



YARRA CITY COUNCIL
Internal Development Approvals Committee
Agenda

**to be held on Wednesday 27 June 2018 at 6.30pm
in Meeting Rooms 1 & 2 at the Richmond Town Hall**

Rostered Councillor membership

Councillor Stephen Jolly
Councillor James Searle
Councillor Mike McEvoy

- I. ATTENDANCE**
Michelle King (Senior Statutory Planner)
Sarah Griffiths (Senior Co-Ordinator Statutory Planning)
Cindi Johnston (Governance Officer)
- II. DECLARATIONS OF PECUNIARY INTEREST AND CONFLICT OF INTEREST**
- III. CONFIRMATION OF MINUTES**
- IV. COMMITTEE BUSINESS REPORTS**

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



Guidelines for public participation at Internal Development Approval Committee meetings

POLICY

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

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

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

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

**Governance Branch
2008**

1. Committee business reports

Item		Page	Rec. Page
1.1	102 - 106 Scotchmer Street Fitzroy North - PLN18/0066 - Use of the land as a place of assembly and reduction in the car parking requirements associated with a Place of Assembly and an Arts and Craft Centre (no permit required for use), and the sale and consumption of liquor	5	21
1.2	3 Park Crescent, Fairfield - PLN17/0213 - Buildings and works to construct a second dwelling on the allotment and for works associated with the existing dwelling, a two (2) lot subdivision and vegetation removal	25	54

1.1 102 - 106 Scotchmer Street Fitzroy North - PLN18/0066 - Use of the land as a place of assembly and reduction in the car parking requirements associated with a Place of Assembly and an Arts and Craft Centre (no permit required for use), and the sale and consumption of liquor

Executive Summary

Purpose

1. This report provides Council with an assessment of Planning Application PLN18/0066 for use of the land as a Place of Assembly and reduction in the car parking requirements associated with a Place of Assembly and an Art and Craft Centre (no permit required for use), and the sale and consumption of liquor at 102-106 Scotchmer Street, Fitzroy North. The report recommends approval of the application subject to conditions.

Key Planning Considerations

2. Key planning considerations include:
 - (a) clause 18 – Transport;
 - (b) clause 21.04 – Land Use;
 - (c) clause 21.06 – Transport;
 - (d) clause 22.05 – Interface uses policy;
 - (e) clause 22.09 – Licensed premises policy;
 - (f) clause 34.01 – Commercial 1 Zone;
 - (g) clause 52.06 – Car Parking;
 - (h) clause 52.27 – Licensed premises; and
 - (i) clause 52.43 – Live Music and Entertainment Noise.

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Strategic justification;
 - (b) Use of the site;
 - (c) Sale and consumption of liquor;
 - (d) Traffic and car parking; and
 - (e) Objector concerns.

Objector Concerns

4. Nine (9) objections were received to the application, these can be summarised as:
 - (a) Ambiguity of uses including liquor licence and hours;
 - (b) Car parking impacts;
 - (c) Noise impacts from within the building and noise associated with patrons dispersing through surrounding streets;
 - (d) Management of hours for deliveries of food and alcohol; and
 - (e) Antisocial behaviour, including queuing on footpath.

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: Tamina Loan Vy
TITLE: Statutory Planner
TEL: 92055104

1.1 102 - 106 Scotchmer Street Fitzroy North - PLN18/0066 - Use of the land as a place of assembly and reduction in the car parking requirements associated with a Place of Assembly and an Arts and Craft Centre (no permit required for use), and the sale and consumption of liquor

Trim Record Number: D18/98401

Responsible Officer: Coordinator Statutory Planning

Proposal: Use of the land as a Place of Assembly and reduction in the car parking requirements associated with a Place of Assembly and an Art and Craft Centre (no permit required for use), and the sale and consumption of liquor

Existing use: Vacant (previously a vet clinic)

Applicant: Jason Cavanagh

Zoning / Overlays: Commercial 1 Zone; Heritage Overlay (Ho327)

Date of Application: 05 February 2018

Application Number: PLN18/0066

Planning History

1. Planning Permit PL01/0866 was issued on 11 October 2001 to use the site as a Veterinary Clinic. The permit approved two veterinary practitioners, with a reduction of eight on-site car parking spaces. The hours permitted were Monday to Sunday 7am – 11pm.
2. Planning permit PL02/0453 issued on 21 June 2002 for advertising signs.

Background

3. The subject site also forms part of the proposed redevelopment of Piedimonte's Supermarket (planning application PLN17/0618 at 27 - 45 Best Street and 102 - 114 Scotchmer Street, Fitzroy North). The application is for a seven storey mixed-use (residential and commercial) development. The application has been advertised, and is currently being assessed by officers.
4. Following the public consultation meeting for the current application, the applicant advised that they would be agreeable to reducing the liquor licence trading hours as follows:
 - (a) Sunday to Wednesday - 12midday - 9:30pm;
 - (b) Thursday - 12midday - 10:30pm;
 - (c) Friday and Saturday - 12midday - 11pm.

Existing Conditions

Subject Site

5. The subject site is located on the south-east corner of Scotchmer and Egremont Streets, in Fitzroy North. The site is rectangular in shape with a frontage of 12.19m and a depth of 30.48m, with a total site area of 371.55sqm.
6. The site is occupied by a brick two-storey building, comprising two separate tenancies. The proposed use is to be located within the front, ground floor tenancy facing Scotchmer Street. The rear tenancy, facing Egremont Street, is not part of this application and has a separate door access via Egremont Street at the southernmost end of the site.

The primary access to the subject tenancy is from Scotchmer Street via a double entry. The subject tenancy also has a side service door to Egremont Street into a back-of-house area. The building presented large ground floor shopfront windows to Scotchmer Street and three smaller windows to Egremont Street. There are numerous windows at the ground and first floor windows facing Scotchmer and Egremont Streets associated in the second tenancy.

The Applicant confirmed that the first floor will be used as his private residence via a response Council's request for further information. The first floor also does not form part of the current application.

Surrounding Land

7. The subject site is located to the western edge of the North Fitzroy Village Neighbourhood Activity Centre (NAC), which extends along St Georges Road and part of Scotchmer Street. The surrounding area is commercial to the north and east (within the NAC) and largely residential to the south, west and further to the north beyond the NAC.



Zoning map

South

8. To the south are dwellings facing Egremont Street. These dwellings are separated from the subject site by the rear tenancy, which extends for a length of approximately 19m along Egremont Street.

West

9. On the western side of Egremont Street directly opposite the subject site at No. 100 Scotchmer Street is a two-storey brick building fronting Scotchmer Street. This is located in Neighbourhood Residential Zone outside the NAC. The site is operating as a food and drink premises (café), trading until 5pm. The site allows 49 patrons, and has a rear courtyard and footpath trading on Scotchmer Street. The first floor, above the café, is occupied by a dwelling. The dwelling has east-facing windows facing the subject site.
10. No. 100 Scotchmer Street recently sought an amendment to their planning permit (PL09/0904) to increase the operating hours and patron numbers of the café and allow for the sale and consumption of liquor. The extended hours were proposed from Thursday to Saturday to 10pm. The application was refused by Council's Internal Development Approvals Committee (IDAC) on 15 June 2018 on the following grounds:

- (a) *The proposed sale and consumption of liquor is discordant with Clause 22.09 of the Yarra Planning Scheme. Specifically:*
 - i. the subject site is zoned residential, where new licensed premises are discouraged;*
 - ii. the proposed licensed hours exceed the 8pm recommended restriction for venues within a residential zone.*
- (b) *The proposal would result in unreasonable noise impacts to sensitive uses within a residential zone.*

- 11. The permit applicant has until mid-August to apply for a review with the Victorian Civil and Administrative Tribunal (VCAT).
- 12. To the south of No. 100 Scotchmer Street is a three-storey converted-warehouse dwelling facing Egremont Street. The building is presented with roller doors, balcony and windows to the street. Further south are single-storey Victorian-era dwellings facing Egremont Street.

North

- 13. On the north-west side of Scotchmer Street and Birkenhead Street at No. 99 Scotchmer Street is a single-storey commercial building facing Scotchmer Street. The site is occupied by 'Sortino Social Club'. This site is located in the Neighbourhood Residential Zone.
- 14. Further west of this site are single-storey dwellings facing Scotchmer Street (31m north-west of the subject site).
- 15. On the north-east side of Scotchmer and Birkenhead Streets is a row of two-storey commercial buildings in the Commercial 1 Zone (forming part of the NAC). Uses include retail, a veterinary clinic (relocated from the subject site), food and drink premise (café/ bakery) and a bottle shop. The café operates until 4pm with the bottle shop open until 9pm.
- 16. The Parkview Hotel is located on the corner of Scotchmer Street and St Georges Road approximately 110m east of the subject site. This premise is licenced until 3am.

East

- 17. Attached to the east is a row of two-storey shopfronts facing Scotchmer Street within the Commercial 1 Zone (forming part of the NAC). The first floor of No.110 Scotchmer Street (separated by No. 108 Scotchmer) contains a dwelling at first floor (above the ground floor retail). This is the closest dwelling to the subject site.

The Proposal

- 18. The application proposes to use of the land as a Place of Assembly and reduction in the car parking requirements associated with a Place of Assembly and an Art and Craft Centre (no permit required for use), and the sale and consumption of liquor. Further detail of the proposal is provided below:
 - (a) The art and craft use will occupy the majority of the site (and the full frontage to Scotchmer Street) with an area of 132.4sqm. The layout includes two exhibition spaces, a bar counter, two studio rooms, a podcast booth and a kitchen.
 - (b) the place of assembly is located within an enclosed area to the south-west corner of the tenancies.
 - (c) The place of assembly is to accommodate a maximum of 19 people;
 - (d) the liquor licence excludes the kitchen area, to provide licence for 100 people;
 - (e) licence trading hours are:
 - (i) Monday – Saturday 10am – 11pm;
 - (ii) Sunday 10am – 10pm.

- 19. No on-site car parking spaces are to be provided.
- 20. No external buildings and works are proposed.

Planning Scheme Provisions

Zoning

Commercial 1 Zone

- 21. The subject site is zoned Commercial 1 Zone. The relevant purpose of the Commercial 1 Zone is *to create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.*
- 22. Pursuant to clause 34.01-1 of the Scheme a permit is required for a Place of assembly (section 2); however a permit is not required for an ‘art and craft centre’ (section 1).

Overlays

Heritage Overlay

- 23. As no buildings and works being proposed as part of this application, there is no permit requirement under this overlay.

Particular Provisions

Clause 52.06- Car parking

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

Proposed Use	Quantity/ Size	Statutory requirement	Onsite provision Required	Reduction required
Arts and craft centre	132.4sq m	5 (4 to each 100sqm net floor area)	0	5
Place of assembly	19 patrons	5 (0.3 to each patron permitted)	0	5
Total		10	0	10

- 25. Pursuant to Clause 52.06-3, a permit is required to reduce (including reduce to zero) the number of car spaces required under Clause 52.06-5. The proposal provides no car parking onsite; therefore a reduction of 10 car spaces is sought.

Clause 52.27 – Licensed premises

- 26. Pursuant to Clause 52.27, a permit is required to use land to sell or consume liquor If a licence is required under the *Liquor Control Reform Act 1998.*

Clause 52.34 - Bicycle facilities

- 27. Pursuant to Clause 52.34-1, a new use must not commence until the required bicycle facilities and associated signage are provided on the land. The following table identifies the bicycle parking requirement under Clause 52.34-3, the provision on site, and the subsequent reduction below the statutory requirement:

Proposed Use	Quantity/ Size	Statutory requirement	Onsite provision	Reduction required
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			Required	
Place of assembly	16.14sqm	(1 to each 1500sqm net floor area)	0	0
Art and craft centre		No statutory requirement		
Total		0	0	0

28. As illustrated in the table above, there is no statutory requirement for bicycle parking to be provided on site.

Clause 52.43 – Live Music and Entertainment Noise

29. This clause applies to an application to use land for a live music entertainment venue. As the use of the land includes a place of assembly with live music and performances, this clause is applicable.
30. The relevant purposes of the clause are:
- (a) *To recognise that live music is an important part of the State’s culture and economy.*
 - (b) *To ensure that noise sensitive residential uses are satisfactorily protected from unreasonable levels of live music and entertainment noise.*
 - (c) *To ensure that the primary responsibility for noise attenuation rests with the agent of change.*
31. The following requirement set out at clause 52.43-3 is also applicable:
- (a) *A live music entertainment venue must be designed, constructed and managed to minimise noise emissions from the premises and provide acoustic attenuation measures that would protect a noise sensitive residential use within 50 metres of the venue.*

General Provisions

Clause 65 – Decision guidelines

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

Clause 74 – Land use terms

33. The following definitions are relevant to the application:
- (a) Place of assembly - *Land where people congregate for religious or cultural activities, entertainment, or meetings.*
 - (b) Art and craft centre - *Land used to manufacture, display and sell works of art or craft, such as handicrafts, paintings, and sculptures.*

State Planning Policy Framework (SPPF)

Clause 11 – Settlement

34. *Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure.*

Clause 13.04-1 – Noise abatement

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

Clause 17.01-1 – Business

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

Clause 18.01-1 – Land use and transport planning

37. The objective is *'to create a safe and sustainable transport system by integrating land-use and transport'*.

Clause 18.02-1 – Sustainable personal transport

38. The objective is *'to promote the use of sustainable personal transport'*.

Clause 18.02-2 – Cycling

39. The objective is *'to integrate planning for cycling with land use and development planning and encourage as alternative modes of travel'*.

Clause 18.02-5 – Car parking

40. The policy is relevant to the proposal because the application seeks a reduction in the standard car parking requirement of the Scheme. The objective is to ensure an adequate supply of car parking that is appropriately designed and located.

Local Planning Policy Framework (LPPF)

Municipal Strategic Statement

Clause 21.04 – Land Use

41. The relevant objectives of this clause are:
(a) To reduce potential amenity conflicts between residential and other uses.
(b) To increase the number and diversity of local employment opportunities.

