



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

**to be held on Wednesday 10 April 2019 at 6.30pm  
in Meeting Rooms 1 & 2 at the Richmond Town Hall**

**Rostered Councillor membership**

Councillor Amanda Stone  
Councillor Jackie Fristacky  
Councillor James Searle (substitute for Cr Chen Yi Mei)

**I. ATTENDANCE**

John Theodosakis (Principal Statutory Planner)  
Ally Huynh (Senior Co-ordinator Statutory Planning)  
Cindi Johnston (Governance Officer)

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

**III. CONFIRMATION OF MINUTES**

**IV. COMMITTEE BUSINESS REPORTS**

**Printed on 100% recycled paper**

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



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

### POLICY

---

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

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

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

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

**Governance Branch  
2008**

## 1. Committee business reports

Item		Page	Rec. Page
1.1	104 Mary Street Richmond - PLN18/0224 - Construction of three double-storey dwellings with basement car park.	5	32

---

**1.1 104 Mary Street Richmond - PLN18/0224 - Construction of three double-storey dwellings with basement car park.**

---

## **Executive Summary**

### **Purpose**

1. This report provides Council with an assessment of Planning Permit Application PLN18/0224 which affects land at 104 Mary Street, Richmond and recommends approval, subject to conditions.

### **Key Planning Considerations**

2. Planning Scheme Amendment VC148 gazetted on 31 July 2018 made changes to the Victorian Planning Provisions (VPP) and all Planning Schemes arising from the Victorian Government's Smart Planning program. Amendment VC148 now forms part of the Yarra Planning Scheme (the "Scheme") and the assessment of this application is therefore against the provisions of the Scheme after the introduction of VC148. Relevant to this application, there is no longer a requirement under the Scheme for the proposed development to provide on-site visitor car parking spaces.
3. Key planning considerations include:
  - (a) Built form (Clauses 15.01, 21.05 and 22.10);
  - (b) Car parking (Clause 52.06); and
  - (c) Clause 65 (decision guidelines).

### **Key Issues**

4. The key issues for Council in considering the proposal relate to:
  - (a) Planning Policy and Local Planning Policy Frameworks;
  - (b) Clause 55 (ResCode);
  - (c) Clause 22.10 (Built form and Design Policy); and
  - (d) Objector concerns.

### **Objector Concerns**

5. Following advertising, a total of 9 objections were received to the application. Issues raised can be summarised as follows:
  - (a) Neighbourhood character.
  - (b) Design including height, massing, scale, bulk, site coverage and permeability.
  - (c) Overdevelopment.
  - (d) Lack of landscaping / Impacts on surrounding landscaping / vegetation.
  - (e) Off-site amenity including overshadowing / loss of daylight, overlooking and noise impacts.
  - (f) Car parking and traffic impacts.
  - (g) Lack of information on plans.
  - (h) Impact of excavation on surrounding properties / i.e. on their structural integrity.

**Conclusion**

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

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

---

**1.1 104 Mary Street Richmond - PLN18/0224 - Construction of three double-storey dwellings with basement car park.**

---

Trim Record Number: D19/49215

Responsible Officer:

<b>Proposal:</b>	Construction of three, double-storey dwellings with a common basement car park.
<b>Existing use:</b>	Single-storey dwelling
<b>Applicant:</b>	Megan Harrison of Idle Architecture Studio
<b>Zoning / Overlays:</b>	General Residential Zone (Schedule 2) (GRZ2) Design and Development Overlay (Schedule 5) (DDO5)
<b>Date of Application:</b>	05 April 2017
<b>Application Number:</b>	PLN18./0224

**Background**

7. Application for Planning Permit (PLN18/0224) was received by Council on 05 April 2018 and following the submission of further information on 22 June 2018 the application was advertised on 17 July 2018. A total of nine (9) objections were received.
8. A planning consultation meeting was held on 09 October 2018 and was attended by seven objectors, the applicant and Council Officers to discuss all issues and concerns raised in the letters of objection received.
9. The permit applicant submitted a set of amended plans to Council under Section 57(a) of the *Planning and Environment Act* (1987) (the "Act") on 04 February 2019 and 18 February 2019 in an attempt to address concerns raised by objectors. The amended plans show the following plan changes to the advertised plans:
  - (a) The basement wall inset 1m from the northern boundary (previously 0m) and subsequent increase in permeability.
  - (b) The first floor southern wall associated with the open plan living area to Townhouse 3, above a height of 2.1m above the floor level increased from the southern boundary to 4.26m.
  - (c) The setback of the first floor wall of Townhouse 2 increased from 2m to 3.5m from the southern boundary (with the exception of the stairwell and landing that will remain in the same location as that shown on the advertised plans) with the setback of the wall above a height of 2.1m above the floor level increased from the southern boundary to 4.26m (i.e. would continue the stepped in approach from Townhouse 3 – as shown on Sections BB and DD off the amended plans).
  - (d) The internal reconfiguration of Townhouse 2 to accommodate the increased setback.
10. Said plans show improvements that respond to some of the objector concerns particularly in relation to the setbacks of the proposed development from the subject site's southern boundary. The plans were not re-advertised as they are a reduction in built form, however have been circulated to all objectors with their invitations to the Internal Development Approvals Committee (IDAC) meeting.
11. Said plans are the "decision plans" given that these have been submitted under Section 57(a) of the Act.

## Planning Scheme Amendments

### *Amendment VC148*

12. On 31 July 2018, Amendment VC148 was gazetted by the Minister for Planning. Amongst other changes the amendment deleted the State Planning Policy Framework (SPPF) and replaced it with a new integrated Planning Policy Framework (PPF) in Clauses 10 to 19 of the Scheme. Relevant to this application, there is no longer a requirement under the Scheme for the proposed development to provide on-site visitor car parking spaces.

### **The Proposal**

13. The application is for the demolition of the existing dwelling to develop the land with a row of three, two-storey dwellings in a townhouse-style development. The proposed development will be described as a “building” throughout this report given that all three townhouses are in an attached row.
14. The facets of the proposed development can be summarised as follows:

#### Development

15. *Demolition / excavation (no permit required)*
  - (a) Demolition of the existing dwelling in its entirety and shed, including clearance of the land inclusive of the demolition of fences (not shown on plans) and excavation to make way for a basement.
16. *Layout*
  - (a) Basement car park providing a total of 6 car spaces (2 car spaces to Townhouse 1, 1 car space to Townhouse 2 and 3 car spaces to Townhouse 3) and storage areas that range between 18sq.m. and 44sq.m.
  - (b) Construction of a row of three attached two-storey dwellings (the “building”).
  - (c) Pedestrian entry to the building (Townhouse 1) from Mary Street.
  - (d) The building provides a total of three townhouses (labelled as Townhouses 1, 2 and 3 on the plans) that would proceed in a consecutive manner from east to west.
  - (e) An area of approximately 96sq.m. of the area of the lot would be designated to Townhouse 1 at the ground floor. Townhouse 1 would comprise three bedrooms and front yard of 27sq.m. at the ground floor and an open plan living, kitchen and dining area with a balcony at the first floor of 21sq.m., and service amenities.
  - (f) Townhouse 2 would follow and would occupy an area of approximately 102sq.m. of the lot at the ground floor. Townhouse 2 would comprise an open plan living, dining and kitchen area, total secluded private open space of 40sq.m. (i.e. combined garden area and courtyard) at the ground floor and two bedrooms at the first floor, including service amenities.
  - (g) Townhouse 3 would follow and would occupy an area of 274sq.m. of the area of the lot at the ground floor. Townhouse 3 would comprises an open plan living, dining and kitchen area, one bedroom, secluded area of private open space equating to 105sq.m. (i.e. combined garden area and courtyard) at the ground floor and four bedrooms at the first floor, including secondary living area, a balcony of 10sq.m. and service amenities.
  - (h) Townhouse 1 would be provided with a pedestrian entrance facing Mary Street with shared vehicle access to the basement car park located to the north of the front garden area of Townhouse 1 and accessed via a crossover to Mary Street.
  - (i) Pedestrian access to Townhouses 2 and 3 would be provide via a delineated pedestrian line of travel that would extend adjacent the northern / shared boundary and north of the shared vehicle access.



