



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

**to be held on Wednesday 31 January 2018 at 6.30pm  
in Meeting Rooms 1 & 2 at the Richmond Town Hall**

**Rostered Councillor membership**

Councillor Stephen Jolly (substitute for Cr Amanda Stone)  
Councillor Mi-Lin Chen Yi Mei  
Councillor Jackie Fristacky

**I. ATTENDANCE**

Amy Hodgen (Co-Ordinator Statutory Planning)  
Nikolas Muhllechner (Principal Planner)  
Cindi Johnston (Governance Officer)

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

**III. CONFIRMATION OF MINUTES**

**IV. COMMITTEE BUSINESS REPORTS**

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



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

### **POLICY**

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

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

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

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

**Governance Branch  
2008**

## 1. Committee business reports

Item		Page	Rec. Page
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1.2	278 Gore Street, Fitzroy - PLN17/0301 - Use of the land as a Place of Assembly (Function Centre) and a reduction in the car parking requirement	50	63
1.3	202 - 204 Johnston Street, Fitzroy VIC 3065 – Planning Permit Application No. PLN17/0228	66	80
1.4	PLN17/0744 - 196 Nicolson Street, Abbotsford - Development of the land for the construction of a garage at the rear of the existing dwelling, including alterations to the front facade and part demolition.	82	97

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**1.1 700-718 Heidelberg Road, Alphington - PLN17/0040 - Development of the land for construction of a multi-storey building, use of land for dwellings and reduction in the statutory car parking requirements**

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## **Executive Summary**

### **Purpose**

1. This report provides the Internal Development Approvals Committee with an assessment of a planning application submitted for 700-718 Heidelberg Road, Alphington. The report recommends approval of the application subject to a number of conditions.

### **Key Planning Considerations**

2. Key planning considerations include:
  - (a) Land Use (Clauses 11.01, 16.01, 17.01, 21.04 and 34.01)
  - (b) Built form (Clauses 15.01, 21.05 and 22.10)
  - (c) Off-site amenity impacts (Clause 15.01 and 22.05)
  - (d) Apartment development guidelines (Clause 58)
  - (e) Car parking, bicycle parking (Clause 18.02, 21.06, 52.06 and 52.34)

### **Key Issues**

3. The key issues for Council in considering the proposal relate to:
  - (a) Strategic justification
  - (b) Land use
  - (c) Built form and design
  - (d) Off-site amenity impacts
  - (e) Internal Amenity
  - (f) Sustainable design
  - (g) Car parking and bicycle facilities
  - (h) Traffic and access
  - (i) Objector concerns

### **Objector Concerns**

4. 151 objections were received to the application, these can be summarised as:
  - (a) Excessive height and massing
  - (b) Inadequate setbacks
  - (c) Design incongruous with existing character
  - (d) Amenity impacts – overshadowing, overlooking and visual bulk
  - (e) Poor internal amenity
  - (f) Insufficient ESD standards
  - (g) Impact on street trees
  - (h) Impact on Alphington War Memorial vista
  - (i) Insufficient parking
  - (j) Traffic impacts
  - (k) Impacts during construction

### **Conclusion**

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

**CONTACT OFFICER: Amy Hodgen**  
**TITLE: Coordinator Statutory Planning**  
**TEL: 9205 5330**

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**1.1 700-718 Heidelberg Road, Alphington - PLN17/0040 - Development of the land for construction of a multi-storey building, use of land for dwellings and reduction in the statutory car parking requirements**

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Trim Record Number: D18/2148

Responsible Officer: Manager Statutory Planning

**Proposal:** Development of the land for construction of a multi-storey building, use of land for dwellings and reduction in the statutory car parking requirements

**Existing use:** Restricted Retail tenancies

**Applicant:** Aleks Nominees Pty Ltd & I & E Hagenauer c/o Urbis Pty Ltd

**Zoning / Overlays:** Commercial 1 Zone, Neighbourhood Residential Zone / Environmental Audit Overlay

**Date of Application:** 23 January 2017 (Amended 9 November 2017)

**Application Number:** PLN17/0040

### Planning History

1. Planning Permit No. 4404 was issued on 4 May 1982 to replace glass windows with single brick walls and replace four single sash windows with heavy plywood. At this time, the land was used for storage of paper making products and machinery spares associated with the Australian Paper Manufacturers Ltd.
2. Planning Permit No. 805/139/704-718 was issued 4 November 1985 for buildings and works (showroom/warehouse).

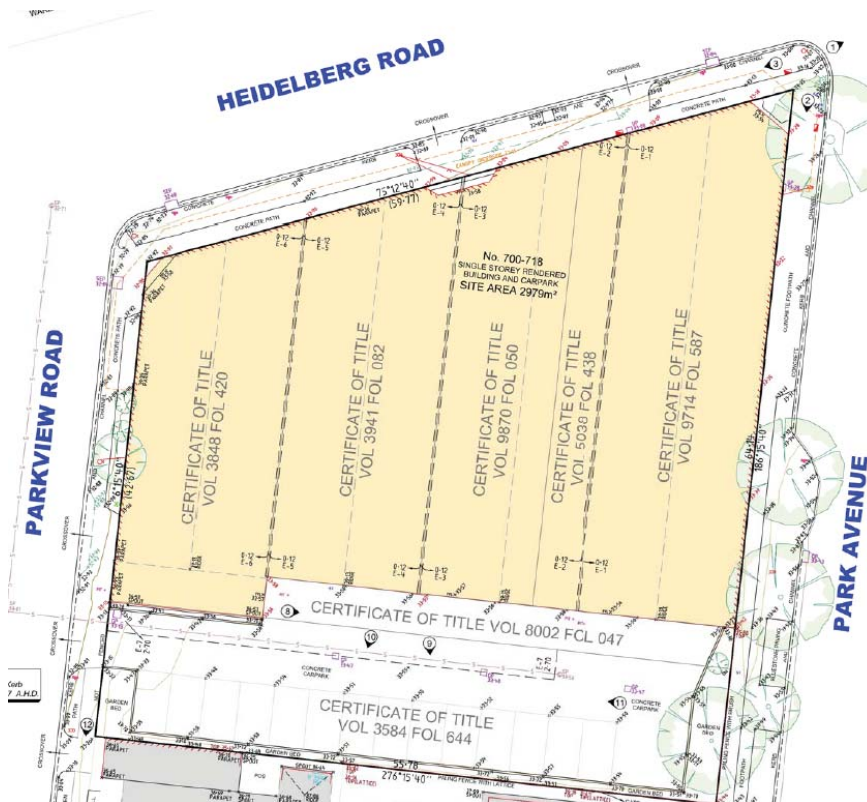
### Background

3. An amendment to the application was made on 9 November 2017 pursuant to Section 57A of the Planning and Environment Act 1987. The amendments were in response to initial issues raised by Council and involved the following amendments:
  - (a) Deletion of one storey (from 9 storeys to 8 storeys) consequently reducing the overall height from 32.1m to 27.3m,
  - (b) Reduction in the number of dwellings from 109 to 105,
  - (c) Improvements to the internal amenity of dwellings in line with Clause 58 (Apartment guidelines);
  - (d) Reduction in the number of car parking spaces from 157 to 153,
  - (e) Increase the bicycle storage facilities from 82 spaces to 140 spaces,
  - (f) Reduction in the podium heights,
  - (g) Increased street activation at ground level along Parkview Road and Park Avenue,
  - (h) Increased setback of 2.2m from Heidelberg Road at ground floor (previously on boundary),
  - (i) Modification to southern terraces and setbacks,
  - (j) Reduction in the overshadowing impact.
4. The development summary submitted with the amended application (and advertised) was incorrect in regard to the dwelling and bicycle numbers.
5. On 16 January 2018, Planning Scheme Amendment VC142 was gazetted by the Minister for Planning. Among various changes, this amendment removed the permit requirements within clause 52.07 of the Yarra Planning Scheme for a loading bay.

**Existing Conditions**

Subject Site

6. The subject site is located on the southern side of Heidelberg Road, extending between Parkview Road and Park Avenue. The site is generally rectangular in shape with an angled frontage associated with Heidelberg Road.
7. The site has a frontage of 59.77m to Heidelberg Road and an overall site area of 2,979sqm. There are six lots making up the subject site, which contains various party wall easements between one another. There are no restrictive covenants or agreements registered on the titles provided.
8. The site is developed with a single storey building comprising four tenancies, each with a frontage to Heidelberg Road. The rear (southern) portion of the site is undeveloped, containing a car parking area accommodating 16 spaces. This is accessed via Parkview Road. A roller door is also provided along Parkview Road immediately north of the car park entry. A double crossover of approximately 13.5m extends along Parkview Road.
9. The site is largely devoid of landscaping with the exception of a small tree and shrubs adjacent to Park Avenue and garden bed along Parkview Road.



**Existing conditions survey**

Surrounding Land

10. The site is located at the western end of the Alphington Neighbourhood Activity Centre, which extends along both sides of Heidelberg Road. The centre comprises mainly single storey and occasional double storey commercial buildings supporting local conveniences such as cafes, banks and a post office. The streetscape comprises an irregular streetscape pattern and varying front setbacks. Heidelberg Road forms the boundary between Yarra and Darebin Councils.

11. Public transport access includes Alphington Railway Station north of Heidelberg Road, which is approximately 250m from the subject site. Bus service No. 546 traverses along Heidelberg Road, with No. 609 bus service also servicing Heidelberg Road, stopping north of Chandler Highway.
12. The site is well supported by community facilities including Alphington Primary School approximately 250m to the south-east and Alphington Park approximately 75m to the south.
13. Land immediately surrounding the subject site is described as follows:
  - (a) North – On the northern side of Heidelberg Road is a large single storey self-storage facility. East of this is the un-signalised intersection of Harker Street and Heidelberg Road, also north of the site. This is a local street that provides access to the Alphington Train Station. There is a car sales yard located on the eastern side of Harker Street facing Heidelberg Road.
  - (b) East – East of Park Avenue on the corner of Heidelberg Road is a two storey office building circa 1980s. The building is built to all boundaries. The land to the south of this (separated by a lane) is a line-marked asphalt car park. This is accessed from Park Avenue via the laneway. Further south again are single and double storey detached dwellings fronting Park Avenue.
  - (c) South – immediately south of the subject site is No. 4 Parkview Road and No. 4 Park Avenue. These sites contain a single and double storey dwelling facing the respective streets. No. 4 Park Avenue has secluded private open space to the west, immediately abutting the subject site. No. 4 Parkview Road has two areas of private open space toward the rear which are separated by a glazed corridor. One of these areas immediately abuts the subject site. Further to the south are five properties facing Riverview Grove. These properties contain one and two storey dwellings with private open space to the north (rear). Further to the south of Riverview Grove is Alphington Park and the Alphington Bowls Club, which is situated on the south-east corner of Riverview Grove and Parkview Road.
  - (d) West – On the western side of Parkview Road is the former Alphington Paper Mill site. This is discussed below.

*Alphington Paper Mill Site*

14. The former Alphington Paper Mill is located on the western side Parkview Road. This is identified as a Strategic Redevelopment Site within the Yarra Planning Scheme (Clause 21.08) and has an approved Development Plan guiding its future development. The Development Plan includes preferred and mandatory height limits. In the case of Heidelberg Road, there is a preferred height of 8 storeys for the majority of its length, which increases to 14 storeys near the Chandler Highway intersection. (Refer to Built Form map extract below)
15. The land immediately to the west of Parkview Road has a preferred height limit of 8 storeys with a podium height of 4-6 storey to Heidelberg Road and 3 storey podium along Parkview Road. Setbacks above the podium are required to be a minimum of 2.2m. A garden interface along Parkview Road is also required under the Development Plan.





**Built form and Interfaces map for the northern portion of the site**

16. A planning application (PLN17/0272) has been submitted for an eight storey apartment building on the corner of Parkview and Heidelberg Roads (image below). The building is set back from the Heidelberg Road kerb between 4.8m to 6.15m. A boundary setback of 3.4m is provided along Parkview Road. This application is yet to be determined.



**Image of the current application on the south-west corner of Parkview and Heidelberg Roads**

17. Planning Permits have been issued for most of the Parkview Road interface. These have approved townhouses and detached houses ranging between two and four storey.
18. In addition to housing, the former Paper Mill Site will also deliver two new supermarkets, various retail and cafes, a new school campus for Alphington Primary School, community facilities, a gym and office space. A planning application (PLN17/0703) has been received for this development.
19. As part of the Alphington Paper Mill Development site, the intersection of Latrobe Avenue and Heidelberg Road is to be signalised in addition to a new pedestrian crossing to be constructed across Heidelberg Road providing better pedestrian connection to the Alphington Train Station.

## The Proposal

20. The application seeks approval for development of the land for construction of a multi-storey building, use of land for dwellings and reduction in the statutory car parking requirements.
21. The decision plans, being the plans submitted 9 November 2017 under Section 57A of the Planning and Environment Act 1987 are summarised as follow:

### *General*

- (a) 105 apartments; 43 x 1 bed, 51 x 2 bed and 11 x 3 bed
- (b) Retail premises (shop) of 300sqm and café (food and drink premises) of 356sqm
- (c) 153 car spaces
- (d) 140 bicycle spaces
- (e) Overall height of eight storeys plus a roof terrace, with an overall height of 30.2m

### *Basement*

- (f) Two basement levels are proposed comprising car parking, bicycle storage and general storage cages. The lower basement comprises approximately a third of the site's footprint.
- (g) The basements are connected by ramps with two lift/stair cores
- (h) Services contained within the basement including a 20kL rainwater tank, fire pump room and water metres

### *Ground floor*

- (i) Café and shop are located on the ground floor fronting Heidelberg Road and wrapping around Parkview Road and Park Avenue.
- (j) Two residential lobby areas are provided, one accessed from Parkview Road and the other from Park Avenue of 7.59m and 9.495m in width respectively
- (k) Car parking and bicycle parking is provided within the rear (southern) section of the ground floor, with vehicle access to both Parkview Road and Park Avenue.
- (l) A substation is located to the southern corner of the site facing Parkview Road, a window gallery faces Park Avenue. The extent of the window gallery is not consistent shown on the floor plans and elevations. This would need to be addressed via a permit condition if one is to issue.
- (m) The ground floor is set back 2.3m from Heidelberg Road. The front portion of the building is also set back 2.24m from the Parkview Road and Park Avenue, with the balance abutting the boundaries.
- (n) A 1.125m planter box is proposed along the majority of the southern boundary, except for the substation in the south-west corner which is to abut the boundary.

### *First floor*

- (o) The first floor contains 18 dwellings arranged in a 'horseshoe' shape. Dwellings are generally orientated to the street abutments, with the exception of four apartments facing inward to the site.
- (p) The dwellings are accessed by one of two lift cores and common corridors of 1.8m in width.
- (q) A communal terrace is located within the middle of the 'horseshoe'
- (r) Communal residential facilities including a spa & sauna and a gymnasium are located at this level facing the communal terrace.
- (s) The balconies associated with the dwellings at the first floor extend to the front boundary, with the building line set back a minimum of 1.8m from the Heidelberg Road, Parkview Road and Park Avenue.
- (t) To the rear, the first floor balconies are set back 3.67m from the boundary, with the building line of the eastern portion set back 12.19m and the western portion set back 5.17m.

### *Second & third floors*

- (u) These levels contain 20 and 18 dwellings respectively, which wrap around the street frontages in a similar horseshoe arrangement as the first floor level.
- (v) The eastern portion of the second floor is entirely set back 12.19m from the southern boundary; the western portion balcony is set back 6.29m from the southern boundary and 7.745m to the building line.
- (w) The eastern section of the third floor balcony steps back a further 1.075m from the southern boundary and a further 3.26m to the building line (total setback of 13.8m).
- (x) The western section of the third floor is setback 8.87m to the balcony and 10.32m to the building line.

#### *Fourth floor*

- (y) This horseshoe arrangement of the dwellings continues up the building with this level containing 16 dwellings. The building line setback increases from the street abutments to 3.241m. Balconies project within this area along Heidelberg Road and the northern sections of Parkview Road and Park Avenue.
- (z) The eastern portion is set back 15.47m from the southern boundary, while the balcony of the western section is set back 10.895m, with the building line set back 12.985m.

#### *Fifth floor*

- (aa) Similar layout to Level 4, except the balconies are inset at this level, providing a minimum set back of 3.3m to Heidelberg Road and 3.241m to the side streets. A total of 14 dwellings are provided at this level.
- (bb) The built form within the north-eastern corner is also eroded.
- (cc) The eastern portion is set back 15.47m from the southern boundary to the balcony, with the building line set back 18.045m.
- (dd) The western portion is set back from the southern boundary 12.89m to the balcony and 15.47m to the building line.

#### *Sixth floor*

- (ee) There are 13 dwellings provided at this level.
- (ff) The setbacks from Heidelberg Road and the side streets mirror Level 5, however the north-east corner is further eroded.
- (gg) The setbacks from the southern boundary are further increased, with a setback of 15.47m to the balcony at the eastern and western ends, and 18.045m to the building line, also at both ends.

#### *Seventh Floor*

- (hh) A total of 6 dwellings are located at this level.
- (ii) The building line of this level is set back 4.3m from Heidelberg Road, with balconies projecting within 3.3m of the boundary.
- (jj) A 4.241m setback to the building line provided along both Parkview Road and Park Avenue, with balconies projecting within 3.241m of these boundaries.
- (kk) The eastern portion is set back 28.27m from the southern boundary, with the exception of a green roof, which is within 18.045m of the southern boundary. The western portion balcony is set back 18.05m from the southern boundary, with the building line set back 20.62m.

#### *Roof terrace*

- (ll) The roof terrace is accessible via both lift cores. It will be landscaped and will contain the following residential amenities:
  - (i) BBQ/lounge area
  - (ii) swimming pool
  - (iii) farmers garden
- (mm) A pergola is proposed above most of the roof terrace. This will support the solar PV system comprising 88 solar panels.

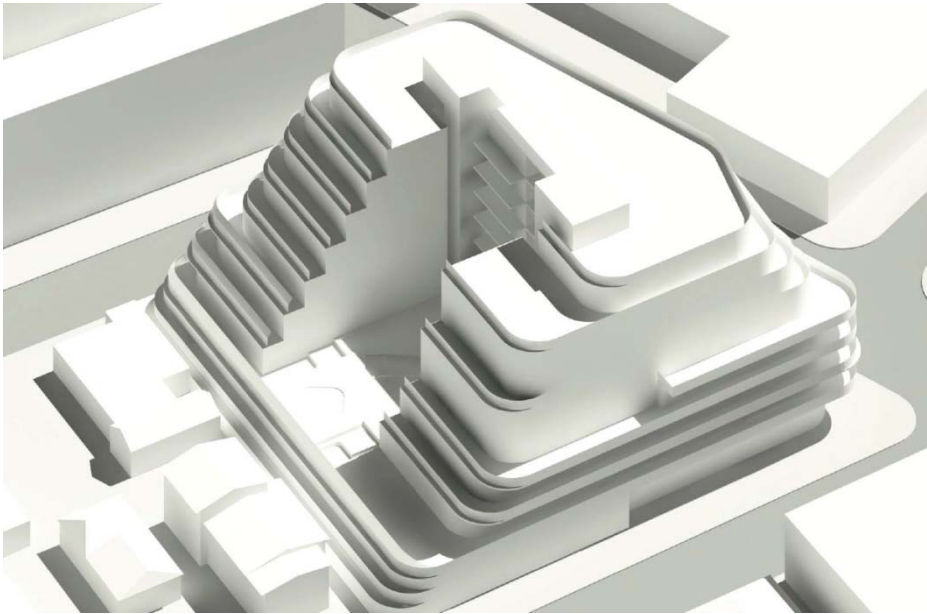
- (nn) The above description is based on the XO Projects plans, with the Landscape plans showing a slightly different arrangement, such as provision of 5 spas as opposed to a swimming pool. A condition of any permit that issues will require the plans to correlate.

*Materials*

- (oo) The building comprises a predominately glazed façade with the lower levels (podium) applied with a light grey clear reflective glass and the upper levels a dark grey reflective tinted glass. The balconies are also to be glazed matching the corresponding façade.
- (pp) The vehicle access doors will be perforated metal
- (qq) Fritted glazing is proposed to conceal the service rooms where adjacent to a street frontage.

*Landscaping*

- (rr) Integrated landscaping is proposed throughout the development including balcony tree planters and landscape communal gardens on the Level 1 podium and the roof top.



**Model of the proposed development**

**Planning Scheme Provisions**

Zoning

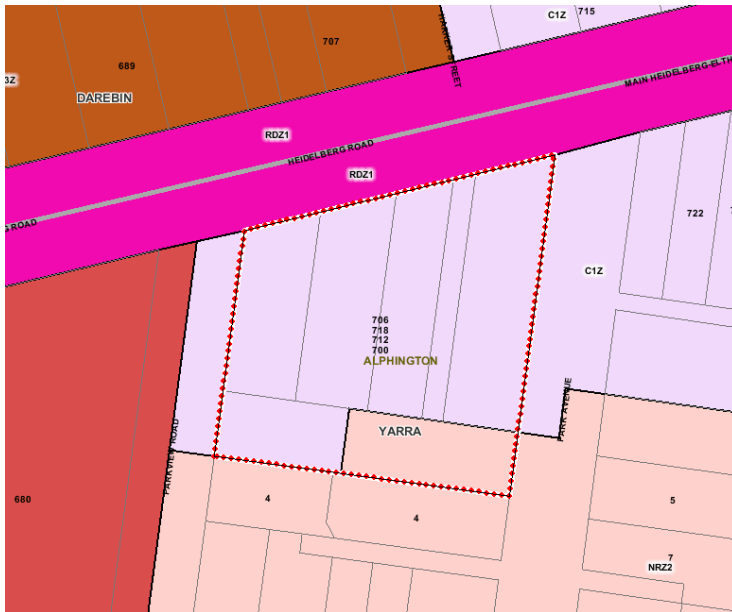
*Clause 34.01 – Commercial 1 Zone*

22. Pursuant to Clause 34.01-1 of the Yarra Planning Scheme (the Scheme), a planning permit is required to use land for accommodation (dwellings) if a frontage at ground floor exceeds two metres. Residential lobby entrances are proposed to both Park Avenue and Parkview Road exceeding 2m in width. Pursuant to Clause 34.01-1, a planning permit is not required for a shop or retail premises, which includes a food and drink premises.
23. Pursuant to Clause 34.01-4 of the Scheme, a planning permit is required to construct a building or construct or carry out works.
24. Also pursuant to Clause 34.01-4, an apartment development must meet the requirements of Clause 58.

*Clause 32.09 – Neighbourhood Residential Zone*

25. The south-eastern portion of the site is zoned Neighbourhood Residential Zone, Schedule 1 (NRZ1). Refer to zoning map below.

26. Pursuant to Clause 32.09-2 of the Scheme, a planning permit is not required for a dwelling. A planning permit is required for a food and drink premises, however a shop (retail premises other than listed) is prohibited. The portion of the subject site zoned NRZ1 contains residential land uses only (and associated residential car parking), therefore there are no permit triggers associated with the use of this portion of the site.
27. A permit is required to construct two or more dwellings on a lot pursuant to clause 32.09-6 within the portion of the land within the NRZ1.
28. Pursuant to clause 32.09-9, a building must not be constructed for use as a dwelling or residential building that exceeds 9m or contains more than 2 storeys at any point within the NRZ1 land.



**Zoning map of the subject site**

Overlays

*Clause 45.03 – Environmental Audit Overlay*

29. Pursuant to Clause 45.03-1 of the Scheme, before a sensitive use (residential use, child care centre, pre-school centre or primary school) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, either:
  - (a) A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or
  - (b) An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.
30. As the proposed development includes a residential use, the requirements of this overlay apply. Should the application be supported, a note is recommended on any permit issued to advise the permit holder of their obligations.

Particular Provisions

31. Pursuant to Clause 52.06-2, before a new use commences, the required car parking spaces must be provided on the land. The following table identifies the car parking requirement under Clause 52.06-5.

<b>Proposed Use</b>	<b>No. Apt/ area</b>	<b>Statutory Parking Rate</b>	<b>No. of Spaces Required</b>
One & Two-bedroom dwelling	96	1 space per dwelling	96
Three or more-bedroom dwelling	10	2 spaces per dwelling	20
Residential visitors	105	1 space per 5 dwellings	20
Shop	300sqm	4 spaces per 100sqm of LFA	12
Food and drink premises (café)	356sqm	4 spaces per 100sqm of LFA	14
<b>Total Required</b>			<b>162</b>
<b>Allocated</b>			<b>153</b>
<b>Reduction required under Clause 52.06</b>			<b>9</b>

32. Pursuant to Clause 52.06-3, a permit is required to reduce the number of car spaces required under Clause 52.06-5. As can be seen in the above table, the retail premises is assumed as a 'shop' in the Transport Impact Assessment submitted with the application. Given that there are various uses also nested under retail premises, a condition of permit will require the plans to be updated to show 'shop' rather than 'retail premises' to avoid confusion.

*Clause 52.34 – Bicycle Facilities*

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

<b>Use</b>	<b>Quantity/Size</b>	<b>Statutory Rate</b>	<b>No. Spaces required</b>
Dwellings (four or more storeys)	105 dwellings	1 per 5 dwellings for residents 1 per 10 dwellings for visitors	21 resident spaces 11 visitor spaces
Retail (includes Food & Drink)	356sqm	1 per 300sqm of LFA for staff 1 per 500sqm of LFA for visitors	2 staff spaces 1 customer space
Shop	300sqm	1 to each 600sqm of LFA if it exceeds 1000 sqm.  1 to each 500sqm of leasable floor area if the leasable floor area exceeds 1000 sqm	Not applicable

		<b>Total:</b>	<b>35 spaces</b>
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34. The proposal provides 140 bicycle spaces and as such the requirement of Clause 52.34-3 is exceeded.