Clause 21.04-2 - Activity centres

42. *Activity centres in Yarra have a retail, hospitality, and service focus. Because of the pattern of development in the municipality, almost all residents are within 400m of an activity centre. The provision of local services is therefore important for maintaining the character of activity centres as local destinations. The presence of service, retail and entertainment uses creates active and vibrant activity centres with good access to services and facilities, which is an important attribute of the municipality. **Music venues, arts and cultural facilities also contribute to Yarra's character and cultural life, and to its activity centres.***
[Emphasis added]

43. The relevant objectives include:
(a) *To maintain a balance between local convenience and regional retail roles in Yarra's activity centres*
(b) *To maintain the long term viability of activity centres.*
(c) *To encourage the arts and arts venues.*

- (i) *Support a diversity of arts uses such as live music venues, performance spaces, galleries and artist studios in appropriate and accessible locations.*

Clause 21.04-3 – Industry, office and commercial

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

Clause 21.06 – Transport

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

Clause 21.08-8 – North Fitzroy (Neighbourhoods)

- 46. The following description of the North Fitzroy Neighbourhood is taken from the Scheme;
 - (a) *The North Fitzroy Village neighbourhood activity centre is a mixed use centre with strong convenience retailing located on St Georges Road. Further north along St Georges Road is the North Fitzroy neighbourhood activity centre. This centre provides a number of specialist business services. Linkages between the two parts of the centre should be improved.*

Relevant Local Policies

Clause 22.05 – Interface Uses Policy

- 47. Pursuant to Clause 22.05 of the Scheme, this policy applies to applications for use or development within Business Zones (ow commercial).
- 48. A relevant objective is *'To ensure that residential uses located within or near commercial centres or near industrial uses enjoy a reasonable level of amenity'*.
- 49. The policy has the following objectives:
 - (a) *To ensure that residential uses located within or near commercial centres or near industrial uses enjoy a reasonable level of amenity.*
 - (b) *New non-residential use and development within Business and Mixed Use and Industrial Zones are designed to minimise noise and visual amenity impacts upon nearby, existing residential properties.*

Clause 22.09 – Licensed Premises

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

Advertising

51. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by way of letters sent to surrounding owners and occupiers. Two signs were displayed on site, one facing Scotchmer Street, the other facing Egremont Street.
52. Nine (9) objections were received. A summary of their concerns are;
 - (a) Ambiguity of uses including liquor licence and hours;
 - (b) Car parking impacts;
 - (c) Noise impacts from within the building and noise associated with patrons on the footpath and dispersing through surrounding streets;
 - (d) Management of hours for deliveries of food and alcohol; and
 - (e) Antisocial behaviour, including queuing on footpath.
53. A Planning Consultation Meeting was conducted on 15 May 2018, with Council Officers, the applicant and objectors in attendance.

Referrals

External Referrals

54. The application was not required to be referred to any external referral authorities.

Internal Referrals

55. The application was referred to the following areas, with their full comments attached to this report:
 - (a) Engineering Services Unit;
 - (b) Civic Compliance;
 - (c) Acoustic (SLR Consultants);
 - (d) City Works (waste management)

OFFICER ASSESSMENT

56. The primary considerations for this application are:
 - (a) Strategic justification;
 - (b) Land Use;
 - (c) Liquor licence;
 - (d) Car parking and Traffic; and
 - (e) Objector concerns.

Strategic justification

57. The subject site is located in the Commercial 1 Zone and is at the edge of the North Fitzroy NAC. The relevant purpose of the Commercial 1 Zone is '*to create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.*' The proposed commercial uses are consistent with the purpose of the zone.
58. The State and local planning policy at Clauses 11.03 (*activity centres*), 17.01-1 (*business*) and 21.04-2 (*activity centres*), seek to encourage the aggregation and sustainability of commercial facilities in activity centres. These policies seek to cluster employment opportunities, entertainment and service functions within identified centres that meet the needs of local residents, providing that a balance is achieved in relation to off-site amenity impacts. This balance will be discussed in further detail within this report.
59. Clauses 13.04-1 (*Noise abatement*), 21.04-2 (*activity centres*), clause 21.04-3 (*Industry, office and commercial*) and Clause 22.05 (*Interface Uses* policy) identify that noise and the interface between uses must be managed appropriately to reduce potential amenity conflicts between residential and commercial uses. An assessment of clause 22.05 is provided with the assessment of the land uses below.

60. The MSS, at Clause 21.04-2, identifies that the presence of service, retail and entertainment uses creates active and vibrant activity centres with good access to services and facilities, which is an important attribute of Yarra. Furthermore, the site has access to surrounding tram and bus networks, in accordance clause 21.06 (*Transport*), with the No.11 tram located on the corner of Scotchmer and St Georges Road, and No.96 tram on Nicholson Street (450m west) in addition to various bus services.
61. The subject site; within a NAC and proximate to tram and bus services, is an appropriate location for the proposed activities from a strategic perspective, achieving orderly planning and will not unreasonably impact upon the amenity of the surrounding area subject to the conditions discussed in the following sections.

Land Use

62. The majority of the subject tenancy is to be used as an Art and Craft centre. As outlined within the zone controls, this is an 'as-of-right' use within the Commercial 1 Zone and does not require a planning permit. There have been concerns raised by objectors that the proposed activities are not consistent with the definition of an Art and Craft Centre (planning scheme definition at paragraph 33). The permit applicant submitted an indicative schedule of the activities, this included displaying art and craft, art and craft workshops and visual art openings. The permit applicant has also confirmed that all work displayed will have been created on the land.
63. The proposed activities described by the permit applicant are consistent with the definition of an Art and Craft centre. If a permit is to issue, it would not allow the transformation of the art and craft centre to an alternative permit-required use (such as a function centre or bar). To remind the permit holder of the activities permitted under the art and craft centre, the Planning Scheme definition of an Art and Craft centre will be included as a note on any permit that issues.
64. It is noted that the decision plans accompanying the application depict a 'bar' within the art and craft centre. While it is reasonable to have a counter within this area, the labelling of this as a 'bar' may lead to confusion as to the intension of this area. To avoid confusion, a condition is to be included on any permit that issues requiring the labelling of 'bar' to this area to be removed.
65. While the use of the land as an Art and craft centre does not require a permit, further discussion regarding the proposed liquor licence and car parking reduction is provided later within this report.
66. A small portion of the site (16.14sqm) is proposed to be used as a Place of Assembly, which requires a permit within the Commercial 1 Zone. The use is contained within an enclosed space to the rear south-east corner of the site, labelled as 'performance space'. In assessing the appropriateness of the proposed use, consideration needs to be given to the decision guidelines of clause 34.01-8 (Commercial 1 Zone) and clause 22.05 (Interfaces Uses policy).

Noise

67. The main interface consideration for the Place of Assembly relates to the generation of noise, specifically music and patron noise. As the performance space is intended to be used for live music, consideration also needs to be given to clause 52.43 (live music venues). The permit applicant has submitted an acoustic report prepared by Norman Disney and Young dated 14 March 2018 assessing the noise impacts generated by the site. This has been peer reviewed by SLR Consulting.

68. The acoustic report indicates that there would be live music performances only three times a week consistent with SEPP N-2 requirements for when music and associated noise can be heard in a noise sensitive area. The proposed indicative schedule provided by the applicant indicates that there will be a 'live performance' on a fourth day. To ensure that the SEPP N-2 requirements and the recommendations of the acoustic report are met, a condition will limit live music performances to a maximum of three days a week. By applying the limited live music SEPP N-2 standard, any performances on other nights to be required to be inaudible in the residential area. Whilst SLR notes this is restrictive on the future use of the site, given the sensitivity of the area, this is considered a reasonable restriction to be applied.
69. Compliance with SEPP N-2 is based on live music being restricted to the performance space only. As live music within the art and craft centre may result in exceedances with SEPP N-2, a condition will also restrict live music to within the performance space (Place of Assembly) only.
70. SLR in reviewing the acoustic report noted that the closest noise sensitive receivers did not include the shop top dwelling at No. 100 Scotchmer Street. Given that this dwelling has windows facing the subject site, a condition will require an updated acoustic report to include an assessment of this noise sensitive receiver.
71. In regard to patron noise, the place of assembly is to have a maximum capacity of 19 patrons. Patron noise generated by the place of assembly would be unlikely to exceed the live music noise. In achieving SEPP N-2 for live music, patron noise within the site would be sufficiently mitigated.
72. Patron access to the site is only proposed from Scotchmer Street. The provision for 19 patrons entering and exiting the site onto Scotchmer Street is considered acceptable noting that this is a Commercially Zoned site. While the interface uses policy does not specify preferred hours for uses within a Commercial Zone, as will be discussed later, Council's Liquor License policy at clause 22.09 suggests that liquor licenses for commercially zoned sites within 30m of a residential zone should be restricted to 11pm. Coincidentally, the previous veterinary clinic that occupied the site was permitted to operate until 11pm. The proposed hours sought are 10am to 11pm, Monday to Saturday and 10am to 10pm on Sundays, therefore would be consistent with this policy. Notwithstanding this, the permit applicant has agreed to reduce the hours to 9.30pm Sunday to Wednesday, 10.30pm on Thursday and 11pm on Friday with opening hours restricted to 12midday on all days. These hours are considered reasonable, with patrons leaving at this time not anticipated to result in unreasonable detriment to the surrounding area. The patron capacity for the Place of Assembly and the opening hours will be included as conditions of permit.
73. Further discussion on noise associated with the sale and consumption of liquor will be contained within the assessment of the Liquor Licence later in this report.
74. The floor plan also shows an indoor courtyard/waste storage area in the back of the site adjacent to the rear access via Egremont Street. As this is an enclosed, roofed area and not a courtyard as implied by the plan notation, a condition will require reference to the 'indoor courtyard' to be deleted.

Existing uses

75. A decision guideline for new uses within the Commercial 1 Zone requires consideration of the potential impact existing uses may have on a new use. The existing uses surrounding the site as identified in the surrounds description are largely commercial and residential. These uses are not anticipated to affect the place of assembly with the exception for the restriction in the noise that may be generated as discussed above.

Loading and Waste management

76. The interfaces uses policy at clauses 22.05 requires consideration of impacts caused from the loading and unloading of vehicles and waste storage and collection. While the place of assembly may generate loading requirements for the delivery and collection of performance equipment (e.g. musical instruments, sound equipment), this would only likely to occur on the days live music is proposed (i.e. 3 x per week) and would typically occur by cars or vans capable of loading on street within the designated loading bay in front of No. 114 Scotchmer Street (approx. 15m east of the site). The place of assembly is otherwise expected to generate low demands for loading and unloading.
77. There is an existing waste storage area to the rear of the site (accessed via Egremont Street). The waste storage area will be appropriately concealed from public view. While a waste management plan was prepared by the permit applicant, Council's City Works Unit have requested that a waste management plan is prepared by a professional waste service provider detailing how private waste collection is to occur. This will be conditioned accordingly.

Car parking and traffic

78. Car parking will be discussed later within the report, which determines that the car parking generated by the proposed use can be accommodated within the surrounding area, noting also that the site had previously been used as a veterinary clinic.
79. The proposed 19 patron Place of Assembly is not anticipated to result in a discernible increase in the traffic within the surrounding area, noting that the site forms part of a larger NAC and has previously been used as a veterinary clinic.

Drainage of land, and availability of and connection to services

80. These are matters to be considered within the decision guidelines of the Commercial 1 Zone for a new use, however are not matters of concern for the subject site given that it is an existing commercial building that would already have adequate connections to services for the intended use.
81. The proposed use is not anticipated to generate an increased demand for drainage or services beyond the previous use of the land for a veterinary clinic.

Visual, overlooking or light spill impacts

82. Clause 22.05 also requires consideration of visual impacts, overlooking and light spill. These impacts are not considered applicable to the proposed Place of Assembly. The use is to be contained within the existing building and thus will not visually alter the appearance of the building. Given that there are no external windows to the place of assembly area of the site, the proposed use would not result on overlooking or light spill impacts.
83. Overall, subject to conditions outlined above, the Place of Assembly is considered an appropriate use for the existing commercial tenancy that would contribute to the vibrancy of the North Fitzroy NAC, consistent with the decision guidelines under the Commercial 1 Zone and the Interfaces uses policy at clause 22.05.

Liquor licence

84. The application seeks the sale and consumption of liquor on the land with the red line plan (licensed area) including the entire site with the exception of the kitchen. Following the consultation meeting and to address concerns from the objectors, the permit applicant agreed to reduce the liquor license hours to the following:
- (a) Sunday to Wednesday - 12midday - 9:30pm;
 - (b) Thursday - 12midday - 10:30pm;
 - (c) Friday and Saturday - 12midday - 11pm.

85. While the sale and consumption of liquor in association with a place of assembly is reasonable, the nexus between a liquor license and the arts and craft centre is less clear. To ensure that the focus of the use remains as an art and craft centre, it is appropriate to limit the sale and consumption of liquor to scheduled events only, with the red line plan restricted to include the exhibition spaces only. These matters will be conditioned on permit accordingly.
86. Clause 22.09 (Licensed Premises) is Council's local policy to be considered in the assessment of an application to sell and consume liquor pursuant to clause 52.27. The following sections provide an assessment of the application against this policy.

Location and Access

87. The policy guides the location of licensed premises where:
- (a) land is not residential;
 - (b) potential amenity impacts can be managed;
 - (c) there is high level of public safety and surveillance; and
 - (d) unreasonable cumulative impacts would not occur
88. The subject site is appropriated located in a Commercial 1 Zone. While the site is at the edge of the Commercial 1 Zone, the immediately adjacent sites within the Neighbourhood Residential Zone (No. 99 & 100 Scotchmer Street) are also occupied by non-residential uses at ground level, with the rear tenancy on the subject site maintaining a buffer from the Neighbourhood Residential Zone to the south.
89. Subject to the conditions described earlier, the sale and consumption of liquor on the site is not anticipated to cause unreasonable amenity impacts. The primary activity on the land relates to the creation and display of art in addition to art performance and music, rather than a venue focused on vertical drinking.
90. As identified earlier, patron access is limited to Scotchmer Street only, minimising the potential impacts of patron movement on the wider residential area. As previously discussed, a condition will restrict patron access to Egremont Street. The Scotchmer Street entrance has two doors separated by an air lock with this design mitigating noise spillage from the premises as patrons enter or exit the site. A condition will also require that a sign is displayed on the site requesting patrons to be respectful of neighbours when leaving the premises.
91. The Scotchmer Street entry would provide a sufficient level of public safety and surveillance for patrons, being well lit and proximate to Queens Parade. The existing shop top dwellings along Scotchmer Street would also offer some passive surveillance of the area.
92. Patrons would be permitted to smoke along the Scotchmer Street frontage in front of the site. This area is lit and sheltered by a building canopy. Given that it is within a commercial zone with only commercial interfaces at ground level, this is considered an acceptable arrangement. Given limited shelter and lighting is provided along Egremont Street, it is unlikely that patrons will choose to smoke in this area.
93. The proposed liquor license is not anticipated to result in unreasonable cumulative impacts with other licensed premises within the surrounding area. Being a NAC, there are few licensed venues, with only three within 100 metres as described in the table below:

	Business name	Address	License Type	(Maximum) closing time	Patron capacity
1	Sortino Social Club Inc.	99-101 Scotchmer Street Fitzroy North	Late night (on – premises)	12am Monday-Saturday	200

2	Parkview Hotel	131-137 Scotchmer Street	Late night (general Licence_	3am	247
3	Old Matey	209 St Georges Road, Fitzroy North	On premises	11pm	80

94. Given the limited number of licensed venues nearby and that the liquor license is not proposed to extend beyond 11pm, a cumulative impact assessment is not warranted under *Practice Note 61 – Licensed premises: Assessing cumulative impact*.

