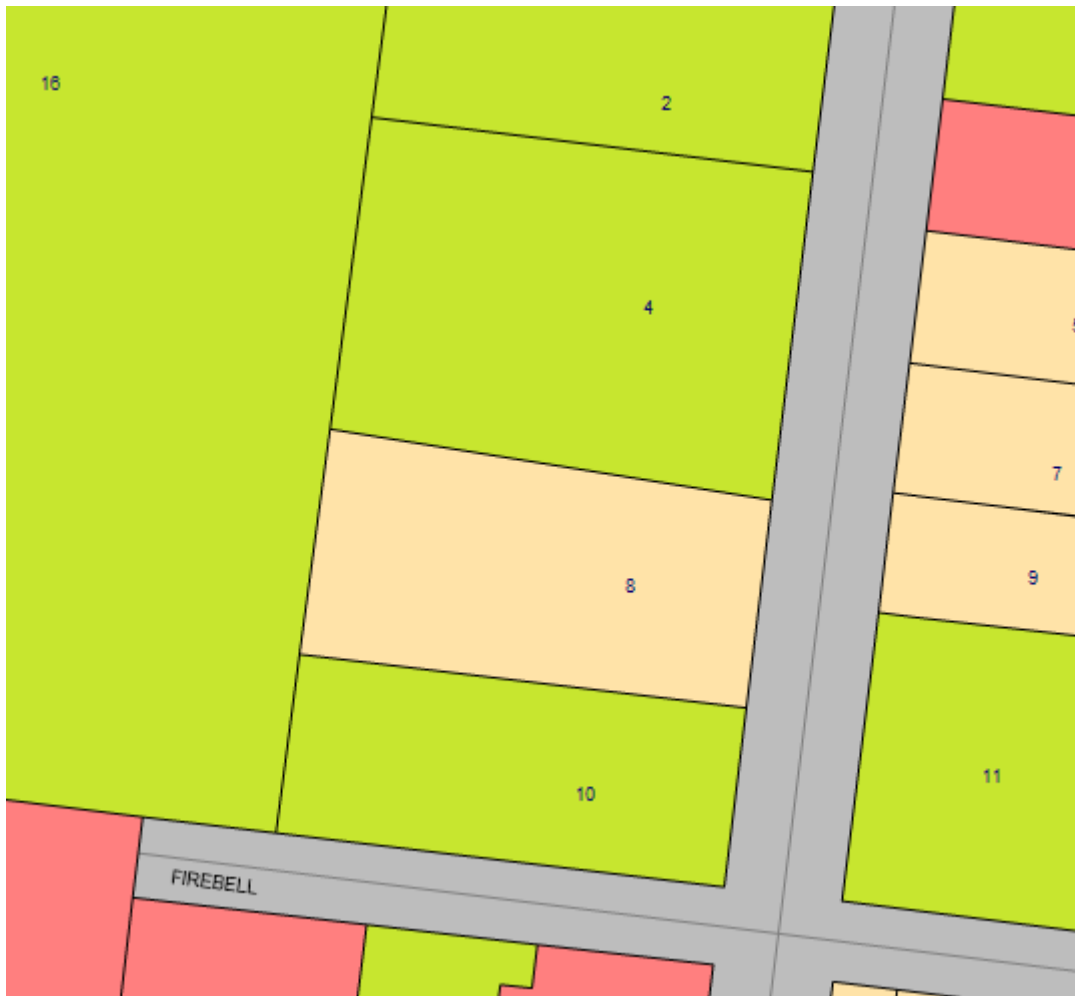
150. In consideration of all of the above, the extent of demolition proposed has policy support.

*151. Extension and Roof Terrace*

152. Guidelines at Clause 22.02-5.7.1 of the Scheme are relied upon for the assessment of the appropriateness of the rear dwelling extension and roof terrace. Overall, and on balance, it is considered that subject to minor design changes, this component is appropriate for the site context.

153. The rear dwelling extension responds to the relevant local planning heritage guidelines (of Clause 22.02-5.7.2) as follows:

- (a) No distinct neighbourhood character (in terms of built form, height, scale, front setback or architectural style) exists in this section of Rogers Street. The abutting properties are graded Not-Contributory and while still located within the heritage overlay, no 'sensitive' design approach is required on the subject site in order to protect their heritage character.



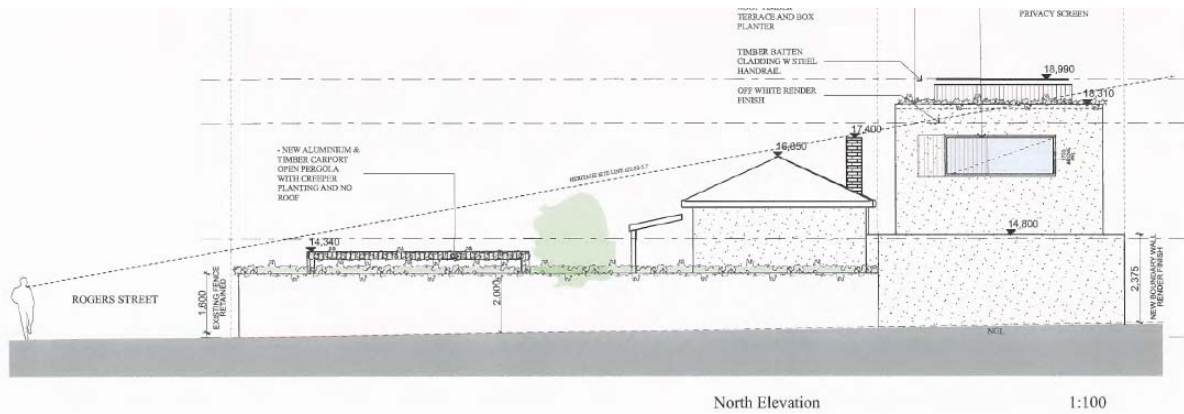
*Image 8: Heritage Grading Map – No. 8 Rogers Street shown cream (Contributory) with all surrounding sites shown green (Not-Contributory)*

- (b) The location of the proposed extension is located 18 metres from the subject site’s front boundary, behind the existing built form, and therefore appears separately as its own, contemporary built form amongst the varying built form beyond the subject site to the west.
- (c) Located entirely behind the original portion of existing dwelling, the proposal will not cover, damage or change the original historical fabric of the dwelling on the subject site and will not obscure views to the principal façade.

154. Figure 2 of Clause 22.02-5.7.1 of the Scheme prescribes appropriate areas for additions to Contributory graded buildings. The sightline prescribed is the view line of person (measured at 1.6metres above ground level) from the opposite footpath of the subject site over the existing roof form. In relation to the 8 Rogers Street, the view line is measured from the east of Rogers Street, and due to the significant setback of the existing dwelling, is notably shallow.

155. The submitted sightline diagram (below) shows that components of the submitted proposal do not fully comply with the sightline diagram at Clause 22.02-5.7.1 of the Scheme for additions to Contributory graded buildings.





- 156. In regards to the built form siting, Council’s Heritage Advisor supported the location of the built form behind the existing dwelling.
- 157. Council’s Heritage Advisor recommended an increased setback of the proposal from the northern boundary so that new built form will not be visible to the side of the existing dwelling. It is noted that the ground floor to the north of the extension will be largely obscured by the proposed carport and the existing carport of No. 4 Rogers Street. It is considered that the first floor setback from the northern boundary could be increased without unreasonably reducing the internal floor area or internal amenity of the proposal. A setback of 1.7 metres from 600mm (as illustrated in the below diagram) will reduce the visibility of the proposed extension as encouraged by the Heritage Advisor and local heritage policy (clause 22.02-5.7.1 of the Yarra Planning Scheme). As such, a condition will be included on any permit issued requiring the first floor and roof terrace to be setback 1.7metres from the northern title boundary.

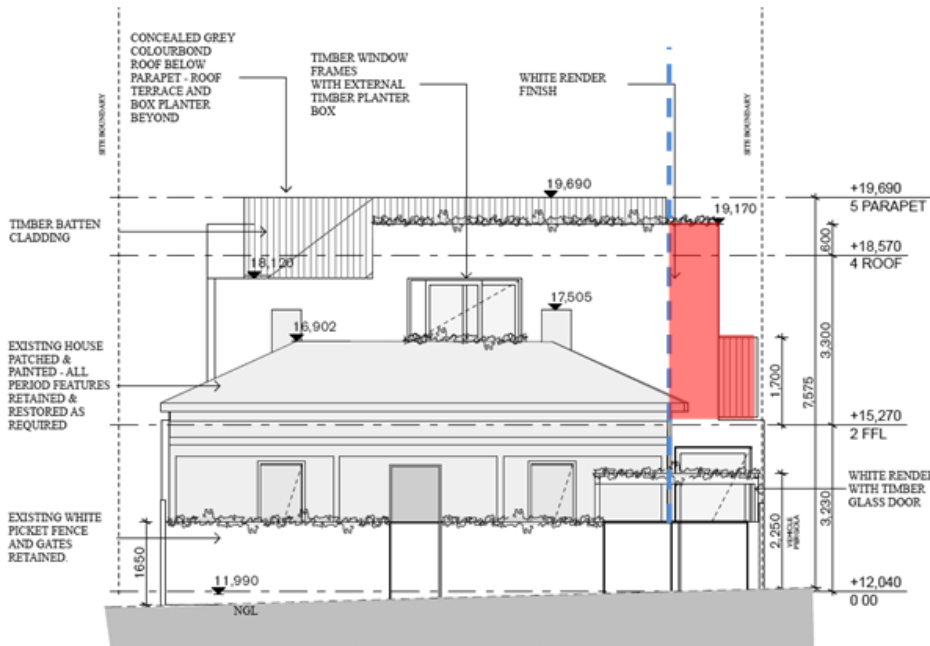


Image 9 (taken from the Heritage Advice provided): It is noted that the diagram presents the previous design, prior to the lodgement of the section 57A plans (decision plans); however, the recommended setback from the northern boundary can still be applied to the new design.

- 158. Further to this, Council’s Heritage Advisor recommended the roof terrace be deleted and that the overall building height be no greater than 6.5 metres. The section 57A plans, which were subsequently submitted in response to these comments, show the roof terrace retained but have reduced the overall height of the building by 700mm so that the eastern elevation to Rogers Street is a height of 6.32metres (the handrails result in a maximum height of 6.85metres above NGL).

Though the proposed extension and associated roof terrace will be marginally visible from the Rogers Street frontage, it is considered that the design response is appropriate given the constraints of the site, for reasons that will be discussed below.