17. *Heights and setbacks*

- (a) Maximum building height of 8.44m as measured above the natural ground level to the highest point of the pitched roof form above Townhouses 1 and 3.
- (b) To the east (front), the building is setback a minimum distance of 4m at the ground floor and a minimum distance of 3.7m at the first floor as measured to the balustrade associated with the balcony to Townhouse 1.
- (c) To the north, the building is setback between 1.3m and 4.67m at the ground floor and is primarily setback between 2m and 4m at the first floor, with the north-west corner of Townhouse 3 setback 7.4m.
- (d) To the west (rear) the setbacks range between zero and 2m at the ground floor and between zero and 1.34m at the first floor (i.e. all associated with Townhouse 3).
- (e) To the south the setbacks range between zero and 1.5m at the ground floor and between zero and 3.5m at the first floor.
- (f) The proposed site coverage will be approximately 84%, with some site permeability in the front (eastern) and side (northern) setbacks.

18. *Design detailing, colours and materials*

- (a) The building adopts a contemporary design with the walls constructed primarily of masonry blocks and colourbond standing beams and partially of timber or composite lining boards. Balustrades would be constructed of a combination of glass and colourbond and the windows and doors would have black frames.
- (b) The northern and eastern (front) elevations are punctuated with windows and balconies, whilst the western (rear) and southern (side) elevations are punctuated with a combination of windows and materials.

19. *ESD Features*

- (a) Operable windows and doors providing good cross-ventilation opportunities.
- (b) Provision of a water tank below driveway access ramp with a minimum 4300lt water capacity and connected to the toilets within the 3 townhouses.
- (c) Most living areas will be provided with large areas of north-facing glazing, providing for extensive areas of natural light to the main activity areas within each townhouse.

20. *Car parking and vehicle access*

- (a) A total of 6 car spaces within the basement.
- (b) Vehicle access provided from Mary Street to the east.
- (c) Formal and informal areas designated for bicycle parking provided within the common basement.

Subject Site

- 21. The subject site is located on the western side of Mary Street, between Malleson Street to the north and Benson Street to the south, in Richmond. The site is rectangular in shape and the land gradient falls from the west to the east by approximately 380mm. The subject site has a frontage to Mary Street of 11.58m and a depth of 47.85m, yielding an overall site area of approximately 554sq.m.
- 22. The subject site is identified as lot 9 on plan of subdivision LP5039 (Edition 1) associated with Certificate of Title Volume No. 03325 and Folio No. 985.
- 23. The subject site is developed with a single-storey dwelling of masonry construction and tiled roof built circa 1960/70s. The dwelling has a large front yard and a car space in the south-east corner with vehicle access gained via a crossover to Mary Street. Pedestrian access is from Mary Street.



Subject site

24. There are no restrictive covenants, encumbrances or party wall easements detailed on the certificate of Title submitted with the application that extend across the northern, southern or western shared boundaries.

Surrounding Land

25. The surrounding area is residential in nature with built form typified by low scale dwellings to the north that front onto Malleison Street and to the south, including those on the opposite side of Mary Street to the east. Dwellings generally have generous front setbacks and landscaped gardens. Interspersed are two-storey blocks of walk up flats. Mary Street also displays an array of crossovers that also form part of the character of this street.



Aerial (Subject site identified in a yellow rectangle)

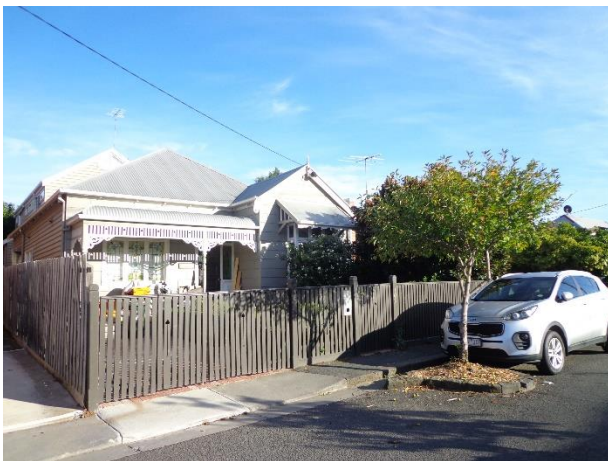
26. The surrounding land is zoned residential.

27. To the north are seven dwellings fronting onto Malleson Street. The dwellings are single-storey, of weatherboard construction and provide typical features of their Victorian era. Each has its private open space located in the setback from the northern boundary and there is no on-site car parking. The dwellings are covered by a Heritage Overlay, with Appendix 8 to the City of Yarra Review of Heritage Areas, 2007 that identifies these as being 'contributory' to the heritage precinct. Most notably is that the Heritage Overlay terminates at the shared boundary.



Properties to the north of the subject site fronting Malleson Street

28. To the south is a double-storey dwelling of weatherboard construction with a hipped roof including a portion of the open plan car park of the walk-up-flats further south. The dwelling is setback 5.3m from the front, Mary Street boundary. The dwelling extends 10.24m across the shared boundary before setting back 3m at the ground floor and setting back 2m at the first floor for the remainder of its length from the southern, shared boundary. The dwelling provides a generous area of secluded private open space to its western (rear) side. A shed is located at the north-west corner of this site, adjacent to the shared boundary and east of the open-air car park. Vehicle access is provided to an open air car park via an existing crossover at the south-east corner.



Property to the south of subject site



Block of walk-up flats further south

29. Further south, is the block of walk-up flats identified in the second line of the above paragraph. The block of flats is setback 5.3m from the Mary Street boundary and appears to have been built circa 1960/70s (but modernised with some upkeep to the façade i.e. render) and provides a communal open air car park, that abuts the south-west portion / length of the southern boundary and western boundary of the subject site.



This allotment is dog-legged, and wraps around the southern and western sides of the immediate dwelling to the south as already described, before extending across the western boundary of the subject site. The open air car park is accessed via a crossover to Mary Street.



Open air car park associated with flats (rear of subject site)



Open air car park of flats - south of subject site and west (rear) side of southern adjoining dwelling.

30. To the east is Mary Street, a one way street that allows for south-bound traffic only. Restricted parking is provided on both sides of the street. Opposite is a row of four single-storey dwellings of weatherboard construction, but unlike those located along Malleson Street, are not covered by a Heritage Overlay. These dwellings are double-fronted, detached and have simple proportions and detail, two of which that also have car parking within their front setback to the street. South of this row is another block of walk-up flats with open air car parking within the front setback to Mary Street accessed via a crossover that extends for the length of this site's front boundary (shown below).