Venue Design

95. Patron access has been discussed within the assessment of the location and access above.
96. As previously identified, Council's City Works Unit have requested a Waste Management Plan to be prepared by a waste collection service outlining details of private collection. This will be included as a condition accordingly. Also noted previously, waste storage is provided internally to the site, accessed via Egremont Street. This will reduce visual and noise impacts from the emptying of bins on the land. Notwithstanding this, standard conditions will be applied to any permit issued restricting hours for the disposal of glass bottles and collection of waste.

Hours of Operation

97. As mentioned earlier, Clause 22.09 encourages licensed premises in a Commercial Zone and within 30m of a Residential zone to not trade beyond to 11pm. The application is consistent with this policy, seeking to cease trade at 11pm Monday to Saturday and 10pm on Sunday. Notwithstanding the compliance with the standard, following the consultation meeting with the objectors, the permit applicant advised that they would be agreeable to reducing the hours to as follows:

- (a) Sunday – Wednesday 12pm to 9:30pm;
- (b) Thursday 12pm to 10:30pm;
- (c) Friday and Saturday 12pm to 11pm

98. These proposed reduced licence hours commencing from 12midday (instead of 10am), also exceeds the preferred 9am commencement under the clause 22.09.
99. The revised hours exceed the expectation of Council's recently amended clause 22.09 and therefore are considered appropriate. In addition to the restriction of the licence to during planned events within the art and craft centre and the place of assembly previously noted, the proposed sale and consumption of liquor will not be anticipated to result in unreasonable amenity impacts to the surrounding area.

Patron numbers

100. Clause 22.09 states that the number of patrons should not exceed the safe and amenable operating capacity of the premises. A patron capacity report was submitted with the application confirming that based on 147sqm of the front ground floor area; the subject tenancy can accommodate 100 people, including staff and 19 people within the place of assembly.
101. The patron capacity quotes a ratio of one patron per 0.75sqm under the Liquor control reform regulations. In light of the condition to reduce the red line plan to the exhibition spaces within the art and craft centre, it is appropriate to also reduce the capacity of the patrons within the licensed area.

The exhibition spaces with the art and craft centre are approximately 60sqm and 8sqm each, therefore based on the rate of one patron per 0.75sqm, the combined capacity would equate to 51 patrons within the art and craft centre. The patron numbers will be conditioned accordingly.

102. As previously discussed, given the moderate number of licensed venues within the surrounding area, and the restricted operating hours proposed, the proposed capacity of the venue would not cause any foreseeable cumulative impacts.
103. Based upon the aforementioned reduction in the patron numbers, the capacity of the venue would be consistent with Clause 22.09 and would not be expected to cause unreasonable amenity impacts on the surrounding residential area.

Noise

104. As discussed within the land use section, the acoustic report prepared by Norman Disney & Young indicates that the site will achieve live music venue standards defined in SEPP N-1, which permits live music three days per week and by implication, music levels on the remaining nights would need to be inaudible from within the residential area. While SLR have identified that this may be restrictive on the art and craft centre, given the residential interface context of the site, this more conservative approach to noise mitigation is supported. The acoustic report, subject to amendments discussed elsewhere in this report, would be endorsed via condition forming a requirement of any permit that issues.
105. Conditions previously discussed, such as precluding any live music outside the performance space will also ensure that noise emissions from the licensed premises do not unreasonably impact the surrounding area.
106. The site is entirely enclosed and as mentioned previously, the double doors will create a sound lock, restricting the transfer of noise outside the site. Based on the existing building design and the conditions outlined above, the proposed venue is not anticipated to cause unreasonable noise impacts on the surrounding area.

Noise and Amenity Action Plan (NAAP)

107. Clause 22.09-3 notes that all licenced premises should comply with a detailed NAAP. Accordingly a NAAP was submitted as part of this application providing procedures to be followed in the daily operation of the premises.
108. The NAAP provides further details regarding responsible serving of alcohol, security arrangements, waste collection and complaint procedures. The NAAP will be amended to reflect the reduced hours as discussed and will be endorsed as part of any permit issued, with further ongoing adherence with an endorsed floor plan.
109. The NAAP submitted by the applicant includes the following key elements:
 - (a) management of patrons entering and leaving the site via Scotchmer Street
 - (b) Designated smoking area on Scotchmer Street, away from direct residences in the residential zones to the south and east.
 - (c) a sign on the front door asking patrons to respect the neighbours when leaving the premises;
 - (d) musicians will be informed at time of booking the sound management practices for the site;
 - (e) a sound meter provided on the premises;
 - (f) proposed noise limits to comply with the State Environmental Protection Policy;
 - (g) contact for the applicant or venue manager be available for afterhours complaints and management;
 - (h) standards procedure record and handle complaints;
 - (i) two lights are fitted externally within the entrance of the building;

(j) live performance/music is limited 3 times per week;

110. According to the NAAP, staff will ensure that patrons leave the premises at the closing time each night in an orderly manner and that patrons do not congregate outside the site.
111. In general terms, it is considered that the application (subject to conditions previously discussed), satisfies clause 22.09 with the above NAAP requirements and conditions that will ensure sound operating practices are undertaken.

Car parking and Traffic

112. As outlined earlier, pursuant to the car parking table at Clause 52.06-2, a total of 10 car spaces are required. As no on-site car parks provided, a full reduction is sought.
113. In assessing the car parking reduction, consideration is to be given to a number of factors outlined at clause 52.06-6 of the Scheme. These relate to the associated car parking demand that the use may generate the availability and proximity to alternative transport options, provisions for bicycle parking within the site and the likelihood of multi-purpose trips within the locality. These are discussed throughout the assessment below.
114. The subject site is accessible to trams and bus services as outlined within the description of the surrounding area. These services operate after 11pm, thus providing public transport access to patrons leaving the site when the venue closes. Taxis and Uber services also provide alternate personal transportation to/from the site. Given strict drink-driving regulations in Victoria, patrons wishing to consume alcohol will be likely to use alternative transport rather than driving.
115. As identified earlier, the previous veterinary clinic generated a statutory requirement of 8 spaces (with none provided on site). Therefore the difference in the previous and proposed car parking requirements is two spaces. Given that it is not feasible to provide on-site parking, any commercial use will require a car parking reduction to be sought. Furthermore, the site being located within a NAC is likely to attract multi-destination visits, thereby sharing the car parking demand between uses.
116. The application was assessed by Council's Engineering Services unit, who confirmed they support the reduction of the car parking requirements for the site.
117. While no on-site bicycle required under Clause 52.34-3, the car parking report submitted with the application indicates that two bicycle spaces are to be provided on site. These are not shown on the plan and will be conditioned accordingly. This will further encourage alternative transport modes and reduce the demand for car parking.
118. On balance it is considered that the statutory shortfall of on-site car parking is acceptable for the proposed use and site context and can be justified on the basis of the car use demand generated in the study outlined above.

Objector Concerns

119. Objector concerns have been addressed within the body of this report, the following section provides a summary of the assessed outcomes discussed earlier:

Ambiguity of uses including liquor licence and hours;

120. The proposed use and liquor license is summarised with the proposal section at paragraph 18, with Planning Scheme definition of the uses contained at paragraph 33. Further discussion regarding the uses contained at paragraphs 62 to 66.

Car parking impacts;

121. This has been discussed in paragraph 112 to 118,

Noise impacts from within the building and noise associated with patrons on the footpath and dispersing through surrounding streets;

122. Noise impacts have been addressed in paragraph 67 to 74 and 104 to 111.

Management of hours for deliveries of food and alcohol;

123. This will be addressed via permit conditions of any permit that is issued (specifically condition 22)

Antisocial behaviour, including queuing on footpath.

124. Amenity impacts are discussed with the assessment of the use and the liquor license at paragraphs 62 to 111.

Conclusion

125. The proposal is considered to be acceptable having regard to the relevant State and Local policies under the Yarra Planning Scheme as outlined in the above assessment and should therefore be approved, subject to conditions.

RECOMMENDATION

That having all objections and relevant planning documents, the Committee resolves to issue a Notice of Decision to Grant a Permit PLN18/0066 to use of the land as a Place of Assembly and reduction in the car parking requirements associated with a Place of Assembly and an Art and Craft Centre (no permit required for use), and the sale and consumption of liquor at 102-106 Scotchmer Street, Fitzroy North. The report recommends approval of the application subject to conditions.

1. Before the use and 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 (received by Council on 14 March 2018) but amended to show;
 - (a) Remove reference to 'indoor courtyard';
 - (b) Remove reference to 'bar' on the floor plans;
 - (c) 'Red line' modified to restrict the licensed areas to the performance space and exhibition areas only;
 - (d) Location of two bicycle spaces within the site boundaries;
 - (e) Any amendments as required by the Acoustic Report pursuant to condition 13; and
 - (f) Any amendments as required by the Waste Management Plan required pursuant to condition 19.
2. The use and the sale and consumption of liquor as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. Except with the prior written consent of the Responsible Authority, no more than 19 patrons are permitted within the performance space (Place of Assembly) at any one time;
4. Except with the prior written consent of the Responsible Authority, no more than 51 patrons are permitted within the red line/licensed area of the art and craft centre at any one time.

5. Except with the prior written consent of the Responsible Authority, the Place of Assembly (performance space) use authorised by this permit may only operate between the following hours;
 - (a) Sunday – Wednesday 12pm to 9:30pm;
 - (b) Thursday 12pm to 10:30pm;
 - (c) Friday and Saturday 12pm to 11pm
6. Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor may only occur between the following hours:
 - (a) Sunday – Wednesday 12pm to 9:30pm;
 - (b) Thursday 12pm to 10:30pm;
 - (c) Friday and Saturday 12pm to 11pm
7. In addition to Condition 6, the sale and consumption of liquor associated with the art and craft centre may only occur during scheduled/planned events.
8. Without the prior written consent of the Responsible Authority, live music is only permitted within the 'performance space' (Place of Assembly) as shown on the plans;
9. The door to Egremont Street must not be accessed (or used) by patrons (except in case of emergency).
10. The amenity of the area must not be detrimentally affected by the use, including through:
 - (a) the transport of materials, goods or commodities to or from land;
 - (b) the appearance of any buildings, works or materials;
 - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
 - (d) the presence of vermin.to the satisfaction of the Responsible Authority.
11. The use must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
12. The use must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).
13. Before the use 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 must be generally in accordance with the Acoustic Report prepared by Norman Disney and Young (Revision 3.0, issued 14 March 2018) and received by Council on 14 March 2018, but modified to include;
 - (a) Assessment of noise sensitive receivers at the east-facing windows at No.100 Scotchmer Street;
14. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
15. Amended Noise and Amenity Action Plans (NAAPs) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended the NAAPs will be endorsed and will form part of this permit. The amended NAAPs must be generally in accordance with the NAAPs received by Council on 13 March 2018 but modified to include (or show, or address):

- (a) The contact personal/ venue manager for after hours complaints and management.
 - (b) The amended hours of operation as per condition 6.
16. The provisions, recommendations and requirements of the endorsed Noise and Amenity Action Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
 17. Speakers external to the building must not be erected or used.
 18. Before the commencement of the sale and consumption of liquor, the applicant must, to the satisfaction of the Responsible Authority, display a sign at the exit of the licensed premises advising patrons to respect the amenity of adjacent residential areas and to leave in a quiet and orderly manner
 19. Before the use and/or 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.
 20. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
 21. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.
 22. Emptying of bottles and cans into bins may only occur between 7am and 10pm on any day.
 23. Except with the prior written consent of the Responsible Authority, delivery and collection of goods to and from the land may only occur between 7am and 10pm on any day.
 24. This permit will expire if the use or the sale and consumption of liquor are not commenced within two years from the date of this permit. The Responsible Authority may extend the period referred to if a request is made in writing before the permit expires or within 6 months afterwards for commencement.

Notes:

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

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.

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

Clause 74 of the Yarra Planning Scheme, the definition of an Arts and Craft is *Land used to manufacture, display, and sell, works of art or craft, such as handicrafts, paintings, and sculptures.*

CONTACT OFFICER: Tamina Loan Vy
TITLE: Statutory Planner
TEL: 92055104

Attachments

- 1 PLN18/0066 - 102 - 106 Scotchmer Street Fitzroy North - Advertising S52 - Plans
- 2 PLN18/0066 - 102 - 106 Scotchmer Street Fitzroy North - Advertising S52 - Use Schedule
- 3 PLN18/0066 - 102 - 106 Scotchmer Street Fitzroy North - Advertising S52 - Venue Capacity Report
- 4 PLN18/0066 - 102 - 106 Scotchmer Street Fitzroy North - Advertising S52 - Noise and Amenity Action Plan
- 5 PLN18/0066 - 102 - 106 Scotchmer Street Fitzroy North - Advertising S52 - Live Music Venue Report
- 6 PLN18/0066 - 102 - 106 Scotchmer Street Fitzroy North - Advertising S52 - Liquor Licence Report
- 7 PLN18/0066 - 102 - 106 Scotchmer Street Fitzroy North - Advertising S52 - Waste Management Plan
- 8 PLN16/0088 - 102-106 Scotchmer St, Nth Fitzroy SLR consulting peer reviewed advice.
- 9 PLN18/0066 - 102 - 106 Scotchmer Street Fitzroy North - Engineering comments
- 10 PLN18/0066 - 102 -106 Scotchmer Street, Fitzroy North. City Works (waste management) advice.
- 11 PLN18/0066 - 102 - 106 Scotchmer Street Fitzroy North. Civic Compliance advice.