159. Policy at Clause 22.02-5.7.1 encourages the design of new additions to be visually recessive and to not dominate the original historic fabric. The subject site is an anomaly (the significant front setback of the dwelling restricts where development can occur and results in the dwelling having no area of secluded private open space). Thus, consideration must also be given to the general amenity and liveability of the proposal. A balance must be found between respecting the heritage fabric of the site, the off-site amenity of the proposal and also the on-site amenity. It is considered that the proposal, subject to the condition to the northern setback, will appropriately achieve this balance without unreasonably impacting the contributory significance of the heritage place and the Richmond Hill Precinct.
160. Policy at Clause 22.02-5.7.1 “discourages elements which detract from the heritage fabric or are not contemporary with the era of the building such as unroofed or open upper level decks or balconies”, which relates to the proposed roof terrace. Although, the roof terrace is discouraged, a variation from this position is acceptable with consideration of the following:
- (a) The roof terrace is associated with the new built form, not the existing dwelling, reading as its own structure behind the heritage fabric. It does not require alteration or removal of any heritage fabric. It is considered that a roof terrace beyond the retained heritage dwelling will not unreasonably detract from the significance of the heritage place.
  - (b) The location of the proposed extension, and roof terrace atop, will likely appear to be amongst the higher and more varied built form immediately west of the subject site (notably No. 16 Derby Street and No. 47 Richmond Terrace [Storage King]); thus, the contemporary roof terrace will not be unreasonably out of context within the existing view line.
  - (c) The site, with the notable setback of the existing dwelling from the street frontage, does not allow for an area of secluded private open space. Currently, the area within the front setback is the predominant area of private open space. Any attempt to improve the privacy of this area (with higher fencing, screening or enclosed structures) would likely obscure views to the heritage dwelling from the Roger Street frontage. In consideration of this, the inclusion of a roof terrace atop the proposed contemporary extension, behind the existing heritage dwelling, is an appropriate response to the heritage restraints of the site.
  - (d) Finally, the visible components of the roof terrace will be the non-traditional planter boxes which allow for a softer, planted approach whilst allowing for compliance with Standard A15 (Overlooking).
161. It is considered that the components of the extension and roof terrace that fall outside the prescribed sightline envelope will appear almost as its own built form beyond the site. The proposal has been respectfully sited, appropriately responding to the constraints of the subject site and the varying built form within the streetscape. As such, with regard to the decision guidelines at clause 22.02 and the purpose of the heritage overlay at clause 43.01 of the Scheme, the proposal, subject to minor conditions, is supported.
162. *Carport*
163. The existing carport is constructed with four steel beams and a flat corrugated roof and is approximately 2metres in height.
164. A larger carport has been approved (but not yet constructed) under Planning Permit PLN14/1139, as described within the Planning Permit History.

165. The carport proposed as part of this application is a more modest design than the approved carport, as it has open steel and timber beams at a height of 2.25metres which will allow maintained view lines to the heritage dwelling on the site.
166. While the location of the car port is within the front setback, it is acceptable for the following reasons:
- (a) A car port already exists in this location and has been previously approved under Planning Permit PLN14/1139.
  - (b) The proposed carport is adjacent to the existing car port at No. 4 Rogers Street, which already obstructs oblique views to the subject site.
  - (c) The proposed car port is constructed as an open structure to sit below the eave line and well separated from the existing dwelling, thereby allowing views to the heritage dwelling behind.

Objector concerns

167. *Neighbourhood character: the height of the rear extension and inclusion of a roof terrace is at odds with the prevailing character and scale of Rogers Street and surrounding area.*
168. This concern has been discussed at paragraphs 76 – 84 (Neighbourhood Character) and paragraphs 146 – 161 (Heritage) of this report.
169. *Amenity impacts to surrounding properties: overlooking, overshadowing.*
170. This concern has been discussed at paragraphs 128 – 134 of this report and conditions (addressing overlooking and the setback of the southern elevation) will be included on any permit issued to reduce the overshadowing to the property at No 10 Rogers Street and to limit overlooking from the first floor windows and roof terrace of the proposed roof terrace.
171. *Building bulk (height and scale) and setbacks: will have an unreasonable impact on adjoining secluded private open space areas and dwellings.*
172. These concerns have been discussed at paragraphs 107 - 123. Although it is considered that the scale of the proposal has not resulted in unreasonable detrimental impact to neighbouring properties, conditions increasing the setback of the first floor and roof terrace from the south and north title boundary will be required.
173. *Heritage: The proposed extension is not in keeping with the heritage elements of the surrounding area and will dominate the subject site.*
174. Heritage has been discussed at paragraphs 146 - 161 with further design modifications addressed by conditions (requiring the northern elevation to be set back 1.7metres from the title boundary) will ensure that the proposed extension will be less visible from the street frontage.
175. Further, the subject site is located within a street with a mixture of architectural styles and periods and no distinct or uniform heritage pattern. Notably, the adjacent properties are graded as not contributory to the Richmond Hill Heritage Precinct.
176. *Impacts associated with the use of the land for residential purposes: noise and light spill.*

177. As a permit is not required for the use of the site as a dwelling under the Neighbourhood Residential Zone, amenity impacts resulting from the use of the site, such as noise or light spill, cannot be assessed under this application or regulated by way of condition on any permit issued. Nonetheless, it is considered that the use of the roof terrace for residential purposes and residential noise or noise from service equipment that would ordinarily be located at ground level, would not likely result in any unreasonable amenity to surrounding properties.
178. Any unreasonable noise from the use of the site for residential purposes is the jurisdiction of EPA Victoria.
179. *Construction management: plumbing, excavation and destruction of neighbouring trees.*
180. This is not a planning consideration and these matters will be handled at the building permit stage.

### **Other matters**

181. Council officers have identified a number of omissions and inconsistencies on the plans. While these errors are inconsequential for the officer assessment, they will be required to be corrected by way of conditions on any permit issued. The errors are summarised below:
- (a) The southern title boundary is incorrectly shown in the West Elevation. It shows the proposed extension protruding to the south outside the title boundary, which does not align with the submitted floorplans.
  - (b) An awning is shown on the Demolition Plan projecting outside the western title boundary toward the south of the site into No. 16 Derby Street. This awning does not exist and reference is required to be removed. Further, the awning is incorrectly shown as retained on the Ground Floor Plan, First Floor Plan and Roof Terrace Plan. This will also need to be removed.
  - (c) The first floor windows on the North Elevation are not shown on the First Floor Plan.
  - (d) The first floor window to the stairs on the South Elevation is not shown on the First Floor Plan.
  - (e) As mentioned previously, incorrect dimensions shown; including the height of the extension on the East Elevation, and the height of the first floor on the South Elevation. These dimensions are all overestimates of the accurate heights and therefore are of little consequence.
  - (f) The roof terrace balustrading is incorrectly shown in the East Elevation. It should not protrude as far north as the proposed planter box.
  - (g) To avoid confusion, it is also recommended that details of the adjoining structures be deleted from the proposed elevations; including the adjacent shed of No. 4 Rogers Street on the West Elevation.
  - (h) An East Elevation, omitting the front fence, is required.

### **Conclusion**

182. The proposal, subject to some design changes required by way of permit conditions, achieves an appropriate balance between all relevant policies in the Scheme, including heritage policy and on and off site amenity (ResCode).
183. Based on the report, the proposal is considered to generally comply with the relevant policies of the Yarra Planning Scheme and is recommended for approval, subject to conditions.

## RECOMMENDATION

That a Notice of Decision to Grant a Planning Permit PLN18/0118 be issued for part demolition and construction of a ground and first floor rear addition with associated roof terrace to the existing dwelling, and construction of a carport at 8 Rogers Street, Richmond generally in accordance with the “decision plans” and subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the decision plans (prepared by Oliver Du Puy Architects TP00-TP10 dated 18.06.18), but modified to show the following:
  - (a) A minimum 1.7metre setback of the first floor and terrace from the northern title boundary.
  - (b) A minimum 1 metre setback of the first floor from the southern title boundary.
  - (c) A minimum 1.5 metre setback of the planter box of the roof terrace from the southern title boundary.
  - (d) A plan notation confirming that the 3000Lt rainwater tank (committed to in the STORM Rating Report dated 28 March 2018) will be connected to toilets or irrigation.
  - (e) Deletion of works (including demolition of the awning) from outside the title boundary.
  - (f) Deletion of the awning outside the western title boundary from the proposed floorplans.
  - (g) The location of southern title boundary correctly shown on the West Elevation and all proposed works shown within the title boundary.
  - (h) First floor north-facing living room window and the south facing window of the stairwell depicted in floor plans.
  - (i) Correct notation of heights (from NGL) on elevations.
  - (j) The setback of the roof terrace balustrading from the northern title boundary correctly shown on the East Elevation to correspond with the setback shown in the Roof Terrace Plan.
  - (k) Structures of adjacent properties removed from the proposed elevations.
  - (l) Detailed sectional diagrams demonstrating compliance with Standard A15 (Overlooking) of Clause 54.04-6 of the Scheme, to limit overlooking from:
    - (i) the first floor windows of the West Elevation to Unit 11/16 Derby Street Richmond and Unit 4/16 Derby Street Richmond;
    - (ii) the first floor window of the South Elevation to No. 10 Rogers Street Richmond;
    - (iii) the roof terrace to No. 10 Rogers Street Richmond; and
    - (iv) the roof terrace to No. 4 Rogers Street Richmond.
  - (m) any additional screening measures used to achieve compliance with Standard A15 detailed on the plans, where relevant.
  - (n) Operability of the habitable room windows.
  - (o) An additional East Elevation (front) not depicting the front fence.
2. The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:

- (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
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 limit 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.
5. 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.
6. 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.
7. This permit will expire if:
- (a) the development is not commenced within two years of the date of this permit; or
  - (b) the development is not completed within four years of the date of this permit.

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

Notes:

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

A local law permit (e.g. Asset Protection Permit, Road Occupation Permit) may be required before development is commenced. Please contact Council's Construction Management Branch on Ph. 9205 5585 to confirm.

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.

**CONTACT OFFICER:** Jessica Sutherland  
**TITLE:** Statutory Planner  
**TEL:** 9205 5365

**Attachments**

- 1 PLN18/0118 - 8 Rogers Street Richmond, Site Location Map
- 2 PLN18/0118 - 8 Rogers Street Richmond - Decision Plans
- 3 PLN18/0118 - 8 Rogers Street Richmond - Heritage advice

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**1.4 2-20 Kerr Street, Fitzroy - PLN17/0379 - Construction of dwellings, including associated demolition works and a reduction in car parking**

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## **Executive Summary**

### **Purpose**

1. This report provides Council with an assessment of Planning Permit Application PLN17/0379 which affects the land at 2-20 Kerr Street, Fitzroy and recommends approval, subject to conditions.

### **Key Planning Considerations**

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

### **Key Issues**

3. The key issues for Council in considering the proposal relate to:
  - (a) Strategic context;
  - (b) Built form, design and heritage;
  - (c) Clause 55 – ResCode;
  - (d) Off-site amenity impacts;
  - (e) Car parking; and
  - (f) Objector concerns.