*Clause 58 – Apartment Developments*

35. The purpose of this clause 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 encourage apartment development that provides reasonable standards of amenity for existing and new residents.*
  - (c) *To encourage apartment development that is responsive to the site and the surrounding area.*
36. A development must meet of the objectives of this clause and should meet all of the standards.

General Provisions

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

State Planning Policy Framework (SPPF)

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

*Clause 11.03.01 – Activity Centre Network*

39. The objective of this clause is:
- (a) *To build up activity centres as a focus for high-quality development, activity and living for the whole community by developing a network of activity centres.*

*Clause 11.03-2 – Activity Centre Planning*

40. The objective of this clause 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 11.06-2 - Housing Choice*

41. The objective of this clause is:
- (a) *To provide housing choice close to jobs and services.*

*Clause 11.06-5 – Neighbourhoods*

42. The objective of this clause is:
- (a) *To create a city of inclusive, vibrant and healthy neighbourhoods that promote strong communities, healthy lifestyles and good access to local services and jobs.*

*Clause 13.03-1 – Use of contaminated and potentially contaminated land*

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

*Clause 13.04 – Noise and Air*

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

*Clause 15.01.1 – Urban Design*

45. 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*

46. The objective of this clause is:  
(a) *To achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties.*

47. This clause also states that planning must consider as relevant:

- (a) *Urban Design Guidelines for Victoria (Department of Environment, Land, Water and Planning, 2017).*  
(b) *Apartment Design Guidelines for Victoria (Department of Environment, Land, Water and Planning, 2017).*  
(c) *Urban Design Charter for Victoria (Department of Planning and Community Development 2009).*

*Clause 15.01-4 – Design for Safety*

48. 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*

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

*Clause 15.02 – Sustainable Development*

50. The objective of this clause is:  
(a) *To encourage land use and development that is consistent with the efficient use of energy and the minimisation of greenhouse gas emissions.*

*Clause 16.01-1 – Integrated Housing*

51. The objective of this clause is:  
(a) *To promote a housing market that meets community needs.*

*Clause 16.01-2 – Location of residential development*

52. The objective of this clause is:  
(a) *To locate new housing in or close to activity centres and employment corridors and at other strategic redevelopment sites that offer good access to services and transport.*



*Clause 16.01-3 – Housing opportunity areas*

53. The objective of this clause is:  
(a) *To identify areas that offer opportunities for more medium and high density housing near employment and transport in Metropolitan Melbourne.*

*Clause 16.01-4 – Housing Diversity*

54. The objective of this clause is:  
(b) *To provide for a range of housing types to meet increasingly diverse needs.*

*Clause 16.01-5 – Housing affordability*

55. The objective of this clause is:  
(a) *To deliver more affordable housing closer to jobs, transport and services.*

*Clause 17.01.1 - Business*

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

*Clause 18.01 – Integrated Transport*

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

*Clause 18.02-1 – Sustainable personal transport*

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

*Clause 18.02-2 - Cycling*

59. The objective of this clause is:  
(a) *To integrate planning for cycling with land use and development planning and encourage as alternative modes of travel.*

*Clause 18.02-3 – Principal Public Transport Network*

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

*Clause 18.02-5 – Car parking*

61. The objective of this clause is:  
(a) *To ensure an adequate supply of car parking that is appropriately designed and located.*

Local Planning Policy Framework (LPPF)

*Clause 21 – Municipal Strategic Statement (MSS)*

*Clause 21.04 – Land Use*

*Clause 21,04-1 – Accommodation and Housing*

62. The relevant objectives of this clause are:

- (a) *Objective 1 To accommodate forecast increases in population.*
  - (i) *Strategy 1.1 Ensure that new residential development has proper regard for the strategies applicable to the neighbourhood in question identified in clause 21.08;*
  - (ii) *Strategy 1.2 Direct higher density residential development to Strategic Redevelopment Sites identified at clause 21.08 and other sites identified through any structure plans or urban design frameworks.*
- (b) *Objective 2 To retain a diverse population and household structure; and*
- (c) *Objective 3 To reduce potential amenity conflicts between residential and other uses.*

*Clause 21.04-2 – Activity Centres*

63. The relevant objective and strategies of this clause is:

- (a) *Objective 5: To maintain the long term viability of activity centres.*
  - (i) *Strategy 5.2 Support land use change and development that contributes to the adaptation, redevelopment and economic growth of existing activity centres.*
  - (ii) *Strategy 5.3 Discourage uses at street level in activity centres which create dead frontages during the day.*
  - (iii) *Strategy 5.4 Permit residential development that does not compromise the business function of activity centres.*

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

64. The objective of this clause is 'to increase the number and diversity of local employment opportunities.'

*Clause 21.05-2 – Urban design*

65. The relevant objectives and strategies of this clause is:

- (a) *Objective 16 To reinforce the existing urban framework of Yarra.*
- (b) *Objective 17 To retain Yarra's identity as a low-rise urban form with pockets of higher development.*
  - (i) *Strategy 17.2 Development on strategic redevelopment sites or within activity centres should generally be no more than 5-6 storeys unless it can be demonstrated that the proposal can achieve specific benefits such as:*
    - *Significant upper level setbacks*
    - *Architectural design excellence*
    - *Best practice environmental sustainability objectives in design and construction*
    - *High quality restoration and adaptive re-use of heritage buildings*
    - *Positive contribution to the enhancement of the public domain*
    - *Provision of affordable housing.*
- (c) *Objective 18 To retain, enhance and extend Yarra's fine grain street pattern.*
- (d) *Objective 20 To ensure that new development contributes positively to Yarra's urban fabric.*
- (e) *Objective 21 To enhance the built form character of Yarra's activity centres.*
- (f) *Objective 22 To encourage the provision of universal access in new development.*

*Clause 21.05-4 Public environment*

66. The relevant objectives and strategies of this clause is:

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

*Clause 21.06 - Transport*

67. The relevant objectives of this clause is:

- (b) *To provide safe and convenient pedestrian and bicycle environments.*
- (c) *To facilitate public transport usage.*
- (d) *To reduce the reliance on the private motor car.*
- (e) *To reduce the impact of traffic.*

*Clause 21.07 – Environmental Sustainability*

68. The relevant objectives of this Clause are:

- (f) *To promote environmentally sustainable development*
- (g) *To improve the water quality and flow characteristics of storm water run-off.*

*Clause 21.08 – Neighbourhoods*

*Clause 21.08-6 – Fairfield and Alphington*

69. Clause 21.08-6 identifies that *'the Heidelberg Road neighbourhood activity centre is on the boundary between the Cities of Yarra and Darebin. It is a small convenience centre, with limited furniture and home wares outlets and a small amount of office space.'*

70. Implementation of the built form strategies at clause 21.05 includes:

- (a) *Supporting development that maintains and strengthens the preferred character of the relevant Built Form Character type.*

71. Figure 16; the built form character type identifies the subject site within a Main Road precinct, which seeks to:

- (a) *Maintain the hard urban edge of development*
- (b) *Reflect the fine grain of the subdivision pattern in building design where this exists along main roads.*

Relevant Local Policies

*Clause 22.05 – Interface Uses Policy*

72. The objectives of this clause are:

- (a) *To enable the development of new residential uses within and close to activity centres, near industrial areas and in mixed use areas while not impeding the growth and operation of these areas as service, economic and employment nodes.*
- (b) *To ensure that residential uses located within or near commercial centres or near industrial uses enjoy a reasonable level of amenity.*

*Clause 22.10 – Built form and design policy*

73. The policy applies to all new development not included in a heritage overlay and comprises ten design elements that address the following issues: urban form and character; setbacks and building heights; street and public space quality; environmental sustainability; site coverage; on-site amenity; off-site amenity; landscaping and fencing; parking, traffic and access; and service infrastructure.

*Clause 22.12 – Public Open Space Contribution*

74. The objectives of this clause are:
- (a) *To implement the Yarra Open Space Strategy;*
  - (b) *To identify when and where land contributions for public open space are preferred over cash contributions; and*
  - (c) *To ensure that where appropriate, land suitable for public open space is set aside as part of the design of a development so that it can be transferred to or vested in Council, in satisfaction of the public open space contribution requirement.*
75. The subject site is in an area where cash contribution is the preferred method of public open space contribution (Area 3078B).

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

76. The relevant objectives of this clause are:
- (c) *To achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999 (or as amended). Currently, these water quality performance objectives require:*
    - (i) *Suspended Solids - 80% retention of typical urban annual load*
    - (ii) *Total Nitrogen - 45% retention of typical urban annual load*
    - (iii) *Total Phosphorus - 45% retention of typical urban annual load*
    - (iv) *iv. Litter - 70% reduction of typical urban annual load*
  - (d) *To promote the use of water sensitive urban design, including stormwater re-use.*

*Clause 22.17 – Environmentally Sustainable Development*

77. This policy applies to residential development with more than one dwelling. The overarching objective is that development should achieve best practice in environmentally sustainable development from the design stage through to construction and operation.

**Advertising**

78. The original application was advertised during August 2017 in accordance with Section 52 of the *Planning and Environment Act 1987* (the Act) by way of 1,396 letters sent to the surrounding property owners/occupiers and by four signs on the site. A total of 151 objections were received. The concerns can be summarised as:
- (a) Excessive height and massing
  - (b) Inadequate setbacks
  - (c) Design incongruous with existing character
  - (d) Amenity impacts – overshadowing, overlooking and visual bulk
  - (e) Inequitable development opportunities
  - (f) Poor internal amenity
  - (g) Insufficient ESD standards
  - (h) Impact on street trees
  - (i) Impact on Alphington War Memorial vista
  - (j) Insufficient parking
  - (k) Traffic impacts
  - (l) Impacts during construction
79. The grounds of objections will be considered and addressed where relevant throughout the following assessment.

80. The amended application was readvertised in November 2017
81. A consultation meeting was held on 28 November 2017, where the key issues raised in the objections were discussed with the permit applicant, objectors and planning officers present. No resolutions were reached at the meeting.

## Referrals

### External Referrals

82. The application was required to be referred to the following referral authorities, with their comments attached to this report:
  - (a) PTV

### Internal Referrals

83. The application was referred to the following areas, with their full comments attached to this report:
  - (a) Engineering Services Unit
  - (b) City Works branch
  - (c) ESD Advisor
  - (d) Strategic Transport
  - (e) Open Space Unit (Landscape Architect and Arborist)
  - (f) Urban Design Consultant - David Lock Associates (DLA)
  - (g) Council's Urban Designer
  - (h) Wind Consultant – MEL Consultants
  - (i) Acoustic Consultant – SLR Consulting Australia

## OFFICER ASSESSMENT

84. The relevant considerations for this assessment are as follows:
  - (a) Strategic justification
  - (b) Land use
  - (c) Built form and design
  - (d) Off-site amenity impacts
  - (e) Clause 58 (Apartment Developments)
  - (f) Sustainable Design
  - (g) Car parking, bicycle facilities and traffic generation
  - (h) Streetscape works
  - (i) Objectors' concerns

### Strategic Justification

85. State Policy expressly supports housing at higher densities on this site, being within a Neighbourhood Activity Centre (NAC) and proximate to services, infrastructure and amenities. Specifically, Clause 11.03 (Activity centres) encourages '*diversity of housing types at higher densities in and around activity centres.*' Situated within the Alphington NAC, this policy direction is applicable to the subject site.
86. Housing intensification is further encouraged within clause 16 (Housing) of State planning policy. Notably, Clause 16.01-1 (Integrated housing) seeks to '*Increase the supply of housing in existing urban areas by facilitating increased housing yield in appropriate locations, including under-utilised urban land.*' The subject site, at 2,979sqm in area, predominately within a Commercial 1 Zone and with three street abutments presents an opportunity for increased housing yield.

87. Additionally, clause 16.01-2 seeks to *'Encourage higher density housing development on sites that are well located in relation to jobs, services and public transport.'* The subject site benefits from access to jobs, services and public transport within the Alphington NAC as previously outlined in the description of the surrounding area.
88. At a local level, there is an expectation stated at Clause 21.04-1 that Commercial 1 Zones will accommodate some of Yarra's housing growth, however potential amenity conflicts between residential and other uses needs to be managed, with Strategy 3.1 requiring that *'new residential development in the Commercial 1 Zones to be designed to minimise potential negative amenity impacts of existing non-residential uses in the vicinity'*. Potential interface issues with non-residential uses will be discussed as relevant through this report.
89. Housing diversity is encouraged at both a State and local level, with State policy at clause 16.01-4 identifying the objective *'To provide for a range of housing types to meet increasingly diverse needs.'* Including the strategy to *'support opportunities for a wide range of income groups to choose housing in well-serviced locations.'* Objectives within the MSS on land use (Clause 21.04) are very similar, advocating for the retention of a diverse population and household structure. The proposed development supports these policies by incorporating a mix of one, two and three bedroom dwellings at various sizes and layouts.
90. State and local policies on built form (Clause 15.01 and 21.05) are consistent in their objectives for the delivery of responsive and high quality built form environments. More specifically and relevantly, Objective 17 of Clause 21.05 seeks *'to retain Yarra's identity as a low-rise urban form with pockets of higher development'*. The consistency with built form policies will be discussed in greater detail within the built form assessment.
91. Yarra recognises the importance of environmentally sustainable development within its MSS (Clause 21.07) and through its Environmentally Sustainable Development Policy at clause 22.17 and Stormwater Management (WSUD) Policy at Clause 22.16. The environmental sustainability of the proposed development will be covered in greater detail within this report.
92. Both State and local policy directives seek to promote the use of sustainable personal transport and increased development close to high-quality transport routes (Clauses 18.02-1, 18.02-2, 18.02-3 and 21.06). In regard to car parking, Clause 18.02-5 encourages an adequate supply of car parking to be provided with consideration to *'existing and potential modes of access including public transport, the demand for off-street car parking, road capacity and the potential for demand management of car parking.'*

At a local level, clause 21.06 acknowledges that whilst parking availability is important for many people, *'unrestricted car use and parking is neither practical nor achievable.'* Matters relating to transport relevant to the proposed development will be covered later within this report.

93. The site is well-positioned to accommodate more intensive development of the site, with the NAC offering accessibility to jobs, services and public transport. Having regard to the above discussion, the proposal demonstrates strong policy support at both a State and local level.

#### Land Use

94. As stated within the planning controls section earlier, a permit is only triggered to use the land for dwellings within the Commercial 1 Zone as the ground level residential lobbies to Parkview and Park Avenue are wider than two metres.
95. The intention of this permit trigger is to ensure that residential uses do not erode active retail frontages within commercial areas. The proposed residential component of the development does not alter the Heidelberg Road retail frontage with retail uses to be maintained for the full length of the frontage.

The ground level residential frontage to both Parkview Road and Park Avenue is considered appropriate given the existing residential uses on the opposite side of Park Avenue and the proposed residential uses anticipated on the western side of Parkview Avenue (under the Paper Mill Development Plan).

96. Residential use of the land has clear policy support within both State and local policy as outlined within the 'Strategic Justification' section earlier. The residential use is also consistent with the purpose of the Commercial 1 Zone, which includes: '*To provide for residential uses at densities complementary to the role and scale of the commercial centre.*'
97. While residential use of the land is supported and will contribute toward a vibrant mixed use commercial centre, consideration needs to be given to potential land use conflicts with non-residential uses. This will be covered later within the report as relevant.
98. In regard to the Neighbourhood Residential Zoned portion of the subject site, only residential land uses are proposed within this section of the site thus no planning permit is triggered under the Neighbourhood Residential Zone.

#### Built Form and Design

99. In considering the design and built form of the proposed development, the most relevant aspects of the Scheme are found at Clauses 15, 21.05 and 22.10. As supplementary guidance, the recently released *Urban Design Guidelines for Victoria* prepared by the Department of Environment, Land, Water and Planning are also of relevance.
100. These provisions and guidelines seek a development outcome that responds to the existing or preferred neighbourhood character and provides a contextual urban design response reflective of the aspirations for the area. Particular regard must be given to the acceptability of the design in terms of height and massing, street setbacks and its relationship to adjoining properties.

#### *Street Level Interface*

101. Pursuant to Clause 22.10.3-3, *new development constructed with a front setback to the street should include soft landscaping within the setback area. The setback should not be used for ancillary services, carparking, basement car parking, ventilation shafts or major promotional signs.* The ground floor of the development provides a setback of 2.3m from Heidelberg Road. The purpose of the setback is to increase the width of the currently narrow footpath, furthermore this setback also provides weather protection, with the level above projecting to the boundary line. While the setback does not propose soft landscaping, the intent of the setback is considered appropriate for its context within Heidelberg Road, which does not typically include landscaping within frontages.
102. DLA however has criticised the ground floor recess, suggesting that it results in a weaker degree of public realm definition than the original proposal, which extended predominately to the street edge. Further advice was sought from Council's urban designer on this matter. Council's urban designer was supportive of the ground floor setback given that it is an island site along Heidelberg Road. The setback to Heidelberg Road will also allow pedestrians to be a greater distance away from the busy and fast moving traffic along Heidelberg Road. It will also provide an opportunity for outdoor seating for the future café.
103. Additionally, the widened footpath corresponds with the proposed Heidelberg Road footpath treatment adjacent to the former Paper Mill Site. The application on the south-west corner of Parkview and Heidelberg Road proposes a setback of 4.8m to 6.15m from the back of kerb. The approximate 6m setback from the kerb proposed in the current application will therefore sit comfortably along the Heidelberg Road context. Noting also that further to the east of the Alphington NAC presents a relatively irregular street setback pattern.

104. On balance, the benefits of the recess are considered to outweigh the concerns raised in the DLA referral advice. As such, it is considered appropriate to maintain the recess as proposed.
105. It was also recommended by Council's Urban Designer that the bicycles hoops along Heidelberg Road are relocated to an alternative location within the public footpath to allow more space for pedestrians in the covered area. Furthermore that the 'supply air fan room' to Parkview Road be set back to align with the prevailing setback to open up this space and avoid concealment areas. These matters can be dealt with by way of condition on any permit that issues.
106. Clause 22.10.3-4 (Street and Public Space quality) includes the following design guidelines; *The design of the ground level street frontage of new development should provide a high level of pedestrian amenity and visual interest by:*
- (a) *Providing well-defined entries at ground level on the street frontage.*
  - (b) *Incorporating commercial/display or retail space (where appropriate).*
  - (c) *Installing glazed areas allowing permeability into the interior spaces.*
  - (d) *Matching ground floor level with street level.*
  - (e) *Avoiding sub-basement car parks where the structure of the car park and vents are raised above the footpath level.*
107. DLA do not believe there is sufficient activation of the ground floor side streets and also do not support the proposed 'window gallery' space along Park Avenue as an alternative to an active use. The lack of activation was a concern raised by DLA to the original application. This extent of glazing was increased in the amended application along Parkview Road from 14m to 24.8m (58% of the frontage) and Park Avenue from 28.6m to 34.3m (53%).
108. Whilst not an ideal outcome, the 'window gallery' is adjacent to the ground floor car park, therefore it would be difficult to accommodate an active use without further reductions in the car parking. Additionally, given the Neighbourhood Residential Zoning that applies to part of this land, it would be inappropriate to introduce non-residential activation in this area via a permit condition. Conversely, it would be difficult to incorporate a residential use in this location without substantially modifying the ground floor footprint. The internal amenity of a dwelling in this location would also likely to be compromised in respect to privacy and open space.
109. Given the difficulty of further activating the 'window gallery' area, additional advice was sought from Council's urban designer. Whilst the first preference was for an active use in this area, the constraints of the proposal were acknowledged. The window gallery was seen as an opportunity to screen the car park and provide visual interest along this frontage. However further detail is required to understand how the window gallery would look and how it would be managed. In this regard, it was recommended that Council's Arts and Culture unit provide further advice. It was also suggested by Council's urban designer that recessing the gallery behind glass may require excessive maintenance. Also it is desirable to wrap the artwork around the southern side of the car park entry.
110. A condition of any permit that issues will require a public art management plan to be prepared with details of the art to be provided. Input from Council's Arts and Culture Unit can be provided at this time.
111. In regard to Parkview Road, it is considered that the level of activation could be improved by relocating the fan room away from the street frontage and bringing the bicycle storage area forward to align with the façade. Applying a clear or semi-transparent glazing to the bicycle storage facility would also improve the activation along Parkview Road. In addition to activating the streetscape, this would have added benefits including improved passive surveillance within the storage facility and encouraging alternative transport modes. This condition could be placed on any permit that issues.



*Height and setbacks of upper levels*

112. The design guidance at clause 22.10.3-3 for setbacks and building height states that the overall height of new development (including the height between the primary setback and the secondary setback) may exceed the prevailing building height of the area if the site does not cause off-site impacts and is either:
  - (a) Located on a corner site of a main road; or
  - (b) Of substantial land area.
113. The proposal is considered to fulfil the above criteria, being a much larger site than many of the surrounding allotments and extending between two streets along Heidelberg Road and as discussed within the report, would also not result in unreasonable off-site amenity impacts.
114. Objective 5.1.1 of the Urban Design Guidelines for Victoria seek *'to ensure that the building scale and form supports the context and preferred future character of the activity centre.'* While there is no specific guidance for the Alphington NAC, general guidance for Yarra's activity centres and strategic redevelopment sites at clause 21.05-2 anticipates buildings of 5-6 storeys or higher where specific benefits can be achieved. As outlined in the policy section earlier in the report, these benefits relate to upper level setbacks, design excellence, best practice in sustainable development, positive contribution to the public domain and affordable housing.
115. As will be discussed in this report, the proposed development will achieve benefits in respect to setbacks, public realm contribution and sustainable development subject to recommended permit conditions; moreover, the specific context of the site also lends itself to a taller built form. While the Alphington NAC is presently low scale, the large allotment sizes of many sites and the strategic direction at clause 21.05-2 (referenced above) is likely to see an increase in built form scale within the Alphington NAC. Contextually, directly to the west of the site, the former Paper Mill Strategic Redevelopment Site contemplates heights of eight storeys. The subject site, being a large predominately island site, can comfortably accommodate a taller built form to Heidelberg Road, offering a transition from the 8 storey form to the west to the anticipated future 5-6 storey scale to the east. DLA in their urban design assessment of the application, also contemplate the transitional role of the subject site.
116. Clause 22.10.3-3 further encourages that developments *'use massing or articulation or changes of surface treatment, or a combination of these, to relate taller buildings to the scale of their surrounds, and to diminish visual bulk.'*
117. DLA were not comfortable that the proposal had addressed the above policy guidance, recommending that the building achieve '3+4+1' (3 storey podium, 4 storey middle and a single storey top) composition. Their initial advice suggested that the building be no greater than 8 storeys with the uppermost storey set back to read as a recessive cap from longer range views. While the original 9 storey scheme has been reduced to 8 storeys, DLA are still not satisfied with the massing of the building, with the podium presenting as four storeys to Heidelberg Road and the top level not reading as a recessive cap. Arguably the pergola structure and lift access areas to the roof top is now reading as the "recessive cap" as per the initial DLA advice.
118. The four storey podium and overall height continues to present too much visual bulk to the street and fails to adequately transition down to the lower order Alphington Neighbourhood Centre. It is considered that this could be addressed by deleting one of the podium levels. Given that Level 1 contains the residential communal facilities, it would be preferable to retain this level and instead delete Level 2. This could be done by way of permit condition if one is to issue. As a consequence of this condition, it would be desirable for the balcony planters to be shifted within the remaining podium levels to maintain their staggered design.

119. The podium height was reduced within the amended plans to 14.9m transitioning down to approximately 11.8m along the sides. While this has been reduced in height from the original application, DLA recommend that the podium height be further reduced. The aforementioned deletion of Level 2 would address this concern, it would further provide a more comfortable transition in building height to the residential interface to the rear particularly along Park Avenue.
120. As outlined under the planning controls applicable for the site, there is a mandatory maximum height limit of 9m and two storeys under the Neighbourhood Residential Zone. The storey height does not include basement levels. The height of the building (to the top of the balustrade) within this section is 5.7m and is single storey with terrace above, therefore complying with the mandatory height limit.

#### *Detailed Design and Materiality*

121. DLA support the proposed podium/tower form for the site and the use of expressed balconies at the podium levels to distinguish this.
122. The contemporary architectural concept is considered by DLA to be broadly responsive to the pattern of emerging development within Heidelberg Road, in which they point toward the architectural design responses within the Paper Mill Site. DLA are satisfied that *the spectrum of proposed materials is broadly appropriate and is employed in a manner that further reinforces the podium/tower distinction and achieves a visual interesting architectural outcome.*

#### *Micro climate*

123. A Wind Effects Statement prepared by Vipac was submitted with the original application and has been peer reviewed by MEL Consultants. MEL is supportive of the assessment criteria used by Vipac and whilst generally agreeing with the assumptions made, the following shortfalls have been identified:
- (a) The report does not consider possible footpath seating at ground level adjacent to the café on Heidelberg Road.
  - (b) The residential lobby entry to Parkview Road is likely to experience wind conditions above walking comfort.
  - (c) It would be preferable for wind conditions on adjacent street corners to be considered in the analysis, however it is anticipated that they would still meet the walking comfort criterion.
  - (d) On the roof top, additional wind-break screens may be required under the pergola and within seating areas to achieve wind conditions of sitting comfort criteria.
124. MEL Consultants recommend a Wind Tunnel Study be conducted to qualify the wind conditions at the aforementioned locations and if necessary, mitigation strategies developed. This can be addressed via a condition of permit if one is to issue.
125. It is expected that the wind conditions above the lobby entry will have likely been addressed by the ground floor recess and overhang of the upper level introduced as part of the amended plans however this can be further tested via a Wind Tunnel Study as recommended by MEL Consultants.