1.2 3 Park Crescent, Fairfield - PLN17/0213 - Buildings and works to construct a second dwelling on the allotment and for works associated with the existing dwelling, a two (2) lot subdivision and vegetation removal

Executive Summary

Purpose

1. This report provides Council with an assessment of an application at 3 Park Crescent, Fairfield, for buildings and works to construct a second dwelling on the allotment and for works associated with the existing dwelling, a two (2) lot subdivision and vegetation removal. The report recommends approval of the application subject to a number of conditions.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Clause 15.01 – Urban Environment;
 - (b) Clause 22.10 – Built Form and Design Policy;
 - (c) Clause 32.09 – Neighbourhood Residential Zone (Schedule 2);
 - (d) Clause 55 – ResCode;
 - (e) Clause 42.03 and Clause 43.02 – Yarra (Birrarung) River Corridor Protection and Environs.

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Clause 55 of the Yarra Planning Scheme (ResCode);
 - (b) Subdivision;
 - (c) Vegetation Removal and Yarra River Environs;
 - (d) Inundation and flooding; and
 - (e) Objector concerns.

Objector Concerns

4. Six objections were received to the application, these can be summarised as:
 - (a) Neighbourhood character: the size of the second dwelling is at odds with the prevailing character and does not respond to the sloping site;
 - (b) Tree removal and protection: concern that trees are proposed to be removed on adjoining allotments without permission, removal of trees will increase views between properties, concern with works in proximity to tree 17, lack of landscaping proposed to offset tree removal.
 - (c) Amenity impacts to adjoining properties: overlooking, overshadowing.
 - (d) Building bulk and setbacks: New dwelling will detract from views from the Yarra River and will have an unreasonable impact on adjoining secluded private open space areas, will be dominating to Panther Place.
 - (e) Car parking, traffic and pedestrian safety: Increased traffic within Panther Place will impact on pedestrian and existing vehicular safety, no visitor car parking is provided, Panther Place is already dangerous for pedestrians.
 - (f) Construction management: potential blasting of basalt rock, impacts to the adjoining properties, trucks accessing Panther Place causing disruption.

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: Michelle King
TITLE: Senior Statutory Planner
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1.2 3 Park Crescent, Fairfield - PLN17/0213 - Buildings and works to construct a second dwelling on the allotment and for works associated with the existing dwelling, a two (2) lot subdivision and vegetation removal

Trim Record Number: D18/89990

Responsible Officer: Senior Coordinator Statutory Planning

Proposal: Buildings and works to construct a second dwelling on the allotment and for works associated with the existing dwelling, a two (2) lot subdivision and vegetation removal

Existing use: Single dwelling on a lot

Applicant: Peninsula Planning Consultants Pty Ltd

Zoning / Overlays: Neighbourhood Residential Zone (Schedule 2)
Design and Development Overlay (Schedule 1)
Significant Landscape Overlay (Schedule 1)
Land Subject to Inundation Overlay

Date of Application: 17/03/17

Application Number: PLN17/0213

Planning History

1. Planning Permit No.630/234/3 was approved by the City of Northcote on the 29th of April, 1988, for a four lot subdivision.
2. Planning application No. 94/156 for a three lot subdivision was refused at the direction of VCAT on the 2nd of March, 1995.
3. Planning Permit No. 95/085 was approved by Council on the 20th of March, 1996, for a two lot subdivision.
4. Planning Permit No. 97/185 was approved by Council on the 24th of March, 1997, for demolition of existing concrete slabs, retaining walls and clearance of vegetation.
5. Planning Permit No. 97/125 was approved by Council on the 2nd of June, 1997, for the construction of a new dwelling (on the second lot created under Planning Permit No. 95/085). The subdivision and the construction of the new dwelling have taken place.
6. Planning Permit No. 000777 was approved by the Council on the 11th of July, 2001, for excavation for the construction of two car parking spaces, construction of a retaining wall, the demolition of an existing retaining wall and the removal of two trees.
7. Planning Permit PLN11/0200 was issued 12 September 2011 for the removal of vegetation.
8. Planning Permit PLN16/0023 was issued 30 May 2016 for the removal of vegetation.

Background

9. The application was received by Council on 17 March 2017, with additional information received on 27 November 2017. The application was advertised on 19 December 2017, with six (6) objections received.
10. A consultation meeting was held on 15 May 2018 and attended by the applicant, Council officers and six objectors. During the meeting the applicant agreed to a condition requiring a landscaping plan.

Additional Information

11. Additional information to respond to the objections was provided on 1 May 2018. It is noted whilst further details were provided on the development plans, such as the provision of a river sight line, the proposed development was not modified and no formal amendment to the application was made.

Existing Conditions

Subject Site

12. The subject site is located on the south side of Park Crescent, between Panther Place to the west and Station Street to the east, in the suburb of Fairfield. Heidelberg Road is approximately 50 metres to the north. The subject site is irregular in shape and has a street frontage to Park Crescent for a length of 49.83m, a frontage to Panther Place for a length of 9.5m, an eastern boundary for a length of 107.5m and an irregular / staggered western boundary with an overall length of 53.09m and a southern boundary abutting the Yarra River for a length of 9.4m. The total site area is approximately 1,900sqm.
13. The overall site has an appreciable fall of 29 metres in a north to south direction, from Park Crescent to the Yarra River. The portion of the site that is the subject of the development, between Park Crescent and Panther Place, has an appreciable fall of 11 metres from north to south.
14. The site is currently developed with a part single / part double-storey weatherboard Edwardian-era dwelling located in the north-eastern corner of the site. Access for car parking off Park Crescent exists toward the north western corner and Panther Place to the west (in accordance with Planning Permit No. 000777).
15. The dwelling has substantial landscaped grounds and a river frontage. A Tree Identification Report, prepared by Galbraith and Associates, was submitted with the application and describes the vegetation on site as follows:

The trees on the site have all been planted within the last 30 years or are seriously invasive environmental weeds. Most are small fruit trees including Walnut, Pear, Quince, Sapote, Pineapple Feijoa, White Mulberry, European Fig and Quince. The largest planted trees are a Lemon Scented Gum of approximately 13m in height (tree 9), and a Queensland Silky Oak of approx. 16m height (tree 27). There are no examples of self-sown native vegetation although some planted Blackwoods are present, none of which are affected by the proposal.

16. There are no restrictive covenants which affect the subject site.
17. There are a number of easements over the site. A number of which are in favour of Lots on LP 210401B (Nos. 1, 2 and 3 Panther Place).
18. Easements E1, E2, E4 and E5 affect the portion of the allotment providing access to the river bank and are in favour of the allotments on LP201401B and the Melbourne Metropolitan Board of Works for sewerage, drainage and inundation purposes.
19. Easement E3 applies to a trapeze shaped portion of land to the south-west, across both Lot 1 (subject site) and Lot 2 (4 Panther Place) for the purpose of a way, drainage and supply of water, electricity, telecommunications and gas for the allotments on LP201401B.
20. It is noted the subject site was previously part of LP201401B and is afforded with legal access from the internal road (Panther Place) which is created by a number of easements referenced as E4 on LP210401B.

Surrounding Land

21. The surrounding land is predominantly residential in nature, with properties to the north along Heidelberg Road located with a Commercial 2 Zone. These buildings are oriented to face Heidelberg Road with the rear interface presenting as the 'back of house' for these buildings. These buildings are typically two storey with high fencing in excess of 1.5 metres.
22. To the west is 4 Panther Place (created by a Planning Permit No. 95/085 as referenced above). This allotment contains a double storey dwelling constructed of timber with a flat roof. The dwelling has large expanses of glazing along the southern elevation to capitalise on views to the Yarra River and parkland beyond. The secluded private open space is provided in the form of a deck on the southern side of the dwelling. The dwelling maintains generous setbacks to the eastern, western and southern site boundaries with an approximate site coverage of 30%. The site is heavily vegetated. Most notable is Tree 17, a 19 metre high River Red Gum. This tree is considered to be a significant naturally occurring tree and is located 1.7 metres from the common boundary with the site.
23. To the south is an extension of Panther Place, created by various easements as referenced above for the purpose of an access way to the subject site and Nos. 1, 2 and 3 Panther Place. These dwellings are located abutting Panther Place with vehicular access from the internal road. The dwellings present as a robust built form to the internal road and are oriented to face the Yarra River and parkland beyond with primary outlooks and private open space areas on the south side of the dwellings. Nos. 2 and 3 Panther Place are sited abutting one another, a generous setback is provided between Nos. 1 and 2 Panther Place to allow for significant planting of trees. No. 1 Panther Place is sited approximately 2 metres from the common boundary with no windows oriented to face the subject site.
24. To the south of these allotments is the Yarra River, beyond which is Yarra Bend parkland which includes the Main Yarra Trail and Fairfield Pipe Bridge Trail, in the City of Boroondara (in the suburb of Kew).
25. To the east is a complex of six (6) townhouses accessed off a single driveway with communal car park from Park Crescent to the north, and with a common river frontage garden. The garages of this development are built to the common boundary with the site for a length of approximately 13 metres. No. 5A Park Crescent is sited within the north eastern corner of the site and generally interfaces with the existing dwelling. No. 7A Park Crescent is setback approximately 2 metres from the common boundary and contains west facing windows.

The Proposal

26. The proposed development is for buildings and works to construct a second dwelling on the allotment and for works associated with the existing dwelling, a two (2) lot subdivision and vegetation removal. The development can be summarised as follows:

Dwelling 1

27. The existing dwelling will not be modified and contains two bedrooms, a bathroom and studio at lower ground level and four bedrooms, living spaces and laundry/bathroom at the upper floor. The dwelling does not have consistent setbacks to the site boundaries and is setback a minimum 1 metre from the east, 3.7 metres from Park Crescent, 18 metres from the west and 27 metres from the south (not including the frontage to the Yarra River).
28. The secluded private open space is provided in the form of a wraparound verandah/deck (77sqm), oriented to face south to capitalise on views to the Yarra River and parkland beyond.

29. A double car carport is proposed within the north western corner of the site, utilising and extending the existing crossover. A new storage shed is also proposed to be located to the south of the existing dwelling and to the west of an existing enclosed vegetable garden, against the southern boundary of proposed Lot 2.

Dwelling 2

30. Dwelling 2 is proposed to be constructed south of the existing dwelling, separated by a minimum 8 metres (taken from the south western point of the existing dwellings upper level deck to the northern point of the proposed dwellings upper level bathroom). The land to which the dwelling is to be constructed will have an approximate fall of 4 metres.
31. The lower ground level is proposed to contain secondary living spaces, two bedrooms, a bathroom and lower deck (17sqm). The lower ground level is proposed to be set within the landscape, requiring a maximum site cut of 3 metres on the north eastern side. The lower ground floor adopts minimum setbacks of 8.6 metres to the west, 5.3 metres to the east and 6.3 metres to the south.
32. The upper level is proposed to contain living spaces, kitchen, laundry and three bedrooms. A primary deck is also proposed facing south, with an area of 24sqm. The upper level adopts minimum setbacks of 6.8 metres to the west, 4.7 metres to the east and 5.2 metres to the south.
33. Due to the slope of the land the upper ground level will be accessible by pedestrians from the northern side of the dwelling, and will be 5.4 metres above natural ground level to the south. The dwelling will be accessible from Panther Place via steps from the carparking area, and steps up onto the lower deck.
34. The maximum height of the new building will be 8.4 metres above natural ground level due to a proposed clerestory roof, to maximise exposure to the north. The predominant height of the dwelling will be approximately 8.1 metres.
35. The car parking for the dwelling will be provided in the form of the existing car parking spaces, approved as part of Planning Permit No. 000777, accessed from Panther Place.

Vegetation

36. Three (3) trees are proposed to be removed:
- (a) Tree 1 (*Ulmus glabra* 'Camberdown'). This tree is exotic and noted as being 4 metres high with a canopy spread of 6 metres. The arborist report notes that this tree is a small spreading tree which is heavily lopsided to the south east.
 - (b) Tree 4 (*Juglans regia*). This tree is exotic and noted as being 9 metres high with a canopy spread of 7 metres. The tree is bifurcated with the arborist noting that whilst the tree is in fair good health, a 'canker' is present above 4.5 metres, an indication of disease, and that the tree leans north.
 - (c) Tree 28 (*Morus alba*). This tree is exotic and has a bifurcated trunk. The tree is 5 metres tall with a canopy spread of 7 metres. The arborist notes this tree as being a small tree of little note.
37. Several other trees are proposed to be removed that do not require a planning permit for their removal. The 'tree removal plan' submitted with the application clearly identifies those trees to be removed requiring a planning permit.

Subdivision

38. To subdivide the land into two lots in accordance with the 'plan of proposed subdivision' submitted, with the existing dwelling on lot 1 (1032m²) and the new dwelling on lot 2 (867m²).
39. The proposed subdivision accords with the development as considered as part of this application.

General

40. The following table provides an overview of the proposed development:

No of dwellings	Two (1 x 6 bedrooms & 1 x 5 bedrooms)
Site area	1900sqm
Garden area	72% of site (1374sqm).
No of car spaces	4 spaces (no reduction required)
Max building height	8.4 metres (new dwelling)
Site coverage	23%
Permeability	69%

Planning Scheme Provisions

Zoning

Neighbourhood Residential Zone (Schedule 2)

41. The subject site is zoned Neighbourhood Residential Zone (Schedule 2). The following provisions apply:
 - (a) Pursuant to clause 32.09-3 of the Yarra Planning Scheme (the Scheme), a permit is required to subdivide land. A development must meet the requirements of Clause 56;
 - (b) Pursuant to clause 32.09-5 of the Scheme, a permit is required to construct a dwelling if there is at least one dwelling existing on the lot. A development must meet the requirements of clause 55;
 - (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;
 - (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 1900sqm, a garden area of 35% is required and as noted above, is provided.
 - (e) However, clauses 32.09-4 and 39.09-9 do not apply to a planning permit application lodged before the approval date of Amendment VC110 (27 March 2017). As the application was lodged prior to VC110, these provisions do not apply.

Overlays

Design and Development Overlay (Schedule 1)

42. The subject site is located within the Design and Development Overlay (Schedule 1). The following provisions apply:
 - (a) Pursuant to clause 43.02-2 a permit is required to construct a building or construct or carry out works. Buildings and works must be constructed in accordance with any requirements in a schedule to the overlay.

- (b) Schedule 1 at clause 2.0 contains the following mandatory requirements:

Buildings and works must not cast any additional shadow across the Setback Reference Line specified in each Setback Map Reference to this schedule between 11:00am and 2:00pm on 22 June.