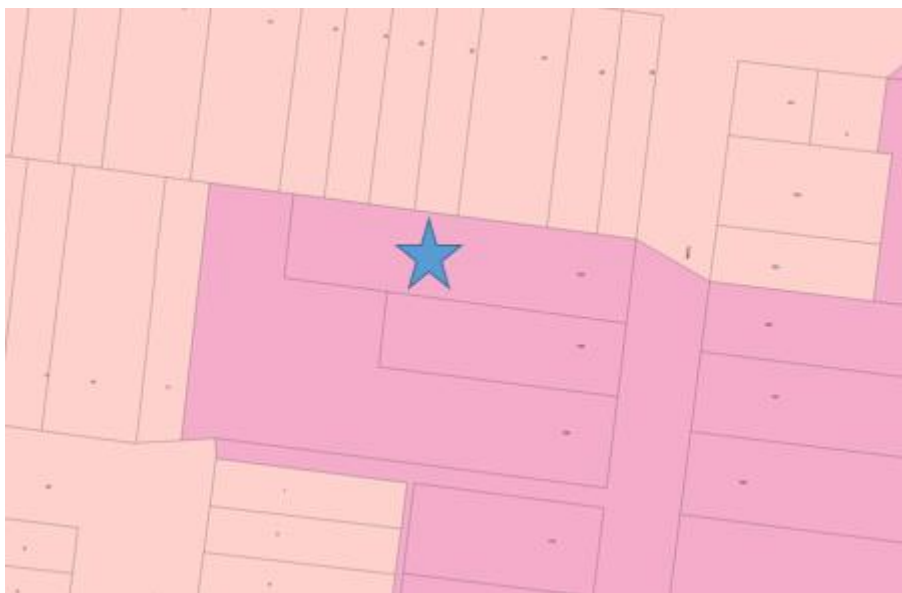
31. The site is located approximately 340m north of the Swan Street Major Activity Centre and associated shopping precinct as well as the trams on Swan Street. The site is also within 430m south of the Bridge Road Major Activity Centre and associated tram services connecting the Melbourne CBD and eastern suburbs. The proximity to both of these regionally significant service centres provides the site with excellent access to a broad range of retailing and entertainment facilities as well as jobs and good public transport connections.

## Planning Scheme Provisions

### Zoning

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

32. The subject site is zoned General Residential (Schedule 2) which contains the following provisions:
- (a) Pursuant to Clause 32.08-6, a planning permit is required to construct two or more dwellings on a lot.
  - (b) Pursuant to Clause 32.08-9, a building used as a dwelling or residential building must not exceed 9m in height.
  - (c) Pursuant to Clause 32.09-4, a dwelling or residential building on a lot of 500-650sqm must provide the minimum garden area requirement of 30%.



### Overlay

*Design and Development Overlay – Schedule 5 (DDO5)*

- 33. Pursuant to Clause 43.02-2 of the Planning Scheme, a planning permit is required to construct a building or construct or carry out works unless the schedule specifies that a planning permit is not required. In this instance Part 2.0 of Schedule 5 of the Design and Development Overlay states that *no permit is required to construct a building or construct or carry out works*. Accordingly, no permit is required under clause 43.02-2.
- 34. However, Schedule 5 states that where a permit is required to use land or for the construction of a building or the construction or carrying out of works under another provision in this scheme, notice must be given under section 52(1)(c) of the *Planning and Environment Act* (1987) to the person or body specified as a person or body to be notified in Clause 66.06 or a schedule to that clause.
- 35. The Schedule to Clause 66.06 states that notice must be given to the Environment Protection Authority, Transurban City Link Limited and the Roads Corporation (VicRoads). This has been done and no objections were received.

Particular Provisions

*Clause 52.06 – Car Parking*

- 36. Pursuant to Clause 52.06-2, the car parking spaces required under Clause 52.06-5 must be provided on the land. Clause 52.06-3 requires a planning permit to reduce the number of car parking spaces required under this clause.
- 37. Under clause 52.06-5, the following parking rates are required:

<b>Use</b>	<b>Bedrooms/ Area</b>	<b>Rate (column B)</b>	<b>No. required</b>	<b>No. proposed</b>	<b>Reduction sought</b>
Dwelling	1 x 2 Bedroom	1 to each one or two bedroom dwelling, plus	1	1	0
	2 x 3+ Bedroom	2 spaces per 3 or more bedroom dwelling	4	5	0
<b>Total</b>			<b>5</b>	<b>6</b>	<b>Surplus of 1</b>

- 38. Applying the above rates, the Scheme requires a total of 14 car parking spaces to be provided on-site for residents of the development. With 15 spaces provided, the minimum requirement of the Scheme is exceeded.

*Clause 52.34 – Bicycle facilities*

- 39. Clause 52.34 of the Scheme applies to dwellings in developments of four or more storeys. The overall proposal is two storeys in height and therefore these provisions do not apply. That said, on-site bicycle parking is provided within the basement.

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

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

General Provisions

*Clause 65 – Decision guidelines*

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

Planning Policy Framework (PPF)

*Clause 15.01-1S – Urban Design*

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

*Clause 15.01-2S – Building Design*

43. The relevant objective of this clause is *“to achieve building design outcomes that contribute positively to the local context and enhance the public realm”*.

*Clause 15.01-5S – Neighbourhood Character*

44. The relevant objective of this clause is *“to recognise, support and protect neighbourhood character, cultural identity, and sense of place”*.

*Clause 15.02 – Sustainable Development*

45. The objective of this clause is *“to encourage land use and development that is energy and resource efficient, supports a cooler environment and minimises greenhouse gas emissions”*.

*Clause 16.01 Residential Development*

*Clause 16.01-1S – Integrated housing*

46. The objective of this clause is *“to promote a housing market that meets community needs”*.

*Clause 16.01-1R – Integrated housing- Metropolitan Melbourne*

47. Strategies for this clause are:

- (a) *Provide certainty about the scale of growth by prescribing appropriate height and site coverage provisions for different areas.*
- (b) *Allow for a range of minimal, incremental and high change residential areas that balance the need to protect valued areas with the need to ensure choice and growth in housing.*

*Clause 16.01-2S Location of residential development*

48. The objective of this clause is “*to locate new housing in designated locations that offer good access to jobs, services and transport*”.
49. Relevant strategies for this clause are:
- (a) *Increase the proportion of new housing in designated locations within established urban areas and reduce the share of new dwellings in Greenfield and dispersed development areas.*
  - (b) *Encourage higher density housing development on sites that are well located in relation to jobs, services and public transport.*
  - (c) *Ensure an adequate supply of redevelopment opportunities within established urban areas to reduce the pressure for fringe development.*
  - (d) *Facilitate residential development that is cost effective in infrastructure provision and use, energy efficient, water efficient and encourages public transport use.*
  - (e) *Identify opportunities for increased residential densities to help consolidate urban areas.*

*Clause 16.01-3S – Housing diversity*

50. The objective of this clause is “*to provide for a range of housing types to meet increasingly diverse needs*”.

*Clause 16.01-3R – Housing diversity - Metropolitan Melbourne*

51. The strategy of this policy is “*create mixed-use neighbourhoods at varying densities that offer more choice in housing*”.

*Clause 16.01-4S – Housing affordability*

52. The objective of this clause is “*to deliver more affordable housing closer to jobs, transport and services.*”

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

53. The objective of this clause is “*to create a safe and sustainable transport system by integrating land use and transport*”.

Local Planning Policy Framework (LPPF)

*Clause 21 – Municipal Strategic Statement (MSS)*

*Clause 21.03 – Vision*

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

*Clause 21.04 – Land use*

*Clause 21.04-1 – Accommodation and Housing*

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



*Clause 21.05 Built form*

*Clause 21.05-2 – Urban design*

56. This clause incorporates the following relevant objectives:

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

*Clause 21.07 – Environmental Sustainability*

57. The relevant objectives of this clause are:

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

*Clause 21.08 Neighbourhoods*

58. Clause 21.08-10 (Central Richmond) describes this area as follows:

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

Relevant Local Policies

*Clause 22.10 – Built form and design policy*

59. 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 22.13 Residential built form policy*

60. This policy applies to the R1Z in areas not covered by the Heritage Overlay and refers to the Built Form Character Type as set out in the Built Form Character Maps under Clause 21.08.