#### Offsite Amenity Impacts

126. The policy framework for offsite amenity considerations is contained within Clause 22.05 (Interface Uses Policy), with additional guidance within the *Urban Design Guidelines* and the Decision guidelines within the Commercial 1 Zone. Clause 55 (ResCode) of the Scheme does not apply to an apartment building; however it contains standards that can assist in a more measurable assessment of the application.

*Visual bulk*

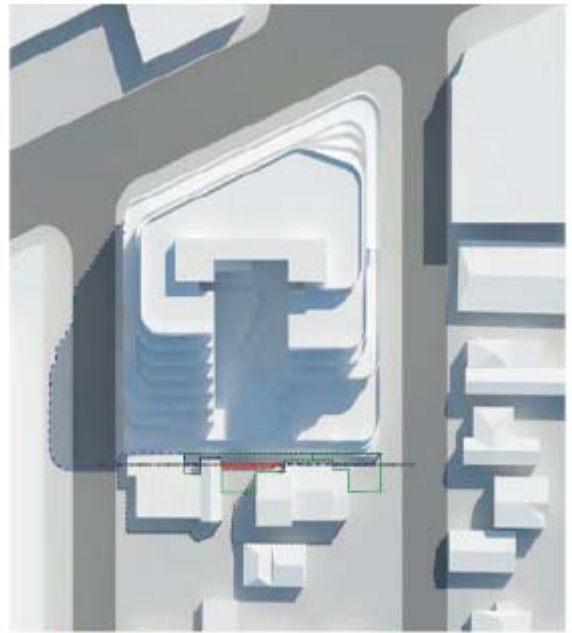
127. As discussed earlier within the report, it is recommended that Level 2 of the proposed development be deleted to better respond as a transition between the Paper Mill site and the lower order neighbourhood centre to the east. This condition will also assist in reducing the visual bulk impact as viewed from the south to an acceptable degree. As will be discussed later within the report, it is also recommended that the basement and ground floor levels be set back from the southern boundary adjacent the private open space areas by 6m to accommodate deep soil planting. This amendment will further reduce the visual impact as viewed from these areas.
128. While the building will still be clearly visible from the residential properties to the south, the amenity expectations of the residential area also need to be tempered given the commercial zoning of the land and the strategic expectations for more intensive development. This is a well-established position at the Tribunal, such as mentioned in the case of *Calodoukas v Moreland CC* [2012] VCAT 180, which stated at Paragraph 13 that:
- (a) *Owners of residential properties next to a business or industrial zone cannot realistically expect the same level of residential amenity as someone residing in the middle of a purely residential area.*
129. Having regard to the above Tribunal decision and the additional amendments recommended via permit conditions, it is considered that the proposed development would not result in an unreasonable level of visual bulk to the residential properties further to the south.

*Overshadowing*

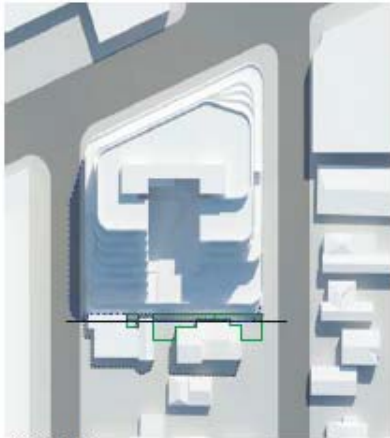
130. Under ResCode, overshadowing is assessed at the September Equinox as an average impact, rather than winter, which would be a worst case scenario.
131. While the original plans had quite substantial overshadowing impacts, the amended proposal has addressed this to an acceptable degree. At 9am on the September Equinox, approximately 1.5sqm of additional shadowing will be cast within the private open space area of No. 4 Parkview Road. This area is already substantially in shadow at this time therefore the additional shadowing would have a negligible impact on the amenity of the property at this time. At 10am there will be an increase of 4sqm (4%) of additional overshadowing cast within the secluded private open space area of No. 4 Park Avenue. The shadow impact is linear, thus retaining a useable area of open space with access to sunlight. For the remaining hours of the day there is no additional shadow impact to any of the adjacent properties. This is illustrated in the diagrams below.
132. On this basis, the proposed development is not considered to unreasonably impact upon solar access to the surrounding residential land.



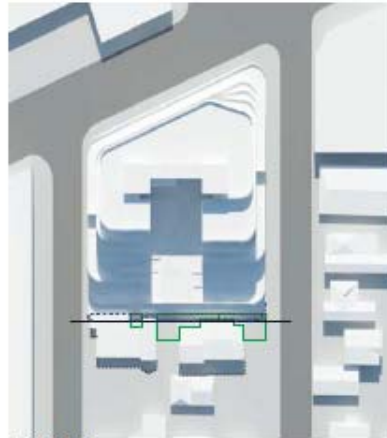
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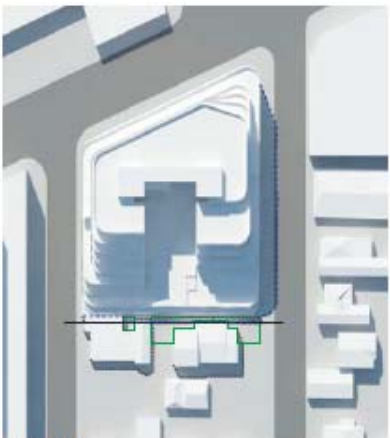
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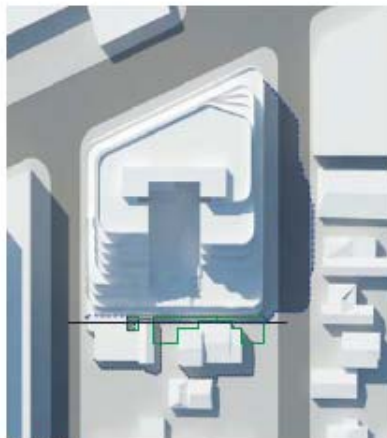
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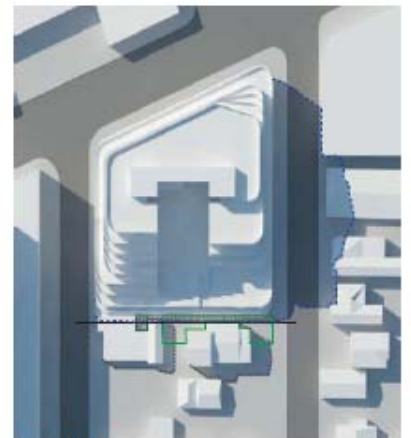
12.00 PM



1.00 PM



2.00 PM



3.00 PM

**Proposed shadow diagrams (additional shadow in red)**

*Daylight/solar access to existing windows*

133. There are north-facing windows to the properties to the south facing the subject site. As demonstrated in the shadow diagrams above, the shadow cast by the development generally falls within the shadow line of the existing fence with the exception of 9am and 10am. Only at 9am does the additional overshadowing appear to cast a shadow on any adjacent walls. On this basis, the impact on solar access to north facing windows is considered to be negligible.
134. The proposed additional setback of 6m for deep soil planting discussed later in the report will also further mitigate the potential daylight impacts to the adjacent windows to an acceptable degree.

*Overlooking*

135. The dwellings immediately to the south have secluded private open space and habitable room windows that are within 9m of the subject site that may be overlooked from the communal terrace and balconies on Level 1. While planters adjacent to these areas are shown, it is not clear whether this is sufficient to manage potential overlooking opportunities to the private open spaces and habitable room windows to the south. While ResCode (Clause 55) does not apply to this application, it contains a useful measure (Standard B22) for mitigating unreasonable overlooking. Deriving from this standard, a condition of any permit issued will require the proposal to demonstrate no direct views in adjacent secluded private open space or habitable room windows within 9m.

Clause 58 (Apartment Developments)

*Standard D1 – Urban context*

136. This standard has two purposes; to ensure that the design responds to the existing urban context or contributes to a preferred future development of the areas and that development responds to the features of the site and the surrounding area. How the development sits within the urban context has been discussed earlier in this report.

*Standard D2 – Residential Policies*

137. As outlined earlier in this report within the Strategic Justification section, the proposed development is considered to hold strong policy support under the purpose of the Commercial 1 Zone and local policies of the Yarra Planning Scheme.

*Standard D3 – Dwelling diversity*

138. The application contains a mix of dwelling types and sizes as encouraged under this Standard. The applicant has also advised that opportunities for further consolidation of apartments are also available to potential purchasers.

*Standard D4 - Infrastructure*

139. The proposal is located within an established area with existing utility services and infrastructure. A substation electrical switch room is proposed, ensuring that the development will not unreasonably overload the existing capacity of the utilities. There is no evidence to suggest that the proposed development would impact on the operation of the existing services and therefore the purpose of the Standard is considered to have been met.

*Standard D5 – Integration with the street*

140. Integration with the abutting streetscapes has been discussed previously within the report within the built form and design section.

*Standard D6 – Energy efficiency*

141. This standard seeks to ensure that buildings are orientated to make appropriate use of solar energy and also sited to ensure that the energy efficiency of existing adjoining dwellings is not unreasonably reduced. The proposed development orientates living areas and balconies to the north where practical to do so. While some south-facing balconies are unavoidable within an apartment typology, the horseshoe shape of the site reduces the extent of entirely south-facing apartments and provides greater opportunities for easterly and westerly aspects.
142. The NatHERS annual cooling load for the sample dwellings indicates that cooling loads are above the maximum cooling load of 21Mj/m<sup>2</sup> for this climate zone. Council's ESD advisor recommends additional changes to ensure the cooling loads are not exceeded, which could be achieved through different glazing specification, glazing reduction or external shading. If a permit is to issue, a condition will require an updated SMP report, in addition to any necessary changes to the plans to demonstrate a maximum cooling load of 21 Mj/m<sup>2</sup>.
143. With respect to the impact on the energy efficiency of surrounding properties, the proposal is considered acceptable. As discussed within the offsite amenities section, the additional overshadowing cast by the proposed development at the September Equinox is minimised by the generous setbacks from the southern boundary.

*Standard D7 – Communal open space*

144. This Standard requires developments with greater than 40 dwellings to provide a minimum of 2.5sqm of communal open space per dwelling or 250sqm, whichever the lesser. In the case of the subject site, the lesser is 250sqm. The proposed development comfortably meets this requirement, providing 612sqm of communal open space at first floor. A second area of communal open space is provided on the roof top with an area of 760sqm.
145. The location and design of these spaces is also consistent with Standard D7, such as:
- (a) Passive surveillance opportunities of the first floor courtyard can be provided from the abutting communal facilities (gymnasium, spa and sauna) on Level 1 and from balconies of apartments to the levels above.
  - (b) However, to ensure that views from the Level 1 communal open space do not unreasonably compromise the privacy and amenity of dwellings also on this level, additional detail of the privacy screening between the private open spaces and the communal open space area is required by way of condition on any permit that issues.
  - (c) By virtue of being at the top of the building, the roof terrace does not receive passive surveillance from within the development, however it has been designed as a large open area to avoid any concealment spaces and maximise visibility;
  - (d) The Level 1 communal terrace appears to offer more passive recreation, with social gatherings more likely to occur on the roof top, which contains a bbq/lounge seating area and a pool. Locating these more social activities on the roof top will assist in reducing the noise spill impacts within the development. The acoustic report submitted with the application also indicates that access to the roof top area will be restricted to between 7am and 10pm. Further discussion is contained in the noise assessment below.
  - (e) As discussed within the assessment of Standard D10 (landscaping), detailed landscape treatment is proposed within the communal areas.

*Standard D8 – Solar access to communal open space*

146. The standard encourages communal outdoor open space to be located on the northern side of a building if appropriate. In the case of the subject site, locating the Level 1 terrace on the southern side is considered more appropriate and respectful of the residential interface to the south. As a result of this configuration, the building is set back substantially further from this sensitive interface.

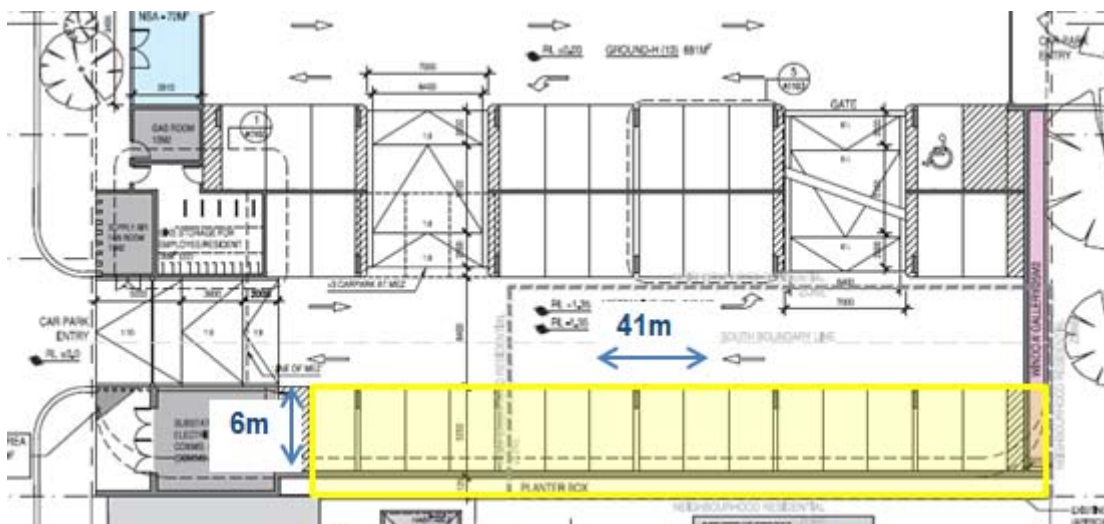
However the provision of a second area of open space on the rooftop of the building ensures that an adequate degree of solar access penetrates the communal open space area.

*Standard D9 – Safety*

- 147. This standard seeks to ensure that the layout of development provides for the safety and security of residents and property. The proposed development achieves the standard by providing identifiable residential entries to Parkview Road and Park Avenue, both with glazed entrance lobbies facing the street for clear lines of sight. The projecting fan room along Parkview Road was identified by Council’s Urban Designer as a potential concealment space. A condition of any permit that issues will require this section of the ground floor to be set back to align with the remainder of the wall.
- 148. No lighting details are provided, however it is considered that there would be sufficient illumination from the street lighting to avoid safety concerns. Ambient light would also be anticipated from the lobby entrances and the commercial frontage along Heidelberg Road.
- 149. The car parking and bicycle storage facilities (other than the hoops on street) are located within secure areas within the development thus not posing any safety or security concerns to the future residents, staff and visitors.

*Standard D10 – Landscaping*

- 150. A landscape concept plan was submitted with the application with details of proposed planting, soil depth of planters and maintenance details. This has been reviewed by Council’s Open Space Unit and deemed to be acceptable.
- 151. Pursuant to Standard D10, a site with an area greater than 2,500sqm should provide deep soil areas for 15 per cent of the site, with a minimum dimension of 6m with 1 large tree or 2 medium trees per 90sqm of deep soil. The proposed development has not allocated any deep soil areas within the site.
- 152. Deep soil planting would be most appropriately located to the rear (south) of the site, specifically where it has an interface with the private open space areas. A minimum width of 6m from the rear (south) boundary, extending from the eastern boundary for a length of 41m would equate to an area of 246sqm and 8.25% of the overall site could be realisable accommodated on the site (Refer to image below). A condition of any permit that issues can require this allocation of deep soil planting, with provision for an updated landscape plan demonstrating compliance with the minimum tree provision within this space (i.e. 1 large tree or 2 medium trees per 90sqm).



**Deep soil planting area highlighted in yellow**

153. To accommodate the deep soil planting described above, approximately 30 car spaces would need to be removed from the ground and basement levels. The first floor would also need to be pushed slightly further back. The deletion of the car parking spaces to accommodate deep soil planting is acceptable as will be further discussed in the car parking and traffic assessments. The increased first floor setback could be readily accommodated without significant impact upon the dwelling layouts.
154. While not meeting the standard, it is considered that this allocation of deep soil planting would provide meaningful contribution toward the landscape character of the area. Additionally, the proposal comprises substantial landscaped areas throughout the development, including balcony planters capable of supporting trees and landscaped gardens at the Level 1 podium and the roof top. Council's ESD advisor noting within referral comments that these areas would marginally improve the ecological value of the site.
155. Additional streetscape planting is also proposed, this will be discussed in streetscape works later within the report.

*Standard D11 – Access*

156. The proposed development seeks to obtain vehicle access into the development from both Parkview Road and Park Avenue. Both accessways are approximately 6.4m in width, comprising approximately 10% of the Park Avenue frontage and 15% of the Parkview Road frontage. Thus both achieve Standard D11, which discourages accessway widths exceeding 33 per cent of the frontage. A condition of any permit that issues will require that the width of the vehicle crossovers are dimensioned.
157. The proposed car park entrance from Park Avenue will not result in the deletion of any car parking spaces; however there is a narrowing of Park Avenue at the point where access is proposed that will need to be modified. The swept path diagrams submitted with the application did not show the kerb outstand on the eastern side of Park Avenue, so it is unclear to what extent the eastern kerb outstand will need to be modified. Council's Traffic Engineers have requested that swept path diagrams for a B99 design vehicle entering and existing the site from the north are provided accurately depicting both kerb outstands. Also required are updated swept path diagrams for the proposed waste collection vehicle, which also omitted the eastern kerb outstand. This additional detail can be requested by way of permit condition on any permit that issues.
158. Modification to the kerb outstands in Park Avenue has been discussed with Council's Engineering Services Unit who have advised that the modifications to Park Avenue are acceptable, however the redesign and construction costs of these modifications will need to be borne by the permit applicant, this will be reflected in conditions of any permit that issues. The accessway also requires the removal of a Plane Tree, this will be discussed within the streetscape works section later in the report, however it is noted that Council's Open Space team support the tree removal.
159. The new vehicle crossover on Parkview Road will replace two existing side by side crossovers of approximately 13.5m in total width with a single crossover of approximately 6.4m in width. This will improve the streetscape presentation to Parkview Road and may also facilitate an additional on-street parking space.

*Standard D12 – Parking location*

160. Lift and stair access is provided from within the car parking areas to all levels of the development. This ensures convenient access for residents, staff and visitors in accordance with Standard D12. The car parking area is also secure, with the SMP report indicating that it will be naturally ventilated.



161. The acoustic report submitted with the application does not cover potential noise impacts from the car park access areas. As discussed within the noise section, a revised acoustic report is required as a condition of any permit that issues to ensure that unreasonable noise impacts associated with the proposed car park access do not occur.

*Standard D13 – Integrated water and stormwater management*

162. A MUSIC report has been provided within the submitted SMP demonstrating best practice in stormwater management. This is achieved by a 20kL rainwater tank within the basement, to be connected to all apartment toilets. Stormwater runoff from the rooftop and Level 2 to Level 7 terrace areas is also proposed to be diverted to rooftop landscaping, a green roof on Level 7 and planter box modules on the podium façade. While Council's ESD officer was generally comfortable these initiatives, it was noted that the WSUD aspects of the planter boxes and lawns were not noted on the landscape plans. This is still not detailed on the landscape plans, however can be addressed by way of permit condition.

*Standard D14 – Building setbacks*

163. The predominately island site minimises the potential impact of building setbacks on adjoining sites. Heidelberg Road, Parkview Road and Park Avenue provide sufficient separation to ensure that the existing and future development of these sites is not adversely affected with respect to daylight access, privacy and reasonable outlook.
164. In regard to the residential interface immediately to the south, as discussed within the offsite amenity impacts section, the proposed setbacks (subject to conditions) are adequate to minimise potential amenity impacts in relation to overshadowing and daylight access. Further overlooking analysis of Level 1 will also ensure that there is not any unreasonable overlooking to the properties to the south.
165. Building separation internally to the site is also relevant given the horseshoe shape of the building. A 16m separation (inclusive of balconies) is provided at all levels. Based on the daylight modelling that has been provided and advice from Council's ESD advisor, the internal building separation is considered adequate to maintain sufficient daylight dwellings. The separation also negates the need for privacy screening and maintains a good outlook for all dwellings.

*Standard D15 – Internal views*

166. As discussed above, the 16m separation negates the need for privacy screening to be provided between dwellings. Downward views are addressed via planter boxes where necessary. Views to immediately abutting balconies are addressed via 1.7m high privacy screens in most cases, with the exception for between the south facing apartments north of the Level 1 courtyard. There is no notation of the plans to suggest that this is provided however this can be addressed by way of condition.

*Standard D16 – Noise impacts*

167. The proposed development is not be located in proximity to noise generating areas as listed under this Standard. Notwithstanding this, an acoustic report was submitted with the application prepared by Acoustic Logic. This identifies that traffic noise on Heidelberg Road and mechanical plant on the roof of the commercial tenancy at 720-724 Heidelberg Road are the key noise sources.
168. The acoustic report has been peer reviewed by SLR. While SLR were generally comfortable with the analysis and recommendations, it was suggested that minimum Rw rating for lightweight external walls exposed to high levels of road traffic should be provided.

169. Whilst identifying the mechanical plant at 720-724 Heidelberg Road as a potential noise source, the Acoustic Logic report has not measured the existing noise emissions. It assumes compliance with SEPP N-1 internal targets, however SLR have further recommended that the lower daytime targets of 35 dBA are also met, in addition to the consideration of noise to balconies. Testing of this existing noise source and additional noise protection can be addressed by way of condition.
170. SLR were satisfied that internal noise sources such as mechanical plant and domestic air condensers were being appropriately managed, however SLR have requested that more detail be provided in regard to potential noise of the carpark entrance gates to the apartments above. This can be addressed via condition on any permit that issues.
171. The function room referenced within the Acoustic Logic report and the SLR review has been removed from the amended plans so will no longer present a potential noise source. Given that this has been removed, it also reduces the likelihood of the function activities to spill out into the Level 1 courtyard. SLR had suggested that elevated balustrades may be needed along the courtyard adjacent to No. 4 Park Avenue, however given that the function room has been removed and the courtyard now further setback and buffered by landscaping, it would negate the need for 2.4m screens along the southern boundary.

*Standard D17 – Accessibility objective*

172. This standard requires at least 50 percent of dwellings to have:
- (a) Clear opening with of at least 850mm at the entrance to the dwelling and main bedroom
  - (b) Clear path with a minimum with of 1.2m connecting a dwelling entry to the main bedroom, an adaptable bathroom and living area
  - (c) Main bedroom with access to an adaptable bathroom
  - (d) At least one adaptable bathroom meeting Design A and B within Table D4 contained within the Standard.
173. Individual floor layouts for a sample of six typical apartments have been provided. This includes dimensions confirming an opening width of 920mm at the dwelling entry and 870mm to the main bedroom and bathroom. Circulation spaces within the dwellings are also shown with a 1.2m wide clear path. The bathrooms within the sample apartments also demonstrate compliance with either Design Option A or B. However, it is unclear whether the sample of apartments reflects 50 per cent of the dwellings within the development. A condition of any permit issued will require this to be demonstrated.

*Standard D18 – Building entry and circulation*

174. As assessed earlier in this report, the proposed residential lobby entries would be readily visible from Parkview Road and Park Avenue providing a clear sense of address. A canopy was introduced as part of the amended plans that provides shelter to both entrances. The lobby areas have clear glazing to the street frontages offering a sense of personal address and transitional space.
175. The ground floor lobby areas have generous lobby spaces, with a minimum width of 3.2m. The corridor spaces to levels above each have a minimum width of 1.8m, with natural light provided by windows adjacent to the lift cores on each level. It is understood that natural ventilation will also be provided via these windows, however it is not clearly shown on the plans. This will be conditioned according on any permit that issues.

*Standard D19 – Private open space*

176. Relevantly, the standard states that a dwelling should have a balcony with an area and dimensions specified in Table D5 (below), with convenient access from a living room:

**Table D5 Balcony size**

Dwelling type	Minimum area	Minimum dimension
Studio or 1 bedroom dwelling	8 square metres	1.8 metres
2 bedroom dwelling	8 square metres	2 metres
3 or more bedroom dwelling	12 square metres	2.4 metres

177. The development summary table provided confirms that all dwellings achieve the minimum areas as required pursuant to Table D5. All balconies are also conveniently accessed from the main living areas of each dwelling. However, it is unclear whether the minimum dimensions have been met. This will be addressed via condition.

*Standard D20 – Storage*

178. The standard encourages each dwelling to have convenient access to usable and secure storage space in accordance with Table D6 (below)

**Table D6 Storage**

Dwelling type	Total minimum storage volume	Minimum storage volume within the dwelling
Studio	8 cubic metres	5 cubic metres
1 bedroom dwelling	10 cubic metres	6 cubic metres
2 bedroom dwelling	14 cubic metres	9 cubic metres
3 or more bedroom dwelling	18 cubic metres	12 cubic metres

179. There are 39 storage cages located within the lower basement level. The allocation and volume of each storage cage has not been nominated on the plans. This could be resolved via condition. The sample of apartment layouts includes internal storage details. This confirms that the sample of dwellings will meet the minimum storage requirement for within dwellings however it is unclear whether the overall storage volumes have been met. This can be addressed by way of condition.

*Standard D21 – Common property*

180. The common property areas within the development are clearly delineated from private areas via fencing. The communal areas are functional and readily accessible from communal corridors and lift access. The proposed common property areas do not appear to create any spaces that would be difficult to maintain into the future.