A new building must:

- *Not exceed the maximum height specified in each table of this schedule measured from natural ground level.*
- *Be set back at least the minimum specified in each table of this schedule from the Yarra River.*

- (c) Schedule 1 at clause 2.0 contains the following discretionary requirements:

Buildings should not cast any additional shadow across any public open space between 11:00am and 2:00pm on 22 September.

The site area covered by buildings (including tennis courts and swimming pools) and other impervious surfaces within a residential area should not exceed 40 per cent of the total area of land within a lot.

Tennis courts, swimming pools and other outbuildings associated with a dwelling should be set back the minimum distance specified in each table of this schedule from the Yarra River.

Building materials should utilise non-reflective colours and finishes to blend with the existing natural landscape character of an area.

- (d) The site is located in DDO1 map area 'B' where the following applies:

DDO1 Map Area Ref.	Location	Mandatory Requirements		
		Minimum Setback Line (MMSL) ¹	Maximum Height	
			Whole of site	Sloping ²
B	Park Street to Rex Avenue, Fairfield	40m	8m	9m

The proposed dwelling is setback in excess of the mandatory 40 metre minimum setback line, approximately 64 metres from the Yarra River.

The slope of the land is in excess of 19 degrees and therefore is considered to be a sloping site and the 9 metre mandatory height limit applies.

- (e) Pursuant to clause 43.02-3 a permit is required to subdivide land. Subdivision must occur in accordance with any lot size or other requirement specified in a schedule to this overlay. Schedule 1 contains no specified requirement restricting lot sizes and therefore no minimum lot size requirement applies.

Significant Landscape Overlay (schedule 1)

43. Pursuant to clause 42.03-2 A permit is required to construct a building or construct or carry out works and to remove, destroy or lop any vegetation specified in a schedule to the overlay.

- (a) Schedule 1 at clause 3.0 identifies that a permit is required to remove, destroy or lop vegetation, unless the vegetation is not native and has all of the following:

- *a trunk circumference of less than 0.35 metre at 1 metre above ground level;*

- a height of less than 6 metres; and
- a branch spread of less than 4 metres.

Pursuant to the requirements of the overlay a planning permit is required for the removal of Trees 1, 4 and 28.

Land Subject to Inundation

44. It is noted that the buildings and works are not located within the Land Subject to Inundation Overlay and therefore a permit to construct a building or construct or carry out works is not triggered pursuant to clause 44.04-1.
45. Pursuant to clause 44.04-2 a permit is required to subdivide land.
46. Pursuant to Clause 44.04-4, an application under this overlay 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.
47. Pursuant to clause 44.04-5 an application must be referred to the relevant floodplain management authority (Melbourne Water) under Section 55 of the Act.

Particular Provisions

Clause 52.06 – Car Parking

48. Pursuant to the Car parking requirement table at clause 52.06-5 of the Scheme, dwellings are required to provide on-site car parking spaces as follows:

Land Use	Rate	No. of dwellings proposed	Spaces required	Spaces proposed	Reduction sought
Dwelling	1 car space to each 1 and 2 bedroom dwelling.	N/A	-	-	0
	2 car spaces to each 3 or more bedroom dwelling.	2	4	4	0
	1 visitor spaces to each 5 dwellings	N/A	-	-	0
			4	4	0
Total					0

49. As no car parking reduction is sought, no permit is required under clause 52.06.

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

50. Pursuant to clause 55 of the Scheme this provision applies to an application to construct a dwelling if there is at least one dwelling existing on a lot within the Neighbourhood Residential Zone. A development must meet the objectives of Clause 55 (except Clauses 55.07-1 to 55.07-15 inclusive) but does not need to meet the standard.

Clause 56 – Residential subdivision

51. Pursuant to clause 56 of the Scheme this provision applies to an application to subdivide land in the Neighbourhood Residential Zone. A development must meet the objectives of Clause 56 but does not need to meet the standard.

General Provisions

Clause 65 – Decision guidelines

52. 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.
53. 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 66.01 – Subdivision Referrals

54. Clause 66.01 outlines the kind of application for subdivision that requires referral. Two lot subdivisions are exempt from planning permit referral pursuant to clause 66.01 of the Scheme. It is noted Section 8 of the Subdivision Act 1988 requires the subdivision to be referred for certification, certification of the subdivision has not been applied for at the present stage.
55. Pursuant to clause 66.01-1 of the Scheme, permits for subdivisions not requiring referral must include the following conditions:
- *The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.*
 - *All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.*
 - *The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.*
56. Pursuant to clause 66.01-1 of the Scheme, a permit for subdivision must contain the following conditions:
- *The owner of the land must enter into an agreement with:*
 - a) *A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and*
 - b) *A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.*
 - *Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:*

- a) *A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and*
- b) *A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.*

State Planning Policy Framework (SPPF)

Clause 11.02 – Urban 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' and 'Concentrate urban expansion into growth areas that are served by high-capacity public transport'.*

Clause 11.06-2 – Housing Choice

58. *The objective of this clause is 'to provide housing choice close to jobs and services'.*

Clause 11.06-4 – Place and amenity

59. *The objective of this clause is 'to create a distinctive and liveable city with quality design and amenity'.*

Clause 15 – Built Environment and Heritage

Clause 15.01-1 – Urban environment

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

Clause 15.01-4 – Design for safety

61. *The objective of this clause is 'to improve community safety and encourage neighbourhood design that makes people feel safe'.*

Clause 15.01-5 – Cultural identity and neighbourhood character

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

Clause 15.02-1 – Energy and resource efficiency

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

Clause 15.03-2 – Aboriginal cultural heritage

64. *The objective of this clause is 'to ensure the protection and conservation of places of Aboriginal cultural heritage significance'.*

65. *Planning must consider as relevant:*

- (a) *The Aboriginal Heritage Act 2006 for all Aboriginal cultural heritage;*

- (b) *The findings and recommendations of the Aboriginal Heritage Council;*
- (c) *The findings and recommendations of the Victorian Heritage Council for post - contact Aboriginal heritage places where relevant.*

66. The subject site is located within 200m of the Yarra River as defined in Division 3 of the *Aboriginal Heritage Regulations 2007* (the Regulations). The proposal is not considered to be a high impact activity. In accordance with Section 45 and 46 of Division 4 of the Regulations, the construction of a second dwelling and subdivision into two allotments is below the high impact threshold.
67. It is therefore considered that the proposal does not trigger the need for a Cultural Heritage Management Plan (CHMP) under the *Aboriginal Heritage Act 2006*.

Clause 16 – Housing

Clause 16.01-1 – Integrated housing

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

Clause 16.01-2 – Location of residential development

69. The objective of this clause is *‘to locate new housing in or close to activity centres and employment corridors and at other strategic redevelopment sites that offer good access to services and transport’*

Clause 16.01-4 – Housing diversity

70. The objective of this clause is *‘to provide for a range of housing types to meet increasingly diverse needs’*.

Clause 16.01-5 – Housing affordability

71. The objective of this clause is *‘to deliver more affordable housing closer to jobs, transport and services’*

Local Planning Policy Framework (LPPF)

Clause 21 – Municipal Strategic Statement (MSS)

Clause 21.03 – Vision

72. 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

73. The relevant objectives and strategies of this clause are *‘to accommodate forecast increases in population’* and to *‘support residual population increases in established neighbourhoods’*.

Clause 21.05 Built form

Clause 21.05-2 – Urban design

74. 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

75. This clause builds upon the Objectives outlined at Clause 18, promoting cycling, walking and public transport as alternatives to private motor vehicle usage. The clause encourages the following:
- (a) *Yarra needs to reduce car dependence by promoting walking, cycling and public transport as viable and preferable alternatives.*

Clause 21.08 Neighbourhoods – Fairfield – Alphington

76. The policy describes this area as: *“to the east of Yarra Bend Park is a green, leafy, residential area, comprising late Victorian, Edwardian and interwar dwellings. Dwellings have generous front and side setbacks and allotments are double fronted and deep allowing for large spacious gardens and substantial backyards. The neighbourhood also has a significant amount of open space. The Northern Metropolitan Institute of Tafe and the Victorian Institute of Forensic Mental Health lie within the parkland”.*

Relevant Local Policies

Clause 22.08 – Protection of biodiversity

77. This policy applies to land covered by the Environmental Significant Overlay Schedules 1, 2 and 3 (ESO1, ESO2, ESO3).
78. Planning Scheme Amendment GC48 was gazetted on 24 February 2017. This amendment removed the ESO1 from the land and applied the SLO1 in its place.
79. Clause 22.08 remains the appropriate local policy to consider the protection of biodiversity on the land.

Clause 22.10 – Built form and design policy

80. 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”*
81. 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

82. 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.
83. The site is categorised as a Park Landscape River Edge built form type. Clause 22.13 does not outline specific requirements for the Park Landscape River Edge type.

Clause 22.16 – Stormwater Management (Water Sensitive Urban Design)

84. 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).*
85. In response to the above provision, a STORM assessment has been submitted. The assessment provides a 40,000 litre rainwater tank, collecting water from the roof area of the proposed dwelling achieving a STORM rating of 131%.

Clause 22.17 – Ecologically Sustainable Development Policy

86. This policy does not apply to the application as only one new dwelling is proposed to be built.

Advertising

87. The application was originally advertised in December, 2017 with 23 letters sent to surrounding owners and occupiers, and by a sign on site. Six (6) objections were received. Objections are summarised as follows:
- (a) Neighbourhood Character: the size of the second dwelling is at odds with the prevailing character and does not respond to the sloping site;
- (b) Tree removal and protection: : concern that trees are proposed to be removed on adjoining allotments without permission, removal of trees will increase views between properties, concern with works in proximity to tree 17, lack of landscaping proposed to offset tree removal.
- (c) Amenity impacts to adjoining properties: overlooking, overshadowing.
- (d) Building bulk and setbacks; New dwelling will detract from views from the Yarra River and will have an unreasonable impact on adjoining secluded private open space areas, will be dominating to Panther Place.
- (e) Car parking, traffic and pedestrian safety: Increased traffic within Panther Place will impact on pedestrian and existing vehicular safety, no visitor car parking is provided, Panther Place is already dangerous for pedestrians.
- (f) Construction management: potential blasting of basalt rock, impacts to the adjoining properties, trucks accessing Panther Place causing disruption.

Referrals

External Referrals

88. The application was referred to Melbourne Water pursuant to Clause 44.05-5 of the Scheme. Melbourne Water provided the following response:

Thank you for your email dated 19 December 2017 regarding a town planning application referral with the above details. Melbourne Water, pursuant to Section 56(1) of the Planning and Environment Act 1987, does not object to the proposal.

Advice

Melbourne Water has determined that the dwelling proposal will not affect the Yarra River and its natural environs. The building footprint is 64m away from the waterway, and is outside of the Land Subject to Inundation Overlay (LSIO) therefore is not subject to flooding. The relevant building setback requirement from the waterway is 40m from the top of bank line. This requirement has been sufficiently met.

Any future plans for construction of buildings or works in the area along the Yarra River, will be required to be referred to Melbourne Water for comment.

Internal Referrals

89. The application was referred to the following internal Departments, with the advice included in the attachments to this report:
- (a) Engineering Unit;
 - (b) Open Space Unit (Arborist Referral);
90. The comments are located in the appendix of this report.

OFFICER ASSESSMENT

91. The following key issues and policies will be used to frame the assessment of this planning permit application:
- (a) Clause 55 of the Yarra Planning Scheme (ResCode);
 - (b) Subdivision;
 - (c) Vegetation Removal and Yarra River Environs;
 - (d) Inundation and flooding;
 - (e) Objector concerns.

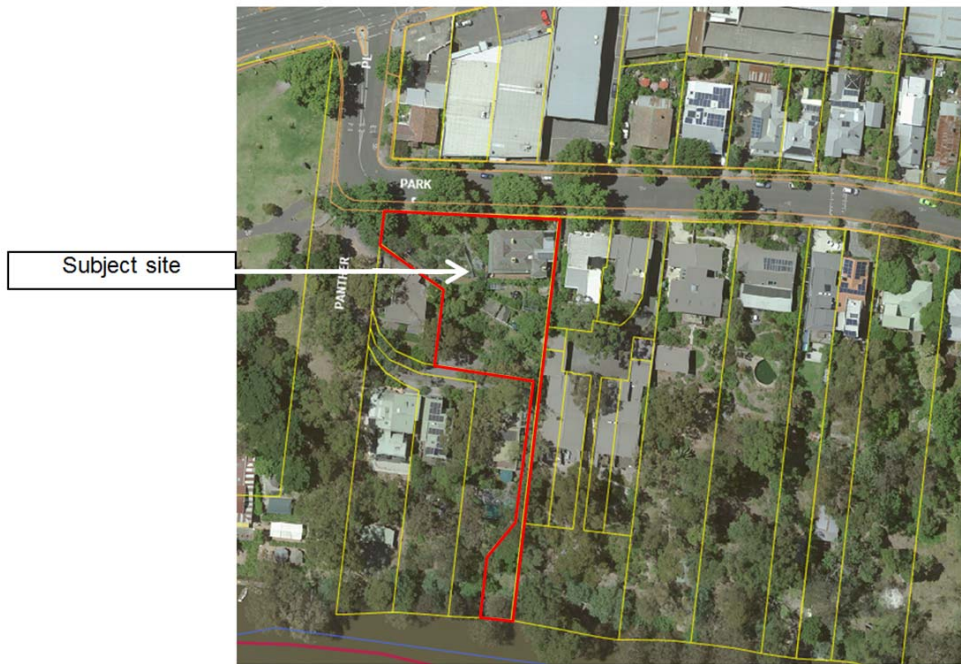
Clause 55 of the Yarra Planning Scheme (ResCode)

92. Clause 55 comprises 48 design objectives and standards, 33 which are relevant to this application, to guide the assessment of new residential development.

