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- 1.1 Amendment to Planning Permit Application No. PLN16/0434.01 - 26 - 56 Queens Parade, Fitzroy North - Construction of two or more dwellings on a lot in a 10-storey building plus two basements, use of part of the land for the sale and consumption of liquor (on premises), partial demolition, reduction of the car parking requirements and alterations of access to a road in Road Zone Category 1.**
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Executive Summary

Purpose

1. This report provides an assessment of the application to amend Planning Permit PLN16/0434 (the Permit) relating to land at 26 – 56 Queens Parade, Fitzroy North. The permit allows:
 - (a) 'Construction of two or more dwellings on a lot in a 10 storey building plus two basements in the *Mixed Use Zone* under clause 32.04-6;
 - (b) Use of part of the land for the sale and consumption of liquor (on premises) under clause 52.27;
 - (c) Partial demolition or removal of a building in a *Heritage Overlay* under clause 43.01-1;
 - (d) Construction of a building or construction or carrying out works in a *Heritage Overlay* under clause 43.01-2;
 - (e) Reduction of the car parking requirements under clause 52.06-2;
 - (f) Alteration of access to a road in Road Zone Category 1 under clause 52.29'.
2. The permit issued 06 July 2018 at the direction of the Victorian Civil and Administrative Tribunal (VCAT). Works have not commenced under the permit.
3. On 4 August 2020, Council received notice from VCAT of a request pursuant to section 87A of the Act to amend the Permit. The proposal generally seeks approval for:
 - (a) An increase the number of dwellings on site (50 new dwellings)
 - (b) Increased provision of office space with reduction in café/retail;
 - (c) 51 additional car parking spaces and
 - (d) Redesign of building massing and design.
4. A compulsory conference is scheduled for one day on 27 October 2020 with an 8 day hearing scheduled to commence on 15 February 2021.
5. The report recommends a position of refusal for the application.

Key Planning Considerations

6. Key planning considerations include:
 - (a) Principles relevant to S87A Amendments
 - (b) Built form (Heritage and Urban Design)
 - (c) Design and Development Overlay – Schedule 16
 - (d) On and off site amenity

Submissions Received

7. At the time of writing this report 119 statements of grounds were received by Council, with the following issues raised:
 - (a) Built form (urban design and heritage) and massing

- (i) Scale of development is out of context with the surrounding heritage neighbourhood
 - (ii) Intensification of site
 - (iii) Treatment of heritage building
 - (iv) Reduced spacing between buildings
 - (v) Presentation to Queens Parade is not in keeping with the area
 - (vi) Poor architectural response – arches not common to the area
 - (vii) Design change from curved forms to more angular increases visual bulk
 - (viii) Quality of the development has been eroded
 - (ix) Lack of landscaping
 - (x) Charcoal paint does not comply with VCAT order
 - (xi) Buildings are too high
 - (xii) Impact on Edinburgh Gardens
- (b) amenity (off-site, on-site, overlooking, overshadowing, loss of light);
- (i) visual bulk of the development has increased
 - (ii) poor internal amenity of dwellings (loss of larger dwellings and introduction of studios)
 - (iii) communal spaces have poor amenity
 - (iv) overlooking to surrounding residences
 - (v) overshadowing of surrounding area
 - (vi) the dwelling typologies are not responsive to the Covid world
 - (vii) interface with properties to the rear
 - (viii) lack of information regarding new uses proposed on site
- (c) traffic and car parking
- (i) increased pressure on road network and parking availability
 - (ii) car stackers are impractical and won't be used.
 - (iii) Increased demand on struggling public transport network
 - (iv) Lack of emergency vehicle access
- (d) ESD
- (i) No area for cloths drying;
 - (ii) Reliance on gas appliances conflicts with sustainable objectives;
 - (iii) Lack of solar panels
 - (iv) Poor ESD initiatives
 - (v) Insufficient provision of bike facilities
- (e) Other
- (i) The amendment should be withdrawn and a new application lodged
 - (ii) Not complaint with VCAT decision
 - (iii) Application lacks detail
 - (iv) Concern with ability for a permit to be amended after a long planning process
 - (v) Loss of views
 - (vi) Property devaluation
 - (vii) No provision of affordable housing
 - (viii) Disruption during construction process
 - (ix) Development will cater to a transient population

VCAT Proceedings

8. A compulsory conference has been scheduled for 1 day on 27 October 202 with an 8 day hearing scheduled to commence on 15 February 2021.

Conclusion

9. Based on the following report, the proposal is not considered to adequately respond to a number of relevant planning policies and should therefore be refused.

CONTACT OFFICER: Mary Osman
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1.1 Amendment to Planning Permit Application No. PLN16/0434.01 - 26 - 56 Queens Parade, Fitzroy North - Construction of two or more dwellings on a lot in a 10-storey building plus two basements, use of part of the land for the sale and consumption of liquor (on premises), partial demolition, reduction of the car parking requirements and alterations of access to a road in Road Zone Category 1.

Reference: D20/144819
 Authoriser: Manager Statutory Planning

Ward: Nicholls

Proposal: Pursuant to section 87A of the *Planning and Environment Act 1987* amend Planning Permit PLN16/0434 which allows:

- Construction of two or more dwellings on a lot in a 10 storey building plus two basements in the Mixed Use Zone under clause 32.04-6
- Use of part of the land for the sale and consumption of liquor (on premises) under clause 52.27
- Part demolition or removal of a building in a Heritage Overlay under clause 43.01-1
- Construction of a building or construction or carrying out works in a Heritage Overlay under clause 43.01-2
- Reduction of the car parking requirements under clause 52.06-2

Alterations of access to a road in Road Zone Category 1 under clause 52.29

Existing use: Vacant

Applicant: Gurner 26-56 Queens Parade Pty Ltd

Zoning / Overlays: Mixed Use Zone, abutting a Road Zone (Category 1), Environmental Audit Overlay, Design and Development Overlay (Schedule 16) and part Heritage Overlay (HO327 – North Fitzroy Precinct).