### **Submissions Received**

4. A total of 8 objections were received to the application. Issues raised in these objections can be summarised as follows:
  - (a) Built form/neighbourhood character (height, setbacks, scale);
  - (b) Excessive demolition;
  - (c) Car parking (congestion, vehicle movements, extent of reduction);
  - (d) Equitable development;
  - (e) Off-site amenity impacts (overlooking, overshadowing, solar access loss of energy efficiency);
  - (f) Internal amenity impacts (balcony sizes, daylight to new windows, extent of screening, ventilation); and
  - (g) Site contamination.

### **VCAT Proceedings**

5. The applicant lodged a Section 79 Failure to Grant a Permit appeal with the Victorian Civil and Administration Tribunal on the 4 July 2018. A compulsory conference is scheduled for 1 October 2018 and a subsequent 2 day hearing date is scheduled to start 19 November 2018.

### **Conclusion**

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

**CONTACT OFFICER:** Gary O'Reilly  
**TITLE:** Senior Statutory Planner  
**TEL:** 9205 5040



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**1.4 2-20 Kerr Street, Fitzroy - PLN17/0379 - Construction of dwellings, including associated demolition works and a reduction in car parking**

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Trim Record Number: D18/157307

Responsible Officer: Senior Coordinator Statutory Planning

<b>Proposal:</b>	Development of the land for the construction of dwellings, including associated demolition works and a reduction in car parking
<b>Existing use:</b>	Industry
<b>Applicant:</b>	La Strada Investments
<b>Zoning / Overlays:</b>	Mixed Use Zone, Heritage Overlay (Schedule 334), Design and Development Overlay (Schedule 2)
<b>Date of Application:</b>	18 May 2017
<b>Application Number:</b>	PLN17/0379

### Planning History

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

### Background

2. The application was submitted in May 2017, and following the submission of additional information, was advertised in September 2017. A total of 7 objections were received.

#### Planning Scheme Amendments

3. Planning Scheme Amendment VC148 made changes to the Victorian Planning Provisions (VPP) and all Planning Schemes arising from the Victorian Government's Smart Planning Program. Amendment VC148 was gazetted on 31 July 2018 and now forms part of the Yarra Planning Scheme.
4. This amendment altered the car parking requirements under Clause 52.06 by introducing a column B rate for sites located within the Principal Public Transport Network (PPTN) area. The subject site is located within this PPTN area and as such no visitor car parking is required. The rate for the number of bedrooms remains unaltered. The assessment of this application is therefore against the provisions of the Scheme after the introduction of VC148.

#### Aboriginal Cultural Heritage Significance

5. The subject site is not located within an area of Aboriginal Cultural Heritage Significance.

#### VCAT Proceedings

6. The applicant lodged a Section 79 Failure to Grant a Permit appeal with Victorian Civil and Administration Tribunal on the 4 July 2018. A compulsory conference is scheduled for 1 October 2018 and a subsequent 2 day hearing date is scheduled to start 19 November 2018.

#### Lodgement of S57A plans or sketch plans

7. Following concerns raised by Council and objectors, the applicant lodged amended plans pursuant to Section 57A of the *Planning and Environment Act 1987* in April 2018. The amendment was advertised in May 2018 and received one additional objection. This brings the total number of objections to 8.

8. A consultation meeting was held on the 10 July 2018. Planning Officers, the applicant and a number of objectors were present. No mediated outcome was achieved at the meeting.

## **The Proposal**

9. The application is for the partial demolition of the existing building, construction of 17 dwellings and a reduction in the car parking requirements. Further details of the proposal are as follows:

### Demolition

10. Demolition of the existing building, with the retention of part of the ground floor northern (Kerr Street) and western (laneway) boundary walls.
11. Along Kerr Street the following alterations to the existing facade are proposed:
  - (a) Partial retention of the Kerr Street façade from the corner of laneway, extending 27.325m along the site frontage;
  - (b) Existing garage door to be removed;
  - (c) Two pedestrian entries (nib walls – doors and gates) to be removed;
  - (d) Existing steel frame windows to be retained and restored;
  - (e) Existing canopy over pedestrian entry (north-west corner) to be retained;
  - (f) Remaining heritage façade to be retained and restored to original unpainted brick finish.
12. Along western boundary, the following alterations to the existing facade are proposed:
  - (a) Retention of majority of façade for 21 metres;
  - (b) Partial removal of 6m wide by 3.1m high section of façade (include two windows);
  - (c) Removal of existing roller door;
  - (d) Removal of rearmost steel frame window;
  - (e) Retention and restoration of steel frame window nearest to Kerr Street;

### Buildings and works

13. Construction of a three storey built form divided into three sections along Kerr Street, corner of Kerr and Spring Street and rear laneway.
14. The car parking entry/exit is located along the ground floor and accessed via the western laneway.

### Ground floor layout

15. Dwellings 1 to 8 are to have a frontage to Kerr Street, with Dwellings 9 to 12 to have a frontage to Spring Street. All dwellings incorporate ground floor bedrooms, with some provided with courtyards, laundries and bathrooms.
16. A 3.4m wide common entry is provided along Kerr Street, leading up to a common property area along the first floor. The entry also provides pedestrian access to the ground floor car park.
17. Vehicle access to the car park is via a 5.9m wide entry along the western laneway leading into a 20 space car stacker constructed along part of the southern boundary.
18. The car park also contains provision for 22 bicycle spaces, six storage cages, a waste storage area and building services.
19. Bedroom associated with Dwellings 13 and 17 are located adjacent to the stackers/waste storage area, with south and west facing windows to their respective laneways.

### First floor layout

20. The main feature of this floor is a centrally located landscaped common area providing primary access/entry to Dwellings 1-6 (north-side) and 13-17 (south side).
21. The living areas associated with Dwellings 1-12 are located along the first floor with dwellings 1-8 having an outlook to Kerr Street and Dwellings 9-12 to Spring Street.
22. Dwellings 13-17 are occupied with two bedrooms each with outlook to the common property area and the unnamed laneway along the southern interface.

### Second floor layout

23. Dwellings 1-8 maintain outlook to Kerr Street and the internal common area, with a mix of bedrooms and terraces.
24. Dwellings 9-12 maintain outlook to Spring Street with a bedroom and study provided to each dwelling.
25. Dwellings 13-17 are provided with their main living areas, which also incorporate an open plan dining and kitchen area. Dwellings 14-16 are provided with north-facing terraces (7.3sqm).

### Roof terraces

26. Roof terraces are provided to Dwellings 9-12 and dwellings 13 and 17. Terrace areas vary between 8.7sqm to 12.2sqm and are generally centrally located to their respective dwelling.

### Setbacks

27. The ground floor footprint is general constructed to all boundaries, with the Kerr Street interface provided with a zero to 3.39m setback to allow for courtyards behind the heritage façade.
28. The first floor incorporates:
  - (a) A varied 0m to 2.5m setback allowing for void areas and terrace behind the heritage facade.
  - (b) Spring Street is provided with varied 0m to 2m setback to allow for terraces.
  - (c) The southern interface to the laneway is provided with a 0m setback
  - (d) Along the western boundary a varied 0m to 2.5m setback is provided.
29. The second floor incorporates:
  - (a) A varied 0m to 4.6m setback.
  - (b) Spring Street is provided with varied 0m to 2m setback.
  - (c) The southern interface to the laneway is provided with a 0m setback
  - (d) Along the western boundary a varied 0m to 5.67m setback is provided.

### Landscaping

30. The provision of planter boxes to the Kerr Street and Spring Street frontages.

### Colours and materials

31. Materials and finishes include a combination of existing brick to be restored, dark grey brickwork, bagged and painted brickwork, galvanised sheet cladding, mid-grey metal cladding, metal mesh metal screening (25% transparent), Equitone concrete sheet, board formed concrete, concrete panels, natural zinc or metal finish, painted finishes, clear glass block, obscure glazing, painted render and square tiles to match class blockwork.

## Existing Conditions

### Subject Site

32. The subject sites are located on the southern side of Kerr Street, on the south-west corner of Kerr Street and Spring Street in Fitzroy. The site is bound by two unnamed laneways to the south and west. The site has a frontage of 50.72m to Kerr Street and a frontage of 21.34m to Spring Street, yielding an area of approximately 1,082sqm (see image below).



Subject site and surrounds aerial photo

33. The site is currently developed with a single storey industry building, occupied by two separate tenancies (see photo below showing the north-east corner of the building). The premise to the east is occupied by an automobile repairs business, with the western premises occupied by a printers. Vehicular access is provided via two roller doors along Kerr Street.



Subject site (north-east corner)

### Surrounding Land

34. The subject site is located within a Mixed Use Zone (MUZ), with a mix of residential, commercial uses (predominantly along Nicholson Street). Uses range from food and drink premises, industry (mechanic's workshop), and restricted retail premises. Properties to the south along Henry Street are residential and predominantly in a fine-grain subdivision pattern and are located within the same MUZ as the subject site.

35. To the north of the subject site, along the opposite side of Kerr Street, are a number of single and double storey commercial premises. These properties are also located within the same MUZ and contain a restricted retail premises associated with wholesale of catering goods and a vacant commercial building directly opposite.
36. Directly to the east of the site are two single storey terrace dwellings, fronting Kerr Street. The dwellings have a verandah constructed to the front boundary, with the front façade setback. The dwellings secluded private open space (SPOS) is located to the rear. To the rear of both dwellings is a single storey mechanic's workshop/repair premise. This premises fronts Spring Street, with vehicle access via a roller door along Spring Street. Further to the east are recently constructed three to four storey developments.
37. To the south of the subject site is a laneway, with a row of dwellings further south which front Henry Street. These dwellings are single and double storey in built form and are located within the same MUZ as the subject site. All properties are separated by a 4.2m wide laneway. These dwellings have a frontage to Henry Street, with the rear interface to the subject site occupied by the dwellings SPOS. It has been identified some of these open spaces are located along the first floor.
38. To the west of the subject site is a number of commercial properties fronting Nicholson Street. These properties are located within a Commercial 2 Zone (C2Z) and form part of the Nicholson Street commercial strip. These properties are also separated from the subject site by a 4.3m wide laneway.
39. The site comprises good access to public transport, retail and activity centres, including:
  - (a) Nicholson Street is approximately 30m to the west and which provide a mix of commercial uses including food and drink premises and restricted retail premises. Nicholson Street also has the No. 96 tram operates along it;
  - (b) The Johnston Street neighbourhood Activity Centre is 160m to the south and which provide a mix of shops, restaurants and supermarkets and has two bus routes (Nos. 200 & 207) operating along it;
  - (c) The Brunswick Street Major Activity Centre is approximately 220m to the east and also provides a mix of shops, restaurants and supermarkets and has the No. 11 tram operates along it.