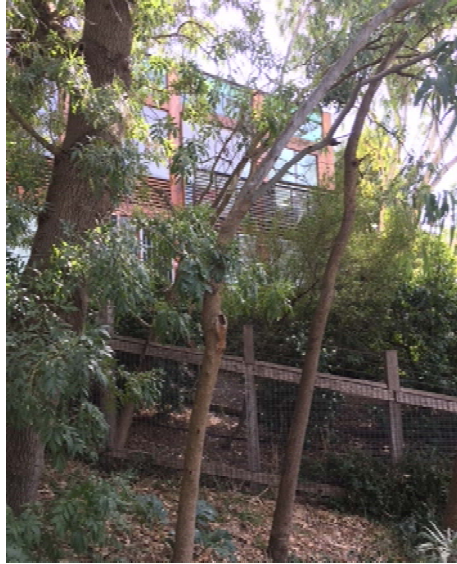
Neighbourhood Character and Infrastructure

Clause 55.02-1 Neighbourhood character objectives

93. The subject site is not located in an area of Park Crescent that exhibits a strong sense of neighbourhood character. The subject site itself is positioned to the south of a Commercial 2 Zone where the allotments facing Heidelberg Road present to Park Crescent as a 'back of house' area. No. 358 Heidelberg Road is an exception to this character, with the rear portion of this allotment used as a dwelling. This dwelling exhibits a bushy front yard and is oriented to face Park Crescent with a pedestrian entrance located along this frontage.
94. In this part of Park Crescent there is an eclectic mix of dwellings with a mix of construction eras and dwelling styles present. As the below aerial indicates, the subject site is within an area where subdivision and multi dwelling development has occurred resulting in no typical lot layout or dwelling siting.



95. Garage structures along Park Crescent are prevalent and whilst these existing garages are setback from the street frontage it is noted that the open structure of the proposed carport will allow views to the vegetation beyond.
96. The proposed carport for the existing dwelling adopts a hipped roof form, consistent with the style of the existing dwelling. Whilst the setback of the carport is further forward than development on adjoining allotments it is considered that the design of an open carport, interfacing with a Commercial 2 Zone, is appropriate in regards to the surrounding context.
97. There are no consistent setbacks provided to the side or rear boundaries, with on boundary construction and minimal side setbacks present in the surrounds. The side setbacks to the adjoining properties of the new dwelling are more generous than typically found within the immediate surrounds through multi-unit development, aiding in addressing unreasonable visual bulk impacts that may occur given the sloping nature of the site.
98. There is no strong separation distance between dwellings evident in this part of Park Crescent/Panther Place. Infill development, such as the dwellings to the south of Panther Place and those located at 5-7 Park Crescent, are typically sited with minimal distances between dwellings. The proposal would provide consistently generous side setbacks with regard to the other development in the area, with a minimum of 4.7 metres to the eastern dwelling (which is built to the boundary) and 12 metres to the dwelling to the west.
99. The one feature which is generally consistent in this area of Fairfield is that each dwelling provides adequate space for the planting of canopy trees either to the side or rear of dwelling structures. The subject proposal maintains this characteristic. For the existing dwelling there is adequate space for the planting of canopy trees between the existing dwelling and proposed carport. For the proposed dwelling there is adequate space to the western side and to the south.
100. The extension of Panther Place is created by easements to which the subject site benefits. Concerns regarding the visibility of the dwelling to Panther Place were raised throughout the process. A site visit of Panther Place demonstrates that robust built form interfacing with this internal road is not uncommon. The following image is taken of No. 4 Panther Place, which presents as a sheer double storey building on the northern side of Panther Place.



101. The proposed dwelling provides variation in materiality and setbacks on the southern elevation to provide a well-articulated response. Similar to dwellings on the southern side of Park Crescent the dwelling has been oriented with substantial glazing on the southern elevation to allow for views to the Yarra River and bushy landscaped setting of the parkland beyond. It is also noted that the dwelling is generally setback 6 metres from the southern boundary with a minimum 2.4 metre setback to the car space. This is adequate space to allow for the planting of vegetation to aid in the screening of the dwelling.
102. With regard to the above, it is noted that the dwellings on the southern side of Panther Place do not provide any meaningful landscape buffers with the internal road, as the following images demonstrate, therefore the proposal would not be at odds with the prevailing “infill” character. The following images from the applicants submission detail the existing interface:



South side Panther Place



South side and east end of Panther Place

Clause 55.02-2 Residential policy objectives

103. The proposal is consistent with the relevant policies of SPPF and LPPF, including the MSS and local planning policies. With respect to these policies, the proposal provides for increased densities in an established precinct which is ideally located to take advantage of existing infrastructure, services and facilities. The proposed development achieves consistency with the principle of limiting urban sprawl of the metropolitan area while also providing greater housing choice in this established area.

Clause 55.02-3 Dwelling Diversity objective

104. This clause applies to developments of ten or more dwellings only and therefore does not apply to this proposal.

Clause 55.02-4 Infrastructure objectives

105. The proposed dwelling will not unreasonably overload the capacity of utility services and infrastructure, given that the proposed development will provide for one additional dwelling. The site is already connected to appropriate utility services and infrastructure. The objectives of the standard are met.

Site Layout and Building Massing

Clause 55.03-1 Street setback objective

106. The carport associated with the existing dwelling is proposed to be constructed to the front boundary whereas the existing dwelling is set back 3.7 metres from the front boundary.
107. With regard to the objective, *to ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site*, it is considered that the proposed placement of the carport complies with the Objective.
108. The carport is located towards the western boundary to make efficient use of the site and the position of the existing crossover. It was determined under Clause 55.02-1 that the carport did not detract from the surrounding neighbourhood character.

Clause 55.03-2 Building height objective

109. The maximum building height of 8.4 metres complies with the 9 metre requirement contained within Clause 32.09-9 of the Neighbourhood Residential Zone and Design and Development Overlay requirements for sites within Precinct B of Schedule 1.

Clause 55.03-3 Site coverage objective

110. The development complies with this standard as the proposed site coverage of 23% does not exceed the maximum 60% permitted under this standard.
111. Once subdivided, it is noted Lot 1 would have a site coverage of approximately 34% and Lot 2 would have a site coverage of approximately 25%, continuing to comply with the Standard requirement.

Clause 55.04-4 Permeability objectives

112. The development complies with this standard as the proposed site permeability of 69% is greater than the minimum 20% permitted under this standard.
113. Once subdivided, it is noted Lot 1 (containing the existing dwelling) would have a site permeability of approximately 37% and Lot 2 (containing the proposed dwelling) would have a permeability of approximately 34%, continuing to comply with the Standard requirement.
114. Clause 22.16 (Stormwater Management [Water Sensitive Urban Design]) applies to the proposal. A STORM Rating Report has been submitted with the application demonstrating the proposal achieves a storm rating of 131%.
115. On further inspection of the STORM Rating Report it appears that the information entered into the report is incorrect as it does not reference the correct allotment sizes. It will therefore form a condition of permit that a revised STORM Rating Report, demonstrating best practice in stormwater management, be submitted.

Clause 55.03-5 Energy efficiency objectives

116. The proposal provides an appropriate level of energy efficiency opportunities for cross ventilation and provision of solar panels to the new dwelling.
117. The provision of eastern, southern and western windows for solar access and daylight into the main living areas is acceptable given the constraints of the site. The proposed meals and living area is also provided with convenient access to outdoor living spaces.
118. The siting and orientation of the dwellings ensures that the energy efficiency of existing dwellings on adjoining lots is not unreasonably reduced.

Clause 55.03-6 Open space objective

119. This application does not include any public or communal open space and therefore this clause is not relevant to the assessment of the proposal.

Clause 55.03-7 Safety objective

120. The proposed dwelling has been designed to provide for the safety and security of residents and property. The access from Panther Place is not dissimilar to the access arrangements of the existing dwellings on the southern side of this private road.
121. The entrance is not obscured or isolated and it is considered that the dwelling will be visible from Panther Place. The location of the dwelling and its relationship with Panther Place will also provide good surveillance of this private road.
122. Accordingly, the layout of the proposed development provides for the safety and security needs of future residents.

Clause 55.02-8 Landscaping objective

123. The existing site has a bushy landscaped character which should be preserved. This is supported by the application of the SLO1 and DDO1 over the site.
124. As previously discussed the proposal will result in an overall lot permeability of 69%, and once subdivided Lot 1 would have a site permeability of approximately 37% and Lot 2 would have a permeability of approximately 34%. The higher permeability than required by the Standard, 20%, is a key indicator that adequate space will be available on site to allow for a heavily landscaped outcome, synonymous to the existing surrounds.
125. A condition of permit can ensure a landscaping plan is submitted for the development to ensure that the proposal provides a complete landscaping scheme for the site, comprising trees and shrubs which will aid in the softening of building bulk and to minimise the potential of any overlooking between habitable room windows of adjacent dwellings.
126. Whilst it is acknowledged that vegetation is not a solution to overlooking between properties, the presence of vegetation can aid in reducing the perception of overlooking due to the mitigation of built form visibility. A detailed assessment against overlooking will be undertaken further, later in this report.
127. It is noted that Council's Open Space Unit recommended the replanting of two significant trees, with one to be native, capable of growing to 15 metres in height. This will also be included as a permit condition to be incorporated into the landscaping plan to ensure that upper canopy trees are provided for landscape perspective and to assimilate with the predominate landscape character of the area.

Clause 55.03-9 Access objective

128. This standard requires the width of an accessway or car parking space not to exceed 33% of the street frontage, with no more than a single-width crossover provided for each dwelling fronting a street, and encourages the retention of on-street car parking spaces.
129. Due to the abnormally large site frontage, 33% equates to 16 metres. The modest extension to the existing crossover fronting Park Crescent results in a total width of 5.5 metres, well below the 16 metres allowed by the Standard.
130. As the following aerial imagery demonstrates, due to the proliferation of Council assets along the footpath and in front of the property, including mature street trees, power poles and a speed hump, the extension and continued use of the existing crossover is practical.



131. Furthermore, whilst the crossover will become double width it is considered that a single width crossover is not appropriate in this location to service a double car carport, due to the zero setback of the carport from the street frontage and consequential limited manoeuvring space.
132. Council's Engineering Unit have reviewed the proposal and raise no objection to the proposed crossover extension, subject to conditions requiring the applicant to gain consent from the relevant authority for the relocation of the telecommunications pit.
133. A parking restriction sign and street tree will also be required to be relocated and removed due to the extension of the crossover. It is worth noting that the street tree to be removed is not one of the mature street trees referenced earlier and can be seen in the engineering referral. This has been reviewed by Council's Open Space Unit who raised no objection to the removal of the street tree subject to replacement with the associated removal, replacement and maintenance costs to be borne by the applicant.

Clause 55.03-10 Parking location objective

134. It is considered that the car parking areas are reasonably close and convenient to their respective dwellings. The car parking arrangement makes use of existing crossovers and car parking spaces and are provided in a convenient manner in proximity to the dwellings.
135. It is noted that the car parking spaces approved in accordance with Planning Permit No. 000777 will become the primary car parking area for the proposed dwelling (Lot 2). Council's Engineering Unit visited the subject site, reviewed the existing car parking arrangements and advised that the continued use of this car parking arrangement is satisfactory.

136. No visitor parking has been proposed and this is considered satisfactory with regard to the construction of one additional dwelling on site. It is noted Clause 52.06 (Car parking) does not require the development to provide visitor parking. Visitors would be expected to utilise the existing on street parking along Park Crescent and walk down Panther Place, such as the arrangement for the dwellings on the southern side of Panther Place.

On-Site Amenity and facilities

Clause 55.05-1 Accessibility objective

137. The Standard seeks dwelling entries of the ground floor of dwellings to be accessible or able to be easily made accessible to people with limited mobility.
138. The existing dwelling will be maintained as a double storey dwelling, presenting as one storey to the street due to the slope of the land. It is considered that this dwelling could be retrofitted easily to allow access to people with limited mobility from the street level to the upper floor which contains bedrooms, lounge areas, kitchen area and secluded private open space.
139. The second dwelling does not meet the Standard as access to the dwelling is only possible by way of a number of stairs due to the slope of the land.
140. On balance it is considered that the proposal meets the Objective of the Standard as one dwelling can be retrofitted for ease of use by people with restrictions on mobility.

Clause 55.05-2 Dwelling entry objective

141. The entrance to the existing dwelling is maintained from Park Crescent and considered acceptable.
142. The proposed dwelling will be accessed from the extension of Panther Place, similar to Nos. 1, 2 and 3 Panther Place. It is considered that the separated car parking area for the proposed dwelling, and proposed entrance arbour to the east of the car spaces, will adequately identify pedestrian routes for visitors.
143. The dwelling will be visible from Panther Place and it is considered that the gravel path, as well as view lines to the lower Deck 2, would adequately serve to guide visitors to the entrances of the dwelling.

Clause 55.05-3 Daylight to new windows objective

144. All new habitable room windows will be located to face an outdoor space clear to the sky with a minimum area of 3sqm and minimum dimension of 1 metre. This will ensure that all windows will have access to good amounts of natural daylight and the objective of the standard is met.

Clause 55.05-4 Private open space objective

145. The dwellings will have the following access to Private Open Space and Secluded Private Open Space:
- (a) Existing dwelling – 715sqm POS, 77sqm of which is SPOS in the form of an upper level verandah/deck oriented to face the Yarra River;
 - (b) Proposed dwelling – 286sqm POS, 51sqm of which is SPOS in the form of a lower level deck (17sqm) and upper level deck (24sqm) oriented to face the Yarra River.
146. The areas for POS and SPOS meet the requirements of the Standard.

Clause 55.05-5 Solar access to open space objective

147. Whilst the SPOS areas of both dwellings are not located on the north side of their respective buildings it is considered that the generous side setbacks and provision of private open space in excess of the above requirement results in an acceptable outcome.

Clause 55.05-6 Storage objective

148. With regard to the Standard, where each dwelling is to be afforded with convenient access to at least 6 cubic metres of externally accessible, secure storage space, it is considered that both of the dwellings comply.
149. The storage for the proposed dwelling is located underneath the upper floor, to the north of the living 2 space on the lower floor. The storage for the existing dwelling is located against the proposed southern boundary fence.

Amenity Impacts

Clause 55.04-1 Side and rear setbacks objective

Dwelling 1 – Carport

150. The carport will have a maximum overall height of 3.6 metres requiring a minimum 1 metre setback from side and rear setbacks. The siting of the carport meets this requirement, setback a minimum of 2.3 metres from the west, 5.3 metres from the south (rear) and 40 metres from the east.

Dwelling 2

151. The overall height of the dwelling is 8.4 metres. For an 8.4 metre tall building side and rear setbacks of 3.5 metres would be required. Dwelling 2 meets this requirement in all respects, with the minimum side and rear setbacks 4.7 metres to the east, 5.2 metres to the south and 6.8 metres to the west.

Clause 55.04-2 Walls on boundaries objective

152. There are no walls on boundaries proposed and therefore this clause is not applicable.

Clause 55.04-3 Daylight to existing windows objective

Habitable room windows associated with adjoining properties are located a minimum 8 metres from the proposed development and therefore would not be impacted by the proposed dwelling.

