

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

**to be held on Wednesday 28 March 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**

Vicky Grillakis (Co-Ordinator Statutory Planning)  
Sarah Thomas (Principal Planner and Advocate)  
Cindi Johnston (Governance Officer)

**II. DECLARATIONS OF PECUNIARY INTEREST AND CONFLICT OF INTEREST**

**III. CONFIRMATION OF MINUTES**

**IV. COMMITTEE BUSINESS REPORTS**

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



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

### **POLICY**

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

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

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

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

**Governance Branch  
2008**

## 1. Committee business reports

Item	Page	Rec. Page
1.1 PLN17/0448 - 484 - 486 Swan Street Richmond - Use and development of the land for the construction of a mixed-use building (14 storey plus three basement levels), including offices, a restricted retail premises and five food and drink tenancies premises (7am to 11pm, seven days per week - permit required use), reduction of car parking requirements and buildings and works including alteration to access to a Road Zone (Category 1).	5	49
1.2 Interim order response plan assessment - PLN16/0434 - 26-56 Queens Parade, Fitzroy North (Development of the land for the construction of a 10 storey building, plus 2 basement levels, to be used as dwellings (no permit required for dwelling use), use of part of the site as a café, food and drinks premises, shop and use of part of the land for the sale and consumption of liquor (in association with the food and drinks premises and café), reduction in the car parking requirements, reduction of the loading bay requirements and alteration of access to a Road Zone and PLN16/0732 - Rear of 26-56 Queens Parade, Fitzroy North Development of the land for the construction of 4, 3-storey dwellings (no permit required for dwelling use), reduction in the car parking requirements and to provide all of the car parking spaces on another site (being the larger Queens Parade site))	64	108
1.3 CONFIDENTIAL, WITHOUT PREDJUDICE ITEM - PLN17/0389 - 16A-17A/64 Balmain Street, Cremorne - Development of the land for the construction of a multi storey building (plus basement levels), reduction in the car parking requirement associated with an office		

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- 1.1 PLN17/0448 - 484 - 486 Swan Street Richmond - Use and development of the land for the construction of a mixed-use building (14 storey plus three basement levels), including offices, a restricted retail premises and five food and drink tenancies premises (7am to 11pm, seven days per week - permit required use), reduction of car parking requirements and buildings and works including alteration to access to a Road Zone (Category 1).**
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## **Executive Summary**

### **Purpose**

1. This report provides Council with an assessment of planning permit application No. PLN17/0448 which affects land at 484-486 Swan Street Richmond.

### **Key Planning Considerations**

2. Key planning considerations include:
  - (a) Use (Clauses 34.02-7);
  - (b) Interfaces uses policy (Clause 22.05);
  - (c) Built form (Clauses 15.01, 21.05, 22.10, 34.02-7, 36.04, 43.02 and 52.29); and
  - (d) Car Parking and Bicycle Provision (Clauses 52.06 and 52.34) of the Yarra Planning Scheme.

### **Key Issues**

3. The key issues for Council in considering the proposal relate to:
  - (a) Policy and physical context;
  - (b) Use;
  - (c) Built form;
  - (d) Environmentally Sustainable Development (ESD);
  - (e) Off-site amenity impacts;
  - (f) Car parking, traffic, access and bicycle provision;
  - (g) Waste management;
  - (h) Other matters; and
  - (i) Objector concerns.

### **Objector Concerns**

4. Nine objections were received to the application, these can be summarised as:
  - (a) Neighbourhood character/Heritage & Streetscape;
  - (b) Height/Massing;
  - (c) Car parking/traffic implications;
  - (d) Amenity Impacts (overshadowing and visual bulk);
  - (e) Insufficient demand for office area; and
  - (f) Construction issues.

### **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: Vicky Grillakis**  
**TITLE: Coordinator Statutory Planning**  
**TEL: 92055124**

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- 1.1 PLN17/0448 - 484 - 486 Swan Street Richmond - Use and development of the land for the construction of a mixed-use building (14 storey plus three basement levels), including offices, a restricted retail premises and five food and drink tenancies premises (7am to 11pm, seven days per week - permit required use), reduction of car parking requirements and buildings and works including alteration to access to a Road Zone (Category 1).**
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Trim Record Number: D18/38100  
 Responsible Officer: Manager Statutory Planning

**Proposal:** Use and development of the land for the construction of a mixed-use building (14 storey plus three basement levels), including offices, a restricted retail premises and five food and drink tenancies premises (7am to 11pm, seven days per week - permit required use), reduction of car parking requirements and buildings and works including alteration to access to a Road Zone (Category 1).

**Existing use:** Office

**Applicant:** Killara Quest Pty Ltd

**Zoning / Overlays:** Commercial 2 Zone/Design and Development Overlay (Schedules 2 and 5)

**Date of Application:** 8 June 2017

**Application Number:** PLN17/0448

### Planning History

1. Planning permit PL01/0851 was approved on 30 January 2002 for change of use for a factory/ showroom and associated buildings and works at No. 486 Swan Street.
2. Planning application PL02/0626 for a change of use to an office/ showroom and buildings and works including a partial waiver of the car parking requirement at No. 486 Swan Street was refused on 6 January 2004.

### Background

3. The application was lodged on 8 June 2017 and further information subsequently requested later that month. The information was received on 23 August 2017 and the application was then advertised with nine objections being received. A consultation meeting was held on 28 November 2017. The Permit Applicant and Planning Officers were present however none of the objectors attended the meeting.
4. Whilst this process was occurring, Council had sought and received advice from external acoustic, urban design and wind consultants as well as Council internal units including Urban Design, Waste Management, Engineering, Open Space Unit, Strategic Transport and Environmental Sustainable Development (ESD). Referral advice is an attachment to this report.
5. It should be noted that there are inconsistencies in the floor plans, where one set does not include Basement 03 whilst the other set shows Basement 02 and 03 on one plan. The sections also clearly show there are three basement levels. This will be required can be required to be rectified by a permit condition. This issue also highlights that the plans do not have plan page numbers (eg Drawing No. or TP are typically used), this will also be required by way of condition as it allows for easier referencing of plans.

### Planning Scheme Amendments

*Amendment VC142*

6. On 16 January 2018, Planning Scheme Amendment VC142 was gazetted by the Minister for Planning. Among other changes, this amendment removed the permit requirements within clause 52.07 of the Yarra Planning Scheme for a loading bay.

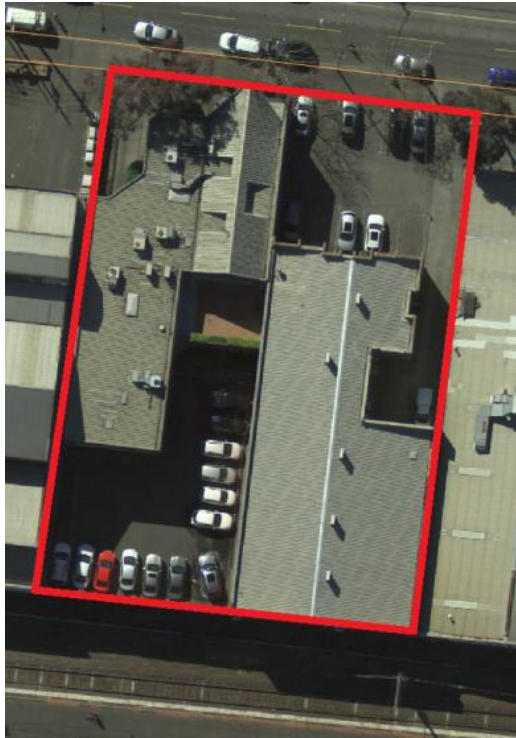
*Amendment C191 – Swan Street Activity Centre*

7. Amendment C191 proposes to introduce a new Design and Development Overlay for Swan Street into the Yarra Planning Scheme and rezone the Commercial 2 zoned land along the eastern end of Swan Street to a Commercial 1 Zone, along with other changes to the Yarra Planning Scheme. It has been prepared to fulfil the Council resolution from September 2015 and provide much sought after guidance for the future built form along Swan Street.
8. The Amendment has been prepared and informed by a Built Form Framework which refines and builds upon the principles and directions in the Swan Street Structure Plan. The proposed DDO includes a robust and tailored mix of preferred and mandatory controls that will broadly realise the outcomes sought in the Structure Plan.
9. At a Council meeting on 17 October 2017, Council agreed to seek authorisation to exhibit Amendment C191 in accordance with the *Planning and Environment Act 1987*, which implements the Swan Street Structure Plan and the Swan Street Activity Built Form Framework.
10. The exhibition process of the amendment (post 'authorisation') process provides an opportunity for the community to consider the proposed planning controls and associated documents.
11. As this amendment has not progressed to adoption by Council, it is not yet a seriously entertained document, therefore has no statutory weight.

**Existing Conditions**

Subject Site

12. The subject site is located on the south side of Swan Street, between Burnley Street (west) and Stawell Street (east) in Richmond. The site has a frontage to Swan Street of 40.3m, a depth of approximately 57.91m and a total area of 2,333sqm.
13. The subject site is currently occupied by two, double storey office buildings, both partly constructed along their side boundaries and also setback from the front boundary. Car parking is located within the front setback as well as to the rear of the sites. They both have side access areas along their side boundaries.
14. Below is an image of the subject site:



*Title*

15. No restrictive covenants apply to the land according to the Certificate of Titles submitted with the application.

Surrounding Land

16. The site is located within a predominantly mixed commercial and light industrial area with residences further to the north and south. The area is quite varied in terms zoning, with the subject site being located within Commercial 2, land to the west and north being within Commercial 1, and land in General and Neighbourhood Residential further to the north and south with various parks being within the Public Park and Recreation Zone. This has also resulted in diverse built form evident as shown below:





17. The site derives much of its context from its location on the Swan Street Major Activity Centre (MAC) and its abuttal to the Burnley Railway Station immediately to the south. The Burnley Street overpass is further to the west which travels over the railway line. The Burnley Street Neighbourhood Activity Centre (NAC) which is to the north-west of the subject site.
18. In the wider area to the north, east and west are recently constructed apartment buildings, dwellings as well as showrooms, warehouses and offices generally constructed to title boundary with high site coverage. The residential pockets (both in built form typology and also zoning) are occupied by dwellings generally on narrow lots, built to their side boundaries and with small private open spaces and front yards (if any).
19. The character of built form and development along Swan Street reflects the uses within the area with a mixture of larger commercial/industrial buildings predominantly along the southern side of Swan Street with finer grain development along the northern side. There are only a handful of buildings in the area with heritage value with the closest two being directly to the north at Nos. 413-415 Swan Street.
20. This part of Richmond area is currently going through a period of transition (and has been for some time) from lower scale buildings to higher density development. Whilst the tallest buildings close to the site are up to eight storeys, there have been a number of recent approvals along this eastern part of Swan Street for larger scale developments. Recent approved developments which are currently under construction or have progressed beyond the planning permit stage and are within proximity to the site are as follows:
  - (a) No. 429-437 Swan and 16-26 Farmer Streets Richmond (six storeys - residential)
  - (b) No. 370 – 374 Swan Street (11 storeys - office)
  - (c) No. 345 Swan Street (six storeys - office)
  - (d) No. 462-482 Swan Street (12 storeys - residential)
  - (e) No. 314-320 Swan Street and 236 Coppin Street (two, eight storey buildings – one office, one residential)
  - (f) No. 395 Swan Street (six storeys – residential)
21. In addition to the above, Burnley Street has had a number of developments approved (and constructed) within the last 10 years. The area has experienced a considerable degree of change.
22. The above developments show there is an increasing trend in this part of Richmond for larger scale built form than what currently exists.
23. Burnley and Swan Streets are also major arterial roads (as illustrated by their Category 1 Road Zone classification) which provide a connection to the Monash Freeway further to the south of the site.
24. The Swan Street MAC and Burnley Street NAC provide a wide range of services including local convenience retailing, bulkier item stores, car showrooms and food and drinks premises.
25. The subject site has excellent access to public transport, in the form of tram routes operating along Swan Street, linking the eastern suburbs and the CBD. Burnley Station is directly to the south of the site with four train lines access Burnley Station, Lilydale, Glen Waverley, Alamein and Belgrave.
26. In terms of public open space, there is access to public parks and recreation areas in the locality including the Yarra River, Richmond Netball Courts, Burnley Oval and the Burnley Golf Course.
27. The direct abuttals of the subject site are as follows:

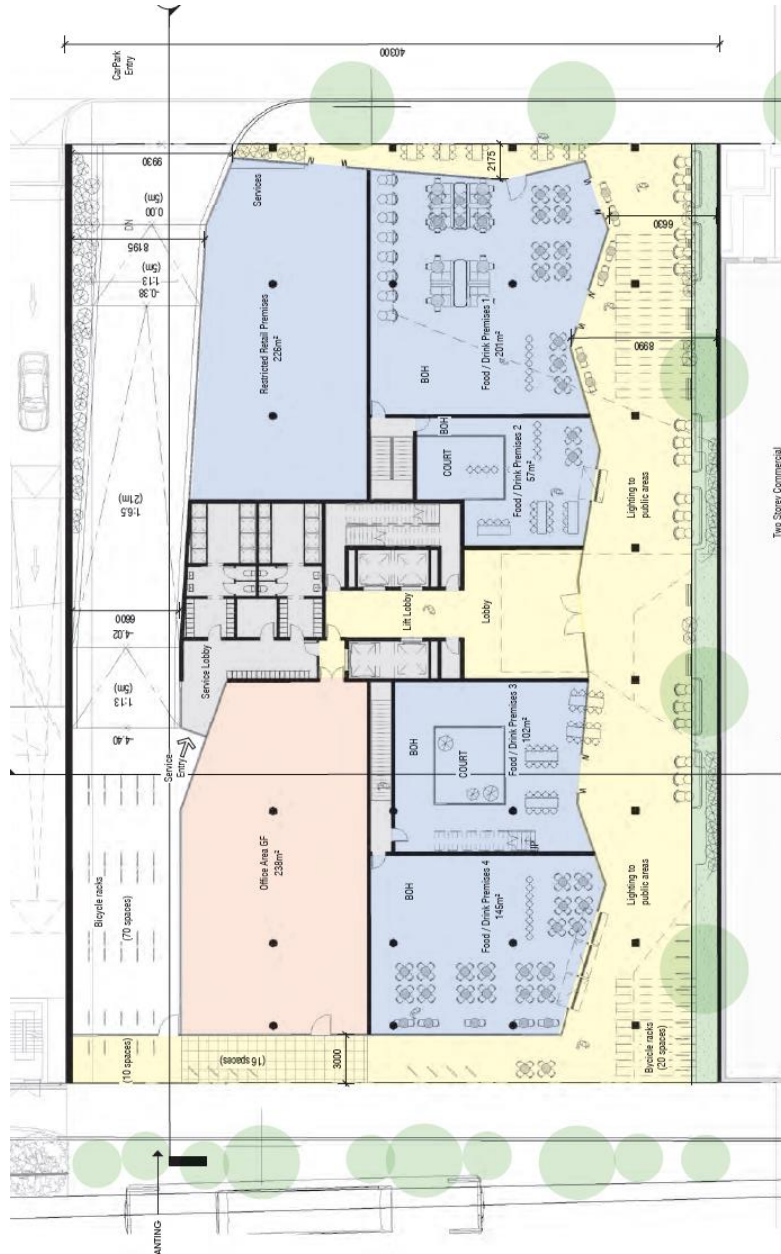
- (a) To the east are two similarly large commercial buildings, also with car parking areas within their front setbacks along Swan Street. Beyond these are finer grain commercial buildings with the café 'Friends of Mine' located at the intersection of Swan and Stawell Street. On the eastern side of the intersection are the Richmond Netball Courts.
- (b) To the west of the subject site is the land known as No. 462-482 Swan Street and is occupied by five, brick single storey attached dwellings and a large, single storey timber yard. This land has a current permit (PLN15/0057) for a mixed use development up to 12 storeys. This land is currently zoned Commercial 1 and has a site specific Design and Development Overlay which was facilitated by Amendment C185 as part of a combined re-zoning and development application. Further to the west, (across the Burnley Street rail overpass) are a number of double storey offices, car showrooms, furniture stores and industrial buildings.
- (c) Directly to the south of the site is a pedestrian path owned by VicTrack which provides access from Stawell Street to the railway underpass. The railway line associated with Burnley Station is located to the south. Further south, beyond the station and Madden Grove is the residential area of Burnley.
- (d) The northern side of Swan Street is located within the Commercial 1 Zone, and the built form reflects a fine grain pattern of development, with a row of single and double storey Victorian-era shop buildings. Planning approvals include a planning permit granted on 11 March 2016 for a six storey building (with a five storey street wall) at No. 429-437 Swan and Nos. 16-26 Farmer Streets Richmond.

## The Proposal

- 28. The proposal is for the construction of a fourteen storey, mixed use building with a part-three, part-four level podium.
- 29. The proposal is of an irregularly shaped design, incorporating a mixture of curved, jagged and rectilinear elements with an undulating curve western side. The proposal includes partial setbacks along the eastern boundary for the podium levels, whilst above this, levels seven and eight serve as partial negative levels with under-croft terraces.



- 30. The ground floor includes a side access area which is to be used as a through-link to the pedestrian path to the south. The image below depicts this.



Demolition

- (a) All structures on site and existing crossovers (no planning permit required).

Use

- (b) Five, food and drinks premises (2,170sqm in net floor area) – four of which are at the ground floor (one facing Swan Street, two facing the side pedestrian path and a fourth facing the side and rear boundaries), and one larger premises at first floor. The four ground floor tenancies will be required to be numbered Tenancy 1 to 4 with Tenancy 1 fronting Swan Street, Tenancy 2 and 3 being the central tenancies and Tenancy 4 being the most southern. Tenancy 5 is the first floor tenancy. This will form a condition of the permit. It should be noted that the traffic report uses various areas, however the applicant has confirmed the floor areas (in sqm) as follows:

- (i) Tenancy 1 - 201
- (ii) Tenancy 2 - 57
- (iii) Tenancy 3 – 102
- (iv) Tenancy 4 - 145

- (v) Tenancy 5 - 1665
- (c) The applicant has confirmed these will be cafés, with the operating hours of 7am to 11pm, seven days per week. This will form conditions on the permit.
- (d) The applicant has confirmed the first floor premises will operate similar to a food court type arrangement with various kiosks serving food and drinks. The following maximum number of patrons for each tenancy was also confirmed, with these forming a condition of the permit:
  - (i) Tenancy 1 - 110
  - (ii) Tenancy 2 - 30
  - (iii) Tenancy 3 – 50
  - (iv) Tenancy 4 - 70
  - (v) Tenancy 5 - 900
- (e) Ground floor, Restricted Retail Premises (226sqm) facing Swan Street (no planning permit required for the use).
- (f) The office space has a net floor area of 15,963sqm (no planning permit required for the use).

### Construction

- (g) Three basement levels built to title boundaries accessed via Swan Street with services and 154 car parking spaces (inclusive of 3 x DDA spaces, 6 x car share spaces and 12 x electric charging bays). There are also two truck spaces, 24 bike spaces on both Basement 02 and 03 Floors and 76 bike spaces on Basement 01 Floor Plan. These bike spaces are for staff only and total 124 across the three basement levels. It should be noted that the traffic report and the development schedule states 155 cars are provided, however the plans show 154. The applicant confirmed that 154 spaces are proposed.
- (h) End-of-trip facilities are located centrally at ground floor and are shown as 'service lobby'. The applicant has confirmed these are end-of-trip facilities and the applicant's traffic report states that there will be 24 showers and 240 lockers. These can be required to be annotated on the plans by way of condition.
- (i) A total of 46 visitor bike spaces are shown in three locations along the southern boundary of the site. An additional 70 staff bike spaces are shown in a secure area in the south-west corner of the site with direct access to the end-of-trip facilities.
- (j) The ground floor has irregular eastern setbacks of between 6.63m and 8.99m for the provision of the side pedestrian access lane (as shown in the image above), a front setback to Swan Street of between 1m and 2.175m and a rear setback of 3m. The vehicular ramp from Swan Street is located along the western side.
- (k) Four food and drinks premises - one having a frontage to Swan Street, two facing the pedestrian side access and a fourth facing both the rear setback and the side access. Tables and chairs are shown within the front, side and rear setbacks.
- (l) The Restricted Retail Premises fronts onto Swan Street whilst a smaller 238sqm office tenancy faces the rear setback.
- (m) A large lobby space is located centrally along the side pedestrian access providing entry to the food and drinks premises and offices above. The lift lobby is located centrally in the site.

- (n) The first and second floors are constructed wholly or partially along all title boundaries except for the irregularly shaped void areas (setback up to 9m at first floor, and 5m at second floor) above the ground floor side pedestrian access. At first floor, is a food and drinks premises which will operate like a food court with various kiosks.
- (o) The third floor is comparable in construction, albeit has a large terrace along the entire eastern side. The lifts, toilets, services and stairs are all located centrally as well as two large void areas.
- (p) The fourth to sixth floors are constructed alike with an irregular shape, resulting in setbacks of between 5m and 7.29m from the western boundary, 5m from Swan Street, between 5m and 8.45m from the eastern boundary and between 3m and 5m from the southern boundary. The fourth floor has a terrace along its western side which wraps around to face Swan Street and the southern boundary.
- (q) The seventh floor is like the floors below, albeit for an additional 2.945m wide terrace along the eastern boundary which wraps around to 3.13m in width along a portion of the southern boundary. This results in a more regular setback along the eastern and southern sides of the building (8.45m and 6m respectively).
- (r) At the eighth floor, the proposal decreases its setback from the southern boundary to 3m and incorporates a jagged building outline in the south-eastern corner which is repeated in the levels above. The 5m setback from Swan Street is maintained, with a 2.415m wide terrace located beyond. The terrace wraps around to the eastern side where this floor has setbacks of between 5m and 8.045m. The western setback is as per the floor below.
- (s) The ninth to thirteenth floors are constructed similarly with the same setbacks to the south and west as the floors below. These floors have a staggered setback to Swan Street where the western side of 7.46m and the eastern side is 5m. The eastern side is setback between 5m and 8.095m.
- (t) The roof plan does not show any services, and this can be required by way of condition.
- (u) The proposal will be constructed using smooth and textured concrete with glazing for the podium, grey coloured glazing for the middle floors and black glazing for the upper levels.
- (v) It has a maximum building height of approximately 56m and an additional 4.76m for lift core.

#### ESD features

- (w) 5 Star Green Star rating;
- (x) 4.5 Star NABERS Energy Office;
- (y) NCC energy efficiency standards exceeded by at least 10%.

### **Planning Scheme Provisions**

#### Zoning

##### *Commercial 2 Zone*

- 31. Pursuant to clause 34.02-1 of the Yarra Planning Scheme, use of the land as an office and restricted retail premises does not require a planning permit.

32. A 'Food and Drinks Premises' is a Section 1 – no permit required use unless the leasable floor area would exceed 100m<sup>2</sup>. The proposed tenancies have a total floor area of 2,170sqm and therefore trigger a permit under the zone.
33. The applicant has confirmed these will be cafes which are proposed to have hours of 7am to 11pm, seven days per week.
34. The applicant has confirmed the first floor premises will operate similar to a food court type arrangement with various kiosks serving food and drinks.
35. The applicant also confirmed the following maximum number of patrons for each tenancy as follows with this forming a condition of the permit:
  - (i) Tenancy 1 - 110
  - (ii) Tenancy 2 - 30
  - (iii) Tenancy 3 – 50
  - (iv) Tenancy 4 - 70
  - (v) Tenancy 5 - 900
36. Pursuant to clause 34.02-4 of the Yarra Planning Scheme, a planning permit is required to construct a building or construct or carry out works.

#### *Road Zone*

37. The proposal includes works to widen the existing crossover onto Swan Street. Swan Street is categorised as a Road Zone, Category 1. Pursuant to Clause 36.04-2, a planning permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 36.04-1. The proposed uses are not listed in Section 1 or 3 and are therefore a Section 2 use (permit required). The views of the relevant road authority are part of the decision guidelines for this zone.

#### Overlays

##### *Design and Development Overlay – Schedule 2 – Main Roads and Boulevards*

38. Under clause 43.02-2 of the Scheme, a permit is required to construct a building or construct or carry out works.
39. Schedule 2 to the DDO outlines the following design objectives:
  - (a) *To recognise the importance of main roads to the image of the City.*
  - (b) *To retain existing streetscapes and places of cultural heritage significance and encourage retention of historic buildings and features which contribute to their identity.*
  - (c) *To reinforce and enhance the distinctive heritage qualities of main roads and boulevards.*
  - (d) *To recognise and reinforce the pattern of development and the character of the street, including traditional lot width, in building design.*
  - (e) *To encourage high quality contemporary architecture.*
  - (f) *To encourage urban design that provides for a high level of community safety and comfort.*
  - (g) *To limit visual clutter.*
  - (h) *To maintain and where needed, create, a high level of amenity to adjacent residential uses through the design, height and form of proposed development.*
40. Decision guidelines include:
  - (a) *The contribution of the proposal to the streetscape.*
  - (b) *The design, height and visual bulk of the development in relation to surrounding land uses and developments.*

- (c) *The design, height and form of the development in relation to the built form character of the street.*

*Design and Development Overlay Schedule 5 (DDO5) City Link Exhaust Stack*

41. Pursuant to clause 43.02-2 of the Scheme a permit is not required to construct a building or to construct and carry out works.
42. Schedule 5 (City Link Exhaust Stack Environs) specifically exempts buildings and works from requiring a planning permit. Pursuant to clause 43.02 of the Scheme, where a permit is required to use land or for the construction of a building or the construction or carrying out of works under another provision in this scheme, notice must be given under section 52(1) (c) of the *Planning and Environment Act 1987* to the person or body specified as a person or body to be notified in clause 66.06 or a schedule to that clause. Notice of the application must therefore be given to the Environment Protection Authority, Transurban City Link Limited and the Roads Corporation (VicRoads). Their comments are provided in the *Referrals* attachment to this report.

Particular Provisions

*Clause 52.06 – Car Parking*

43. Clause 52.06-1 requires that a new use must not commence or the floor area of an existing use must not be increased until the required car spaces have been provided on the land.
44. A permit is required to reduce (including reduce to zero) the requirement to provide the number of car parking spaces required under this clause.
45. The table below outlines the car parking requirements for the office, restricted retail premises and food and drinks premises tenancies of the development and the allocation of car parking which would be provided in association with each use. Within Clause 52.06-5 policy states that if in calculating the number of car parking spaces the result is not a whole number, the required number of car parking spaces is to be rounded down to the nearest whole number.
46. 154 car spaces are being provided with the allocation as follows:
- (a) 6 x car share spaces (not allocated to any particular use)
  - (b) 9 x visitor spaces (allocated to the office)
  - (c) 139 x car spaces (inclusive of 3 x DDA spaces and 12 x electric charging bays)
47. The applicant has confirmed that with the exception of the car share and visitor spaces, all other spaces will be for staff only. It has been confirmed that the car share spaces will not be allocated to any specific tenancy. The applicant is unsure if these will be available for the general public or only for those associated with the development. This will be required to be confirmed by way of condition.
48. Under clause 52.06-5, the following parking rates are required:

Use	Area (sqm)	Rate	No. required	No. proposed	Reduction sought
Office	15,963	3.5 car spaces to each 100sqm of net floor area	558	122 (not inclusive of car share spaces)	<b>436</b>
Food and drinks	2,170	4 per 100sqm of leasable floor area	86	24	<b>62</b>

Restricted Retail	226	3.5 per 100sqm of leasable floor area	7	2	5
<b>Total</b>			<b>651</b>	<b>148 (not inclusive of car share spaces)</b> <b>154 (inclusive of car share spaces)</b>	<b>503 (not inclusive of car share spaces)</b> <b>497 (inclusive of car share spaces)</b>

49. As 154 car spaces are being provided, a total of 497 car spaces are required to be reduced.
- Clause 52.29 – Land Adjacent to a Road Zone, Category 1 or a Public Acquisition Overlay for a Category 1 Road.*
50. The purpose of this clause is to ensure appropriate access to identified roads and to ensure appropriate subdivision of land adjacent to identified roads.
51. Pursuant to Clause 52.29 a permit is required to create or alter access to a road in a Road Zone, Category 1.
52. Swan Street is a Road Zone, Category 1 and the application proposes to widen the existing crossover, therefore, a planning permit is required for the works.
53. An application to create or alter access to, or to subdivide land adjacent to, a road declared as a freeway or arterial road under the Road Management Act 2004, land owned by the Roads Corporation for the purpose of a road, or land in a Public Acquisition Overlay if the Roads Corporation is the authority responsible for acquiring the land, must be referred to the Roads Corporation under Section 55 of the Act.
54. The decision guidelines for this clause are:
- (a) *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
  - (b) *The views of the relevant road authority.*
  - (c) *The effect of the proposal on the operation of the road and on public safety.*
  - (d) *Any policy made by the relevant road authority pursuant to Schedule 2, Clause 3 of the Road Management Act 2004 regarding access between a controlled access road and adjacent land.*

*Clause 52.34 – Bicycle Facilities*

55. Pursuant to clause 52.34, a new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land.



56. The purpose of the policy is to encourage cycling as a mode of transport and to provide secure, accessible and convenient bicycle parking spaces. A new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land.

Land Use	Units/Area proposed	Rate for staff	Rate for visitors/ shoppers	No. required	No. proposed	Reduction sought
<b>Office</b>	15,963sqm	1 to each 300sqm of net floor area if the net floor area exceeds 1000sqm	1 to each 1000sqm of net floor area if the net floor area exceeds 1000sqm	53 staff 16 visitor	194 staff 46 visitor	0
<b>Retail – Food and drinks Restricted retail</b>	2,396sqm	1 to each 300sqm of leasable floor area	1 to each 500sqm of leasable floor area	8 staff 5 visitor		
<b>Total</b>				<b>61 staff 21 visitor</b>	<b>240</b>	<b>0</b>

57. Pursuant to clause 52.34-3, the rate for the provision of showers/change rooms is 1 to the first 5 employee spaces and 1 to each additional 10 employee spaces. Therefore, 7 showers and 7 change rooms are required.
58. The development includes 24 change rooms and 24 showers at ground floor as well as 240 lockers. This requirement is well exceeded.
59. Clause 52.34-4 provides design standard for bicycle spaces and signage.

#### General Provisions

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

#### State Planning Policy Framework (SPPF)

61. Clause 11 'Settlement' - *Planning is to recognise the need for, and as far as practicable contribute towards (as relevant);*
- (a) *Diversity of choice.*
  - (b) *Adaptation in response to changing technology.*
  - (c) *Economic viability*
  - (d) *A high standard of urban design and amenity.*
  - (e) *Energy efficiency.*
  - (f) *Accessibility*
  - (g) *Land use and transport integration*

62. *Planning is to facilitate sustainable development that takes full advantage of existing settlement patterns, and investment in transport and communication, water and sewerage and social facilities.*
63. *Clause 11.02 'Urban growth' aims to ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.*
64. This clause includes several strategies to achieve this objective, including;
- (a) *Opportunities for the consolidation, redevelopment and intensification of existing urban areas.*
  - (b) *Neighbourhood character and landscape considerations.*

*Clause 11.02-3 'Planning for growth areas'*

65. *The objective is: to locate urban growth close to transport corridors and services and provide efficient and effective infrastructure to create benefits for sustainability while protecting primary production, major sources of raw materials and valued environmental areas.*
66. The clause includes several strategies to achieve this objective.

*Clause 11.03-2 (Activity centre planning)*

67. The objective is:
- (a) *To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres which provide a variety of land uses and are highly accessible to the community.*

*Clause 11.06-1 (Jobs and investment)*

68. The relevant objective of this clause is *'to create a city structure that drives productivity, attracts investment, supports innovation and creates jobs.'*

69. Relevant strategies include:

- (a) *Improve access to jobs across Melbourne and closer to where people live.*
- (b) *Support the continued growth and diversification of activity centres to give communities access to a wide range of goods and services, provide local employment and support local economies.*
- (c) *Plan for new development and investment opportunities on the existing and planned transport network*

*Clause 11.06-3 (Integrated transport)*

70. The relevant objective of this clause is *'to provide an integrated transport system connecting people to jobs and services, and goods to market.'*

71. Relevant strategies include:

- (a) *Facilitate high-quality public transport access to job-rich areas;*
- (b) *Encourage increased diversity and density of development along the Principal Public Transport Network;*
- (c) *Provide for increased density of development, particularly around transport nodes, to support the viability of services*
- (d) *Improve local travel options for walking and cycling to support 20 minute neighbourhoods;*

- (e) *Create pedestrian friendly neighbourhoods by supporting development of continuous, high quality walking routes and streets that are safe, pleasant and attractive.*

*Clause 11.06-4 (Place and identify)*

- 72. The relevant objective of this clause is *'to create a distinctive and liveable city with quality design and amenity.'*
- 73. Relevant strategies include:
  - (a) *Improve the design quality of public spaces and the interfaces between private development and the public domain.*
  - (b) *Support the creation of memorable, well-designed places that are distinctive and liveable.*
  - (c) *Promote urban design excellence in the built environment and create places that:*
    - (i) *are accessible, safe and diverse*
    - (ii) *are enjoyable, engaging and comfortable to be in and move around*
    - (iii) *accommodate people of all abilities, ages and cultures*
    - (iv) *celebrate of the city's social, cultural and natural heritage.*

*Clause 13.04-1 (Noise abatement)*

- 74. The objective is:
  - (a) *To assist the control of noise effects on sensitive land uses.*
- 75. Noise abatement issues are measured against relevant State Environmental Protection Policy (SEPP) and other Environmental Protection Authority (EPA) regulations.