## **Planning Scheme Provisions**

### Zoning

#### *Clause 32.04 – Mixed Use Zone*

40. Pursuant to Clause 32.04-2 of the Yarra Planning Scheme (the 'Scheme') there is no planning permit requirement for the use of the land a dwelling.
41. Pursuant to Clause 32.04-6 of the Scheme, a planning permit is required to construct a building and construct or carry out works.
42. The decision guidelines at Clause 32.04-14 specify that for the development of a residential development, the objectives, standards and decision guidelines of Clause 55 apply.

### Overlays

#### *Clause 43.01 – Heritage Overlay (HO334 – South Fitzroy Precinct)*

43. Pursuant to Clause 43.01-1 of the Scheme, a planning permit is required to demolish a building and construct a building or construct or carry out works. External paint controls do not apply to the South Fitzroy Heritage Precinct.

*City of Yarra Review of Heritage Areas 2007 Appendix 8*

44. The building on the subject site is located within the South Fitzroy Heritage Precinct (Schedule 334) and identified as part 'individually significant' and part 'contributory' to this precinct as outlined in the incorporated document.

*Clause 43.02 – Design and Development Overlay (Schedule 2 – Main Roads and Boulevards)*

45. Pursuant to Clause 43.02-2 of the Scheme, a planning permit is required to construct a building or construct or carry out works. A review of DDO2 has identified that only part of the western boundary is affected by this overlay (refer below).



Design and Development Overlay (Schedule 2)

Particular Provisions

*Clause 52.06 – Car Parking*

46. Clause 52.06-2 requires that before a new use commences, the number of car spaces required under Clause 52.06-5 must be provided. Clause 52.06-3 states that a permit is required to reduce the number of car spaces required under Clause 52.06-5.
47. The Clause 52.06-5 requirements, the proposal provision and the subsequent shortfall are shown below:

Use	Rate	Spaces required	Spaces provided	Variation required
Dwellings (17 total)	1 space per 2-bedroom.	7	Not specified	Not specified
	2 spaces per 3-bedroom.	20	Not specified	Not specified
<b>Total</b>		27	20	7

48. Pursuant to Clause 52.06-5, there is a reduction of 7 car spaces required.

*Clause 52.34 – Bicycle facilities*

49. Pursuant to Clause 52.34-5, only a development with dwellings of four or more storeys requires the provision of bicycle. As the Section 57A amendment reduced the overall height to three storeys, the above provision is no longer applicable.

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

50. This clause applies as the development is for the construction of two or more dwellings on the lot. A development should meet all the standards and must meet all the objectives.

General Provisions

*Clause 65 – Decision guidelines*

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

*Clause 65.01 – Approval of an application or plan*

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

Planning Policy Framework (PPF)

*Clause 11.02 (Managing Growth)*

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

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

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

*Clause 13.05-1S – Noise abatement*

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

*Clause 13.07 Amenity*

*Clause 13.07-1S Land use compatibility*

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

*Clause 15.01-1S – Urban design*

57. The relevant objective of this clause is:  
(a) *To create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.*

*Clause 15.01-2S Building design*

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

*Clause 15.01-5S Neighbourhood character*

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

*Clause 15.02 Sustainable Development*

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

*Clause 15.03 Heritage*

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

*Clause 16.01 Residential Development*

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

*Clause 16.01-2S Location of residential development*

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

*Clause 18.01 Integrated Transport*

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

*Clause 18.02 Movement Networks*

65. The objective of this clause is:  
(a) *To promote the use of sustainable personal transport;*

*Clause 18.02-2S Public Transport*

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



*Clause 18.02-2R Principal Public Transport Network*

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

Local Planning Policy Framework (LPPF)

*Clause 21.04-1 Accommodation and Housing*

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

*Clause 21.05 Built Form*

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

*Clause 21.06 Transport*

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

*Clause 21.07 Environmental Sustainability*

71. The relevant objectives of this clause are:
- (a) *To promote environmentally sustainable development.*

*Clause 21.08 Neighbourhoods*

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

Relevant Local Policies

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

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

*Clause 22.05 Interface Uses Policy*

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

*Clause 22.07 Development Abutting Laneways*

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

*Clause 22.12 Public Open Space Contribution*

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

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

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

*Clause 22.17 Environmentally Sustainable Development*

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

## **Advertising**

80. The application was advertised in accordance with Section 52 of the *Planning and Environment Act 1987* by way of 147 letters sent to the surrounding property owners/occupiers and by two signs displayed on site, one facing Kerr Street and the second addressing Spring Street. A total of 7 objections were received.
81. Following concerns raised by Council and objectors the applicant submitted amended plans pursuant to Section 57A of the *Planning and Environment Act 1987*. The amended plans were re-advertised by way of 133 letters sent to the surrounding property owners/occupiers. One additional objection was received.
82. A total of 8 objections were received to the application. Issues/concerns raised can be summarised as follows:
- (a) Excessive demolition;
  - (b) Built form and neighbourhood character (overall height, setbacks and overdevelopment of the site);
  - (c) Car parking (extent of reduction sought, traffic congestion, vehicle movements);
  - (d) Solar access, overshadowing and loss of energy efficiency;
  - (e) Overlooking;
  - (f) Equitable development rights;
  - (g) Internal amenity (balcony sizes, daylight to new windows, extent of screening, poor ventilation);
  - (h) Site contamination; and
  - (i) Inaccuracies on plans.
83. A planning consultation meeting was held on 10 July 2018 where key issues raised in objections were discussed with the permit applicant, objectors and planning officers. No resolutions or outcomes resulted from the meeting.

## **Referrals**

### External Referrals

84. The application does not trigger referral to any external authorities under the requirements of the Yarra Planning Scheme.

### Internal Referrals

85. The application (including amended plans) was referred to the following, with advice included as appendices to this report:
- (a) ESD Advisor;
  - (b) Heritage Advisor;
  - (c) Engineering Services Unit;
  - (d) Urban Design Unit;
  - (e) Waste Services.

## OFFICER ASSESSMENT

### Policy and Strategic Support

86. The planning considerations in this instance will be framed around the following:
- (a) Strategic context;
  - (b) Clause 55;
  - (c) Heritage;
  - (d) Car parking;
  - (e) Environmental Sustainable Design (ESD); and
  - (f) Objector concerns.

### Strategic Context

87. The proposal is consistent with the various development objectives outlined in State (PPF) and Local Planning Policy Frameworks, by providing an acceptable level of compliance with the relevant policies within the Scheme and is considered to provide a positive strategic opportunity for development within a well-resourced inner-urban environment.
88. The subject site is located within a Mixed Use Zone (MUZ) and is directly adjacent to the commercial strip along Nicholson Street, which is situated within a Commercial 2 Zone (C2Z). The site is within easy walking distance to public transport, services and jobs (Nicholson Street, Brunswick Street and Johnston Street). It is policy to encourage the urban consolidation/higher densities developments within and in close proximity to activity centre locations. Policy encourages the concentration of such developments in established areas and supports proposals which achieve the urban growth objectives at clauses 11.01, 11.02 and 16.01-2S of the Scheme, through the development on land close to existing transport corridors and services.
89. The proposed development is consistent with the purpose of the Mixed Use Zone, which seeks, *“to provide for housing at higher densities”*. The MUZ also seeks; *“to encourage development that responds to the existing or preferred neighbourhood character of the area”*. The housing growth encouraged under the MUZ combined with the areas close proximity to existing infrastructure will be a key driver of change within the surrounding area.
90. Clause 21.04-4 encourages new development to provide for a diversity of housing types; this proposal will deliver 17 new dwellings (7 x 2 bedrooms, 10 x 3 bedrooms) in an inner city location, contributing to the diversity of housing in the area. The proposal will result in efficient use of existing infrastructure, consistent with Clause 21.04-1 of Council’s MSS. Related strategies encourage the adaptation and reuse of land in established urban areas to reduce development pressures on the metropolitan fringe and encourage sustainable transport.
91. Clause 16.01-3S also seeks to provide a mix of housing types in well-designed, medium-density housing developments that respect the neighbourhood character; improve housing choice; make better use of existing infrastructure and improve the energy efficiency of housing. Clause 16.01-4S aims to deliver more affordable housing closer to jobs, transport and services. It is considered that the subject site’s locational benefits and strategic policy context support a medium-density residential development. The proposal would achieve multiple objectives and is ideally located for higher density development.
92. The proposal, subject to the submission of a STORM and BESS report, can comply with Clause 22.16 Stormwater Management (WSUD) and Clause 22.17 Environmental Sustainable Developments. Both assessments will be to the satisfaction of the Responsible Authority.

### Clause 55

93. Clause 55 (ResCode) provides an assessment tool for the appropriateness of the design of two or more dwellings on a lot. Given the site's location within a built up inner city residential area, strict application of the standard is not always appropriate. The relevant test is whether the proposal meets the objectives. The following provides an assessment against the relevant standards of ResCode and shows the proposal achieves a high level of compliance with relevant objectives:

*Standard B1 – Neighbourhood Character*

94. The surrounding area is generally characterised by a mixture of single and double storey built form, with some triple storey built forms along Spring Street to the south. Further to the east along Kerr Street (Nos. 32 and 41-48 Kerr Street) there is an emerging character of increased built forms in a four storey scale and incorporating contemporary residential apartment designs. Given the inner city location and site context, the increased residential densities are encouraged under the PPF of the Scheme. The proposal incorporates the construction of a three storey residential development broken up into four distinct sections.
95. The first section incorporates dwellings 1-4 and is located within the retained section of the heritage façade fronting Kerr Street. This section of the façade is classified as being individually significant and is proposed to reinstate the original brickwork and retain the existing steel window framing. The pedestrian doors are to provide access to two courtyards (Dwellings 1 and 3). It is proposed to remove the roller door and provide an entry leading up onto a first floor centrally located common space. This area is landscaped and provides the main entry points to Dwellings 1-6 and 13-17.
96. With the retention of the heritage façade, this provides a built form constructed to the front boundary, which is a common design response in the area where there are a number of examples. This response also has the benefit of preserving an individually significant heritage façade, which will be discussed later in this report. The first and second floors to Dwellings 1-4 are provided with a graduated 2.5m to 4.6m setback to Kerr Street. This ensures that the dominant element to Kerr Street is the ground floor brick façade, preserving the heritage integrity of the site and resulting in the upper floors being a recessive element to the ground floor.
97. Towards the north-west corner and to the western interface to the Nicholson Street, there are greater setbacks provided to upper floor, as well as a fine open steel canopy to the upper most floor. This further reduces the built form to Kerr Street and allows the heritage façade to be the dominant feature to the street.
98. The second section comprises of Dwellings 5 and 6 and is located in between the main entry and Dwelling 7. Both dwellings front Kerr Street and present as a triple storey built form. This section of the development is to provide a transition space between the retained heritage façade and the corner section to Kerr Street and Spring Street. The dwellings have a reverse living arrangement, with the ground and first floors incorporating a 0.5m setback to the street. The third floor is to be setback 3.7m from Kerr Street, with a 3.24m long terrace located within this part of this setback. To provide a visual break between the old and new and in addition to the 0.5m setback, both dwellings incorporate a metal, glass block, fenestration, 1m high cement wall and some landscaping to all floors. The setback combined with the use of materials is considered a satisfactory transition between the old and new.