*Standard D22 – Site services*

181. Site services appear to be adequately accommodated within the development. These are mostly located internally within the building, either within the basement or ground floor. Services that are required to be externally accessible such as the fire booster, have been located away from the primary Heidelberg Road frontage. The elevations also indicate that these service cupboards will be treated with a fritted glass so that they will integrate with the façade.
182. Mail boxes are located within both lobby areas. This is considered an appropriate location for convenient access to future residents and mail delivery services.

*Standard D23 – Waste and recycling*

183. A Waste Management Plan (WMP) has been prepared by RB Waste Consulting (dated 12 January 2018) containing details on how waste is to be managed including noise and odour control.
184. On each level are two bin chutes adjacent to lift cores. These chutes will provide separate waste and recycling disposal and are to be signposted accordingly. The waste chutes connect into the bin storage room on the ground floor. It is identified that the waste chutes are also shown on the basement plan, despite the waste storage room being located on the ground floor. This will be corrected via permit condition.
185. The café and shop are to store their own receptacles in each of the areas to be then transferred into each waste stream within the communal refuse room. Waste collection will occur from within the development via a mini rear loader vehicle. The vehicle will enter and exit the development from Park Avenue via the entrance ramp. The proposed hours for collection are consistent with Council's local law requirements and will be reflected on any permit that issues.
186. The WMP was reviewed by Council's City Works Branch. They have advised that the WMP is acceptable.

*Standard D24 – Functional layout*

*Bedrooms*

187. Table D7 within Standard D24 states that the main bedroom should have minimum dimensions of 3.4m x 3m with remaining bedrooms of 3m x 3m. The sample apartment types are all compliant with Table D7. However, it is unclear whether the sample is representative of all apartments within the development. A condition will require that the proposal demonstrate compliance with these minimum dimensions for all apartments.

*Living areas*

188. Table D8 within Standard D24 specifies a minimum area of 10sqm and width of 3.3m be provided for single bedroom dwellings, and for two or more bedrooms; a minimum area of 12sqm and minimum width of 3.6m. The sample apartment types demonstrate compliance, however similarly with the bedrooms, a condition is recommended for any permit that issues that the proposal demonstrate compliance with these minimum dimensions for all apartments.

*Standard D25 – Room depth*

189. This Standard discourages single aspect rooms exceeding a room depth of 2.5m times the ceiling height. As demonstrated on Section DD, all levels have floor to ceiling heights of 2.7m, thus room depths should not exceed 6.75m.
190. However, the standard states that this can be increased to 9m for open plan habitable rooms, providing the kitchen is the furthest from the window and the ceiling is at least 2.7. This is met within the development, with the deepest single aspect apartments on Levels 1 and 2 meeting the aforementioned criteria with a room depth of 7.5m.

*Standard D26 – Windows*

191. This standard requires all habitable room windows to have a window to an external wall of a building. This is the case for all bedrooms and main living spaces. There are a number of one bedroom apartments that have 'study nooks' receiving only borrowed light from the main living area. However given the small size of these 'study nooks' and that they are open to the main living area, the level of daylight into these areas is considered acceptable.

*Standard D27 – Natural ventilation*

192. This standard encourages that at least 40 per cent of dwelling provide effective cross ventilation that has:
- (a) A maximum breeze path through the dwelling of 18m
  - (b) Minimum breeze path through the dwelling of 5m
  - (c) Ventilation openings with approximately the same area.
193. Cross ventilation is demonstrated for three of the apartment sample types in accordance the above criteria. It is unclear what percentage of dwellings within the development achieve natural ventilation opportunities. The 'horseshoe' shaped building offers greater opportunities for dual aspect dwellings, with 37 dwellings (35%) within the development composed of two sides that could readily achieve cross ventilation. A condition of permit is required for the proposal to demonstrate that at least 40 per cent of dwellings within the development provide cross ventilation opportunities in accordance with Standard D27.

Environmentally Sustainable Design

194. In addition to previously discussed energy efficiency and integrated water and stormwater management objectives and standards of Clause 58 (Apartment Developments), Council's local policies at Clause 22.16 and Clause 22.17 also call for best practice water quality performance objectives and best practice in environmentally sustainable development from the design stage through to construction and operation.
195. The applicant submitted a Sustainable Management Plan (SMP) prepared by Sustainable Development Consultants (SDC) dated April 2017. An updated report dated January 2018 was submitted to reflect the amended plans. The SMP proposes to implement the following initiatives into the development:
- (a) A 22kW solar PV array affixed to a pergola structure to the roof terrace, to contribute toward common area electricity consumption.
  - (b) Electric vehicle charging facilities (connected to the solar PV power supply)
  - (c) NCC energy efficient requirements exceeded by 15% for non-residential areas.
  - (d) Centralised heat pump hot water system
  - (e) Energy efficient light and reverse cycle heating/cooling systems.
196. Council ESD advisor has reviewed the revised plans and SMP report and whilst a number of the initial issues have been resolved, further amendments need to be made to address the following:
- (a) As previously discussed, revisions in the report and on the town planning plans to demonstrate a minimum of 21 MJ/m<sup>2</sup> cooling load to all dwellings.
  - (b) Recommended changes to meet NCC need to be implemented on the town planning drawings
  - (c) Confirmation on the plans that natural ventilation is provided for common area corridors
  - (d) Operability of habitable room windows to be clearly marked on elevations and floor plans.
  - (e) Non-committal language e.g. "where possible" to be removed from the SMP.
  - (f) Prior to occupation, demonstration that a minimum 10% energy efficient improvement for the non-residential areas will be achieved.
197. The above matters can be addressed via condition on any permit that issues.

Car & Bicycle parking and Traffic Generation

### *Car Parking*

198. As outlined in the Particular Provisions section earlier in this report, the proposal is seeking a statutory car parking reduction of 9 car spaces. This has reduced from the initial application, which sought a statutory car parking reduction of 20 spaces. The initial application was referred to Council's Traffic Engineers who raised no objection to the car parking reduction.
199. Consequent to conditions discussed earlier in this report, it is expected that the car parking shortfall will increase from 9 spaces to 18 spaces. Specifically the deletion of Level 2 is expected to reduce the number of dwellings and the subsequently car parking requirement by 21 spaces. A condition regarding the deep soil planting however anticipates a reduction of the onsite car parking provision by approximately 30 spaces. With these two changes, the car parking reduction would be 18 spaces, however would still be less than the reduction of 20 spaces initially sought and supported by Council's Traffic Engineers. On this basis, the proposed amendments discussed within the report are considered satisfactory.
200. In terms of assessing the car parking demand generated by the proposed development, it is important to note that Clause 52.06 is a State wide provision and the rates are not always relevant to inner city locations such as Yarra. In considering a reduction, Clause 52.06 requires that an assessment is undertaken of the actual number of car spaces likely to be generated by the use.
201. It is imperative to consider the site context and whether there are opportunities to encourage sustainable transport alternatives and assist with reducing existing traffic congestion. In respect to the current proposal, reduced car parking provision is considered appropriate, specifically:
- (a) The site is within a Neighbourhood Activity Centre where a concentration of activities and services promotes greater walkability and multi-purpose trips;
  - (b) Further retail and service offerings are proposed to be accommodated within the Former Paper Mill Strategic Redevelopment site, including two supermarkets, a gym, café and school.
  - (c) The site is reasonably well serviced by public transport, including bus services along Heidelberg Road and Alphington train station a short walk to the north of Heidelberg Road site.
  - (d) Residents would be ineligible for on-street parking permits. Whilst at this stage there is limited permit parking restricted areas around the site, these could be introduced if the need arises; and
  - (e) The provision for on-site bicycle parking facilities is well in excess of the minimum statutory requirements, supporting cycling as a form of travel for residents, employees and visitors.
202. Furthermore, based on information contained within the GTA report, it is understood that the current area and use of the land (Restricted Retail at 2,100sqm) operates with 16 on site spaces and a deficiency of 47 spaces, most likely associated with customer parking. Council's Traffic Engineers were satisfied that the customer parking overflow of the proposed redevelopment would be much less than the existing parking deficiency of the site.

### *Bicycle parking*

203. As outlined in the planning controls section earlier in this report, pursuant to Clause 52.34-3, the proposed application requires a minimum of 35 bicycle spaces to be provided. The proposal exceeds the requirements, providing 140 spaces across the basements and ground floor. This has increased from the original proposal, which provided 82 spaces. Council's Strategic Transport Unit reviewed the original application and recommended that a minimum 28 visitor bicycle spaces are provided, the revised application now proposes 30 spaces with 16 bicycle spaces (8 hoops) along Heidelberg Road and Park Avenue and a further 14 visitor spaces within the ground floor.

204. In regard to the provision for resident/employee bicycle parking, the initial advice from Council’s Strategic Transport Unit was that one space should be provided per dwelling. The revised plans accommodate 104 bicycle spaces for residents within the basement in addition to a further 22 bicycle spaces for both employees and residents on the ground floor. This achieves a one space per dwelling ratio based upon the current 105 dwellings, with a further 21 spaces that can be shared between employees and residents. The bicycle space provision is well in excess of the Standard and the recommended bicycle provision by Council’s Strategic Transport Unit.
205. Turning to the location of the bicycle facilities, it is considered that the visitor spaces are conveniently located for visitors, however the location of the spaces along Heidelberg Road will encroach within the footpath and the covered area. An alternative location for these hoops is therefore recommended as a condition of any permit that issues. The visitor spaces within the ground floor car parking area are readily accessible, however offer a more secure location than on the footpath for longer term visitors.
206. In regard to the resident and employee spaces, these are appropriately located within secure facilities. The resident bicycle facilities within the basement are conveniently positioned adjacent to each lift core. The shared resident and employee spaces at ground floor are positioned with direct access from Park Avenue and the ground floor carpark, which will facilitate convenient access to the shop, café and residential lobbies either via the street or internally via the ground floor car park.

*Traffic Generation*

207. GTA in their traffic report adopts a traffic generation rate of 0.35 trips per dwelling, with peak hour accounting for 10% of the daily volume. In the case of retail/food a drink premises, 0.5 trips per allocated car space is expected within the peak hour. The original proposal was anticipated to have a daily total of 393 trips, with 45 trips in the peak hour.
208. Based on the amended proposal, traffic generation rates are slightly reduced, with the number of dwellings reducing from 109 to 105 and number of car spaces reducing from 157 to 153. This would be further reduced by the recommended permit conditions discussed earlier in the report, which involve the deletion of Level 2 and subsequently removal of 20 dwellings. The reduction of approximately 30 car spaces is also anticipated as a consequence of a condition for deep soil planting. The expected traffic generation rates for the amended proposal and the impact from the recommended permit conditions is contained in the tables below:

**Amended Application (under consideration)**

	Daily traffic volume	Peak Traffic volume
Residential dwellings	360	36
Retail/food and drink	13	7
<b>Total:</b>	<b>373</b>	<b>43</b>

**Impact from proposed permit conditions**

	Daily traffic volume	Peak Traffic volume
Residential dwellings	300	30
Retail/food and drink	13	7
<b>Total:</b>	<b>313</b>	<b>37</b>

209. The GTA report assumes that all traffic exiting the development would do so via Parkview Road or Park Avenue. Local residents of the area have advised in their submissions however that vehicles making a right hand turn movement into Heidelberg Road were more likely to do so via Yarralea Street.

Council's Traffic Engineers were made aware of this information but nevertheless considered the traffic distribution assumptions made by GTA Consultants to be reasonable in the context of assessing the intersection performances of Park Avenue and Parkview Road with Heidelberg Road.

210. SIDRA intersection modelling was undertaken in the GTA report on both the Park Avenue and Parkview Road intersections with Heidelberg Road. This modelling suggested that the intersections have capacity to accommodate the peak hour development traffic (noting this was based upon the original application rather than the amended reduced rates). A gap analysis was also undertaken of the Heidelberg Road traffic stream to accommodate entering or exiting vehicles. This analysis also identified that the proposed pedestrian lights to be delivered as part of the former Paper Mill Development would increase the gap opportunities for entering vehicles. These signals in addition to the proposed traffic signalisation of the Latrobe Street intersection with Heidelberg Road would facilitate coordinated breaks in traffic, thus limiting the need for motorists to use Yarralea Street.
211. Council's traffic engineers were satisfied that the SIDRA and gap analysis indicated that traffic generated by the proposed development would be able to reasonably enter and exit the Heidelberg Road traffic stream during peak hours.

#### Streetscape works

212. The landscape plans submitted include proposed landscaping works within the public realm along Heidelberg Road, Parkview Road and Park Avenue as follows:
- (a) Provision for a grassed nature strip along part of Parkview Road and introduction of four eucalyptus *Lleucoxylon* (Euky Dwarf) street trees.
  - (b) Removal of a Plane Tree along Park Avenue to accommodate the proposed vehicle access.
  - (c) Provision of two Acer *Platanodius* 'Crimson Sentry' street trees along Park Avenue.
  - (d) Feature entrance paving to the retail entry on Heidelberg Road and the residential lobby entrances to Parkview Road and Park Avenue.
213. The removal of the Plane Tree along Park Avenue was reviewed by Council's arborist, who subsequently recommended the removal of the three existing trees along Park Avenue, with the retention of only the tree toward the corner of Heidelberg Road and Park Avenue. It was advised that these trees have a low useful life expectancy and therefore it was preferable that the trees are removed and replaced with four new trees. This can be addressed by way of condition.
214. Council's Streetscape landscape architect has reviewed the plans and has requested that the following changes are made:
- (a) The grassed nature strip along Parkview Road to extend toward the Heidelberg Road corner and be a minimum of 1.4m wide. By extending the nature street toward Heidelberg Road, it is expected that an additional two Euky dwarf trees could also be accommodated.
  - (b) The Crimson Sentry is not supported within Park Avenue due to its foliage colour and vulnerability to higher temperatures. Alternatively, an Acer *Negundo* 'sensation' is requested, which will also better integrate with the existing Plane trees along Park Avenue, a further two trees (total of four) along Park Avenue of the same species is also requested to offset the removal of the three Plane Trees along Park Avenue.
  - (c) The existing street trees in Heidelberg Road and Park Avenue should be protected during construction works according to Australian Standard AS 4970-2009, including a TPZ for the duration of the building works. Protection Bonds should also be placed on these trees.
  - (d) Street paving materials need to be consistent with Council's Public Domain Manual. Feature paving at the retail and lobby entrances should be sawn bluestone, rather than black granite and the carpark entrance thresholds to be bluestone setts rather than porphyry stone.



215. Protection of the existing street trees during construction as well as protection bonds are matters dealt with by Council's Construction Management Unit under the construction Management Plan. The remaining requests can be addressed via conditions of permit if one is to issue.
216. In addition to standard infrastructure conditions, Council's Engineering services branch has also requested the following works/upgrades be undertaken to Council's satisfaction and at the cost of the permit holder:
- (a) Reconstruction of the kerb and channel along Parkview Road, Heidelberg Road and Park Avenue
  - (b) Re-sheeting of the pavement along Parkview Road immediately outside the property's frontage
  - (c) Corner splays of the existing building at the intersections of Parkview Road and Park Avenue with Heidelberg Road must not be encroached.
217. These matters can also be dealt with via permit conditions. In regard to the corner building splays, it appears that this has already been accommodated on the plans, however to ensure this is the case, a condition will require that it is clearly shown that these splays have been retained.

#### Objector Concerns

218. The following objector issues have been addressed in the report within the paragraphs described:
- (a) Excessive height and massing (Paragraphs 112 to 120)
  - (b) Inadequate setbacks (Paragraphs 112 to 120 and 163 to 165)
  - (c) Design incongruous with existing character (Paragraphs 121 to 122)
  - (d) Amenity impacts – overshadowing, overlooking and visual bulk (Paragraphs 126 to 135)
  - (e) Poor internal amenity (Paragraphs 166 to 193)
  - (f) Insufficient ESD standards (Paragraphs 141 to 143, 162, 194 to 197)
  - (g) Impact on street trees (Paragraphs 213 and 215)
  - (h) Insufficient parking (Paragraphs 198 to 202)
  - (i) Traffic impacts (Paragraphs 207 to 211)
219. Matters not addressed in the report are summarised as follows:

- (a) Impact during construction

Minimising disruption during construction is a matter relevant to all developments within the municipality, however it is not a determining factor in respect to whether a permit should be granted. If a permit were to be issued, a condition would require a construction management plan to be prepared and submitted to Council for approval. This would be assessed and enforced by Council's Construction Management Unit.

- (b) Impact on Alphington War Memorial vista

The subject site is not within or directly adjoining a heritage overlay area. The nearest heritage precinct is located further to the south of Park Avenue. The precinct statement for this heritage precinct does not reference the War Memorial vista. Similarly, the War Memorial Vista is also not referenced in the Neighbourhood description for Alphington.

## Conclusion

220. 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 policies' urban consolidation objectives and Council's preference to direct housing within commercial areas.
221. The proposal, subject to conditions outlined in the recommendation below, is an acceptable planning outcome that demonstrates compliance with the relevant Council policies. Based on the above report, the proposal complies with the relevant Planning Scheme provisions and planning policy and is therefore supported.

## RECOMMENDATION

That having considered all objections and relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant a Planning Permit PLN17/0040 for Development of the land for construction of a multi-storey building, use of land for dwellings, reduction in the statutory car parking requirements and waiver of loading bay requirements (associated with café and shop) at 700-718 Heidelberg Road, Alphington, generally in accordance with the plans noted previously as the "decision plans" and 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 but modified to show:
  - (a) Deletion of Level 2 and subsequent relocation of balcony planters to maintain a staggered design.
  - (b) Provision of deep soil planting to the southern portion of the site with a width of 6m and length of 41m measured from the eastern boundary.
  - (c) Consistent treatment of the roof top terrace with the landscape plans;
  - (d) Retail tenancy relabelled as 'shop' on the ground floor plan;
  - (e) Relocation of bicycle hoops along Heidelberg Road to an alternative location that does not intrude the footpath
  - (f) 'window gallery' to be replaced with a public art installation and extending to the southern side of the vehicle entrance
  - (g) Extent of the public art installation as required by Condition 1(f) to be shown consistently on plans and elevations;
  - (h) Relocation of the 'supply air fan room' from the Parkview Road frontage to internally within the site, subsequently bringing forward the bicycle storage facility to align with the remainder of the façade
  - (i) Bicycle storage facility to Parkview Road, as modified by Condition 1(h), to incorporate a transparent or semi-transparent interface to Parkview Road.
  - (j) Any additional overlooking treatments to the southernmost apartments and the Level 1 communal courtyard to demonstrate there is no direct views in adjacent secluded private open space or habitable room windows within 9m;
  - (k) Details of privacy screening measures to the private balconies on Level 1 to prevent overlooking from the communal courtyard;
  - (l) Details of privacy screening proposed between the south-facing apartments north of the Level 1 courtyard;
  - (m) Dimension the width of the proposed vehicle crossovers.
  - (n) 50 per cent of dwellings within the development achieve Standard D17 (Accessibility) of Clause 58 of the Yarra Planning Scheme
  - (o) Notations to confirm common corridor spaces receive natural ventilation
  - (p) Balcony sizes of all apartments meet the minimum dimensions for the minimum areas as per Table D5 of standard D19 (Private Open Space) of Clause 58 of the Yarra Planning Scheme

- (q) Allocation and volume of the storage cages located within the lower basement level;
- (r) Overall storage volumes in accordance with the minimum storage volumes pursuant to Table D6 of standard D20 (Storage);
- (s) Confirmation that all apartments achieve the minimum bedroom and living area dimensions pursuant to Standard D24 of Clause 58 of the Yarra Planning Scheme;
- (t) A minimum of 40% of apartments within the development receive cross ventilation in accordance with standard D27
- (u) Operability of habitable room windows to be clearly notated
- (v) Demonstrate that existing corner building splays Heidelberg Road are not encroached by built form;
- (w) Remove reference to the waste chutes within the basement plans;
- (x) Swept path diagrams for a B99 design vehicle and the waste collection vehicle entering and exiting the site in a northerly direction, depicting the full road profile of Park Avenue, including the existing kerb outstand on the eastern side of the street.
- (y) Any amendments as required by the Amended Landscaping Plan pursuant to Condition 4
- (z) Any amendments as required by the Amended Sustainable Management Plan pursuant to Condition 6, including recommended changes to meet NCC
- (aa) Any amendments as required by the Amended Acoustic Report pursuant to condition 8
- (bb) Any amendments as required by the Wind Tunnel Study pursuant to Condition 14

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.

***Ongoing architect involvement***

3. As part of the ongoing consultant team, XO Projects 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.

***Amended Landscaping Plan Required***

4. Before the development commences, an amended Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Landscape Plan will be endorsed and will form part of this permit. The amended Landscape Plan must be generally in accordance with the Landscape Plan prepared by Urbis and dated 11 October 2017, but modified to include (or show):
  - (a) Reflect amended plans pursuant to Condition 1
  - (b) WSUD initiatives contained within the endorsed SMP report to be notated
  - (c) Removal of the three southernmost Plane Trees along Park Avenue
  - (d) Replace the two proposed *Acer platanooides* 'Crimson Sentry' trees with four *Acer negundo* 'Sensation' along Park Avenue
  - (e) Increase the width of the nature strip along Parkview Road to a minimum of 1.4m.
  - (f) Street paving materials consistent with Council's Public Domain Manual including:
    - (i) Sawn blue stone feature paving to entrances
    - (ii) Bluestone setts to carpark entrance thresholds

***Ongoing Landscaping Plan Requirement***

5. Before the new 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 at the cost of the permit holder and 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.

***Amended 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 SBE and dated 9 June 2017, but modified to include or show:
  - (a) Demonstrate a maximum cooling load of 21 Mj/m<sup>2</sup> for all apartments
  - (b) Removal of non-comital language (e.g. “where possible”)
  - (c) Prior to occupation, proposal is to demonstrate that a minimum 10% energy efficient improvements for the non-residential areas will be achieved
- 7. The provisions, recommendations and requirements of the endorsed Sustainable Design Assessment must be implemented and complied with to the satisfaction of the Responsible Authority.

***Amended Acoustic Report***

- 8. Before the development commences, an amendment Acoustic Report to the satisfaction of the Responsible Authority must be prepared by a suitably qualified acoustic engineer and must be submitted to and approved by the Responsible Authority. When approved, the Acoustic Report will be endorsed and will form part of this permit. The Acoustic Report must be generally in accordance with the Acoustic Report prepared by Acoustic Logic dated 7 April 2017, but modified to include:
  - (a) Reference to the decision plans and any changes pursuant to condition 1
  - (b) Potential noise impacts from the car park entries to the apartments above;
  - (c) Minimum Rw rating for lightweight external walls exposed to high levels of road traffic;
  - (d) Testing of existing noise emissions of the mechanical plant at 720-724 Heidelberg Road
  - (e) Daytime targets of 35dBA Leq to be met for habitable rooms and 30dBA Leq in bedrooms at night
  - (f) Consideration of noise levels on balconies
- 9. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.

***Waste Management Plan***

- 10. The provisions, recommendations and requirements of the endorsed Waste Management Plan generally in accordance with the Waste Management Report prepared by RB Waste Consulting Service dated 12 January 2018 must be implemented and complied with to the satisfaction of the Responsible Authority.

***Public Art Management Plan***

- 11. Before the development commences, 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) The location of the artwork (to be consistent with the endorsed development plans);
  - (b) Outline of methodology for commission;
  - (c) Details of the commissioned artist(s);

- (d) Description of art work, including:
    - (i) Materials;
    - (ii) Colours;
    - (iii) Dimensions;
    - (iv) Conceptual and site context rationale;
    - (v) Special features (for example lighting);
  - (e) Details of the installation process;
  - (f) Details of art work maintenance schedule and ongoing ownership/caretaker details; and
  - (g) Attribution plans (eg signage or plaque)
12. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the approved public art must be completed at no cost to Council and to the satisfaction of the Responsible Authority. Once completed, the public art must be maintained in accordance with the endorsed Public Art Management Plan to the satisfaction of the Responsible Authority.
13. Prior to the completion of the development, subject to the relevant authority's consent, the relocation of the public light poles adjacent to Allowah Terrace necessary to facilitate the development must be undertaken:
- (a) in accordance with any requirements or conditions imposed by the relevant authority;
  - (b) at the permit holder's cost; and
  - (c) to the satisfaction of the Responsible Authority.

#### **Wind Tunnel Study**

14. Before the development commences, a Wind Tunnel Study to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Wind Tunnel Study will be endorsed and will form part of this permit. The Wind Tunnel Study is to test the wind climate conditions at the following locations:
- (a) Areas discussed within the Wind Effects Statement prepared by Vipac dated 7 April 2017
  - (b) Along the Heidelberg Road façade and any recommendations to achieve an acceptable wind comfort level for outdoor seating;
  - (c) Residential lobby entry to Parkview road
  - (d) Adjacent street corners (Parkview Road & Heidelberg Road and Park Avenue & Heidelberg Road).
  - (e) Area under the pergola and any other seating areas on the roof top, with recommendations to demonstrate sitting comfort criteria if necessary.
15. The provisions, recommendations and requirements of the endorsed Wind Tunnel Study must be implemented and complied with to the satisfaction of the Responsible Authority.

#### **Public realm and Infrastructure**

16. Within three months of commencement of the development, the owner of the site must submit detailed engineering documentation to the satisfaction of the Responsible Authority and approved by the Responsible Authority and at the full cost of the owner showing the following:
- (a) Redesign of Park Avenue to accommodate the proposed vehicle crossovers and turning circle movements
  - (b) Reconstruction of the kerb and channel along Parkview Road, Heidelberg Road and Park Avenue
  - (c) Resheeting of the pavement along Parkview Road immediately outside the property's frontage

#### **Timing of works**

17. Before the building is occupied, all works required by condition 14 must be fully constructed and completed at the full cost of the owner to the satisfaction of the Responsible Authority.