*Clause 15.01-1 – Urban design*

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

*Clause 15.01-2 – Urban design principles*

- 77. This Clause directs that the following design principles be applied to development proposals for non-residential development.
- 78. The relevant design principles are as follows:
  - (a) *Context*
    - (i) *Development must take into account the natural, cultural and strategic context of its location.*
    - (ii) *Planning authorities should emphasise urban design policies and frameworks for key locations or precincts.*
    - (iii) *A comprehensive site analysis should be the starting point of the design process and form the basis for consideration of height, scale and massing of new development.*
  - (b) *The public realm*
    - (i) *The public realm, which includes main pedestrian spaces, streets, squares, parks and walkways, should be protected and enhanced.*

(c) *Safety*

- (i) *New development should create urban environments that enhance personal safety and property security and where people feel safe to live, work and move in at any time.*

(d) *Landmarks, views and vistas*

- (i) *Landmarks, views and vistas should be protected and enhanced or, where appropriate, created by new additions to the built environment.*

(e) *Pedestrian spaces*

- (i) *Design of interfaces between buildings and public spaces, including the arrangement of adjoining activities, entrances, windows, and architectural detailing, should enhance the visual and social experience of the user.*

(f) *Consolidation of sites and empty sites*

- (i) *New development should contribute to the complexity and diversity of the built environment.*
- (ii) *Site consolidation should not result in street frontages that are out of keeping with the complexity and rhythm of existing streetscapes.*
- (iii) *The development process should be managed so that sites are not in an unattractive, neglected state for excessive periods and the impacts from vacant sites are minimised.*

(g) *Light and shade*

- (i) *Enjoyment of the public realm should be enhanced by a desirable balance of sunlight and shade.*
- (ii) *This balance should not be compromised by undesirable overshadowing or exposure to the sun.*

(h) *Energy and resource efficiency*

- (i) *All building, subdivision and engineering works should include efficient use of resources and energy efficiency.*

(i) *Architectural quality*

- (i) *New development should achieve high standards in architecture and urban design.*
- (ii) *Any rooftop plant, lift over-runs, service entries, communication devices, and other technical attachment should be treated as part of the overall design.*

(j) *Landscape architecture*

- (i) *Recognition should be given to the setting in which buildings are designed and the integrating role of landscape architecture.*

*Clause 15.01-4 – Design for safety*

79. The objective of this clause is:

- (a) *To improve community safety and encourage neighbourhood design that makes people feel safe.*

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

80. The objective of this clause is:

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

81. Relevant strategies to achieve this objective include:

- (a) *Ensure development responds and contributes to existing sense of place and cultural identity.*
- (b) *Ensure development recognises distinctive urban forms and layout and their relationship to landscape and vegetation.*
- (b) *Ensure development responds to its context and reinforces special characteristics of local environment and place by emphasising:*
  - i *The heritage values and built form that reflect community identity.*
  - ii *The values, needs and aspirations of the community.*

*Clause 15.02-1 – Energy and resource efficiency*

82. The Objective of this clause is:

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

83. Relevant strategies to achieve this objective include:

- (a) *Ensure that buildings and subdivision design improves efficiency in energy use.*
- (b) *Promote consolidation of urban development and integration of land use and transport.*
- (c) *Improve efficiency in energy use through greater use of renewable energy.*
- (d) *Support low energy forms of transport such as walking and cycling.*

*Clause 17.01-1 – Business*

84. The objective of this clause is:

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

*Clause 18.01-1 – Land use and transport planning*

85. The objective of this clause is:

- (a) *To create a safe and sustainable transport system by integrating land-use and transport.*

86. Relevant strategies to achieve this objective include:

- (a) *Develop transport networks to support employment corridors that allow circumferential and radial movements.*
- (b) *Plan urban development to make jobs and community services more accessible by:*
  - (i) *Ensuring access is provided to developments in accordance with forecast demand, taking advantage of all available modes of transport and to minimise adverse impacts on existing transport networks and the amenity of surrounding areas.*
  - (ii) *Coordinating improvements to public transport, walking and cycling networks with the ongoing development and redevelopment of the urban area.*
  - (iii) *Connecting activity centres, job rich areas and outer suburban areas through the Principal Public Transport Network.*

- (iv) *Providing for bus routes and stops and public transport interchanges in new development areas.*
  - (v) *Providing safe, convenient and direct pedestrian and cycling access to job rich areas, public transport interchanges and urban renewal precincts.*
  - (vi) *Promote walking and cycling when planning for new suburbs, urban renewal precincts, greyfield redevelopment areas and transit-oriented development areas (such as railway stations).*
- (c) *Integrate public transport services and infrastructure into new development.*

*Clause 18.02-1 – Sustainable personal transport*

87. The objective of this clause is:

- (a) *To promote the use of sustainable personal transport.*

Local Planning Policy Framework (LPPF)

88. The relevant policies in the Local Planning Policy Framework (LPPF) can be described as follows:

*Municipal Strategic Statement (MSS)*

89. Relevant clauses are as follows:

*Clause 21.04-3 Industry, office and commercial*

90. The objective of this clause is:

- (a) *To increase the number and diversity of local employment opportunities.*

*Clause 21.05-2 – Urban design*

91. The relevant objectives of this Clause are:

- (a) *Objective 16 - To reinforce the existing urban framework of Yarra;*
- (b) *Objective 17 - To retain Yarra's identity as a low-rise urban form with pockets of higher development:*
  - (i) *Strategy 17.2 Development on strategic redevelopment sites or within activity centres should generally be no more than 5-6 storeys unless it can be demonstrated that the proposal can achieve specific benefits such as:*
    - *Significant upper level setbacks*
    - *Architectural design excellence*
    - *Best practice environmental sustainability objectives in design and construction*
    - *High quality restoration and adaptive re-use of heritage buildings*
    - *Positive contribution to the enhancement of the public domain*
    - *Provision of affordable housing.*
- (c) *Objective 18 - To retain, enhance and extend Yarra's fine grain street pattern;*
- (d) *Objective 19 To create an inner city environment with landscaped beauty;*
- (e) *Objective 20 - To ensure that new development contributes positively to Yarra's urban fabric;*
- (f) *Objective 21 - To enhance the built form character of Yarra's activity centres;*
  - (i) *Strategy 21.1 Require development within Yarra's activity centres to respect and not dominate existing built form; and*
  - (ii) *Strategy 21.3 Support new development that contributes to the consolidation and viability of existing activity centres.*

*Clause 21.05-3 – Built form character*

92. The general objective of this clause is:

- (a) *To maintain and strengthen the identified character of each type of identified built form within Yarra.*

93. The subject site is located within a non-residential area, where the built form objective is to “*improve the interface of development with the street*”.

94. The strategies to achieve the objective are to:

- (a) *Allow flexibility in built form in areas with a coarse urban grain (larger lots, fewer streets and lanes).*
- (b) *Require new development to integrate with the public street system.*

#### *Clause 21.06 – Transport*

95. This policy recognises that Yarra needs to reduce car dependence by promoting walking, cycling and public transport use as viable and preferable alternatives. Relevant objectives and strategies of this Clause are as follows:

- (a) *Objective 30 – To provide safe and convenient pedestrian and bicycle environments.*
  - (i) *Strategy 30.2 – Minimise vehicle crossovers on street frontages.*
  - (ii) *Strategy 30.3 – Use rear laneway access to reduce vehicle crossovers.*
- (b) *Objective 31 – To facilitate public transport usage.*
- (c) *Objective 32 – To reduce the reliance on the private motor car.*
- (d) *Objective 33 To reduce the impact of traffic.*
  - (i) *Strategy 33.1 Ensure access arrangements maintain the safety and efficiency of the arterial and local road network.*

#### *Clause 21.07-1 – Ecologically sustainable development*

96. The relevant objectives and strategies of this clause are:

- (a) *Objective 34 – To promote ecologically sustainable development.*
  - (i) *Strategy 34.1 – Encourage new development to incorporate environmentally sustainable design measures in the areas of energy and water efficiency, greenhouse gas emissions, passive solar design, natural ventilation, stormwater reduction and management, solar access, orientation and layout of development, building materials and waste minimisation.*

#### *Clause 21.08-10 Neighbourhoods (Central Richmond (area between Bridge Road and Swan Street))*

97. Clause 21.08-10 - Central Richmond (area between Bridge Road and Swan Street) describes the neighbourhood in which the site is located as a predominantly residential area, with the area closest to Punt Road comprising early to mid- Victorian cottages and terraces, and an increasing amount of Edwardian dwellings towards the east of the neighbourhood.

98. Figure 24 shows the subject site is partly within the ‘Main Roads’ area and partly within the ‘non-residential areas’. Therefore, built form character objectives are to mainly the hard edge of the strip and to improve the interface of development with the street.

#### Relevant Local Policies

#### *Clause 22.05 – Interfaces Uses Policy*

99. This policy applies to applications within the Commercial Zones (among others), and aims to reduce conflict between commercial, industrial and residential activities. The policy acknowledges that the mix of land uses and development that typifies inner city areas can result in conflict at the interface between uses.

100. The relevant objective is:

- (a) *To ensure that residential uses located within or near commercial centres or near industrial uses enjoy a reasonable level of amenity.*

101. It is policy that:

- (a) *New non-residential use and development within Business and Mixed Use and Industrial Zones are designed to minimise noise and visual amenity impacts upon nearby, existing residential properties.*

102. A number of decision guidelines for non-residential use and development within the business zones are outlined, including the extent to which the proposal may cause overlooking, overshadowing, noise, fumes and air emissions, light spillage, waste management and other operational disturbances that may cause unreasonable detriment to the residential amenity of nearby residential properties.

*Clause 22.10 – Built form and design policy*

103. This policy applies to all new development not included in a Heritage Overlay. The relevant objectives of this policy are to:

- (a) *Ensure that new development positively responds to the context of the development and respects the scale and form of surrounding development where this is a valued feature of the neighbourhood character.*
- (b) *Ensure that new development makes a positive contribution to the streetscape through high standards in architecture and urban design.*
- (c) *Limit the impact of new development on the amenity of surrounding land, particularly residential land.*
- (d) *Design buildings to increase the safety, convenience, attractiveness, inclusiveness, accessibility and ‘walkability’ of the City’s streets and public spaces.*
- (e) *Create a positive interface between the private domain and public spaces.*
- (f) *Encourage environmentally sustainable development.*

104. 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 height;
- (c) street and public space quality;
- (d) environmental sustainability;
- (e) site coverage;
- (f) on-site amenity;
- (g) off-site amenity;
- (h) landscaping and fencing;
- (i) parking, traffic and access; and
- (j) service infrastructure.

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

105. Clause 22.16-3 requires the use of measures to “*improve the quality and reduce the flow of water discharge to waterways*”, manage the flow of litter from the site in stormwater and encourage green roofs, walls and facades in buildings where practicable.



*Clause 22.17 – Environmentally Sustainable Design*

106. This policy was introduced into the Scheme on 19 November 2015 and applies to residential development with more than one dwelling. The overarching objective is that development should achieve best practice in environmentally sustainable development from the design stage through to construction and operation. The considerations are energy performance, water resources, indoor environment quality, storm water management, transport, waste management and urban ecology.

Relevant Local Policies

*Swan Street Structure Plan (SSSP)*

107. The SSSP was adopted by Council at its meeting on 17 December 2013 and is relevant to the site.
108. The site is located within the 'Burnley Station Village' Precinct of the Plan's study area. The Structure Plan prepared for the Swan Street Major Activity Centre [MAC] was in response to the State Government sustainable growth policy, *Melbourne 2030*; a plan for the growth and development of the Melbourne metropolitan area. One of the principal aims of the policy was to provide a network of activity centres throughout Melbourne, with these centres providing a focus for development and urban expansion in areas well serviced by public transport, existing infrastructure and community services. The Swan Street Structure Plan aims to manage this growth within the Swan Street MAC and the surrounding area.
109. Of relevance to this application are proposed revisions to the built form guidelines that will provide guidance on future built form and how that would be in keeping with the longer term vision for Swan Street and surrounds, along with guidance on urban intensification within the precinct. The plan provides guidance on maximum building heights within each precinct, with 7-10 storeys (30m) being the suggested height for this section of the southern part of Swan Street. The site directly to the west was envisaged as being a maximum of 36m. The northern side of Swan Street is noted as being a maximum of between four storeys (13m) directly opposite the subject site, whilst the land at the intersection of Burnley and Swan Streets is five to six storeys (19m).
110. The SSSP states that the station has potential to provide the precinct with excellent access to public transport and offers a major opportunity for redevelopment and improvement to the station and surrounding environs. It also states that the timber yard and adjoining sites located on the South east corner of Swan and Burnley Street are underutilised and offer potential for significant redevelopment and change in the precinct. It also acknowledges that large lot sizes on south side of Swan Street have good separation from existing residential uses to the north and less potential for adverse amenity impacts.
111. Whilst adopted, the SSSP has yet to progress to the formal amendment stage and technically has limited statutory weight.

**Advertising**

112. The application was advertised in accordance with Section 52 of the *Planning and Environment Act 1987 [the Act]* by way of 1088 letters sent to the surrounding property owners/occupiers and by four signs, two signs facing Swan Street and two facing the rear boundary.
113. Nine objections were received to the application, these can be summarised as:

- (a) Neighbourhood character/Heritage & Streetscape
- (b) Height/Massing
- (c) Car parking/traffic implications
- (d) Amenity Impacts

(e) Other matters

114. The grounds of objections raised will be considered and addressed where relevant throughout the following assessment.
115. A Consultation Meeting was held on 28 November 2017, with the Permit Applicant and Planning Officers. No objectors attended.

## **Referrals**

### 116. External Referrals

- (a) Head, Transport for Victoria;
- (b) VicRoads;
- (c) CityLink;
- (d) EPA;

### 117. Internal departments

- (a) Urban Design;
- (b) Engineering Services Unit;
- (c) Strategic Transport;
- (d) Open Space;
- (e) Arborist
- (f) Waste Services;
- (g) ESD Advisor;

### 118. External consultants

- (a) Urban Design (MGS Architects);
- (b) Acoustics (SLR Consulting); and
- (c) Wind (MEL Consultants).

119. Referral comments are attachments to this report.

## **OFFICER ASSESSMENT**

120. The following key issues and policies will be used to frame the assessment of this planning permit application:

- (a) Policy and physical context;
- (b) Use;
- (c) Built form;
- (d) Environmentally Sustainable Development (ESD);
- (e) Off-site amenity impacts;
- (f) Car parking, traffic, access and bicycle provision;
- (g) Waste management;
- (h) Other matters; and
- (i) Objector concerns.

### Policy and physical context

121. In relation to the SPPF and LPPF it is considered that the proposed development achieves the various land use and development objectives outlined earlier in this report and achieves a sound level of compliance with the relevant policies, subject to conditions.

122. The subject site and part of the surrounding area are located within a Commercial 2 Zone which has the purpose of encouraging the integrated development of offices and manufacturing industries and associated commercial and industrial uses. The proposal complies with this strategic direction by continuing the industrial/commercial use of the site in a more intensive form to facilitate greater employment opportunities in the area.
123. The site is directly connected to the public transport systems and road network supporting both cars, walking and cycling. State policy encourages the intensification of employment generating uses in areas with these locational characteristics close to where people live (clause 11.04).
124. Similarly, local planning policy identifies the vibrant and mixed use nature of activity centres as an important attribute of the municipality and seeks to encourage their long term viability through development and land uses that contributes to the adaptation, redevelopment and economic growth. Clause 21.04-3 also seeks to increase the number and diversity of employment opportunities, specifically identifying service industries as an area where opportunities have been created by declines in traditional manufacturing businesses. The proposal complies with this policy and achieves these goals.
125. The proposed density of the development is consistent with both State and Local Policies such as clauses 15.02-1, 17.01-1, 18.01-1 which encourages concentration of development and employment opportunities in and around activity centres and intensifying development on sites well connected to public transport. This ensures efficient use of existing infrastructure. Furthermore, considering this site is generally surrounded by similar uses, any off-site amenity impacts would be minimised (the sites to the west, north and south will be discussed within the *Off-site Amenity* section of this report).
126. The proposal includes a substantial contribution to the surrounding street network through the provision of a pedestrian through-link to the VicTrack owned pedestrian path along the southern boundary which provides direct access to the station. A condition will also require the applicant to provide landscaping works to the pedestrian path, continuing the public benefit achieved with the development to the west.
127. Having regard to the above, the proposed re-development of the site for a mixed use building of this scale is considered to have strategic planning support.

#### Use

128. The proposed food and drinks premises tenancies trigger a planning permit under the Commercial 2 Zone on the basis of the floor area exceeding 100sqm. In respect of the appropriateness of the use, it is considered that there is support for it where it can be demonstrated that the scale of operation would not result in unreasonable impacts to the surrounding area or erosion of the primary purpose of the Commercial 2 Zone.
129. This consideration is relevant in terms of the objective of the Commercial 2 Zone: *to encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services.*
130. The site is located within a MAC which is of importance not only to the municipality, but also to the broader metropolitan region given its capacity for change and connections to other Activity Centres, residential areas and transport. The area supports a growing employment base, and the proposed food and drinks premises will support this by providing a venue where the local workers can obtain food and drinks as well as local residents (whose numbers are also increasing). The food and drinks premises will contribute to the mixed use nature of the location which includes other commercial entities. On weekends, there is an expectation that buildings are active and provide for visitors and local residents alike.

131. Again, the food and drinks premises use will play a legitimate role in meeting the needs of the area in this respect and providing seven days a week activation of the area whereas offices are generally closed and can lead to inactivity of an area. This will also assist in ensuring the ground floor through-link feels safe as these tenancies open out onto it.
132. The Commercial 2 Zone also requires consideration of the following matters (as relevant) at clause 34.02-7, each with a response provided below:
  - (a) The effect of existing uses on the proposed use – existing uses are either residential (further to the north and south in the residential zones) or commercial/industrial in nature and are not expected to have an adverse impact on the proposed use;
  - (b) The drainage of the land – the land is not located in an area with any specific drainage requirement under the Scheme and would have adequate ability to connect to relevant drainage networks;
  - (c) The availability and connection to services – the site is in an existing built up urban area with easy connection to all necessary services;
  - (d) The effect of traffic to be generated – this is discussed in detail later in this report;
133. In respect of amenity impacts, Clause 22.05 seeks to ensure that new non-residential uses do not unreasonably impact dwellings including through noise, light spill, emissions and rubbish.
134. The closest residentially zoned land is to further to the north and south beyond either Swan Street or the train line respectively and are separated by the proposed food and drink tenancies by at least 54m. The approved (but not yet constructed) development site directly to the west will have dwellings abutting the subject site, however the proposed floor and drinks premises will be aligned with the approved podium levels which are occupied by commercial tenancies.
135. The applicant has confirmed the food and drinks premises tenancies are open from 7am to 11pm, seven days per week. There is limited guidance in the Scheme as to what appropriate opening hours are in the Commercial 2 Zone. These are typical food and drinks premises hours and similar to or less than others located on Swan Street. This use is not expected to have unreasonable impacts on these dwellings and could be managed with appropriate conditions.
136. In terms of the numbers of patrons, the applicant is proposing a total of 1160 across the five tenancies, with the majority (900) being allocated to the first floor premises. These will be split within the overall area of 2,170sqm. Whilst the number of patrons seems quite high, it must be considered that they will be split over a large area, with the majority of these being located within the first floor. The subject site is located quite a significant distance away from residences and this will assist in mitigating amenity impacts.
137. Rubbish would be adequately concealed within the building and any emissions would have an adequate dispersal distance from the dwellings. Conditions can be included to ensure the amenity of the area is not unreasonably compromised due to the proposed food and drinks premises use. These would normally include restrictions on hours of operation, noise, waste disposal, deliveries and emission including light spill.

#### Built form

138. The following is a detailed assessment of the proposal against the design objectives of Clause 22.10 – Built Form and Design Policy and Schedule 2 of the Design and Development Overlay. The assessment will also consider the decision guidelines of the Commercial 2 Zone, and the urban design principles articulated at Clause 15.01-2. In the interests of providing a concise assessment and avoiding repetition between State and local design principles, the following assessment will group similar themes where applicable.

#### *Character*

139. As discussed in the policy section above, the proposal is an appropriate response to the site's strategic context and makes efficient use of relatively under-utilised land. Strategically, the subject site is appropriately located for a higher-density development, being located within an Activity Centre, within a commercial zone with excellent access to public transport, services and facilities and with limited sensitive, residential interfaces. The train line to the south provides a buffer from amenity impacts. It would be a reasonable expectation that this site (as those surrounding it are currently doing) would experience intensification in use and development.
140. The provisions of the Scheme relevant to design and built form are contained at clause 15 (Built Environment and Heritage), clause 21.05 (Built Form), clause 22.10 (Design and Built Form) and Schedule 2 of the Design and Development Overlay. All of the provisions and guidelines support development that responds to the existing or preferred neighbourhood character.
141. The subject site is not located within a heritage overlay, however some sites to the north along Swan Street are. The proposal will not impact these as they will still be able to be read from their principal frontages along Swan Street.
142. As already outlined in the *Surrounding Land* description of this report, the surrounding neighbourhood character is quite mixed. The northern side of Swan Street is a mixture of finer grain commercial buildings with some larger office and warehouses whilst along the southern side there are much 'bulkier' office buildings and older warehouses. These areas have and will continue to experience an intensification of use and development.
143. Considering the recent approvals of larger scale developments, the street's inclusion within the Swan Street MAC, convenient access to a train station and that the majority of sites are not located within a heritage overlay to restrict development, it would be a reasonable expectation that this site and others in the street, would experience further intensification in use and development. Whilst not a document which Council relies on, the SSSP has designated this area as one which will be vastly transformed.
144. In terms of more specific street interfaces, the proposed works are an improvement on the existing streetscape interface through the demolition of outdated buildings and the removal of at-grade car parking spaces which do not activate the street frontage for the construction of a modern building. The proposal incorporates a part-three, part-four storey street wall built to the western side boundary with a setback from the eastern. This is acceptable as this will fit in with both the existing and emerging street wall heights. As is clearly evident in the north elevation, the podium is at its highest abutting the approved development to the west to match its street wall height, and then it scales down to the east. Additionally, the approved development to the north includes a five storey street wall. The proposed street wall height certainly fits within the already approved range.
145. Above the street wall, the proposal includes a 5m setback from the street which assists in distinguishing between the lower levels and the tower form. It ensures that the street wall will be the visually dominant element in the streetscape.

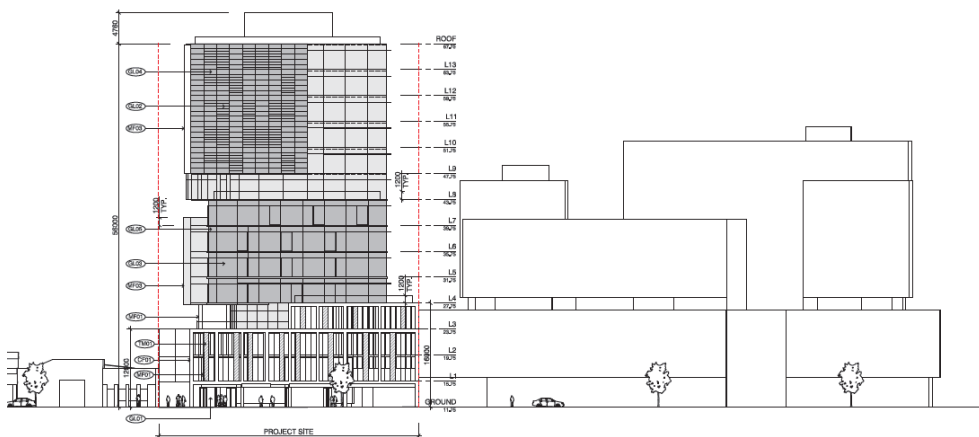
This is aided by its rectilinear form and use of heavier materials such as concrete. This is compared to the upper levels which is partially curved and is mainly glazing.
146. Council's external Urban Designer recommended a 5.5m setback above the street wall to match the front setbacks of the development to the west. This is not considered necessary as an additional 0.5m setback would be imperceptible from the ground. Additionally, the proposed setback achieves the desired effect of clear demarcation between the lower and upper forms and is approximately similar to the west.

147. As previously discussed, there is a consistent character of boundary-to-boundary development with all of the abutting sites having high site coverage and high walls along the front boundaries with minimal openings. The proposal is continuing the character of high site coverage with improved visual permeability.

*Height and Massing*

*Height*

148. The proposal is an overall fourteen commercial storeys in height which equates to 56m, with an additional 4.7m for the lift core. Whilst it is acknowledged that the building will be taller than adjoining developments, there are recent approvals for higher developments in this area, with some having already been constructed. Both the adopted SSSP and the proposed Swan Street DDO include significant height increases to this pocket of Swan with the approved 12 storey mixed use development already approved to the west. There is no doubt significant change will occur here, however it is not to say that any increase is therefore acceptable.
149. Council's external Urban Designer raised concerns with the proposed overall height, particularly in relation to the approved development to the west. The development to the west is located at a major intersection and is a large scale place-making site which marks the station entry. As such, Council's external Urban Designer stated that it should, in an urban design sense, be the major and dominant marker form in these surrounds and any development to its east should scale down in height. The image below depicts the proposal abutting the approved development to the west:



150. Council's external Urban Designer recommended that as a minimum, the three upper-most floors should be deleted and that an eleventh storey should only be considered subject site a number of various factors being agreed to by the applicant. These include:

- (a) *The pedestrian link being managed by a Section 173 Agreement to ensure it is accessible 24/7.*
- (b) *The inclusion of 5% of the office space for low cost affordable workplaces for the creative industries.*
- (c) *Best Practice ESD outcomes including exemplary end-of-travel facilities for cyclists including shower and change as well as secure cycle storage areas.*
- (d) *Revisions to the built form and articulation of the office building to ensure the north-south pedestrian lane does not require screens to deliver comfort for seating in these areas.*
- (e) *High quality place-making for the full extent of the pedestrian walk to the south and to the kerb line to the north and all terrace areas to the satisfaction of the responsible authority.*
- (f) *Enhanced design quality in the investment into the podium form and pedestrian walk and station interface areas, with the existing design lacking ambition. Presently insufficient detail of the landscaping treatments and materials is provided.*

*For example the inclusion of trees in renderings whilst welcome implies significant planter zones not yet shown on plans. The depth of planting and details of stormwater harvesting required to enable their successful inclusion will be critical to this realisation. The through-block walk shows trees that have not been coordinated with overhanging terraces. These concepts need to be properly coordinated to the satisfaction of Council.*

- (g) *That a greater level of detail of the proposed detailing of the podium elements and canopies should be provided.*
- (h) *The inclusion of safety by design response should be provided demonstrating how the station walk and links will be enhanced by program, lighting and public realm treatments and signage.*
- (i) *A green travel plan providing real-time public transport information in the open space zone should be provided.*
- (j) *Overshadowing should not occur on the central island platform of the adjoining Burnley station between 9.00am and 2.00pm.*

151. Many of the above issues identified by Council's external Urban Designer will be discussed throughout the report, and are either already met or can be easily resolved by way of condition. This is with the exception of the 5 percent affordable office space which does not currently have any policy basis within the Yarra Planning Scheme and whilst certainly an admirable and progressive concept, it will not be required in this instance.
152. Council planning officers agree with the recommendation for a reduction of three levels. It was evident in the assessment of the development to the west that it would be the focal point of this precinct, and as such, this proposal should not exceed its height by so many floors.
153. As such, Council planning officers agree that a reduction in height of three levels is appropriate, with the eleventh storey retained, particularly considering that the suite of factors previously outlined will be met/or addressed. This will result in an overall reduction in building height of 12m (to 44m) and will bring the proposal to approximately in-line with the development to the west.
154. Whilst it is noted that this is 2m in height greater than the development to the west, in comparison to the overall height it would be imperceptible. Additionally, the applicant will be meeting the extensive list outlined by Council's external Urban Designer which warrants the inclusion of the eleventh storey.
155. It cannot be ignored that the proposal is greater in height than the adopted SSSP and the draft DDO. As previously outlined, whilst it is an adopted document, it can only be given very limited weight as it has not progressed to a planning scheme amendment. This has been repeatedly stated by the Tribunal in numerous decisions, one of which being *Barkly Gardens Pty Ltd v Yarra CC* [2017] VCAT 995:
- [19] .... It is not a seriously entertained planning proposal. It has not been subject to public scrutiny. The Tribunal has consistently given limited weight to the structure plan.
156. Additionally, it has been four years since the SSSP was adopted and has not progressed to a planning scheme amendment. Many developments have been approved and constructed which exceed the heights proposed within it, with this including the development to the west which is shown as having a 36m maximum height and was approved at 42m.
157. The proposed building will be amongst the tallest structures within the immediate surrounds, the height of the development is considered to be acceptable (subject to a reduction in height) due to its location in an industrial area, lack of sensitive interfaces, the emerging character of the area and strategic redevelopment potential.

158. The site is located within an area undergoing transition which has resulted in a mixture of heights approved ranging up to 42m in the immediate surrounds. As such, Council's recommended height of eleven storeys is compliant with policy at clauses 15.01-1, 15.01-2 and 22.10-3.3. The height is appropriate within the context of the area in accordance with objectives at clause 22.10-3.3. Due to the lack of heritage development restrictions in the street and the sites location on the Swan Street MAC, it is expected that as time goes on, the area will increasingly become developed with multi-level commercial buildings contributing to the economic viability of the centre. Whilst initially, this development will be prominent, this will lessen over time as surrounding sites are developed, such as the approval to the west.

*Massing*

159. Council's external Urban Designer also recommended that from levels 8 and above, the proposal should have a front setback of 12m to match the setback of the upper levels of the tower form to the west. Council planning officers do not find this to be necessary. The proposal currently includes setbacks of between 5m and 7.46m from the northern boundary, from level 9 and above. Each application is considered on its own merit, and whilst developments should fit within its existing or emerging context, there is no hard and fast rule that development should match every element of abutting development. The upper level setbacks provided are considered sufficient, particularly as the setbacks increase abutting the site to the west which gives it some primacy in the streetscape. Additionally, the design of the proposal is such that, in addition to the deletion of three levels, additional upper level setbacks would erode the intent of the overall building. The design of the building is not one where terracing would be acceptable and as such, this additional setback will not be required.
160. In terms of side and rear setbacks, the proposal is providing between 3m and 5m from the south and at least 5m from the east and west. This is more than adequate and will sufficiently ensure that the proposal does not dominate the streetscape or the surrounds. The side setbacks ensure that there are views of the sky between buildings and are considered acceptable.
161. By acknowledging its existing context and the agreed aspirations for the future development of the area, the proposal has complied with policies within clauses 15.01-1, 15.01-2 and 22.10-3.3. Overall, the development is in an area where it is appropriate and practicable to provide a building of this height in order to achieve planning objectives, with the scale of the building aligning with all relevant policies and objectives.

*Architectural quality*

162. The development is considered of high architectural quality and in that regard responds to the design objectives clauses 15.01-2 and 22.10-3.4 as well as Schedule 2 of the Design and Development Overlay. The contemporary design is appropriate and responds well to this part of Richmond.





163. The proposal will be constructed using a mixture of sealed and textured concrete for the podium, and black, grey and clear glazing for the upper levels with charcoal, white and silver metal fins. The podium will be rectilinear in form, whilst the upper levels are a variation of curved, rectilinear and jagged in its design. The heavier materials and robust form of the podium will anchor down the base of the building with the varied and lighter form of the upper levels visible above. This irregular design of the upper levels results in it appearing quite different from various view points in the surrounds as well as from further in the distance. In totality, this creates variation and interest and demonstrates the development has been considered 'in the round'. It is clear the proposal has considered how it presents from all angles, with it also providing an activated and engaging presentation to the south facing the station.
164. Council's external Urban Designer stated that details of metal cladding should be provided given the unsuitability of a number of options. A condition can require that details of the metal cladding are provided. A greater level of detail was requested for the podium elements and canopies and this will be extended to all elevations. This can also be rectified by way of condition and ties in with a condition discussed later in the report requiring the submission of canopy details.

*Public Realm*

165. This principle requires the design of interfaces between buildings and public spaces to enhance the visual and social experience of the user. In this respect, the proposal represents a significant improvement in streetscape, public space quality and perceived safety. The existing façades of the buildings are industrial in nature and do not encourage passive surveillance to the streets as is typical of former industrial areas. The existing built form's presentation to the street is not part of the future preferred character envisioned by Council's local policy. Additionally there are a number of at-grade car parking areas fronting Swan Street which would be discouraged if they were proposed now.
166. The construction of a modern commercial building with large glazed ground floor lobbies, active tenancies and outdoor spaces is a significant improvement to both the Swan Street streetscape, but also to the land to the south facing the train station. Through the activation of the ground floor, the building will provide interaction at street level where there currently is none. The proposal includes active frontages to the south at the lower levels as well as incorporating glazing thus ensuring perceived safety for users of the pedestrian link and station.

167. Council's Urban Design Unit was complementary with respect to the proposal being effecting in maximising active frontages by having its substation in one of the basement levels and limiting the vehicular access to a single entry. The treatment of the services to the east of the vehicular entry was queried, and this can be required to be confirmed by way of condition. Council's Urban Design Unit also found the ground floor setbacks from the north and south to be positive as they provide covered areas for outdoor dining and bike parking. This satisfies public realm, pedestrian spaces and street and public space quality policies at clauses 15.01-2, 21.04-2, 22.10-3.2 and 22.10-3.4.
168. Council's external Urban Designer was also supportive of the inclusion of activities at ground and first floors that encourage the general public into the development and create a destination for the local area and workforce. Council's external Urban Designer stated that the through-link and the location of a major entry, mid-block adds to the general vibrancy. Council's external Urban Designer suggested that the inclusion of 'safety by design response' be provided demonstrating how the station walk and links will be enhanced by program, lighting and public realm treatments and signage. A condition will require a detailed design plan to be provided for the through-link and this will include details of the proposed materials, landscaping, lighting and safety measures in support of 24-hour public access. This is yet another factor which leads to the acceptability of the eleventh storey.
169. In terms of light and shade to the public realm, due to the orientation of the site, the proposal will result in shadows to the south over Burnley Station however they do not reach Madden Grove. The applicant provided shadow diagrams which show that at 9am, it will result in shadows to the central area of the northern platform and over the roof of the station. As the day progresses, these shadows continue east, however the station will always have some part of both platforms which is free of any shadows.
170. At 10am, the shadows fall over the northern platform, and the central section of the southern platform. However by 12noon, the central section of the southern platform is free of shadow with this being maintained for the rest of the day. The proposed extent of shadowing is not considered unreasonable and ensures there is always some area of the platform which is not impacted by the proposal. Adding to this, with the reduction in height, the shadows will also decrease and will result in an increase in sunlight reaching the southern (and main) platform. This overall achieves one of the requirements of Council's external urban designer with regards to overshadowing not occurring to the central island platform of the station between 9am and 2pm. This will generally be achieved with the reduction in height.
171. In terms of public realm improvements, as already noted, the proposal includes the side access area at ground floor which provides a through-link between Swan Street and the pedestrian path to the south, giving direct access to the station and land further to the south. Council is supportive of the provision of the through-link as well as the 3m setback from the southern boundary which provides for additional movement space.
172. Council's internal Urban Design Unit stated that it could be of "significant value" and that the "quality of the new link will therefore be crucial to attracting users, including its landscaping, aesthetics, wind conditions and activation". Both Council's internal and external urban designers confirmed that it is integral the link remains accessible at all hours with lighting to ensure pedestrian safety, with both of these being required by way of condition. Furthermore, Council's internal Urban Design Unit noted that the placement of the building's main entry and the location of tenancies fronting onto it also contribute to safety.
173. Council's internal Urban Design Unit stated that it was unfortunate that there is no pedestrian crossing opposite the site. Council planning officers believe that through-link is still an improvement and will be utilised nevertheless.
174. Comments were made by Council's internal Urban Design Unit regarding wind impacts along the link and the viability of the proposed plantings. These issues can be addressed via permit conditions (wind issues will be further expanded on, later in the report).

175. Whilst Council's internal Urban Design Unit recommended that discussions be undertaken with the owner of No. 488 Swan Street and that the neighbouring site be provided with pedestrian access rights, this falls outside of the realm of this application and can be potentially considered between the two owners as a civil matter or in relation to any future developments on that site.
176. In addition to the through-link, Council's Urban Design Unit raised the potential for the applicant to provide an upgrade to the pedestrian path to the south, similar to what is occurring to the west. This would constitute a significant improvement to the public realm and will also strongly contribute to the success of the proposed north-south link. This can be required by way of condition. Transport for Victoria confirmed that they were supportive of these works and that any conditions should be subject to VicTrack approval. This can be required by way of condition.
177. The significant public realm improvements this development is incorporating will result in substantial improvements to the accessibility and walkability of the surrounding area and to the train station with this in turn, benefiting the community as a whole. This is an important consideration to the acceptability of the eleventh storey.
178. Council's internal Urban Design Unit found the width of the crossover to be excessive and suggested it to be 10m in width (plus the kerb radius). The sketch plan provided by the applicant on 8 March 2018 shows that the crossover is 9.93m plus the kerb radius. This therefore meets their recommendation. Council's Urban Design Unit questioned whether a canopy was to be provided. A condition can confirm this ensuring one is provided and is coordinated with the location of street trees.
179. Council's internal Urban Design Unit raised concerns that there is no defined building line for sight impaired people to use as a guide and this, coupled with spaced columns on the building line, result in consideration required to ensure that people know that they are entering into a private property that has no continuous path of travel. Council's internal Urban Design Unit recommended that the columns need to be prominent to a vision impaired person. A condition can easily resolve this to ensure that details are provided regarding this setback area and to ensure that it is DDA compliant. Nevertheless, this setback area will need the clear delineation of the site's title boundaries along Swan Street through the use of brass discs or a similar type method. Council's Engineering Services Unit supported this.
180. The proposed improvements can be required by condition and is considered a very significant and positive contribution to the public realm and the amenity of this changing part of Richmond.

#### *Site Coverage*

181. The level of site coverage proposed is 100 percent and obviously well above the maximum of 80 percent as directed by clause 22.10-3.6. However as the existing level of site coverage in the surrounding (and immediate) area is similar, it is acceptable. Commercial buildings in this precinct traditionally have high levels of site coverage with this characteristic being evident throughout Richmond.