99. The third section comprises of Dwellings 7 to 12, with frontage to both Kerr Street and Spring Street. These dwellings are the largest of the built forms, in terms of street wall height and incorporate the use of heavier materials (predominantly brick). Given the interface with the street corner, this is considered acceptable design response as it anchors the development on the street corner.
100. The dwellings are provided with recessed ground floor entries to Kerr Street, allowing for some articulation to the façade. Additional visual relief is provided in the form of light coloured ground floor brick finish. Street activation provided along the upper floor living areas and bedrooms providing outlook to the street.
101. The triple story built form wraps around the corner, with dwellings 9-12 fronting Spring Street. To provide articulation and visual relief the proposal incorporates recessed terraces to dwellings 10 and 12, with mansard type roof forms above. Combined with the use of the lighter brick finish along the ground floor, it is considered an acceptable response to the streetscape.
102. The final section of the development is located to the rear and incorporates dwellings 13 to 17. The original proposal did incorporate a four storey built form. However due to concerns of Planning Officers and residents, this was reduced to three storeys to reduce the off-site amenity impacts and visual bulk to properties along Henry Street. A triple storey built form is constructed along the rear boundary, which is to interface a 4.2m wide laneway and which separates the rear boundaries of properties along Henry Street. To reduce the visual bulk presenting to the rear, the dwellings incorporate a varied use external finishes including brick, concrete, zinc metal to the upper floors and fenestration. Off-site amenity impacts will be discussed later in this report.
103. All pedestrian entries have been located along both Kerr Street and Spring Street and not along either laneway in accordance with Clause 22.07 of the Scheme. Vehicle access is to be via the western laneway. Vehicle access has been reviewed by Council's Engineering Services Unit and subject to condition have no objection. As discussed above, the triple storey scale to the laneways is considered acceptable in this instance and overlooking has been addressed in the form of obscure glazing to the first and second floor windows.
104. Overall a three storey built form is considered an appropriate design response for a site located within a MUZ and where the zone seeks, "*to provide for housing at higher densities*". The immediate area has examples of existing triple storey built forms and is experiencing an emerging character of four storey residential development along Kerr Street. The setting back of the upper levels to Kerr Street combined with the use of articulation and use of materials is considered to provide a development which respects the heritage fabric and embraces the emerging character.

*Standard B2 – Residential Policy*

105. The proposal demonstrates consistency with State policies by contributing to urban consolidation and utilising existing infrastructure without unreasonably affecting the existing character of the surrounding neighbourhood and therefore the medium density can be supported.
106. The proposal has a reasonable level of consistency with local planning policies contained within the Scheme, including relevant components of the MSS. Accordingly, the proposed development is considered to adequately respond to the requirements of this Standard.

*Standard B3 – Dwelling Diversity*

107. This standard seeks, "*to encourage a range of dwelling sizes and types in developments of ten or more dwellings*".

108. The proposed development incorporates 7, one-bedroom dwellings and 10, two-bedroom dwellings. This is considered to allow for a range of dwellings within the development. The majority of dwellings have ground floor access (with the exception of 13 to 17 which have first floor access via the common property area). All remaining dwellings having direct access from the ground floor and are provided with ground floor toilets and wash basins. A variation in the standard is required however with regards to the kitchen areas given the reverse living arrangement. Given the density of the proposed development and the three storey built form it is considered a better design response to allow living areas on the upper floors to provide better solar access to these areas

*Standard B4 – Infrastructure*

109. The development is located within an existing established residential area. It is not expected that the additional dwellings would overload the utility services and infrastructure. The proposed development would be readily connected to the required utility services and infrastructure which are present at the site. The site is considered capable of supporting the proposed development.

*Standard B5 – Integration with the street objective*

110. Complies, refer to neighbourhood character assessment section of the report.

*Standard B6 – Street Setback*

111. The subject site is located on a corner block. Under the above standard, the proposal should provide a minimum setback from the front street (Kerr Street) of:

- (a) *“If there is a building on the abutting allotment facing the same street, the same distance as the setback of the front wall of the existing building on the abutting allotment facing the Front Street or 9 metres, whichever is the lesser;*
- (b) *If there is no building on the abutting allotment facing the front street, 6metres for streets in a Road Zone, Category 1, and 4 metres for other streets.”*

112. With regards to the side street (Spring Street), the above standard requires:

- (a) *“Front 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 3 metres, whichever is the lesser.*
- (b) *Side walls of new development on a corner site should be setback the same distance as the setback of the front wall of any existing building on the abutting allotment facing the side street or 2 metres, whichever is the lesser.”*

113. As there are no abutting buildings on either street, variations are required in accordance with the above standard (i.e. 9m to Kerr Street and 3m and 2m to Spring Street). A review of the surrounding area has identified that there are a number of buildings which are constructed to their respective front boundary. This is a common characteristic within an inner city environment and within a MUZ. Examples along Kerr Street can be seen at Nos. 17-23 (directly across the road from the subject site) and No. 30 and 32 Kerr Street. Along Spring Street examples can be found at Nos. 21, 24 and 26. Given this existing neighbourhood character, mixed use zoning and articulated facades, it is considered an appropriate design response.

*Standard B7 – Building height objective*

114. The above standard states:

- (a) *“The maximum building height should not exceed the maximum height specified in the zone, schedule to the zone or an overlay that applies to the land.*

(b) *If no maximum height is specified in the zone, schedule to the zone or an overlay, the maximum building height should not exceed 9 metres, unless the slope of the natural ground level at any cross section wider than 8 metres of the site of the building is 2.5 degrees or more, in which case the maximum building height should not exceed 10 metres.*"

115. A review of the provisions under the MUZ has identified no maximum height under the zone or schedule. Therefore the maximum height should not exceed 9m.
116. The proposed development varies in height from 9.86m to 11m (taken from top of Dwellings 10 and 12), requiring a variation between 0.86-2m. A variation in the above standard is considered acceptable given the surrounding context, which is inner city and has examples of three and four storey built forms, as discussed earlier in this report. In addition, the extra height is located on the north-east corner of the site where additional height would be expected. The majority of the development where it interfaces with the dwellings to the south has stepped the height down to minimise impacts.

*Standard B8 – Site coverage objective*

117. No details of the site coverage have been provided, however it appears the proposal has a total site coverage of approximately 93%. This site coverage exceeds the maximum 60% recommended by the standard by 33%.
118. The existing conditions on site result in a site coverage of 100%, with the proposed development reducing this level by 7% (75sqm). A variation of 33% is considered acceptable in this instance. The design response is considered reasonable in the context of the site in an inner urban environment, and the established neighbourhood character which is characterised by high site coverage and small open space areas. There are also examples of sites with high degrees of site coverage within the locality, including nearby examples at Nos. 17, 23, 30 and 32 Kerr Street.

*Standard B9 – Permeability*

119. As part of the amended plans submitted, no details have been provided with regards to site permeability. It appears however that there is approximately 1.2% (12.8sqm) of permeable surfaces provided. The minimum permeability level required under the standard is 20%, requiring a variation of 18.8%.
120. A variation to the above standard is considered acceptable in this instance given:
- (a) The existing site conditions (100% site coverage), which does not allow for any site permeability.
  - (b) Any approval will require an ESD and STORM assessment to be provided, which will most likely include provision for a rainwater tank for reuse.
  - (c) The proposed development exhibits a high level of compliance with other requirements of the scheme.

*Standard B10 – Energy Efficiency objectives*

121. It is considered that the development will achieve an acceptable level of energy efficiency in accordance with the relevant energy efficiency objectives and standard at Clause 55.03-5 as follows:
- (a) All habitable room windows will receive natural light in accordance with the objective of clause 55.05-3 (Daylight to New Windows);
  - (b) Living areas will have outlook to Kerr Street, Spring Street and to the common property area (Dwellings 13 and 17);



- (c) Openable windows and doors on multiple aspects of each dwelling allows for cross-ventilation, particularly along the first floor where the living areas are located.
- (d) Subject to conditions, all dwellings can be provided with stormwater treatments in accordance with Clause 22.16 of the Scheme. Part of the SDA assessment will include the submission of a STORM report and BESS report.
- (e) The level of solar access to the adjoining residential properties to the south (Henry Street) is considered to be reasonable and meets the objective of Clause 55.04-5 (Overlooking) of the Scheme. A full assessment is contained below.

*Standard B11 – Open Space*

122. Not applicable as no public or communal space is proposed.

*Standard B12 – Safety objective*

123. Pedestrian entries will be located along Kerr Street and Spring Street. A common entry where the roller door was located will provide access onto a first floor common property area is provided along Kerr Street for Dwellings 1-6 and 13-17. The crossover associated with the roller door is to be removed and footpath reinstated to Council's satisfaction. A condition will be included to that effect.
124. Dwellings 7-12 will have individual entry points along both Kerr and Spring Street.
125. The entrances will be visible from both streets, with notation to the common entry along Kerr Street stating lighting is to be provided. To ensure for a safe entry a condition will be included for lighting details to be provided to the entry and along first floor common area.

*Standard B13 – Landscaping*

126. In accordance with the objective and standard, acceptable landscaping in the form of planter boxes will be provided within to the upper floor terraces and along the ground floor bedroom windows to Spring Street. This is consistent with an inner suburban residential context where small setbacks are provided with limited landscaping.
127. Additional landscaping has been provided within the common courtyards, in addition to a green wall to provide better internal amenity to residents within the development.

*Standard B14 – Access*

128. There are no vehicle crossovers proposed as part of this application. All existing crossovers along Kerr Street are to be removed and footpath reinstated.
129. Vehicle access will be via the western laneway and will be discussed later in this report.

*Standard B15 – Parking Location*

130. The objectives to the above standard state:
- (a) *“To provide convenient parking for residents and visitors;*
  - (b) *To protect residents from vehicular noise within developments.”*
131. Parking is provided along the ground floor in the form of a 20 space car stacker. Vehicle access is via the western laneway with pedestrian access provided with a link to the common entry along Kerr Street. This is considered a satisfactory design response for convenient access to residents.

132. With regards to vehicular noise within the development, there are concerns with respect to the proximity of the stacker to bedrooms directly above and to the bedroom of Dwelling 17 along the ground floor. A condition will therefore be included for an acoustic report to be submitted to demonstrate that noises associated with the stacker will not unreasonable impact the affected bedrooms. Additional conditions, as per the requirements of Council's Acoustic Consultant will also be included.