**Relocated assets**

18. Prior to the completion of the development, subject to the relevant authority's consent, the relocation of the power pole on Park Avenue adjacent to the proposed vehicle entrance necessary to facilitate the development must be undertaken:
- (a) in accordance with any requirements or conditions imposed by the relevant authority;
  - (b) at the permit holder's cost; and
  - (c) to the satisfaction of the Responsible Authority.

**Damage to Council Infrastructure**

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.

**Vehicle Crossovers**

20. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any new vehicle crossing must be constructed:
- (a) in accordance with any requirements or conditions imposed by Council;
  - (b) at the permit holder's cost; and
  - (c) to the satisfaction of the Responsible Authority.
21. 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.

**PTV Condition**

22. The permit holder must take all reasonable steps to ensure that disruption to bus operations along Heidelberg Road are kept to a minimum during the construction of the development. Foreseen disruptions to bus operations and mitigation measures must be communicated to Public Transport Victoria fourteen (14) days prior.

**Lighting**

23. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating accesses to the car park, dwelling entrances and the residential lobby must be provided within the property boundary. Lighting must be:
- (a) located;
  - (b) directed;
  - (c) shielded; and
  - (d) of limited intensity,
- to the satisfaction of the Responsible Authority.
24. 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.
25. 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.

26. 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 Plan***

27. 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
- (vi) any site-specific requirements.

During the construction:

- (q) any stormwater discharged into the stormwater drainage system must be in compliance with Environment Protection Authority guidelines;
- (r) 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;
- (s) vehicle borne material must not accumulate on the roads abutting the land;
- (t) the cleaning of machinery and equipment must take place on the land and not on adjacent footpaths or roads; and
- (u) all litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly.

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

#### **Time Expiry**

29. This permit will expire if:

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

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

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

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

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

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

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

The permit holder must obtain approval from the relevant authorities to remove and/or build over the easement(s).



**CONTACT OFFICER:** Amy Hodgen  
**TITLE:** Coordinator Statutory Planning  
**TEL:** 9205 5330

**Attachments**

- 1 Decision Plans
- 2 Rendered Images
- 3 Shadow Analysis
- 4 Landscape Plans
- 5 PTV Referral Comments
- 6 Engineering Services Referral Comments
- 7 Engineering Services additional comments on Park Avenue
- 8 Strategic Transport Referral Comments
- 9 ESD Advisor Referral Comments
- 10 ESD Advisor Referral Comments on Initial Plans
- 11 Open Space Referral Comments
- 12 Open Space Referral Comments on Original Plans
- 13 DLA Urban Design Referral Comments
- 14 MEL Consultants Referral Comments
- 15 SLR Acoustic Referral Comments
- 16 City Works Referral Comments
- 17 Internal Urban Design Referral Comments

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**1.2 278 Gore Street, Fitzroy - PLN17/0301 - Use of the land as a Place of Assembly (Function Centre) and a reduction in the car parking requirement**

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**Executive Summary**

**Purpose**

1. This report provides the Internal Development Approvals Committee with an assessment of Planning Application PLN17/0301 at 278 Gore Street, Fitzroy. The report recommends approval of the application subject to a number of conditions.

**Key Planning Considerations**

2. Key planning considerations include:
  - (a) Land Use (Clause 17.01, Clause 21.04, Clause 32.09)
  - (b) Amenity impacts (Clause 13.04-1, Clause 22.01, Clause 22.05)
  - (c) Car Parking (clause 52.06).

**Key Issues**

3. The key issues for Council in considering the proposal relate to:
  - (a) Land Use;
  - (b) Off-site amenity;
  - (c) Car parking and traffic; and
  - (d) Objector concerns.

**Objector Concerns**

4. A total of thirty (30) objections were received to the application, these can be summarised as:
  - (a) Off-site amenity impacts (noise from deliveries, people and music, hours of operation);
  - (b) Car parking reduction and traffic issues; and,
  - (c) Inconsistency in application material (i.e. longer hours of operation).

**Conclusion**

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

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

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**1.2 278 Gore Street, Fitzroy - PLN17/0301 - Use of the land as a Place of Assembly (Function Centre) and a reduction in the car parking requirement**

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Trim Record Number: D17/199484

Responsible Officer: Principal Statutory Planner

<b>Proposal:</b>	Use of the land as a Place of Assembly (Function Centre) and a reduction in the car parking requirement
<b>Existing use:</b>	Residential
<b>Applicant:</b>	Converted Church
<b>Zoning / Overlays:</b>	Neighbourhood Residential Zone (Schedule 1) Heritage Overlay
<b>Date of Application:</b>	19 April 2017
<b>Application Number:</b>	PLN17/0301

**Planning History**

1. Planning Permit PL02/0138 was issued on 23 August 2002 for *part demolition, alterations and additions in association with a residence within the existing building (three levels).*
2. Planning Permit PLN14/0869 was issued on 17 October 2014 for *development of the land for part demolition and works.*

**Background**

3. The function centre use has been operating retrospectively, with a letter from Council's Planning Enforcement Department (dated 20 March 2017) included with the application and instructing the applicant to cease using the land in this manner. Two complaints were received during this time regarding the non-compliant use of the land.

**Existing Conditions**

Subject Site

4. The subject site is located on the south-eastern intersection of Gore Street and Greeves Street, approximately 60m to the west of Smith Street, Fitzroy. The principal frontage addresses Gore Street for a length of 12.6m and extends along Greeves Street for 21.48m. A laneway extends along the rear, eastern boundary. The overall site area is approximately 270sqm.
5. A former church, converted for residential use, occupies the site. The façade is set back 1.1m from Gore Street, with a 1m high metal fence and bluestone plinth extending along this boundary. A central arched, pedestrian entrance sits within the façade, with two vertical arched windows to either side. A gabled parapet sits above.
6. The building is constructed along the Greeves Street boundary and set back 0.9m from the southern boundary, with a pedestrian pathway located within this setback. Built form also directly abuts the rear boundary, with a garage door providing vehicle access from the rear laneway to a basement level garage.
7. The basement contains two separate storage rooms and a WC, along with a garage providing space for three cars and four bicycles. The proposed function space is located at ground level, with an elevated courtyard at the rear. A mezzanine level sits above; this level contains bedrooms associated with the residential use, and an area of storage.



Gore Street facade



Greeves Street frontage

Surrounding Land

8. The only site with direct abuttal to the subject site is to the south. A double-storey Victorian terrace is located on this land, with a blank wall extending along the shared boundary for a length of 9.4m. Secluded private open space (SPOS) is on the eastern side of the site, with a garage door providing vehicle access to this space via the rear laneway.
9. To the east is the laneway, which provides access to sites addressing Gore Street to the west and Hargreaves Street to the east. The laneway extends from Greeves Street in the north to St David Street in the south. On the opposite side of the laneway is a double-storey Victorian dwelling, addressing Greeves Street, with the side wall constructed directly along the eastern side of the laneway. Three windows address the subject site, in the dwelling's western wall. It is not clear whether these are associated with habitable rooms.
10. To the north, on the opposite side of Greeves Street, is a single-storey dwelling. This dwelling has a substantial front setback from Gore Street and extends along the Greeves Street boundary.
11. To the west, on the opposite side of Gore Street, is a double-storey building, known as Russian House. This building is occupied by the Russian Community Centre and the Russian Ethnic Representative Council (RERC) of Victoria. The building is used to host talks, discussions, films, folk dancing and social gatherings. The website for Russian House indicates that up to 80 patrons can be accommodated on the premises, with hours of operation varied throughout the week and weekends, including evenings. The building has been operating in this manner for a number of years, and has established existing use rights allowing this.
12. The site is located within proximity to the following public transport options;
  - (a) Smith Street tram routes – 60m to the east;
  - (b) Johnston Street bus routes – 160m to the north;
  - (c) Brunswick Street tram routes – 400m to the west.

## **The Proposal**

13. The key elements of the proposal can be summarised as follows:
  - (a) A proposed function centre, to operate with the following hours:
    - (i) Friday & Saturday – 9am to 9pm;
    - (ii) Sunday – 9am to 8pm.
  - (b) A maximum of 40 patrons is proposed; the patrons will only be accommodated at ground level. The proposed floor plan indicates that patrons can access the stairway to the mezzanine level, however this area does not form part of the proposed function centre space. If a planning permit is to issue, access to this stairway should be removed from the ground floor plan;
  - (c) Three car parking spaces and four bicycle spaces are provided within the basement (whilst three bicycle spaces are shown on the plans, the applicant intends to provide four. If a planning permit is to issue, amended plans can be required via a condition to show four spaces);
  - (d) Music within the premises would be limited to background levels at all times, via a single (small speaker) sound system.

## **Planning Scheme Provisions**

### Zoning

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

14. Pursuant to Clause 32.09-2 of the Scheme, a planning permit is required to use the site as a Place of Assembly, with a Function Centre nested under this use at Clause 75.09 of the Scheme.

Overlays

*Heritage Overlay*

15. As no buildings and works are proposed, there is no permit requirement under this overlay.

Particular Provisions

*Clause 52.06 – Car parking*

16. Pursuant to Clause 52.06-2, before a new use commences, the required car parking spaces must be provided on the land. The following table identifies the car parking requirement under Clause 52.06-5, the provision on site, and the subsequent reduction requested.
17. It is highlighted that the planning report submitted with the application specified that 5 on-site car parking spaces would be provided; however the plans demonstrate only 3 car parking spaces within the basement. The Applicant has confirmed that only 3 spaces will be accommodated.

Proposed Use	Quantity/ Size	Statutory Parking Rate	No. of Spaces Required	No. of Spaces Allocated
Place of Assembly	40 patrons	0.3 to each patron permitted	12	3

18. The development would have a parking shortfall of 9 spaces. Pursuant to Clause 52.06-3, a permit is required to reduce the number of car spaces required under Clause 52.06-5.

*Clause 52.34 – Bicycle Facilities*

19. Pursuant to Clause 52.34-1, a new use must not commence until the required bicycle facilities and associated signage has been provided on the land. The following table identifies the car parking requirement under Clause 52.34-3, the provision on site, and the subsequent reduction requested.

Proposed Use	Size	Statutory Rate - Employee	Statutory Rate - Visitor	No. of Spaces Required	No. of Spaces Allocated
Place of Assembly	Approx. 266sqm	1 to each 1500sqm of net floor area	2 plus 1 to each 1500sqm of net floor area	4	4

20. The statutory rate is met.

General Provisions

*Clause 65 – Decision Guidelines*

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

State Planning Policy Framework (SPPF)

*Clause 11 – Settlement*

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

*Clause 13.04-1 – Noise abatement*

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

*Clause 17.01-1 – Business*

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

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

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

*Clause 18.02-1 – Sustainable personal transport*

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

*Clause 18.02-2 – Cycling*

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

*Clause 18.02-5 – Car parking*

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

#### Local Planning Policy Framework (LPPF)

##### *Municipal Strategic Statement*

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

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

*Clause 21.08-7 – Fitzroy*

30. The following descriptions of the Fitzroy Neighbourhood are taken from the Scheme;

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

31. Figure 18 – Built Form Character Map under clause 21.08 of the Scheme identifies the subject site as being located in a heritage overlay which includes the objective to:

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

### Relevant Local Policies

#### *Clause 22.01 – Discretionary Uses in the Residential 1 Zone*

32. The objective of this clause is *to ensure that residential amenity is not adversely affected by non-residential uses.*

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

33. Pursuant to Clause 22.05 of the Scheme, this policy applies to applications for use or development within a Residential 1 Zone where the subject site is within 30 metres of a Business or Industrial Zone. In this instance, the Commercial 1 Zone is located 29m to the east of the site.
34. A relevant objective is *‘To ensure that residential uses located within or near commercial centres or near industrial uses enjoy a reasonable level of amenity’.*

### **Advertising**

35. The application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987* (the Act), by way of 50 letters sent to adjoining and neighbouring owners and occupiers and two signs displayed on site.
36. A total of thirty (30) objections were received to the application, these can be summarised as:  
(a) Off-site amenity impacts (noise from deliveries, people and music, hours of operation);  
(b) Car parking reduction and traffic issues; and,  
(c) Inconsistency in application material (i.e. longer hours of operation).
37. A Planning Consultation Meeting was conducted on 14 November 2017, with Council Officers, the Applicant and Objectors in attendance. There were no changes made to the proposal as a result of this meeting.

### **Referrals**

#### External Referrals

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

#### Internal Referrals

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

### **OFFICER ASSESSMENT**

40. The primary considerations for this application are:  
(a) Land Use;  
(b) Off-site amenity;  
(c) Car parking and Traffic; and  
(d) Objector concerns.

#### Land Use



41. The subject site is located within the Neighbourhood Residential Zone, with the relevant purpose of this zone *to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*
42. In assessing whether the location is appropriate for the proposed function centre, relevant decision guidelines outlined at Clause 32.09-12 of the Scheme note that the following elements of the non-residential use must be considered;
  - (a) *Whether the use or development is compatible with residential use.*
  - (b) *Whether the use generally serves local community needs.*
  - (c) *The scale and intensity of the use and development.*
  - (d) *The provision of car and bicycle parking and associated accessways.*
  - (e) *Any proposed loading and refuse collection facilities.*
  - (f) *The safety, efficiency and amenity effects of traffic to be generated by the proposal.*
43. Further, Clause 22.01 (Discretionary Uses in the Residential 1 Zone) provides the following policy to be met by such non-residential uses;
  - (a) *Existing buildings constructed for non-residential purposes are the preferred location for non-residential uses.*
  - (b) *Food and drink premises, places of assembly, places of worship and plant nurseries should have access to and adjoin a road in a Road Zone.*
  - (c) *Except on land adjoining and gaining direct access from a road in a Road Zone:*
    - (i) *all required car parking should be on-site.*
    - (ii) *the scale of the proposed use should be compatible with providing service to the local residential community.*
  - (d) *Hours of operation should be limited to 8am to 8pm except for convenience shop.*
  - (e) *New buildings and works should be consistent with the scale, bulk and character of the area.*
  - (f) *Noise emissions should be compatible with a residential environment.*
44. The proposed function centre is to be located within a former church building (constructed in 1859), with the site also used in the past as a furniture factory. This indicates that the original uses of the land were non-residential. A letter of objection indicates that the commercial use of the land was converted to residential in 2002, and has been operating as such for the past 15 years. It is highlighted that whilst the applicant seeks to use the building as a function centre on Fridays, Saturdays and Sundays, the primary use of the land would remain residential for the majority of the week.
45. A Patron Capacity Report was submitted, which confirmed that the facilities are adequate to cater for a total of 40 people, as is proposed.
46. The hours of operation and the scale of use is considered to be appropriately limited with reference to the residential zone. The maximum number of patrons is restricted, and the hours do not extend into the more sensitive night-time period (after 10pm). Whilst the 9pm close exceeds the recommended 8pm closing time in Residential Zones as outlined in Clause 22.01 of the Scheme, this is considered acceptable given it is limited to one hour, on Friday and Saturday nights.
47. The nearby Commercial 1 Zone and the proximity of the Smith Street Activity Centre are also relevant in light of the acceptability of the non-residential use proposed. It is widely accepted that dwellings within close proximity to commercially zoned land may experience higher than typical noise and activity impacts than those located centrally within a residential hinterland. In this instance, the site is less than 30m from the Commercial 1 Zone. The context of the site is therefore a relevant consideration.
48. The site has direct abuttal with one residential dwelling, with two street frontages and one laneway providing a degree of separation between the other surrounding residential sites.

It is highlighted that Russian House, to the west of the site, operates in a larger capacity and more often than the proposed function centre, with the long-term nature of this use appearing highly compatible with the residential environment. Council records indicate that no complaints have been lodged against the use of this venue in the past.

49. Whilst the site does not provide direct access to a Road Zone, on-site parking is available within a basement level, with access provided from the rear laneway. This car parking will be used by function employees only. This will allow catering staff to become familiar with the site access, thereby minimising traffic disruption to the adjacent residential properties also utilising this laneway. The context of the land with regards to car parking and vehicle access will be discussed in detail later within this report.
50. It is noted that the site has three road abutments, with Greeves Street to the north, Gore Street to the west and the laneway to the east. With vehicle access restricted to the laneway, off-site amenity impacts to the remaining street interfaces will be limited. The two street frontages will also ensure that the impact of additional traffic generated by the use (in the form of taxis/uber etc.) will be shared, with Gore Street not being the only accessible pick-up/drop-off point to the site. In addition, the set times under which functions operate will ensure that any traffic impacts will be short-term, with minimal disruption once the function is underway. This outcome is acceptable.
51. The site's proximity to an activity centre provides good access to services, infrastructure and public transport. This provides for a sustainable outcome with regards to land-use and transport integration. This is consistent with clause 21.06 (Transport) at the local level, which aims to reduce car dependency by promoting walking, cycling and public transport use as viable and preferable alternatives.
52. Noise emissions, along with other potential off-site amenity impacts, will be discussed below; however it is considered that based on the restricted scale and hours of the use and its proximity to an activity centre; the proposed location for a function centre of this capacity is appropriate.

#### Off-site amenity impacts

53. Clause 22.05-1 identifies that commercial activities must be well managed with regard to their proximity to residential uses. The policy includes various considerations for non-residential uses located near residential properties, with decision guidelines relating to overlooking, overshadowing, noise, fumes and air emissions, light spillage, waste management and other operational disturbances that may cause unreasonable detriment to the amenity of nearby residential sites.
54. The most direct interface with the site is the dwelling immediately to the south (No. 276 Gore Street), with a number of windows associated with a dwelling also located on the eastern side of the rear laneway (at No. 126 Greeves Street). In order to ascertain potential noise impacts generated by the use, an acoustic assessment was undertaken by TTM Consultants. This assessment provided the following recommendations to ensure that noise levels were at appropriate levels at all times. It is noted that the noise assessment was based on the windows within the premises and the doors to the rear courtyard being open.
  - (a) A noise limiter should be installed to ensure amplified background music is below the acceptable limits at all times. The device to be used is to be restricted to a phone/multi-media dock;
  - (b) The use of the rear courtyard should be limited to a maximum of 2 patrons during functions. Should more people use the courtyard, an acoustic barrier should be constructed.

55. The acoustic assessment was reviewed by SLR Consulting, who acknowledged that potential music noise levels would be reasonable, based on the use of a noise limiter. A number of conditions relating to the use of the noise limiter were recommended, with follow-up testing required to demonstrate that the identified SEPP N-2 limits would be met. It was also recommended that music not be played until 10am on Saturdays and 12midday on Sundays, unless further background noise monitoring is conducted to identify limits at these times, and the noise limiter is set to ensure that they are not exceeded. Any changes to the speaker position or the sound system should be reviewed by a suitably qualified acoustic engineer. All of these recommendations can be incorporated into an amended acoustic report and permit conditions, should a permit be issued.
56. Concerns were raised with the level of patron noise associated with the use, with SLR determining it likely that patron noise levels would be higher than the level of music if the windows and doors were open, and that there is the potential for patron noise to cause nuisance to No. 126 Greeves Street (to the east), particularly from the rear courtyard. A number of windows associated with this dwelling address the rear section of the site, which may allow views into the rear courtyard and doors. In their assessment, SLR recommended that if there is a line of sight from No. 126 Greeves Street to the venue, then the doors should be kept closed when the functions are taking place.
57. The Applicant has indicated that they could keep the doors and windows closed during functions and were also agreeable to allowing no access to the rear courtyard during functions in order to alleviate noise concerns from this space. This outcome is considered reasonable and can be facilitated via conditions of the permit, if one is to issue. Whilst the restricted use of the rear courtyard will require smokers to use the Gore Street or Greeves Street footpaths, this issue was not highlighted as a concern by SLR, who noted that there is no external seating on either footpath and the red line plan associated with any liquor licence is unlikely to include these areas. These factors tend to limit impacts of noise from people on the pavement.
58. Council's *Footpath Trading Policy* (June 2013) provides guidance as to whether external seating is an appropriate addition to a business. In this instance, the following relevant matters would be considered if the Applicant was to apply for a Public Space Licence Agreement;
- (a) *having regard to local conditions, whether the footpath trading proposal has the potential to compromise pedestrian or traffic safety, public amenity or impact negatively on the functionality of a footpath, roadway, car parking space, loading bay, public amenity and or asset or the like;*
  - (b) *the potential amenity impacts of the proposal, including the cumulative impact of footpath trading on nearby occupancies;*
  - (c) *the interaction between the proposed use of the footpath area including proposed structures with existing heritage elements;*
  - (d) *key features of the local environment.*
59. The policy specifically discusses sites not in commercial zones, and notes '*Where the site is not in a commercial zone or in a commercial area, but rather a standalone site, the further intensity of the trading and its impact on the local amenity by reasons of car parking, noise, safety will be a further consideration. In these instances, as a general rule, outdoor trading in residential zones will be kept to a minimal supply to enable some improved vitality in the street but not impact unduly on the immediate area by reason of intensity and consequential impacts*'.
60. Based on these considerations and the potential for unreasonable amenity impacts to the residential zone if activity is increased beyond the boundaries of the site, it is highly unlikely that a footpath trading licence would be granted by Council.

61. Due to the nature of the use there may be some noise generated by pedestrian activity, however this will be restricted to the hours in which the function begins and ends, and is not an ongoing issue throughout the day. The uses are not proposed to take place after 9pm on any night, so there is no issue of sleep disturbance when patrons depart the venue. In accordance with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2), the night-time period for an indoor venue that operates two or three days per week begins at 11pm on Friday and Saturday, and 10pm on Sundays. The proposed use will therefore not encroach into these night-time periods.
62. Council's Community Amenity Unit raised no objection to the use of the land as a function centre, based on the limited hours being sought and the restricted scale of patrons. To ensure that off-site amenity impacts are appropriately managed, the recommendations provided by TTM Consulting were supported, in that a maximum of 2 patrons should be allowed in the rear courtyard at any one time, and a noise limiter should be installed. As discussed, as permit conditions will restrict any use of the rear courtyard by patrons and will require the installation and follow-up testing of a noise limiter, these recommendations are exceeded.
63. Based on the incorporation of these conditions in any planning permit issued, it is considered that noise emissions will be compatible with the surrounding residential environment and are acceptable.
64. The proposed function centre will involve the service of food, with a kitchen located within the premises, however external catering companies will be used. This will limit the extent of food preparation within the site, thereby also limiting any odours or air emissions that would unreasonably impact on the surrounding area. While this may be the case, a condition of permit would require that the proposed uses not detrimentally affect the surrounding area 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.*
65. There is no liquor licence being sought as part of the proposal. Whilst the majority of catering companies operating on the site will have a 'renewable limited licence' which allows the service of alcohol to patrons, this liquor licence type is associated only with the catering company and cannot be assessed as part of this proposal. Renewable limited licences can have restrictions which limit the range of products that can be served, along with the number of patrons and hours in which liquor can be supplied.
66. The applicant has provided limited details regarding the management of deliveries and the collection of waste. A standard Council condition restricts the delivery and collection of goods to between 7am and 10pm on any day. Given the residential environment in which the venue is located, it is considered appropriate for these hours to be further restricted in line with the potential operating hours of the venue. A condition of the permit could therefore restrict deliveries to and from the site to the following;
- (a) Friday & Saturday – 9am to 9pm;
  - (b) Sunday – 9am to 8pm.
67. In line with Council policy, the collection of any waste associated with the commercial use of the premises must be undertaken by a private contractor in order to alleviate disruption to nearby properties. A Waste Management Plan (WMP) outlining how waste will be stored, managed and collected to the satisfaction of the Responsible Authority can be required via a permit condition, if a permit is to issue.
68. Council's standard condition regarding the management of waste stipulates that the emptying of bottles and cans into bins may only occur between 7am and 10pm on any day.

Again, given the more sensitive residential interfaces, it is reasonable to further restrict these activities to accord with the operating hours of the function centre. An additional condition, if a permit is to issue, can restrict the emptying of bottles and cans into bins between the following hours;

- (a) Friday & Saturday – 9am to 9pm;
- (b) Sunday – 9am to 8pm.

69. With regards to the remaining off-site amenity impacts such as overlooking and overshadowing, the restricted use of the rear courtyard and the lack of development associated with the application will ensure that these will not occur. The proposed function centre would be located within an existing building, with no internal or external modifications proposed. This ensures the maintenance of the existing heritage streetscape, which is considered appropriate.
70. In summary, the proposal is not expected to adversely affect the amenity of surrounding land and based on the conditions outlined above, will be consistent with relevant objectives outlined in clause 22.05 of the Scheme.

#### Traffic, access, and car parking

71. As noted earlier, the proposed use of the site as a Place of Assembly (Function Centre) for 40 patrons generates a statutory car parking requirement of 12 spaces, with 3 on-site car parking spaces provided. A reduction of 9 car parking spaces is to be considered. In assessing this car parking reduction, the Responsible Authority must have regard to a number of factors outlined at clause 52.06-6 of the Scheme. These relate to the associated car parking demand that the use may generate, the availability and proximity of alternative transport options, provisions for bicycle parking within the site and the likelihood of multi-purpose trips within the locality which may incorporate the proposed use. These are discussed throughout the assessment below.

#### *Car parking demand*

72. With regards to the car parking demand generated by the proposed use, the comments received from Council's Traffic Engineering Unit have suggested it would be acceptable to utilise a car parking rate of 0.2 spaces per patron to reflect the inner-city context. This is based on evidence presented at a VCAT Hearing (P2915/2012), where the Tribunal accepted a rate adopted by SALT Traffic Consultants for a function centre in South Yarra with a rate of 0.2 spaces per patron. The context of this site is similar, and applying this rate to the current proposal would generate a reduced parking demand of 8 spaces. As the on-site car parking is to be used for function staff, these spaces must be accommodated off-site.