61. The site is classified as being in the 'Inner-suburban residential' area. Clause 22.13-2 describes 'Inner-suburban residential' areas as being a *built form dominated residential areas with small gardens (if any) and minimal front and side setbacks.*

62. The relevant design responses are:

- (a) *Maintain the existing pattern of front setbacks.*
- (b) *Landscape the front setback in a style that reinforces the garden character (if any) of the streetscape.*
- (c) *Where the general pattern of development includes gaps between buildings, include a setback on at least one side of the building.*
- (d) *Orient buildings at right angles to the street frontage.*
- (e) *Provide front fencing that is open (unless the building is zero front setback).*
- (f) *On single house sites in areas with generally consistent building heights, limit variations in height to a maximum of one storey compared to the adjacent properties.*

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

63. This policy applies *to new buildings* and has an objective *“to promote the use of water sensitive urban design, including stormwater re-use.”*

*Clause 22.17 - Environmentally Sustainable Design*

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

**Advertising**

65. The application was advertised between August and September 2017 under the provisions of Section 52 of the *Planning and Environment Act (1987)* (the Act) by 46 letters sent to surrounding owners and occupiers, and by one (1) sign displayed on the Mary Street frontage.
66. Nine (9) objections were received. The grounds of the nine (9) objections received to the application are summarised as follows:
- (a) Neighbourhood character.
  - (b) Design including height, massing, scale, bulk, site coverage and permeability.
  - (c) Overdevelopment.
  - (d) Lack of landscaping / Impacts on surrounding landscaping / vegetation.
  - (e) Off-site amenity including overshadowing / loss of daylight, overlooking and noise impacts.
  - (f) Car parking and traffic impacts.
  - (g) Lack of information on plans.
  - (h) Impact of excavation on surrounding properties i.e. on their structural integrity.
67. A planning consultation meeting was held on 09 October 2018 and was attended by seven objectors, the Applicant and Council Officers to discuss all issues and concerns raised in the letters of objection received.
68. Following the consultation meeting, the permit applicant submitted a set of amended plans pursuant to section 57A of the Act in an attempt to address the concerns raised by the objectors. The amended plans were submitted to Council on 04 February 2019 and 18 February 2019.
69. The amended plans show the following plan changes to the advertised plans:
- (a) The basement wall inset 1m from the northern boundary (previously 0m) and subsequent increase in permeability.
  - (b) The first floor southern wall associated with the open plan living area to Townhouse 3, above a height of 2.1m above the floor level increased from the southern boundary to 4.26m.
  - (c) The setback of the first floor wall of Townhouse 2 increased from 2m to 3.5m from the southern boundary (with the exception of the stairwell and landing that will remain in the same location as that shown on the advertised plans) with the setback of the wall above a height of 2.1m above the floor level increased from the southern boundary to 4.26m (i.e. would continue the stepped in approach from Townhouse 3 – as shown on Sections BB and DD off the amended plans).
  - (d) The internal reconfiguration of Townhouse 2 to accommodate the increased setback.

70. The amended plans were not re-advertised as they show a reduction in built form to the advertised plans. The amended plans were formally exempt from the notice provisions at a Development Assessment Panel on 29<sup>th</sup> March 2019. The amended plans are the decision plans and were sent to all objectors with their invitations to the Internal Development Approvals Committee (IDAC) meeting.

## **Referrals**

### External Referrals

71. The submitted application was referred to Environment Protection Authority, Transurban City Link Limited and the Roads Corporation (VicRoads).
72. The Environment Protection Authority and VicRoads have responded confirming their support (non-objection) to the proposal. Their comments are included as an attachment to this report.
73. No comments were received from Transurban City Link Limited.

### Internal Referrals

74. The application was referred to the following units within Council:
- (a) Urban Design (Internal);
  - (b) Environmental Sustainable Development (ESD) Advisor;
  - (c) Traffic Engineering Unit;
  - (d) Contract Services Unit (i.e. Waste management); and
  - (e) Open Space Planning and Design.
75. Referral comments have been included as attachments to this report (grouped as Attachment 4 to this report).
76. The amended plans were referred internally to Council's Engineering Services Unit due to the adopted basement setback from the northern site boundary that could impact vehicle manoeuvrability on site and vehicle turning circles. Further referral advice in relation to this component of the proposal was provided by Council's Engineering Services Unit (see Attachment 4, referral dated 29 March 2019).
77. There was no need for the application to be re-referred under the provisions of Schedule 5 of the Design and Development Overlay, given that the building mass is reduced when compared to the advertised plans.

## **OFFICER ASSESSMENT**

78. The key issues for Council in considering the proposal relate to:
- (a) Relevant Planning Policy in the Scheme;
  - (b) Clause 55 (ResCode); and
  - (c) Objector concerns.
79. The proposed development will be described as a "building" throughout this assessment given that all three townhouses are in an attached row.

### Relevant Planning Policy in the Scheme

80. The development will increase the density on site by two additional dwellings (i.e. replacing a single dwelling with a total of three dwellings). When assessed against the relevant Planning Policy Framework and Local Planning Policy Frameworks (PPF & LPPF), there is strategic support for the development with regard to its location within an area that contains many resources.
81. The purpose of the GRZ (as relevant to the proposal) is:
- (a) *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
  - (b) *To encourage development that respects the neighbourhood character of the area.*
  - (c) *To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.*
82. The proposal fulfils the above by providing what will present to the street as a single modern building on a site within an inner-city context that is ideally located to take advantage of existing public transport services along the Bridge Road and Swan Street MACs.
83. Clause 11 of the Scheme supports an increase in diversity of choice, economic viability, accessibility and land use and transport integration, whilst facilitating sustainable development that takes full advantage of existing settlement patterns. The future residents of the building (3 townhouses) will use the services available in the nearby commercial environments on Bridge Road and Swan Street.
84. The proposed building also complies with a number of key strategic policies within the Scheme, in particular policy at clause 15.01-1S and 18.01-1S, by providing higher density housing with connections to public transport/cycling networks and by increasing and consolidating the supply and diversity of housing in existing urban areas. For all of the reasons outlined above, the proposal is considered to achieve sufficient compliance with the relevant planning policies.
85. Pursuant to clause 52.06 of the Scheme, the proposed development is required to provide a minimum of 5 on-site car parking spaces. There are 6 car parking spaces provided within the common basement. Despite full compliance with this standard, objectors raised concern with both the number of on-site car spaces and their location within a basement type arrangement. Council's Engineering Services Unit have reviewed the on-site car parking provision and also the design of the basement against the relevant design standards at clause 52.06 of the Scheme (including the access and egress, ramp gradients and vehicle manoeuvrability on site) and have provided comments of support.

#### Clause 55 (ResCode)

86. This section provides a detailed assessment of the proposal against the relevant provisions of ResCode (Clause 55), incorporating an assessment against the policy guidelines for sites within the Inner Suburban Residential area at Clause 22.13 (Residential Built Form Policy) and the provisions of Clause 22.10 – Built Form and Design Policy.
87. Given the site's location within a built up inner city residential area, strict application of the standards of ResCode is not always appropriate. Whether the proposal meets the policy objective is the relevant test.
88. The following provides an assessment against the relevant standards of ResCode and shows the proposal achieves a reasonable level of compliance with the relevant objectives subject to the implementation of appropriate conditions.