*Standard B17 – Side and Rear Setbacks*

133. Standard B17 generally requires that:  
*"A new building not on or within 200mm of a boundary should be set back from side or rear boundaries:*  
 (a) *At least the distance specified in a schedule to the zone, or*  
 (b) *If no distance is specified in a schedule to the zone, 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres".*
134. Given the location of the subject site on a corner, only the southern and western boundaries are affected by this standard. A review of the proposal has identified that part of the southern wall is constructed more than 200mm from the rear laneway (Dwellings 13 to 15). In addition part of the western wall associated with Dwelling 1 is subject to the above provisions. The following table identifies that no variations are required:

<b>Boundary</b>	<b>Wall height</b>	<b>Setback required</b>	<b>Setback provided</b>	<b>Variation required</b>
Southern wall (Dwellings 13 -15)	9.1m	4.19m	0.03m to 0.34m	3.85m to 4.16m
Southern (roof terraces – Dwellings 13 & 17)	9.7m	4.79m	3.25m	1.54m
Southern (skylights – Dwellings 14 - 16)	9.7m	4.49m	4.1m to 4.4m	0.09m to 0.39m
Western (first floor – top of balustrade)	6.9m	1.99m	2.5m	N/A
Western (second floor – top of open steel canopy)	8.9m	3.99m	4m	N/A

135. The above variations are considered acceptable for the following reasons:
- (a) There is a 4.2m wide laneway separating the wall to the nearest properties along Henry Street which increases the setback to meet /exceed the above standard;
  - (b) The relevant off-site amenity objectives are deemed to be met (i.e. overshadowing, daylight to existing windows and overlooking). All windows are setback from the Henry Street dwellings in excess of 4m as a result of the laneway (meeting both the daylight to windows standard and north-facing windows objective). Habitable room windows have been screened to a height of 1.7m (albeit further details are required of the screening to comply with the standard). Finally the extent of overshadowing is considered acceptable and in accordance with the objective. A full assessment of these elements will be discussed later in this report.
  - (c) The proposed development incorporates articulation through the use of materials and raked wall along the upper level to provide visual relief.
136. The remaining walls along the southern and western boundaries are constructed on the boundary and subject to assessment under the below standard.

*Standard B18 – Walls on boundaries*

137. Standard B18 generally requires that:

- (a) *All walls on boundaries or within 200mm of a boundary should not exceed an average height of 3.2m with no part higher than 3.6m, i.e. unless the wall abuts a higher existing or simultaneously constructed wall; and*
- (b) *A new wall should not abut the boundary for a length of more than 10m plus 25% of the remaining length of the boundary of an adjoining lot; or*
- (c) *A new wall should not abut the boundary for a length more than the length of the existing or simultaneously constructed walls or carport on an abutting lot.*

138. It is proposed to construct boundary walls along part of the southern (rear) and western (side) boundaries. Pursuant to the above standard the boundary walls along the southern boundary should not exceed a length of 20.18m. It is proposed to provide a boundary wall length of 29.3m, which requires a variation of 9.12m

139. With regards to the western boundary, it is proposed to retain the existing façade along the ground floor and construct a 7.39m long section along first and second floors. This length is in accordance with the above standard.

140. A variation in the southern boundary wall length is considered acceptable in this instance for the following reasons:

- (a) The existing building on-site has an identical wall length. As such there are examples of identical wall lengths within the existing neighbourhood character;
- (b) There is a 4.2m wide laneway separating the wall to the nearest properties along Henry Street. This separation provides a buffer area between the proposed development and rear open spaces of properties along Henry Street, reduces the level of off-site amenity impacts (i.e. overshadowing and built form);
- (c) The relevant off-site amenity objectives are deemed to be met (i.e. overshadowing and daylight to existing windows). Other impacts such as overlooking can be dealt with by condition (as discussed later in the report), and habitable room windows of the dwellings to the south will meet both the daylight to windows standard and north-facing windows objective. Finally the extent of overshadowing is considered acceptable and in accordance with the objective. A full assessment will be discussed later in this report;
- (d) The proposed development incorporates articulation through the use of materials and raked wall along the upper level to provide visual relief.

141. Further variations are also required in relation to the wall heights along the southern and western boundaries and are as follows:

<b>Boundary</b>	<b>Average wall height</b>	<b>Variation required</b>
Southern boundary (Dwelling 12)	7.9m	4.7m
Southern boundary (Dwelling 13)	9.1m	5.9m
Southern boundary (Dwelling 17)	8.8m	5.6m
Western boundary (Dwelling 17)	9m to 9.9m	5.8m to 6.7m

142. A variation of between 4.7m to 6.7m is required along both the southern and western laneway. The variations are considered acceptable for the following reasons:

- (a) There is a 4.2m wide laneway to the south separating the wall to the nearest residential properties along Henry Street. This separation provides a buffer area between the proposed development and rear open spaces of properties along Henry Street, reduces the level of off-site amenity impacts (i.e. overshadowing and built form);
- (b) The relevant off-site amenity objectives are deemed to be met (i.e. overshadowing and daylight to existing windows). All adjoining windows are located to Henry Street and are setback in excess of 4m as a result of the laneway (meeting both the daylight to windows standard and north-facing windows objective).

All habitable room windows have been screened to a height of 1.7m in accordance with the standard. Finally the extent of overshadowing is considered acceptable and in accordance with the objective. A full assessment will be discussed later in this report;

- (c) There is a 4.3m wide laneway to the west separating the wall to the nearest properties along Nicholson Street which are commercial in nature and located within a C2Z. Therefore a non-sensitive interface.

*Standard B19 – Daylight to Existing Windows*

143. There are no habitable room windows directly interfacing the proposed development.

*Standard B20 – North-Facing Windows*

144. There are no habitable room windows within 3m of the subject site.

*Standard B21 – Overshadowing*

145. This standard requires, where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75%, or 40 square metres with a minimum dimension of 3 metres should receive a minimum of five hours of sunlight between 9am and 3pm on 22 September. If existing sunlight to the secluded private open space (POS) of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.
146. A review of the surrounding area has identified 10 secluded open spaces to the south of the subject site. The majority of these dwellings have a fine grain subdivision pattern and a site visit has identified that a number of these spaces are terraces located along the first floor. All of the dwellings are also located within the same MUZ as the subject site.
147. Given the inner city context, all secluded private open space experience overshadowing from existing built forms, fencing and overshadowing caused by buildings on the property itself. As a result, the property does not meet the above standard, which is a common occurrence within an inner city context.
148. A review of the shadow diagrams provided by the applicant has identified that the proposed development will increase overshadowing to all of the dwellings along Henry Street at various points throughout the day and not in compliance with the above standard. Properties are generally most affected during the morning and midday period, with overshadowing reduced in the afternoon period and no overshadowing by 3pm to any of the open spaces.
149. Given the Mixed Use zoning, where one of the purposes is, “to provide for housing at higher densities”, combined with the inner city context and location to infrastructure a development of this scale would be expected. There will be overshadowing at various points in the day to the open spaces which in some instances, the entire open space will be overshadowed. These instances are generally limited to one or two hours of the day and solar access generally increases for the remaining hours to an acceptable level for these open spaces to be usable for residents.
150. The most affected properties include Nos. 1, 3, 9, 11 and 13 Henry Street. Overshadowing to these properties during the morning period will vary from between 100% to the high 90% range. However, as discussed above overshadowing will reduce from 9am into the midday/afternoon periods. The extent of reduced shadowing is considered acceptable and will allow for a usable space for residents.

*Standard B22 – Overlooking*

151. The above standard requires that any habitable room windows or balconies be located or designed to avoid direct views into the secluded private open space and habitable room windows of an existing dwelling within a horizontal distance of 9 metres and 45-degree arc.
152. The subject site is located on a corner site, with two laneways to the south and west. Overlooking to Kerr and Spring Street is of no concern as surveillance to the street is encouraged. To the west are commercial properties located within a C2Z, therefore no potential overlooking. The only potential overlooking is to the south to dwellings along Henry Street.
153. To prevent overlooking all south-facing first and second floor windows have been obscured to a height of 1.7m above the Finished Floor Levels (FFLs). There are still concerns however with potential overlooking as a result of notations on the plans stating "SS – Sashless Slider". This indicates that part of the windows may be openable. A condition will therefore be included for all habitable room windows to be screened in accordance with the above standard.
154. In addition, it is proposed to provide glass blocks to the south-facing living room and kitchen window of Dwelling 12. Both rooms are within 9m of secluded private open spaces and no details have been provided in relation to obscurity of these blocks. The above notation will be required for the glass blocks.
155. With regard to the roof terraces (Dwellings 12, 13 and 17) they are sufficiently high enough and setback (planter box to Dwelling 12) to ensure no overlooking within 9m to Henry Street.

*Standard B23 – Internal views*

156. The above standard states, "*Windows and balconies should be designed to prevent overlooking of more than 50 per cent of the secluded private open space of a lower-level dwelling or residential building directly below and within the same development*".
157. Private open spaces have been provided by means of balconies and terraces. The majority of terraces are located along the first and second floors, with outlook to Kerr and Spring Streets. Only five balconies have outlook within the subject site (i.e. to the common area internally) and are not screened. To prevent internal views, these terraces have an interface to non-habitable rooms or to bedrooms which are screened. Therefore the above standard is achieved.
158. With regards to the roof terraces, potential internal views have been identified. A condition will be included for all roof terraces to be screened in accordance with the above standard.

*Standard B24 – Noise Impacts*

159. Given the proposed development will be used for residential purposes there will be no unreasonable off-site noise impacts to the surrounding area. The use of balconies and roof terraces is a common design response within an inner city context.

*Standard B25 – Accessibility*

160. The entries of 8 of the proposed dwellings are provided at ground level, with the remaining dwellings accessed via the first floor common area. This equates to 47% of the overall number of dwellings with direct ground floor access and which can be designed such that they can be made accessible by persons of limited mobility.
161. The common entry has a 2m wide stairwell, which also can be adapted for access to people with limited mobility (i.e. external stair lift).

*Standard B26 – Dwelling Entry*

162. The entries for dwellings 7-12 are provided along Kerr and Spring Streets from the ground floor level. The entries are clearly visible and identifiable from both street, with recessed entries for Dwellings 7 and 8. No sheltered area is provided to Dwellings 9-12 along Spring Street, but is considered acceptable as it is characteristic for dwellings to have a direct frontage to the street (i.e. Nos. 26 & 24 Spring Street).
163. The entries for Dwellings 1-6 and 13-17 are via a 3.4m wide common entry to Kerr Street, where the roller door was located. The entry retains the roller door outline (i.e. heritage façade), is recessed and provided with a pedestrian gate leading up into an elevated centrally located common area running east-west through the centre of the site. This central area is a minimum 3m in width, provided with landscaping and clearly defined and identifiable entries.