Date of Application: 17 July 2020 (lodged with VCAT)

Application Number: PLN16/0434

Planning History

1. Planning Permit PLN16/0434 (the permit) issued on 6 July 2018 at the direction of the direction of the Victorian Civil and Administrative Tribunal (VCAT).
2. The permit allows:
 - (a) 'Construction of two or more dwellings on a lot in a 10 storey building plus two basements in the *Mixed Use Zone* under clause 32.04-6;
 - (b) Use of par of the land for the sale and consumption of liquor (on premises) under clause 52.27;
 - (c) Partial demolition or removal of a building in a *Heritage Overlay* under clause 43.01-1;
 - (d) Construction of a building or construction or carrying our works in a *Heritage Overlay* under clause 43.01-2;
 - (e) Reduction of the car parking requirements under clause 52.06-2;
 - (f) Alteration of access to a road in Road Zone Category 1 under clause 52.29'.

3. Refer to Attachment 1 to this report for a copy of the Permit. Plans were endorsed under the Permit on 2 June 2020. Refer to Attachment 2 to this report for a copy of the endorsed plans.

4. Works have not commenced under the Permit.

VCAT History

5. Of relevance to this application is the significant history, prior to the grant of a permit by VCAT. A condensed history is outlined below:

6. The original planning permit application was lodged with Council on 18 May 2016 with a second application lodged for the land at the rear of the site known as rear of 26 – 56 Queens Parade, Fitzroy North (PLN16/0732) – this site does not form part of this amendment application.

7. The application as originally proposed sought approval for *‘the part demolition and development of the land of r a maximum 16 storey building, plus 2 basement levels, accommodating 476 dwellings (no permit required for dwelling use), use of part of the land for food and drinks premises (cafes), use of part of the land (food and drinks premises cafes) for the sale and consumption of liquor, reduction in the car parking requirements, waiver of the loading bay requirements and alterations of access to a Road Zone in accordance with plans received 15 July 2016.*

8. On 20 December 2016, Council formed a position at its Development Assessment Panel meeting where it resolved that Council advise VCAT that has it been in a position, it would have issued a Notice of Decision to Refuse the application on the following grounds:

(a) *The proposed height, scale and massing does not respond to the existing or preferred character of the area and will dominate the surrounding area;*

(b) *The proposal will result in unacceptable on-site amenity impact including natural daylight and ventilation.*

(c) *The side setbacks and building will not achieve equitable development for adjoining and adjacent sites.*

(d) *The proposed waste management plan is inadequate for the site.*

9. On 14 March 2017, Council considered substituted plans circulated by the application and reaffirmed a position of refusal based on the same grounds outlined above.

10. On 28 March 2017, the Minister for Planning (Minister) gazetted an amendment to the Yarra Planning Scheme introducing Schedule 16 to the Design and Development Overlay which included a mandatory height limit of 10 storeys (31m) to the subject site.

11. As a result of the new controls applicable to the site, the VCAT hearing scheduled to commence on 4 September 2017 was adjourned allowing the applicant an opportunity to substitute plans.

12. Plans were amended reducing the scale of the development to ten storeys. Council determined on 9 August 2017 to maintain its position of refusal but revised the grounds:

(a) *The height, setback, design detailing and massing of the proposal would unreasonably impact the heritage significance and neighbourhood character of the area;*

(b) *The height, setback and massing of the proposal would unreasonably impact the amenity of the area and surrounding dwellings.*

13. The hearing proceeded commencing on 4 September 2017 and ran for 10 days.

14. On 26 October 2017, VCAT issued an interim order providing the applicant an opportunity to address the concerns of the tribunal.

15. At the Internal Development Approvals Committee (now known as PDC) of 28 March 2018, Council determined to generally support the substituted plans subject to a number of conditions.

16. VCAT determined to issue a permit for the site by order P2079/2016 on 6 July 2018.

Background

17. On 4 August 2020, Council received notice that an application to amend the permit was lodged with VCAT pursuant to section 87A of the Act. Refer to Attachment 3 for the application plans.
18. The application was referred to various Council departments and external consultant. Refer to Attachment 4 to this report for the referral comments.
19. A compulsory conference is scheduled for one day on 27 October 2020 with an 8 day hearing scheduled to commence on 15 February 2021.

The Proposal

20. The application seeks to amend the plans and conditions on the permit. The following is a summary of the amendments to the permit and plans.

Permit

21. The amendment seeks approval for the following amendments to the planning permit:
- (a) Permit preamble to be varied to delete reference to 'food and drinks premises' and replace with office and gym.
 - (b) Modification to a number of the conditions of the original permit as a result of the proposed design modifications to the various buildings; and

Plans

22. The amendment seeks approval for the following changes to the endorsed plans as described by the permit applicant (summarised):
- (a) Aesthetic and architectural design changes to each of the three towers;
 - (b) Changes to the shape of each of the three towers;
 - (c) New masonry street wall presenting to Queens Parade;
 - (d) an overall increase of 50 apartments and change to the apartment mix, including internal apartment reconfigurations and consequential changes to the elevations;
 - (e) New office space behind the retained heritage façade;
 - (f) Reduction in café/retail space and addition of a new gym; and
 - (g) Increase in provision of on site car parking by 51 spaces.
23. The amendment retains the fundamental component of the approved development being a mixed use development including the retention of a heritage building.
24. Below is a detailed description of proposed amendments:

Demolition

25. The extent of demolition is unchanged from that endorsed, retaining the façade and western on boundary wall.

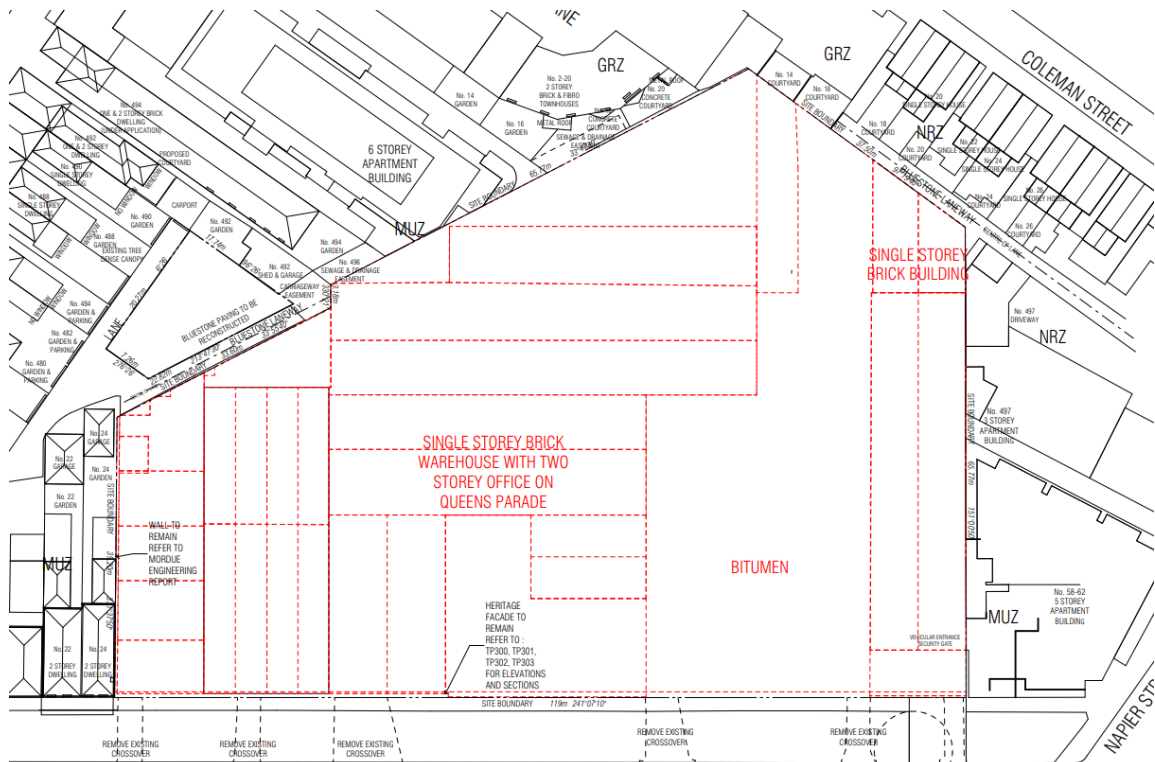


Figure 1 – Demolition plan

Layout

- 26. It is noted that the plans submitted lack a significant amount of information.
- 27. The amended application proposes a total 313 dwellings an increase of 50, the composition of dwellings is as follows:

Dwellings Type	Endorsed	Proposed	Net Change
Studio	0	14	+14
1 Bedroom	103	45	-58
2 Bedroom	114	217	+103
3+ Bedroom	46	37	-9
Total	263	313	+50

- 28. The composition of commercial uses is also proposed to be varied:

Land Use	Endorsed	Proposed	Net Change
Café/Restaurant	255sqm	40sqm	-215sqm
Shop	201sqm	-	-201sqm
Office	-	1548sqm	+1548sqm
Gym	-	864sqm (not clear if all area is proposed as a commercial gym or combination of resident/commercial)	+864sqm

29. Car parking is proposed as follows:

Land Use	Endorsed	Proposed
Dwellings	318 for main site and 6 for rear site	350 for main site and 6 for rear site
Visitors	9	-
Café/Restaurant		1
Shop		Not applicable
Office	-	15
Gym		17
	7 spaces for commercial spaces	2 (spare car parking space)
Total	340	391

Basement 2

- (a) Car park layout re-organised with increase in parking provision from 184 to 214 spaces;
- (b) Services relocated
- (c) Re-organisation of storage areas decreasing from 217 to 198.
- (d) Enlarged bike storage area providing 333 bike spaces;
- (e) Additional core located in the north eastern corner.

Basement 1

- (a) Car park layout reorganised with increase in parking provision from 156 to 177
- (b) Re-organisation of storage area decreasing from 180 to 114;
- (c) Services relocated;
- (d) Refuse and loading area redesigned;
- (e) Additional core located in the north eastern corner;
- (f) Addition of resident amenities approximately 500sqm (no detailed provided regarding proposed use);
- (g) New gym area 564sqm (annotated for residents only);
- (h) Introduction of a porte-cochere.