#### *Standard B1 – Neighbourhood Character*

89. Complies. The proposal seeks to develop the site with a two-storey building (a townhouse style development) that will be fitting to the character of this precinct. Mary Street contains double-storey built forms, and the proposed design response and how it presents to its different interfaces is appropriate in the site context. The subject site also demarcates the bookend of dwellings / built forms on sites that have no heritage significance and on a street which is significantly different to its intersecting neighbour further north (Malleon Street).
90. The proposal has responded to its context as per the objectives of clause 15.01-1. The proposed two-storey scale has kept to a similar height as the immediately abutting building to the south, including the block of walk-up flats further south and therefore complies with the design objectives of clauses 15.01 and 21.05 of the Scheme. A visual connection with the immediately abutting buildings is also provided through the inclusion of similar window levels as the building to the south at the ground floor, an emphasised double-storey wall height matching the block of walk flats (i.e. the edge of the wing walls to the north and south the balcony to Townhouse 1) and pitched roof. Whilst evidently contemporary, these adopted design elements reference the double-storey buildings to the south and are visually compatible with the character of the street, and achieve compliance with the the *Urban form and character; Street and Public Space Quality; and Setbacks & Building height* design objectives and guidelines at Clause 22.10-3.2; Clause 22.10-3.4; and Clause 22.10-3.3, and the design response guidelines at Clause 22.13-3.2 of the Scheme for Inner Suburban Residential areas:
91. The building provides windows and a balcony to the street (for townhouse 1) therefore providing opportunities for passive surveillance of the public domain. Front fencing and landscaping in the front setback is also proposed which further references the landscaping and fencing arrangements of surrounding properties.
92. Council's Urban Designer supports the building height but recommends that the front setback of Townhouse 1 is increased to line up and match the setback of the southern adjoining dwelling. Whilst the entrance to Townhouse 1 lines up, the remainder of the dwelling steps closer to the front boundary. This is then further emphasised with the wing walls associated with the first floor balcony above. As such, it is considered appropriate to address this with a condition requiring the balcony to appear more recessive by lining it up with the ground floor façade of the dwelling to the south. The setback adopted at the ground floor of Townhouse 1 is considered to be respectful of the southern adjoining property by matching the pedestrian entrance to the setback of the southern dwelling and therefore providing an appropriate transition.
93. Council's Urban Designer was critical of the visual prominence of the entrance to the basement, crossover and vehicle entrance to Mary Street. However, Mary Street is characterised by dwellings with crossovers and examples of this can be seen on the opposite side off the street and to the south. The subject site also contains an existing crossover and this will be relocated further north. It is unreasonable to request the reduction in the prominence of the crossover and access into the basement to be any less prominent when compared to the surrounding neighbourhood, where there is already a visual prominence of crossovers and open air car spaces within the front setbacks of dwellings. Further, the proposal would remove the existing crossover and locate this away from the most sensitive interface to the south.
94. Council's Urban Designer was also critical of the locations of the pedestrian entrances for Townhouses 2 and 3 and the length of the 'pedestrian line of travel'. However, this arrangement is not too dissimilar from the pedestrian entrances and pedestrian arrangements of the blocks of walk-up flats (i.e. property No's. 108 and 109 Mary Street) that have dwellings with entrances set into the site. Given that this arrangement is limited to two Townhouses that have their entrances set into the site, on balance it is considered appropriate from a site context and neighbourhood character perspective.

95. Overall, the modern form as well as the colours and material scheme (that include grey and natural timber, and black framing elements) are considered to introduce an interesting design within the streetscape and will add to the vitality of the surrounding area. Townhouse 1 has also adopted a pitched roof which is consistent with most dwellings along Mary Street.

*Standard B2 – Residential Policy*

96. Complies. The proposal demonstrates a consistency with State policies by contributing to urban consolidation and utilising existing infrastructure without adversely affecting the existing character of the surrounding neighbourhood. The site is well placed to make such a contribution, being located within the 7km radius of the CBD and between two major activity centres, with all the services that result from such a location (public transport, shops and community services).
97. The proposed development also displays a suitable degree of consistency with local planning policies contained within the Scheme, including relevant components of the MSS, and more specifically with regard to Clause 22.13-3.2 (Inner Suburban Residential) given that:
- (a) the setback to Mary Street would provide for landscaping;
  - (b) the proposal would activate the Mary Street interface with pedestrian entries, a balcony and windows, including vehicle access; and
  - (c) the proposal would provide a strong two-storey podium scale that will provide an appropriate transition with the single-storey dwellings to the north and front portion of the dwelling to the south, albeit consistent with this same dwellings overall two-storey height, including with the block of walk-up flats further south.

*Standard B3 – Dwelling Diversity*

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

*Standard B4 – Infrastructure*

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

*Standard B5 – Integration with the street*

100. The primary pedestrian entrance of the building will be orientated to Mary Street and Townhouse 1 will have windows and balcony that will allow for passive surveillance to the main street frontage in compliance with the policy objectives.
101. To the east (front), the building is setback a minimum distance of 4m at the ground floor and a minimum distance of 3.7m at the first floor as measured to the balustrade associated with the balcony to Townhouse 1. As detailed earlier under the *Neighbourhood Character* heading, the balcony at the first floor of Townhouse 1 will be conditioned to have a setback in line with the front setback of the southern adjoining dwelling. This will assist in the building’s further integration with the street.
102. Fencing will be also be constructed across the front boundary the design of the fence references existing fences along the street that are also varied and with varying degrees of transparency. Vehicle access is provided from Mary Street which is also consistent with existing crossovers evident along Mary Street.

*Standard B6 – Street setback*

103. Complies with the objective subject to discussed plan changes within the *Neighbourhood Character* section of this assessment. Based on the plan changes discussed under the *Neighbourhood Character* assessment, that will be required by way of permit conditions, the building will provide a good pedestrian link to Mary Street. The building will have an easterly orientation with frontage and pedestrian access to Mary Street.
104. The front fencing with a transparent design will also allow for internal views from the street. It is considered that the building will integrate well with Mary Street, pursuant to the objective which is “to ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site”.

*Standard B7 – Building height*

105. Complies with the standard and the objective. The maximum building height is 8.44m (i.e. less than 9m) as measured above the natural ground level to the highest point of the pitched roof form above Townhouses 1 and 3.

*Standard B8 – Site coverage*

106. Complies with the objective. The overall degree of built form coverage on the site equates to approximately 461sq.m. or 84% of the total site area, thereby exceeding the 60% standard specified in the Scheme. The degree of site coverage proposed is considered acceptable given the location of the site within an inner city urban context. It is also common for new developments to exceed the minimum site coverage required by the standard in such a setting where surrounding dwellings also exceed the standard (i.e. dwellings at the south-east corner of the Malleson and Mary Street intersection). Furthermore, the site coverage is largely due to the basement level that is assisting in facilitating the full car parking rate on site as required by the Scheme (albeit with a surplus and stores).

*Standard B9 – Permeability*

107. Complies with the objective. Landscaping would be provided within the front setback to Mary Street, with part of the driveway paved with a pervious surface and the side setback to the north also paved with pervious pavers and vegetation. The amended plans show a basement setback from the northern boundary that would allow for some in-ground planting along the northern site boundary and further increase the permeability of the site to 93sq.m equating to 16% of the area of the lot. An underground rainwater tank with a 4,300lt capacity would also be provided beneath the driveway. Whilst the standard requires a minimum 20% permeability, the total percentage of permeability is acceptable within this inner city context where some variation to the standard is acceptable, particularly in instance where this is compensated through the provision of a rainwater tank.

*Standard B10 – Energy efficiency, Clause 22.16 – Stormwater Management (Water Sensitive Urban Design) and Clause 22.17 – Environmentally Sustainable Design*

108. A Built Environment Sustainability Scorecard (BESS) was submitted with the application and as identified by Council’s ESD advisor it provides:
- (a) reasonable natural ventilation and access to daylight;
  - (b) a STORM report with a 100% STORM score has been submitted that relies on the entire 329m<sup>2</sup> of roof plumbed to a 4,300 litre rainwater tank connected to all toilets onsite for flushing; and
  - (c) energy efficient heating/cooling, hot water and lighting.

109. Council's ESD advisor makes several recommendations to improve the design of the building and includes increasing the minimum NCC 6 Star NatHERS rating to a 7 star average NatHERS star rating, onsite solar Photovoltaic array to contribute to onsite energy consumption and onsite energy storage systems (i.e solar panels).
110. This is considered achievable (i.e. 7 star average NatHERS star rating) and therefore a condition will require the submission of a Sustainable Design Assessment with an updated BESS that provides the recommendations outlined by Council's ESD advisor with further conditions requiring the plans to reflect the changes and any energy efficient commitments indicated within the BESS.
111. The submitted STORM report also demonstrates compliance with the Best Practice Standards outlined in Clause 22.16 – *Stormwater Management (Water Sensitive Urban Design)* and Clause 22.17 – *Environmentally Sustainable Design* given the provision of the water tank and site's STORM score of 100%. Based on all of these factors, the development achieves a reasonable level of energy efficiency in accordance with the Environmental sustainability design objectives and guidelines at Clause 22.10-3.5. A further condition will require plan notations confirming that the storm water collected on site will be used for irrigation and the flushing of toilets within the development.