#### *Landscape architecture*

182. Landscaping is not a typical feature of commercial buildings in Richmond, however the proposal includes landscaping at ground floor within the side pedestrian walkway and also within the development along the terraces. This is an improvement compared to existing conditions. Council's Open Space Unit provided comments in relation to the landscaping, and these can be incorporated as conditions on any permit to be issued. This satisfies objectives at clauses 22.10-3.2 and 22.10-3.9.

183. Additionally, Council's external Urban Design raised concerns regarding the insufficient detail of the landscaping treatments and materials. By requiring a landscape plan to be provided to the satisfaction of Council's Open Space Unit, this issue will be rectified. Additionally, this will ensure that there is high quality place-making for the full extent of the pedestrian walk to the south and to the kerb line to the north and all terrace areas. This satisfies two of the suite of factors which if met; Council's external Urban Designer confirmed they would be supportive of an eleventh storey.
184. The proposal also includes the removal of a large tree within the front setback of the subject site, Comments were sought from Council's Arborist who stated that the tree is a significant tree (Red Iron Bark), however the tree has previously been pruned away from the high voltage wires and it was confirmed that it was inappropriately located. Council's Arborist supported the removal, subject to sufficient offset planting on the site or a one off, 'loss of amenity' financial contribution. Council's Arborist confirmed that the proposed design does not allow for offset planting on site and as such, the loss of amenity and ecological value will have to be offset on Council land. Ideally the applicant would design around this tree to ensure retention or design sufficient space to incorporate a large (15m+) native tree in the front.
185. Council's Arborist used the City of Melbourne amenity value calculator for trees which confirmed that the 'loss of amenity' valuation for the Red Iron Bark tree was \$26,349. This can be required by way of condition. This cost is supported by the recent Biodiversity Health Survey which identifies the tree due to its height and native Victorian origin as a 'Critical Habitat Tree'.
186. There are also two street trees abutting the subject site. Council's Arborist recommended that a bond of \$20,000 should be applied to each tree based on a combined amenity valuation only of \$32,868. This can be required by way of condition.
187. Council's Arborist also noted that a maturing Lemon Scented Gum is located on the adjacent property at No. 490 Swan Street. It was recommended that a tree impact and management plan prepared by an appropriately qualified arborist must be submitted to ensure the tree is protected during development. This can be required by way of condition.

#### Environmentally Sustainable Development (ESD)

188. Redevelopment of the site located in an existing built up area would make efficient use of existing infrastructure and services, and the proximity of the subject site to numerous public transport modes which reduce employees and visitors from relying on private vehicles. Policy at clauses 15.02-1, 21.07, 22.16 and 22.17 of the Scheme, encourage ecologically sustainable development, with regard to water and energy efficiency, building construction and ongoing management.
189. Council's ESD Advisor confirmed that the proposed ESD standard for this development is high, above Council's best practice standard, and which could be considered as "excellence" in ESD based on the Green Building Council of Australia definitions. The development includes several commitments such as 4.5 Star NABERS energy rating and a 5 Star Green Star accredited rating and 6 Car share spaces and 12 electric vehicle charging stations. Best practice ESD outcomes are one of the requirements of Council's external Urban Designer to warrant the inclusion of the eleventh storey. This will be met (amongst others).
190. There are areas of identified deficiencies, outstanding information or improvement opportunities:
- (a) *The materials legend includes black tinted glass. This is not consistent with the SMP (min 40% VLT). Strongly recommend that tinting has a minimum VLT of 40% to balance daylight and thermal loading and be consistent with the SMP.*

- (b) *“Preference” to be given to low-VOC products, and SMP “aims to include” low formaldehyde products. Giving “preference” and “aiming to include” are not acceptable terms to use in a SMP for town planning. Please re-word this section to avoid any vague or ambiguous language.*
- (c) *The SMP claims 196 secure bicycle spaces provided, but the architectural drawings appear to have incorporated 170 spaces plus 46 visitor spaces. Please confirm that the 196 secure bike spaces are shown on the architectural drawings.*
- (d) *Please indicate what type of hot water system will be used and its standard of energy efficiency.*
- (e) *No information has been included in the SMP, but on one roof plan, solar panels are noted but not the other roof plan (without adjoining building). Please confirm the system size and location on all roof plans and include some system overview in the SMP. Recommend a solar PV array to contribute to onsite electricity consumption.*
- (f) *Please note the approximate location and size of the rainwater tank is marked on all relevant pages of the architectural drawings.*
- (g) *Green façade elements are clearly identifiable in Figure 6 of the SMP & the architectural Perspectives Render, however they are not included in the landscape plan. Please provide details on the proposed green façade and update relevant documents.*
- (h) *Consider water efficient landscaping provided by rainwater.*
- (i) *Consider onsite energy storage system.*

191. These matters are all considered reasonable and conditions can require these to be included in an amended SMP and annotated on the plans (where relevant). It should be noted that the bike spaces have been shown correctly, however there was a discrepancy with the basement floor plans. The condition requiring that basement level 3 be clearly shown will resolve this issue.

192. It is considered that the proposal will achieve a high level of environmentally sustainable design and greater internal amenity for future occupants. This satisfies a number of clauses including 15.02-1, 18.02-1, 21.06 and 21.07.

#### Off-site amenity impacts

193. The policy framework for amenity considerations is contained within clause 22.05 (Interface uses policy). Clause 55 of the Scheme provides some guidance on these matters (although not strictly applicable).

194. Design objectives at *clause 22.10-3.8* aim to limit the impact of new development on the amenity of surrounding land, particularly residential land, by ensuring that development does not prejudice the rights of adjoining land users. These objectives are largely designed to reduce off-site amenity impacts to land where they interface between land uses. This can include limiting off-site amenity impacts on residential land as well as ensuring that new non-residential use and development within Commercial and Mixed Use and Industrial Zones are designed to minimise noise and visual amenity impacts upon nearby, existing residential properties. Therefore this application must consider both the off-site amenity impacts for residential land as well as any potential impacts to existing commercial/industrial uses.

195. Having regard to amenity impacts on nearby existing residences, policy within clause 22.05 acknowledges that in order to maintain the viability of industrial and business areas, residences which abut business areas should not have unrealistic expectations of the level of amenity which can be achieved. The appropriateness of amenity impacts including setbacks, walls on boundaries, shadowing and overlooking need to be considered within their strategic context, with the site being located within a Commercial 2 Use Zone. In addition, the local character shows a high level of site coverage and boundary-to-boundary development within the subject site and those surrounding it.
196. As previously outlined, the subject site does not directly abut any existing sensitive uses and is located in a zone which prohibits dwellings and where commercial and industrial uses are desired. The site is separated from the closest residential areas further to the north and south by Swan Street and a row of commercial buildings fronting onto it. To the south it is separated by the train line, train station and width of Madden Grove. These distances are 54m and 65m respectively.
197. One consideration is the approved development directly to the west of the site which has recently received a permit for a mixed use development containing dwellings facing the subject site. To address potential amenity considerations to the west, the proposal has incorporated setbacks of between 5m and 7.29m from the shared boundary. The approved development to the west had considered equitable development considerations for the subject site and had ensured that the dwellings above the podium were setback reasonable distances of at least 5.7m. This combined with the proposal results in setbacks of at least 10.7m (with more substantial setbacks also) which ensures that both overlooking and visual bulk impacts are avoided.
198. Whilst the development to the west includes terraces on the third floor which directly abut the podium of the subject site, they are at least 6m in width. The proposal is setback between 5m and 7.29m. The proposal includes a terrace at this floor which directly abuts these areas. These terraces all have a 1.2m high planter which combined with the terrace widths provides a visual buffer both in terms of height and width. This results in future occupants of those terraces not being able to stand right up to the podium edge and are setback at least 1.6m from the shared boundary. Additionally, this would not be drastically different for those future occupants to what is already occurring within their own development where several terraces are located adjacent to each other along this eastern side.
199. The proposal has also considered equitable development to its east through the incorporation of setbacks of at least 5m above the podium. Any development to the east could mirror this which would result in a reasonable building separation.
200. It is also important to note that the shadow diagrams provided by the applicant show that the shadows do not fall over any existing private open space areas between 9am and 3pm. Whilst shading will occur over the approved terraces to the west in the morning, this would be inevitable for any development which was to occur and is 'part and parcel' with the expectations of choosing an apartment with a terrace above the podium abutting another site.

*Noise and light spill*

201. Policy at Clause 22.05 of the Scheme seeks to ensure new commercial development is adequately managed having regard to its proximity to residential uses.
202. The proposal is unlikely to result in unacceptable noise emissions to the nearby residential properties given the majority of the building would be used for offices. Due to the nature of the office use there will be minimal noise generated by pedestrian activity, with this activity largely limited to Swan Street and the pedestrian path and not considered to be detrimental to the amenity of the adjacent properties. The use also ensures that deliveries to the site will be kept to a minimum.

The majority of the office space is enclosed and the use conducted indoors (with the exception of the outdoor terraces). As the office use does not require a planning permit, there is no further control that can be applied in regards to the use of offices.

203. The proposed food and drinks premises are sufficiently separated by residential areas and also primarily indoors, hence their impacts will be further diminished.
204. Light spill will also be limited due to the use primarily operating during the day. Again, this is another area where residents must temper their expectations when they face a zone where these types of uses are encouraged. Whilst the proposed food and drinks premises will also operate at night, these are separated from the residential areas by built form, significant distances, and for those to the south –by the train line.
205. The applicant submitted an acoustic report which was peer reviewed by Council's acoustic consultant, SLR Consulting who confirmed that the report generally addresses the acoustic issues related to the proposal however they suggested the following matters be addressed further, with each of these being discussed individually:
- (a) *Indicative advice is provided for controlling noise from mechanical plant, however the development can be expected to include a large amount of equipment and we would consider the risk of non-compliance with SEPP N-1 to be moderately high. For this reason we recommend the report include the statement that the mechanical design must be reviewed by an acoustical consultant during the detailed design phase of the project.*
  - (b) *The noise monitoring data is described as both free field and façade reflected. The reporting of these measurement locations should be reviewed and clarified to ensure that they are correct and consistent.*
  - (c) *Potential voice noise impacts from the ground floor outdoor areas associated with the food and beverage tenancies is largely addressed through orientation of the tenancies, however we agree with Acoustic Logic that separate acoustic reports should be submitted for any significant noise generating use, and particularly for any entertainment premises of restaurants proposing to play music above background levels.*
  - (d) *Potential voice noise impacts from the west facing terrace, which will be overlooked by residential dwellings, is not addressed in the report. While this area appears to be a low risk of nuisance noise, we nevertheless recommend that the report include the requirement that use of this area is limited to the day and possibly early evening only. If the space is used for functions, it should also meet the patron noise limits nominated in the acoustic report.*
206. In further correspondence dated 14 March, 2018, Council's acoustic consultant confirmed they did not require the noise monitoring data to be reviewed and clarified. They also confirmed that by including a requirement for an additional acoustic report within three months of the occupation of the building to confirm compliance with SEPP N-1, the mechanical noise issues would be resolved. This can be addressed by way of condition.
207. In terms of the impacts from the outdoor food and drink areas, it was confirmed in follow up discussions that this would be low-risk and additional testing would not be required. Council's acoustic consultant agreed that the approved dwellings to the west would be largely protected from noise due to their location. The final matter remaining is in regards to the office terrace use. The proposed office use does not require a planning permit for the use, therefore Council is unable to restrict the hours of operation (inclusive of hours of use of any outdoor areas associated with the office).

208. Looking specifically at the noise sources, the location of services/plant equipment (plus screening) is proposed to be located on the roof, however this is not shown and a condition can require this. Nevertheless, this is a typical and acceptable location within a commercial area and responds to policy at clause 22.10-3.8. A condition would also require that the noise and emissions from plant equipment must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N1).
209. In respect of car noise, the car park entry and exit are located along Swan Street. Any potential noise and light spill would be limited as these areas are separated from more sensitive uses by reasonable distances and other built form. Conditions can ensure it is constructed and maintained to limit noise impacts as required by State regulations.

*Wind*

210. The applicant's wind consultant (Aurecon) carried out a desktop assessment with Council's wind consultant (MEL Consultants) confirming that they agreed with the analysis approach, site exposure, and regional wind climate that have been used for the basis of the assessment. It was also confirmed that whilst no wind tunnel testing has occurred, this is a common approach. The desktop assessment identified the adjacent developments and the heights of the existing buildings and Council's wind consultant agreed with the comments on the shielding provided by the surrounding buildings.
211. The particular areas which were considered were the wind conditions along the footpaths, for people within the ground floor side access area (which is shown as having seating) and for those on the terraces.
212. Council's wind consultant made an assessment of each area, and highlighted the following:
- (a) General - there appears to be an error with the Safety criteria as a mean hourly once per annum wind speed of 20 or 15 metres per second would result in gust wind speed of approximately 37 and 28 metres per second, which are well in excess of Melbourne (1978) safety gust wind speed of 23 metres per second once per annum occurrence. Council's wind consultant confirmed that the Melbourne (1978) Safety criterion is an accepted criterion in the wind engineering community.
  - (b) Footpaths along Swan Street - Council's wind consultant believe that the wind conditions would be up to the walking criterion along the Swan Street footpath, instead of sitting/standing criteria as outlined by the applicant's wind consultant. Considering the building massing of No. 462-482 Swan Street creates a long frontage of taller buildings the wind conditions would be expected to increase as the through-link is approached due to the wind flow accelerating into the laneway around the building corners. However, there would be an expectation that wind conditions may achieve the short period sitting/standing criterion in the middle of the building face, but local wind break protection would be expected to be necessary for the proposed café (Tenancy 1) to achieve the long period sitting/standing criterion.
  - (c) Pedestrian side access lane- the applicant's wind consultant stated that it would be suitable for leisurely walking and recommended additional wind break features (eg glass barriers) if the seating is important. The submitted information provided with the application shows that they intend to use this area as part of outdoor seating for the food and drinks premises. Therefore, additional wind break features will be required. Council's wind consultant agree with this, however recommend that these features be developed with the assistance of wind tunnel model measures and that the measurements will need to include quantified wind speed data. Council's wind consultant has concerns about the wind conditions through the side pedestrian access at ground floor given the images provided by the applicant and the expectations of Council.



Additional wind mitigation strategies would be required to achieve the long period sitting/standing criterion. Council's wind consultant does not support the use of CFD in these situations due to the high turbulence wind conditions of the urban environment and the importance of the pedestrian comfort on the gust wind speeds. (CFD means 'Computation Fluid Dynamics' which is computer simulation of fluid (wind) flow). Council's wind consultant does not support the use of CFD in these situations as the current state of the commercial packages do not correctly capture the effect of wind gustiness (turbulence), which is very important in an urban environment. Research level simulations are getting closer, but require supercomputers and months to run one simulation.

- (d) Rear setback area - the applicant's wind consultant's assessment of the Burnley Station Entrance and Bicycle Parking only considered the effects of downwash (the increase in wind speed at the base of a building due to the deflection of horizontal winds in a downward direction upon contact with a building façade), however Council's wind consultant believes that the potential deflection of wind flow (separated shear layers) from the building towards the station entrances and platforms must also be considered. It was confirmed this could be assessed during a wind tunnel study.
- (e) Terraces - Council's wind consultant confirmed that they agreed with the applicant's wind consultant that the terrace balustrades would assist with mitigating wind conditions on the terraces and that the conditions can be obtained through wind tunnel modelling. They also agreed that with regards to how these terraces are used, there will be a need to educate employees on the usage of these spaces and the tethering of objects. Council's wind consultant confirmed that any objects that are not tethered should not be left unattended or permanently on the terraces. The wind tunnel model study of the development should quantify the wind conditions in the surrounding streetscapes and on the terraces due to the relative height of the proposed development compared to the surrounding buildings.

- 213. Council's wind consultant recommended wind tunnel test be conducted in the detailed design stage and that any wind mitigation strategies are presented with and without the reliance existing or future street trees. A condition can require the wind tunnel modelling to be carried out and all of the above concerns addressed within it. Council's wind consultant confirmed that subject to the conditions proposed, the aforementioned issues will be addressed.
- 214. It should be noted that both Council's internal and external Urban Designer raised concerns with the use of glass screens within the through-link at ground floor to mitigate wind impacts. Through the wind tunnel modelling, the applicant can provide Council with certainty regarding the wind conditions, and will also allow the applicant with an opportunity to find alternatives to avoid using these. Rectifying these issues was one of the suite of conditions which Council's external Urban Designer stated must be achieved to warrant the inclusion of the eleventh storey. Through this condition, this will be met (amongst others).

Car parking, traffic, loading, access and bicycle provision

- 215. Under clause 52.06 of the Scheme, the applicant is seeking a parking reduction of total of 496 spaces, as outlined within the table included in the *Particular Provisions* section earlier in the report.
- 216. A recent Red Dot VCAT decision (*Ronge v Moreland CC [2017] VCAT 550*) made numerous statements with regards to car parking reductions. The Member clearly advocated for a reduction in the statutory car parking provision in inner-city sites such as this. Whilst this decision pertains to a site in Brunswick, the context is similar, being located within proximity to train stations and tram routes. In this instance, the subject site is closer to public transport opportunities and the Melbourne CBD than the review site.

217. Throughout the decision there are numerous relevant statements in support of the reduction and also regarding the limited importance that should be placed on car parking demand assessments. Relevant statements within the summary of this decision are applicable to this application, as follows;
- (a) *State and local planning policies are already acknowledging the change that is required in the way in which people travel with Plan Melbourne 2017-2050 and State policies referring to 20-minute neighbourhoods and greater reliance on walking and cycling.*
  - (b) *Our roads are already congested and will be unimaginably so if a 'business-as-usual' approach is accepted through until 2050. The stark reality is that the way people move around Melbourne will have to radically change, particularly in suburbs so well served by different modes of public transport and where cycling and walking are practical alternatives to car based travel.*
  - (c) *A car parking demand assessment is called for by Clause 52.06-6 when there is an intention to provide less car parking than that required by Clause 52.06-5.*
  - (d) *However, discussion around existing patterns of car parking is considered to be of marginal value given the strong policy imperatives about relying less on motor vehicles and more on public transport, walking and cycling. Census data from 2011 or 2016 is simply a snapshot in time, a base point, but such data should not be given much weight in determining what number of car spaces should be provided in future, for dwellings with different bedroom numbers.*
  - (e) *Policy tells us the future must be different.*
  - (f) *Oversupplying parking, whether or not to comply with Clause 52.06, has the real potential to undermine the encouragement being given to reduce car based travel in favour of public transport, walking and cycling.*
  - (g) *One of the significant benefits of providing less car parking is a lower volume of vehicle movements and hence a reduced increase in traffic movements on the road network.*
218. The *Ronge v Moreland* decision also confirms that in inner city areas where there is access to alternative forms of transport, we need to drastically change how we are currently moving around Melbourne. Providing less car parking spaces encourages people to cycle, walk or use public transport.
219. Given the location of the site on the Swan Street MAC and with direct access to public transport opportunities to access additional services and facilities, the site is considered to be an excellent candidate for the reduction in car parking being sought.

*Parking Availability*

220. The applicant's traffic engineers (Ratio Consultants) did not conduct a parking survey however, it is understood that on-street parking demand is very high and close to saturation point. As acknowledged in the *Ronge v Moreland* decision, existing patterns of car parking usage is not useful given policy within Clause 52.06 encourages the use of other forms of transport.

*Parking Demand*

221. For the food and drinks premises and the restricted retail components, the applicant's traffic engineers have provided for a staff car parking rate of 1 space per 100sqm. Any visitors would have to park off-site.

222. Turning to the proposed office use, Council's Senior Traffic Engineer confirmed parking associated with such developments is generally long-stay parking for employees and short-stay parking (say up to two hours' duration) for customers and clients. Council's Senior Traffic Engineer confirmed that the actual parking demand generated by the office is expected to be lower than the statutory parking rate of 3.5 spaces per 100sqm of floor space, since the area has very good access to public transport services. Whilst Council's Engineering Services Unit assessed the application as providing 129 car spaces for the office use, the provision is 122. This is due to the car share spaces not being allocated to any particular use (Engineering Services Unit assumed they were for the office) and the floor plans are show 154 spaces, not 155. Therefore, with the provision of 122 spaces for the office, the development would be providing a car parking rate of 0.76 spaces per 100sqm. In comparison, Council has approved other car parking rates of between 0.41 and 0.85 spaces per 100sqm. The proposed office rate falls within these comparisons and is considered acceptable considering the context.
223. Within a recent Tribunal decision (*Grocon ( Northumberland St) Developer Pty Ltd v Yarra CC [2017] VCAT 753*) regarding an office development in Collingwood, the Tribunal Member also supported a significantly reduced car parking rate and made the following comments:
- [54] We have concluded that the reduced car parking provision is justified in the circumstances of this application. In doing so, we have had regard to the location within an inner city environment that is earmarked as an employment precinct, with convenient access to a range of alternative transport modes and a constrained supply of on-street parking. We consider that the reduced parking provision will not compromise the viability of the development or precinct, nor will it result in an unacceptable demand for on-street parking, given the saturated conditions that are presently experienced.
- [55] We agree that employees who are not allocated a car space will utilise alternative transport modes rather than attempt to seek out long term parking in the surrounding street network. This may well include walking to the site for persons who reside in the nearby residential and mixed-use areas. To constrain development of the land for a purpose that is in accordance with the zone purpose on the basis of car parking provision would not be consistent with the policy framework when read as a whole. This includes policies aimed at fostering economic development, employment and environmental sustainability. We reach this conclusion mindful of the site's strategic and physical context and its accessibility by a range of transport modes. In a different context without the level of policy support and more remote from alternative transport modes, there may be less justification for a reduction of the magnitude proposed here.
224. Accordingly, the reduction being sought by the proposal is supported by the following:
- (a) Objective 32 of Council's MSS facilitates parking reductions by advocating reduced reliance on private motor vehicles.
  - (b) The site has excellent access to the public transport network, bicycle facilities and a wide range of retail, dining and commercial services within the Swan Street MAC and along Burnley Street, which in turn will reduce the dependence on private vehicle ownership by future employees;
  - (c) The proposal includes secure bicycle parking spaces well in excess of rates specified within the Scheme. The development also has excellent end of trip facilities which will further encourage the use of bicycles. Future employees would be able to take advantage of the bike lanes along the Yarra River;
  - (d) Occupant or visitor parking permits will not be issued for the development, which will discourage people from driving to the site given the high utilisation of existing on-street car parking, this is a welcomed sustainable option in lieu of on-site car parking and consistent with Clauses 18.02-1 and 21.06-1 of the Scheme;

- (e) The office land use is particularly conducive to encouraging those without a car to not drive given trips are made in peak public transport availability periods, trips are known and planned in advance, on-site parking availability is known in advance, surrounding parking conditions are known in advance and do not accommodate long term daytime parking associated with an office use. These factors encourage and help facilitate those without a car to use other modes of transport.
  - (f) Visitors would also be aware of the car parking constraints in the area which would discourage driving for alternative modes such as public transport, cycling or taxis;
  - (g) The food and drinks premises and restricted would heavily rely on walk-up trade for its primary source of customers. It is highly likely that it would attract employees from nearby businesses as well as local residents;
  - (h) The proposal includes the provision of six car share spaces on-site and
  - (i) The location of the proposal encourages multi-purpose trips to the area.
225. From a traffic engineering perspective, the reduction in car parking spaces is considered appropriate in the context of the development and the surrounding area. The site is very well positioned in terms of public transport services.
226. Engineering Services acknowledged that the on-street parking demand is very high and close to saturation point. Providing a reduced provision would encourage a modal shift from private vehicle use to more sustainable travel. Engineering Services has no objection to the proposed reduction in the car parking requirement.

#### *Traffic*

227. In terms of existing conditions, the current use generates around 17 vehicle trips per peak hour. The proposed development would generate an additional 53 vehicle trips per peak hour. For the traffic distribution into and out of the site, Ratio Consultants have adopted an even directional split along Swan Street.
228. The traffic impact of the site's access onto Swan Street was assessed by the applicant's traffic engineers using the SIDRA program, which measures intersection performance. Council's Senior Traffic Engineer stated that SIDRA modelling works well under free flowing traffic conditions and may have limitations, such as queuing of downstream traffic. According to the applicant's traffic engineers, the results of the SIDRA analysis of the site's access point (with Cutter Street as one of the approaches) suggest that the increase in the peak hour traffic of the site can be accommodated without adversely impacting on Swan Street.
229. However, this cannot be considered in isolation. The redevelopment of the site to the west and to a lesser extent, the development to the north, would have a cumulative impact on Swan Street at the junction of Swan Street, Cutter Streets and the subject site's access point. The approved development to the west includes requirements for several traffic mitigation measures such as the installation of signals at their site access along Swan Street (also incorporating Cutter Street) and the removal of some on-street parking on Swan Street.
230. Initially, Council's Engineering Services Unit raised concerns that it is not clear how the subject site's access arrangements would operate if signals were to be installed. Additionally, Council's Senior Engineer initially suggested that an analysis/modelling of the subject site's access point, incorporating the peak hour volumes of No. 462-482 Swan Street and No. 429-437 Swan Street, should be undertaken before further comment is provided on the cumulative traffic impacts on Swan Street. However, since this time, both Transport for Victoria and VicRoads have both required that a condition be placed on any permit that would restrict all movements to left-in, left-out movements only (this will be placed as a condition on any permit to be issued).

As such, Council's Senior Traffic Engineer has confirmed that these turning restrictions will significantly reduce any traffic impacts that could be generated by the proposed development and as such, traffic modelling is unnecessary.

231. It was highlighted that due to the incorporation of these turning restrictions, there is the potential for conflict with the proposed signals of the site to the west for the left-out movement. The applicant's traffic engineers have outlined in correspondence dated 5 March 2018 that they could provide an additional signal lantern facing the proposed site egress as part of the signalisation works. This would indicate a red arrow when the green phase for Cutter Street and the adjoining property access are running. Council's Senior Traffic Engineer confirmed that these have been installed on roads for private access points located very close to intersections. If a green light is activated for traffic exiting the development to the west and Cutter Street, a red signal light would be simultaneously activated for vehicles wanting to exit the subject site. Council's Senior Traffic Engineer confirmed that this would resolve any potential conflict issues and will be required by way of condition.
232. With regards to the cumulative impact of other developments, the area has repeatedly been acknowledged as being quite constrained. In the recent Red Dot Tribunal decision regarding Stage 1 of the Nylex development (*Caydon Cremorne No.1 Development Pty Ltd v Yarra CC* (Red Dot) [2016] VCAT 423), the Member acknowledged that the issue of congestion is one for Council and VicRoads rather than the applicant. This development has limited the number of car spaces it has provided which is all it can do. The issue of traffic congestion is bigger than this application and is a Metropolitan Melbourne wide issue.

*Access and layout*

233. The development includes 154 on-site spaces over three basement levels accessed via Swan Street. It should be noted there are not any car stackers within this development. Council's Senior Traffic Engineer assessed the access arrangements, the car parking modules, gradients and the loading and waste collection. The majority of matters were satisfactory, however the following design items need to be shown:
- (a) Dimensions of the headroom clearance at the entrance and accessways (these should be a minimum of 2.1m and above accessible parking spaces, a minimum of 2.5m headroom clearance is to be provided)
  - (b) Numbering of car parking spaces for easy identification;
  - (c) Dimensions of the accessible parking spaces. The shared areas can be 2.4 metres in width and are to be provided with bollards as per the Australian/New Zealand Standard AS/NZS 2890.6:2009.
  - (d) Dimensions of the column depths and setbacks, lengths of each ramp grade section and truck spaces.
  - (e) Clearances to walls to be provided for spaces abutting them with a minimum 300mm shown. Alternatively, spaces adjacent to walls could be widened to comply with minimum requirements of AS/NZS 2890.1:2004.

234. All of these can be required by way of condition should a permit be granted.

235. Additionally, it is unclear if there is a door to the vehicular entry, and this can also be required by way of condition.

*Bicycle parking and facilities*

236. As outlined earlier in the report the development is required to provide a total of 61 staff and 21 visitor bicycle spaces under clause 52.34 of the Scheme. The development provides 196 bicycle spaces between the various basement levels and the ground floor plan as well as end-of-trip facilities at ground floor.

Through the provision of these spaces, the applicant has responded to the importance that State and Local policies place on encouraging low energy forms of transport such as clause 15.02-3, 18.02-1, 18.02-2 and 21.06.

237. Council's Strategic Transport Unit considered the applicant and confirmed that the proposal exceeds best practice in terms of bicycle space provision. It was noted that all the visitor spaces are well suited for visitor use as they are accessible to the public and are horizontal rails.
238. Council's Strategic Transport Unit did however raise the following concerns regarding the use of the path to the south (which is owned by VicTrack):
- (a) *The location and access arrangements of the visitor and employee spaces is inadequate given primary access to the spaces appears to be from the walkway running along the south of the subject site. Despite assertions within the Traffic Impact Assessment, this path is not a shared path. It also appears this path is owned by VicTrack, and therefore permanent access to this path cannot be guaranteed.*
  - (b) *Further, the path is narrow, and links directly to the Burnley Station underpass at its western end. At this point the path is marked with 'No cycling' signage (Figure 1). By locating all bicycle parking at this intersection many cyclists would be encouraged to use this ramp and conflict with pedestrians would significant, especially during peak hours when train passengers would be accessing the station via the underpass.*
  - (c) *If access to cyclists facilities is from the south, a clearly delineated and cycle-able path to Swan Street should be provided within the east-boundary setback discourage cyclists using the underpass ramp, and to ensure ongoing adequate access to cyclists facilities.*
239. Council planning officers do not agree with the statements in regards to the inappropriate reliance on the pedestrian strip to the south. As noted previously, Council's internal Urban Design Unit have recommended the strip of land to the south is upgraded. The development to the west also included significant improvements to the pedestrian link. Therefore, Council planning officers consider that it is appropriate for the proposal to provide primary access for bicycles along this strip. It is clear that there is every intention for this land to remain open to the public. Additionally, Transport of Victoria stated that they did not have any issue with this. They confirmed that their requirements to provide additional detailing regarding this interface were sufficient. Transport of Victoria encourages mode shift access to an office development of this type which is located next to a train station and is therefore is ideal for mode change. They also confirmed that they would consider some cyclist dismount signs or beware of pedestrian signs at the interface which is a normal pedestrian/cyclist issue.
240. Further to this, Council's Strategic Transport Unit appeared to rely on the station having a 'no cycling' sign at the intersection of the pedestrian path and the underpass to the station. Council planning officers do not put significant weight on this sign, in that, cyclists may be utilising the site from Stawell Street to the east, or from Burnley Street to the west. Not all cyclists will be coming from the station or the south, and those that do, can dismount as the sign requires. There are numerous locations around Melbourne where cyclists have to dismount, and then mount. This is all part of cycling within the inner city. Further to this, any cyclists arriving from Swan Street may be potentially required to dismount to pass through the side access within the development, and with a width of 8.5m, it is considered there is sufficient spaces for this to occur without causing issues with pedestrians and any people using the outdoor seating.
241. Council's Strategic Transport Unit stated that the employee spaces are inadequately located and designed. It was stated that there are too many bike storage areas and that the two, smaller areas (which provide for 64 spaces) for bike parking are problematic due to the narrow and difficult access.

In relation to the number of locations, Council planning officers submit that over time, staff will become accustomed to having a regular bike parking location and this may only potentially be an issue for a short period of time. It should also be noted, that the proposal provides 29 additional bike spaces above best practice requirements. Therefore, the vast majority of the bike spaces provided (130 out of 196) are conveniently located.

242. In relation to the access for the two smaller bike areas, planning officers agree that their access is difficult and a condition will require improved access for the three smaller parking areas in the basement levels.
243. Council's Strategic Transport Unit stated that the lobby and service lobby should be reconfigured so bicycles can be easily wheeled through this entrance. Council planning officers agree that access to the services lobby (where the end of trip facilities are located) from the lobby is difficult due to the location of various doors and tight turns. Therefore a condition will require this to be revised.
244. Finally, Council's Strategic Transport Unit requested that the dimensions of bicycle storage spaces, spacing, and access-ways; and whether spaces are horizontal or hanging spaces are provided. This can be required by way of condition.
245. The provision of the end-of-trip facilities is not clearly shown on the floor plans and the applicant has confirmed that these will be at the ground floor within the area currently shown as 'services lobby'. This can be rectified by way of condition. The provision of showers and lockers is in excess of the statutory requirement, with the number of bicycle spaces being in excess of best practice. Ensuring best practice end-of-trip facilities for cyclists was one of the suite of conditions which Council's external Urban Designer stated must be achieved to warrant the inclusion of the eleventh storey. Through this condition, this will be met (amongst others).
246. The inclusion of a green travel plan providing real-time public transport information in the open space zone was one of the requirements of Council's external Urban Designer which had to be met to justify the inclusion of the eleventh storey. This can be required by way of condition. Additionally, Council's Strategic Transport Unit made many recommendations regarding the Green Travel Plan and these will be included as part of the condition. This satisfies the requirements of clause 52.34 of the Yarra Planning Scheme.

#### *Other*

247. It should be noted that Council's Senior Traffic Engineer has recommended the inclusion of a number of conditions relating to civil works to, road protection, impacts on assets, vehicle crossings and drainage. Many of these have either been included as notes on the permit or can be required by way of condition.

#### Other matters

248. This application was required (pursuant to Clause 66.02-11 – Integrated Public Transport Planning) to be referred to Transport for Victoria as the floor area of the office is greater than 10,000sqm in leasable floor area. The application was also referred to VicRoads, Transurban and the EPA due to DDO5 and alterations and buildings and works within a Road Zone. None of these referral authorities objected to the application, subject to conditions on the permit. These will all be placed on any permit to be issued. They relate to additional information being provided regarding impacts to the tram, construction management plans, detailed information regarding works at the southern boundary, and most significantly, they restrict vehicle movements to left in, left out. The repercussions of this on the development have already been discussed within the report.

#### Waste Management

249. The applicant's Waste Management Plan (WMP) prepared on 6 June 2017 by Ratio Consultants has been found to be satisfactory by Council's Waste Management Unit. The WMP confirms that:

- (a) Waste shall be stored within the development (hidden from external view).
- (b) Users shall sort their waste, and dispose garbage and recyclables into bins in each office area with cleaning staff disposing of it into larger bins in the waste room at Basement Level 01.
- (c) The food and drinks tenancies will store their bin within a back of house area with tenants transferring this into the waste room at Basement Level 01.
- (d) Organic waste for the food and drinks premises will be disposed of into two food digesters, one at ground floor and another at first floor. The digester that processes food waste will turn the organics into environmental safe water and it shall be plumbed with municipal sewage system.
- (e) All collections are to be performed by a private contractor.
- (f) Two loading bays are located on Basement Level 01 to facilitate waste collection.

#### Objector concerns

250. The majority of the issues which have been raised by the objectors have been addressed within this report.

- (a) Neighbourhood character/Heritage & Streetscape (paragraphs 139-147 & 162-180);
- (b) Height/Massing (paragraphs 148-161);
- (c) Car parking/traffic implications (paragraphs 215-232);
- (d) Amenity Impacts (overshadowing and visual bulk) (paragraphs 193-214);

251. Outstanding concerns will be discussed below, and relate to:

- (a) Insufficient demand for office floor area;

This is not a relevant planning consideration. The site is located within the inner-city and within an area designated for offices. State and Local policies encourage increased employment opportunities.

- (b) Issues during construction;

This will be dealt with at the Building Permit stage. A Construction Management Plan (CMP) will be required by way of condition and will manage impacts during the construction stage. This will be further considered during the building stage also.

#### **Conclusion**

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

253. The proposal, subject to the conditions recommended, is an acceptable planning outcome that demonstrates clear compliance with the relevant Council policies. Additionally, the proposal will result in a significant public realm benefit due to the creation of a through-link which is open to the public and provides access to the land to the south. The pedestrian path is also proposed to be improved.