#### *Car parking & public transport availability*

73. The site is conveniently located close to alternative and more sustainable modes of transport, including trams along Smith Street and Brunswick Street to the east and west respectively, and buses along Johnston Street to the north. Given the closing time of 9pm on Friday and Saturday nights, these services will be operational and easy to access for all patrons at this time.
74. From a traffic engineering perspective, the waiver of car spaces for the function centre should not result in an adverse impact on existing parking conditions in the area. The area's coverage of restrictive short-stay parking, permit only parking zones and high parking demand would encourage patrons to utilise public transport or other methods (taxi/uber) to access the site.
75. It is also highlighted that based on the function centre use, people who intend to consume alcohol are less likely to drive to the premises.

76. The provision of basement car parking allows for catering companies to park on-site. Given this provision, it is considered reasonable for a condition to be added to the permit to ensure that parking for function employees is accommodated within the garage.
77. On balance it is considered that the statutory shortfall of on-site car parking is acceptable for the proposed use and site context and can be justified on the basis of the car use demand generated in the study outlined above.

*Car parking layout*

78. The basement garage is accessed via a 3.01m wide laneway along the site's eastern boundary. The width of the doorway is 5.57m. These dimensions have been assessed by Council Engineers, who determined that the doorway width is adequate to provide entry and exit for a B85 design vehicle.
79. Three car parking spaces are provided within the garage, with each space 2.6m x 4.9m and satisfying AS/NZS 2890.1:2004. Whilst internal movements will be required to access all spaces, this is considered acceptable and the on-site parking would be managed by the owners at the function centre. As only function staff will access these spaces, they will be familiar with the basement layout and any vehicle movements required.

*Provisions for bicycle parking*

80. The site has very good accessibility to the on-road bicycle facility network. The provision of 4 spaces on-site meets the statutory requirement outlined within clause 52.34 of the Scheme and will ensure that ample opportunities for bike storage will be provided. The promotion of sustainable personal transport as an alternative transport method is also consistent with clause 18.02-1 of the Scheme.

*Traffic*

81. The traffic generated by the proposed use is expected to be in the form of private vehicles associated with patrons, taxis, ubers and delivery vans. Due to the limited capacity of the venue, the use is not anticipated to result in a discernible increase in traffic conditions, with the proximity of the function centre to alternative transport modes encouraging patrons to access the site in various ways.
82. Any additional traffic will be restricted to the beginning and ends of each function, with the nature of the use ensuring that on-going traffic impacts will not occur throughout each day of operation. Any additional impacts will be limited in duration. Further, given the proximity to the Smith Street Activity Centre, there are already likely to be a higher number of vehicle movements than in a typical residential street.
83. It is therefore not considered that the proposal will generate a high rate of traffic in addition to the existing traffic conditions and will not adversely affect current conditions within the residential neighbourhood.

Objector Concerns

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

*Off-site amenity impacts (noise from deliveries, people and music, hours of operation);*

- (a) These impacts have been discussed within paragraphs 53-70 of this report, with a number of conditions recommended if a planning permit is to issue to restrict impacts associated with these activities.

*Car parking reduction and traffic issues;*

- (b) These issues have been discussed within paragraphs 71-83 of this report.

*Inconsistency in application material (i.e. longer hours of operation).*

- (c) The hours of operation being sought are clearly outlined in the planning report at paragraph 13 and have been referenced throughout this assessment.

## **Conclusion**

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

## **RECOMMENDATION**

That having considered all objections and relevant planning documents, the Committee resolves to issue a Notice of Decision to Grant a Permit PLN17/0301 for use of the land as a Place of Assembly (Function Centre) and a reduction in the car parking requirement at 278 Gore Street, Fitzroy subject to the following conditions:

1. Before the use and development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans (received by Council on 14 July 2017) but amended to show:
  - (a) The external rear courtyard and stairs to the mezzanine level removed from the 'function area use' for patrons as outlined on the ground floor plan;
  - (b) The basement car parking spaces allocated to catering staff when the venue is used for functions;
  - (c) Four separate bicycle parking spaces in the basement.
2. The use as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. Except with the prior written consent of the Responsible Authority, no more than 40 patrons are permitted within the function centre at any one time.
4. Except with the prior written consent of the Responsible Authority, the function centre use authorised by this permit may only operate between the following hours;
  - (a) Friday & Saturday – 9am to 9pm;
  - (b) Sunday – 9am to 8pm.
5. All windows and doors must be closed during functions.
6. The rear courtyard must not be accessed (or used) by patrons.
7. 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.

8. The use must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
9. The use must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).
10. Before the use commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by TTM and received by Council on 13 July 2017, but modified to include;
  - (a) The location of the noise limiter;
  - (b) Specifications that music must not be played until 10am on Saturdays and 12midday on Sundays, unless further background noise monitoring is conducted to identify limits at these times, and the noise limiter is set to ensure that they are not exceeded;
  - (c) All windows and doors must be closed when a function is underway;
  - (d) Access to the rear courtyard is restricted when a function is underway, with no patrons to access this space.
11. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
12. Prior to the commencement of the use authorised by this permit, a Noise Limiter must be installed on the land. The Noise Limiter must;
  - (a) Be set at a level specified by a qualified acoustic engineer;
  - (b) Ensure the emission of noise from amplified music does not exceed the levels specified in the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2);
  - (c) Be located within a secure location, accessible only to the duty/floor manager, with any changes to the speaker position or the sound system reviewed by a suitably qualified acoustic engineer; and,
  - (d) Be maintained and operated at all times;To the satisfaction of the Responsible Authority.
13. The provision of music and entertainment on the land must be at a background noise level.
14. Speakers external to the building must not be erected or used.
15. Before the use commences, a Waste Management Plan (WMP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The WMP must specify that the collection of waste from the site associated with the function centre use must be by private collection, unless with the prior written consent of the Responsible Authority.
16. The provisions, recommendations and requirements of the endorsed WMP must be implemented and complied with to the satisfaction of the Responsible Authority.
17. Except with the prior written consent of the Responsible Authority, the emptying of bottles and cans into bins must only occur between 9am to 9pm – Friday & Saturday and 9am to 8pm – Sunday.
18. Except with the prior written consent of the Responsible Authority, the delivery and collection of goods to and from the land must only occur between 9am to 9pm – Friday & Saturday and 9am to 8pm – Sunday.



19. This permit will expire if the use is not commenced within two years from the date of this permit. The Responsible Authority may extend the period referred to if a request is made in writing before the permit expires or within 6 months afterwards for commencement.

Notes:

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

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

**Attachments**

- 1 PLN17/0301 - 278 Gore Street Fitzroy - Engineering comments
- 2 PLN17/0301 - 278 Gore Street, Fitzroy - SLR Acoustic Referral comments
- 3 PLN17/0301 - 278 Gore Street, Fitzroy - Civic Compliance referral comments
- 4 PLN17/0301 - 278 Gore Street, Fitzroy - Additional SLR Acoustic Comments
- 5 PLN17/0301 - 278 Gore Street Fitzroy - Advertising S52 - Plans

- 
- 1.3 202 - 204 Johnston Street, Fitzroy VIC 3065 – Planning Permit Application No. PLN17/0228 - Development of the land for buildings and works (construction of a shelter to the rear courtyard of the existing building) and the construction and display of advertising signage (including internally illuminated signs).**
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## **Executive Summary**

### **Purpose**

1. This report provides an assessment of the above planning application, which seeks approval for development of the land for buildings and works (construction of a shelter to the rear courtyard of the existing building) and the construction and display of advertising signage (including internally illuminated signs).

### **Key Planning Considerations**

2. Key planning considerations include:
  - (a) Clause 15.01-2 (*Urban Design Principles*);
  - (b) Clause 15.03-1 (*Heritage*);
  - (c) Clause 22.02 (*Heritage Guidelines for sites subject to the Heritage Overlay*);
  - (d) Clause 22.04 (*Advertising Signs Policy*); and
  - (e) Clause 52.05 (*Advertising Signs*).

### **Key Issues**

3. The key issues for Council in considering the proposal relate to:
  - (a) Advertising Signage;
  - (b) Buildings and Works; and
  - (c) Objector concerns.

### **Objector Concerns**

4. Six (6) objections were received to the application, these can be summarised as:
  - (a) Adverse visual amenity and heritage impacts of advertising signage;
  - (b) Lightspill/glare from the proposed neon sign to nearby residences; and
  - (c) Use of the proposed shelter would increase amenity impacts from the hotel (in particular, noise emissions).

### **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: Madeleine Moloney**  
**TITLE: Statutory Planner**  
**TEL: 92055009**

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**1.3 202 - 204 Johnston Street, Fitzroy VIC 3065 – Planning Permit Application No. PLN17/0228**


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Trim Record Number: D18/7201

Responsible Officer: Principal Statutory Planner

<b>Proposal:</b>	Development of the land for buildings and works (construction of a shelter to the rear courtyard of the existing building) and the construction and display of advertising signage (including internally illuminated signs)
<b>Existing use:</b>	Hotel/Tavern
<b>Applicant:</b>	Rochester Hotel
<b>Zoning / Overlays:</b>	Commercial 1 Zone; Road Zone (Category 1) (abuttal); Heritage Overlay (Schedule 334); Design & Development Overlay (Schedule 10); Environmental Audit Overlay
<b>Date of Application:</b>	23 March 2017
<b>Application Number:</b>	PLN17/0228

**Planning History**

1. Planning permit 1886 was issued by Council on 25 June 1992 to *refurbish and extend the hotel.*
2. Planning permit 2101 was issued by Council on 23 October 1992 for *painting and erection of signage on the Rochester Castle Hotel.* The signage approved by this permit has since been removed.
3. Planning Permit PL01/0396 was issued by Council on 2 May 2001, for *painting.*
4. Planning Permit PL01/0634 was issued by Council on 17 April 2002, for *buildings and works to the rear courtyard including the demolition of and construction of a fence.*
5. Planning Permit PL02/1039 was issued by Council on 22 May 2003, for *buildings and works involving the extension of footpath and creation of outdoor seating area to George Street and alterations to the intersection of George Street and Johnston Street.*
6. Planning Permit PL07/0773 was issued by Council on 18 December 2007 for *partial demolition of the existing fence and gate on the eastern boundary to allow for the construction of a new fence and door.*
7. Planning application PL08/1083 was submitted on 12 December 2012 and was subsequently withdrawn on 20 February 2009.
8. Planning permit PLN12/1108 was issued by Council on 11 January 2013 for development of the land for alterations and additions to remove the existing tiled roof to the rear of the building and construct new roofing.
9. Planning application PLN13/0583 (for buildings and works, including partial demolition) lapsed on the 23 October 2013 as further information was not received within the prescribed timeframe.
10. Planning permit PLN15/1008 was issued by Council on 15 December 2015 for *development of the land for buildings and works.* This permit authorised installation of external speakers and spotlights to the building.

11. Planning application PLN16/0784 (for buildings and works and signage) lapsed on 14 February 2017 as further information was not received within the prescribed timeframe. This application was largely retrospective and essentially sought permission for a similar proposal to that being considered under the current application.

## **Background**

12. The application was lodged on 23 March 2017. It was lodged as a result of enforcement action by Council's Civic Compliance Unit (planning enforcement). It is noted that a number of signs (which do not have planning permission) have been recently removed from the site to ensure that only the signs proposed under this application are visible on the building.
13. Further information was requested from the applicant, and following satisfactory submission, the application was advertised in August 2017. Six (6) objections were received to the application. It is noted that some objections were received prior to the advertising of the application.
14. A consultation meeting was held on 10 October 2017. The meeting was attended by the applicant, Council officers and one objector (who submitted signed statements confirming their attendance on behalf of three other objectors).
15. Amended plans were submitted to Council on 15 December 2017 under Section 57A of the *Planning and Environment Act 1987* (the Act) in response to Council and objector concerns. The amended plans deleted the proposed 9.16sqm "bill poster display wall" (promotion sign) attached to the eastern boundary fence of the courtyard (along the George Street frontage).
16. The amended plans were not re-advertised (an exemption from advertising was approved at Council's Statutory Planning Department's internal "Development Assessment Panel" on 5 January 2018) as the changes proposed were determined to be of no material detriment.
17. The plans amended under Section 57A of the Act now form the decision plans and form an attachment to this report.

## **Existing Conditions**

### Subject Site

18. The subject site is located on the south-west corner of Johnston Street and George Street, in Fitzroy. The site is rectangular in shape, with a frontage to Johnston Street of 11.89m and a frontage to George Street of 34.29m, resulting in a total site area of approximately 408sqm.
19. The site is developed with a double-storey, Victorian-era hotel / tavern building, with a single storey component at the rear which is set back from George Street to provide for an outdoor courtyard/beer garden which is bounded by a high, solid fence along George Street.
20. The building has a splayed frontage at the corner of Johnston and George Streets, with double doorways in the splay providing entry to the premises. Windows and additional pedestrian entrance doors are located along both street frontages.
21. The building has a large parapet with decorative pediment along the Johnston Street and part George Street frontages. The parapet is inscribed with "Rochester Castle Hotel" and "Established 1852". The building, as it presents to Johnston Street and George Street, appears largely intact in relation to original features and still operates as a hotel/tavern over both floors.
22. A number of advertising signs, including internally illuminated signs, and flush-mounted promotion signs are attached to the Johnston Street and George Street facades of the building. Retrospective approval for these signs (and some others not yet displayed) is sought as part of this planning application.

23. There are no restrictive covenants listed on the certificate of title.

### Surrounding Land

24. The site abuts Johnston Street - contained within a Road Zone Category 1 - and is situated between two Major Activity Centres - the Smith Street Major Activity Centre (approximately 210m to the east) and the Brunswick Street Major Activity Centre (approximately 270m to the west).
25. The surrounding area contains a mixture of residential and commercial uses. Built form along this section of Johnston Street is highly varied in terms of built form typology and includes low scale period dwellings and shop/dwellings set on narrow lots, as well as coarse grained modern/contemporary commercial buildings - often used for offices or bulky retail. Commercial premises are concentrated along and near Johnston Street (reflecting the Commercial 1 zoning) and side streets give way to residential uses.
26. There is a high level of advertising signage in the immediate vicinity to the subject site, generally concentrated along the Johnston Street frontage. Signage is typically for business identification purposes and includes internally illuminated signs, under-awning signs, above-verandah signs, window decals, and verandah fascia signs. Major promotional signs are also evident along Johnston Street.
27. Immediately to the south of the subject site (No. 341-347 George Street) is a single storey, brick former factory building which is currently used as an office. The building is fully constructed to all title boundaries, including a solid brick wall to the shared boundary with the subject site. It has an internally illuminated business identification sign projecting from the George Street façade, above the entry. This site is subject to a current planning permit application for part demolition and construction of a seven storey, mixed use development (PLN16/1116). Further south, across Chapel Street, is the Fitzroy Primary School and associated grounds.
28. Immediately to the west of the subject site is a row of relatively intact single-storey, Victorian-era terrace dwellings, fronting Johnston Street.
29. To the east of the subject site (across George Street) is a veterinary clinic (operating from a former service station building). The veterinary clinic has a prominent, internally illuminated pole sign located along the Johnston Street frontage. To the south of the Veterinary premise is a row of three double-storey dwellings, within the Commercial 1 Zone.
30. To the north of the subject site (on the north-west corner of Johnston Street and George Street) is a double-storey modern commercial building. This building contains a number of different tenants, including office and retail uses. Various business identification signs are attached to glazing at ground and first floor and also to the fascia of ground floor entrance canopies.
31. To the north of the subject site (on the north-east corner of Johnston Street and George Street) is a triple-storey mixed use development which contains retail at ground floor and includes a number of residences within the two upper levels. This building has business identification signage at ground floor, mainly along the Johnston Street façade, including window decals and a lightbox above the main entry.

### **The Proposal**

32. The application proposes buildings and works (construction of a shelter within the rear courtyard of the existing building) and the construction and display of advertising signage (including internally illuminated signs), with further details described to follow.

### *Buildings and Works*

33. A partially roofed shelter (6.59m wide by 8.23m long) is proposed to be constructed within the existing rear courtyard/beer garden, adjacent the George Street frontage.
34. The shelter is a maximum height of 4.12m at the western side (which adjoins the single storey part of the existing hotel building) and slopes down to a height of 3.61m at the George Street frontage.
35. The northernmost 3m of the shelter is proposed to be roofed with the rest of the structure being open. Materials comprise corrugated Perspex roof sheeting and hardwood timber posts.
36. This shelter has already been constructed, with the exception of the roofing, and hence permission for this shelter is sought partially retrospective.

*Advertising Signage*

37. A total of 8 signs are proposed to the building as set out in the table below.

	<b>Type of Sign</b> (non-illuminated unless otherwise specified)	<b>Location</b> (all ground floor unless otherwise specified)	<b>Area / Dimensions</b> (width by height, unless otherwise specified)	<b>Restrospective Application?</b> (Yes/No)
<b>Sign 1</b>	Internally illuminated business identification sign ("Beer branded lightbox")	George Street façade, attached, via a bracket, above the northernmost pedestrian entry door.	0.28 sqm (0.6m diameter)	Y
<b>Sign 2</b>	Promotion sign ("Poster display board")	George Street façade, adjacent main entry door within splay.	1.87sqm (0.76m by 2.458m)	Y
<b>Sign 3</b>	Internally illuminated, business identification sign ("Rochester Hotel Lightbox Sign")	Above main pedestrian door to splay.	0.46sqm (1.42m by 0.328m)	Y
<b>Sign 4</b>	Internally illuminated, business identification sign ("Rochey branded neon sign")	Johnston Street façade, first floor level, immediately at corner of George Street.	1.77sqm (1.5m diameter)	Y
<b>Sign 5</b>	Promotion sign ("Menu/promotional display board")	Johnston Street façade, adjacent pedestrian entry door.	0.15sqm (0.45m by 0.325)	N (this sign has been removed since the application was lodged).
<b>Sign 6</b>	Promotion sign ("Menu/promotional display board")	Johnston Street façade, adjacent pedestrian entry door.	0.15sqm (0.45m by 0.325)	Y
<b>Sign 7</b>	Internally illuminated business identification sign	Johnston Street façade, attached via bracket, above	0.63sqm (0.76m by 0.835m)	N

	("Beer branded lightbox - diamond shaped")	pedestrian entry door.		
<b>Sign 8</b>	Promotion sign ("Poster display board")	Johnston Street facade located between the two easternmost windows.	1.87sqm (0.76m by 2.458m)	Y
<b>Total</b>			7.18sqm	

38. It is noted that promotion signs 2, 5, 6 and 8 are proposed to contain variable content with signs 5 and 6 for displaying menus or similar, and signs 2 and 8 for displaying current events/activities within the subject site.

**Planning Scheme Provisions**

Zoning

*Commercial 1 Zone*

39. Pursuant to clause 34.01-4 of the Scheme a permit is required to construct a building or construct or carry out works. Decision guidelines are at clause 34.01-8.
40. Pursuant to clause 34.01-9 of the Scheme, the advertising sign requirements are contained at Clause 52.05. This zone is in Category 1.

*Road Zone (Category 1)*

41. Pursuant to clause 36.04-4 of the Scheme, a permit is required to display a sign over the road formation or over land within 600 millimetres of the road formation. For other land in this zone, the category of advertising control which applies is the category which applies to the adjoining zone nearest to the land.
42. In this instance, all the proposed signs within the Road Zone are set back greater than 600mm from the road formation and therefore no permit is required under this zone. As the nearest zone is the Commercial 1 Zone, hence the relevant controls for these advertising signs are found at Clause 52.05 of the Scheme (Category 1).

Overlays

*Heritage Overlay (Schedule 334)*

43. Pursuant to clause 43.01-1 of the Scheme, a permit is required to construct or display a sign, and to construct a building or construct or carry out works.

*Design & Development Overlay (Schedule 10 - Johnston Street Precinct - West of Smith Street)*

44. Pursuant to clause 43.02-2 of the Scheme a permit is required to construct a building or construct or carry out works. Decision guidelines are at clause 43.03-5 and Schedule 10.
45. Schedule 10 of the Design and Development Overlay sets out a preferred future character for the Johnston Street Precinct, west of Smith Street, and design objectives and principles to achieve this.  
 The preferred future character is defined as *a more consistent streetscape with the street-frontage 'façade wall' at the predominant two to three storey height of 20th and 19th Century buildings. Vibrant street life and increased pedestrian activity due to an increasing amount of street oriented development particularly on Johnston Street.*

46. The following design objectives are included in the Schedule:
- (a) *To retain the valued features which contribute to the preferred future character and heritage of the area.*
  - (b) *To ensure development fits with its context and the preferred future character.*
  - (c) *To develop streets with a human scale and vibrant street life.*
  - (d) *To improve the pedestrian environment in Johnston Street.*
  - (e) *To encourage high quality new development.*

#### *Environmental Audit Overlay*

47. Pursuant to the provisions of Clause 45.03-1 of the Scheme:
- (a) *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:*
    - (i) *A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or*
    - (ii) *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.*
48. The requirements of the Environmental Audit Overlay are not applicable to the proposal as the site is not associated with any sensitive uses.

#### Particular Provisions

##### *Clause 52.05 – Advertising Signs*

49. Under Clause 52.05-7 of the Scheme (Category 1 - Minimum Limitation), the purpose is: *To provide for identification and promotion signs and signs that add vitality and colour to commercial areas.*
50. Business identification signs and promotion signs do not require a planning permit provided the following conditions are met:
- (a) *The total advertisement area of all signs to each premises must not exceed 8 sq m. This does not include a sign with an advertisement area not exceeding 1.5 sq m that is below a verandah or, if no verandah, that is less than 3.7 m above pavement level*
51. An internally illuminated sign does not require a planning permit provided the following conditions are met:
- (a) *The total advertisement area to each premises must not exceed 1.5 sq m.*
  - (b) *No part of the sign may be above a verandah or, if no verandah, more than 3.7m above pavement level.*
  - (c) *The sign must be more than 30 m from a residential zone or pedestrian or traffic lights.*
52. Having regard to the above (and that the total advertisement area of all the signs is 7.18sqm) a permit is only required under this provision for the internally illuminated signs (1,3, 4 and 7) as their total advertisement area exceeds 1.5sqm. Signs 1, 4 and 7 also project above 3.7m above the pavement level.
53. An assessment against the relevant decision guidelines of Clause 52.05 of the Scheme in relation to the internally illuminated signs will be provided within this report.

#### General Provisions

##### *Clause 65*



54. The decision guidelines of clause 65 of the Scheme are relevant to this application and require consideration to be given to a variety of matters including the Planning Scheme policies, the purpose of the zone, orderly planning and the impact on amenity.

### **State Planning Policy Framework (SPPF)**

#### *Clause 10.04 - Integrated Decision Making*

55. This clause outlines an approach to decision making that balances competing objectives and states that: *Planning authorities and responsible authorities should endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.*

#### *Clause 15.01-1 – Urban design*

56. 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*

57. The objective of this clause is:  
(a) *To achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties.*

#### *Clause 15.03-1 Heritage Conservation*

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

#### *Clause 17: Economic development*

60. The provisions of clause 17 of the Scheme seek to foster economic prosperity for and within communities.

#### *Clause 17.01-1 Business*

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

### **Local Planning Policy Framework (LPPF)**

#### Municipal Strategic Statement (MSS)

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

62. This clause notes that the commercial and industrial sectors within Yarra underpin a sustainable economy and provide employment and that Yarra plans to retain and foster a diverse and viable economic base.

63. The relevant objective is:

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

*Clause 21.05-1 Heritage*

64. The relevant objectives include:

- (a) *Objective 14: To protect and enhance Yarra's heritage places.*
- (i) *Strategy 14.6: Protect buildings, streetscapes and precincts of heritage significance from the visual intrusion of built form both within places and from adjoining areas*
- (ii) *Strategy 14.8: Apply the Development Guidelines for sites subject to a Heritage Overlay policy at clause 22.02.*

*Clause 21.05-4 Public environment*

65. The relevant objective includes:

- (a) *Objective 29: To ensure that advertising signage contributes positively to Yarra.*
- (i) *Strategy 29.1: Apply the Advertising Signs Policy at Clause 22.04.*

*Clause 21.08-7 - Fitzroy*

66. This clause describes the Fitzroy Neighbourhood and includes the following passage:

- (a) *Fitzroy is a mixed commercial and residential neighbourhood notable for the consistency of its Victorian streetscapes. It comprises a dense combination of residential areas, shopping precincts and commercial/ industrial activities.*
- (b) *The part of Johnston Street between Brunswick Street and Smith Street is undergoing revitalisation as a focal point for furniture manufacture and showrooms.*

67. Pursuant to Figure 18 – Built Form Character Map: Fitzroy, the site is located in a Heritage Overlay Area where it is encouraged to:

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

Relevant Local Policies

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

68. The applicable objectives of this policy are:

- (a) *To conserve Yarra's natural and cultural heritage.*
- (b) *To conserve the historic fabric and maintain the integrity of places of cultural heritage significance.*
- (c) *To retain significant view lines to, and vistas of, heritage places.*
- (d) *To preserve the scale and pattern of streetscapes in heritage places.*
- (e) *To ensure the adaptation of heritage places is consistent with the principles of good conservation practice.*
- (f) *To ensure that additions and new works to a heritage place respect the significance of the place.*

69. Pursuant to the incorporated document 'City of Yarra Review of Heritage Overlay Areas 2007, Graeme Butler and Associates 2007: Appendix 8 (revised May 2017) City of Yarra Heritage Database' the site is nominated as "*individually significant*" within the South Fitzroy Heritage Precinct.