Clause 55.04-4 North-facing windows objective

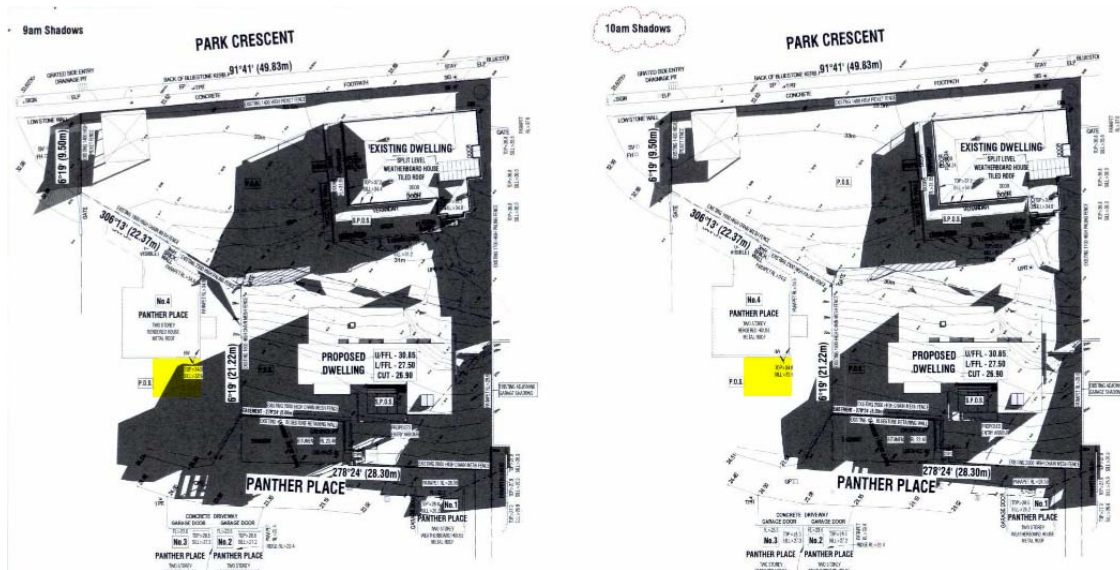
153. There are no north facing windows within three metres of the subject site and therefore this clause is not applicable.

Clause 55.04-5 Overshadowing open space objective

154. The only dwelling in the immediate surrounds that will experience an increase in overshadowing will be the property to the west, No. 4 Panther Place.
155. It is noted that the ground floor south facing secluded private open space area of this property has not been shown on the plans, and is located to south of the building with overall dimensions of approximately 4 metres x 5.5 metres, as the following aerial indicates:



- 156. This area is associated with the ground floor bedrooms and it is noted that an additional deck is located on the western side of the dwelling, at first floor, with direct access from the living area and a total area of approximately 65sqm.
- 157. The advertised plans provided shadow diagrams for 9AM, 12PM and 3PM. The plans submitted on the 4 April provide additional shadow diagrams for 10AM and 11AM.
- 158. The additional shadow diagrams demonstrate that this area of secluded private open space will be partially shadowed at 9AM with all shadows clearing to the secluded private open space by 10AM.



- 159. This additional level of overshadowing is considered to be minor in duration and therefore considered acceptable. Furthermore, the dwelling contains ample connection to other open space areas, namely the west facing upper floor deck associated with the main living areas which will not be impacted by the proposal.
- 160. The proposal meets the Objective, to ensure buildings do not significantly overshadow existing secluded private open space.

Clause 55.04-6 Overlooking objective

East

161. Within 9 metres of the proposed dwelling are west habitable room windows associated with the adjoining property at 7A Park Crescent. Whilst the applicant has submitted that views into this window will be obscured by the existing garage this has not been demonstrated.
162. If a permit were to issue a condition should be included to ensure a detailed diagram demonstrating compliance with the Objective of Standard B22 (Overlooking) of Clause 55 from the Living 1 and Bed 4 windows into the habitable room windows of 7A Park Crescent be submitted. Any additional screening measures used to achieve compliance are to be detailed on the plans, where relevant.

West

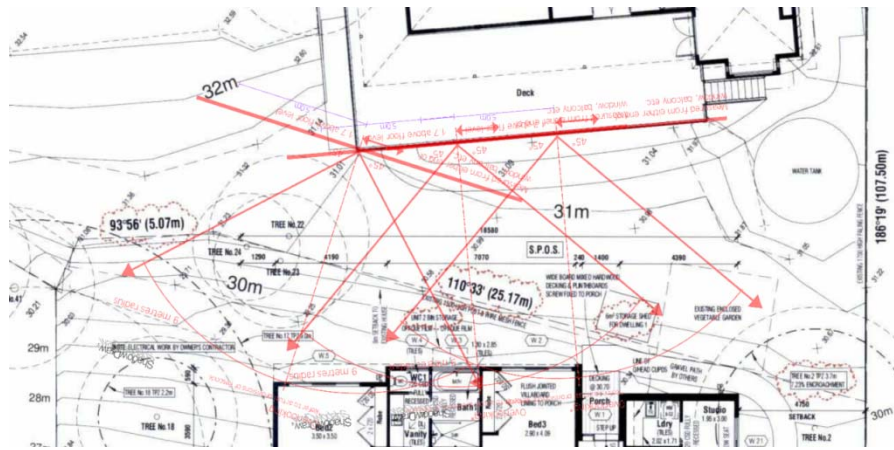
163. The existing fencing between the subject site and the property to the west is 1.6 metres in height and does not comply with the Standard requirement. To protect views between the open spaces of the proposed dwelling and existing dwelling at No. 4 Panther Place it can form a condition of permit that a 1.8 metre boundary fence be constructed along the common boundary.
164. The lower ground living room windows are oriented to face west and are setback 8.6 metres from the boundary. Any views from these windows, at the most elevated point, into the private open space area of the adjoining property would be obscured by a 1.8 metre high boundary fence (as per the above recommendation).
165. Views from the west facing first floor bed 2 would also be obscured by the recommended 1.8 metre high boundary fence, setback 8.3 metres from this window.

South

166. The proposed dwelling is within 9 metres of the property to the south at No. 1 Panther Place, however, there are no habitable room windows of No. 1 Panther Place oriented to face the site and therefore no direct overlooking would occur.
167. The proposed dwelling is separated from No. 2 and 3 Panther Place by a distance greater than 9 metres.

Clause 55.04-7 Internal views objective

168. Due to the slope of the land it is considered that there will be views between the existing dwelling's deck into the habitable room windows of the proposed dwelling. A condition requiring the screening of the north facing upper level habitable room windows should be implemented if a permit were to issue.
169. Views between the two open space areas at ground level are possible due to the existing 1.5 metre high post and wire mesh fence and can be addressed by way of a permit condition requiring the internal fence to be a 1.8 metre high solid fence. It is noted that this fence would be constructed within the Structural Root Zone (SRZ) and Tree Protection Zone (TPZ) of Trees 2, 22, 23 and 24 and therefore a tree management plan for the proposed fencing should be provided to ensure the fence construction is appropriately managed.
170. As there are no direct views between secluded private open space areas it is considered that any views from the deck of the existing dwelling into the open space of the proposed dwelling would be minimal, and below 50%.



Clause 55.04-8 Noise impacts objectives

- 171. Any additional noise that is generated by the proposal will be residential in nature; with the site located within a residential zone it is not considered that the proposed development of the site will generate unreasonable noise impacts on surrounding sites.

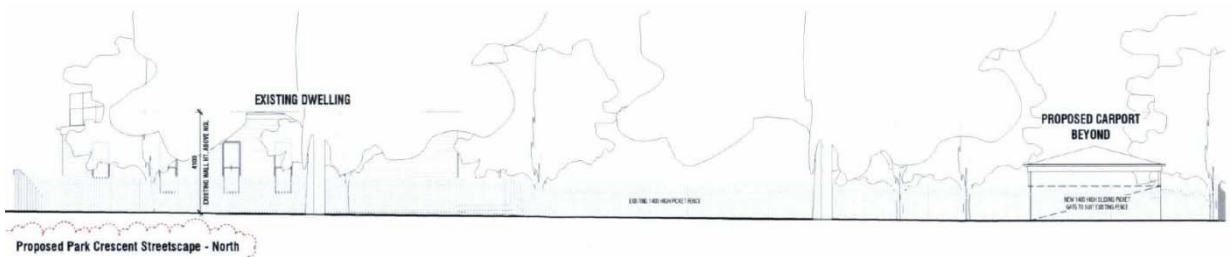
Detailed Design

Clause 55.06-1 Design detail objective

- 172. The proposed contemporary design of the dwelling responds positively to the existing residential character of the locality. The proposal is of an appropriate design, incorporating varied materials and modulated forms. The proposed development is considered to be appropriate in the context of the neighbourhood.

Clause 55.06-2 Front fences objective

- 173. The existing front fence along Park Crescent is to be retained. A new 1.4 metre high sliding picket gate to suit the existing 1.4 metre high picket fence is proposed to provide access to the carport to the existing dwelling. A Park Crescent Streetscape elevation was provided with the additional information on 4 April 2018, provided below.



- 174. The design of the new gate matches that of the existing fence and will therefore blend into the existing streetscape. The Standard is met. If a permit were to issue it is considered reasonable to require this elevation to be formally submitted by way of condition.

Clause 55.06-3 Common property objectives

- 175. No common property (open space, car parking, access areas and site facilities) are proposed as part of this development.

Clause 55.06-4 Site services objectives

176. The lower and upper floor plans indicates that the bins for the existing dwelling are accommodated to the north of the existing dwelling, with access to Park Crescent from a pedestrian gate. This is considered satisfactory.
177. The lower and upper floor plans indicate that for the proposed dwelling the bins are to be stored to the north of the dwelling. The waste collection arrangements will be the same as the existing arrangement for Nos. 1, 2 and 3 Panther Place where on collection day the bins are wheeled to Park Crescent and then wheeled back once collected.
178. Whilst the bin location on the plan is not considered to be convenient in terms of location to the access route to Park Crescent, via Panther Place, it is considered there is adequate space for recycling, waste and green waste bins within the allotment. The ultimate position of the bin storage area can be revised by future residents, if required.
179. The existing dwelling will maintain the letterbox located facing Park Crescent. The applicant has submitted that the letterbox placement to Dwelling 2 will utilise the existing arrangement afforded to Nos. 1, 2 and 3 Panther Place where the mailboxes are located on the west side of Panther Place, this is shown on the Proposed Site Plan. This is considered to be satisfactory, subject to a condition requiring the relevant approvals for the off-site location be sought.

Subdivision

180. Clause 56 of the Scheme applies to the subdivision of land in residential zones, other than the subdivision of existing dwellings or car parking spaces.
181. The plan of subdivision accords with the layout of the dwellings and results in the provision of no common property and is therefore acceptable in this regard. Further, the subdivision pattern adequately reflects the established rhythm of the subdivision pattern in the streetscape which is often composed of larger irregular shaped allotments.
182. Given the considerations of planning merit were undertaken as part of this assessment, and the subdivision simply reflects development's layout, it is considered that all relevant clause 56 objectives are satisfied and a separate clause 56 assessment is therefore unwarranted. If the applicant wishes to have titles released prior to construction, then a Section 173 Agreement requiring the land owner to build in accordance with the approved development permit must be entered into.
183. The schedule to clause 52.01 of the Scheme requires a 4.5% contribution for the subdivision of land or buildings intended to be used for residential purposes. It is noted that a proposal can be exempt from these requirements if the land is to be subdivided into two lots and the council considers it unlikely that each lot will be further subdivided.
184. This is a two lot subdivision and it is considered unlikely that each lot will be further subdivided. Pursuant to clause 52.01 of the Yarra Planning Scheme, the subdivision is exempt from a public open space contribution.
185. Standard subdivision conditions, including the mandatory conditions for subdivisions pursuant to clause 66.01-1 are detailed in conditions in the below recommendation.

Vegetation Removal and Yarra River Environs

186. The decision guidelines for the Significant Landscape Overlay – Schedule 1 consist (relevantly) of:
 - *The conservation and enhancement of the landscape values of the area.*
 - *The impact of the proposed buildings and works on the landscape due to height, bulk, colour, general appearance or the need to remove vegetation.*
 - *The impact of buildings and works on significant views.*

- *The extent to which the buildings and works are designed to enhance or promote the landscape character objectives of the area.*
- *Whether the location and extent of the buildings or works encroaches into the critical root zone of mature canopy trees*

187. The Design and Development Overlay decision guidelines state:

- *Whether any proposed landscaping or removal of vegetation will be in keeping with the character and appearance of adjacent buildings, the streetscape or the area.*
- *Whether the bulk, location and appearance of any proposed buildings and works will be in keeping with the character and appearance of adjacent buildings, the streetscape or the area*
- *The design objectives of the relevant schedule to this overlay.*

188. Whilst the design objectives of Schedule 1 seek to encourage;

- *To ensure all external colours and finishes are non-reflective and do not create contrast with the natural landscape character setting.*
- *To avoid additional light spill and overshadowing from buildings on the banks and water of the Yarra River, its adjacent public open space, bicycle and shared paths*
- *To minimise the visual intrusion of development when viewed from the Yarra River and adjacent public open space, bicycle and shared paths and bridge crossings*

Vegetation removal

189. The surrounding area is characterised as predominantly residential, within a heavily vegetated landscape. The plans indicate that there are three trees to be removed that require permission under the Significant Landscape Overlay (SLO).

190. These trees are as follows:

- Tree 1 (*Ulmus glabra* 'Camberdown'). This tree is exotic and noted as being 4 metres high with a canopy spread of 6 metres. The arborist report notes that this tree is a small spreading tree which is heavily lopsided to the south east.
- Tree 4 (*Juglans regia*). This tree is exotic and noted as being 9 metres high with a canopy spread of 7 metres. The tree is bifurcated with the arborist noting that whilst the tree is in fair good health, a 'canker' is present above 4.5 metres, an indication of disease, and that the tree leans north.
- Tree 28 (*Morus alba*). This tree is exotic and has a bifurcated trunk. The tree is 5 metres tall with a canopy spread of 7 metres. The arborist notes this tree as being a small tree of little note.

191. In accordance with local planning policy clause 22.08 (Protection of Biodiversity) the trees to be removed are not considered to be remnant. The description of the trees provided by the applicant's arborist also indicates that they the trees are not high quality specimens.