## RECOMMENDATION

That having considered all objections and relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant a Planning Permit PLN17/0448 for use and development of the land for the construction of a mixed use building (permit required for food and drinks premises (café)), reduction in car parking requirements, and alteration of access and building and works to a Road Zone Category 1 Road at 484 – 486 Swan Street, Richmond, subject to the following conditions:

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the decision plans by Techne Architects received by Council on 23 August 2017 but modified to show:
  - (a) an updated basement 3 floor plan;
  - (b) numbering of plans;
  - (c) a roof plan showing all plant and equipment with screening provided ensuring views from Swan Street and Burnley Station are obscured;
  - (d) the five food and drinks premises to be labelled as Food and Drinks Premises (café) and to be numbered Tenancy 1 to 5 with Tenancy 1 fronting Swan Street, Tenancy 2 and 3 being the central tenancies, Tenancy 4 being the southern-most and Tenancy 5 is the first floor premises;
  - (e) the ground floor crossover dimensions annotated as per the sketch plan provided on 8 March 2018;
  - (f) the deletion of three of the upper-most floors (levels 11-13 - inclusive);
  - (g) a materials sample board of external materials and finishes including thumb nail sketches of key elements of the facade system at the ground, middle and upper levels including details of the proposed metal cladding;
  - (h) details of the canopy to Swan Street (coordinated with the location of street trees);
  - (i) details regarding the treatment of the services to the east of the vehicular entry;
  - (j) details of the vehicular entry door;
  - (k) details of the ground floor setback area facing Swan Street and confirmation that it is compliant with the *Disability Discrimination Act 1992* (DDA).
  - (l) clear delineation of the site's title boundaries along Swan Street through the use of brass discs or a similar type method;
  - (m) dimensions of the headroom clearance at the entrance and accessways (these should be a minimum of 2.1m and above accessible parking spaces, a minimum of 2.5m headroom clearance is to be provided);
  - (n) numbering of car parking spaces for easy identification;
  - (o) dimensions of the accessible parking spaces. The shared areas can be 2.4 metres in width and are to be provided with bollards as per the Australian/New Zealand Standard AS/NZS 2890.6:2009;
  - (p) dimensions of the column depths and setbacks, lengths of each ramp grade section and truck spaces;
  - (q) clearances to walls provided for spaces abutting them with a minimum 300mm shown. Alternatively, spaces adjacent to walls could be widened to comply with minimum requirements of AS/NZS 2890.1:2004;
  - (r) improved bicycle access from the lift area to the bicycle stores on basement floor plans 2 and 3;
  - (s) improved access for cyclists to the services lobby on the ground floor (where the end of trip facilities are located) from the lobby;
  - (t) confirmation that the end of trip facilities are located within the 'services lobby' on the ground floor and that at least 24 showers and 240 lockers will be provided;
  - (u) dimensions of bicycle storage spaces, spacing, and access-ways;
  - (v) confirmation whether bicycle spaces are horizontal or hanging spaces (with at least 20 percent of employee and all visitor bicycle spaces being horizontal ground level spaces).

- (w) the location of the additional signal lantern facing the proposed site egress;
  - (x) any requirement of the endorsed Sustainable Management Plan (condition 6) (where relevant to show on plans);
  - (y) any requirement of the endorsed Waste Management Plan (condition 8) (where relevant to show on plans);
  - (z) any requirement of the endorsed Acoustic Report (condition 10) (where relevant to show on plans);
  - (aa) any requirement of the endorsed Landscape Plan report (condition 13) (where relevant to show on plans);
  - (bb) any requirement of the endorsed Wind Report (condition 19) (where relevant to show on plans); and
  - (cc) any requirement of the endorsed Detailed Design Plan (Through-link between Swan Street and land to the south) (condition 21) (where relevant to show on plans).
2. The use and development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. As part of the ongoing consultant team, Techne Architecture or an architectural firm to the satisfaction of the Responsible Authority must be engaged to:
- (a) oversee design and construction of the development; and
  - (b) ensure the design quality and appearance of the development is realised as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.

#### Food and Drinks Premises (café)

4. Except with the prior written consent of the Responsible Authority, the café uses authorised by this permit may only operate between the hours of 7am and 11pm, seven days per week.
5. Except with the prior written consent of the Responsible Authority, no more than the following maximum number patrons are permitted on the land at any one time:
- (a) Tenancy 1 – 110
  - (b) Tenancy 2 – 30
  - (c) Tenancy 3 – 50
  - (d) Tenancy 4 – 70
  - (e) Tenancy 5 – 900

#### Sustainable Management Plan

6. Before the development commences, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Management Plan will be endorsed and will form part of this permit. The amended Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by Arcadis (prepared on 2 June 2017), but modified to include or show:
- (a) tinted glass to have a minimum VLT of 40% to balance daylight and thermal loading;
  - (b) re-worded to avoid ambiguous language such as “preference” and “aiming to include”;
  - (c) the type of hot water system which will be used and its standard of energy efficiency;
  - (d) confirm the solar photovoltaic system size and location on all roof plans and include some system overview in the SMP with the solar photovoltaic array to contribute to onsite electricity consumption;
  - (e) the approximate location and size of the rainwater tank;
  - (f) green façade elements confirmed;
  - (g) water efficient landscaping provided by rainwater; and
  - (h) an on-site energy storage system.

7. The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

#### Waste Management Plan

8. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
9. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.

#### Acoustic report

10. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
11. Within 3 months of the occupation of the building, updated post-occupation Acoustic Report to the satisfaction of the Responsible Authority must be prepared by a suitably qualified acoustic engineer and must be generally in accordance with the Acoustic Logic Consultancy report dated 11 August 2017. The report must be submitted to and approved by the Responsible Authority. When approved, the updated post-commencement Acoustic Report will be endorsed and will form part of this permit. The Acoustic Report must (assess) address the following:
  - (a) Confirm that the recommendations of the endorsed acoustic report required as part of Condition 10 have been implemented;
  - (b) Assess mechanical plant noise to SEPP N-1; and
  - (c) If non-compliance with Condition 11b is measured, additional acoustic measures as recommended by the amended post-occupation acoustic report are to be implemented within one month of the date of the amended acoustic report.
12. The provisions, recommendations and requirements of the endorsed post-occupation Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.

#### Landscape Plan

13. 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 type, location, quantity, height at maturity and botanical names of all proposed plants. Shade tolerant species are recommended for the ground floor;
  - (b) show the extent of planters and where the Ronstan X-tend mesh panels are proposed;
  - (c) further details of the proposed planters – height, materials, depth and type of planting media, irrigation and drainage. NB, the plan notes indicate that trees will be planted in 1500mm depth soil however the planters shown are 600mm depth;
  - (d) confirm any green façade elements;
  - (e) show the materiality of the proposed spaces;
  - (f) detail the design (including the provision of sections) and layout of the common area, planters and ground level planting areas;
  - (g) provide a specification of works to be undertaken prior to planting;
  - (h) further detail on any sustainable treatments and water harvesting methods ;and
  - (i) detail plant/planting maintenance schedules and requirements.

to the satisfaction of the Responsible Authority.

14. 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.

### Street Trees

15. Before the development starts, the permit holder must provide a security bond of \$20,000 for each of the two street trees (total of \$40,000) to the Responsible Authority. The security bond:
- (a) must be provided in a manner, and on terms, to the satisfaction of the Responsible Authority;
  - (b) may be held by the Responsible Authority until the works are completed to the satisfaction of the Responsible Authority; and
  - (c) in accordance with the requirements of this permit; or
  - (d) otherwise to the satisfaction of the Responsible Authority.

### Significant Tree

16. Before the development commences, the permit holder must make a one off 'loss of amenity' contribution \$26,349.00 (calculated using the City of Melbourne amenity value calculator for trees) to the Responsible Authority to be used for the replacement and maintenance of trees within the immediate locale to Council's discretion. All tree planting and maintenance work will be undertaken by City of Yarra Contractors.

### Tree Management Plan

17. 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 the protection of the maturing Lemon Scented Gum is located on the adjacent property at No. 490 Swan Street:
- (a) pre-construction;
  - (b) during construction; and
  - (c) post construction
  - (d) the provision of any barriers;
  - (e) any pruning necessary; and
  - (f) watering and maintenance regimes,

to the satisfaction of the Responsible Authority.

18. The provisions, recommendations and requirements of the endorsed Tree Management Plan must be complied with and implemented to the satisfaction of the Responsible Authority

Wind

19. Before the development commences, an amended Wind Assessment Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Wind Assessment Report will be endorsed and will form part of this permit. The amended Wind Assessment Report must be generally in accordance with the Wind Assessment Report prepared by Aurecon and received by Council on 18 August 2017, but modified to include (or show):
- (a) Wind tunnel model measurements undertaken to verify the findings of the desktop study, and amended to include (the use of CFD is not supported in this instance):
    - (i) Wind conditions outside building entries to satisfy the criterion for short period standing/sitting.
    - (ii) Wind conditions in outdoor café/retail seating areas to satisfy the criterion for long period standing/sitting. Details of wind mitigation strategies must be provided and be to the satisfaction of the responsible authority.
    - (iii) Wind conditions at the Burnley Station entrances and Bicycle parking and on the station platforms to satisfy the short period standing/sitting criterion.
    - (iv) Wind conditions in all other areas of the surrounding streetscapes to satisfy the walking criterion.
    - (v) Wind conditions on the private terraces to satisfy the walking criterion.
    - (vi) Wind conditions in the surrounding streetscapes and private terraces to satisfy the Safety criterion of a gust wind speed  $23 \text{ ms}^{-1}$  as defined by Melbourne (1978).
    - (vii) The Existing wind conditions (prior to the demolition of the existing buildings) provided to allow the wind impacts of the proposed development to be assessed.
20. The provisions, recommendations and requirements of the endorsed Wind Assessment Report must be implemented and complied with to the satisfaction of the Responsible Authority.

Detailed Design Plan (Through-link between Swan Street and land to the south)

21. Before the development commences, or by such later date as approved in writing by the Responsible Authority, a detailed design plan for the through-link, between Swan Street and the land to the south (inclusive of the full extent of the pedestrian walk to the south and to the kerb line to the north) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the detailed design plan will be endorsed and will form part of this permit and must then be maintained to the satisfaction of the Responsible Authority. The detailed design plan must include details of the proposed materials, landscaping, lighting and safety measures to provide unfettered 24 hour public access for the through-link, between Swan Street and the land to the south (inclusive of the full extent of the pedestrian walk to the south and to the kerb line to the north).

Section 173 Agreement (Through-link between Swan Street and land to the south)

22. Within six months of the commencement of works, 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*, providing for the following:

- (a) The Owner must provide unfettered 24 hour public access over (and inclusive of the provision of lighting) over that part of the land to be used for the ground floor, north-south through-link from Swan Street to the pedestrian path to the south;
  - (b) The owner is responsible for maintaining at all times the areas that are private land open to the public described in condition 22(a) at the cost of the owners of the site and to the satisfaction of the Yarra City Council;
  - (c) The owner(s) must obtain and maintain insurance, approved by Yarra City Council, for the public liability and indemnify Yarra City Council against all claims resulting from any damage, loss, death or injury in connection with the public accessing the land described in condition 22 (a).
23. 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 reasonable costs borne by the Responsible Authority.

#### VicTrack Pedestrian Path

24. Before the development commences, the permit holder must submit detailed plans (inclusive of materials and landscaping) to the satisfaction of and approved by the Responsible Authority and VicTrack, showing interface improvements for the footpath to the south (directly abutting the subject site's boundaries).
25. Before the building is occupied, all works associated with the VicTrack pedestrian path detailed design plan as shown on the endorsed plans must be completed by the permit holder at their full cost to the satisfaction of the Responsible Authority and VicTrack.

#### Section 173 Agreement (Car Share Agreement)

26. Before the building is occupied, the owner must enter into an agreement with the Responsible Authority under section 173 of the Planning and Environment Act 1987 and apply to the Registrar of Titles to have the agreement registered on each of the titles to the land under Section 181 of the Act. Under the agreement, the owner must covenant with the Responsible Authority that provision will be made for six car share vehicles on-site by way of arrangement with a car share operator and/or the future Owners Corporation for a minimum period of 10 years (or for another agreed to period of time, to the satisfaction of the Responsible Authority). The agreement will reflect that any costs associated with ensuring ongoing availability of at least six car share vehicles on site will be borne by the owner. All costs of preparation, execution and registration of the agreement must be borne by the owner of the land, or the future Owners Corporation, including those costs incurred by the Responsible Authority.

#### Transport for Victoria Conditions (27 to 40)

##### *Pre Construction*

27. Before the development commences, or other time agreed to in writing with Head, Transport for Victoria, amended plans to the satisfaction of the Head, Transport for Victoria 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. These plans must be generally in accordance with the plans submitted to the Head, Transport for Victoria with the application but are to be modified to show:

- (a) self enforcing left in left out only from Swan Street with associated line marking and signs;
- (b) no parking shown across the frontage of the site with associated signs; and
- (c) detailed plans / landscaping schedule for the interface with the railway land

to the satisfaction of the Head, Transport for Victoria.

- 28. Prior to the commencement of the development, detailed construction / engineering plans and computations for the works along the boundary with the railway reserve as shown on the endorsed plans must be submitted and approved by VicTrack and Public Transport Victoria. The Plans must detail all works proposed within the rail environment, including excavation of the site adjacent to the railway corridor and any impact on the rail reserve. The plans must ensure compliance regarding building clearances to aerial power lines as per the applicable Victorian Electrical Safety Regulations, to the satisfaction of Vic Track and Public Transport Victoria.
- 29. Unless otherwise agreed in writing with Head, Transport for Victoria, before the commencement of works, a Construction Management Plan must be submitted to Public Transport Victoria and Vic Track for approval. The Construction Management Plan must designate operating hours and include details of (but not be limited to) management proposals and actions to protect Vic Track assets, rail infrastructure and the operation of the public transport network during construction and must set out objectives, performance and monitoring requirements to the satisfaction of Vic Track & Public Transport Victoria.
- 30. Unless otherwise agreed in writing with the Head, Transport for Victoria, before the commencement of works, a Traffic Management Plan must be submitted to Public Transport Victoria which outlines how traffic will be managed throughout the construction of the development and mitigate impacts to public transport, including trains and trams. The Traffic Management Plan must be prepared and implemented to the satisfaction of Public Transport Victoria. All traffic management and mitigation costs will be at the full cost of the permit holder.
- 31. Unless otherwise agreed in writing with Public Transport Victoria, prior to construction commencing including demolition, a construction control and indemnity agreement as required by Public Transport Victoria must to be in place to the satisfaction of Public Transport Victoria at the full cost to the permit holder. Any costs required to review documents for the construction control and indemnity agreement must be met by the permit holder.

*General Conditions*

- 32. Prior to the occupation of the development, all works outlined on the endorsed plans for the left in left out access must be completed with associated signs, to the satisfaction of the Head, Transport for Victoria at the full cost to the permit holder.
- 33. Unless otherwise agreed in writing with VicTrack, permanent or temporary soil anchors must not be installed on railway land.
- 34. Prior to commencement of works, the Rail Operator must be contacted through the email address [metrositeaccess@metrotrains.com.au](mailto:metrositeaccess@metrotrains.com.au) to obtain the Rail Operator's conditions and safety requirements for works on, over or adjacent to railway land.
- 35. Any Rail Operator costs required to review documents or construction plan works within the rail environment must be met by the permit holder.

36. Any damage to public transport infrastructure as a consequence of the construction works must be rectified to the satisfaction of Public Transport Victoria, at the full cost of the permit holder.
37. The permit holder must take all reasonable steps to ensure that disruptions to train and tram operation are kept to a minimum during the construction of the development, and in compliance with the Rail and Tram Safety and Environmental requirements.
38. Building materials (including glass/window/ balcony treatments) likely to have an effect on train driver operations along the rail corridor must be non-reflective and avoid using red or green colour schemes, to the satisfaction of the Rail Operator.
39. No lighting is to be erected that throws light onto the railway tracks or which interferes with the visibility of signals and the rail lines by train drivers, to the satisfaction of the Rail Operator.
40. No drainage, effluent, waste, soil or other materials must enter or be directed to railway land or stored or deposited on railway land.

VicRoads Condition (No 41)

41. Before the use approved by this permit commences the following roadworks on Swan Street, Richmond must be completed at no cost to and to the satisfaction of the Roads Corporation:
  - (a) The installation of signs, line marking, splitter island and associated road works permitting only "left turn in" and "left turn out" vehicular access from Swan Street.
  - (b) Modification or removal of any existing car parking spaces, street tree/s and associated road works on the south side of Swan Street to accommodate the new vehicular access arrangement.

Road Infrastructure

42. Before the development commences, or by such later date as approved in writing by the Responsible Authority, the applicant must prepare and submit a 1 in 20 scale cross sectional drawing of the development's vehicular entrance, showing the actual reduced levels to three decimal places (not interpolated levels from the application drawings) of the Swan Street road profile (from the centre line to the property line). The required levels include the building line level, top of kerb level, invert level, lip level and road pavement levels. The existing road profile of Swan Street and the accessway inside the property must be accurately drawn. The applicant must demonstrate by way of a ground clearance check using the B99 design vehicle that vehicles can traverse the new vehicle crossing and ramp without scraping or bottoming out. The 1 in 20 scale cross sectional drawing must be submitted to Council's Construction Management branch for assessment and approval.
43. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the existing side entry pit must be converted to a grated pit and must be constructed with a pipe extension to one side of the new vehicle crossing:
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority
44. 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) to VicRoads geometric requirements and in accordance with any requirements or conditions imposed by Council;
  - (b) to accommodate the ground clearance of the B99 design vehicle;
  - (c) at the permit holder's cost; and



- (d) to the satisfaction of the Responsible Authority.
45. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any redundant vehicular crossing must be demolished and re-instated as standard footpath and kerb and channel:
- (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
46. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damaged roads, footpaths and other road related infrastructure adjacent to the development site as a result of the construction works, including trenching and excavation for utility service connections, must be reconstructed:
- (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
47. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, footpath along the property's Swan Street frontage must be reconstructed:
- (a) with a cross-fall of 1 in 40 or unless otherwise specified by Council;
  - (b) at the permit holder's cost; and
  - (c) to the satisfaction of the Responsible Authority.
48. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, kerb and channel along the property's Swan Street frontage must be reconstructed:
- (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
49. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the half-width road pavement (from the central tram reservation to the south kerb) of Swan Street immediately along the property street frontage must be profiled and re-sheeted:
- (a) with all road pavement reinstatements consolidated as single full-width areas of reinstatement to reduce further construction joints in the pavement;
  - (b) at the permit holder's cost; and
  - (c) to the satisfaction of the Responsible Authority.
50. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
- (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.

### Car parking

51. Before the development commences, a Car Park Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Car Park Management Plan will be endorsed and will form part of this permit. The Car Park Management Plan must address, but not be limited to, the following:
- (a) the number of car parking spaces allocated to each tenancy and that each space is allocated;

- (b) the location of the additional signal lantern facing the proposed site egress;
- (c) details of way-finding, cleaning and security of end of trip bicycle facilities;
- (d) policing arrangements and formal agreements;
- (e) details of the management of the six car share scheme spaces;
- (f) details of the electric car charging points;
- (g) a schedule of all proposed signage including directional arrows and signage, informative signs indicating location of disabled bays and bicycle parking, exits, restrictions, pay parking system etc;
- (h) the collection of waste and garbage including the separate collection of organic waste and recyclables, which must be in accordance with the Waste Management Plan required by Condition 8; and
- (i) details regarding the management of loading and unloading of goods and materials.

52. The provisions, recommendations and requirements of the endorsed Car Park Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

53. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the area set aside on the endorsed plans for the car parking spaces, access lanes, driveways and associated works must be:

- (a) constructed and available for use in accordance with the endorsed plans;
- (b) formed to such levels and drained so that they can be used in accordance with the endorsed plans;
- (c) treated with an all-weather seal or some other durable surface; and
- (d) line-marked or provided with some adequate means of showing the car parking spaces;

to the satisfaction of the Responsible Authority.

54. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, a notice showing the location of car parking must be placed in a clearly visible position near the entry to the land. The notice must be maintained thereafter to the satisfaction of the Responsible Authority.

55. The loading and unloading of vehicles and the delivery of goods to and from the land must be conducted entirely within the land to the satisfaction of the Responsible Authority.

#### Green Travel Plan

56. Before the development commences, a Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Green Travel plan will be endorsed and will form part of this permit. The Green Travel Plan must include, but not be limited to, the following:

- (a) a description of the location in the context of alternative modes of transport;
- (b) employee welcome packs (e.g. provision of Myki/transport ticketing);
- (c) the provision of real time passenger information displays for nearby stops within each lobby;
- (d) sustainable transport goals linked to measurable targets, performance indicators and monitoring timeframes;
- (e) a designated 'manager' or 'champion' responsible for coordination and implementation;
- (f) details of bicycle parking and bicycle routes (which do not refer to the footpath at the south as a 'shared path');
- (g) details of GTP funding and management responsibilities;
- (h) the types of bicycle storage devices proposed to be used for employee and visitor spaces (i.e. hanging or floor mounted spaces);

- (i) the types of lockers proposed within the change-room facilities, with at least 50% of lockers providing hanging storage space;
- (j) security arrangements to access the employee bicycle storage spaces; and
- (k) signage and wayfinding information for bicycle facilities and pedestrians pursuant to Australian Standard AS2890.3;
- (l) provisions for the Green Travel Plan to be updated not less than every 5 years.

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

#### Lighting

58. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the pedestrian and vehicular entrances and through-link laneway must be provided on the subject site. Lighting must be. Lighting must be:

- (a) located;
- (b) directed;
- (c) shielded; and
- (d) of limited intensity,

to the satisfaction of the Responsible Authority.

#### General

59. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.

60. 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.

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

62. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.

63. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.

64. All pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

65. 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.

### Construction Management

66. Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:

- (a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
- (b) works necessary to protect road and other infrastructure;
- (c) remediation of any damage to road and other infrastructure;
- (d) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land,
- (e) facilities for vehicle washing, which must be located on the land;
- (f) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
- (g) site security;
- (h) management of any environmental hazards including, but not limited to,:
  - (i) contaminated soil;
  - (ii) materials and waste;
  - (iii) dust;
  - (iv) stormwater contamination from run-off and wash-waters;
  - (v) sediment from the land on roads;
  - (vi) washing of concrete trucks and other vehicles and machinery; and
  - (vii) spillage from refuelling cranes and other vehicles and machinery;
- (i) the construction program;
- (j) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
- (k) parking facilities for construction workers;
- (l) measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;
- (m) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
- (n) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced;
- (o) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads;
- (p) a Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with Noise Control Guideline 12 for Construction (Publication 1254) as issued by the Environment Protection Authority in October 2008. The Noise and Vibration Management Plan must be prepared to the satisfaction of the Responsible Authority. In preparing the Noise and Vibration Management Plan, consideration must be given to:
  - (i) using lower noise work practice and equipment;
  - (ii) the suitability of the land for the use of an electric crane;
  - (iii) silencing all mechanical plant by the best practical means using current technology;
  - (iv) fitting pneumatic tools with an effective silencer;
  - (v) other relevant considerations; and
- (q) any site-specific requirements.

During the construction:

- (r) any stormwater discharged into the stormwater drainage system must be in compliance with Environment Protection Authority guidelines;
- (s) stormwater drainage system protection measures must be installed as required to ensure that no solid waste, sediment, sand, soil, clay or stones from the land enters the stormwater drainage system;
- (t) vehicle borne material must not accumulate on the roads abutting the land;
- (u) the cleaning of machinery and equipment must take place on the land and not on adjacent footpaths or roads; and
- (v) all litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly.

#### Time expiry

67. 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; or
- (c) the use has not commenced within five years of the date of this permit.

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

#### Notes:

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.

A building permit maybe required before development is commenced. Please contact Council's Building Services on 9205 5095 to confirm.

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

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

Measures must be taken to ensure that rainfall run-off from Hutchins Street does not enter the development's car park entrance and truck turning area

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

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

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

The Permit Holder/developer is responsible for the management and protection of their building from groundwater.

The developer needs to ensure that the basement car park and any portions of the development at or below natural surface level have a level of protection to minimise the seepage of subterranean water (groundwater) or any rainfall run-off from penetrating the walls or floors of the site.

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

It is also the Permit Holder's onus and responsibility to ensure that rainfall run-off does not enter the property in the event of a heavy storm. Adequate measures should be in place to prevent backwash from entering the property.

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

Any on-street parking reinstated as a result of development works must be approved by Council's Parking Management unit.

The removal of any kerbside parking sensors and any reinstatement of parking sensors will require the Permit Holder to pay Council the cost of each parking sensor taken out from the kerb/footpath. Only roof runoff, surface water and clean groundwater seepage from above the water table can be discharged into Council drains.

Contaminated ground water seepage into basements from above the water table must be discharged to the sewer system through a trade waste agreement with the relevant authority or in accordance with EPA guidelines.

Contaminated groundwater from below the water table must be discharged to the sewer system through a trade waste agreement from the relevant sewer authority.

Council will not permit clean groundwater from below the groundwater table to be discharged into Council's drainage system. Basements that extend into the groundwater table must be waterproofed/tanked.

Transport for Victoria notes

Works undertaken within railway land must consider all standards and work practices for work within the railway corridor and conform to all relevant Australian standards including Victorian Rail Industry Operator Group (VRIOG) standards for any interface works and installation of underground utility services to the satisfaction of the Rail Operator and Public Transport Victoria.

Entry onto railway land is at the discretion of the Rail Operator and is subject to the Rail Operators Site Access Procedures and conditions.

VicRoads Notes

Separate consent may be required from VicRoads (the Roads Corporation) under the Road Management Act 2004 for buildings and works (i.e. canopies and architectural features/projections) undertaken outside the title boundary within a Road Zone Category 1 (i.e. Swan Street). Please contact VicRoads prior to commencing any works.

**CONTACT OFFICER:** Vicky Grillakis  
**TITLE:** Coordinator Statutory Planning  
**TEL:** 92055124

### Attachments

- 1 PLN17/0448-03 - 484 - 486 Swan Street Richmond - subject land - idac attachments
- 2 PLN17/0448-03 - 484 - 486 Swan Street Richmond - referrals final - idac attachment
- 3 PLN17/0448-03 - 484 - 486 Swan Street Richmond - decision plans - basements 2 & 3 - idac attachment

- 4 PLN17/0448-03 - 484 - 486 Swan Street Richmond - decision plans - idac attachment
- 5 PLN17/0448-03 - 484 - 486 Swan Street Richmond - decision plans - west elevation - idac attachment
- 6 PLN17/0448-03 - 484 - 486 Swan Street Richmond - decision plans - sections - idac attachment
- 7 PLN17/0448-03 - 484 - 486 Swan Street Richmond - shadows - idac attachment
- 8 PLN17/0448-03 - 484 - 486 Swan Street Richmond - updated ground floor plan showing crossover - sketch plan

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- 1.2 Interim order response plan assessment - PLN16/0434 - 26-56 Queens Parade, Fitzroy North (Development of the land for the construction of a 10 storey building, plus 2 basement levels, to be used as dwellings (no permit required for dwelling use), use of part of the site as a café, food and drinks premises, shop and use of part of the land for the sale and consumption of liquor (in association with the food and drinks premises and café), reduction in the car parking requirements, reduction of the loading bay requirements and alteration of access to a Road Zone and PLN16/0732 - Rear of 26-56 Queens Parade, Fitzroy North Development of the land for the construction of 4, 3-storey dwellings (no permit required for dwelling use), reduction in the car parking requirements and to provide all of the car parking spaces on another site (being the larger Queens Parade site))**
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## **Executive Summary**

### **Purpose**

1. This report provides an assessment of the plans circulated by the Permit Applicant for the above 2 applications in response to the VCAT interim order dated 26 October 2017.

### **Key Planning Considerations**

2. Key planning considerations include is how the amended plans respond to the VCAT interim order.

### **Key Planning Issues**

3. Council is confined in the interim VCAT order as follows (i.e. not a de novo assessment):
  6. *By no later than 4 April 2018, the responsible authority may file with the Tribunal and serve on the applicant a written submission in relation to the documents served in accordance with order 1. The submission may include:*
    - (a) *an updated set of draft permit conditions for the Tribunal's consideration if the Tribunal ultimately decides to grant a permit that refers to the amended plans in permit conditions, and*
    - (b) *a request that the responsible authority be heard in relation to its written submission and the reasons for that request.*
7. Objectors also have an opportunity to send written submissions to VCAT in response to the interim order response plans.

### **Conclusion**

8. Based on the following report, Council raises no additional issues in response to the interim order response plans (noting its original position on both applications remains). Should VCAT grant a permit for one or both applications, the without prejudice draft conditions contained in this report should be imposed.

**CONTACT OFFICER:** Sarah Thomas  
**TITLE:** Principal Planner and Advocate  
**TEL:** 9205 5046



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- 1.2 Interim order response plan assessment - PLN16/0434 - 26-56 Queens Parade, Fitzroy North (Development of the land for the construction of a 10 storey building, plus 2 basement levels, to be used as dwellings (no permit required for dwelling use), use of part of the site as a café, food and drinks premises, shop and use of part of the land for the sale and consumption of liquor (in association with the food and drinks premises and café), reduction in the car parking requirements, reduction of the loading bay requirements and alteration of access to a Road Zone and PLN16/0732 - Rear of 26-56 Queens Parade, Fitzroy North Development of the land for the construction of 4, 3-storey dwellings (no permit required for dwelling use), reduction in the car parking requirements and to provide all of the car parking spaces on another site (being the larger Queens Parade site))**
- 

Trim Record Number: D18/46554

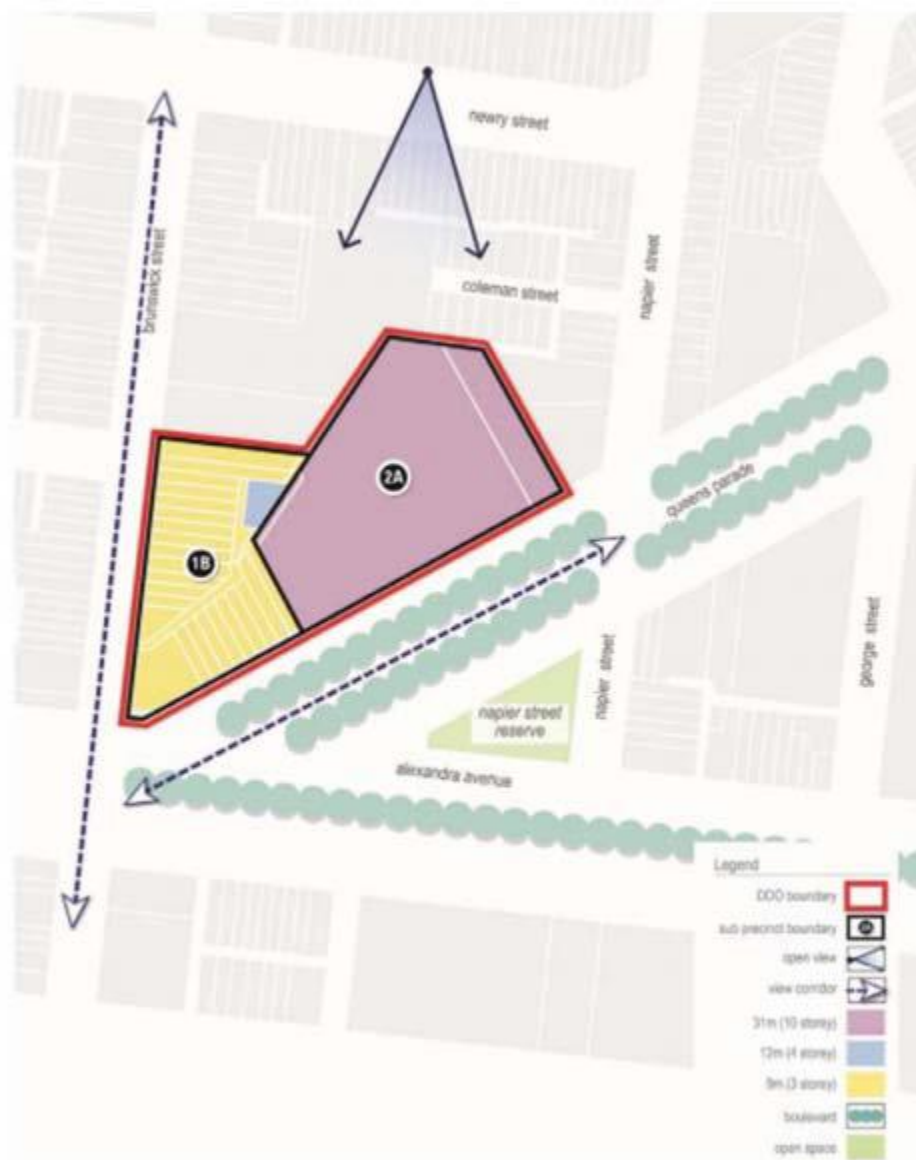
Responsible Officer: Manager Statutory Planning

<b>Proposal:</b>	<p>PLN16/0434 – 26-56 Queens Parade – Development of the land for the construction of a 10 storey building, plus 2 basement levels, to be used as dwellings (no permit required for dwelling use), use of part of the site as a café, food and drinks premises, shop and use of part of the land for the sale and consumption of liquor (in association with the food and drinks premises and café), reduction in the car parking requirements, reduction of the loading bay requirements and alteration of access to a Road Zone and</p> <p>PLN16/0732 – Rear of 26-56 Queens Parade - Development of the land for the construction of 4, 3-storey dwellings (no permit required for dwelling use), reduction in the car parking requirements and to provide all of the car parking spaces on another site (being the larger Queens Parade site)</p>
<b>Existing use:</b>	Vacant and warehouse/factory buildings
<b>Applicant:</b>	Gurner 26-56 Queens Parade Pty Ltd
<b>Zoning / Overlays:</b>	Mixed Use Zone, abutting a Road Zone (Category 1), Environmental Audit Overlay, Design and Development Overlay (Schedule 16) and part Heritage Overlay (HO327 – North Fitzroy Precinct)
<b>Application Numbers and Date of Applications:</b>	PLN16/0434 – 18 May 2016 and PLN16/0732 – 26 July 2016

### Planning History

1. The sites were re-zoned from Business 3 to Mixed Use on 13 November 2003 following amendment C20 to the Yarra Planning Scheme. The amendment was a Section 96A amendment process, with a concurrent planning permit application (PL02/0239) for 26-56 Queens Parade. The re-zoning however, affected a larger area known as 8-72 Queens Parade and 460-500 Brunswick Street.
2. Planning permit application PL02/0239 approved the construction of a 2-5 storey residential development, containing 172 dwellings and 211 car parking spaces. This permit was approved on 19 November 2003. Following 4 extensions of time, this permit expired on 19 November 2009.
3. On 17 June 2009, Planning Permit PL09/0019 was issued for the use of the site as an education centre (tertiary institution).