*Standard B11 – Open Space*

112. Not applicable as no communal open space is proposed. However, common landscaping is proposed on site along the pedestrian walkway and within the front setback of the building. All common landscaping will be required to be managed by a body corporate that will need to overlook ongoing maintenance in line with an endorsed landscape plan.

*Standard B12 – Safety*

113. Townhouse 1 would have a primary pedestrian entrance to Mary Street whilst Townhouses 2 and 3 would have theirs facing north and accessed from Mary Street via a separate delineated pedestrian walkway along the northern side of the building. Vehicle access is from Mary Street. There are no conflicts between the vehicle and pedestrian access given the limited number of townhouses (i.e. limited to three) and clearly delineated pedestrian pathways. While each entrances does have sensor activated lighting a condition will require all pathways to be illuminated to provide a clear line of sight to the entrances at night.
114. Having regard to the above, the proposed building will provide an acceptable level of safety for future residents.

*Standard B13 - Landscaping*

115. Landscaping opportunities are provided at the street frontage which is reflective of the character of the area. Other areas are provided along the northern site boundary and on the northern sides of Townhouses 2 and 3. These areas, as well as the amount of planting that would be achievable in each, would be consistent with the character of the area which typically has landscaping particularly within the front setbacks of dwellings.
116. The submitted landscape plan identifies that the site will achieve a total garden area of 30% or 166sq.m therefore complying with the minimum garden requirements at Clause 32.09-4. It is also important to review the definition of a garden area under the provisions of the Scheme in light of the basement. Accordingly, Clause 73.01 (Definitions) of the Scheme excludes a basement that does not project above the natural ground level from the definition of "Garden Area". As such, the "Garden Area" is calculated based on the open area surrounding the building shown on the ground floor plan. The landscape plan will also form part of the overall endorsement, hence ensuring that the minimum garden area requirement is met.



*Standard B14 – Access*

- 117. The vehicle crossover would occupy approximately 31% of the property frontage to Mary Street, which is less than the maximum 40% prescribed by the standard. Vehicular access-ways / crossover are a common design element found along Mary Street and can be supported in this context.
- 118. The pedestrian access points are well delineated and the entries are clearly visible to Mary Street.
- 119. The proposed crossover in Mary Street would not result in the loss of any on-street car parking given that it would relocate an existing crossover further north, with the existing no longer in use and hence the reinstatement/provision of on-street parking in its place.

*Standard B15 – Parking location*

- 120. The on-site car parking spaces are conveniently located for the future residents of the proposed new dwellings in the form of a basement car park. The design of the car spaces and manoeuvrability of vehicles shown on the amended plans (as a result of the basement setback from the northern site boundary) have been assessed by Council’s Engineer and found to be satisfactory.
- 121. In their referral comments, Council’s Engineer have asked for further detail. More specifically, they have requested that a convex mirror be provided on the southern side of the development’s vehicle entrance in order to further improve the visibility and safety for pedestrians using the footpath. While they support the access and egress in principle, they also require the submission of a swept path diagram to demonstrate that a B85 design vehicle will adequately enter and exit the site from Mary Street. These items will be required by way of conditions.

*Standard B17 – Side and rear setbacks*

- 122. This standard stipulates the following:

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

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

- 123. The relevant ground floor walls with a minimum setback of 1m comply with the standard. The following table identifies the compliant first floor walls and the variations required with regard to the advertised plans:

<b>Proposed wall</b>	<b>Proposed setback</b>	<b>Wall height</b>	<b>Complies with Standard B17</b>
First floor setbacks from the north.	Between 2m and 7.4m.	6.7m above the natural ground level.	Complies (minimum setback of 1.9m required).
First floor setbacks from the south.	Between 2m and 3.5m with the greatest setback	6.7m (max) above the natural ground level.	Complies (minimum setback of 1.9m required).

Proposed wall	Proposed setback	Wall height	Complies with Standard B17
	being 4.26m		
First floor setback from the west (rear)	1.34m	6.7m (max) above the natural ground level.	Does not comply.

124. The amended plans, have further improved the setbacks adopted from the southern boundary by increasing the setback of the first floor southern wall associated with the open plan living area to Townhouse 3, above a height of 2.1m to 4.26m, and continuing the same setbacks across the first floor of Townhouse 2 (i.e. now all setback between 2m and 4.26m from the shared boundary and opposite the most sensitive interface being that to a walkway and secluded area of private open space associated with an adjoining dwelling to the south.
125. Based on a comparison of the setbacks between the advertised plans and the amended plans, it becomes apparent that the amended plans provide significant improvements in terms of reducing visual bulk and massing. Save for the 1.3m setback adopted from the western boundary, where located opposite sensitive interfaces (i.e. secluded areas of private open spaces of dwellings to the north and south), the development has adopted setbacks that are fully compliant and actually exceed the minimum setback requirements of the standard.
126. A variation to the standard of Standard B17 with regard to the proposed 1.34m setback to the west is supported as this wall would be located opposite an open-air car park associated with a block of walk-up flats located further south. This is considered to meet the objective which is *to ensure that the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.*

*Standard B18 – Walls on boundaries*

127. This standard stipulates the following:

*A new wall constructed on or within 200mm of a side or rear boundary of a lot or a carport constructed on or within 1 metre of a side or rear boundary of lot should not abut the boundary:*

- (a) *For a length of more than the distance specified in a schedule to the zone; or*
- (b) *If no distance is specified in a schedule to the zone, for a length of more than:*

- (i). *10 metres plus 25 per cent of the remaining length of the boundary of an adjoining lot, or*
- (ii). *Where there are existing or simultaneously constructed walls or carports abutting the boundary on an abutting lot, the length of the existing or simultaneously constructed walls or carports whichever is the greater.*

128. Applying the standard, an on-boundary wall length of 19.4m is permitted along the northern and southern site boundaries (i.e. 10 metres plus 25 per cent of the remaining length of the boundary).
129. In this instance the development will provide on-boundary walls to the southern and western boundaries. The proposal does not propose any on-boundary walls to the north.

130. The southern boundary wall lengths equate to a total of 25.7m at the ground floor (i.e. combined on-boundary wall lengths Townhouses 1 and 3) decreasing to a total length of 21.3m at the first floor (i.e. combined on-boundary wall lengths of Townhouses 1 and 3). In all instances, a variation to the standard is supported. This is because, the most exposed on-boundary walls associated with Townhouse 3 would be constructed adjacent to an open air car park associated with the block of walk-up flats to the south of the immediately adjoining southern dwelling. The walls associated with Townhouse 1 would be constructed to abut the on-boundary wall of the southern adjoining dwelling at the ground floor and the wall above would be located opposite the roof of the front portion of this same dwelling and would provide an appropriate transition of one storey and terminate at the same length of the existing on-boundary wall.
131. The on-boundary wall of the kitchen associated with Townhouse 3 would in part extend across the boundary shared with the immediate southern dwelling, however would be located adjacent to outbuilding(s). This is considered to meet the objective of the standard which is *to ensure that the location, length and height of a wall on a boundary respected the existing or preference neighbourhood character and limits the impact on the amenity of existing dwellings.*

*Standard B19 – Daylight to existing windows*

132. This standard stipulates the following:

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

133. Complies with the standard and the objective. The windows of adjoining properties to the north and south would receive adequate daylight levels in accordance with the standard as these would all continue to face into areas greater than the minimum light court area of 3sq.m.

*Standard B20 – North-facing windows*

134. This standard stipulates the following:

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

135. There are no north-facing habitable room windows located within 3m for the subject site. The north-facing windows of the southern adjoining dwelling are setback in excess of 3m from the shared boundary (i.e. shown to be setback 3.05m at the ground floor) and therefore this policy does not technically apply.