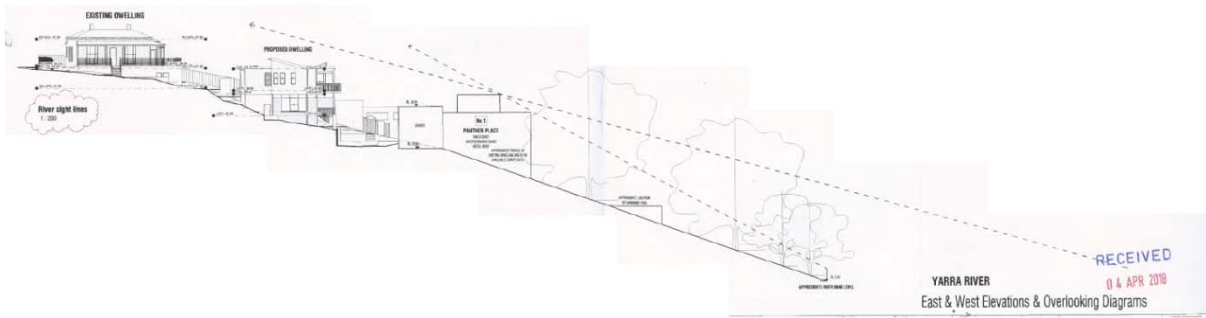
192. A site inspection and review of aerial photography indicates that the trees to be removed are not significant trees within the surrounding landscape, such as Tree 17 located on the adjoining property at No. 4 Panther Place which is highly visible in the surrounds.

193. Furthermore, between the subject site and the River is Panther Place, dwellings associated with No. 1 and No. 2 Panther Place provide highly treed areas to the rear, providing a buffer between the subject site and the Yarra River.

194. Council's Arborist commented that no overly large trees were proposed to be removed and therefore removal is considered appropriate with the replacement planting of 2 significant trees, with one to be native, capable of growing to 15 metres in height. This is considered to be reasonable. A landscaping plan will be required by way of permit condition to ensure that the trees to be retained on site are maintained and appropriate replanting is undertaken.
195. This condition will also ensure that the replacement trees required by previous planning permit PLN16/0023, which required six (6) indigenous canopy trees to be planted within the subject site, be shown. It is noted these trees are six river red gums that have been planted on the river bank as shown on the 'Proposed Site Plans.'
196. Council's Arborist raised concern with the tree protection measures described within the submitted arborist report. The impact of the development on Tree 17 was also raised through the objections. It is noted that the arboricultural report submitted with the application made the following tree protection observations and recommendations:
- The encroachment into the Tree Protection Zone (TPZ) of Tree 17 is 4.53sqm or 1.78% of the TPZ. This is below the 10% allowed under Australian Standard 4970-2009 and therefore there will be no impact on the trees health or longevity.
 - The proposed car port intrudes into the TPZ of Tree 27 but not its Structural Root Zone (SRZ) and it was recommended that the carport slab be constructed on grade and supported by pads or piers where necessary.
197. The above indicates that the proposal will have a limited impact on the trees to be retained surrounding the proposed development, however, it is considered that the report does not provide enough detail to ensure that the trees will adequately be protected, such as more detailed and specific tree protection requirements and design and construction methods proposed to minimise impacts on all trees, where buildings and works encroach into TPZs.
198. This will therefore be facilitated by way of a permit condition requiring a further Tree Management Plan be provided to respond to the queries raised by Council's Arborist and ensure the longevity of the surrounding trees on site.

Buildings and works

199. The use of materials is sympathetic to the landscape, with the primary exterior material to be vertical cladding in a silvertop ash left natural to weather. Other materials include face brickwork on the lower level and part northern elevation in a rough joint recycled red brick. The proposed roof is a combination of flat and skillion in a colorbond 'windspray'. It is considered that the materials proposed will complement the surrounding landscape character of the area and will ensure that the landscape character will continue to dominate.
200. The height of the building, a maximum 8.4 metres, will be below the dominant tree canopy height in the area with particular regard to the abovementioned condition requiring replacement planting of 2 significant trees capable of growing to 15 metres in height.
201. A site inspection revealed that some views of the existing development on the northern side of the Yarra River, along the Pipe Bridge Track, are possible. However, as the following image demonstrates the proposed infill dwelling is designed to nestle into the sloping landscape, between the existing dwelling on the site and the dwelling at 1 Panther Place.



202. This will ensure that visual intrusion of the development is minimised from the adjacent sensitive Yarra River. The location of the development, in excess of 60 metres from the river bank, is considered appropriate in the surrounding context where there are a number of examples of development within 40 metres of the river bank. The proposed site cut enables the proposed dwelling to be appropriately located between the two existing dwellings, ensuring the building will not be overbearing when viewed from the River or the parkland on the opposing side of the river.
203. The proposed works are considered to result in an appropriate design outcome and comply with the decision guidelines of Clauses 42.3-4 and 43.02-5.

Inundation and flooding

204. Part of the site is included in the LSIO area. This includes the southern part of the site, approximately 44 metres from the rear lot boundary, where river access is provided. It is noted no buildings and works are proposed in the area covered by the LSIO, however, a permit is required under this overlay for the subdivision component of the application.
205. In instances where applications are included in the LSIO area, Council relies on the expertise and advice of the relevant floodplain management authority (Melbourne Water) with regard to flooding.
206. As identified in the Melbourne Water referral advice, the proposed dwelling is located 64 metres from the Yarra River edge, well in excess of the building setback requirement of 40 metres and did not raise any objection to the proposed subdivision.
207. On this basis, the relevant objectives and decision guidelines of the Land Subject to Inundation Overlay are considered to be met.

Objector Concerns

Neighbourhood character: the size of the second dwelling is at odds with the prevailing character and does not respond to the sloping site;

208. This concern has been discussed at paragraphs 92 – 101 and 195 – 199 of this report.

Tree removal and protection: concern that trees are proposed to be removed on adjoining allotments without permission, removal of trees will increase views between properties, concern with works in proximity to tree 17, lack of landscaping proposed to offset tree removal.

209. This concern has been discussed at paragraphs 185 – 199 of this report.

Amenity impacts to adjoining properties: overlooking, overshadowing.

210. This concern has been discussed at paragraphs 159-163 and 152-158 of this report.

Building bulk and setbacks: New dwelling will detract from views from the Yarra River and will have an unreasonable impact on adjoining secluded private open space areas, will be dominating to Panther Place.

211. This concern has been discussed at paragraphs 92 – 101, 148 - 149 and 195 – 199 of this report.

Car parking, traffic and pedestrian safety: Increased traffic within Panther Place will impact on pedestrian and existing vehicular safety, no visitor car parking is provided, Panther Place is already dangerous for pedestrians.

212. This concern has been discussed at paragraphs 126 – 124 of this report. Furthermore, it is not considered that an additional dwelling on the site will contribute to a dangerous environment for pedestrians as the number of car parks accessed from Panther Place is not changing.

Construction management: potential blasting of basalt rock, impacts to the adjoining properties, trucks accessing Panther Place causing disruption.

213. This is not a planning consideration and these matters will be handled at the building permit stage.

Conclusion

214. 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 PLN17/0213 be issued for buildings and works to construct a second dwelling on the allotment and for works associated with the existing dwelling, a two (2) lot subdivision and vegetation removal at 3 Park Crescent, Fairfield generally in accordance with the plans noted previously as the “decision plans” and subject to the following conditions:

Development 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, but modified to show:
 - (a) A revised STORM Rating Report, for each allotment, demonstrating best practice in stormwater management (minimum score of 100%).
 - (b) A detailed diagram demonstrating compliance with the Objective of Standard B22 (Overlooking) of Clause 55 from the Living 1 and Bed 4 windows into the habitable room windows of 7A Park Crescent. Any additional screening measures used to achieve compliance are to be shown.
 - (c) Provision of 1.8 metre high fencing along the western boundary and between the two proposed allotments to ensure compliance with the Objective of Standard B22 (Overlooking) and Standard B23 (Internal Views) of Clause 55.
 - (d) The north facing habitable room windows at the upper floor of the proposed dwelling are to be screened in accordance with the Objective of Standard B22 (Overlooking) of Clause 55.
 - (e) The proposed Park Crescent Streetscape in accordance with the North and South Elevations and N&S Section plan, revision 4 dated 23 February 2018.

2. The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. Before the development commences, a Tree Management Plan to the satisfaction of the Responsible Authority must be prepared by a suitably qualified Arborist and must be submitted to and approved by the Responsible Authority. When approved the Tree Management Plan will be endorsed and will form part of this permit. The Tree Management Plan must make recommendations for:
 - (a) the protection of all trees on adjoining properties and on the subject site, where construction is proposed within The TPZs of these trees:
 - (i) pre-construction;
 - (ii) during construction; and
 - (iii) post construction
 - (b) The use of tree sensitive construction materials and methods for the construction of:
 - (i) The carport to the existing dwelling where within the TPZ of Trees 25, 26 and 27;
 - (ii) The proposed dwelling where within the TPZ of Trees 2, 3, 6, 7, 8, 9, 10, 17 and 18;
 - (iii) All boundary and internal fencing within the TPZ of Trees 2, 22, 23, 24, 41, 17, 16 and 15.
 - (c) How tree roots will be protected;
 - (d) Tree management plan project inspection schedule;
 - (e) Actual measurements of TPZ incursion by the development for all trees;
 - (f) Management of TPZ where fencing does not/ cannot cover the whole TPZ;
 - (g) Management of roots found during construction works;
 - (h) Management of TPZ incursion by landscape works;
 - (i) TPZ fencing, mulching and irrigation requirements (where possible throughout the development process).

to the satisfaction of the Responsible Authority.

4. The provisions, recommendations and requirements of the endorsed Tree Management Plan must be complied with and implemented to the satisfaction of the Responsible Authority.
5. An arborist must be present on site where excavation works occur within the TPZ of any tree on the site or within surrounding properties.
6. Before the development commences, a Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Landscape Plan will be endorsed and will form part of this permit. The Landscape Plan must:
 - (a) Show the planting of at least two (2) upper canopy trees, one to be native, with a minimum mature height of 15 metres.
 - (b) Show the six replacement trees required by Planning Permit PLN16/0023;
 - (c) Show all existing vegetation, abutting street trees, natural features, buildings, outbuildings and trees in neighbouring lots that would affect the landscape design;
 - (d) Provide planting within and around the perimeter of the site comprising trees and shrubs capable of softening the building bulk and minimising the potential of any overlooking between habitable rooms of adjacent dwellings;
 - (e) show the type, location, quantity, height at maturity and botanical names of all proposed plants;
 - (f) indicate the location of all areas to be covered by lawn, paving, mulch or other surface materials; and
 - (g) provide a specification of works to be undertaken prior to planting,

to the satisfaction of the Responsible Authority.

7. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:
 - (a) implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
 - (b) not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
 - (c) replacing any dead, diseased, dying or damaged plants,to the satisfaction of the Responsible Authority.
8. Before the development commences, the permit holder must make a one off contribution of \$1,411.99 (including GST) to the Responsible Authority to be used for replacement/new street tree plantings that are required as a result of the development.
9. Before the building 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.
10. Prior to the completion of the development, subject to the relevant authority's consent, the position of the letterbox to the proposed dwelling must be finalised:
 - (a) in accordance with any requirements or conditions imposed by the relevant authority;
 - (b) at the permit holder's cost; and
 - (c) to the satisfaction of the Responsible Authority.
11. Prior to the completion of the development, subject to the relevant authority's consent, the relocation of the any assets necessary to facilitate the development must be undertaken:
 - (a) in accordance with any requirements or conditions imposed by the relevant authority;
 - (b) at the permit holder's cost; and
 - (c) to the satisfaction of the Responsible Authority.
12. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any new vehicle crossing must be constructed:
 - (a) in accordance with any requirements or conditions imposed by Council;
 - (b) at the permit holder's cost; and
 - (c) to the satisfaction of the Responsible Authority.
13. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
14. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
 - (a) Monday-Friday (excluding public holidays) before 7 am or after 6 pm;
 - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm; or
 - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

15. 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.

Subdivision Conditions

16. The subdivision as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
17. This permit will expire if:
- (a) The subdivision is not certified under the Subdivision Act 1988 within two years of the issue of the permit; or
 - (b) The subdivision is not completed within five years of the date of certification under the Subdivision Act 1988.

If the subdivision is not certified within two years of the issue of the permit, the Responsible Authority may extend this period if a request is made before the permit expires or within six months after the expiry date.

18. Before a Statement of Compliance is issued, unless the building works approved by planning permit PLN17/0213 have been completed, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under Section 173 of the *Planning and Environment Act* 1987 which provides for the development of the land in accordance with planning permit PLN17/0213 or any other permit issued by the Responsible Authority. The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the Responsible Authority's costs and expenses (including legal expenses) incidental to the preparation, registration and enforcement of the agreement.
19. Before a Statement of Compliance is issued, all buildings straddling lot boundaries must be demolished and removed from the site, to the satisfaction of the Responsible Authority.
20. Buildings and works, other than as authorised by planning permit PLN17/0213 or any further planning permit issued by the Responsible Authority, must not be constructed on the land.
21. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
22. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
23. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.
24. The owner of the land must enter into an agreement with:

- (a) A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
- (b) A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

25. Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:

- (a) A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
- (b) A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

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.

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

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

No parking restriction signs or line-marked on-street parking bays are to be removed, adjusted, changed or relocated without approval or authorization from Council's Parking Management Unit and Construction Management branch.

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

The cost of \$1,411.99 (including GST) associated with the replacement/new street tree plantings that is required as a result of this development is based on the current schedule of rates and may change in line with contract specifications and annual CPI variations.

CONTACT OFFICER: Michelle King
TITLE: Senior Statutory Planner
TEL: 9205 5333

Attachments

- 1 PLN17/0213 - 3 Park Crescent - ATTACHMENT 1 (Site Plan)
- 2 PLN17/0213 - 3 Park Crescent Alphington - Engineering comments 1 of 2
- 3 PLN17/0213 - 3 Park Crescent Fairfield - Engineering Photographs
- 4 PLN17/0213 - 3 Park Cr Fairfield - Open Space Referral (1)
- 5 PLN17/0213 - 3 Park Cr Fairfield - Open Space Referral (2)

- 6** PLN17/0213 - 3 Park Crescent Fairfield - Advertising S52 - Plans
- 7** PLN17/0213 - 3 Park Crescent Fairfield - Advertising S52 - Arborist Report and Tree Removal Plan
- 8** PLN17/0213 - 3 Park Crescent Fairfield - Advertising S52 - Storm Rating Report