*Standard B27 – Daylight to New Windows*

164. The above standard states that:
- (a) *“A habitable room window should be located to face:*
    - (i) *An outdoor space clear to the sky or a light court with a minimum area of 3 square metres and minimum dimension of 1 metre clear to the sky, not including land on an abutting lot, or*
    - (ii) *A verandah provided it is open for at least one third of its perimeter, or*
    - (iii) *A carport provided it has two or more open sides and is open for at least one third of its perimeter.”*
165. A review of the proposed development has identified that the majority of windows comply with the above standard. The exception is the west-facing, ground floor bedroom windows associated with Dwellings 9-12. These windows are located within a courtyard area, with cantilevered structures above (1.2m), resulting in the window not being clear to the sky.
166. A variation in the standard is considered acceptable in this instance as:
- (a) The courtyard provides an overall depth of 3.5m, of which only 1.2m of this depth is to be cantilevered. With an overall width of 3.9m, this allows for 8.9sqm of the courtyard to be provided with direct daylight and will allow a sufficient level of daylight into the ground floor bedrooms.
  - (b) The rooms affected are bedrooms which are unlikely to be occupied for large amounts of time unlike the living rooms above.
  - (c) Only four bedrooms within the entire development of 17 dwellings are affected.
  - (d) Council’s ESD Advisor has reviewed the layout and provided no objection to the variation.

*Standard B28 – Private Open Space*

167. The above standard states that a dwelling should have a private open space consisting of one of the following:
- (a) *“An area of 40 square metres, with one part of the private open space to consist of secluded private open space at the side or rear of the dwelling or residential building with a minimum area of 25 square metres, a minimum dimension of 3 metres and convenient access from a living room, or*
  - (b) *A balcony of 8 square metres with a minimum width of 1.6 metres and convenient access from a living room, or*
  - (c) *A roof-top area of 10 square metres with a minimum width of 2 metres and convenient access from a living room.”*

168. The proposed development provides open spaces in the form of balconies and roof terraces, with numerous dwellings incorporating a mix of both within the one dwelling. Only five of the proposed dwellings comply with the above standard, with the remaining dwellings requiring variations.
169. The majority of variations are in relation to the provision of open space adjacent to the living rooms. All dwellings however are provided with secondary open spaces in the form of ground floor terraces, second floor balconies accessed via their respective hallways or roof terraces. Combined, these spaces are considered to provide an acceptable level of open space which is usable for residents. The majority of these spaces also have excellent outlook to Kerr Street and Spring Street and the internal common area.

*Standard B29 – Solar Access to Open Space*

170. As discussed above, the majority of open spaces will have an outlook to Kerr Street (North-facing), Spring Street (east-facing) or to the common area (Dwellings 14-16) which is north-facing. The open spaces fronting the common area are along the second floor allowing for a raised and excellent solar access to both the open space and living area.
171. Dwellings 9-13 and 17 are also provided with roof terraces with a minimum area of 8.7sqm and will allow for good solar access to residents.

*Standard B30 – Storage*

172. The proposed development provides six, 2.7sqm storage cages within the car park area. No additional storage spaces have been provided, but it is most likely that some storage area can be provided within the dwellings.
173. Given that there is a total of 17 dwellings (10 of which are three bedrooms), it is considered that there is an insufficient amount of storage space. As such, a condition will be included for the provision of additional storage areas to the satisfaction of the Responsible Authority. It is considered that there should be sufficient area to provide additional cages.

*Standard B31 – Design Detail*

174. The proposed development incorporates the retention of the heritage façade to part of Kerr Street and a more contemporary design towards the corner of Kerr Street and Spring Street. This is considered an appropriate design response which preserves the heritage fabric of the build while also providing a new contemporary residential development to the streetscape; particularly within a street which is zoned Mixed Use and is within close proximity to, two neighbourhood activity centres (Johnston Street & Brunswick Street). In this context, the partial contemporary style of the proposed development will not appear out of context. The mix of brick, metal cladding, concrete and fenestration (including glass blocks) will present visual interest to the streetscape.
175. The development will contribute to the variety of design styles and housing choice found within the area. The proposal will present a development within a built-up inner city context and residential streetscape.

*Standard B32 – Front Fences*

176. Not applicable.

*Standard B33 – Common Property*

177. Common property is limited to the ground floor car park area, common entry to Kerr Street and first floor common property area. These spaces are clearly delineated and are considered functional and capable of functional management.

*Standard B34 – Site Services*

178. Subject to condition, sufficient area is provided for the provision of on-site services and it is envisaged that the services provided would be easily accessed and maintained by future residents. Storage areas and mailboxes have been indicated on the plans.

Heritage

179. The decision guidelines from *Clause 43.01-4 Heritage Overlay* and policy from *Clause 22.02 (Development Guidelines for Sites Subject to the Heritage Overlay)* of the Scheme are used to assess the proposed works, in-order to ensure that there is consistency achieved with the heritage values of the surrounding area.
180. The subject site has a split heritage classification, with the western section (No. 2-10 Kerr Street - towards Nicholson Street) is designated as being individually significant. The eastern section (towards Spring Street) is designated as being a non-contributory building.

*Demolition*

181. It is proposed to demolish the entire building with the exception of the Kerr Street brick façade and western laneway façade of the individually significant portion of the building (i.e. 2-10 Kerr Street). In their assessment, council's Heritage Advisor made the following assessment:
- (a) *“The key consideration for assessing this aspect of the works is whether the proposed amended extent of demolition will adversely affect the significance of the heritage building or the broader heritage precinct.*
  - (b) *The extent of demolition proposed will result in Facadism. The remaining two walls will be nothing more than a stage set, serving to make the proposed multi-storey development more palatable to the historic streetscape of Kerr Street.*
  - (c) *It is however recognised that as a former industrial building, the external walls of the subject building are essentially nothing more than a façade to large open shelters of no particular architectural merit. The architectural interest of the Kerr Street façade and the western side wall does not extend beyond the depth of the façade itself.*
  - (d) *Under these circumstances, it is considered that the retention of the Kerr Street façade and the western side wall will maintain the architectural significance of the property.*
  - (e) *In regard to maintaining the integrity of subject building as a heritage place, rather than just a heritage wall, it is still considered that at least some part of the roof structure (preferably in the north-west corner, should be retained to allow a sense of the building's original scale and form to be maintained in three-dimensions.”*
182. It is agreed that given the current use of the property as an industrial building with a large internal open space, the retention of just the façade is an appropriate design response. With regards retention of the roof, it is partially visible from the street, but is largely screened by the parapet wall. The retention of the roof would require a re-design to the proposal, which has been amended to reduce the built form to this corner. Given the retention of the parapet and setting back of the proposed upper floors from the street, the demolition of the roof is considered acceptable.

*Buildings and works*



183. As part of the proposed development, the façade of the individually significant portion of the building is to be retained and restored to its original unpainted brick finish. As noted by Council's Heritage Advisor, *"this will greatly enhance the original character and appearance of the remaining heritage fabric"*. As part of the retained façade, the majority of the steel framed windows to Kerr Street and the western laneway are also to be kept. It has been recommended that the rearmost steel framed window adjacent to the vehicle opening along the western laneway be retained or configured to match the existing windows and will be included as a condition of the permit.  
Additional conditions will be included with regards to the method of paint removal and door and gate details, as per the recommendations of Council's Heritage Advisor.
184. The proposal incorporates a double storey built form above the heritage façade (three storeys in total). The upper floor walls/facades are setback from the ground floor heritage façade, 2.5m along the first floor and 4.5m along the second floor. This allows the ground floor façade to be the dominant element visible from the street, which will be emphasised through the restoration of the original the brick façade and use of recessive materials/fenestration to the upper floors. Similar setbacks (4.5m ground & 5.67m first) are proposed along the western section presenting to Kerr Street.
185. To further reduce the prominence of the upper floors to the heritage facade, a fine open steel canopy is proposed. This has the effect of reducing the visual bulk to Kerr Street while also providing an architectural feature which can provide some screening from the sun.
186. As discussed in the neighbourhood character assessment, the proposal incorporates a transition section (Dwellings 5 & 6) towards the three storey built form to Kerr Street and Spring Street. The three storeys built form is considered appropriate within the streetscape, where similar examples are found. The proposal is well articulated through the use of setbacks and use of materials. In particular the use of brick, which is a common material found in the area.
187. It is considered that the proposed development will conserve the historic quality and is consistent with the materials that form part of the streetscape. Overall, the proposal appropriately responds to the particular requirements contained within *Clause 22.02* and *Clause 43.01* of the Scheme, and therefore is considered acceptable in relation to the heritage context of the street.

#### Car Parking

188. Pursuant to Clause 52.06 of the Scheme, the applicant is seeking a car parking reduction of 7 car parking spaces as outlined within the Particular Provisions section earlier in the report.
189. The proposed development comprises 17 dwellings with 7, two-bedroom dwellings and 10, one-bedroom apartments. A total of 20 on-site car parking spaces will be provided through the provision of a car stacker accessed via the western laneway. The development will also contain 22 bicycle spaces.
190. Based on the assumption that each dwelling will be designated 1 car space each, a reduction of 1 car space is require for seven of the three-bedroom dwellings. With ten, three-bedroom dwellings proposed, that is equivalent to 50% of the three-bedroom dwellings having on car space.
191. Council's Engineering Services Unit considers the waiver of the 7 car spaces as appropriate for a number of reasons which include:

- (a) Council's Traffic engineers have stated: *"for three-bedroom flat type dwellings in Fitzroy, some 58% of these dwellings own one car or less. The data suggests that there is a demand to own one car or less for this size of dwelling. The provision of 12 spaces amongst the 11 three-bedroom dwellings would be consistent with the statistical trend for this size of dwelling to own less than two cars"*. The amended plans will provide 1 car space to each three-bedroom dwelling or 50%. This is 8% below the demand identified in the census data, however is considered an acceptable rate given the site context and possibility that one of the car spaces associated with the two-bedroom dwellings could be re-allocated and pushing up the rate.
- (b) The site is in close proximity of the subject site to public transport (Tram lines along Nicholson Street and Brunswick Street).
- (c) There is a very limited supply of on-street (long stay) parking, which would result in on-street parking not being a viable option for residence and result in a switch to the use of public transport or bicycle.
- (d) The proposed development allocates 22 bicycle spaces to the development.

192. Council's Traffic Engineers have reviewed the vehicle access from the western laneway and subject to conditions relevant to the ramp, floor levels at the ramp entry and deletion of notations have found the vehicle access arrangement acceptable.

193. Council's Traffic Engineers have also provided no objection to the anticipated traffic volumes of the proposed development. These traffic volumes are not unduly high and should not adversely impact the traffic operation of the surrounding roads.

Environmental Sustainable Design (ESD)

194. As discussed earlier in this report, no Sustainable Development Assessment (STORM & BESS) was provided with the substituted plans. No amended ESD assessment has been provided. However given the high level of compliance previously achieved with the originally advertised plans and no objection for Council's ESD Advisor, the amendments are considered acceptable. A condition will require amended STORM and BESS assessments.