*Standard B21 – Overshadowing*

136. Complies with the standard. Standard B21 of Clause 55 seeks to ensure buildings do not significantly overshadow existing secluded private open space. According to the standard, *where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area of the secluded private open space should receive a minimum of five hours of sunlight between 9am and 3pm on 22 September.*

137. The only area of secluded private open space impacted by shadows cast by the development is that associated with the adjoining dwelling to the south, and this is only evident in the morning hours. The amended plans have further reduced the shadows cast to the secluded private open space of the adjoining dwelling to the south with the biggest improvement evident at 9am and 10am (i.e. a reduction of between 6-10sq.m.).
138. The adjoining property to the south enjoys an area of approximately 90sq.m. of secluded private open space and this is a generous area, particularly in an inner urban setting. Based on the amended shadows, there will be no further impact to this dwelling's secluded area of private open space at 10am, and it will continue to enjoy solar access to at least 40sq.m. of its secluded area at 11am, 12 noon, 1pm, 2pm and 3pm (i.e. at least 5 hours) at the Equinox (i.e. September 22<sup>nd</sup>), complying with the Standard, and hence the objective.

*Standard B22 – Overlooking*

139. The standard requires *a habitable room window, balcony, terrace, deck or patio should be located and designed to avoid direct views into the secluded private open space of an existing dwelling within a horizontal distance of 9 metres (measured at ground level) of the window, balcony, terrace, deck or patio. Views should be measured within a 45 degree angle from the plane of the window or perimeter of the balcony, terrace, deck or patio, and from a height of 1.7 metres above floor level.*
140. All first floor windows will either have 1.7m sill heights or will be screened with steel louvres at a height of 1.7m above the floor level and maximum 25% transparency. The balustrade around the perimeter of the first level deck to Townhouse 3 will be solid and measure 1.7m above the floor level to the north and will include a privacy screen across the western edge. However, the transparency of the screen to its western side has not been identified and a condition will therefore require this.

*Standard B23 – Internal views*

141. Complies with the standard as there are no internal views evident within the scheme. Internal 1.8m high fencing between the southern courtyards has been provided.

*Standard B24 – Noise impacts*

142. The dwellings are not located in close proximity to any existing noise sources and it is not considered necessary to require additional acoustic treatments for the proposed dwellings. With no large plant areas proposed, it is not necessary to require to protect nearby dwellings (especially as the use does not require a planning permit). However mechanical systems such as A/C units are generally designed to meet the relevant EPA noise requirements and so if they are added to the townhouses, they are unlikely to have any unreasonable noise impacts in any instance. That said, a condition will require noise emissions from plant and equipment to comply with the State Environment Protection Policy or any other standard recommended by the EPA (including but not limited to SEPP N-1).

*Standard B25 – Accessibility objective*

143. The entrances of each new townhouse are located at ground floor, and will be generally accessible for those with limited mobility in accordance with the standard because they are at-grade and no steps are required. The objective of the standard is met.

*Standard B26 – Dwelling entry objective*

144. Complies with the standard and the objective subject to conditions. The primary pedestrian entrance to the building (being Townhouse 1) is from Mary Street with the entrances to Townhouses 2 and 3 clearly visible from the shared walkway along the northern site boundary.

The building will be clearly identified as one that houses multiple dwellings, similar to any townhouse development and block of walk-up-flats.

145. The mail boxes for each townhouse are appropriately located and will clearly identify the separation and number of dwellings from Mary Street.

*Standard B27 – Daylight to new windows*

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

*Standard B28 – Private open space*

147. Standard B28 generally requires that:

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

- (a) *An area of 40 square metres, with one part of the private open space to consist of secluded private open space at the side or rear of the dwelling or residential building with a minimum area of 25 square metres, a minimum dimension of 3 metres and convenient access from a living room, or*
  - (b) *A balcony of 8 square metres with a minimum width of 1.6 metres and convenient access from a living room, or*
  - (c) *A roof-top area of 10 square metres with a minimum width of 2 metres and convenient access from a living room.*
148. Townhouse 1 will have a balcony of 21sq.m. but as discussed earlier, as a consequence of a condition requiring the balcony to be setback in line with the front most wall of the southern adjoining dwelling, this will consequently reduce the area by approximately 12sq.m. A permit condition will therefore require the resulting balcony to meet the minimum dimensions of 8sq.m. required by this standard.
149. Townhouse 2 will have an area of 40sq.m. with its northern part equating to an area of 26sq.m. at the ground floor and Townhouse 3 will have an area of 105sq.m. with one part equating to 94sq.m. at the ground floor. The building complies with the standard.

*Standard B29 – Solar access to open space*

150. The open spaces to Townhouses 2 and 3 will have an outlook to the north with the balcony of Townhouse 1 that would have an outlook to the east. As such, the open areas would receive adequate solar access given the northern orientation to most open space. The balcony area to Townhouse 1 will benefit from the morning sun, and in part from the northern sun given that the roof angles over the north-east corner.

*Standard B30 – Storage*

151. The standard requires that all dwellings are provided with 6 cubic metres of externally accessible storage. Storage areas have been provided within the basement that significantly exceed the requirements of this standard (i.e. minimum of 10 cubic metres i.e. store room associated with Townhouse 3 - 4.25m length x 2.4m height = 10).

*Standard B31 – Design detail*

152. Complies with the standard. The proposed development is contemporary in design, yet complementary to the existing surrounding built form in terms of typology, form and materiality. It will integrate into the surrounding context along Mary Street which hosts two-storey blocks of flats with open-air car parking with a mix of styles from the 1970's through to contemporary (i.e. property no. 114-116 Mary Street).
153. The development will include walls constructed primarily of masonry blocks and colourbond standing beams and partially of timber or composite lining boards. Balustrades would be constructed of a combination of glass and colourbond and the windows and doors would have black frames. The northern and eastern (front) elevations are also punctuated with windows and balconies, whilst the western (rear) and southern (side) elevations are punctuated with a combination of windows and materials. Council's Urban Designer recommends that actual timber is used in lieu of a composite material. A condition will therefore require this.
154. The design of the basement with vehicle access to Mary Street effectively integrates into the development and is visually compatible with the local area, and other vehicle access points along the street. The dwellings will contribute to the design styles and housing choice found within the area. The proposal will present a development of acceptable quality within a built-up inner-city context and residential area. The varied materials and contemporary approach, will emphasize a clear delineation between the old and new built form (particularly with its northern neighbours that whilst front another street are located within a Heritage Overlay) therefore providing an appropriate and distinguished built form outcome very separate to the heritage dwellings, and to its southern neighbour.

*Standard B32 – Front fences*

155. Complies. A 1.5m high front fence is proposed (shown on the amended plans), in compliance with the maximum 1.5m height recommended by the standard. The fence is shown to be picket and of an open / pervious design which is consistent with the front fences of other surrounding properties.

*Standard B33 – Common property*

156. Common property is appropriately located and delineated to ensure its efficient ongoing management (likely to be a Body Corporate), in compliance with the standard.

*Standard B34 – Site Services*

157. There is bin storage in the basement and a condition will require the provision of all meters and services to be shown clearly on the plans.
158. A condition will require the submission of a Waste Management Plan as requested by Councils Contract Management Officer.

*Standards B35 – B49*

159. Not applicable as these provisions are only relevant to apartments.

Objector concerns

160. The majority of the issues which have been raised by the objectors have been addressed within the assessment of this report. However, each point will be addressed below, for clarity.
- (a) Neighbourhood character.
  - (b) Design including height, massing, scale, bulk and site coverage and permeability.
  - (c) Overdevelopment.