4. More recently, a special Council Meeting was held on 14 November 2016. Council discussed developments currently proposed along Queens Parade with Council resolving:
  1. *That Council note:*
    - (a) *several public meetings held regarding 26-56 Queens Parade, Fitzroy North including a public meeting convened by the community on 2 November 2016, attended by some 400 community members with resolutions from this meeting on 26-56 Queens Parade and other planning applications in the precinct including a request for an amendment to the planning scheme to create a Design and Development Overlay for the area of North Fitzroy and Clifton Hill, (attached as Attachment One); and*
    - (b) *the current planning application for a high density residential development for 26-56 Queens Parade, Fitzroy North of up to 16 storeys and its recent referral by the applicant to the Victorian Civil and Administrative Tribunal (VCAT);*
  2. *That Council seek a report to be presented to the 22 November 2016 Council meeting providing advice on:*
    - (a) *the process of the above planning application and steps leading to a full hearing of this application before VCAT, scheduled in April 2017;*
    - (b) *the likely costs involved in advocacy for Council at VCAT;*
    - (c) *the request for a planning scheme amendment for the precinct, and site, and the basis and requirements for any such amendment;*
    - (d) *the steps, options and timing for such amendment; and*
    - (e) *any other pertinent aspects to inform Council on this matter.*
5. At a Council Meeting on 7 February 2017, Council considered officer's recommended draft DDO guidelines for the western section of Queens Parade. The proposed DDO controls were guided by the Queens Parade, Clifton Hill Built Form Review, dated February 2017 and prepared by Hansen Partnership. The DDO would affect the following area:



6. The Council officer recommendation was that the mandatory maximum overall building height for the subject site not exceed 31m or 10 storeys and for the rear site 12m or 4 storeys.
7. Along with a number of design and setback changes for the main site, Council resolved that the DDO should pursue mandatory maximum heights of 8 storeys for the main site and 2 storeys for the rear site (subject site).
8. Council resolved (in part) to:
  - (e) *request that the Minister for Planning urgently introduce the draft interim Design and Development Overlay by way of a Ministerial Amendment under Section 20 (4) of the Planning and Environment Act 1987 to provide the required design guidance in the Yarra Planning Scheme for precinct at the western end of Queens Parade, including the site at 26-56 Queens Parade while a full Planning Scheme Amendment to introduce a permanent DDO for the same precinct and other parts of Queens Parade is advanced through the normal amendment process following completion of the Stage 3 work; and*
9. On 28 March 2017, amendment C229 was gazetted, applying the Design and Development Overlay (Schedule 16) to the western end of Queens Parade (including the subject site). The approved heights as relevant to the subject site and its immediate surrounds can be generally described as a mandatory maximum 10 storeys on the main site and 3 storeys on the rear site.

## Background

10. Council was informed on 11 October 2016 that a Section 79 'Failure to determine' appeal had been lodged by the Applicant with VCAT.
11. On 20 December 2016, Council formed a position on the application at its Development Assessment Panel meeting, where it resolved that Council inform VCAT that had it been in a position, it would have issued a Notice of Decision to Refuse to Grant a Permit (PLN16/0434) for 26-56 Queens Parade, Fitzroy North VIC 3068 for the part demolition and development of the land for a maximum 16 storey building, plus 2 basement levels, accommodating 476 dwellings (no permit required for dwelling use), use of part of the land for food and drinks premises (cafés), use of part of the land (food and drink premises [cafés]) for the sale and consumption of liquor, reduction in the car parking requirements, waiver of the loading bay requirements and alteration of access to a Road Zone in accordance with the advertised plans (received by Council 15 July 2016) on the following grounds:
  1. *The proposed height, scale and massing does not respond to the existing or preferred character of the area and will dominate the surrounding area.*
  2. *The proposal will result in an unacceptable on-site amenity impact including natural daylight and ventilation.*
  3. *The side setbacks and building will not achieve equitable development for adjoining and adjacent sites.*
  4. *The proposed waste management plan is inadequate for the site.*
12. A practice day hearing was held at VCAT on 11 November, dealing with procedural matters. At the practice day, the scheduled compulsory conference was vacated and the hearing was confirmed as being 7 days, commencing 3 April 2017.
13. Of the 480 objectors, 98 joined as party to the appeal.
14. On 3 February 2017, a practice day was held at VCAT to consider if this application should be heard at the same time as the Section 79 review for the main site (PLN16/0434). All parties consented and VCAT agreed to join both hearings (PLN16/0732 and PLN16/0434), with the hearing commencing on 3 April 2017 for 7 days. No compulsory conference was scheduled.
15. On 14 March 2017, Council considered the substituted VCAT plans the Applicant had circulated. Council continued to form a position of refusal as per the same grounds.
16. As outlined earlier, on 28 March 2017, the Minister for Planning Gazetted an amended to the Yarra Planning Scheme introducing Schedule 16 to the Design and Development Overlay. The Overlay affects the subject site, along with the site to the rear and the dwellings to the west along Queens Parade and Brunswick Street.
17. Due to the impact of the amendment, VCAT adjourned the hearing that was scheduled for 3 April and set aside 10 days, commencing 4 September 2017. The Applicant was provided with 6 weeks before the hearing to circulate substituted plans.

18. On 9 August 2017, Council considered the substituted plans for the main site application and determined that Council inform VCAT that had it been in a position, it would have issued a Notice of Refusal to Grant a Permit (PLN16/0434) for 26-56 Queens Parade, Fitzroy North for the Development of the land for the construction of a 10 storey building, plus 2 basement levels, to be used as dwellings (no permit required for dwelling use), use of part of the site as a café, food and drinks premises, shop and use of part of the land for the sale and consumption of liquor (in association with the food and drinks premises and café), reduction in the car parking requirements, reduction of the loading bay requirements and alteration of access to a Road Zone based on the VCAT substituted plans (received by Council on 25 July 2017) on the following grounds:
1. *The height, setback, design detailing and massing of the proposal would unreasonably impact the heritage significance and neighbourhood character of the area.*
  2. *The height, setback and massing of the proposal would unreasonably impact the amenity of the area and surrounding dwellings.*
19. At the same meeting, Council considered the substituted plans for the rear townhouse application and determined that Council inform VCAT that had it been in a position, it would have issued a Notice of Refusal to Grant a Permit (PLN16/0732) for rear of 26-56 Queens Parade, Fitzroy North for the development of the land for the construction of 4, 3-storey dwellings (no permit required for dwelling use), reduction in the car parking requirements and to provide all of the car parking spaces on another site (being the larger Queens Parade site) based on the VCAT substituted plans (received by Council on 25 July 2017) on the following grounds:
1. *The height, setback and massing of the proposal would unreasonably impact the character and amenity of the area and surrounding dwellings.*
  2. *The site coverage and permeability do not respect the existing or preferred neighbourhood character and does not respond to the features of the site.*
20. The hearing then proceeded for 10 days, commencing 4 September 2017.
21. On 26 October 2017, VCAT issued an interim order, allowing the Applicant to address the following main issues:
- 15 *Although a wide range of issues arise under each of the relevant provisions, some issues are more central to the determination of the proceeding than others. The two main issues are:*
    - (a) *Whether the development of the main site responds appropriately to the significance of the heritage place in which the main site is located.*
    - (b) *Whether the development of the main site, particularly in its presentation to Queens Parade, responds appropriately to the relevant built form objectives in the scheme.*
  - 16 *There are also a number of subsidiary issues that we will also address.*

### **Main finding**

- 17 *Our main finding is that although the scheme supports a substantial development of the main site and a small but relatively intense development of the rear site, the plans for each site are not a satisfactory response to the relevant provisions of the scheme. Changes to the design response for both sites are necessary. We are unable to frame appropriate conditions for a permit for either site because of the nature of the changes. We acknowledge the validity of the underlying design thesis and we are therefore prepared to give the applicant an opportunity to prepare further amendments to the plans for both sites.*
22. Key VCAT commentary on the development included:

- (a) Heritage and general tower assessment:  
69 *We agree with Mr Lovell that while the towers will be prominent and will alter some horizon views, they will not diminish the significance of the precinct.*
- (b) Impact on the Edinburgh Gardens:  
76 *At ground level from the southern part of the Gardens, the towers will have no or an imperceptible impact. At ground level from the northern part of the oval in the Gardens, the relevant photomontage shows a barely perceptible visual impact above the trees at the southern edge of the Gardens. From higher points, such as from in the pavilion, an additional one or two storeys of the towers may be visible. We do not consider this to be an unacceptable impact on the heritage significance of the Gardens.*
- (c) Rear townhouse development in the heritage context:  
82 *The rear site's new built form is acceptable in heritage significance and character terms, because the site is small, the massing does not overwhelm the single-storey and double-storey character of abutting land in the precinct and the lane separates the new from old built form (but for part of the northern interface). ...*
- (d) General design (curved) commentary:  
99 *The curvilinear design of towers 1, 2 & 3 behind both the heritage street wall and new street wall emphasises the geometric form of the heritage street wall and avoids a repetitive stepped form as sought by DDO16. Likewise, there is no issue with the form of vertical articulation. This is successfully achieved with the new street wall, in particular.*
- (e) Tower separation commentary:  
100 *The prominence of the heritage street wall is, in part, achieved by creating a broad pedestrian entry between the retained façade and the new street wall. The 90 degree return wall, albeit short, into the main site helps give depth to the street wall. The minimum gaps between all the towers of around 11 metres is also a generally satisfactory response to the requirement of separation and ability to see sky.*
- (f) No general issue when considering the Boulevard Primacy, however this would be further ensured with the additional southern tower setbacks (discussed later).
- (g) The impact on the dwellings to the east is acceptable (in particular commentary was provided regarding 58 Queens Parade, which did not adequately future-proof themselves from development on this site).
- (h) VCAT was not persuaded by Council's urban design concerns with the rear site (the scale and bulk of the proposal or the interface with 492 Brunswick Street to the north).
- (i) There is no unreasonable overlooking.
- (j) The proposal does not unreasonably overshadow nearby sites.
- (k) A detailed design can address any objector concerns regarding the fan room exhaust.
- (l) Conditions can deal with air conditioner noise and appearance.
- (m) The daylight levels of apartments are generally satisfactory.
- (n) The proposal would not result in unreasonable loss of outlook from nearby dwellings.
- (o) VCAT raised no concern with parking or traffic.

- (p) VCAT considered fire safety/MFB access:  
176 *Finally, some respondents opposed the development of the rear site on the grounds of inadequate access through the lane off Brunswick Street for emergency vehicles, especially MFB appliances. Based on recent MFB correspondence tendered by the applicant, there will be adequate access to the rear site from the main site.*
- (q) In terms of the restaurant/café/sale and consumption of liquor:  
191 *Subject to appropriate permit conditions about hours and patrons numbers and acoustic impacts, we are satisfied the impact on the surrounding area is acceptable and we would grant a permit to use the main site for the three premises and a permit to sell or consume liquor in the café and restaurant.*
- (r) VCAT was not persuaded by Objector concerns regarding the proposal being 'a gated community' or likely to be 'young transient people with a predilection towards anti-social 'party' behaviour'. They found:  
202 *In conclusion, we have considered claimed social effects but we do not find any of them warrant or justify rejection of the development for the main site or requiring significant modifications to it.*
23. The VCAT order then continued to outline a number of issues with the proposal. (These issues will be used to frame the assessment section of this report.)
24. The order concluded that:

#### **WHAT CHANGES ARE NEEDED?**

207. *It follows that we do not support the grant of a permit for either the main site or the rear site without changes to the plans. We are unable to specify the changes by way of permit condition because we want the applicant to respond to them with further careful design rather than simple observance of prescriptive changes. Prescriptive changes cannot be confidently expressed because of the interrelated consequences of many of the changes and because further professional design input is needed.*
208. *We have explained in detail our concerns which when aggregated would lead us to refuse to grant of a permit. However, we find the design basis is sound and clearly capable of reconfiguration to address these concerns. We will give the applicant an opportunity to review the plans for both sites in light of our assessment of the submissions and evidence in these reasons. We do not identify our concerns in a list to be 'ticked off'. If the applicant decides to prepare amended plans, we expect all of our concerns to be thoughtfully and thoroughly addressed. For convenience, we broadly describe below the changes the applicant needs to consider.*

#### **Main site**

209. *We have concluded that the towers as proposed fail to moderate their prominence when viewed from Queens Parade to an acceptable degree and do not maintain the primacy of the boulevard trees or the desired prominence of the heritage façade.*
210. *Primarily, the towers should be set back a greater distance behind the Queens Parade façade to largely align with the discretionary setbacks in DDO16, whilst retaining their undulating curvilinear form. This may also involve further erosion of the third level at the western end of the retained heritage façade than that shown in the informal architectural plans tendered during the hearing,<sup>[53]</sup> in order to reduce its visual impact above the parapet.*

211. *Bay 9 of the heritage facade should be included, whilst also retaining a generous ground level entrance to the site. More detail is required about the ground floor south-facing terraces behind the façade, and the built form at the levels above them. Any walls abutting the heritage façade should be at 90 degrees to it. The floor to ceiling heights of the café, restaurant and deli and the undercroft areas should be increased to around four metres.*
212. *Towers 2 & 4 should be combined, subsuming the dividing terraces and creating an expanded ground level communal open space of around 20 metres between the townhouses and the combined towers. It should be stepped down to the rear by one or two levels. Towers 1 & 3 should be reduced by one level, with the topmost levels designed to be recessive from west and east respectively.*
213. *The level 3 communal terrace should be removed. This communal open space would be less necessary if the ground floor open space is increased.*
214. *Access should be provided to the rear lane off Coleman Street from both the abutting townhouses and the ground level open space. The extent and design of screening should be reviewed. Consideration should be given to lower screens with outward horizontal or angled projections. The level 1 balcony screens of townhouses facing the rear of the main site should be set back no less than three metres.*
215. *There should be a thorough revision of the landscape proposal.*

#### **Rear site**

216. *Our criticism of the townhouses centres on our finding that the dimensions of each of the living areas is inadequate. While accepting the proposed design basis, amended plans should provide for increased living areas by reducing the number of townhouses to three.*

#### **NET COMMUNITY BENEFIT**

217. *If we find that permissions under each of the relevant provisions of the scheme should be given, the scheme requires us to not grant a permit unless we find that the development, subject to any conditions in a permit, would be an acceptable planning outcome after integrating relevant policies and balancing conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.<sup>[54]</sup>*
  218. *Subject to preparation of acceptable amended plans and inclusion of appropriate permit conditions, we may decide to grant a permit subject to conditions.*
25. The Applicant was given an opportunity to select a date in which amended plans could be circulated as per this order. On 17 November 2017 VCAT issued a subsequent order, allowing the Applicant until 28 February 2018 to provide plans in response to the interim order. The order gave Council the following opportunity:
6. *By no later than **30 March 2018**, the responsible authority may file with the Tribunal and serve on the applicant a written submission in relation to the documents served in accordance with order 1. The submission may include:*
    - (a) *an updated set of draft permit conditions for the Tribunal's consideration if the Tribunal ultimately decides to grant a permit that refers to the amended plans in permit conditions, and*
    - (b) *a request that the responsible authority be heard in relation to its written submission and the reasons for that request.*



26. This is not an opportunity to provide a de novo response to the development and Council's response must be confined to the amendments in the amended plans [**interim order response plans**].
27. A subsequent VCAT order (dated 2 March 2018) has allowed Council to respond by **4 April 2018** due to Public Holidays end of March/start of April 2018.

**Existing Conditions**

28. The existing conditions of the subject site and surrounding area remain relevant as per the IDAC report dated 9 August 2017 (attached to this report).

**The Proposal**

PLN16/0732 – Rear townhouse development

29. The following changes have been made to the rear townhouse proposal:
- (a) reduction from 4 to 3 townhouses (dwellings);
  - (b) increased north-west setbacks from:
    - (i) 1m to between 1.6m-1.7m at ground level;
    - (ii) 600mm to 1.2m at level 1 to the edge of the balcony; and
    - (iii) minor variations at level 2 (up to 200mm increases/decreases).
  - (c) increased ground level entry areas along the south-east boundary;
  - (d) increased south-east boundary setbacks at levels 1 and 2, reducing the northern boundary wall length from 9m to 8.2m;
  - (e) removal of privacy screens from the south-east elevation, with screening to be applied to the adjacent apartments on the main site;
  - (f) 1.3m high screen applied to southern edge of level 1 terrace; and
  - (g) no change to overall height.

PLN16/0434 – Main site development

30. The following changes have been made to the main site proposal:
- (a) deletion of 1 level from towers 1 and 3 (tower 1 would be 9 storeys including a communal terrace and tower 3 would be 10 storeys including the roof plant (considered as a level as the lift and stair core extend to level 9);
  - (b) front (south) setback changes (building line, except where noted):

	Building A (tower 1)		Building B (tower 2)		Building C (tower 3)	
	VCAT plans	Interim order plans	VCAT plans	Interim order plans	VCAT plans	Interim order plans
Levels 3 and 4	4.4m	11m	2.7m (terrace)	6.4m	1.9m	3.4m
Level 5	4.4m	11m	2.7m (terrace)	6.4m	1.9m	5.4m
Level 6	2.9m	11m	2.7m (terrace)	6.4m	1.9m (terrace)	5.4m
Level 7	2.9m	11m	2.7m (terrace)	6.6m	1.9m (terrace)	5.4m
Level 8	2.9m	11m	2.7m	6.6m	1.9m (terrace)	6.7m
Level 9			2.7m	6.6m		

- (c) retention of bay 9 of the heritage façade;
- (d) retention of the heritage façade front door canopy;
- (e) terraces behind the retained heritage wall have been 'squared off' (previously some screens or walls were at angles behind the openings);
- (f) towers 2 and 4 have been combined;

**Original Scheme (based on final substituted plans before VCAT) – Ground level**



**Interim order scheme – Ground level**



**Original Scheme (based on final substituted plans before VCAT) – Level 3**



**Interim order scheme – Level 3**



- (g) floor to ceiling height of the café, restaurant and deli/shop have been increased to 3.7m;
- (h) level 3 communal terrace has been removed and replaced with a non-accessible planter bed;
- (i) level 8 of tower 1 has been deleted and replaced with a communal area (including pool);

- (j) direct access has been provided from the north-east of the site to the laneway behind Coleman Street;
- (k) modified overlooking screening, albeit the elevations provided do not make this clear;
- (l) reconstruction of the lane between the main and rear sites in bluestone; and
- (m) additional/revised landscape plans, with increased soil volumes to planter boxes, more shade tolerant planting at ground level and improved irrigation (including an irrigation management plan).

## Planning controls

### Zoning

#### *Mixed Use Zone [MUZ]*

31. The purpose of the MUZ includes (as relevant):
- (a) *To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality;*
  - (b) *To provide for housing at higher densities;*
  - (c) *To encourage development that responds to the existing or preferred neighbourhood character of the area; and*
  - (d) *To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.*
32. Under clause 32.04-2 of the Scheme, a permit is not required to use the site for dwellings. A permit is not required to use part of the site as a shop (half of the easternmost tenancy [being 138.5m<sup>2</sup>, as the floor area is less than 150m<sup>2</sup>]). However, a permit is required to use part of the site as a food and drinks premises as the leasable floor area exceeds 150m<sup>2</sup> [76m<sup>2</sup> cafe and half of the easternmost tenancy, being 138.5m<sup>2</sup>].
33. A permit is required under clause 32.04-6 of the Yarra Planning Scheme [**the Scheme**] to construct two or more dwellings on a lot. Clause 32.04-13 states that for a development of five or more storeys, excluding a basement, the Design Guidelines for Higher Density Residential Development (Department of Sustainability and Environment 2004) is a relevant decision guideline.
34. A permit is required under clause 32.04-8 of the Scheme to construct a building or construct or carry out works for a use in section 2 of clause 32.04-2.

#### *Road Zone, Category 1*

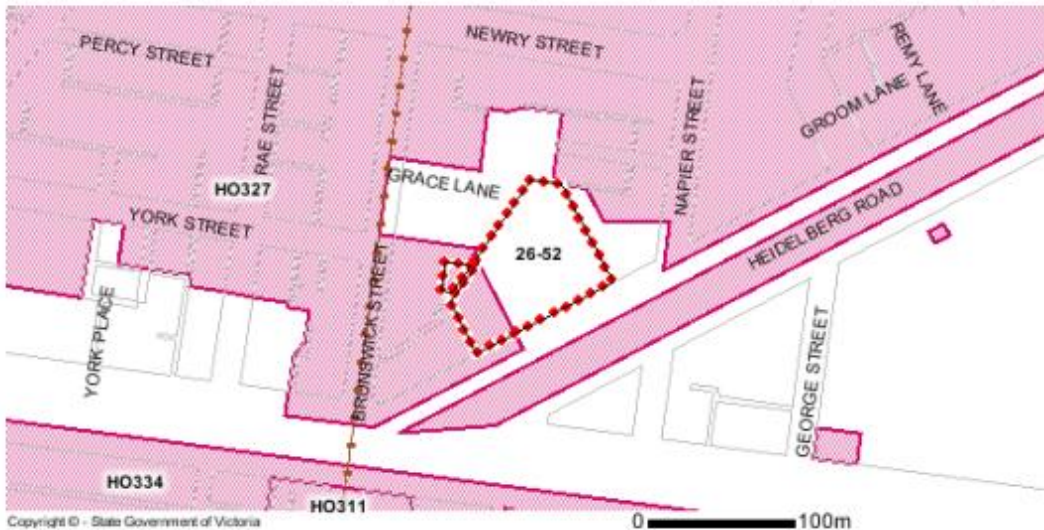
*Queens Parade is a declared Road Zone, Category 1.*

35. The purpose of this zone is:
- (a) *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies;*
  - (b) *To identify significant existing roads; and*
  - (c) *To identify land which has been acquired for a significant proposed road.*
36. Whilst a permit is not required for buildings or works or land use under this clause, a permit is required under clause 52.29 of the Scheme to create and alter access to a Road Zone, Category 1.

### Overlays

#### *Part Heritage Overlay (HO327)*

**HERITAGE OVERLAY SCHEDULE (HO327)**



37. All of the rear of 26-56 Queens Parade and a portion of the site at 26-56 Queens Parade can be seen above as being affected by HO327. The overlay inaccurately reflects the location of the heritage buildings on the site with a portion of the building not included in the Heritage Overlay. This mapping error has been identified and provided to our Strategic Planning Department to correct.
38. The relevant purpose of the HO is:
  - (a) *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
  - (b) *To conserve and enhance heritage places of natural or cultural significance.*
  - (c) *To conserve and enhance those elements which contribute to the significance of heritage places.*
  - (d) *To ensure that development does not adversely affect the significance of heritage places.*
  - (e) *To conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.*
39. A planning permit is required to demolish or remove a building and to construct a building or construct or carry out works.
40. Decision guidelines at clause 43.01-4 of the Scheme include (as relevant):
  - (a) *The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.*
  - (b) *Any applicable statement of significance, heritage study and any applicable conservation policy.*
  - (c) *Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.*
  - (d) *Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.*
  - (e) *Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place.*
  - (f) *Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.*

*Environmental Audit Overlay*

41. It is noted that the EAO affects the main site, but not the rear site. However, the requirements of clause 13.03-1 for dealing with potentially contaminated land still apply and will be addressed in the assessment section of this report.
42. The purpose of this overlay is:
- (a) *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
  - (b) *To ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination.*
43. Clause 45.03-1 states it is a requirement that:  
*Before a sensitive use (residential use, child care centre, pre-school centre or primary school) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, either:*
- *A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or*
  - *An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.*
44. With dwellings proposed, this requirement will be addressed by way of a notation on any permit issued for the main site.

#### *Design and Development Overlay – Schedule 16*

45. Under clause 43.02-2 of the Scheme, a permit is required to construct a building or construct or carry out works. A permit cannot be granted to exceed the 'mandatory control' listed within Tables 1 and 2.
46. The site is located within precinct 2A, with table 2 offering specific height and setback requirements (some mandatory and some discretionary) and table 3 outlining general design requirements.

#### Particular Provisions

##### *Clause 52.06 – Car parking*

47. The purpose of this provision (amongst others) is to ensure the provision of an appropriate number of car spaces are provided having regard to the activities on the land and the nature of the locality. This provision recommends car parking rates at clause 52.06-5. Under clause 52.06-3, a permit may be granted to reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5 (noting there is no relevant Parking Overlay). Clause 52.06-6 of the Scheme outlines a range of decision guidelines and clause 52.06-8 outlines a range of design standards. The relevant of these will be addressed in the assessment.

##### *Clause 52.27 – Licensed Premises*

48. A permit is required under this clause as a license is required under the Liquor Control Reform Act 1998.

##### *Clause 52.29 – Land adjacent to a road zone, category 1, or a public acquisition overlay road a category 1 road*

49. The relevant purpose of this provision is 'To ensure appropriate access to identified roads'. A permit is required to create or alter access to a road in a Road Zone, Category 1 (in this instance, the crossover to Queens Parade). An application must be referred to VicRoads under Section 55 of the Act.

##### *Clause 52.34 – Bicycle facilities*

50. The purpose of this Clause is to encourage cycling as a mode of transport and to provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities. Clause 52.34-2 states that a permit may be granted to vary, reduce or waive any requirement of Clause 52.34-3 and Clause 52.34-4.

**General Provisions**

51. Clause 65 (Decision Guidelines) remains relevant.

**State Planning Policy Framework (SPPF)**

52. The relevant SPPF are outlined in the original officer report.

**Local Planning Policy Framework (LPPF)**

53. The relevant LPPF (MSS and local policies) are outlined in the original officer report.

**Referrals**

54. The VCAT order dated 17 November 2017 required the Permit Applicant to provide a copy of the interim order response plans to any referral authorities (being VicRoads, PTV and Melbourne Water – to the main site only – P2079/2016).
55. Council referred the interim order plans to:
- (a) Council’s Engineering Services Unit;
  - (b) external traffic advisor (Cardno);
  - (c) Council’s Urban Design Unit;
  - (d) external urban design advisor (Tim Biles);
  - (e) Council’s ESD Advisor;
  - (f) Council’s Open Space Unit;
  - (g) Council’s Sustainable Transport Unit;
  - (h) Council’s Heritage Advisor; and
  - (i) external daylight consultant.

**Council’s Engineering Services Unit**

56. *The following advice was received:*

*I refer to the amended plans received at this office on 1 March 2018 in relation to the proposed developments at 26-56 Queens Parade and Rear 26-56 Queens Parade, Fitzroy North. Council’s Engineering Services unit provides the following information:*

*MAIN SITE (Off Queens Parade Service Road)*

*CAR PARKING PROVISION – 26-56 QUEENS PARADE*

*Proposed Development*

*According to the information provided by the applicant, the revised proposal’s parking requirements are as follows:*

<i>Proposed Use</i>	<i>Quantity/ Size</i>	<i>Statutory Parking Rate</i>	<i>No. of Spaces Required</i>	<i>No. of Spaces Allocated</i>
<i>One-bedroom dwelling</i>	<i>103</i>	<i>1 space per dwelling</i>	<i>103</i>	<i>103</i>
<i>Two-bedroom dwelling</i>	<i>110</i>	<i>1 space per dwelling</i>	<i>110</i>	<i>110</i>

Three-bedroom dwelling	34	2 spaces per dwelling	68	68
Townhouse	16	As above	29	32*
Residential visitors	263 Dwellings	1 space per 5 dwellings	52	9
Food & Drink (Shop)	201 m <sup>2</sup>	4 spaces per 100 m <sup>2</sup> of leasable floor area	8	7
Food & Drink (Café)	95 m <sup>2</sup>	4 spaces per 100 m <sup>2</sup> of leasable floor area	3	
Restaurant	200 m <sup>2</sup>	0.4 spaces to each patron permitted	Not Known	
<b>Total</b>			<b>377 Spaces + Restaurant Parking</b>	<b>329 Spaces</b>

\* Each townhouse to be allocated two spaces per dwelling.

Five on-site spaces would be unallocated and are to be sold in the future.

To reduce the number of car parking spaces required under Clause 52.06-5 (including to reduce to zero spaces), the application for the car parking reduction must be accompanied by a Car Parking Demand Assessment.

#### Car Parking Demand Assessment

In reducing the number of parking spaces required for the proposed development, the Car Parking Demand Assessment would assess the following:

- *Parking Demand for Dwellings.* We are satisfied that the on-site car parking provision for the dwellings is appropriate for the scale of development and its proximity to public transport nodes and connectivity to the on-road bicycle network.
- *Parking Demand for Residential Visitors.* The visitor parking rate is consistent with the previous proposal.
- *Parking Demand for Commercial Uses.* The food and drinks premises and the restaurant would be allocating all seven spaces to employees. Customer parking for the uses would be accommodated off-site.
- *Availability of Public Transport in the Locality of the Land.* The site is within walking distance of tram services operating along Brunswick Street and Queens Parade. Bus services also operate along Queens Parade, George Street and Alexandra Parade.

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

Clause 52.06 lists a number of considerations for deciding whether the required number of spaces should be reduced. For the subject site, the following considerations are as follows:

- *Availability of Car Parking.* Traffix Group had undertaken on-street parking occupancy surveys in the surrounding area on Friday 18 March 2016 and Saturday 19 March 2016 (at 1:00pm and 8:00pm on both days). The survey area encompassed Queens Parade (Jamieson St to Alexandra Pde), Alexandra Parade (Rae St to George St), Grace Lane, Coleman Street and section of Brunswick Street, Napier Street, Newry Street, George Street and Jamieson Street. The duration and extent of the surveys are considered appropriate. An inventory of up to 380 publicly available parking spaces was identified. The results of the survey indicate that a minimum of 139 vacant on-street car parking spaces was recorded at 8:00pm on the Friday.



*The surrounding area has a supply of vacant on-street car parking and should be able to accommodate any short-stay parking demand from the site.*

- *Relevant Local Policy or Incorporated Document. The proposed development is considered to be in line with the objectives contained in Council's Strategic Transport Statement. The site is ideally located with regard to sustainable transport alternatives and the lack of on-site car parking would discourage private motor vehicle ownership and use.*

**Adequacy of Car Parking**

*From a traffic engineering perspective, the waiver of parking is considered appropriate in the context of the development and the surrounding area. The short stay car parking demands could be accommodated on-street as demonstrated from the on-street parking occupancy surveys.*

*Engineering Services has no objection to the reduction in car parking for this site.*

**TRAFFIC GENERATION**

*The slight increase in the on-site parking provision would result in traffic volumes that would be fairly consistent with the previously contemplated proposal.*

**DEVELOPMENT LAYOUT DESIGN**

*Layout Design Assessment*

<b>Item</b>	<b>Assessment</b>
<b>Access Arrangements</b>	
<i>Development Entrance – Queens Parade Service Road</i>	<i>The proposed 6.4 metre wide vehicle entrance satisfies Design standard 1 – Accessways of Clause 52.06-8. The entrance allows for two-way simultaneous traffic movements into and out of the development.</i>
<i>Visibility</i>	<i>A pedestrian sight triangle has not been provided for the exit lane of the access way as it immediately abuts the wall of the adjoining property. There is no objection to the installation of a convex mirror as originally suggested by Traffix Group. The installation of a pedestrian audible device at the entrance is not supported. It the responsibility of a motorist exiting private property to give way to pedestrians along the footpath before entering a Public Highway, and not vice versa. In addition, audible warning devices could be potentially annoying to occupants of nearby dwellings.</i>
<i>Vehicle Crossing</i>	<i>The vehicle crossing design must have a lateral clearance of 1.0 metre from power poles or any other roadside objects.</i>
<i>Ramped Accessway Width</i>	<i>The ramped accessway has a minimum width of 6.4 metres and satisfies the Australian/New Zealand Standard AS/NZS 2890.1:2004 section 2.5 – Design of circulation roadways and ramps.</i>
<i>Internal Ramp Width</i>	<i>The 6.4 metre wall-to-wall widths of the internal ramps satisfy AS/NZS 2890.1:2004.</i>
<b>Car Parking Modules</b>	

<i>Car Parking Spaces – Ninety-Degree Parking</i>	<i>The dimensions of the regular car parking spaces satisfy Design standard 2: Car parking spaces or AS/NZS 2890.1:2004 (where applicable).</i>
<i>Accessible Parking Space</i>	<i>The dimensions of the dedicated accessible parking space for people with disabilities and the associated shared area satisfy the Australian/New Zealand Standard AS/NZS 2890.6:2009 Parking facilities Part 6: Off-street parking for people with disabilities.</i>
<i>Aisles</i>	<i>The 6.4 metre wide aisles throughout the two levels of basement parking satisfy Design standard 2.</i>
<i>Column Setbacks and Depths</i>	<i>Columns have been setback from the aisles by 750 mm and have depths of 1.0 metre (for 5.4 metre long bays). A check of the submitted drawings using the Trapeze plan management tool confirms that the 800 mm dimensions are errors on the drawings.</i>
<i>Clearances to Walls</i>	<i>Clearances of 300 mm have been provided to bays abutting walls.</i>
<i>Blind Aisle Extensions</i>	<i>The blind aisle extensions of 1.0 metre comply with AS/NZS 2890.1:2004.</i>

<b>Item</b>	<b>Assessment</b>
<i>Car Parking Modules - Continued</i>	
<i>Headroom Clearance</i>	<i>Headroom clearances have been dimensioned for both basement level car parks. A minimum headroom clearance of 2.5 metres has been provided and satisfies AS/NZS 2890.1:2004.</i>
<i>Gradients</i>	
<i>Ramp Grade for First 5.0 metres inside Property</i>	<i>The ramp grade for the first 5.0 metres inside the building line is 1 in 20 and satisfies Design standard 3: Gradients.</i>
<i>Ramp Grades and Changes of Grade</i>	<i>The ramp grades and the changes of grade for the ramped accessway and the internal ramp satisfy Design standard 3.</i>
<i>Loading Facilities</i>	
<i>Loading By and Waste Pickup Bay</i>	<i>Not dimensioned on the drawings. A check using Trapeze indicates that the loading bay measures 4.0 metres by 8.9 metres and satisfies Clause 52.07. Dimensions should be provided before the plans are endorsed.</i>

**ENGINEERING CONDITIONS**

*The engineering conditions specified in our referral comments of 23 February 2017 are still relevant and still stand.*

**NON-PLANNING ADVICE FOR THE APPLICANT**

*The non-planning advice specified in our referral comments of 23 February 2017 is still relevant and still stands.*

**REAR 26-56 QUEENS PARADE**

**CAR PARKING PROVISION**

*Proposed Development*

*According to the information provided by the applicant, the revised proposal's parking requirements are as follows:*

<b>Proposed Use</b>	<b>Quantity/ Size</b>	<b>Statutory Parking Rate</b>	<b>No. of Spaces Required</b>	<b>No. of Spaces Allocated</b>
<i>Three-bedroom dwelling</i>	<i>3</i>	<i>2 spaces per dwelling</i>	<i>6</i>	<i>6</i>

*The development schedule indicates that six spaces would be allocated to the rear 26-56 Queens Parade (the development plans show seven spaces in the car).*

**ENGINEERING CONDITIONS**

*Civil Works*

- *Upon the completion of all building works and connections for underground utility services, the section of Right of Way in between the subject site and 26-56 Queens Parade must be fully constructed to Council's satisfaction and at the Permit Holder's cost.*
- *The Permit Holder is to make a development contribution of 50 per cent of the cost of reconstructing the bluestone Right of Way from the development to St Georges Road. Council will program the works on the Capital Works Program and pay the balance of the works.*

*Public Lighting*

- *Lighting for pedestrian access at the property's Cambridge Street frontage must comply with the minimum lighting level of P4 as per the Australian Standard AS/NZS 1158.3.1:2005 Lighting for roads and public spaces - Pedestrian area (Category P) lighting - Performance and design requirements. The lighting levels of all existing public lights near the site must be measured and checked against the AS/NZS 1158.3.1:2005 to determine whether new or upgraded public lights are required. The supply and installation of any additional or upgraded lighting, poles or other fixtures shall be funded by the Permit Holder and to the satisfaction of the Responsible Authority.*
- *The developer must ensure that lighting from any existing or new lights does not spill into the windows of any new residences or any existing nearby residences. Any light shielding that may be required shall be funded by the Permit Holder.*

*Construction Management Plan*

- *A Construction Management Plan must be prepared and submitted to Council. The Plan must be approved by Council prior to the commencement of works. A detailed dilapidation report should detail and document the existing and post construction conditions of surrounding road infrastructure and adjoining private properties.*
- *The Construction Management Plan for the site must also take the following into account:*
  - *If any existing public lighting assets require temporary disconnection, alternative lighting must be provided to maintain adequate lighting levels. A temporary lighting scheme can only be approved by Council and relevant power authority.*
  - *Existing public lighting could only be disconnected once temporary alternative lighting scheme becomes operational.*
  - *A temporary lighting scheme must remain operational until a permanent lighting scheme is reinstated.*

*Road Asset Protection*

- *Any damaged roads, footpaths and other road related infrastructure adjacent to the development site as a result of the construction works, including trenching and excavation for utility service connections, must be reconstructed to Council's satisfaction and at the developer's expense.*

*Impact of Assets on Proposed Development*

- *Any services poles, structures or pits that interfere with the proposal must be adjusted, removed or relocated at the owner's expense after seeking approval from the relevant authority.*
- *Areas must be provided inside the property line and adjacent to the footpath to accommodate pits and meters. No private pits, valves or meters on Council property will be accepted.*

**NON-PLANNING ADVICE FOR THE APPLICANT**

*Legal Point of Discharge*

*The applicant must apply for a Legal Point of Discharge under Regulation 610 – Stormwater Drainage of the Building Regulations 2006 from Yarra Building Services unit. Any storm water drainage within the property must be provided and be connected to the nearest Council pit of adequate depth and capacity (legal point of discharge), or to Council's satisfaction under Section 200 of the Local Government Act 1989 and Regulation 610.*

External traffic advisor (Cardno)

57. The following advice was received:

Loading Bay

- It is understood that access to the loading bay is required for a 6.4 metre Small Rigid Vehicle (SRV). Access to and from the loading bay located on Basement 1 should be confirmed with a swept path analysis and the location and type of gate at the access point to be reviewed.*
- As per AS2890.2 Table 3.1 – the inside curve radius to exit the loading bay is less than 12 metres and hence Cardno recommends that swept path analysis is completed for ingress and egress.*

58. The above should be addressed by way of a permit condition, should a permit issue.

Headroom Clearance

- The following floor to floor headroom clearances are provided, allowing for 300mm of slab, fixtures and fittings:*
  - 3.45m headroom clearance at Basement 1 entrance (under the assumption that the RL for the overhand is 24.9) 3.5m clearance height is required for a standard SRV to accord with AS2890.2 Table 2.1 design vehicle dimensions.*
  - Within the Traffic Evidence statement it is stated that "a minimum headroom of 3.6 metres is provided along the access ramp and 3.0 metres within the loading and waste collection bays, which appropriately allows for deliveries and waste collection by the nominated service vehicle." This indeed may be the case, however we are unable to determine this with certainty given the details provided; and*
  - 2.7m clearance is provided from Basement 2 to Basement 1.*

59. A condition should ensure a minimum headroom of 3.6 metres is provided along the access ramp and 3.0 metres within the loading and waste collection bays.