*Clause 22.04-2 Advertising Signs Policy*

*Clause 22.04-1 Policy Basis*

70. *Signage should be well designed and located to respect the streetscape or host site. The placement and quality of advertising signs should also contribute positively to the character of an area.*

71. The relevant objectives of this clause are:

- (a) *To allow for the promotion of goods and services.*
- (b) *To ensure that signs contribute to and do not detract from the visual amenity of commercial precincts, activity centres and residential areas.*
- (c) *To minimise visual clutter.*
- (d) *To ensure that signs are not the dominant element in the streetscape.*
- (e) *To protect and enhance the character and integrity of places of heritage significance.*
- (f) *To protect major view corridors and vistas.*

72. These are considered under the following relevant policy headings:

- (a) *Clause 22.04-3.1 Design*
- (b) *Clause 22.04-3.2 Streetscape*
- (c) *Clause 22.04-3.4 Construction and Support*
- (d) *Clause 22.04-3.5 Illumination and Animation*
- (e) *Clause 22.04-3.7 Commercial and Industrial Areas*
- (f) *Clause 22.04-3.8 Heritage Areas*

*Clause 22.05 – Interface Uses Policy*

73. This policy applies to applications for use or development within Business (now Commercial) Zones.
74. The policy comprises various considerations and decision guidelines for non-residential use and development located near residential properties relating to overlooking, overshadowing, noise, fumes and air emissions, light spillage, waste management and other operational disturbances that may cause unreasonable detriment to the amenity of nearby residential properties.

**Advertising**

75. The application was advertised under the provisions of Section 52 of the Planning and Environment Act 1987 (the Act) with two signs displayed on-site and three letters sent to surrounding owners and occupiers. Six (6) objections were received to the application, however, it is noted that some objections were received prior to advertising of the application.
76. The objector concerns can be summarised as follows:
- (a) Adverse visual amenity and heritage impacts of advertising signage;
  - (b) Lightspill/glare from the proposed neon sign to nearby residences; and
  - (c) Use of the proposed shelter would increase amenity impacts from the hotel (in particular, noise emissions).

Consultation Meeting

77. A consultation meeting was held on 10 October 2017. The meeting was attended by the applicant, Council officers and one objector (who had written statements confirming attendance on behalf of three other objectors).
78. Amendments to the proposal were formally submitted, after advertising, under Section 57(A) of the Act on 15 December 2017. The plans responded to objector and Council concerns, and made the following changes:
  - (a) Deletion of the proposed 9.16sqm "Bill Poster Display Wall" attached to the eastern boundary fence (George Street frontage).
79. As stated previously, the plans amended under Section 57A of the Act were not re-advertised as the changes resulted in an overall reduction to the extent of signage proposed and hence no material detriment would result. An exemption from advertising was granted at Council's Statutory Planning Department's internal Development Assessment Panel on 5 January 2018.

## Referrals

### External Referrals

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

### Internal Referrals

81. The application was not formally referred to any internal departments, however, informal comments were sought from Council's Heritage Adviser. Their response is attached in the appendices to this report and will be referred to, as relevant, within the assessment.

## OFFICER ASSESSMENT

### Buildings and Works

82. The proposed buildings and works are limited to construction of the partially roofed shelter in the rear courtyard. The decision guidelines for buildings and works in the Commercial 1 Zone (at clause 34.01-4), decision guidelines of the Design & Development Overlay (Schedule 10); the heritage guidelines at clause 22.02; and the interface uses policy are most relevant to the assessment of this component of the proposal.
83. The most pertinent decision guideline of the Commercial 1 Zone to the proposal is as follows:
  - (a) *The streetscape, including the conservation of buildings, the design of verandahs, access from the street front, protecting active frontages to pedestrian areas, the treatment of the fronts and backs of buildings and their appurtenances, illumination of buildings or their immediate spaces and the landscaping of land adjoining a road.*
84. It is considered that the proposed shelter to the courtyard will not significantly alter the streetscape or its interface with the public realm. The structure extends only marginally above the existing solid fence (approximately 0.4m above the fence height as measured on the proposed elevations) and is a lightweight, mostly open structure. The shelter appears as a minor appurtenance to the existing building.
85. In regards to the objectives and design principles of Schedule 10 to the Design and Development Overlay, the proposed shelter is considered an appropriate response, as it is constructed to the street frontage (as encouraged); provides a human scale structure; and respects the heritage context (as detailed further in the following paragraph).
86. Consistent with relevant heritage policies for new works at clause 22.02-5.7.1 of the Scheme, the shelter:

- (a) Is visually recessive and will not dominate the heritage place (given its maximum height of 4.12m and minimal visibility from the public realm).
  - (b) Is clearly distinguishable from the original heritage fabric of the building (due to form and materials utilised);
  - (c) Does not damage or cover the original heritage fabric of the building (as it is detached from the existing building)
  - (d) Does not obscure views to the principal façade (as it is situated to the rear of the main building and behind a high, solid fence that already blocks views from George Street).
87. Council's Heritage Adviser has also supported the proposed shelter, for similar reasons as given above.
88. The proposed shelter is also consistent with relevant policies of the Interface Uses Policy (clause 22.05 of the Scheme). The nearest dwellings to the proposed shelter are those located immediately to the west (row of single-storey terrace dwellings fronting Johnston Street) and to the east (row of double-storey terrace dwellings on the eastern side of George Street).
89. The proposed shelter is separated from secluded private open space of dwellings to the west by another approximately 5.5m of existing single-storey building associated with the Rochester Hotel. It is separated from dwellings to the east by George Street (approximately 20m width). Given the site context, the shelter would not create any opportunities for overlooking; would not cause any lightspill (no lights are proposed); and would not cause any overshadowing to secluded private open space.
90. The proposed shelter would not result in any increases to noise emissions from the site as it does not provide an additional area for patrons to use but rather simply provides some shelter within the existing courtyard (beer garden). It is noted that both a tavern and hotel are as-of-right uses in the Commercial 1 Zone and the beer garden is already included within the existing red line plan (licensed area) of the premises under liquor license 31912129. If the hours of operation or patron numbers set out on the existing liquor licence were sought to be increased, this would trigger the requirement for a planning permit under clause 52.27 (Licensed Premises) of the Yarra Planning Scheme and would be subject to the normal statutory planning process.

#### Advertising Signage

91. The assessment of the advertising signage component will be framed by Council's local Advertising Signs Policy at Clause 22.04 of the Scheme, incorporating consideration of the decision guidelines of Clause 52.05 (Advertising Signs). Local heritage policy at clause 22.02 will also be referenced, where relevant. It is noted that only the internally illuminated signs require a permit under clause 52.05 of the Scheme, with all other signs requiring a permit solely due to heritage controls.

#### *Design*

92. The scale and design of the proposed signs are appropriate for the two-storey building on which they are located and will not dominate the building. The signs are generally well-integrated into the building, with the internally illuminated "beer branded" lightboxes (signs 1 and 7) and the "Rochester Hotel Lightbox" (sign 3) each located above separate pedestrian entries - a traditional location for signage. The two menu boards (signs 5 and 6) and the two poster display boards (signs 2 and 8) are flush mounted and positioned in between window / door openings and their size and proportion is not disruptive to the rhythm of the building façade.
93. Sign 4 ("Rochee branded neon sign") is notably larger and more prominent than the other signs. However, this sign is contained within a pre-existing structure which has been attached to the building in excess of 25 years.

The sign is clearly identified on the endorsed plans for Planning Permit 1886 (issued by Council in 1992) as an “existing illuminated” sign. Historical “streetview” images indicate the previous sign was an internally illuminated “Carlton Draught’ beer logo.

94. The signs are mostly confined to the ground floor; are well spaced over the Johnston Street and George Street facades of the building; and are relatively small in size - providing less than 8sqm total advertising area. This avoids a ‘cluttered’ presentation when viewed from the public realm and the signage will not dominate the host building.

#### *Streetscape*

95. The signs will not obscure or impede any important views and vistas, or block views to any existing signs.
96. Johnston Street is a commercial hub and various types of advertising signage, including internally illuminated signs, are concentrated along commercial buildings frontages to the street. The level and type of signage proposed to the subject site would not adversely impact the existing streetscape character.
97. In line with policy, the proposed signs do not interfere with traffic signals, directional signs or street signs. The nearest traffic lights are approximately 70m to the west of the site (on Johnston Street) and all signs are significantly offset from adjacent street signs and will not interfere with visibility.

#### *Construction and Support*

98. In line with policy, the support structures are integrated into the signage and all proposed signs comply with the minimum clearance from the footpath (2.7m) and setback from the kerb (750mm), as stipulated at clause 22.04-3.4.
99. For buildings of heritage significance, consideration must be given to potential damage from construction of the signage. It is considered that the proposed signage would cause minimal damage to the building. Specifically:
- (a) The two small menu boards (signs 5 and 6) are very small in size (0.15sqm each) and any area affected by attachment would be minimal.
  - (b) The two poster display boards (signs 2 and 8) are flush mounted ply boards which photos indicate are attached by a small number of bolts/screws.
  - (c) Both the menu and poster display boards are designed to enable update of content from time-to-time without the need to remove the sign frame and thus would limit damage from change of content.
  - (d) The “beer branded lightbox” signs (1 and 7) are attached only at limited points and are not attached to decorative architectural features, hence causing limited damage to the building fabric.
  - (e) The “Rochester Hotel Lightbox” (sign 3) above the splayed door, is inset in a recess on the building and could be readily removed.
  - (f) The structure for sign 4 is pre-existing (in excess of 25 years) and only the content is modified as part of the proposal - thus no further damage to the building is associated with this sign.
100. The minimal damage to the building is also consistent with heritage policy at clause 22.02-5.7.1 for new works which seeks to discourage removal or damage to heritage fabric associated with new works.

#### *Illumination and Animation*

101. The four internally illuminated signs (signs 1, 3, 4 and 7) would not cause any detrimental impact on pedestrian or traffic safety, given that:

- (a) None of the signs are proposed to be animated. A standard condition will nonetheless be included as part of any approval to require that none of the illuminated signs are intermittent or flashing.
- (b) Signs 1, 3 and 7 are all well under 1sqm in size and would cast little lightspill.
- (c) Sign 4 (“Rochey branded neon sign”) is 1.77sqm in size; well set back from the George Street and Johnston Street kerb; and has a clearance of 4.58m from the footpath. It is well removed from pedestrian and vehicle traffic.

102. Decision guidelines at clause 52.05-3 in relation to impacts of illumination include consideration of *the amenity of nearby residents and the amenity of the area*. The nearest residences to the hotel are the terrace houses immediately to the west fronting Johnston Street. There are also residences at the upper levels of the three-storey building diagonally opposite the subject site on the north-east corner of Johnston Street and George Street (approximately 30m distance) and dwellings on the opposite side of George Street, just south of the subject site.

103. Although objections have raised specific concerns with light emitted from sign 4 (“Rochey branded neon sign”) it is considered that the illumination of this sign would not be detrimental to amenity of surrounding residences given that:

- (a) The sign is located on the Johnston Street frontage and therefore light is directed towards an already well-lit busy commercial thoroughfare. Streetlights cantilever over Johnston Street, which creates a higher background level of lighting and reduces the impact of any illuminated sign.
- (b) Residences located within the upper levels of the building on the north-east corner of George Street and Johnston Street, whilst having large windows to both street frontages, are located at a considerable distance - a minimum of 29m - from the sign.
- (c) The terrace dwellings on Johnston Street, to the immediate west of the subject site, have a covered verandah within their front setback and hence would not be affected by light from the sign.
- (d) Council’s planning enforcement officers undertook a night-time site visit in August 2017 (in relation to a separate lightspill matter) and did not identify any issue with emission of light from the neon sign, which was operational at the time.

104. All the dwellings described above are located within the Commercial 1 Zone, and most are located on a Road Zone Category 1, therefore, as is a commonly accepted principle in planning, amenity expectations must be somewhat tempered in comparison with dwellings located in quiet side streets in residential zones.

#### *Commercial and Industrial Areas*

105. The proposed signage is consistent with the policy for commercial areas which supports internally illuminated signs and “above verandah” signs (projecting signs that are located more than 3.7m above pavement level) where general policy requirements are met. It also identifies that sites along main roads and boulevards may be able to support more prominent types of signage (such as major promotion signs), where general policy requirements are met.

#### *Heritage Areas*

106. Although internally illuminated signage is discouraged in heritage areas it is considered appropriate in this case as the subject site is located within a commercial area, on a major road, and there are many instances of illuminated signage along Johnston Street, and in the wider area, including the internally illuminated sign to the façade of the south-adjointing building fronting George Street.

107. The signage is limited in scale and generally restrained in design, and does not obscure the heritage features of the building. Although the “Rochee branded neon sign” is more prominent in its appearance, it is considered acceptable, in this instance, as it replaces an existing internally illuminated beer sign (using the same structure) and thus would have no further detriment in regards to the heritage significance of the building.
108. Furthermore, Council’s Heritage Adviser has supported the proposed signage, stating in their comments that *overall the location, size, type and number of signs proposed will be generally in keeping with the number of signs typically associated with historic hotels throughout the municipality.*
109. It is noted that as signs 2, 5, 6 and 8 are promotion signs, their content is proposed to be updated from time-to-time promotional material for the premises - so the images of these signs on the plans are indicative only.
110. To ensure that it is clear on the plans that the signage content is variable and to ensure the signs are not utilised for promotional material beyond this limited intent (i.e. not for promoting off-site events or activities), the plans will be required, as a condition of any approval, to be updated with notations to this effect. The applicant has agreed to restricting the content of the signs in this way.
111. It is acceptable to allow for variable content in this instance, given that:
  - (a) The size and proportion of the signs is acceptable;
  - (b) There are no external paint controls within the South Fitzroy heritage precinct;
  - (c) The signs would function in a similar fashion to “blackboard’ signs which are commonly seen on similar venues to advertise current events.
  - (d) The ability to alter content of these signs is considered to strike an acceptable balance between protecting heritage values and providing reasonable capacity for the venue to promote events. It would also reduce the likelihood that additional unauthorised signage would be introduced to the building to promote such events.

#### Objector Concerns

112. The above assessment has addressed the objector concerns, as follows:
  - (a) Adverse visual amenity and heritage impacts of advertising signage (paragraphs 91-111);
  - (b) Lightspill/glare from the proposed neon sign to residences (paragraphs 102-104); and
  - (c) Use of the proposed shelter would increase amenity impacts from the hotel (in particular, noise emissions) (paragraphs 88-90).

#### **Conclusion**

113. The proposal demonstrates a good level of compliance with the policy requirements outlined in the Yarra Planning Scheme, and should be supported subject to conditions.

#### **RECOMMENDATION**

That having considered all relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant a Planning Permit PLN17/0228 for development of the land for buildings and works (construction of a shelter to the rear courtyard of the existing building) and the construction and display of advertising signage (including internally illuminated signs) at 202 - 204 Johnston Street, subject to the following conditions:



1. Within two months of the date of this permit (or as otherwise agreed in writing by the Responsible Authority), 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 (submitted to Council on 15 December 2017) but modified to show:
  - (a) Notation(s) on drawing No. 04 indicating that content of signs 2, 5, 6 and 8 shown on the images is indicative only;
  - (b) Notation(s) stating that signs 2, 5, 6 and 8 will contain promotional material that only relates to events or activities undertaken on the premises.
2. The development (including location and details of the signs and associated supporting structures) as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. The signs must be constructed, displayed and maintained to the satisfaction of the Responsible Authority.
4. Signs 2, 5, 6 and 8, as shown on the endorsed plans, must not be illuminated by external or internal light
5. The internally illuminated signs must not include any flashing or intermittent light.
6. The internally illuminated signage component of this permit expires 15 years from the date of the permit.
7. This permit will expire if:
  - (a) The signs are not erected within 2 years of the date of this permit; or
  - (b) The works are not completed within 4 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 twelve months afterwards for completion.

#### Notes

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

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

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

**CONTACT OFFICER:** Madeleine Moloney  
**TITLE:** Statutory Planner  
**TEL:** 92055009

#### Attachments

- 1 PLN17/0228 - 202 - 204 Johnston Street Fitzroy - Subject Site Map
- 2 PLN17/0228 - 202 - 204 Johnston Street Fitzroy - Decision Plans
- 3 PLN17/0228 - 202 - 204 Johnston Street Fitzroy - Heritage Comments

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**1.4 PLN17/0744 - 196 Nicolson Street, Abbotsford - Development of the land for the construction of a garage at the rear of the existing dwelling, including alterations to the front facade and part demolition.**

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### **Executive Summary**

#### **Purpose**

1. This report provides Council with an assessment of a planning permit application submitted for 196 Nicholson Street, Abbotsford VIC 3067, which seeks approval for the development of the land for the construction of a garage at the rear of the existing dwelling, including alterations to the front facade and part demolition. The report recommends approval, subject to conditions.

#### **Key Planning Considerations**

2. Key planning considerations include:
  - (a) Clause 22.02 – Development guidelines for sites subject to the heritage overlay;
  - (b) Clause 32.09 – Neighbourhood Residential Zone (Schedule 1);
  - (c) Clause 43.01 – Heritage overlay; and
  - (d) Clause 54 – One dwelling on a lot (Rescode);

#### **Key Issues**

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

#### **Objector Concerns**

4. Six objections were received to the application, these can be summarised as:
  - (a) Impact on heritage streetscape (including inappropriate design);
  - (b) Street impacts (removal of non-street car park and street tree, and addition of a new vehicle cross over);
  - (c) Amenity issues (noise from garage use and visual bulk)
  - (d) Built form issues (lack of setback and permeability, and overdevelopment); and
  - (e) Diminish financial value of properties.

#### **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:** Emily Zeng  
**TITLE:** Statutory Planner  
**TEL:** 03 9205 5363

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**1.4 PLN17/0744 - 196 Nicolson Street, Abbotsford - Development of the land for the construction of a garage at the rear of the existing dwelling, including alterations to the front facade and part demolition.**

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Trim Record Number: D18/7019  
 Responsible Officer: Coordinator Statutory Planning

**Proposal:** Development of the land for the construction of a garage at the rear of the existing dwelling, including alterations to the front facade and part demolition.

**Existing use:** Dwelling

**Applicant:** DWH Aitken and Associates P/L

**Zoning / Overlays:** Neighbourhood Residential Zone (Schedule 1)  
 Heritage Overlay (Schedule 313)

**Date of Application:** 6 September 2017

**Application Number:** PLN17/0744

**Planning History**

1. Planning Permit No. PLN14/0837 was issued by Council on 5 January 2015 for the *development of the land for part demolition and a ground floor extension to the rear of the dwelling*. Works according to this permit have not been carried out.
2. Planning Application No. PLN16/1006 was withdrawn at the request of the applicant on 16 February 2017 for the *development of the land for alterations to the front façade, construction of a garage and crossover and part demolition*.
3. Planning Permit No. PLN17/0113 was issued by Council on 20 February 2017 for *alterations to the front façade and associated demolition*. Works according to this permit have been acted upon.

**Background**

4. The application was received by Council on 6 September 2017, with additional information received on 16 October 2017. The application was advertised in October 2017, with six (6) objections received.
5. The application was referred to Council's Heritage Advisors and Engineering Department for assessment.
6. A planning consultation meeting was held on 12 December 2017, attended by the permit applicant, objectors and Council's planning officers.

Amendment VC142

7. Amendment VC142 was gazetted on 16 January 2018, making reforms to Victoria Planning Provisions that generally remove permit triggers, expand permit exemptions for land uses and buildings and works, remove superfluous and outdated provision, update references, improve and update definitions, clarify common points of confusion and improve the usability of the Victoria Planning Provisions.
8. Whilst amendments have been made to the zone (Neighbourhood Residential Zone) and overlay (Heritage Overlay) in which the subject site is located within, no amendments are applicable to this application.

## Existing Conditions

### Subject Site

9. The subject site is located on the east side of Nicholson Street, between Abbotsford Street (to the north) and Yarra Street (to the south), in Abbotsford. The site is situated on a corner lot with residential properties bordering the northern and eastern boundaries.
10. The site is rectangular in shape with a street frontage of 6.44m to Nicholson Street, a depth of 28.46m along the southern boundary and a depth of 28.51m along the northern boundary. The site has an overall area of 177sqm.
11. Occupying the site is a detached and single-storey Victorian-era weatherboard dwelling with a tiled hipped roof, two chimneys, and a bullnose front verandah. Along the dwelling's street frontage is a metal fence and pedestrian gate built at a height of 1.2m. Along the northern and southern boundaries, towards the rear of the site are two sections of a weatherboard structure and paling fence ranging from 2m to 3.7m high respectively.
12. The dwelling is setback 2.95m from the western (front) boundary, constructed along the northern boundary for a length of 14.82m, and is partly constructed along the southern boundary for a length of 4m and partly setback 1.65m. The dwelling is setback 10.64m from the eastern (rear) boundary. Private open space is located at the rear of the dwelling which is accessible from the rear of the dwelling and a pedestrian gate along Yarra Street.



*Figure 1: Subject site in red (NearMaps)*

### Surrounding Land

13. The surrounding neighbourhood is residential in nature with a mixture of single and double-storey dwellings. Nicholson Street consists of a variety of weatherboard, brick and rendered dwellings with a mix of bullnose, hipped and skillion front verandahs.
14. To the north is an attached, single-storey Victorian-era, weatherboard dwelling with a skillion front verandah and a ground and first floor addition. The proposed garage will be located along the southern boundary, directly abutting the rear private open space of this dwelling.

15. To the south, across Yarra Street is a single-storey Edwardian-era brick dwelling with a hipped front verandah. The dwelling is also located on a corner lot with two street frontages to Nicholson and Yarra Streets. The dwelling has zero setbacks along the Yarra Street frontage with the inclusion of a single brick garage and crossover to the east.
16. To the east is a single-storey Victorian-era polychromatic brick dwelling which graded 'contributory' to the Charles Street Heritage Precinct. The dwelling includes a skillion verandah, gable roof, an existing crossover and a first floor addition located at the rear of the site. The proposed garage will abut the existing boundary wall of the 'contributory' dwelling.
17. To the west, across Nicholson Street is an attached, single-storey building which is currently occupied by Abbots Dental Clinic.

## **The Proposal**

18. The proposal is for the development of the land for the construction of a garage at the rear of the existing dwelling, including alterations to the front facade and part demolition. The proposal is summarised as follows:

### Demolition

- (a) Existing front fence, pedestrian gate and bullnose verandah.
- (b) Northern and southern boundary paling fence.
- (c) Concrete paving located at the rear of the dwelling.

### Development

- (d) Construction of a 1.25m high timber picket fence and pedestrian gate painted white at the front of the site.
- (e) Construction of a hipped verandah in unpainted heritage grade Z600 at a pitch of 15 degrees.
- (f) Construction of an approximately 2.8m section of 2m high timber fence along the southern boundary.
- (g) Construction of a 3m wide crossover at the rear of the site, along Yarra Street.
- (h) Construction of a garage measuring 3.82m wide and 6.38m long located at the rear of the site and built along the northern, eastern and southern boundaries. The garage will include a faux gable parapet concealing a flat roof, as well as operable windows, a timber door and a 1m wide cantilevered verandah along the western wall.
- (i) The garage will be constructed of vertical timber batten cladding, weatherboards painted white with a Colorbond roof and garage door in the colour "Woodland Grey".

## **Planning Scheme Provisions**

### Zoning

#### *Clause 32.09 Neighbourhood Residential Zone (Schedule 1)*

19. Pursuant to *Clause 32.09* of the Scheme, a planning permit is required to construct or extend one dwelling on a lot less than 500sqm. As the subject site is 177sqm, a planning permit is required. A development must meet the requirements of Clause 54.
20. Pursuant to *Clause 32.09-9* of the Scheme, the maximum height of a building used for a dwelling or residential building must not exceed 9m and must not contain more than 2 storeys at any point. The proposal does not exceed these requirements as the construction is for a single-storey garage with a maximum height of 4m.

### Overlays

*Heritage Overlay (Schedule 313 – Charles Street Precinct)*

21. Pursuant to *Clause 43.01-1* of the Scheme, a planning permit is required to demolish a building and to construct a building or construct or carry out works.

Particular Provisions

*Clause 54 – One Dwelling on a lot*

22. Pursuant to *Clause 54* of the Scheme, the provisions apply an application to construct a building or construct or carry out works associated with one dwelling on a lot in a Neighbourhood Residential Zone.

General Provisions

*Clause 65 – Decision Guidelines*

23. 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 provisions.

State Planning Policy Framework (SPPF)

*Clause 15.01-1 – Urban Design*

24. 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*

25. The objective of this clause is:

- (a) *To achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties.*

*Clause 15.01-4 – Design for safety*

26. The objective of this clause is:

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

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

27. The objective of this clause is:

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

*Clause 15.02-1 – Energy and resource efficiency*

28. The objective of this clause is:

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

*Clause 15.03 – Heritage*

29. The objective of this clause is:

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

Local Planning Policy Framework (LPPF)

*Clause 21.05-1 – Heritage*

30. The relevant objective of this clause is:

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

*Clause 21.05-2 – Urban design*

31. The relevant objectives of this clause are:

- (a) *Objective 16 – To reinforce the existing urban framework of Yarra.*  
(b) *Objective 20 – To ensure that new development contributes positively to Yarra’s urban fabric.*

*Clause 21.08-1 – Abbotsford*

32. The subject site is located within the Abbotsford neighbourhood which is “a highly varied neighbourhood with a substantial number of industrial and commercial buildings of various types and eras. The residential precincts are surrounded by industrial development located in the vicinity of Hoddle Street and the Yarra River.”
33. Figure 6, the built form character map, shows the subject site covered by a Heritage Overlay. The objective is to “ensure that development does not adversely affect the significance of the heritage place”.