Floor Plans

30. The amendment seeks to vary the building envelopes and dwelling and commercial mix across the site



Figure 2 - Extract from comparison documentation – Ground Floor

31. Accompanying the documentation was a comparison document prepared by the applicant – refer to Attachment 5, which shows the variation in form proposed by this amendment.
32. The amendment maintains the general arrangement of buildings around the site being three towers with perimeter housing. For ease of reference:
 - (a) Tower 1 references the western most building inclusive of the retained heritage building.
 - (b) Tower 2 being the central built form;
 - (c) Tower 3 being the eastern most building

In more detail:

Ground Floor

- (a) Tower 1
 - (i) Deletion of dwellings contained within the heritage building and replaced with a 511sqm of office floor area using existing entrance from Queens Parade;
 - (ii) Café areas reduced in size from 96sqm to 40sqm and shape;
 - (iii) Lobby area for residents relocated to main access way with the deletion of the bike parking area
 - (iv) Dwelling numbers remain at 6;
 - (v) Reduction to setback from the northern boundary by 2.8m, previously 9.8m now proposed at 7m.
- (b) Tower 2
 - (i) General envelope changes from an ‘L’ shape building to an ‘oblong’ shape;
 - (ii) Deletion of all resident amenities and food and drinks premises.
 - (iii) Addition of 14 dwellings with lobby area accessed from main access area;
 - (iv) Addition of home office studios (345sqm) orientated to Queens Parade and main access area;
 - (v) Building envelope changes include reduced access way width between Tower 1 and Tower 2 from 8m to 6.15m, interface with perimeter building reduced from 11.3m to 10.5m, separation to Tower 3 generally increased from 11.3m to 14.6m.
- (c) Tower 3
 - (i) Deletion of 201sqm shop and replaced with a 300sqm gym;

- (ii) Enlarged visitor bike area;
 - (iii) concentration of services in one location rather than flanking the lobby area;
 - (iv) vehicular entry/exit in same location;
 - (v) dwelling numbers increased from 1 apartment and 4 townhouses to 6 apartments.
- (d) Perimeter
- (i) No change to perimeter setbacks, ranging from 3m to 6m;
 - (ii) Dwelling numbers decreased by 1 to 21 in a combination of apartments and townhouses;
 - (iii) Retention of 4m side access way to laneway.

First Floor

- (a) Tower 1
- (i) Deletion of dwellings contained within the heritage building and replaced with 604sqm of office floor;
 - (ii) Dwelling numbers reduced to 9;
 - (iii) Reduction to setback from the northern boundary from 12.5m to 11.7m, reduction in the setback from the main access way from 12m to 10m and separation between Towers 1 and 2 reduced from 9.6m to 6.2m.
- (b) Tower 2
- (i) Dwelling numbers remain at 16;
 - (ii) General envelope changes from an 'L' shaped building to and 'oblong';
 - (iii) Building envelope changes between Tower 2 and 3 increased in part from 14m to 14.6.
- (c) Tower 3
- (i) Dwelling numbers increased from 8 to 12;
 - (ii) Setbacks to east have remained the same.
- (d) Perimeter
- (i) No change to perimeter setbacks, ranging from 3m to 6m;
 - (ii) Dwelling numbers consistent.

Second Floor

- (a) Tower 1
- (i) Deletion of dwellings contained within the heritage building and replaced with 433sqm of office floor area;
 - (ii) Dwelling numbers reduced to 10;
 - (iii) Increased setback from the west from 7.6m to 8.5m. Setback to the north has been varied from 12.6m to 2.8m to 11.7m to 3m and a reduction in the setback from the main access way from 12m to 10m.
- (b) Tower 2
- (i) Dwelling numbers increased to 18;
 - (ii) General envelope changes from an 'L' shape to and 'oblong';
 - (iii) Building envelope changes between Tower 2 and 3 increased in part from 12m to 14.6m.

- (c) Tower 3
 - (i) Dwelling numbers increased from 8 to 15;
 - (ii) Setbacks to east have remained the same.
- (d) Perimeter
 - (i) No change to perimeter setbacks, ranging from 3m to 6m;
 - (ii) Dwelling numbers consistent.

Third Floor

- (a) Generally the tower shapes form with the perimeter built form limited to roof terraces. Increased use of previously ‘non accessible’ areas to habitable space.



Figure 3 - Extract from comparison documentation – Third Floor

- (b) Tower 1
 - (i) Dwelling numbers increased by 1 to 11;
 - (ii) Non trafficable terrace proposed to be partly constructed to the southern boundary (Queens Parade) and then setback the 2m consistent with the endorsed plans. To the west, non trafficable terrace removed from the boundary, all remaining setback generally consistent with the endorsed plans.
- (c) Tower 2
 - (i) Dwelling numbers remain at 14
 - (ii) General envelope changes from an ‘L’ shape to and ‘oblong’;
 - (iii) Greater set back to Queens Parade to building line, but non trafficable terrace proposed on boundary. To the north, setback reduced for the closest point from 9.5m to 9.0m however less built form is evident due to the changed shape of this building, setback to perimeter consistent with endorsed plans.
- (d) Tower 3
 - (i) Dwelling numbers increased from 8 to 12;
 - (ii) Setbacks to east have remained the same.

Fourth Floor

- (a) At fourth floor the three tower forms are clear of surrounding built form



Figure 4 - Extract from comparison documentation – Fourth Floor

- (b) Tower 1
 - (i) Dwelling numbers remain at 10;
 - (ii) Visible change to shape of tower with setbacks generally consistent with endorsed plans.
- (c) Tower 2
 - (i) Decrease in dwellings numbers by 1 to 13;
 - (ii) Visible change to shape of tower with setbacks generally consistent with endorsed plans.
- (d) Tower 3
 - (i) Increase in dwelling numbers by 4 to 12;
 - (ii) Visible change to shape of tower with setbacks generally consistent with endorsed plans.

Fifth Floor

- (a) Tower 1
 - (i) Dwelling numbers increased by 5 to 11;
 - (ii) Visible change to shape of tower with reduction in setback to the west and north.
- (b) Tower 2
 - (i) Dwelling numbers remain at 14;
 - (ii) Visible enlargement of building envelope with setbacks generally consistent with endorsed plans except to the internal access where separation is reduced from 17.2m to 10m.
- (c) Tower 3
 - (i) Increase in dwelling numbers by 3 to 7;
 - (ii) Increased separation between towers 2 and 3, other setbacks generally the same as the endorsed plans.