Circulation

- A small number of matters regarding circulation have been identified to be considered at the following locations:*
  - On the south-eastern side of the building the car parks on Basement 2 could be angled slightly to provide appropriate circulation for vehicles; and*

- (ii) *The loading bay at the bottom of the entrance ramp, will require a reverse manoeuvre either on entrance or exit to the loading bay and potentially conflicting with approaching vehicles. Consider the loading bay arrangements and timing of delivers/collections and consider including warning device/s for drivers in the form of lights or equivalent to improve safety in this area.*

60. Conditions should be imposed to address the above circulation matters.

Car Parking

- (e) *Standard spaces have been provided in accordance with Table 2 of Design Standard 2 within Clause 52.06-8 of the Yarra Planning Scheme, being at least 2.6m wide, 4.9m long and accessed from 6.4m wide aisles;*
  - (i) *Spaces adjacent to walls have been provided with appropriate clearances to allow for convenient access and opening of car doors in order to comply with Planning Scheme and Australian Standard requirements;*
  - (ii) *Columns shown within both basement level car parks are provided in accordance with the requirements of Clause 52.06-8 of the Yarra Planning Scheme; and*
  - (iii) *One (1) disabled bay is provided to accompany seven (7) commercial spaces in accordance with Part D3 of the Building Code of Australia. It is noted that this space could possibly be relocated closer to the lift core to improve accessibility.*

Bicycle Parking

- (i) *The accessway to bicycle spaces on the west side of Basement 1 is less than 1.5m required; and*
- (ii) *Otherwise, all other bicycle parking spaces provided appear to be dimensioned in accordance with AS2890.3-2015 with a mixture of wall mounted vertical rails and horizontal rails.*

61. The bicycle access issue can be addressed by way of a permit condition, should a permit issue.

Council's Urban Design Unit

62. The following advice was received:

**Publically accessible space fronting Queens Parade**

- (a) *We support the principle of providing publically accessible space along the front of the site. However, the layout of the space and arrangement of buildings around and over it compromise the space in terms of amenity, personal safety, flexibility and solar access. In particular:*
- (b) *A large portion of the space will be undercover, as the first and second floor level of the development are built over the space, connecting the middle tower with the NE tower. Although the ground plane would be open at either end, the head clearance would only be one storey in height (about 3.7 metres). We consider that this arrangement of buildings results in a poor outcome for the space, as it would significantly reduce access to sunlight, and would make the space feel too enclosed and uninviting. We therefore recommend that this portion of the building is removed to create a suitable break between the middle tower and the NE tower.*
- (c) *The arrangement of raised planters and concrete benches further enclose the space and make it less flexible. It is unclear how this space will be used when the café tables/chairs are removed each day. How will it operate a night and how will it be lit? The concrete benches create an opportunity for people to sleep or hide, which would impact on personal safety, particularly for people walking along Queens Parade and residents/visitors accessing the gated entries.*

*Reconsider the arrangement of permanent planters/seating within the space, particularly in relation to any overhanging buildings.*

- (d) *The spacing between the planters and the walkways looks narrow; in particular the north-eastern section between the planter and the deli/shop entry. This planter could be removed or reduced in size.*
- (e) *The arrangement of columns along the frontage (where the deli/shop is situated) creates a number of small alcoves along Queens Parade which could create potential hiding spots or litter traps. Landscaping could be provided in these spaces, and could be raised with an edge to provide space for people to sit/perch.*
- (f) *The architectural and landscape plans should be made consistent in terms of the café area, in particular the entrance to the café and planters located around the building.*
- (g) *Further details are needed to show that adequate space is provided around the bike parking (near the deli/shop), and that bikes would not encroach into the walkway space when parked.*

#### **Gated entries**

- (h) *The gated entries comprise 2.4 metre high timber slatted screening (with gates), raised planters, water features, and a black steel arbour over the entry gates with climbing plants. We consider that this arrangement would create opportunities for people to climb over the timber screen/gates, and therefore needs to be reconsidered.*
- (i) *Confirmation is needed on the depth of water in the water feature to demonstrate that it does not create a safety risk. The description notes this as water running over honed black granite panels, but the plans/sections show the entire unit as blue, so wanted to double check.*

#### **Connection through to Coleman Street laneway**

- (j) *A new link is proposed at the northern side of the site, connecting to the Coleman Street laneway (as recommended in the VCAT order). There is a discrepancy between the architectural and landscape plans showing the link to the Coleman Street laneway. The architectural plans show this as a room with doors at either side, and the landscape plans show this as a much narrower undercover walkway with a gate at one end. We consider that the amenity and legibility of the link is poor and could be improved.*
- (k) *The position of the link is at the very end of the L-shaped laneway. We note that the laneway is currently a dead end-laneway, fairly narrow, with an uneven surface and no lighting. Given the physical constraints and condition of the laneway, we recommend that the laneway connection is made as short as possible. This could be achieved by relocating the link about 17 metres to the east, where Townhouse 08 is positioned.*
- (l) *The link does not appear as a legible route for people to take, is undercover (with the living spaces for Townhouses 06 and 07 located on top) and is restricted in width. We recommend that the link is more clearly defined by having a break in the buildings (at all levels). To improve the amenity of this link and to prevent the canyon affect, we recommend that the link is widened (at least 4 metres wide). This would allow for a more generous path for people to pass comfortably (of around 2 metres wide), with landscaping provided at either side of the path along the edges of the buildings.*
- (m) *The north-south link through the site will only have limited solar access through the day. We recommend that the 12 building separation is increased to improve solar access.*

#### **Connection through to Brunswick Street laneway**

- (n) *This connection through the site has a ramped entrance leading to the bicycle storage room. It is not clear where the entrance is to this room. This should be marked on the landscape plan, demonstrating that there is enough space around the planters to access the door.*

- (o) *The link has a short flight of steps leading up to the gate on the Brunswick Street laneway (towards the rear site). Is it possible to ramp the path leading up to this gate, so that steps do not need to be provided? This would remove the need to have the additional V-shaped ramp alongside the steps, which is less convenient to use.*

**Upgrading laneways**

- (p) *We note that the laneways leading to Coleman Street and Queens Parade are narrow, have uneven surface and no lighting. There is an opportunity for these laneways to be upgraded through this development, including but not limited to new ground level surface and lighting, to improve the amenity, accessibility and safety of these new pedestrian/cyclist connections.*

63. This should be required by way of a permit condition on any permit issued.

**Queens Parade footpath**

- (q) *We note that there is an opportunity to resurface the footpath along this section of Queens Parade, particularly as a number of crossovers are proposed to be removed.*

64. As Queens Parade is a Road Zone, Category 1 (VicRoads manager), this should be conditioned subject to the approval of VicRoads also.

- (r) *Further detail is required on the proposed edging detail between the asphalt and the paving within the site.*

65. This should be required by way of a permit condition on any permit issued.

**Wind assessment**

- (s) *A wind assessment was previously done – has this been updated? It would be useful to understand the wind impacts on the open spaces within the site as a result of the development, and how comfortable these spaces are.*

66. This should be required by way of a permit condition on any permit issued.

External urban design advisor (Tim Biles)

67. The following advice was received:

**Findings**

- *In general, the revised plans appropriately respond to the items included within the Order, though there are some elements which may require further consideration, additional details or notes to ensure they are adequately resolved.*
- *Of note, we highlight the proposed solution with regard to obscuring of floor levels behind the heritage façade. While this may be an acceptable solution, a more well considered design response may provide an enhanced outcome and should be explored.*

68. Extract of unsatisfactory and other items and relevant notes provide by Mr Biles:

- *Re: floor levels visible behind window or terrace openings on level 2: the floor needs to be obscured from the public realm*
  - *Architect should be consulted to determine if more well-considered design response is possible.*
- *Re: finish/es to heritage façade: rendered pilasters to be restored and face brickwork panel between pilaster should be stripped and exposed to reference the original presentation.*

- *Applicant suggest it is being done, but note/s should be added to heritage façade alterations plan to reflect Tribunal notes. Note: Lovell Chen/COX have requested the option to paint brickwork if in poor condition. Seems like a reasonable approach*
- *Re: reducing potential visual impact of tower/s:*
  - *our finding that tower 4 needs to be moved to the south and joined with tower 3 would make that centrally viewed built form more distant further reduce the visual impact.*
  - *our finding that tower 4 needs to be moved to the south and joined with tower 3 will further reduce the width of the view cone and reduce the visual impact.*
  - *Tribunal comment doesn't make sense. Assume this meant tower 2 (as later referenced) and/or considered not necessary in light of other recommendation.*
- *Re: location of communal facilities after consolidation of towers: The amenities and yoga studio in tower 2 could be relocated to the north side of the joined tower adjoining the communal open space.*
  - *Configuration seems acceptable*
- *Re: interface to north-east: The interface treatment, as presented, is therefore acceptable but needs to be reconsidered if amended plans are prepared.*
- *Re: internal access to communal areas: there is insufficient detail to determine whether residents have access to all tower cores and, hence, have access to the elevated communal open spaces associated with towers 1 & 4.*
  - *Not clear if additional detail a requirement.*
- *Re: undercroft: There should be an increase in the height of the undercroft*
  - *COX statement makes reference to 3.7m height.*
- *Re: floor to ceiling heights: The floor to ceiling heights of the café, restaurant and deli and the undercroft areas should be increased to around four metres.*
  - *Café is somewhat restricted given its location within the existing heritage building, so perhaps some consideration to be given.*
- *Re: height of combined tower: It should be stepped down to the rear by one or two levels.*
  - *Have included landscaped terrace (presumably to screen / soften built form)*
- *Re: south elevation screens: consideration needs to be given to incorporating lower height screens at levels 1 & 2 on the south elevation.*
  - *Extent of screening reduced, but not lowered in height.*

### Council's ESD Advisor

69. The following advice was received:

#### Stormwater Management

- *The stormwater management proposed relies heavily on the SPEL propriety owned stormwater filtration devices that have not been proven to function effectively in Victoria, in our local rainfall conditions. These products were not designed for the proposed purpose.*
- *Several requests for this information have been made by City of Yarra's drainage engineers and by myself, regarding other development applications relying on SPEL products. To date no response has been received. Unfortunately, until this information can be provided the City of Yarra cannot accept SPEL products to ensure our stormwater quality standards.*



- *I strongly recommend that the applicant chose an alternative stormwater filtration device that has proven evidence to function in our local conditions, or to provide this additional evidence from the SPEL manufacturer that their device operates effectively in Victoria, ensuring that best practice stormwater quality standards will be met.*
- *Furthermore, the 40,000 rainwater tank is connected to pool top up, rather than toilet flushing. This proposed use for the rainwater does not guarantee the use of the stored water, due to operational and seasonal variations in evaporation. This is following the guidance of Melbourne Water.*
- *I strongly recommend that the rainwater tank is connected to toilet flushing to ensure that stormwater quality objectives are met*

#### *Ambiguous Wording*

- *There is a disclaimer at the start of the WGE SMP that is not acceptable for a town planning submission and is required to be re-worded. The SMP Disclaimer states; "This is a working document and therefore may be subject to change or modification through the course of the design phase of this project. It is expected that any change or modification will not impact on the overall aim of this document. That is, to provide a strategy for the project which ensures it meets Yarra City Council's planning guidelines on environmentally sustainable design."*
- *The wording needs to state that the sustainability standards, detailed in the report will actually be implemented, rather than give a legal loophole for items to change. I recommend that the following wording, or similar is used to enable this document to become endorsed and a legally binding component of the planning permit. My suggested wording is; "This is a working document and therefore may be subject to change or modification through the course of the design phase of this project. It is expected that any change or modification will not impact on the overall sustainability performance standards detailed in this document. Technology substitution or design changes may be made to the subject to the satisfaction of the responsible authority. This document provides a strategy for the project to ensures it meets Yarra City Council's best practice standard in environmentally sustainable design."*
- *The Disclaimer Statement continues on the state: "...modelling analysis within this report are based on specific criteria outlined in the National Construction Code (NCC) and Built Environment Sustainability Scorecard (BESS), along with best practice guidelines and are not considered to be a true representation of the actual operation of the building..."*
- *This statement is completely unacceptable and I encourage the authors of the report to re-consider the role and requirements of all SMPs they submit to councils for planning approval processes. This statement above should be removed and is unnecessary. I strongly recommend that all ambiguous wordings and potential loopholes are removed from the SMP, and re-submitted for approval.*

#### *Contradictions and Clarification*

- *There are four places where the proposed NatHERS thermal energy ratings are included in the SMP written by WGE, but the references are not consistent. Page 5 states; "...the project is targeting an improvement on BCA to achieve a NatHERS 6.5 Star average rating as part of the BESS rating scorecard..."*
- *'Targeting an improvement' appears to give another loophole for the development to avoid reaching the best practice standard committed to in the SMP, and is not acceptable. This is worded like this in Appendix 1 also, and needs to be re-worded as a clear commitment that the development will reach an average of 6.5 Star NatHERS ratings for all dwelling, as a minimum.*
- *Later on the SMP states on page 7 the report states; "...Development to achieve an average NatHERS rating of 6 Stars with no individual dwelling achieving a star rating of less than 5 Stars..."*
- *This clearly sounds as though the 6.5 Star rating is not going to be implemented. All references to NatHERS need to be clarified throughout the report.*

- *I strongly recommend that all ambiguous wordings and potential loopholes are removed from the SMP, and re-submitted for approval.*

#### *Cooling Loads*

- *There are large amounts of glazing exposed to summer sun angles and unwanted levels of solar heat gain. The cooling loads submitted in the SMP include dwellings (Type F) with cooling loads higher than the BADS Energy Efficiency standards threshold of 30 MJ/m<sup>2</sup> for Melbourne climate zone. Type F dwellings are shown to have a cooling load of 38MJ/m<sup>2</sup>.*
- *I recommend that additional external operable shading devices are installed to all east, west and north facing glazing exposed to summer sun angles, or that the applicant demonstrate that no dwellings exceed the 30MJ/m<sup>2</sup> cooling loads threshold, using the NatHERS thermal energy rating software.*
- *The following points follow on from previous advice given.*

#### *Daylight*

- *The standard of daylight for the development overall is acceptable. The Supplementary Witness Statement prepared by Jan Talako details the extent and limitations of the daylight performance. I support the proposed minor amendments to the apartment layout of C3017 that is detailed in the Supplementary that will improve the standard of daylight to an acceptable standard overall. I note that all dwellings have clear glazing throughout.*

#### *Natural Ventilation*

- *Natural ventilation in most dwellings is reliant on single sided ventilation access. Dwellings with inset balconies will be reasonable, but overall the standard of access to natural ventilation across the development is borderline.*
- *I recommend that ceiling fans be provided to all dwellings to encourage airflow and improve thermal comfort and ventilation. I note that all kitchens have proper extraction fans, which will assist this somewhat*

### Council's Open Space Unit

70. The following advice was received:

#### **Open Space comments**

##### *Ground Level Landscaping – TP01-04*

- *The shade diagrams indicate that the ground level planted corridors will receive light for 1-2 hours during midday, and otherwise be shaded. The corridors are located along a north – south axis, though at approximately 12m width the sun access is limited.*
- *The communal lawn will receive sun light for longer periods of the day and would provide suitable community space. The pavers that bisect the lawn area have a significant impact on the usable aspect of the lawn area. Are these necessary and is there a lower impact solution?*
- *Given the scarcity of car parking in the area, and the location of a main north south cycle route directly adjacent to the development, increased bicycle parking would be beneficial for visitors to the businesses and apartments.*
- *Plant selection for the shaded and covered areas of the ground level seems suitable for the conditions.*
- *The tree selection consists of trees that will grow in a columnar shape (not spreading). This will have an impact on the feel of the place, and be unlikely to provide the 'verdant experience' recommended in the VCAT report.*

##### *Level 3 – Private Terrace Gardens – Plan TP05*

- *Details and depths of planters showing growing media, irrigation, drainage, water proofing and tree anchors should be provided.*
- *There appear to be no communal gardens on this level. This responds to the VCAT recommendation.*
- *The plant selection for the level 3 garden beds appears suitable for roof top gardens. The plants will require regular maintenance to grow successfully.*
- *Provision will need to be made for safe maintenance access to all of these planters.*

*Level 8 - Terrace Roof Gardens (Intensive) – Plans TP06–07*

- *Details and depths of planters showing growing media, irrigation, drainage, water proofing and tree anchors should be provided.*
- *The plant selection for the level 8 garden beds appears suitable for roof top gardens. The plants will require regular maintenance to grow successfully.*
- *'Raised metal planter with Juniperus horizontalis – This is shown as being located outside of a perimeter glass balustrade. Provision will need to be made for safe maintenance access to these planters.*

**Arboriculture and Streetscape comments**

- *A tree management plan showing Tree Protection Zones and methods of tree protection to be implemented for the trees in the nature strip and outer separator will need to be provided. This would need to include the protection of low tree limbs adjacent to construction vehicle access.*
- *One nature strip tree is proposed to be removed. The removal of tree no. 8 (Ulmus) is acceptable. The removal cost to be paid to Council is \$8,960 (ex gst) (calculated using a standard amenity value calculator with the species, size & condition (fair) being used from the John Patrick tree report). This price includes complete tree and stump removal and reinstatement of 2 trees after development plus 2 years tree establishment maintenance. All work would be undertaken by City of Yarra contractors.*
- *The removal of the 3 existing vehicle crossovers along Queens Parade provides the opportunity for a further 3 street trees (Ulmus procera 'English Elm'). The cost to the developer of supply, installation and 2yrs maintenance for 3 trees is \$2,798 (ex gst) street tree planting. Works would be undertaken by City of Yarra contractors.*
- *The modified building height and setback appears to shade the naturestrip trees from approximately 11:30am onwards and the outer separator trees from 2pm (September shade diagrams). This is an improvement on the previous design and should not significantly impact the existing street trees.*

Council's Sustainable Transport Unit

71. The following advice was received:

*It doesn't look like there have been any changes to bicycle parking provision, location or layout since our previous set of comments, except for a minor change at Basement 1, near where the two lift cores have been merged into one: therefore our advice remains consistent with the advice given 27/07/2017.*

*I've copied and pasted this here for your convenience:*

1. *The nominated number and style of residential and visitor bicycle parks is satisfactory. However, the location of the bicycle parking is too dispersed (see; Basement 1 – A21-09) with many parks not located near entries or elevators, and not within secure compounds as per the standards. Strategic Transport recommends consolidating all bike parking in no more than 3 secure compounds on Basement 1.*

2. *The location of visitor bicycle parking satisfactory. There is an area on the ground floor (A21-10); between the deli, café and restaurant; nominated as 'bicycle park' – please provide additional detail on this area.*
3. *The location of the bicycle parking is particularly poor for those residents in the rear site. Additional parking could be provided on ground level near the secure gate between the sites.*

72. Points 2 and 3 above have already been addressed in the draft conditions, however the location of bicycle parking within the basements is generally supported. Although somewhat dispersed around the basements, they are generally near the cores and are reasonably accessible.

### Council's Heritage Advisor

73. The following advice was received:

#### *Bay 9*

- (a) *Retention of Bay 9 is noted and is supported.*

#### *Façade Windows*

- (b) *Details of the proposed alterations are shown on Drwg. A-61-29 and A-61-40.*
- (c) *The openings at the first floor level will be retained but new window frames or screens will be inserted. Retention of the openings is appropriate.*
- (d) *At the Ground floor level every opening will be altered. Presently the openings are a visually fragmented arrangement of doors and windows resulting from past ad hoc alterations. However there are three window openings which have not been altered. While a uniform system of fenestration is appropriate from an architectural design perspective, in this case the proposed changes will obliterate all of the evidence of original windows. Changing all the openings again to redress the past only moves further away from the original arrangement as seen in historic photographs included in previous Lovell Chen reports. This is not respectful of the original fenestration and also is an unacceptable degree of change to original historic fabric, moreover in a façade. Consistent application of the heritage policy does not envisage changes to façade fenestration unless for conservation reasons.*
- (e) *Further the sill heights already lend a degree of privacy at the Ground floor level. As proposed the sills are to be lowered and semi-opaque glass inserted at the bottom to a height of 1600 mm. The three original openings (3<sup>rd</sup>, and 7<sup>th</sup> and 8<sup>th</sup> bays from the west) should not be altered. New frames can be inserted and semi-opaque glass at the bottom of all Ground floor windows is acceptable.*
- (f) *At both levels the awning style windows are acceptable but the openable screen windows are not. First there is no obvious logic the position of these in front of both bedrooms and terraces (similarly for the awning type). Secondly experience has shown that original windows left without frames or with wide openable parts such as the screens in this case, typically give the appearance and impression of holes, where there should be window frames, and unfinished façade elements. All the window frames should be of the awning type.*

#### *Internal walls*

- (g) *These are now perpendicular to the façade as required by the Tribunal.*

#### *Floor and window junctions*

- (h) *The proposed treatment is noted and whether in performance this meets the Tribunal's requirements is yet to be seen. In principle it is acceptable.*

*Canopy*

- (i) *Retention of the pedestrian entrance canopy is supported.*

*Setbacks*

- (j) *These are described in the Lovell Chen report and are acceptable.*

*Paint removal*

- (k) *This is discussed in the Lovell Chen report and I agree that there is a risk that the removal of the paint might reveal some unsightly brickwork condition in which case re-painting would seem appropriate. At this stage this is supported only as a permit condition to the satisfaction of the Responsible Authority or another mechanism which ensures that there is a proper assessment of the brickwork, including the potential for appropriate repairs as might be required, and that any new decorative scheme is appropriate in terms of colours and any picking out. At this stage I am not supportive of picking out of pilasters as suggested in the Lovell Chen report. This needs further consideration in the light of the state of the brickwork and in comparison with historical photographs. Nevertheless, looking ahead, it would be appropriate to take some paint samples from the façade before the paint is removed completely and that these samples be microscopically analysed and the evidence considered if and when a new decorative scheme is developed. This must be a permit condition to the satisfaction of the Responsible Authority or another mechanism which ensures that this is achieved.*

*Visibility of the Towers in Distant Views and the Street Trees*

- (a) *The approach described in the Lovell Chen report seems reasonable.*

*Street Wall and Boulevard Primacy*

- (b) *The setbacks of Tower 1 of 10.99 metres and 14 metres is reasonable and is comparable to the setbacks achieved in Bridge Road, Richmond for the same purpose – primacy of the heritage façade/street wall and to make the development recessive in varying degrees. This is acceptable. It is up to the Tribunal as to whether this meets its concerns.*

*Bluestone Lane*

- (c) *Reconstruction of the bluestone lane must be a permit condition to the satisfaction of the Responsible Authority or another mechanism which ensures that this is done.*

*Other Changes*

- (d) *In my opinion none of the other changes set out in the Statement of Design Changes do not have any measurable bearing on heritage considerations.*

External daylight consultant

74. The following advice was received:

*I've firstly reviewed those updated plans and believe that (without doing the modelling myself) they look to provide the opportunity for very good natural light to almost all apartments within the development.*

*There are very few deep apartment living zones, and those which are quite deep are located away from the inwards facing corners of the building, they are also generally given a full corner of glazing (both outwards and onto the balcony).*

*All apartments in the corners (inward facing corners that is) are given very shallow rooms with large windows, this means that the design has appropriately compensated for the constrained outlook of these apartments.*

*All bedrooms will perform well I would think, with the only saddlebacks being located on the street with a clear outlook, all other bedrooms have very large windows and thus will perform fine.*

*The other aspect which is good to see is that the Ground floor only has a few apartments with inwards facing designs. Those that do are also given very shallow floor plates.*

*So overall I believe the design looks to provide very good daylight amenity to the apartments within. There may be a few apartments which don't meet the best practice guideline (BESS) but overall I would be very certain that all apartments would meet a minimum standard for daylight, and overall the building will be provided with over 80% of the apartments meeting the best practice standard.*

*This appears to be confirmed by the evidence addendum provided by Jan Talacko. Whilst I find the way the modelling results are presented slightly confusing at first glance, on further inspection I don't believe these results are presented in a way that deliberately clouds the issue or misrepresents the performance of the building and thus overall I trust that the evidence will provide the tribunal with the information that it needs to determine its position on this issue (daylight amenity).*

*There is one item that I would seek clarity on though as I could not identify this on the plans, and that is the colour of the glazing. My above analysis is based on this being clear glazing. If a coloured glazing were used then I think a restriction should be provided on the glazing Visual Light Transmission to make sure it is over 60% VLT. The plans just note glazing, and are silent on the colour (from my review).*

*Finally, the impact on the neighbour which we looked into last time for the original scheme going to the tribunal demonstrated that a significant impact would be generated onto the single aspect apartments in 58 Queens Parade facing the subject site. This appears to still be likely to be the case, but as pointed out in evidence previously, it would be almost impossible to develop the subject site without significantly impacting on those dwellings (or at least those on lower levels), thus I don't believe that this impact should be a limiting factor for the proposed development. They have provided a significant setback already, and certainly much more than what was provided by the neighbouring design at 58 Queens Parade.*

*So overall I'm satisfied that the internal daylight amenity of the proposed design is in line with council's policy.*

## **Assessment**

75. This assessment is framed around the key issues raised in the VCAT order, with a final discussion of any changes to without prejudice, draft conditions.

### Key issues VCAT have asked the Applicant to address in their interim order:

- Paragraph 51 of order - Part of the façade at 42 Queens Parade should be retained (albeit not within the Heritage Overlay).
76. Bay 9 (the eastern end of the heritage façade) has now been retained, as shown on drawings A-21-10, A30-01 and A-61-29.
- Paragraph 58 of order – Additional detail of façade alterations are required (including the interaction and visibility of the floors or levels behind).

77. Plans A-61-29, A-61-30, A-61-31, A-61-32 and A-61-40 have been provided to show:
- (a) where level 2 would interest with a window opening, opaque glazing would be used and the internal floor would be setback 400mm behind the front wall to minimise the impact on the façade. A condition should require the level 2 walls behind the windows to be a light colour, so as to not be dominant when read from the street; and
  - (b) a mixture of bi-fold and awning windows within the podium to Queens Parade.
78. While this is understood from an internal amenity perspective, Council's Heritage Advisor noted that the ground floor openings to bays 3, 7 and 8 should not be modified (although new fenestration to match existing may be installed if required). The Advisor also raised issue with the scattered approach to bi-fold windows along the heritage podium. There does not appear to be any rationale or pattern to this and in any event, the bi-fold windows are at odds to the character of the facade. Officers also have issue with the use of awning style windows at the ground floor as they could be a pedestrian safety risk when opened. To address these points, a condition should require modified glazing treatments to the ground and first floor levels of the heritage façade. Fenestration must be generally as per existing, however sliding glass may be installed behind (not projecting outside title boundaries and still appearing 'framed' when opened).
79. The external urban design advice received by Council continued to raise issue with the proposed treatment for obscuring floors behind the heritage façade. In conjunction with modifications to the glazing (outlined above), it is suggested a condition be imposed to require a design response that further reduces the visibility of the level 2 floor behind the heritage façade.
- *In relation to the walls behind openings in the retained heritage façade: 59 ....Walls should be at right-angles to the façade.*
80. This has been achieved in drawing numbers A-21-10, A-21-11 and A-21-12.
- *Paragraph 60 of order - The central pedestrian canopy to Queens Parade should be retained.*
81. This is shown as being retained on the proposed south elevation, level 1 plan and the heritage façade plans.
- *Paragraphs 61- of order – The tower setback from the south-west corner of the heritage facade should be increased (both ensuring the heritage façade remains prominent and to adequately transition with the properties to the west).*
82. Level 2 of the south-west corner apartment has been modified, with a 4.4m deep terrace behind the heritage façade, to ensure that the heritage façade remains prominent, also serving to provide a transition in height with the 2 storey dwellings further west. This also ensures the retained heritage building is read as a 3-dimensional form and not just a façade.
- *Paragraph 64 of order – The paint to the pilasters should be stripped and left as exposed brick.*
83. The plans have not done this. Instead, the Applicant provided a letter from Lovell Chen which stated (as relevant):
- Evidence of the quality of the brickwork, on which basis repainting the façade is argued, is not established and the preference is for the rendered pilaster and face brickwork to be returned in order to reference the original presentation*

84. The Applicant indicated that the removal of paint from the façade is generally supported from a heritage perspective, however there is concern as to what condition the brick and render underneath is in. Council's Heritage Advisor generally agrees, however subject to further provision of a decorative scheme to the satisfaction of the Responsible Authority after paint samples are obtained to ascertain the original conditions and condition of the bricks under.

- *Paragraphs 73-77 of order (part of 77 here) – 'Tower 4 needs to be moved south and joined with tower 3 to minimise views from the north'. Paragraph 116 continues to then recommend that 'Tower 4 should be moved further south to join with tower 2 to minimise the impact on the single and double storey dwellings in Coleman St and Grace Lane to the north'.*

**VCAT plans**



**Interim order plans**





85. The interim order plans have joined the rear and front/central towers, being towers 2 and 4 to address the above long-range view and side and rear setback/amenity issues raised by VCAT. The result in an increased northern setback of 6.4m (measured at the minimum north-east boundary setback at level 4). As opposed to joining towers 3 and 4, this ensures there would be a reasonable break or separation between building segments, while increasing the northern setback to minimise bulk. The daylight impacts of this are considered further in this assessment.

86. The VCAT order then discussed the curved form of the towers and their setback from Queens Parade. While the curved design was generally supported, the 1-3 towers need to be setback further from Queens Parade:

104 *Mr Hutson's opinion is that the prominence of the heritage street wall and new street wall and the impact on the Queens Parade streetscape is nevertheless ultimately harmed by the scale, massing and setbacks of towers 1, 2 & 3. We agree. We prefer his opinion to the contrary opinion of Mr Poole. Mr Poole's opinion was based in part on balancing incursions against setbacks exceeding the minimum discretionary setbacks across the whole of the main site. That form of balancing is not supported by DDO16 provisions as a whole, particularly when the encouragement of gaps between higher built form necessarily means exceeding setbacks across parts of the site.*

105 *The impact of tower 1 is emphasised by the larger incursions at higher levels at the northeastern end of the tower's façade. These incursions and those in towers 2 & 3 detract from the prominence of the heritage street wall when viewed from further to the northeast along Queens Parade.*

106 *We therefore find towers 1, 2 & 3 should be setback further from the street wall so that there is general compliance with the mid-level discretionary setback requirement. The incursion at the higher levels for towers 1 & 2 should be minor, around 1.5 metres to two metres. to accommodate a twisted floor plate form. The incursion at the mid-levels and higher levels of tower 3 could be greater towards the corner where the tower adjoins the five-storey form of 58 Queens Parade.*

87. This continued into a discussion of Boulevard primacy:

*109 However, if amended plans are prepared showing increased street setbacks, the objective could be met because the relatively narrow width of the towers means that the towers would not appear to exceed the height of the trees from those viewpoints and would remain to the side of the viewshed.*

88. The interim order plans have included a dark dotted red line showing the DDO16 setback requirements and a light red line to show the outline of the previous scheme (VCAT plans).

89. The 'towers' emerge at level 3 as shown on drawing number A-21-13 of the interim order response plans. The built form projects into the front setback areas, however this is limited to terraces and a 1.6m deep projection at the eastern end of tower 3. The terrace projections are supported as they do not contribute to unreasonable visual bulk when viewed from the street (1m high glass balustrades) and the building footprint incursion of tower 3 is adjacent to the 5 storey form of the apartment building to the east.

90. A similar incursion occurs at tower 3 on level 4, however the tower 1 and 2 terrace incursions are deleted at this floor. Again, the level 4, 1.6m deep incursion into the discretionary DDO16 front setback is supported as it is adjacent to the 5 storey apartment building to the east and provides an appropriate built form response.

91. At level 5, the discretionary DDO16 front setback requirements increase, and there are minor incursions for towers 1 and 2 (up to 1.6m) and 2.7m at the eastern end of tower 3. Again however, as this segment of built form is adjacent to a 5 storey apartment building, this incursion is supported as still providing a transition with adjacent building stock.

92. At levels 6 and 7 there is no incursion within the discretionary front setback requirement of tower 1 and the tower 2 incursion is limited to 1.3m. The tower 3 incursion remains at 2.7m. At level 8, the tower 2 incursion is reduced to 1.4m and the tower 3 incursion is reduced to 1.3m. A level has been deleted from tower 3 at level 9 and at this point, the tower 2 incursion is limited to 1.4m.