Other matters

- 195. Site contamination
  - (a) As part of the planning submission, the applicant has submitted a phase 1 site contamination assessment, conducted by an environmental consultant. The subject site is not located within an Environmental Audit Overlay (EAO) but is adjacent to an existing EAO to the east and west. In addition, a review of the site history and current uses show that there is a potential for site contamination given the nature of these uses (ie mechanical repairs and printing).



- (b) This study has concluded that there is a potential for site contamination. As such, a condition will be included for an environmental assessment of the site to be carried out by a suitable qualified person.

Objector concerns

- 196. Excessive demolition;
  - (a) Refer to paragraphs 181 to 183.
- 197. Built form and neighbourhood character (overall height, setbacks and overdevelopment of the site);
  - (a) Refer to paragraphs 95 to 105.
- 198. Car parking (extent of reduction sought, traffic congestion, vehicle movements);
  - (a) Refer to paragraphs 189 to 194.
- 199. Solar access, overshadowing and loss of energy efficiency;
  - (a) Refer to paragraphs 122, 146 to 150 and 144 to 145.
- 200. Overlooking;
  - (a) Refer to paragraphs 151 to 155.
- 201. Equitable development;
  - (a) Concerns have been raised with regards to the western interface with the properties along Nicholson Street and equitable development. The proposed development will allow for the construction of a three storey built form to this interface. The setbacks vary with part of the three storey wall constructed to the boundary (Dwelling 17) and setback from the north-western corner with Kerr Street.
  - (b) Given the subject site's location within a MUZ and interface to a C2Z, higher built forms would be expected and in line with State Planning Policy which encourages higher built forms in these locations. It is considered that given this context, combined with the 4.3m wide laneway separating both sites there is adequate strategic justification and physical separation to allow for the development of both sites (i.e. daylight to windows).
  - (c) Finally, the C2Z of the abutting properties to Nicholson Street prohibits residential development and therefore no overlooking would occur.
- 202. Internal amenity (balcony sizes, daylight to new windows, extent of screening, poor ventilation);
  - (a) Refer to paragraphs 167 to 196, 164 to 166 and 122.
- 203. Site contamination;
  - (a) Refer to paragraph 197
- 204. Inaccuracies on plans.
  - (a) The inaccuracies identified in the plans have been addressed through the submission of the Section 57A plans.

**Conclusion**

- 205. The proposed development is considered to demonstrate a high level of compliance with policy objectives contained within the State and Local Planning Policy Framework. Notably, the proposal achieves the State Government's urban consolidation objectives, the preference to direct higher density development in Mixed Use Zones and aligns with the State Policy as well as the direction given by the Tribunal.

## **RECOMMENDATION**

That having considered all objections and relevant planning policies, the Committee resolves to advise VCAT that had it been in a position to it would have issued a Notice of Decision to Grant a Planning Permit PLN17/0379 for the development of the land for the construction of 17 dwellings, including associated demolition works and a reduction in car parking subject to the following conditions:

### **Amended Plans**

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 but modified to show:
  - (a) All habitable room windows, balconies and roof terraces to be screened in accordance with Clause 55.04-6 (Overlooking) and Clause 55.04-7 (Internal Views) of the Yarra Planning Scheme;
  - (b) The provision of storage facilities in accordance with the objective of Clause 55.05-6 of the Yarra Planning Scheme;
  - (c) A notation stating the removal of the two vehicular crossing along Kerr Street and re-instated as standard footpath and kerb and channel to the satisfaction of the Responsible Authority;
  - (d) The new west-facing window frame to the ground floor of Townhouse 17 to match the configuration of the existing opening to maintain the character and appearance of the retained heritage façade;
  - (e) Details of all new doors, gates, screens to the existing window frames in the retained heritage facades;
  - (f) The proposed method of paint removal from the retained heritage facades (to not include sand blasting or the like);
  - (g) Lighting details to be provided to pedestrian entries and along first floor common area;
  - (h) Any changes as a result of conditions 3, 9 or 11.
2. Before 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.

### **Sustainable Management Plan**

3. Before the development commences, a Sustainable Design Assessment to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Sustainable Design Assessment will be endorsed and will form part of this permit.
4. The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

### **Soil conditions**

5. Before the construction of the development authorised by this permit commences, an assessment of the land to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The assessment must be prepared by an environmental professional with suitable qualifications to the satisfaction of the Responsible Authority and must include:

- (a) A description of previous land uses and activities on the land;
  - (b) An assessment of the level, nature and distribution of any contamination within, or in close proximity to, the land;
  - (c) Details of any provisions, recommendations and requirements (including but not limited to, clean up, construction, ongoing maintenance or monitoring) required to effectively address and manage any contamination within the land; and
  - (d) Recommendations as to whether the land is suitable for the use for which the land is proposed to be developed and whether an Environmental Auditor should be appointed under section 53S of the *Environment Protection Act 1970 (EP Act)* to undertake an Environmental Audit in accordance with the provisions of the EP Act.
6. If the assessment required by condition 5 does not result in a recommendation that an Environmental Auditor be appointed under section 53S of the EP Act to undertake an Environmental Audit in accordance with the provisions of the EP Act, all provisions, recommendations and requirements of the assessment must be implemented and complied with to the satisfaction of the Responsible Authority.
7. If the assessment required by condition 5 results in a recommendation that an Environmental Auditor be appointed under section 53S of the EP Act to undertake an Environmental Audit in accordance with the provisions of the EP Act, before the construction of the development authorised by this permit commences, the Environmental Auditor appointed under section 53S of the EP Act must undertake an Environmental Audit in accordance with the provisions of the EP Act and issue:
- (a) A Certificate of Environmental Audit for the land in accordance with section 53Y of the EP Act (**Certificate**); or
  - (b) A Statement of Environmental Audit for the land in accordance with section 53Z of the EP Act (Statement),

And the Certificate or Statement must be provided to the Responsible Authority.

8. If, pursuant to condition 5, a Statement is issued:
- (a) The development authorised by this permit must not be undertaken unless the Statement clearly states that the land is suitable for the sensitive use for which the land is being developed;
  - (b) The development authorised by this permit must not be undertaken until compliance is achieved with the terms and conditions that the Statement states must be complied with before the development commences (**pre-commencement conditions**);
  - (c) Before the construction of the development authorised by this permit commences, a letter prepared by the Environmental Auditor appointed under section 53S of the EP Act which states that the pre-commencement conditions have been complied with must be submitted to the responsible authority.
  - (d) If any term or condition of the Statement requires any ongoing maintenance or monitoring, the owner of the land (or another person in anticipation of becoming the owner of the land) must enter into an agreement with the Responsible Authority pursuant to section 173 of the *Planning and Environment Act 1987 (Agreement)*. The Agreement must:
    - (i) Provide for the undertaking of the ongoing maintenance and monitoring as required by the Statement; and
    - (ii) Be executed before the sensitive use for which the land is being developed commences; and
  - (e) The owner of the land, or other person in anticipation of becoming the owner, must pay all costs and expenses (including legal expenses) of, and incidental to, the Agreement (including those incurred by the Responsible Authority).

## **Waste Management Plan**

9. Before the development commences, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Once approved, the Waste Management Plan will be endorsed and will form part of this permit.
10. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

### **Acoustic Conditions**

11. Before the development 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 Wood & Grieve Engineers and dated 8 September 2017, but modified to address:
  - (a) An amended assessment of noise from the car repair workshop. In particular, that the worst case noise impacts from this use have been quantified.
  - (b) An amended assessment of noise from the car repair workshop during the evening and night time period (if applicable). An assessment to internal design targets (i.e. SEPP N-1 indoor limits), could be conducted if the use is found to be non-compliant with the night noise limits.
  - (c) A full assessment of possible impacts the car stackers may have to adjoining properties and residents within the proposed development.
  - (d) The background noise data used to determine noise limits for domestic plant are not representative of noise levels at quieter parts of the subject development. The amended acoustic report to incorporate lower targets that are adopted for design purposes, or that further background noise monitoring is conducted.

### **Road Infrastructure**

12. Before the buildings are 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.
13. Before the buildings are 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.
14. Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, the area set aside on the endorsed plans for the car parking spaces, access lanes, driveways and associated works must be:
  - (a) Constructed and available for use in accordance with the endorsed plans;
  - (b) Formed to such levels and drained so that they can be used in accordance with the endorsed plans;
  - (c) Treated with an all-weather seal or some other durable surface; and
  - (d) Line- marked or provided with some adequate means of showing the car parking spaces.

To the satisfaction of the Responsible Authority.

### **Lighting**

15. Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating pedestrian walkway, laneway and dwelling entrances must be provided within the property boundary. Lighting must be:
  - (a) Located;
  - (b) Directed;
  - (c) Shielded and
  - (d) Of limited intensity.

### **General**

16. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
17. 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.
18. Before the buildings are 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.
19. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
20. 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) Saturday 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.

### **Construction Management**

21. 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.

### **Time Expiry**

22. This permit will expire if:

- (a) The development is not commenced within two years of the date of this permit; or
- (b) The development is not completed within four years of the date of this permit.

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

### Notes

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

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

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

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

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

A local law permit (e.g. Asset Protection Permit, Road Occupation Permit) may be required before development is commenced. Please contact Council's Construction Management Branch on Ph. 9205 5585 to confirm.

**CONTACT OFFICER:** Gary O'Reilly  
**TITLE:** Senior Statutory Planner  
**TEL:** 9205 5040



**Attachments**

- 1 PLN17 0379 - 2-20 Kerr Street, Fitzroy - Site Plan
- 2 PLN170379 - 2 - 20 Kerr Street, Fitzroy - Engineering comments - Section 52 Plans
- 3 PLN170379 - 2 - 20 Kerr Street Fitzroy - Engineering comments - Section 57A Plans
- 4 PLN170379 - 2-20 Kerr Street, Fitzroy - Heritage advice - Section 52 Plans
- 5 PLN17 0379 - 2-20 Kerr Street, Fitzroy - Heritage advice - Section 57A Plans
- 6 PLN170379 - 2-20 Kerr Street, Fitzroy - ESD Referral advice - Section 52 Plans
- 7 PLN170379 - 2-20 Kerr Street, Fitzroy - ESD Referral advice - Section 57A Plans
- 8 PLN170379 - 2-20 Kerr Street, Fitzroy - Urban Design Advice - Section 52 Plans
- 9 PLN170379 - 2-20 Kerr Street, Fitzroy - Urban Design Advice - Section 57A Plans
- 10 PLN170379 - 2-20 Kerr Street, Fitzroy - Waste Referral advice - Section 52 Plans
- 11 PLN170379 - 2-20 Kerr Street, Fitzroy -Acoustic referral advice
- 12 PLN170379 - 2-20 Kerr Street, Fitzroy - 57A - Plans\_Part1
- 13 PLN170379 - 2-20 Kerr Street, Fitzroy - 57A - Plans\_Part2