Sixth Floor

- (a) Tower 1
 - (i) Increase in dwelling numbers by 3 to 7;

- (ii) To the north and west the building envelope is enlarged with a general reduction in the setbacks of between 0.4 – 1m
- (b) Tower 2
 - (i) Dwelling numbers reduced by 2 to 11;
 - (ii) Building envelope enlarged with a reduction in the setback to the north by 1.4m.
- (c) Tower 3
 - (i) Increase in dwelling numbers by 3 to 7;
 - (ii) Building envelope generally consistent with endorsed plans with a wider presentation to Queens Parade.

Seventh Floor

- (a) Tower 1
 - (i) Increase in dwelling numbers by 3 to 4;
 - (ii) Envelope generally consistent with the endorsed plans other than reduced separation between Towers 1 and 2 by up to 6.5m.
- (b) Tower 2
 - (i) Dwelling numbers reduced by 1 to 12;
 - (ii) Building envelope enlarged with a reduction in the setback to the north. In part, the internal separation between Towers 2 and 3 increased up to 6m and similarly reduced in part by 2.7m.
- (c) Tower 3
 - (i) Dwelling numbers remain at 4;
 - (ii) Building envelope generally consistent with endorsed plans with a wider presentation to Queens Parade.

Eighth Floor

- (a) Tower 1
 - (i) Roof top used as communal open space consistent with the endorsed plans, similarly the building envelope.
- (b) Tower 2
 - (i) Dwelling numbers increased by 2 to 8;
 - (ii) Reduced setback to the north in the order of 8.5m however the setback proposed in 17.6m.
- (c) Tower 3
 - (i) Dwelling numbers remain at 2;
 - (ii) In part the setback to the east reduces by approximately 2m, a reduction in setback to the south, Queens Parade also by 3m.

Ninth Floor

- (a) Tower 2
 - (a) Dwelling numbers increased by 2 to 8;
 - (b) Reduced setback to the north in the order of 8.5m however the setback proposed in 17.6m.

Building Design

33. The proposed architecture departs significantly from the approved development. The approved development depicts organic curved forms detailed with expansive glazing and expressed with white coloured concrete banding using a similar architectural language across the three towers. Landscaped planters providing greenery to the façade.



Figure 5 – Approved Development

34. The proposed amendment seeks more angular and geometric shapes to the building forms with greater variation in material palette and façade articulation. The rendered images accompanying the application material depict landscaping however no landscape plans have been provided.



Figure 6 – Proposed Development

35. In more detail:

- (a) *Tower 1 (referred to as Building 3 in applicants material)*
 - (i) *Includes the retention of the heritage façade to Queens Parade;*
 - (ii) *At level 2 a terrace is located behind the façade with a section constructed to the boundary;*
 - (iii) *At level 3, the substantive building is setback 11 metres from Queens Parade with a terrace (trafficable) and in part non trafficable located within this setback.*
 - (iv) *The overall height of Tower 1 is RL52.300 or 27.7m to the top of the building and RL54.1 or 29.5m to the top of the plant;*
 - (v) *The façade is treated as a window wall with light coloured pre cast concrete panels with a charcoal coloured metal palisade balconies. The grid pattern of concrete is regular and the building includes a curved profile away from Queens Parade.*



Figure 7 – Proposed Development – Tower 1

(b) *Tower 2 (central Tower)*

- (i) Setback a minimum of 6.7 from Queens Parade and angles away from the street with this space proposed as the entry forecourt to the complex;
- (ii) The overall height of Tower 2 is RL55.300 or 30.9m to the top of the building and RL57.100 or 32.7 to the top of the plant;
- (iii) The building is essential constructed on one plane with a central shallow ravine. The composition of the building alternates terraces with industrial glazed panelled windows and presents as a darker charcoal coloured metal clad building.



Figure 8 – Proposed Development – Tower 2

- (c) *Tower 3 (referred to as Building 1 in applicants material)*
- (i) A three storey (with terraces above) street wall constructed to Queens Parade with an overall height of RL35.500 or 11.1m (inclusive of balustrade). The street wall is proposed to be constructed from light coloured concrete panels with arched windows and openings articulating the façade;
 - (ii) The return of the street wall connects into the site and joins at ground to second floor with Tower 2;
 - (iii) At Level 3, the building setbacks varying between 3.38m to the east, increasing to 7.8m as you head west across the site. Terraces are located within this setback. This setback is carried through to level 4.
 - (iv) From level 5 to 7 the minimum setback increases to 5.3m.
 - (v) At level 8 the building setback increased to between 6.9 to 8.9m with a small terrace area projecting into this setback.
 - (vi) The overall height of Tower 3 is RL52.300 or 27.9m to the top of the building and RL54.1 or 29.7m to the top of the plant;
 - (vii) The façade as a light coloured pre cast concrete panel colonnade interspersed with charcoal coloured metal palisade balconies. The building presents rounded edges. Landscaping is a feature however no landscape plan has been submitted with the application.



Figure 9 – Proposed Development – Tower 3

Existing Conditions

Subject Site

36. The original officer report description of the subject site remains relevant:

The subject site is located on the north side of Queens Parade, approximately 78m east of Brunswick Street and 33m west of Napier Street. The site is an unusually shaped lot, with 1 main road frontage and 2 separate laneway frontages.