161. Neighbourhood character, height, massing, scale, bulk, site coverage and permeability have been discussed at paragraphs 89 to 107 with setbacks and walls on boundaries discussed at paragraphs 122 to 131. The strategic context, zoning of the land and size of the lot supports higher density. The site area is 554sq.m the difference being one level and three dwellings. As such, the replacement building is not an overdevelopment within this context and the size of the lot. Furthermore, it is also important to note that if the proposal was for one dwelling, that this would not require a planning permit due to the size of the lot, and it may have resolved in the same built form / building footprint outcome given the generous size of the lot.
- (d) Lack of landscaping / Impacts on surrounding landscaping / vegetation.
162. Landscaping has been discussed at paragraphs 115 and 116. The development will provide landscaping within the front setback that is consistent with the landscape character of the broader area, including properties to the immediate south and eastern side of Mary Street. A landscape plan will be endorsed as part of the overall package of material (as provided with the amended plans).
163. A condition will require the submission of a Tree Management Plan (as recommended by Council's Arborist) to ensure that vegetation of surrounding properties associated with the dwellings to the north and south are adequately protected. Many Objectors were concerned about the impact of the building on their vegetation due to the proximity of the basement to the site boundaries. The amended plans resolved this in part by setting back the basement from the northern site boundary. The required Tree Management Plan will further address this (refer to Condition 15 within the *Recommendation*).
- (e) Off-site amenity including overshadowing / loss of daylight, overlooking and noise impacts.
164. Off-site amenity impacts have been discussed at paragraphs 132 to 142. More specifically:
- i. overshadowing has been discussed at paragraphs 136 to 138;
  - ii. loss of daylight has been discussed at paragraphs 132 to 135;
  - iii. overlooking has been discussed at paragraphs 139 to 141; and
  - iv. noise has been discussed at paragraph 142.
165. Daylight to surrounding dwellings will not be impacted as a consequence of the additional shadows given that windows of existing dwellings closest to the development have generous clearances to the sky.
166. A condition will require noise emissions from plant and equipment to comply with the State Environment Protection Policy or any other standard recommended by the EPA (including but not limited to SEPP N-1).
- (e) Car parking and traffic impacts.
167. The development will provide the required number of car parking spaces prescribed under Clause 52.06 of the Scheme. There are no negative traffic implications anticipated and Council's Engineer is also supportive of the car parking design and arrangement in terms of access and egress and manoeuvrability within the site and from Mary Street subject to appropriate conditions as detailed within the "Recommendation" section of this report.
- (f) Lack of information on plans.
168. The plans provide sufficient information and detail for a full and accurate assessment to be made by Officers from a planning perspective.

- (g) Impact of excavation on surrounding properties / i.e. on their structural integrity.

169. The construction phase of the development will be considered at the building permit stage.

## RECOMMENDATION

That having considered all relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant a Planning Permit PLN18/0224 for the development of the land with three dwellings with a basement car park at 104 Mary Street, Richmond subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans received by Council on 04 and 18 February 2019 but modified to show the following:
  - (a) The first floor balcony to Townhouse 1 and its associated wing walls and planter box setback to match the front setback of the adjoining southern dwelling (i.e. to match its front-most wall to the street that contains a bay window) with the resulting balcony area to comply with the minimum dimensions required for a balcony at Clause 55.05-4 (Private Open Space) of the Yarra Planning Scheme.
  - (b) The provision of lighting along the pathways leading up to the primary pedestrian entrances of each townhouse, and the basement entrance, appropriately shielded and of limited intensity so as to avoid any light spillage into existing adjoining properties.
  - (c) Details to demonstrate that overlooking from the western side of the first floor deck / balcony of Townhouse 3 is limited in accordance with Clause 55.04-6 (Overlooking) of the Yarra Planning Scheme (i.e. the louvered screens to be no more than 25% transparent).
  - (d) An updated schedule of external materials and finishes and confirmation that actual timber will be used in lieu of a composite material.
  - (e) Plan notations confirming that the storm water collected on site will be used for irrigation and the flushing of toilets within the development.
  - (f) All site services including external meter boxes to be designed and integrated into the development, where possible.
  - (g) Provision of a convex mirror to the southern side of the development's vehicle entrance to improve the visibility and safety for pedestrians along the footpath.
  - (h) A swept path diagram to demonstrate that a B85 design vehicle can adequately enter and exit the site from Mary Street.
  - (i) Design changes required by any other conditions of this permit (including Condition 13 – Waste Management Plan and 15 – Tree Management Plan) of this permit.
  - (j) Design changes to implement recommendations of the Sustainable Development Assessment at Condition 7 of this permit.

### *Endorsed Plans*

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



4. Before the development 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.
5. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority.
6. 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.

*Environmentally Sustainable Design Principles (SDA)*

7. Before the plans are endorsed, a Sustainable Development Assessment to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Sustainable Development Assessment will be endorsed and will form part of this permit. The Sustainable Development Assessment must include and reference the details in the BESS and STORM rating reports received by Council 22 June 2018 and include, but not limited to:
  - (a) reference to the modified development as required by Condition 1;
  - (b) confirmation that the development will achieve a minimum average NaTHERS rating of 7 Stars; and
  - (c) solar photovoltaic arrays to contribute to onsite energy consumption and onsite energy storage systems (i.e solar panels).
8. The provisions, recommendation and requirements of the plans and endorsed Sustainable Development Assessment must be implemented and complied with to the satisfaction of the Responsible Authority.

*Lighting*

9. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all external lighting capable of illuminating access to the pedestrian entries and basement level car parking area must be provided. Lighting must be:
  - (a) located;
  - (b) directed;
  - (c) shielded; and
  - (d) of limited intensity.

to the satisfaction of the Responsible Authority.

*General Parking Areas*

10. The area set aside for the parking of vehicles, together with the associated access lanes as delineated on the endorsed plan must:
  - (a) be designed, provided and completed to the satisfaction of the Responsible Authority;
  - (b) thereafter be maintained to the satisfaction of the Responsible Authority;
  - (c) be made available for such use at all times and not used for any other purpose;
  - (d) be properly formed to such levels that it can be used in accordance with the endorsed plan; and
  - (e) be drained and sealed with an all-weather seal coat.

all to the satisfaction of the Responsible Authority.

*Council Infrastructure*

11. Within 2 months of the completion of the development or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated (including the full re-sheeting of the footpath at the front of the property if required by Council):
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
12. Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.

*Waste Management*

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

*Tree Management Plan*

15. Before the development commences, a Tree Management Plan to the satisfaction of the Responsible Authority must be prepared by a suitably qualified Arborist and must be submitted to and approved by the Responsible Authority. When approved the Tree Management Plan will be endorsed and will form part of this permit. The Tree Management Plan must make recommendations for:
  - (a) the protection of (any surrounding trees within 3m of the fence line) trees:
    - (i) pre-construction;
    - (ii) during construction; and
    - (iii) post construction
  - (b) the provision of any barriers;
  - (c) any pruning necessary; and
  - (d) watering and maintenance regimes,

to the satisfaction of the Responsible Authority.

16. The provisions, recommendations and requirements of the endorsed Tree Management Plan must be complied with and implemented to the satisfaction of the Responsible Authority.
17. Noise emissions from plant and equipment must comply with the State Environment Protection Policy or any other standard recommended by the Environment Protection Authority (including but not limited to SEPP N-1).
18. The development, once commenced, must be completed to the satisfaction of the Responsible Authority.
19. 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;
- (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

20. 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.

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

Public lighting for pedestrian access must comply with the minimum lighting level of P4 as per the Australian Standard AS/NZS 1158.3.1:2005 *Lighting for roads and public spaces – Pedestrian area (Category P) lighting – Performance and design requirements*.

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

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

#### **Attachments**

- 1 SUBJECT LAND - 104 Mary Street, Richmond - Aerial
- 2 Amended Plans - 104 Mary Street, Richmond - Section 57(a) of the Planning and Environment Act, 1987
- 3 Original - Advertising S52 Plans (for information purposes only) - 104 Mary Street, Richmond
- 4 External and Internal Referral advice - 104 Mary Street, Richmond