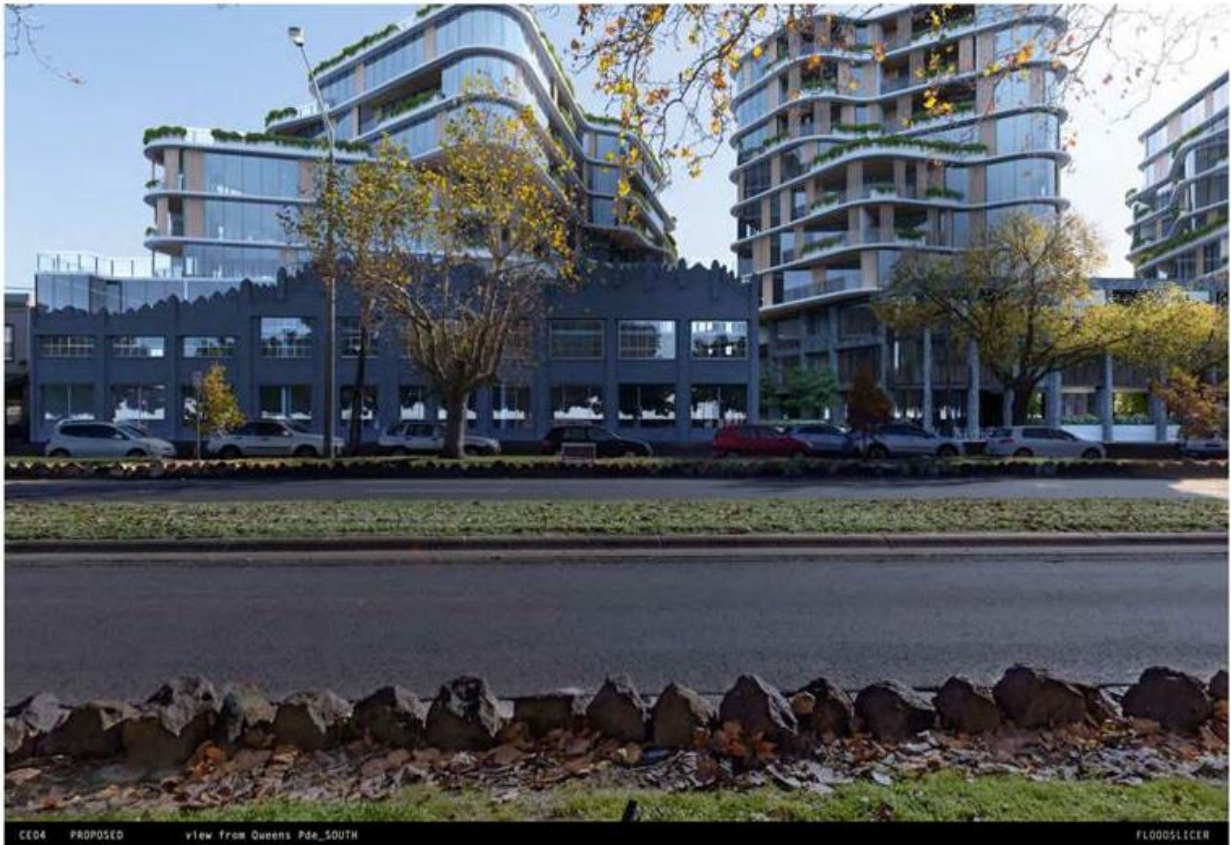
93. It is noted that the front setbacks of towers 1-3 were previously approximately 2.9m (tower 1), 2.7m (tower 2) and 1.9m (tower 3). The interim order response plans have reduced the incursions generally in line with the VCAT Order (except for tower 3, which is supported for the reasons already outlined) and has increased these front setbacks to approximately 11m (tower 1), 6.4m (tower 2) and 3.4m (tower 3). The impact is as follows:



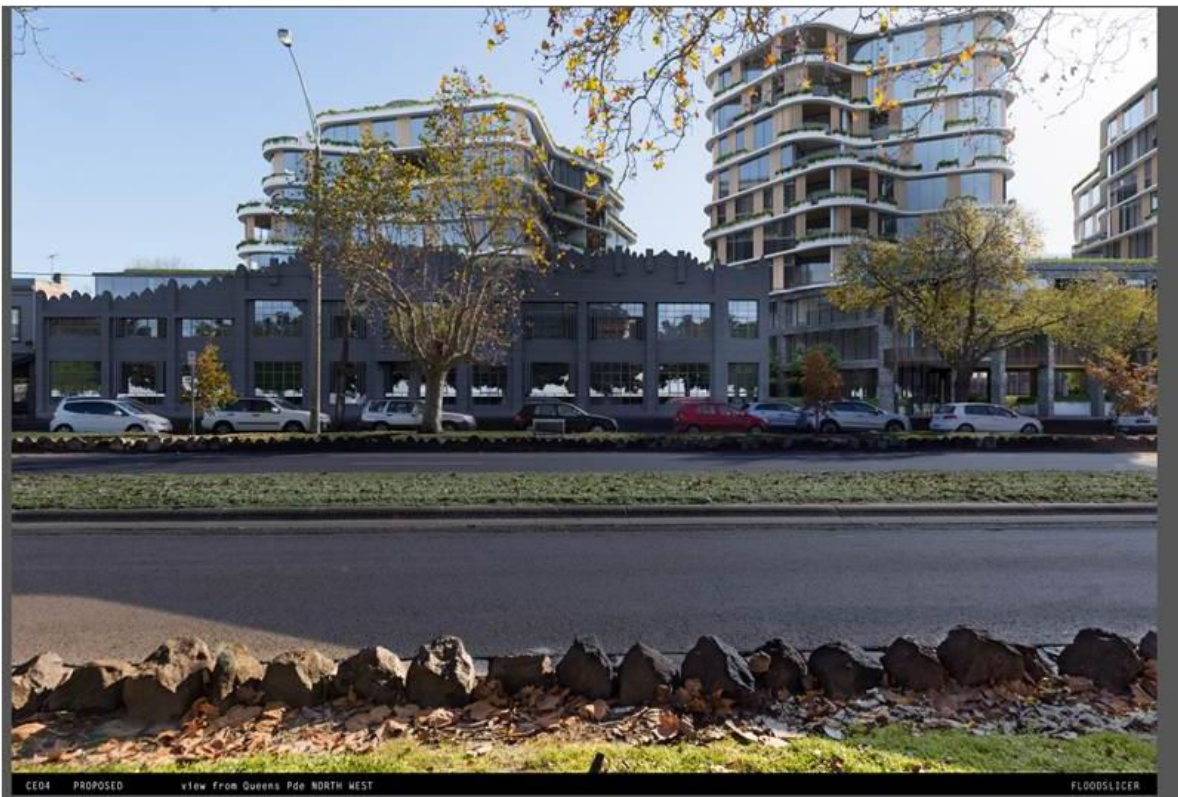
**VCAT substituted plans**



**Interim order response plans**



**VCAT substituted plans**



**Interim order response plans**

- 94. Officers are of the view that the issues raised in the VCAT order with the front setbacks have been addressed in the interim order response plans and that the proposal would now not unreasonably dominate the retained heritage building and the Queens Parade/Boulevard streetscape in general.

- *Western interface – side and rear setbacks – Paragraph 115 of VCAT order:*

115 *At the western interface, there are some material incursions at levels 4 & 5 and some significant incursions at levels 6, 7 & 8, and both are generally confined to the front half of the land at 24 Queens Parade. This prevents tower 1 achieving an appropriate transition in scale from the two-storey dwelling and two-storey and single-storey dwellings further to the west. An appropriate transition is not a stepped form as that form is expressly discouraged under DDO16. We consider an appropriate transition could be achieved if the tower is set back further from Queens Parade (with the result that the whole of tower 1 moves to the north), is reduced in height by one level. The resulting incursion at level 7 is reduced as a consequence.*

95. Tower 1 has been setback further from Queens Parade (outlined previously) and has deleted the communal open space and relocated this to the roof at level 8 (increasing separation to the lower built form adjoining Queens Parade). The modified form is outlined below (previous scheme shown in red) and demonstrates that a more appropriate transition is provided with the dwellings to the west (without being a ‘stepped form’ as discouraged within the DDO16).



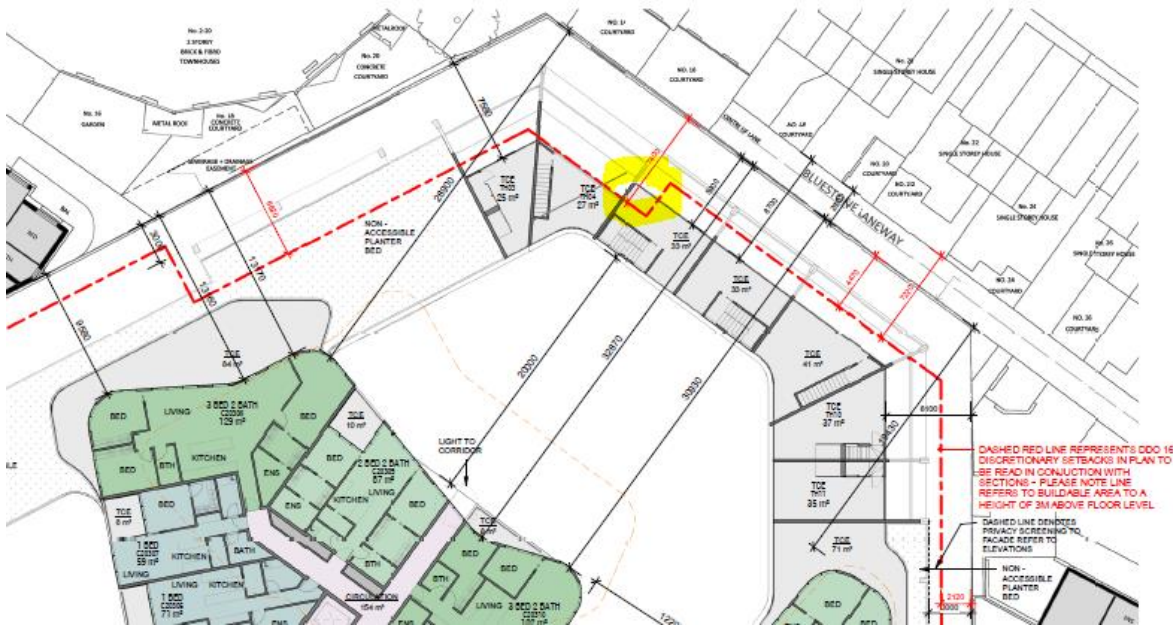
**Extract of interim order plans**

- *Northern interface – side and rear setbacks – Paragraph 116 of VCAT order:*

116 *At the northern interface, there are very minor incursions at levels 2 & 5 and a one-level exceedance to the discretionary eight level maximum building height. Given the proximity of tower 4 to the single-storey and double-storey dwellings in Grace Lane and Coleman Street and the support for moderating mid range views from the north, there is merit in moving tower 4 south to join with tower 2.*

96. While the ground floor is generally the same at the north and north-east interface, level 1 has been partially setback a further 1.3m (deletion of terraces at this floor, due to townhouse configuration and terraces generally at level 3).

Level 2 maintains the same envelope and at level 3, an additional 1.6m deep by 2m wide terrace area has been included and would be introduced adjacent to the 16-18 Coleman St POS area and should be deleted as it is a larger envelope at this location than the VCAT plans. This segment also encroaches within the DDO16 side and rear setback requirement at this point:



**Extract of level 3 – Interim order response plans**

97. While the 'podium' or 'townhouse' levels are generally similar except where otherwise noted above, the tower behind has been setback a further 6.4m from the north-east boundary to a setback of 28.3m (previously 21.9m), also reducing the length of this tower adjacent to the northern boundary and dwellings along Grace Lane. This is supported and these changes are considered to meet the intent of the VCAT interim order.
98. However, in addition to the level 3 townhouse terrace encroachment outlined above, the merged towers 2 and 4 would now extend approximately 4m closer to the northern boundary, adjacent to 496-500 Brunswick Street.



**Extract of level 7 – Interim order response plans**

99. Where this area was previously setback approximately 13.5m, the interim order response plans show bedrooms and living areas within 9.5m of this boundary. This is contrary to paragraph 131 of the order, which anticipated that the merging of towers 2 and 4 would *increase* the setback of the towers from this boundary. In addition, from a procedural sense, as not all of the owners or occupiers of this building appear to be party to this appeal, the additional floor area adjacent to this boundary should be deleted by way of a permit condition, should a permit issue.
100. It is noted that while the VCAT Order found the DDO16 discretionary side and rear setback encroachments acceptable from the eastern interface, the Applicant has elected to setback some of the curved incursions at levels 2-7, including a deeper light court at level 2, a minimum 4.4m setback at the southern end of levels 3-5 (previously 3.1m) and approximately 1.6m-1.7m at the southern end of levels 6 and 7.
101. The VCAT order then progresses to the rear site. The order stated that the Members were generally comfortable with the development being a lowrise infill, and although 'site coverage is very high' it is '*...not unreasonable because it is largely surrounded by lanes and because nearby development (other than the main site) is predominantly single-storey and two-storey fine-grained dwellings on sites about five metres in width which have high site coverages*'.
102. While Council's position of refusal raised issue with the scale and bulk of the proposal, even calling urban design evidence (Mr Andrew Hutson), VCAT were not persuaded that the scale and bulk of the townhouses was unacceptable.
103. However, the VCAT order outlined the following issues:
  - (a) the living areas are too small for dwellings of that size;
  - (b) the entries need to provide a sense of address and safety within the laneway;
  - (c) the rear courtyards should be deeper to at least allow people to sit in them (only 1m wide);
  - (d) the full height privacy screens at levels 1 and 2 on the east elevation are unnecessary where screens are provided on the adjacent dwellings (within 9m) on the main site;

- (e) lower screens should be provided on levels 1 and 2 at the south elevation to improve passive surveillance of the laneway;
  - (f) larger windows should be provided in the east facing walls at level 1 of townhouses 1 and 2.
104. These issues have all been addressed in the interim order response plans in the following ways:
- (a) the number of dwellings has been reduced from 4 to 3 and the living areas on level 1 have been increased in size;
  - (b) the ground floor entries have been made larger to provide additional safety and a sense of address;
  - (c) the rear courtyards (ground level) have been increased from a depth of 1m to 1.6m;
  - (d) the eastern privacy screens have been deleted. It does not appear that screening to the main site terraces adjacent to the townhouses have then been screened or treated in response, however this could be addressed by way of a permit condition, should a permit issue;
  - (e) there is no southern terrace at level 2, however the south elevation now shows a lower screen to the south of the level 1 terrace. This however, remains unclear on the floor plans and should be confirmed as a 1m high screen on the floor and elevations (no height is dimensioned on the elevations); and
  - (f) where horizontal windows were provided at the eastern edge of townhouses 1 and 2 at level 1, these windows have been replaced with floor to ceiling glazing to improve the integration and perceived passive surveillance with the lane.
105. A condition should also be imposed on any permit issued for the rear site to ensure all window and door openings are shown on elevations.
106. The VCAT order then returned to the main site to deal with external amenity. Loss of outlook was generally found to be acceptable as per paragraphs 131 and 132 of the VCAT order. It was specifically noted in paragraph 131 that *'The scheme does not protect outlooks or views, beyond built form outcomes under DDO16 to minimise visual bulk'*.
- *Paragraph 135 of VCAT order: 135 We find this space will create unreasonable amenity impacts that cannot be satisfactorily managed by owners corporation rules. The communal open space should be removed. If the built form beneath the communal open space areas is reconfigured for townhouses, the equivalent space at level 3 could be set aside for private rooftop open space.*
107. The level 3 communal area adjacent to 496-500 Brunswick Street has been replaced by part private terraces and a non-accessible planter bed.
108. In terms of lack of articulation and the overlooking treatments, commentary was provided in paragraphs 139-140 in the VCAT order about providing varied screening approaches *'The edge should be relieved by including greater variety to the presentation by including, for example, lower screens with horizontal or angled projections to maintain restriction on downwards views, or other treatments which introduce variety in height and materials'*. This is not clearly translated in the interim order plans and should be addressed by way of a permit condition, should a permit issue.
109. Commentary was provided at paragraph 141 about requiring detailed acoustic information about a car park exhaust fan adjacent to 24 Queens Parade. This could also be addressed by way of a permit condition, should a permit issue.
110. Paragraph 142 addressed air conditioner units on balconies. The elevation plans provided do not clearly label materials and a schedule has not been provided (confirming if the balcony glazing is clear). However, these matters can also be addressed by way of a permit condition, should a permit issue.



111. Paragraph 143 of the VCAT order continued into internal amenity. The Tribunal found that daylight was generally acceptable, but that any revised proposal must consider the impact on internal amenity/daylight (particularly considering the merging of towers 2 and 4).
112. Council had the interim order response plans reviewed by Council's ESD Advisor and an external daylight expert (Lindsay Richardson).
113. The external daylight expert was generally complementary of the modified design, noting '*So overall I believe the design looks to provide very good daylight amenity to the apartments within. There may be a few apartments which don't meet the best practice guideline (BESS) but overall I would be very certain that all apartments would meet a minimum standard for daylight, and overall the building will be provided with over 80% of the apartments meeting the best practice standard*'. However, it was requested that a condition be imposed to require details of the proposed glazing and if coloured, it must have a Visual Light Transmission of at least 60%.
114. Council's ESD advisor also considered the glazing and reviewed the evidence provided by the Applicant at the hearing. The assumptions made by the applicant were for glazing with a VLT of at least 75%. Council's ESD Advisor therefore suggests that glazing should be at least 70%, which been combined with the requirement in paragraphs 115(d) and (e) below, would result in a reasonable level of energy efficiency and internal amenity.
115. Council's ESD Advisor raised a number of concerns with the proposal, which should be addressed by way of permit conditions:
- (a) a different stormwater management treatment, demonstrating compliance with clause 22.17 of the Scheme;
  - (b) the 40,000L rainwater tank used for toilet flushing instead of pool top-ups (due to seasonal demands for pool top-up requirements);
  - (c) clear, unambiguous wording with the SMP, including clear commitments and the deletion of disclaimers and statements such as '*This is a working document and therefore may be subject to change or modification through the course of the design phase of this project. It is expected that any change or modification will not impact on the overall sustainability performance standards detailed in this document. Technology substitution or design changes may be made to the subject to the satisfaction of the responsible authority. This document provides a strategy for the project to ensure it meets Yarra City Council's best practice standard in environmentally sustainable design*' and '*...modelling analysis within this report are based on specific criteria outlined in the National Construction Code (NCC) and Built Environment Sustainability Scorecard (BESS), along with best practice guidelines and are not considered to be a true representation of the actual operation of the building...*';
  - (d) a commitment to achieve a minimum NatHERS 6.5 star average rating (not 'targeted to achieve;');
  - (e) demonstration that no dwellings exceed the 30MJ/m<sup>2</sup> cooling loads threshold, using the NatHERS thermal energy rating software; and
  - (f) as natural ventilation is 'borderline' due to a number of single sided apartments, a condition should require ceiling fans be provided to all dwellings.
116. Paragraphs 151-156 dealt with site permeability, with the VCAT order suggesting that a pedestrian link be provided through to the rear lane extending to Coleman Street to the north. This has been provided in the interim order response plans (plan A-21-10). However, Council's Urban Design Unit noted this space is problematic for the following reasons, which should be dealt with by way of permit conditions:
- (a) the link should be open (clear to the sky) to encourage use and a sense of safety;
  - (b) the link should be repositioned further east (see TH8) to minimise the length of foot traffic along the lane as it is bluestone and not illuminated (a condition should require the lane to be illuminated also); and
  - (c) the architectural and landscape plans must correlate in relation to this link (the width of the link does not currently match).

117. While Council's Urban Design Unit raised issue with the limited solar access to this link, this is not considered to be problematic as the space is limited in length and if clear to the sky, would provide a reasonable level of perceived safety.
118. Commentary was provided at paragraph 157 of the VCAT order on the ground level communal open space:  
*157 We do not consider the ground level communal open space is sufficiently well designed. It lacks a large enough space with sufficient solar exposure where residents may congregate. Our earlier findings about the need to move tower 4 to the south creates an opportunity for such an area in the northern part of the main site between the townhouses and the relocated tower 4 that is to be joined with tower 2. It needs to be about 20 metres wide along a north-south alignment.*
119. The merging of the towers has resulted in 2 approximately 11m wide north-south orientated POS areas and the northern segment is approximately 20m deep. Reviewing the shadow diagrams provided by the Applicant, the revised massing would result in the level 9, tower 1 POS area offering adequate direct sunlight for residents throughout the day, and the 20m deep parcel within the north-east corner of the site would be afforded reasonable direct sunlight between 9am and 3pm. In addition, the two north-south axis corridors would receive reasonable levels of direct sunlight between midday and 2pm. This is considered to be an improvement to the original proposal and would offer a number of direct sunlight opportunities for residents throughout the day. Council's Open Space Unit also support this assessment and this aspect of the interim order response plans.
120. Should a permit issue, as suggested in the urban design advice received by Council, it should be confirmed that all residents will have access to the tower 1, level 8 communal area, ensuring residents have reasonable access to open space areas with reasonable daylight levels throughout the day.
121. Concern was also raised in the VCAT order regarding room design, with the curved forms creating some triangular shaped bedrooms (paragraph 158). It is difficult to scale the plans at 1:200. The main issue with this is with bedrooms, as it needs to at least fit a bed into each room (generally living areas are larger and couches do come in different configurations to offer greater flexibility). While the layouts appear slightly better, a condition should ensure that the bedrooms have a minimum rectangular/square dimension of 3m by 3m, to be absorbed within the building envelope.
122. The VCAT order then dealt with traffic and parking, noting at paragraph 170 '*Waivers or reductions for residents and residential visitors are not uncommon for larger developments in inner suburban environments such as Fitzroy North*'. The Tribunal accepted the Applicant's evidence with regard to both traffic and car parking, finding the arrangement and impacts to be acceptable in this location. No further changes were requested to the plans in this regard.
123. Continuing to landscaping, the interim VCAT order raised issue with the implementation and maintenance of the proposed landscaping, along with soil volumes within planters and irrigation.
124. The interim order plans and landscape plans provided by Jack Merlo were reviewed by Council's Open Space Unit, which provided the following advice:
- (a) delete the stepped pavers that intersect the communal lawn area (they impact the usable space);
  - (b) plant selection appears appropriate;
  - (c) ground level tree selection should not just be limited to species that grown in a columnar shape ('...unlikely to provide the 'verdant experience' recommended in the VCAT report');
  - (d) details of depths of planters showing growing media, irrigation, drainage, water proofing and tree anchors should be provided;

- (e) a safe maintenance program is required for all planters/green roofs;
  - (f) a tree management plan showing TPZs for trees in the nature strip and outer separator need to be provided;
  - (g) *one nature strip tree is proposed to be removed. The removal of tree no. 8 (Ulmus) is acceptable. The removal cost to be paid to Council is \$8,960 (ex gst) (calculated using a standard amenity value calculator with the species, size & condition (fair) being used from the John Patrick tree report). This price includes complete tree and stump removal and reinstatement of 2 trees after development plus 2 years tree establishment maintenance. All work would be undertaken by City of Yarra contractors;*
  - (h) *the removal of the 3 existing vehicle crossovers along Queens Parade provides the opportunity for a further 3 street trees (Ulmus procera 'English Elm'). The cost to the developer of supply, installation and 2yrs maintenance for 3 trees is \$2,798 (ex gst) street tree planting. Works would be undertaken by City of Yarra contractors; and*
  - (i) *the modified building height and setback appears to shade the naturestrip trees from approximately 11:30am onwards and the outer separator trees from 2pm (September shade diagrams). This is an improvement on the previous design and should not significantly impact the existing street trees.*
125. Where recommendations have been made above, they should be imposed by way of permit conditions, should a permit issue.
126. Paragraph 206 of the interim VCAT order required the Applicant to increase the height of the undercroft areas. The interim order response plans have increased this by increasing the ground level – first floor height by 250mm to account for services. Council's Urban Design Unit raised concern with the publically accessible spaces within the front setback due to the shade and underside clearance (3.7m), however the plans meet the VCAT interim order requirement in relation to the height of this space.
127. Officers also do not share the Urban Design Unit concerns in relation to safety. While a condition could ensure these areas are adequately illuminated, the planters/seats are a maximum 750mm high and could create unsafe enclaves. A condition should require details as to how this area would be secured or clearer sight lines provided through this space when the restaurant is closed.
128. It is also agreed that the 1m clearance between the external planter and the deli/shop entrance is too narrow and this planter should be deleted by way of a permit condition. A condition should also require planters and/or bench seats in between the columns south of the deli/shop to ensure these do not become unsafe enclaves.
129. Council's Urban Design Unit requested the landscape and architectural plans (in relation to the area around the café) match. However, the layout of the café does match on both plans.
130. The bicycle parking layout west of the shop/deli does not match between the architectural and landscape plans and a condition should address this, along with demonstrating that any parked bicycles would not obscure the adjacent footpath.
131. A condition should also be imposed to ensure that the gated entries are secure (planters and the black steel arbour over the entry gates could allow people to climb over).
132. While Council's Urban Design Unit requested details of the raised water feature to ensure they are safe, this would be dealt with by the relevant building surveyor, should a planning permit issue.
133. Council's Urban Design Unit also noted that there is no door shown to the ground level bicycle storage room at the base of core 1. This can also be addressed by way of a condition.

134. A condition should also require (where possible) the deletion of the stairs to the external pedestrian link in the north-west corner of the site (achieved by ramping the path linking to this area within the site).

#### Changes to without prejudice, draft conditions

135. In addition to the proposed additional/modified without prejudice, draft conditions recommended above, the following should also be addressed:
- (a) title boundary dimensions must match the certificate of titles;
  - (b) the café must be shown as a 'food and drinks premises (café);
  - (c) the north-west corner of Tower 2 must not be any closer to the north-west title boundary than the VCAT substituted plans;
  - (d) the new street wall must not exceed 10m (unclear from the plans and this is a mandatory requirement of the DDO16);
  - (e) a condition should be imposed within the construction management plan to protect the trees along Queens Parade;
  - (f) any part of a building above a non heritage street wall height should use materials at the upper levels of the building that are recessive in finish and colour (DDO16 requirement);
  - (g) a number of heritage and landscaping conditions are now addressed in these plans and can be deleted;
  - (h) the original Council draft conditions referred to side and rear setbacks (B17) and the east boundary setbacks as per the DDO16. However, the VCAT order did not raise a particular issue with these setbacks and these conditions should therefore be deleted;
  - (i) it has since come to the attention of officer's that the rear site is not within the EAO. The panel report that considered the re-zoning rationalised this as a dwelling use was not proposed at that time (albeit the amendment would allow residential uses). Therefore, should a permit issue, a condition should require preliminary testing to establish if a full environmental audit is required. This is as per clause 13.03-1 of the Scheme.

#### **Conclusion**

136. The interim order response plans address the issues raised in the interim VCAT order, subject to a number of conditions outlined in this assessment.

#### **RECOMMENDATION**

It is recommended that the following without prejudice draft permit conditions and this IDAC report be filed with the Tribunal and served on the Applicant in response to the interim order response plans. It is not recommended that Council request for an opportunity to be heard by VCAT in relation to its written submission.

**Conditions (changes compared to original draft, without prejudice conditions are in bold):**

#### PLN16/0732 – Rear townhouse development

<b>VCAT REFERENCE NO.</b>	P147/2017
<b>APPLICANT</b>	Gurner 26-56 Queens Parade Pty Ltd
<b>RESPONSIBLE AUTHORITY</b>	Yarra City Council

#### Draft Permit Preamble

- Construct four, 3-storey dwellings (no permit required for dwelling use) under 32.04-6;
- Partially demolish or remove a building under clause 43.01-1;
- Construct a building or construct or carry out works under clause 43.01-1;

- Construct a building or construct or carry out works under clause 43.02-2;
- Reduce the car parking requirements under clause 52.06-2; and
- Provide all the car parking spaces on another site (being 26-56 Queens Parade, North Fitzroy),

in accordance with the endorsed plans and subject to the following conditions.

### **Draft Conditions**

- 1 Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the **interim order response plans (received by Council 28 February 2018)** but modified to show:
  - (a) **title boundary dimensions as per the certificate of title;**
  - (b) a maximum overall building height of 9m;
  - (c) the level 2, northern boundary wall to be setback at least 1.3m where it does not abut a boundary wall to the north;
  - (d) fences/gates adjacent to the dwelling entrances a maximum height of 1.5m and minimum transparency of 50%;
  - (e) the location of letter boxes and street numbering;
  - (f) lighting to dwelling entrances;
  - (g) external, operable, vertical screens to the north and west facing windows;
  - (h) details of the screens between courtyards/terraces and to habitable room windows, confirming:
    - (i) a minimum height of 1.7m;
    - (ii) a maximum permeability of 25%; and
    - (iii) that they are fixed.
  - (i) an additional window to the ground floor, eastern elevation of dwelling 1;
  - (j) a minimum 6m<sup>3</sup> store for each dwelling;
  - (k) a schedule of colours and materials, including samples (where relevant);
  - (l) bicycle parking as per clause 52.34 of the Yarra Planning Scheme;
  - (m) bicycle parking must meet the design requirements at clause 52.34-4 of the Yarra Planning Scheme;
  - (n) items as per the Sustainable Design Assessment, where relevant to show on the plans;
  - (o) introduce additional Ground Floor windows facing the south-east lane and lower the entry gates to improve passive surveillance to Townhouses 1 and 2;
  - (p) distinguish by either a setback or different material treatment the third level of units 1 - 3 from the lower levels;
  - (q) **a 1m high balustrade to the level 1, southern terrace; and**
  - (r) **windows and doors to be shown on the elevations.**
  
- 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 construction of the development authorised by this permit commences, an assessment of the land to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The assessment must be prepared by an environmental professional with suitable qualifications to the satisfaction of the Responsible Authority and must include:**
  - (a) **a description of previous land uses and activities on the land;**
  - (b) **an assessment of the level, nature and distribution of any contamination within, or in close proximity to, the land;**
  - (c) **details of any provisions, recommendations and requirements (including but not limited to, clean up, construction, ongoing maintenance or monitoring) required to effectively address and manage any contamination within the land; and**

- (d) recommendations as to whether the land is suitable for the use for which the land is proposed to be developed and whether an Environmental Auditor should be appointed under section 53S of the *Environment Protection Act 1970* (EP Act) to undertake an Environmental Audit in accordance with the provisions of the EP Act.
- 4 If the assessment required by condition 3 does not result in a recommendation that an Environmental Auditor be appointed under section 53S of the EP Act to undertake an Environmental Audit in accordance with the provisions of the EP Act, all provisions, recommendations and requirements of the assessment must be implemented and complied with to the satisfaction of the Responsible Authority.
- 5 If the assessment required by condition 3 results in a recommendation that an Environmental Auditor be appointed under section 53S of the EP Act to undertake an Environmental Audit in accordance with the provisions of the EP Act, before the construction of the development authorised by this permit commences, the Environmental Auditor appointed under section 53S of the EP Act must undertake an Environmental Audit in accordance with the provisions of the EP Act and issue:
- (a) a Certificate of Environmental Audit for the land in accordance with section 53Y of the EP Act (Certificate); or
  - (b) a Statement of Environmental Audit for the land in accordance with section 53Z of the EP Act (Statement),
  - (c) and the Certificate or Statement must be provided to the Responsible Authority.
- 6 If, pursuant to condition 5, a Statement is issued:
- (a) the development authorised by this permit must not be undertaken unless the Statement clearly states that the land is suitable for the sensitive use for which the land is being developed;
  - (b) the development authorised by this permit must not be undertaken until compliance is achieved with the terms and conditions that the Statement states must be complied with before the development commences (pre-commencement conditions);
  - (c) before the construction of the development authorised by this permit commences, a letter prepared by the Environmental Auditor appointed under section 53S of the EP Act which states that the pre-commencement conditions have been complied with must be submitted to the responsible authority.
  - (d) if any term or condition of the Statement requires any ongoing maintenance or monitoring, the owner of the land (or another person in anticipation of becoming the owner of the land) must enter into an agreement with the Responsible Authority pursuant to [section 173](#) of the [Planning and Environment Act 1987](#) (Agreement). The Agreement must:
    - (i) provide for the undertaking of the ongoing maintenance and monitoring as required by the Statement; and
    - (ii) be executed before the sensitive use for which the land is being developed commences; and
  - (e) the owner of the land, or other person in anticipation of becoming the owner, must pay all costs and expenses (including legal expenses) of, and incidental to, the Agreement (including those incurred by the Responsible Authority).
- 7 Before the development authorised under this permit starts, the following must be provided to the satisfaction of the Responsible Authority on the adjoining site at 26-56 Queens Parade, Fitzroy North as shown in Planning Permit No. PLN16/0434 and plans endorsed under Permit No. PLN16/0434:
- (a) 7 car parking spaces constructed and made available for use by the occupiers of the dwellings;
  - (b) 4 bicycle parking spaces is constructed and made available for use by the occupiers of the dwellings;
  - (c) 4 stores constructed and made available for use by the occupiers of the dwellings;

- (d) the waste storage area is constructed and made available for use by the occupiers of the 4 dwellings; and
  - (e) the pedestrian link from Queens Parade to the development authorised by this permit is constructed.
- 8 Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority.
- 9 Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
- 10 Before the building is occupied, any wall located on a boundary facing public property must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.
- 11 Before the development commences, an amended Sustainable Design Assessment to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Design Assessment will be endorsed and will form part of this permit. The amended Sustainable Design Assessment must be generally in accordance with the Sustainable Design Assessment prepared by WGE and dated 9 September 2016, but modified to reflect the decision plans.
- 12 The provisions, recommendations and requirements of the endorsed Sustainable Design Assessment must be implemented and complied with to the satisfaction of the Responsible Authority.
- 13 Before the development commences, a Public Lighting Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Public Lighting Plan must address lighting along the laneways adjoining the site (extending from Brunswick Street and the entrances of the dwellings). When approved, the Public Lighting Plan will be endorsed and will form part of this permit. The Public Lighting Plan must provide for:
- (a) a lighting scheme designed for the laneways and within the curtilage of the property that complies with uniformity requirements as per standard AS1158.3.1;
  - (b) the control of light spillage into the windows of existing and proposed residences to comply with the requirements of AS 4282 – 1997, "Control of the obtrusive effects of outdoor lighting";
  - (c) the locations of any new light poles so as not to obstruct access into private garages/off and on street parking places;
  - (d) lighting to all primary pedestrian access points to a residential property to satisfy at least level P4 as per AS 1158.3.1;
  - (e) a maintenance regime for the lighting scheme within the curtilage of the property; and
  - (f) the use of energy efficient luminaires and/or solar lighting technologies to reduce carbon emission if possible.
- 14 The provisions, recommendations and requirements of the endorsed Public Lighting Plan must be implemented and complied with at no cost to Council and to the satisfaction of the Responsible Authority.
- 15 Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:
- (a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;

- (b) works necessary to protect road and other infrastructure;
  - (c) remediation of any damage to road and other infrastructure;
  - (d) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land;
  - (e) facilities for vehicle washing, which must be located on the land;
  - (f) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
  - (g) site security;
  - (h) management of any environmental hazards including, but not limited to:
    - (i) contaminated soil;
    - (ii) materials and waste;
    - (iii) dust;
    - (iv) stormwater contamination from run-off and wash-waters;
    - (v) sediment from the land on roads;
    - (vi) washing of concrete trucks and other vehicles and machinery; and
    - (vii) spillage from refuelling cranes and other vehicles and machinery;
  - (i) the construction program;
  - (j) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
  - (k) parking facilities for construction workers;
  - (l) measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;
  - (m) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
  - (n) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced; and
  - (o) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads.
- 16 The provisions, recommendations and requirements of the endorsed Construction Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
- 17 Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
  - (a) Monday to Friday (excluding public holidays) before 7 am or after 6 pm;
  - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm; or
  - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.
- 18 Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.
- 19 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.
- 20 Prior to the commencement of the development, the developer must prepare and submit detailed design drawings of all road infrastructure works and drainage works associated with this development (outlined in **condition 21**) for assessment and endorsement to the satisfaction of the Responsible Authority.



- 21 Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, the following works must be carried out to the satisfaction of the Responsible Authority:
- (a) reconstruction of the segment of the laneway to the east of the site in pitched bluestone. The cost of these works must be borne by the Permit Holder; and
  - (b) reconstruction of the segment of laneway linking the southern end of the site to Brunswick Street, as per existing conditions. Half (50%) of the cost of these works must be borne by the Permit Holder (with the remaining half to be borne by the Responsible Authority).
- 22 This permit will expire if:
- (a) the development is not commenced within two years of the date of this permit; or
  - (b) the development is not completed within four years of the date of this permit. The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six months afterwards for commencement or within twelve months afterwards for completion.

PLN16/0434 – Main site development

<b>VCAT REFERENCE NO.</b>	P147/2017
<b>APPLICANT</b>	Gurner 26-56 Queens Parade Pty Ltd
<b>RESPONSIBLE AUTHORITY</b>	Yarra City Council

Draft Permit Preamble

- Construct a 10 storey building, plus 2 basement levels under 32.04-6;
  - Use of part of the land for the sale and consumption of liquor (on-premises) under clause 52.27;
  - Partially demolish or remove a building under clause 43.01-1;
  - Construct a building or construct or carry out works under clause 43.01-1;
  - Construct a building or construct or carry out works under clause 43.02-2;
  - Reduce the car parking requirements under clause 52.06-2;
  - Reduce the loading bay requirements under clause 52.07; and
  - Altering access to a Road Zone Category 1 under clause 52.29,
- in accordance with the endorsed plans and subject to the following conditions.