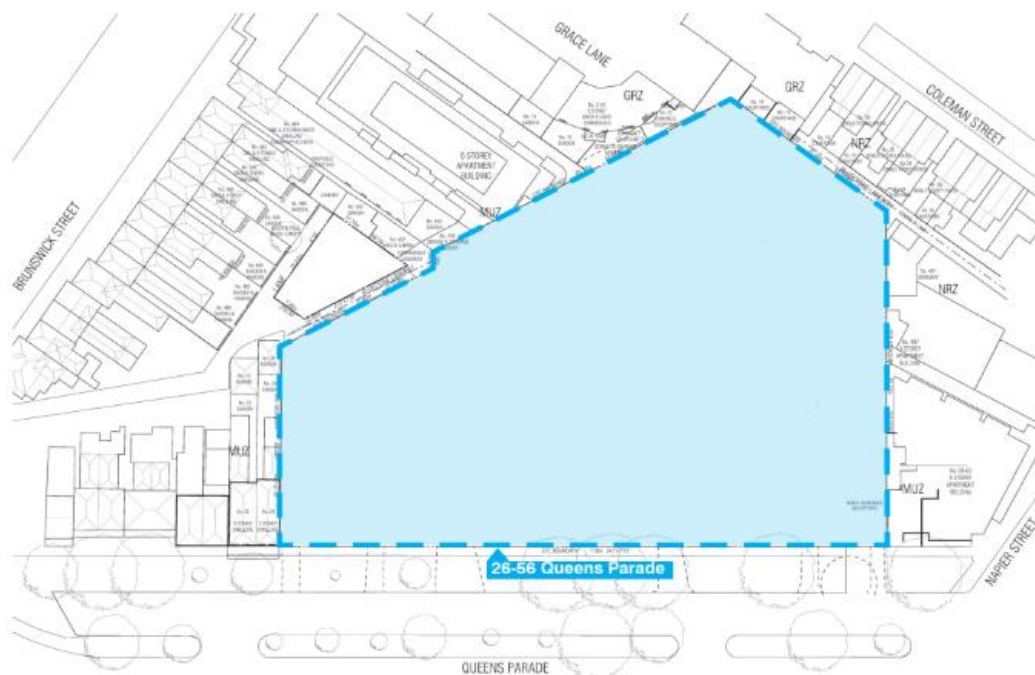


Figure 10 - Extract from comparison documentation

The site is comprised of 8 titles:

- Volume 5562 Folio 300;
- Volume 7224 Folio 622;
- Volume 6157 Folio 317;
- Volume 6157 Folio 316;
- Volume 2637 Folio 268;
- Volume 2776 Folio 162;
- Volume 5978 Folio 502; and
- Volume 5978 Folio 503.

The site has a frontage of 119m to Queens Parade, a western boundary length of 39.2m, a north-west boundary length of 33.6m, leading to an adjoining north-west boundary length of 65.8m. The north-east boundary length is 37.5m and the east boundary length is 65.8m. All lengths are approximate. Should a permit issue, a condition should require all title boundaries to be shown on the floor plans as per the certificates of title. The site has an overall area of approximately 8,028m².

The site is developed with a series of buildings:

- Queens parade, western end – the most distinctive part of the site, being a row of 2 storey buildings with art deco style parapets. The façades have been painted pink with navy highlights. This row extends for a length of approximately 74m and extends the depth of the site, save for a triangular section in the northern end, generally behind the Grace Lane properties;
- Queens Parade, eastern end – a single storey warehouse style building, presenting a frontage of approximately 13.6m to Queens Parade and extending for the length of the eastern boundary (terminating at the laneway at the rear of the site;

Between both Queens Parade building segments is an open air carpark, presenting a frontage of approximately 31m to Queens Parade.

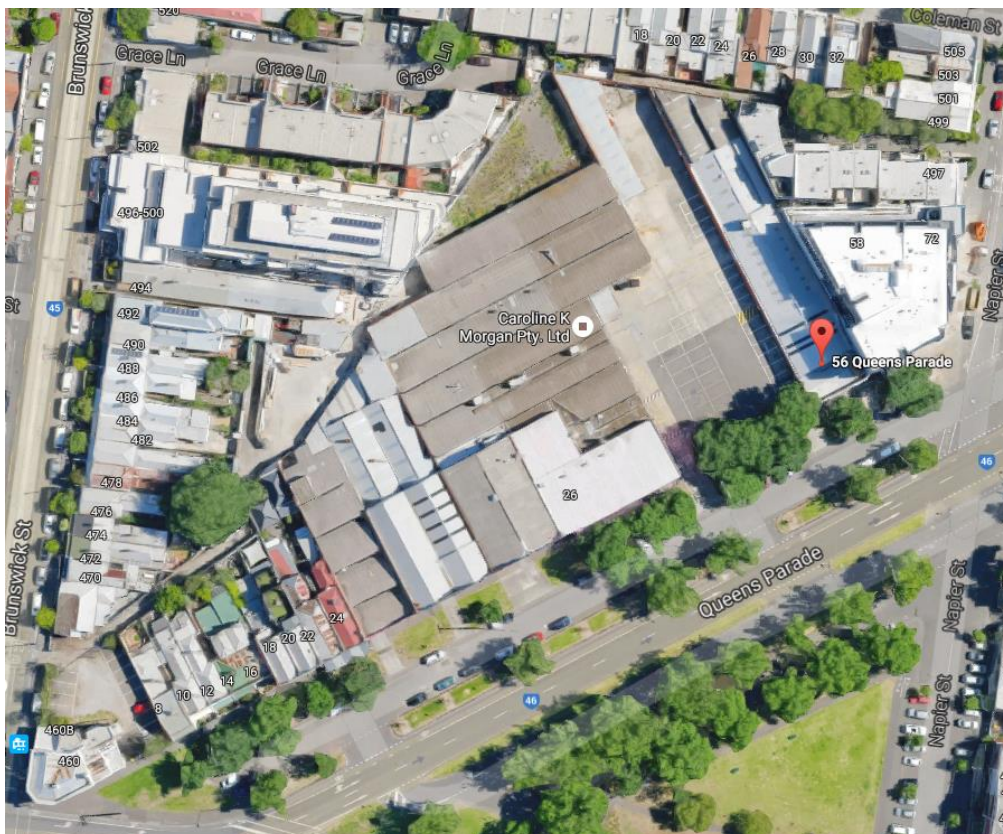


Figure 11 Subject site – Aerial extract from Google maps.