Relevant Local Policies

*Clause 22.02 – Development guidelines for sites subject to the Heritage Overlay*

34. *Clause 22.02* of the Scheme applies to all developments where a planning permit is required under the Heritage Overlay. The relevant objectives of the policy include:
- (a) *To conserve Yarra’s natural and cultural heritage.*  
(b) *To conserve the historic fabric and maintain the integrity of places of cultural heritage significance.*  
(c) *To retain significant view lines to, and vistas of, heritage places.*  
(d) *To preserve the scale and pattern of streetscapes in heritage places.*  
(e) *To ensure that additions and new works to a heritage place respect the significance of the place.*  
(f) *To encourage the retention of ‘individually significant’ and ‘contributory’ heritage places.*
35. This policy refers to an incorporated document “*City of Yarra Review of Heritage Overlay Areas 2007*”, which identifies the level of significance of all buildings/sites within the Heritage Overlay. Specifically, the subject site is nominated as ‘not-contributory’ to the Charles Street Heritage Precinct.
36. *Clause 22.02-5.1 – Demolition*

This clause generally encourages the retention of a building in a heritage place, unless the building is identified as being 'not contributory'.

*Removal of part of a Heritage Place or Contributory Elements*

- (a) *Encourage the removal of inappropriate alterations, additions and works that detract from the cultural significance of the place.*

37. *Clause 22.02-5.3 – Reconstruction and Restoration*

This clause generally encourages the reconstruction of a building or works which previously existed in a heritage place if:

- (a) *The reconstruction will enhance the heritage significance of the heritage place.*

38. *Clause 22.02-5.7 – New Development, Alterations or Additions*

The relevant policies of *clause 22.02-5.7.1* encourages the design of new development to a heritage place or a contributory element to:

- (a) *Respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape.*
- (b) *Be articulated and massed to correspond with the prevailing building form of the heritage place or contributory elements to the heritage place.*
- (c) *Be visually recessive and not dominate the heritage place.*
- (d) *Be distinguishable from the original historic fabric.*
- (e) *Not remove, cover, damage or change original historic fabric.*
- (f) *Not obscure views of principle façades.*
- (g) *Consider the architectural integrity and context of the heritage place or contributory element.*

39. *Clause 22.02-5.7.2 – Specific Requirements (where there is conflict or inconsistency between the general and specific requirements, the specific requirements prevail)*

- (a) *Encourage new building and additions on a site with frontage to two streets, being either a corner site or a site with dual street frontages, to respect the built form and character of the heritage place and adjoining or adjacent contributory elements to the heritage place.*
- (b) *Encourage new buildings on corner sites to reflect the setbacks of buildings that occupy other corners of the intersection.*

**Advertising**

40. The application was advertised in accordance with Section 52 of the *Planning and Environment Act 1987*, by way of five letters sent to surrounding owners and occupiers and the display of two signs on-site.

41. Six objections were received, and raised the following concerns:

- (a) Impact on heritage streetscape (including inappropriate design);
- (b) Street impacts (removal of non-street car park and street tree, and addition of a new vehicle cross over);
- (c) Amenity issues (noise from garage use and visual bulk)
- (d) Built form issues (lack of setback and permeability, and overdevelopment); and
- (e) Diminish financial value of properties.



## Referrals

### External Referrals

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

### Internal Referrals

43. The application was referred to Council's Heritage Advisor and Engineering Department. The comments are located in the Appendix to this report.

## OFFICER ASSESSMENT

44. The key planning considerations for Council in considering the proposal are:

- (a) Clause 54 (Rescode);
- (b) Heritage;
- (c) Vehicle access; and
- (d) Objector concerns

### Clause 54 – (Rescode)

45. The following is a detailed assessment of the proposed garage against the relevant provision of ResCode (Clause 54).
46. This particular provision comprises 19 design objectives and standards to guide the assessment of new residential development. Given the site's location within a built up inner city residential area, strict application of the standard is not always appropriate, whether the proposal meets the objective is the relevant test.
47. The following objectives are not relevant to this application:

- (a) Standard A2 – Integration with the street objective (no change);
- (b) Standard A8 – Significant trees objective (none on-site);
- (c) Standard A10 – Side and rear setbacks (The walls of the garage are constructed on boundaries which are discussed below);
- (d) Standard A12 – Daylight to Existing Windows (the proposed garage is not opposite any existing habitable room window);
- (e) Standard A13 – North-facing Windows (no north-facing windows habitable room windows within 3 metres of the proposed garage);
- (f) Standard A15 – Overlooking (the proposed garage is not a habitable room);
- (g) Standard A16 – Daylight to new windows (the proposed garage is not a habitable room);
- (h) Standard A18 – Solar access to open space (does not apply to additions);

### *Standard A1 – Neighbourhood Character*

48. Along Nicholson Street is a diverse mixture of single and double storey Victorian and Edwardian-era dwellings with varies fence heights and styles ranging from metal and timber pickets to brick fences. Additionally, verandah roof styles within the immediate area varies from predominantly skillion roofs with the occasional hipped and bullnose roof.
49. Along Yarra Street is also a mixture of red brick, painted brick and weatherboard single-storey dwellings. The fences along this portion of Yarra Street (between Nicholson Street and Hunter Street) include timber pickets, timber palings with trellises and differing vehicle accessway (garages/carports and vehicle gates).

50. The proposed works to the front fence and verandah roof respect the existing neighbourhood character as well as the heritage character of the surrounding area. The proposed 1.25m high timber picket front fence and gate painted white would be in keeping with the fences at No. 198 and 200 Nicholson Street. Likewise, bullnose verandah roof is in keeping with the character of Victorian-era dwellings like that of No. 192 and 195 Nicholson Street and No. 83 Yarra Street.
51. The proposed garage located at the rear of the site and fronting Yarra Street responds to the existing neighbourhood character of the surrounding area, which includes single-storey frontages as well as two existing garage/roller door frontages along Yarra Street. The contemporary design with a flat roof form, use of both traditional and contemporary materials such as weatherboard, vertical timber cladding and Colorbond present visual interest to the streetscape. The proposed garage will not appear out of context as it complements the mixture of building forms and materials found within the surrounding street.
52. With regards to the faux gable parapet, Council's Planning Officer is not supportive of the design as it is considered to be a poor design outcome which adds no value to the heritage streetscape. This will be discussed further in the Heritage Assessment.
53. Overall, the proposal is a site and neighbourhood responsive design response, meeting the objective of the Standard.

*Standard A3 – Street Setback*

54. Complies with objective. The application does not propose to change the front setback along Nicholson Street. Standard A3 allows the consideration of setbacks on side streets. The standard states the required minimum setback from a side street is *the same distance as the setback of the front wall of any existing building on the abutting allotment facing the side street or 2 metres, whichever is the lesser*. The existing setback of abutting property (No. 96 Yarra Street) is 1.24m, therefore the proposed garage built along the southern boundary exceeds the setback of 1.24m as required by the standard.
55. However, this is considered an acceptable variation given the inner urban context of the site with small and narrow allotments. Given that the abutting dwelling (No. 96 Yarra Street) has an existing nib wall built along its western boundary, the visual impact of the proposed garage would not be unreasonable when viewed from the street and adjoining properties. In addition, the proposed street setback is consistent with the garage of No. 194 Nicholson Street to the south which has a zero street setback.



*Figure 2: Western boundary wall of No. 96 Yarra Street (Applicant Submission)*

*Standard A4 – Building Height*

56. Complies with the Standard. The garage has a maximum height of 4m which is below the existing maximum height of the dwelling (5.4m) and is below the maximum building height of 9m allowed by the Standard.

*Standard A5 – Site Coverage*

57. Complies with the objective. The standard for site coverage states that the site area covered by buildings should not exceed 60%. The proposal increases site coverage from approximately 54% to 68% which exceeds the requirement of the Standard.
58. This is considered an acceptable variation given the context of the site within an inner urban environment with smaller lot sizes, and an established neighbourhood character of adjacent lots with high site coverage such as No. 194 Nicholson Street (to the south) and No. 198 Nicholson Street (to the north). In addition, the dwelling will continue to be provided with approximately 42sqm of private open space at the rear of the dwelling.

*Standard A6 – Permeability*

59. Complies with the Standard. The standard for permeability states that the site area covered by permeable surfaces should be at least 20% of the site. The proposal will result in 50sqm of permeable surfaces within the site or approximately 28% of the total site which exceeds the requirement of the Standard.

*Standard A7 – Energy Efficiency Protection*

60. Complies with the Standard. As a garage is not a habitable room, solar access is of less importance than if it were likely to be occupied more frequently and for longer periods at a time. Nonetheless, west-facing glazed windows will provide access to daylight and natural ventilation when required.
61. With regards to the surrounding properties, the proposed garage will not reduce the energy efficiency of existing dwellings on adjoining lots as it will cause no reduction of solar access into any adjoining windows or private open space. This is a result of the garage abutting existing boundary walls of No. 96 Yarra Street and its location south of the private open space of No. 198 Nicholson Street.

*Standard A11 – Walls on Boundaries*

62. Complies with the objectives.

Northern Wall

63. Along the northern boundary, the permissible length of wall must not exceed a total length of 14.63m (for a title length of 28.51m), unless abutting a simultaneously constructed wall. The total length of walls along the northern boundary (including the proposed garage at the rear of the site) will be approximately 18.64m, which exceeds the requirement of the Standard.
64. In terms of height, the 2.8m high northern garage wall does not exceed the 3.2m average and 3.6m maximum height as specified by the Standard.
65. Having regard to the above, the proposed wall is considered acceptable for the following reasons:
  - (a) Walls on boundaries are a common feature of the surrounding area and thus the proposal will not be out of character.
  - (b) The proposed 2.8m high garage wall along the northern boundary will not impact on the amenity of the northern property (No. 198 Nicholson Street) as the garage will not create any overshadowing over the property's private open space.
  - (c) With regards to visual bulk, although the 2.8m high garage is an increase in height from the 2.1m high paling fence, the garage will remain lesser in height than the existing weatherboard structure along the northern boundary to the west.

In addition, the proposed timber weatherboard cladding painted white would present as a softer material as opposed to a dark cement render which is typical of garages.



Figure 3: Proposed north elevation (Application submission)

Eastern Wall

- 66. Along the eastern (rear) boundary, the proposed garage abuts an existing boundary wall of adjoining property No. 96 Yarra Street which is approximately 12.7m long and 5.6m high. Given the proposed garage is built for a length of 6.38m with an overall height (including the faux gable parapet) of 4m, the Standard is met as the garage does not exceed the length and height of the existing boundary wall.

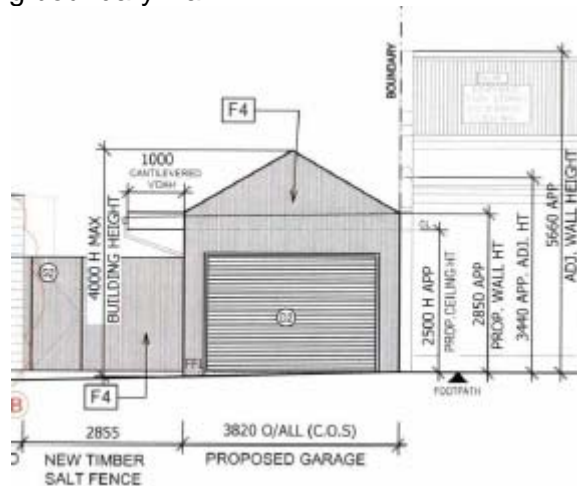


Figure 4: Proposed south elevation (Application submission)

*Standard A14 – Overshadowing open space objective*

- 67. Complies with the Standard. The subject site is orientated in a north-west and south-east direction and as such, causes shadows to the west in the morning and east in the afternoon. This standard protects only secluded private open space from shadows.
- 68. Given the location of the subject site, the proposed shadows (on 22 September) cast by the garage would largely be within the private open space of the subject site, existing shadows cast by existing dwellings/structures and over Yarra Street.

9am

- 69. As shown in figure 3, no adjacent areas of secluded private open space are impacted upon as the shadows of the proposed garage fall predominantly over the subject site, existing shadows cast by existing dwellings/structure and over the pedestrian footpath and Yarra Street.

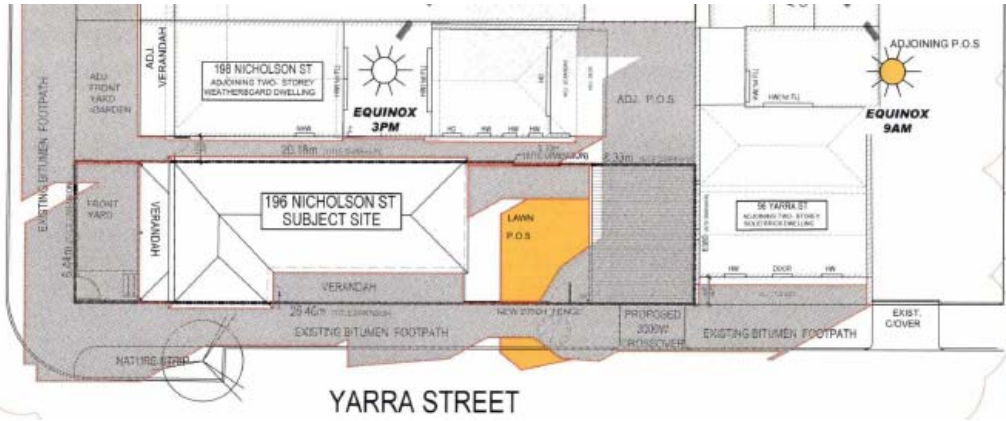


Figure 5: 9am shadow diagram – addition shadows shown in orange (Applicant Submission)

12noon

70. As shown in Figure 4, the proposed garage continues to not cast additional shadowing on any adjoining secluded private open spaces. At midday, additional shadows will be cast over the private open space of the subject site and across Yarra Street.



Figure 6: 12noon shadow diagram – addition shadows shown in orange (Applicant Submission)

3pm

71. As shown in figure 5, additional amounts of shadow will occur of the proposed crossover, pedestrian footpath and road in front of No. Yarra Street.

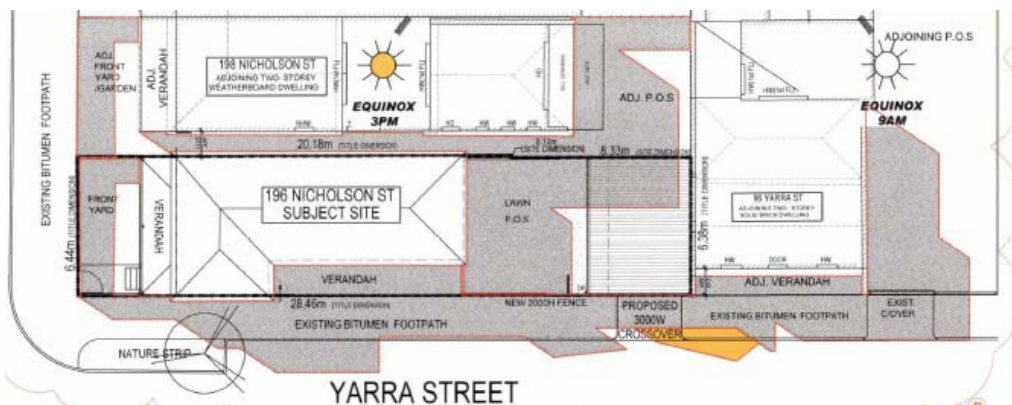


Figure 7: 3pm shadow diagram – addition shadows shown in orange (Applicant Submission)

*Standard A17 – Private Open Space*

72. Complies with the Standard. The standard for POS states that a dwelling should have POS consisting of an area of 80sqm or 20% of the area of the lot, whichever is the lesser, but not less than 40sqm.

73. Under the proposal, the private open space will comprise approximately 42sqm which is in excess of the 35.4sqm as required by the Standard. This POS can be considered secluded private open space as the existing 3.2m to 3.7m high weatherboard fence and proposed 2m high timber fence provides privacy from Yarra Street, as well as the 3.2m to 3.7m high weatherboard fence and existing 2.1m high timber paling fence along the northern boundary.

*Standard A19 – Design Detail*

74. Complies with Standard. The standard encourages design detail that respects the existing or preferred neighbourhood character. The proposal is an appropriate response to the surrounding neighbourhood character of Yarra Street and can be supported on the following grounds:
- (a) The presentation of the proposed garage entrance to street is considered to be acceptable in light of the established pattern of existing garage doors which face onto Yarra Street.
  - (b) The faux gable parapet is not considered to be an appropriate design response to the surrounding neighbourhood character. This will be discussed further in the Heritage Assessment and a condition will be require its deletion.
  - (c) The proposed vertical timber battens along the garage's façade and the Colorbond garage door in the colour "Woodland Grey" would allow the garage to blend in with the existing streetscape given the common use of timber and weatherboard, as well as the types of garage/roller doors at No. 8 Hunter Street and No. 194 Nicholson Street.

*Standard A20 – Front Fences*

75. Complies with the Standard. The standard for front fences within 3m of a street (other than a street in a Road Zone, Category 1) is a maximum height of 1.5m. The proposed front timber picket fence and pedestrian gate will have a maximum height of 1.25m which meets the requirements of the standard.

Heritage Assessment

76. The decision guidelines from *Clause 43.01-4 Heritage Overlay* and policy from *Clause 22.02 (Development Guidelines for Sites Subject to the Heritage Overlay)* of the Scheme are used to assess the proposed works, in-order to ensure that there is consistency achieved with the heritage values of the surrounding area.

*Demolition*

77. The proposed demolition is consistent with the directions provided under *Clause 22.02-5.1* of the Scheme which states *generally encourage the retention of a building in a heritage place, unless the building is identified as being not contributory*. The subject site is identified as a 'not-contributory' building, therefore the extent of demolition is supported and will not adversely impact the heritage significance of the heritage precinct. Council's Heritage Advisor is supportive of the extent of demolition.

*Proposed works*

Fence

78. The proposed construction of a 1.25m high timber picket fence is considered acceptable as it is consistent under *Clause 22.02-5.3* of the Scheme which supports *the reconstruction of a building or works which previously existed in a heritage place if the reconstruction will enhance the heritage significance of the heritage place*.

Verandah

79. Council's Heritage Advisor is not supportive of the proposed hipped roof replacement for the front verandah as the Victorian-era dwelling would have traditionally included a 'bullnose' or 'hipped 'convex' verandah form. Additionally, the material proposed for the verandah roof is 'replacement unpainted Heritage Grade Z600 ZincAlume roof sheeting over verandah'. Heritage Grade Z600 and ZincAlume are two different products. It is recommended that the material schedule should delete any reference to ZincAlume as it is a highly reflective material and not supported within areas of the Heritage Overlay. A condition will be applied to replace the proposed hipped verandah roof with a bullnose roof and to delete any references to ZincAlume. The applicant has been notified of both of these conditions.

### Garage

80. *Clause 22.02-5.7* provides direction as to the appropriate design and location of a new development. *Clause 22.02-5.7.2 (Corner Sites and Sites with Dual Frontage)* provides direction as to the specific requirements of new developments on corner sites and sites with dual frontages. The proposed single-storey garage located on a corner lot is appropriate for a number of reasons which are described below.
81. The proposed garage is setback approximately 24.6m from the principle façade along Nicholson Street and is built along the southern boundary along Yarra Street. The façade of the garage along Yarra Street is proposed to include a faux gable parapet measuring at a maximum height of 4m which conceals the flat roofed garage with maximum wall heights of 2.8m.
82. As the proposed garage is to directly abut the adjoining 'contributory' graded dwelling at No. 96 Yarra Street, Council's Heritage Advisor suggested that removing the faux gable parapet would open up views to the 'contributory' dwelling which would be a more appropriate outcome for the heritage streetscape. Additionally through the deletion of the parapet, this will ensure that the heritage building to the east is not visually dominated.
83. Additionally, Council's Planning Officer considers the faux gable parapet to be a poor design outcome for the heritage streetscape as it adds no value to the garage itself or the 'contributory' graded dwelling directly abutting to the east. The faux gable would appear to be a two dimensional structure attached arbitrarily on top of the proposed garage which provides no real purpose as the garage has a flat roof. A condition will be applied to remove the faux gable parapet from the garage's Yarra Street façade. The applicant has been notified of this condition.
84. The proposed garage built along the southern boundary reflects the existing setback of the property at No. 194 Nicholson Street to the south, which occupies the south-eastern corner of the intersection between Nicholson Street and Yarra Street. The dwelling (No. 194 Nicholson Street) and rear garage fronting Yarra Street is built along the entire length of its northern boundary with no setbacks.



Figure 8: View of No. 194 Nicholson Street (Google Maps)

85. Council's Heritage Advisor is supportive of the overall contemporary design and material finishes of the proposed garage as it is considered to be *complementary, but not faux heritage*. Council's Heritage Advisor has stated that although the proposal is contemporary, it is *sympathetic to the surrounding area in materiality and scale*. The combination of material, design and built form, the proposed garage will be distinguishable from the original historic fabric of the surrounding heritage precinct but will not dominate the adjoining 'contributory' building (No. 96 Yarra Street) or the streetscape.
86. Council's Heritage Advisor is supportive of the proposed crossover along the northern pedestrian footpath of Yarra Street as *it is at the rear of a non-contributory property, it will not involve the removal of traditional materials like bluestone pitchers, and this section of Yarra Street (near Nicholson Street) is more of a side street than a principle street front*.
87. Overall, the proposal appropriately responds to the particular requirements contained within Clause 22.02 and Clause 43.01 of the Scheme, and therefore, subject to conditions, is considered acceptable in relation to the heritage context of the street and would not unreasonably impact the heritage significance of the Charles Street Heritage Precinct.

#### Vehicle Access

88. The comments from Council's Engineering Department state that the proposed garage and vehicle access from Yarra Street are generally satisfactory and comply with relevant *Design Standard 1 (Accessways)* and *Design Standard 2 (Car Parking Spaces)* of *Clause 52.06*.
89. With regards to the loss of one on-street parking, Council's Engineering Department comments that the loss of one car space should not have a detrimental impact on the parking amenity in Yarra Street and in the surrounding streets.
90. The Engineering Department comments outline a number of issues relating to the legal point of discharge and street tree protection which will be address through standard conditions. Council's Engineering Department confirmed that the applicant must liaise with Council's Open Space unit regarding the relocation/removal of the street tree in in the area of the new vehicle crossing in Yarra Street. All costs associated with the relocation/removal of the tree will be the responsibility of the permit holder. This has been included as a condition and the applicant has been notified.
91. Overall, the proposed garage and car parking arrangements is considered satisfactory subject to the conditions described above.

#### Objector Concerns

##### *Impact on heritage streetscape (including inappropriate design)*



92. This has been addressed in paragraphs 76 to 87.

*Street impacts (removal of on-street car park and street tree, and addition of a new vehicle cross over)*

93. The removal of one on-street car park and the addition of a new vehicle cross over is addressed in paragraphs 88 to 91. The proposed replacement of the street tree is addressed in paragraph 90.

*Amenity issues (noise from garage use and visual bulk)*

94. The use of a garage within a Neighbourhood Residential Zone (Schedule 1) does not require a permit. Additionally, garages are typical of residential areas including the local area surrounding the subject site.

95. The issue of visual bulk is addressed in paragraphs 65.

*Built form issues (lack setback and permeability, and overdevelopment)*

96. The issue of setback (street setback and walls on boundaries) are addressed in paragraphs 54 to 55 and paragraphs 62 to 66.

97. The issue of permeability is addressed in paragraph 59.

98. The issue of site coverage (overdevelopment) is addressed in paragraphs 57 to 58.

*Diminish financial value of properties*

99. This is not a planning consideration.

## **Conclusion**

100. The proposal demonstrates an acceptable level of compliance with the policy requirements outlined in the Yarra Planning Scheme. Based on the above report, the proposal is considered to comply with relevant planning policy and is supported, subject to conditions.

## **RECOMMENDATION**

That a Notice of Decision to Grant a Planning Permit PLN17/0774 be issued for development of the land for the construction of a garage at the rear of the existing dwelling, including alterations to the front facade and part demolition at 196 Nicholson Street, Abbotsford generally in accordance with the plans noted previously as the “decision plans” and 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 but modified to show:
  - (a) the proposed hipped verandah roof replaced with a ‘bullnose’ or ‘hipped convex’ verandah roof.
  - (b) the deletion of any references to ‘ZincAlume’ within the material schedule.
  - (c) the proposed faux gable parapet to be replaced with a flat parapet not exceeding 100m above the maximum height of the garage, i.e. 2.85m.

2. The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. Before the development commences, the permit holder must make a one-off contribution to the Responsible Authority to be used for:
  - (a) the removal of the existing street tree;
  - (b) the replacement and planting of the new street tree;
  - (c) all costs associated with the replanting, plus two year establishment costs at the expense of the property owner; and
  - (d) to the satisfaction of the Responsible Authority.
4. Within 2 months of the works being completed, 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.
5. 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.
6. This permit will expire if:
  - (a) the development is not commenced within two years of the date of this permit; or
  - (b) the development is not completed within four years of the date of this permit.

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

Notes:

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

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

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

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.

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

**CONTACT OFFICER:** Emily Zeng  
**TITLE:** Statutory Planner  
**TEL:** 03 9205 5363

**Attachments**

- 1 PLN17/0744 - 196 Nicholson Street Abbotsford - Engineering comments
- 2 PLN17/0744 - 196 Nicholson Street, Abbotsford - Subject Land
- 3 PLN17/0744 - 196 Nicholson Street, Abbotsford - Heritage Comments
- 4 PLN17/0744 - 196 Nicholson Street, Abbotsford - Heritage Comments (pdf) [22.01.2018]