Draft Conditions

- 1 Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the **interim order response plans (received by Council 28 February 2018)**, prepared by Cox Architecture but modified to show:
- (c) demolition plans and elevations;
  - (d) survey information included on all elevations to confirm that the following
    - (i) overall building height does not exceed 31m; and
    - (ii) the new façade height to Queens Parade (podium element) does not exceed 10m.
  - (e) details of the vehicular entrance door, fire booster cupboards and services;
  - (f) setbacks to all boundaries meeting the Discretionary Controls of Table 2 – Precinct 2A to Design and Development Overlay 16;
  - (g) **no change to the bay 3, 7 and 8 ground floor openings within the heritage façade (fenestration may be replaced to match existing however);**
  - (h) **retention of existing framing patterns to the ground and first floor heritage façade. Where required to be open (for windows or terraces/balconies) glazing may be designed to slide behind the framing;**
  - (i) **deletion of the level 3 terrace area of dwelling TH06 projecting further north-west than the VCAT substituted plans (dated July 2017);**

- (j) **the north-west corner of tower 2 projecting no closer to the north-west boundary than the VCAT substituted plans (dated July 2017);**
- (k) **the location of air conditioner units on balconies (where applicable), along with balustrade details to confirm they will be reasonably screened (i.e. not clear glass);**
- (l) **the pedestrian link to the laneway behind Coleman Street moved further east (generally to TH8), with the link being open and clear to the sky;**
- (m) **architectural and landscape plans to correlate;**
- (n) **bedrooms must have a minimum dimension of 3m by 3m, to be absorbed within the building envelope;**
- (o) **details of how the seating area south of the restaurant will be illuminated and secured when the restaurant is not open (no unsafe enclaves);**
- (p) **deletion of the planter south of the deli/shop entrance;**
- (q) **details of the bicycle park west of the deli/shop, confirming the path would not be unreasonably impeded when in use;**
- (r) **details of the gated entries (including canopies and planters surrounding), demonstrating they will be secure;**
- (s) **a door to the bicycle storage area at the ground floor of building 1;**
- (t) **where possible, deletion of stairs to the pedestrian link to the rear site (achieved by ramping the link to the south-east of the gate, where possible);**
- (u) **title boundary dimensions as per the certificate of titles;**
- (v) **the café as a ‘food and drinks premises (café)’;**

#### Screening

- (w) screening to habitable room windows, balcony or terrace to address internal and external overlooking within a 9m radius and 45 degree arc of an adjacent habitable room windows or private open space area to the satisfaction of the Responsible Authority **(including the proposed townhouses at rear of 26-56 Queens Parade)**. Screens must be designed and/or of a material to minimise views and still permit reasonable daylight to enter the treated dwellings **and must also provide a variety of heights and treatments to create visual interest.**
- (x) treatments to the ground level windows and private open space areas to provide privacy from the communal open space areas;

#### Materials

- (y) a schedule of external colours and materials, including samples (where appropriate). The schedule must show:
  - (i) the upper level planter boxes in a light to mid-grey finish;
  - (ii) a darker finish to the level 1-2 balcony balustrades of the non-heritage façade;
  - (iii) the ‘timber’ as a durable material;
  - (iv) **the level 2 walls behind the windows to the retained heritage façade in a light colour;**
  - (v) reconstruction of the eastern return wall to the heritage façade in face brick to match the façade;
  - (vi) the heritage façade as a face brick finish (paint removal with no re-painting);
  - (vii) details of the plant level screens, to be integrated with the overall design of the building;
  - (viii) Exterior glazing to the building to be clear;
  - (ix) Variation of materials to each tower to ensure a sense of depth and variation is provided;
  - (x) **confirm glazing details (a VLT of at least 70%);**
  - (xi) **the ‘towers’ above the non-heritage street wall must be recessive in finish and colour;**
- (z) coloured elevations and perspectives;

### Heritage

- (aa) retention of the existing ground floor south facade windows. Where balconies are proposed behind, glazing may be removed, however framing must be retained or replaced to match existing;
- (bb) detailed drawing showing lowered floor level of level 2 and bulk head as it presents through the deglazed frame of retained window openings in the heritage building;
- (cc) **a design response that further reduces the visibility of the level 2 floor behind the heritage façade;**

### Internal Amenity

- (dd) provision of full height glazing to the following dwellings:
  - Ground floor
    - (i) C1GF09
    - (ii) C4GF04 (rear bedroom), C4GF05, C4GF06,
    - (iii) C3GF01, C3GF02, C3GF06 (rear bedroom)
    - (iv) Lower level bedrooms of TH11, TH12, TH13, TH14,
  - First Floor
    - (v) C40105, C40106,
    - (vi) C30101, C30102, C30103, C30104, C30105
  - Second Floor
    - (vii) Rear bedrooms to TH11, TH12, TH13, TH14
    - (viii) C30201, C30202, C30203, C30204, C30205
- (ee) dwelling layout changes as per appendix 5 of the internal daylight evidence prepared by Arc Resources, dated 21 August 2017;
- (ff) a convex mirror adjacent to the vehicular exit (no alarm systems);
- (gg) a lighting plan addressing entries and public spaces within the development;
- (hh) all bedrooms to demonstrate layout is practical and viable;
- (ii) **sections detailing the edging detail between the footpath and the front setbacks to the site;**
- (jj) **a notation confirming all residents will have access to the tower 1, level 8 communal area;**

### Landscaping

- (kk) a modified landscape plan generally in accordance with the landscape plan prepared by Jack Merlo design and landscape and **dated 31.01.18** but modified to show:
  - (i) the use of a Crepe Myrtle along apartment terraces;
  - (ii) larger soil volumes for planters, demonstrating the capability to achieve intended canopy volumes, as per the following:
    - a rate of 0.8 cubic metres of "soil" per square metre of canopy where single trees are proposed; and
    - 0.6 metres where multiple trees are planted, allowing therefore for the cultivation of ground-covers beneath tree planting;
  - (iii) planters carrying shrubs must be no less than 600mm deep;
  - (iv) Crepe Myrtle on the private terraces on level 3 planted in masonry planters with planter depths increased from 500mm to 800mm;
  - (v) for a tree with a 3m canopy spread where shrubs and ground-covers are also proposed in the planter the provision of a planter with minimum soil volume of 5.5 cubic metres or 4.5 cubic metres for the tree alone. Where larger trees are proposed; a tree with a 4m canopy would require 10 and 7.5 cubic metres of soil in similar situations;
  - (vi) level 9 planters increased in volume (minimum depth of 600mm) and constructed of masonry;
  - (vii) any details required by **condition 39** Irrigation Management Plan;
  - (viii) any specified growing medium in planters must have a high sand component (rather than an organic mix);

- (ix) any planters external to terrace screens must include safety devices and must be maintained by the Owners Corporation;
- (x) **deletion of the planter in front of the deli/shop entrance;**
- (xi) type, location, quantity, pot size, height at maturity and botanical names of all proposed plants. Species within the landscape buffer must be shade tolerant and must provide clear visual links with the pedestrian link (low level shrubs/plants);
- (xii) **cross sections showing the depth of planter boxes and planting, including growing media, irrigation, drainage, water proofing and tree anchors;**
- (xiii) location of all areas to be covered by lawn, paving or other surface materials;
- (xiv) specification of works to be undertaken prior to planting;
- (xv) watering and maintenance;
- (xvi) garden bed dimensions;
- (xvii) areas of paving and proposed materials;
- (xviii) location of proposed tree planting – distances from buildings and other infrastructure, planting proposed over the basement levels or under the overhanging built form;
- (xix) clear definition of terraced spaces, retaining walls, seating elements and other structures independent of paving treatments;
- (xx) water sensitive urban design [WSUD] features; and
- (xxi) removal of street tree 8 (Ulmus). A notation must confirm that the Permit Holder will pay the Responsible Authority \$8,960 to undertake these works, including the reinstatement of 2 trees after development plus 2 years tree establishment maintenance by City of Yarra contractors;
- (xxii) a detailed section of the green roofs, confirming/detailing:
  - (i) vegetation layer;
  - (ii) growing substrate and depth (plants should not be supplied as 100mm pots, but grown in the media to be used on the green roof);
  - (iii) load bearing weights for saturated bulk density have been supported by suitably qualified engineers);
  - (iv) irrigation;
  - (v) filter sheet;
  - (vi) drainage layer (specify the Elmich product, or similar);
  - (vii) protection mat;
  - (viii) root barrier; and
  - (ix) waterproofing.
- (xxiii) **deletion of the stepped pavers that intersect the communal lawn area;**
- (xxiv) **ground level tree selection should not just be limited to species that grown in a columnar shape;**
- (xxv) **a safe maintenance program for all planters/green roofs;**
- (xxvi) **a tree management plan showing TPZs for trees in the nature strip and outer separator;**
- (xxvii) **a further 3 street trees (Ulmus procera ‘English Elm’) where the existing crossovers are to be removed. A notation must confirm that the Permit Holder will pay the Responsible Authority \$2,798 to undertake these works, including the reinstatement of 2 trees after development plus 2 years tree establishment maintenance by City of Yarra contractors;**

Use

- (ll) a red line plan showing the sale and consumption of liquor limited to the internal area of the westernmost food and drinks premises (café);
- (mm) the ‘café’ and ‘restaurant’ shown as a ‘food and drinks premise (café)’;
- (nn) the shop (deli) with a maximum leasable floor area of 150m<sup>2</sup>;
- (oo) the food and drinks premises (cafes) with a maximum leasable floor area of 150m<sup>2</sup> in total;
- (pp) title boundaries as per the certificate of title;
- (qq) toilets for the commercial tenancies;

Access, car park and bikes

- (rr) **installation of a convex mirror to service vehicles exiting the driveway (no audible devices are to be installed);**
- (ss) 1 in 20 scale cross sectional drawings of the developments vehicular entrances, showing the actual reduced levels (not interpolated levels from the application drawings) of the road profile, the lip of the channel, the invert of the channel, the top of kerb and the existing building line. The existing road profiles of the Queens Parade service lane (from the kerb line to the centre line of the road) and the access ways inside the property must be accurately drawn. The cross section must demonstrate that vehicles can traverse the new vehicle crossing and ramp without scraping or bottoming out, using a B99 design vehicle;
- (tt) bicycle signage as per clause 52.34-5 of the Yarra Planning Scheme;
- (uu) details of bicycle storage/parking systems, demonstrating they can provide space for a bicycle of minimum dimensions of 1.7m in length, 1.2m in height and 0.7m in width at the handlebars **or as per AS2890.3-2015;**
- (vv) **access way to bicycle parking spaces a minimum width of 1.5m;**
- (ww) details of the visitor 'bicycle park' at the ground floor;
- (xx) at least 25% of the provided bicycle parking must be accessible at ground level (i.e. not hanging systems);
- (yy) bicycle parking for the rear site townhouses positioned adjacent to the pedestrian gate in the north-west corner of the site;
- (zz) ramp width dimensions (from kerb to kerb);
- (aaa) minimum headroom clearances throughout the basement dimensioned;
- (bbb) a minimum 1m clearance from the vehicle entry/exit to the adjacent power pole. The east edge of the crossover must be perpendicular to the Queens Parade service road;
- (ccc) car park columns setback 750mm from the aisles;
- (ddd) loading bay dimensioned on the drawings, including minimum overhead clearance. The plan must also include a note confirming details of the vehicles permitted to use this space, along with swept path diagrams **provided for ingress and egress;**
- (eee) the headroom clearance of the vehicular doorway **a minimum headroom of 3.6m provided along the access ramp and 3m within the loading and waste collection bays;**
- (fff) visitor intercoms to the pedestrian and vehicular entries to the development;
- (ggg) a note confirming the design and construction of the new vehicle crossing must satisfy Council's Infrastructure Road Materials Policy, Council's Standard Drawings and engineering requirements;
- (hhh) all redundant vehicle crossings must be demolished and reinstated to Council's satisfaction and at the Permit Holder's expense;
- (iii) **dimensions of the loading bay and waste pick up bay;**
- (jjj) changes (as necessary) as per the endorsed Acoustic Report, Structural report, Wind Report, SMP, Shared zone management plan and Waste management plan;

Reports

- (kkk) any changes as a result of the Structural report pursuant to condition 22;
- (lll) any changes as a result of the Wind Assessment report pursuant to condition 27;
- (mmm) any changes as a result of the Acoustic report pursuant to condition 29;
- (nnn) any changes as a result of the Sustainable Management Plan report pursuant to condition 33;
- (ooo) any changes as a result of the Waste Management Plan report pursuant to condition 35.

Melbourne Water

- (ppp) any Melbourne Water Changes.

**General**

- 2 The development and uses as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
- 3 As part of the ongoing consultant team, Cox Architecture or an architectural firm(s) to the satisfaction of the Responsible Authority must be engaged to:
  - (iii) oversee design and construction of the development; and
  - (iv) ensure the design quality and appearance of the development is realised as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.
- 4 Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
- 5 Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority.
- 6 All screening and other measures to prevent overlooking as shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority.
- 7 Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
- 8 All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
- 9 All pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
- 10 Before the buildings are occupied, any wall located on a boundary facing public property must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.
- 11 Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the basement car park, pedestrian walkway, laneway and dwelling entrances must be provided. Lighting must be:
  - (v) located;
  - (vi) directed;
  - (vii) shielded; and
  - (viii) of limited intensity,all to the satisfaction of the Responsible Authority.
- 12 The use and development must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
- 13 The use and development must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).

### **Heritage facade**

- 14 **Before the development commences, a decorative facade scheme to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the decorative facade scheme will be endorsed and will then form part of this permit. The scheme must include a methodology of paint sampling and sections of paint removal.**

- 15 Before the paint is removed (except for as approved in the decorative façade scheme), the final proposed decorative façade scheme must be submitted to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. This will be subject to the findings of the report endorsed under condition 14. When approved, the decorative façade scheme will be endorsed and will then form part of this permit.**

### **General Use Conditions**

- 16 The amenity of the area must not be detrimentally affected by the development and uses 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.

### **Use of the land for the sale and consumption of liquor**

- 17 No more than 50 patrons are permitted in the westernmost food and drinks premises (café) at any one time.
- 18 The sale and consumption of liquor in association with the westernmost food and drinks premises (café) may only occur between the hours of 12 noon to 5pm, any day.
- 19 Before the use of the land for the sale and consumption of liquor commences, a Noise and Amenity Action Plan [**NAAP**] to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the NAAP will be endorsed and will then form part of this permit. The NAAP must include details as per clause 22.09-4.3 of the Yarra Planning Scheme.
- 20 The sale and consumption of liquor uses must be managed in accordance with the endorsed NAAP.
- 21 The sale and consumption of liquor as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies a permit is not required) without the prior written consent of the Responsible Authority.
- 22 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.
- 23 Emptying of bottles and cans into bins may only occur between 7am and 5pm on any day.

### **Structural report requirement**

- 24 Before the demolition commences, a structural report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the structural report will be endorsed and will form part of this permit. The structural report must be prepared by a suitably qualified structural engineer and demonstrate the means by which the retained portions of the buildings on-site will be supported during demolition and construction works to ensure their retention.
- 25 The provisions, recommendations and requirements of the endorsed structural report must be implemented and complied with to the satisfaction of the Responsible Authority.

### **Public Art Management Plan**

- 26 Within 6 months of commencement of the development, a Public Art Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Public Art Management Plan will be endorsed and will then form part of this permit. The Public Art Management Plan must include, but not be limited to:
- (a) details of the commissioned artist(s);
  - (b) description of art work, including:
    - (i) materials;
    - (ii) colours;
    - (iii) dimensions;
    - (iv) content;
    - (v) special features (e.g. lighting);
    - (vi) details of the installation process; and
    - (vii) details of art work maintenance schedule.
- 27 Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, the approved public art must be completed. Once completed, the public art must be maintained in accordance with the endorsed Public Art Management Plan to the satisfaction of the Responsible Authority.

### **Section 173 Agreement**

- 28 Before the development starts, 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 providing for the following:
- (a) the ongoing provision of 7 car parking spaces, 4 bicycle parking spaces, 4 stores and a bin area for the rear of 26-56 Queens Parade, Fitzroy North (Lot 1 on Title Plan 806921X) on this site;
  - (b) the ongoing pedestrian access and egress through the site for the owners and visitors to rear of 26-56 Queens Parade, Fitzroy North (Lot 1 on Title Plan 806921X).
- The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of preparing, reviewing, registering and recording the agreement, including the Responsible Authority's costs and expenses (including legal expenses) incidental to preparing, reviewing, registering, recording and enforcing the agreement.

### **Wind Assessment report**

- 29 Before the plans are endorsed, an amended Wind Assessment Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Wind Assessment Report will be endorsed and will form part of this permit. The amended Wind Assessment Report must be generally in accordance with the Wind Assessment Report prepared by Windtech and dated 30 June 2016, but modified to:
- (a) reflect the decision plans; and
  - (b) demonstrate acceptable wind levels will result from the development (on and off the site); and
  - (c) identify which balustrades could be reduced to 1m or 1.7m (dependent on overlooking requirements) and continue to achieve the relevant wind criteria.
- 30 The provisions, recommendations and requirements of the endorsed Wind Assessment Report must be implemented and complied with to the satisfaction of the Responsible Authority.

### **Acoustic report**



- 31 Before the plans are endorsed, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit.

The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Wood and Grieve Engineers, dated 29 June 2016 and include an assessment of how the requirements of the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade, No. N-1), the State Environment Protection Policy (Control of Music Noise from Public Premises No. N-2) and relevant Australian Standards will be met. The report must:

- (a) address the decision plans and any relevant condition 1 requirements;
- (b) amended the location and time of road traffic noise measurements as follows:
  - (i) noise levels during the afternoon peak hour and the loudest hour of the 'night' period (typically 6 am to 7 am for sites such as this one); and
  - (ii) a daytime measurement to assist in the assessment of the daytime average noise level to apartments unless an alternative approach to determining the daytime average is adopted;

- (c) the adoption of target indoor noise levels with regard to road traffic as follows:

	<b>Period</b>	<b>Average Level<sup>2</sup></b>	<b>Loudest Hour<sup>3</sup></b>	<b>Instantaneous Lmax level</b>
Habitable rooms, including bedrooms	7 am to 10 pm	40 dBA Leq, 15h	45 dBA Leq, 1h	
Bedrooms	10 pm to 7 am	35 dBA Leq, 9h	40 dBA Leq, 1h	50-55 dBA Lmax

<sup>2</sup> - The 'average level' is equal to the mid-point between the AS/NZS2107 recommended 'satisfactory' and 'maximum' levels and is equal to the levels allowed in the 2011 NSW Road Noise Policy (Appendix C10) and the WA State Planning Policy (5.4).

<sup>3</sup> - The 'loudest' hour targets are equal to the AS/NZS2107 recommended 'maximum' levels.

- (d) 3D modelling must demonstrate how the above targets will be achieved (including any necessary façade upgrades);
- (e) target internal noise levels with regard to the impact of voice noise from the communal outdoor areas:
  - (i) noise from voice to apartments within the development be designed to achieve not greater than 30 dBA Leq in bedrooms and 35 dBA Leq in living rooms;
  - (ii) noise from voice to existing dwellings be assessed to a 'background+10 dB' target during the day/evening period and 'background + 5 dB' at night;
  - (iii) a restriction be provided on use of the Level 3 and 4 outdoor areas after 10 pm unless it can be demonstrated that 'background + 5 dB' targets can be met at the existing dwellings;
- (f) maximum music noise levels in the food and drinks premises (cafés) and shop, ensuring compliance with SEPP N-2, along with a commitment to install a music noise monitor to ensure that these levels are not exceeded;
- (g) an assessment voice noise from patrons within the food and drinks premises (cafés) and shop to the proposed dwellings. Indoor design targets of no greater than 30 dBA Leq must be achieved with windows closed;
  - (ii) the impact of airborne noise from within the food and drinks premises (cafés) and shop, with any necessary building upgrades to minimise impacts; and
  - (iii) an assessment of the following on the existing (off-site) and proposed dwellings (on-site):
    - (i) communal areas (including the theatre, pool are, lounges gym and roof terraces);
    - (ii) the driveway along the eastern boundary;

- (iii) the vehicular entry door;
- (iv) lift cores; and
- (v) mechanical plant and equipment (including air conditioner units);
- (vi) the car park exhaust fan.**

- 32 The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
- 33 Before the development is occupied, an updated acoustic report prepared by a suitably qualified acoustic consultant to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The report must demonstrate the required level of noise attenuation has been achieved. The report must also:
- (a) confirm compliance with relevant conditions of the permit; and
  - (b) provide measurement data taken from inside the dwellings of the development demonstrating compliance with State Environment Protection Policy (Control of noise from industry, commerce and trade) No. N-1 (SEPP N-1), State Environment Protection Policy (Control of music noise from public premises) No. N-2 (SEPP N-2) or any other relevant requirement.
- 34 The recommendations and any works contained in the approved acoustic report must be implemented and completed and where there are recommendations of an ongoing nature must be maintained all to the satisfaction of the Responsible Authority.

### **Sustainable Management Plan**

- 35 Before the development commences, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Management Plan will be endorsed and will form part of this permit. The amended Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by Wood and Grieve Engineers dated 17/08/2017, but modified to show/reflect/demonstrate:
- (a) the incorporation of any combination of the following:
    - (i) extraction fans to all kitchen range hoods and bathrooms;
    - (ii) ceiling fans;
    - (iii) trickle vents;
    - (iv) energy efficient mechanically assisted natural ventilation with flow rates 50% in excess of AS 1668 levels.
  - (b) **confirm glazing details (a VLT of at least 70%);**
  - (c) **a different stormwater management treatment (not the SPEL treatment proposed), demonstrating compliance with clause 22.17 of the Yarra Planning Scheme;**
  - (d) **the 40,000L (minimum) rainwater tank used for toilet flushing;**
  - (e) **clear, unambiguous wording, with clear commitments and no disclaimers;**
  - (f) **a commitment to achieve a minimum NatHERS 6.5 star average rating (not 'targeted to achieve'); and**
  - (g) **demonstration that no dwellings exceed the 30MJ/m2 cooling loads threshold, using the NatHERS thermal energy rating software.**
- 36 The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

### **Waste Management Plan**

- 37 Before the development commences, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Waste Management Plan will be endorsed and will form part of this permit.

The amended Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by RB Waste Consulting Service and dated 20 November 2015, but modified to include/reflect:

- (a) the decision plans;
- (b) details on how bin store will operate/be managed by operator;
- (c) details on education, tenants information, bin room set up, etc to ensure appropriate management of the waste and recycling;
- (d) detail plan of bin store showing path of access, hard waste area, etc.;
- (e) details/justification on ensuring recycling collected is compacted to ensure industry standard and not compromise recovery of recyclables;
- (f) details on path of access from the street to the bin collection point;
- (g) details on how the chutes operate to ensure appropriate use by tenants;
- (h) details on how the development will be managed by the operator; and
- (i) show how the WMP will work in practice for residents, operator and waste contractors.

- 38 The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

### **Landscaping**

- 39 Before the plans are endorsed an Irrigation Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Irrigation Management Plan will be endorsed and will form part of this permit. The Irrigation Management Plan must make recommendations for:
- (a) differential demands of the vegetation within the site complying with the provisions, recommendations and requirements of the endorsed Landscape Plan; and
  - (b) programmed maintenance for the irrigation system including flushing, checking systems integrity, monitoring sensors and calibration settings.
- 40 Before the building is occupied, or such later date as is approved by the Responsible Authority, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
- 41 The landscaping shown on the endorsed plans 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, all to the satisfaction of the Responsible Authority.
- 42 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 the nature strip trees adjacent to the site along the Queens Parade frontage:
    - (i) pre-construction;
    - (ii) during construction; and
    - (iii) post construction
  - (b) the provision of any barriers;
  - (c) any pruning necessary; and
  - (d) watering and maintenance regimes, to the satisfaction of the Responsible Authority.
- 43 The provisions, recommendations and requirements of the endorsed Tree Management Plan must be complied with and implemented to the satisfaction of the Responsible Authority.

- 44 Before the development starts, the permit holder must provide a security bond to the Responsible Authority to secure the 8 street trees adjacent to the site along Queens Parade ("bonded works"). The security bond would cover the amenity value of each tree as follows and:
- (a) is to be \$166,231.00;
  - (b) must be provided in a manner, and on terms, to the satisfaction of the Responsible Authority; and
  - (c) may be held by the Responsible Authority until the construction works are completed to the satisfaction of the Responsible Authority.
- Once the construction works are completed to the satisfaction of the Responsible Authority, the Responsible Authority will inspect the trees and provided they are found to be in good condition, the security bond will be refunded to the permit holder.
45. Prior to the occupation of the building, or by such later date as approved in writing by the Responsible Authority, any damaged street trees must be replaced:
- (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.

### **Car parking**

- 45 Before the development commences, a Car Park Management Plan prepared to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Car Park Management Plan will be endorsed and will then form part of this permit. The Car Park Management Plan must address, but not be limited to, the following:
- (a) the allocation of 7 car parking spaces to the rear of 26-56 Queens Parade, Fitzroy North (planning permit PLN16/0732);
  - (b) the allocation of 7 car parking spaces for the commercial tenancies, including the number and location of car parking spaces allocated to each commercial tenancy;
  - (c) management details for residential loading/unloading when moving;
  - (d) the management of the 9 visitor car parking spaces and security arrangements for occupants of the development, including details on how residential visitors are to access car parking;
  - (e) details of way-finding, cleaning and security of end of trip bicycle facilities;
  - (f) any policing arrangements and formal agreements;
  - (g) a schedule of all proposed signage including directional arrows and signage, informative signs indicating location of disabled bays and bicycle parking, exits, restrictions, pay parking system etc;
  - (h) the collection of waste and garbage including the separate collection of organic waste and recyclables, which must be in accordance with the Waste Management Plan required by Condition 35;
  - (i) details regarding the management of loading and unloading of goods and materials; and
  - (j) confirmation delivery vehicles onto the site will be restricted to no higher than 3.5m; and
  - (k) **details of the loading bay use, including hours and potentially using a lighting system to improve the safety of this area.**
- 46 The provisions, recommendations and requirements of the endorsed Car Park Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
- 47 Before the building is occupied, the area set aside on the endorsed plans for the car parking spaces, access lanes, driveways and associated works must be:
- (a) constructed and available for use in accordance with the endorsed plans;
  - (b) formed to such levels and drained so that they can be used in accordance with the endorsed plans;

- (c) treated with an all-weather seal or some other durable surface; and
- (d) line-marked or provided with some adequate means of showing the car parking spaces, all to the satisfaction of the Responsible Authority.

### **Traffic, roads and footpaths**

- 48 All redundant vehicle crossings along the property's road frontages must be demolished and reinstated with paving, kerb and channel to Council's satisfaction and the developer's cost.
- 49 Any damaged roads, footpaths and other road related infrastructure adjacent to the development site as a result of the construction works, including trenching and excavation for utility service connections, must be reconstructed to Council's satisfaction and at the developer's expense.
- 50 Any services poles, structures or pits that interfere with the proposal must be adjusted, removed or relocated at the owner's expense after seeking approval from the relevant authority.

### **Design Detail**

- 51 Within three months of commencement of the development, Detailed Engineering Documentation to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Detailed Engineering Documentation will be endorsed and will then form part of this permit. The Detailed Engineering Documentation must be drawn to scale with dimensions, and three copies must be provided. The Detailed Engineering Documentation must show the following:
  - (a) the reconstruction of the laneway, adjacent to the northern boundary of the site, in pitched bluestone;
  - (b) subject to the approval of VicRoads the reconstruction of the footpath outside the Queens Parade frontage of the site, once all building works and underground utility services have been completed/installed. All pedestrian access must be constructed to a level no steeper than 1 in 40 from the building line;
  - (c) subject to approval from Melbourne Water, VicRoads and the Responsible Authority, improvements to the Queens Parade and Napier Street intersection also to the satisfaction of Melbourne Water, as follows:
    - (i) close the service lane on the north west corner;
    - (ii) increased walkability through the installation of splitter islands and kerb extensions;
    - (iii) increased cycle safety through decreed crossing distances; and
    - (iv) Opportunities for better/greener public spaces;
  - (d) re-sheeting of the Queens Parade service road as per existing details and materials. The road pavement of Queens Parade service road must be profiled and re-sheeted to the satisfaction of Council after the building works and the provision of underground utility services have been completed;
  - (e) the nature strips directly outside the property's Queens Parade service road frontage must be cultivated, top dressed and be provided with instant turf;
  - (f) the kerb and channel outside the development's Queens Parade service road frontage must be constructed in bluestone; and
  - (g) all redundant property drains must be removed.
- 52 Unless with the prior written consent of the Responsible Authority, all development referenced in condition 48 must be completed to the satisfaction of the Responsible Authority prior to occupation of any buildings.
- 53 The details and requirements of the endorsed Detailed Engineering Documentation must be implemented and complied with to the satisfaction of the Responsible Authority, at the expense of the Permit Holder.

- 54 Before the development commences, the permit holder must make a one off contribution of \$8,960 to the Responsible Authority to be used for new street tree plantings that are required as a result of the development (reinstatement of 2 trees after development plus 2 years tree establishment maintenance). All work will be undertaken by City of Yarra contractors.

### **Green Travel Plan**

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

### **Construction**

- 57 Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:
- (a) a street tree management plan (including TPZs);
  - (b) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
  - (c) works necessary to protect road and other infrastructure;
  - (d) remediation of any damage to road and other infrastructure;
  - (e) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land;
  - (f) facilities for vehicle washing, which must be located on the land;
  - (g) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
  - (h) site security;
  - (i) a lighting plan which must include:
    - (i) details if any existing public lighting assets require temporary disconnection, alternative lighting must be provided to maintain adequate lighting levels. A temporary lighting scheme can only be approved by Council and relevant power authority;
    - (ii) confirmation that existing public lighting would only be disconnected once temporary alternative lighting scheme becomes operational;
    - (iii) confirmation that the temporary lighting scheme will remain operational until a permanent lighting scheme is reinstated.
  - (j) management of any environmental hazards including, but not limited to:
    - (i) contaminated soil;
    - (ii) materials and waste;
    - (iii) dust;
    - (iv) stormwater contamination from run-off and wash-waters;
    - (v) sediment from the land on roads;
    - (vi) washing of concrete trucks and other vehicles and machinery; and

- (vii) spillage from refuelling cranes and other vehicles and machinery;
- (k) the construction program;
- (l) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
- (m) parking facilities for construction workers;
- (n) measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;
- (o) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
- (p) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced;
- (q) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads;
- (r) a Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with Noise Control Guideline 12 for Construction (Publication 1254) as issued by the Environment Protection Authority in October 2008. The Noise and Vibration Management Plan must be prepared to the satisfaction of the Responsible Authority. In preparing the Noise and Vibration Management Plan, consideration must be given to:
  - (i) using lower noise work practice and equipment;
  - (ii) the suitability of the land for the use of an electric crane;
  - (iii) silencing all mechanical plant by the best practical means using current technology;
  - (iv) fitting pneumatic tools with an effective silencer; and
  - (v) other relevant considerations.

58 During the construction:

- (a) any stormwater discharged into the stormwater drainage system must be in compliance with Environment Protection Authority guidelines;
- (b) stormwater drainage system protection measures must be installed as required to ensure that no solid waste, sediment, sand, soil, clay or stones from the land enters the stormwater drainage system;
- (c) vehicle borne material must not accumulate on the roads abutting the land;
- (d) the cleaning of machinery and equipment must take place on the land and not on adjacent footpaths or roads; and
- (e) all litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly.

59 Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:

- (a) at the permit holder's cost; and
- (b) to the satisfaction of the Responsible Authority.

60 Any service poles, structures or pits that interfere with the proposal must be adjusted, removed or relocated at the Permit Holder's expense, with approval from the relevant authorities and to the satisfaction of the Responsible Authority.

61 Any damaged roads, footpaths and other road related infrastructure adjacent to the development site as a result of the construction works, including trenching and excavation for utility service connections, must be reconstructed to Council's satisfaction and at the Permit holder's expense.

62 Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, the footpaths along the frontages of the site **(subject to approval of the Relevant Authorities)** must be reconstructed:

- (a) at the permit holder's cost; and

(b) to the satisfaction of the Responsible Authority.  
The cross-fall of the reconstructed footpaths must be no steeper than 1 in 40.

- 63 Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, the road pavements outside the site (**subject to approval of the Relevant Authorities**) must be profiled and re-sheeted:
- (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
- The cross-fall of the reconstructed footpaths must be no steeper than 1 in 40. Any isolated areas of pavement failure will require full depth road pavement reconstruction.
- 64 Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any redundant vehicular crossing must be demolished and re-instated as standard footpath and kerb and channel:
- (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
- 65 Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, any new vehicle crossings 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.
- 66 Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.
- 67 Pit lids and levels are to be readjusted to match the surface of the footpath, to the satisfaction of the Responsible Authority.
- 68 No parking restriction signs are to be removed, adjusted, changed or relocated without approval or authorisation from the Responsible Authority.
- 69 Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
- (a) before 7 am or after 6 pm, Monday-Friday (excluding public holidays);
  - (b) before 9 am or after 3 pm, Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday); or
  - (c) at any time on Sundays, ANZAC Day, Christmas Day and Good Friday.

### **Public lighting plan**

- 70 Prior to the commencement of the development, a public lighting plan must be submitted to and approved by the Responsible Authority. When approved, the public lighting plan will be endorsed and will form part of this permit. The public lighting plan must:
- (a) **incorporate lighting within the northern laneway linking to Coleman Street;**
  - (b) confirm that all primary pedestrian access to a residential/multipurpose development will be lit by public lighting installations at least to lighting level P4 as specified in the Australian Standard AS 1125.3.1:2005 Lighting for roads and public spaces - Pedestrian area (Category P) lighting - Performance and design requirements;
  - (c) confirm any new poles and luminaires required for the development will be sourced from CitiPower/Jemena standard energy efficient luminaires list and comply with relevant CitiPower/Jemena technical requirements;
  - (d) confirm light spillage into the windows of any existing and proposed residences will be avoided or minimised and must comply with the requirements of Australian Standard AS 4282 – 1997 Control of the obtrusive effects of outdoor lighting;
  - (e) confirm the locations of any new light poles will not obstruct vehicular access into private property;



- (f) include a commitment that the Permit Holder will ensure (by contacting relevant power authority) that the existing or proposed power supply conforms to “No Go Zone” requirements from the relevant power authority;
- (g) confirm the supply and installation of any additional or upgraded lighting, electrical hardware and poles will be funded by the Permit Holder.

71 The provisions, recommendations and requirements of the endorsed public lighting plan must be implemented and complied with to the satisfaction of the Responsible Authority.

### **VicRoads conditions**

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### **Melbourne Water conditions**

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### **PTV Conditions**

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### **Expiry**

- 74 This permit will expire if one of the following circumstances applies:
- (a) the development is not started within 2 years of the issued date of this permit;
  - (b) the development is not completed within 4 years of the issued date of this permit;
  - (c) the uses are not commenced within 5 years from the date of this permit.
- In accordance with Section 69 of the Planning and Environment Act 1987, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

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### **Attachments**

- 1 Queens Parade Items 9 August 2017\_Part1
- 2 Queens Parade Items 9 August 2017\_Part2
- 3 PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - VCAT substituted plans (July 2017)
- 4 D17 171400 PLN16 0434 - 26 - 56 Queens Parade Fitzroy North - Council s VCAT Submission Only (Main & Rear Site) Only - VCAT interim order
- 5 PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Interim order response plans (main site) - 28 February 2018
- 6 PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Interim order response plans - rear site