Restrictive Covenants

37. The original officer report remains relevant:

There are no restrictive covenants shown on the certificates of title provided with the application.

A number of easements affect the site (including roads/carrageway, party wall, drainage, water supply, light and air easements). The Applicant has not applied to remove these easements, so a notation alerting any Permit Holder to these easements should be imposed on any permit issued. (It is likely that a separate application would later be made to remove these easements under Clause 52.02 of the Yarra Planning Scheme [the Scheme] at the subdivision stage, should a permit issue.

Surrounding Land

38. Since the grant of the Permit, there has been no material change to the surround land, the description from the original officer report remains relevant:



Figure 12 Subject site

The subject site is located within a Mixed Use Zone and is within walking distance of the Brunswick Street AC (123m).

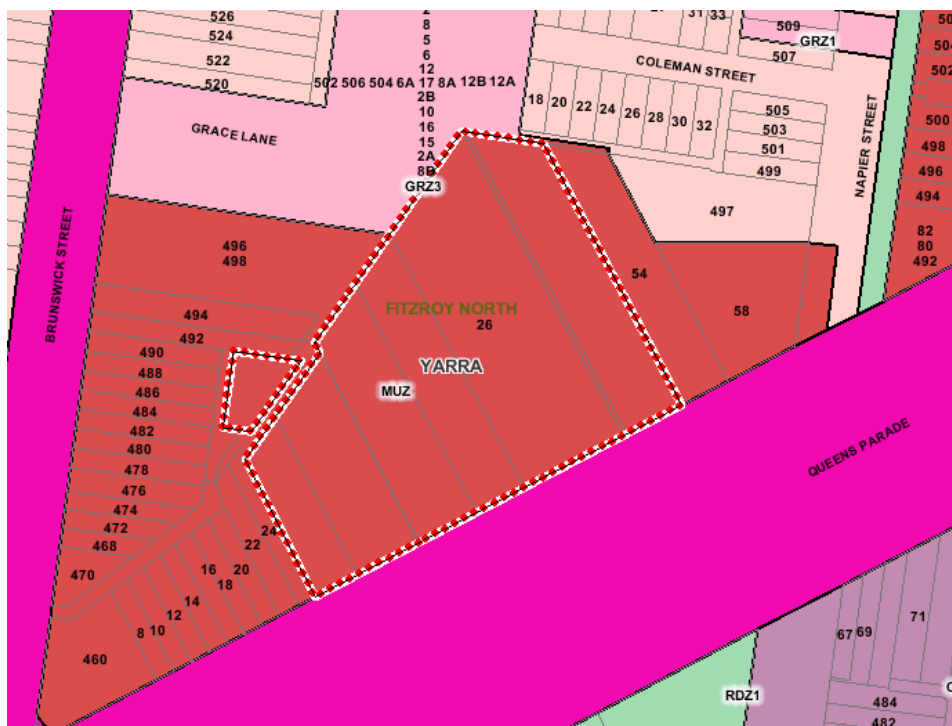


Figure 13 Subject site

To the west of the subject site is a row of 9, single and double storey Victorian era terraces. The 4 closest to the subject site are double storey. These properties all enjoy access to the lane at the rear of the site, accessed via Brunswick Street. These dwellings include rear private open space areas, along with a first floor rear deck at the adjoining property to the immediate west.

Further west of these properties, at the corner of Queens Parade and Brunswick Street, is a 2 storey Victorian era building used as a medical centre. This medical centre includes car parking adjacent to the single storey Victorian era terraces on Queens Parade.

To the north-west of the subject site (western end), across the laneway, is a generally triangular portion of land also held by the permit applicant for this application. This parcel is also subject to a planning permit application (PLN16/0732) for 4, 4 storey townhouses. The parking for the proposed townhouses is proposed to be within this application. A decision has not yet been made on the townhouse application.

Further north-west of this triangular parcel are the rear of primarily single storey dwellings fronting Brunswick Street. These properties also enjoy rear access and utilise the rear laneway which leads to Brunswick Street. These dwellings include rear private open space areas and habitable room windows orientated towards the subject site.

To the north-west of the subject site (central segment, directly abutting the subject site) is a single storey dwelling fronting Brunswick Street and a recently constructed 6 storey apartment building that fronts Brunswick Street. These dwellings present private open space, balconies and habitable room windows towards the subject site. The apartment building also includes a triangular light court (with associated habitable room windows) on the shared boundary.

To the north-west of the subject site (eastern segment) is the rear of 2 storey townhouses that front Grace Lane further north. These dwellings present ground level private open space areas towards the subject site, along with habitable room windows beyond at a minimum distance of approximately 3m.

To the north-east of the subject site (western end) are 3, 2 storey dwellings with rear private open space areas that have a direct abuttal with the subject site. The rear private open space areas have a minimum depth of approximately 4m, with habitable room windows beyond.

To the north-east of the subject site (eastern end) are the rear of primarily single storey dwellings that face Coleman Street. These dwellings include rear private open space areas and habitable room windows, which are separated from the subject site by an approximately 2.7m wide laneway.

To the east of the subject site is the rear of 2 apartment buildings that present frontages to Napier Street and Queens Parade. The buildings are a maximum height of 3 (northernmost) and 5 (southernmost) storeys. These buildings are partially built to the shared boundary, with minimum 1.5m deep courtyards and adjacent habitable room windows presenting towards the subject site.

The site is well located in terms of bicycle access and public transport:

- 2 bus routes along Queens Parade; and
- 2 tram routes along Brunswick Street.

Legislation

39. The amendment has been requested pursuant to section 87A of the Act.

40. Section 87A of the Act states:

Cancellation or amendment of permit issued at direction of Tribunal

- (1) *In addition to the powers conferred by section 87, the Tribunal may cancel or amend a permit that has been issued at its direction if it considers it appropriate to do so.*
- (2) *The Tribunal may only cancel or amend a permit under this section at the request of—*
 - (a) *the owner or occupier of the land concerned; or*
 - (b) *any person who is entitled to use or develop the land concerned.*

41. The request has been made by Planning and Property Partners on behalf of the owner of the land, Gurner 26-56 Queens Parade Pty Ltd.

Planning Scheme Provisions

Zoning

Mixed Use Zone (MUZ)

42. Pursuant to Clause 32.04-2 of the Scheme, the use of the site as offices premises (greater than 150sqm) and indoor recreation facility requires a planning permit. The use of the site for dwellings and food and drink premises does not require a planning permit. As such, consideration of the use is limited to the introduction of office and indoor recreation facility. It is also noted that the food and drinks premises no longer triggers a planning permit as the floor area no longer exceeds 150sqm.
43. As the application enjoys transitional provisions from Clause 58 under clause 32.04-6 of the Scheme, the *Design Guidelines for Higher Density Residential Development (Department of Sustainability and Environment 2004)* continue to apply.
44. Under Clause 32.04-8 of the Scheme, a permit is required to construct a building or construct or carry out works for a use in section 2 of Clause 32.04-2 (offices and indoor recreation facility). There is no maximum building height requirement in the schedule to the zone.

Road Zone, Category 1

45. Queens Parade is a declared Road Zone, Category 1.
46. Whilst a permit is not required for buildings or works or land use under this clause, a permit is required under clause 52.29 of the Scheme to create and alter access to a Road Zone, Category 1.

Overlays

Design and Development Overlay – Schedule 16 Queens Parade

47. Pursuant to clause 43.02-2 of the Scheme, a permit is required to construct a building or construct or carry out works.
48. Design and Development Overlay – Schedule 16 was gazetted on 1 October 2020, but was in interim form when the application was originally assessed by VCAT.
49. The DDO outlines the following (relevant) design objectives:
 - (a) *To ensure development responds to the heritage character and streetscapes and varying development opportunities and supports:*
 - (i) *A new mid rise character behind a consistent street wall in Precincts 2, 3A and 5B*

- (b) *To protect the integrity of historical streetscapes and clusters of heritage buildings of a similar scale and materiality;*
- (c) *To ensure development respects the architectural form and qualities of heritage buildings and streetscapes and maintains the visual prominence of the St John the Baptist church belfry and spire, the former ANZ Bank building, the former United Kingdom Hotel and the former Clifton Motors Garage;*
- (d) *To promote design excellence that ensures new development respects the wide, open boulevard character of Queens Parade including where existing historic trees are key elements in the streetscape, they remain the dominant visual feature.*
- (e) *To ensure development responds to sensitive interfaces by ensuring the overall scale and form of new buildings provides a suitable transition to low scale residential area and protects these properties from an unreasonable loss of amenity through visual bulk, overlooking and overshadowing.*

50. The subject site is included within precinct 2A.



Figure 14 Design and Development Overlay - Schedule 16 Map

51. The DDO outlines specific design requirements for Precinct which should:
- (a) *Respect heritage values of the Queens Parade streetscape and deliver an appropriate interface to neighbouring properties that minimises visual bulk and mass.*
 - (b) *Orientate active frontages and provide passive surveillance to the surrounding streets.*
 - (c) *Ensure solar access is provided to Queens Parade and Napier Street Reserve at the equinox from 9am to 3pm.*
52. The preferred character statement relevant to this precinct states that buildings and works should deliver:
- (a) *A preferred location for housing and employment growth with well designed mid-rise development that complements Queens Parade through a transition in scale to the Gas Works site.*

- (b) *Development that complements the visual contribution of the double avenue of trees along the south western part of Queens Parade.*
- (c) *Precinct 2A – Mid-rise infill behind a distinct modern heritage frontage that addresses Queens Parade and its heritage context and responds to the sensitivity of the interface with abutting low scale fine grained residential uses to the north and west.*

53. Specific design requirements for Development in Precinct 2A should:

- (a) *Provide an interface to neighbouring residential properties that minimises visual bulk and mass and provides building separation along side and rear boundaries abutting existing properties.*
- (b) *Maintain the prominence and significance of the art deco facade.*
- (c) *Retain, enhance and incorporate the existing heritage facade into the redevelopment of the site and to create a consistent parapet height along the streetscape.*
- (d) *Recognise the low scale, buildings and fine grain subdivision pattern of existing development to the north and west.*
- (e) *Encourage pedestrian permeability within and through the precinct.*
- (f) *Avoid a repetitive stepped form within the 45 degree angle profile.*
- (g) *Ensure development above the street wall is designed as a series of separate development parts with building separation to enable views to the sky*

54. Table 2 within the DDO outlines the mandatory and preferred requirements applicable to the site:

Table 2 - Street wall height, building height and setbacks for Precincts 2A, 2B and 2C

Built Form	Mandatory Requirement	Preferred Requirement
Precinct 2A		
Maximum building height	31 metres	None specified
Maximum street wall height	Retain height of existing heritage facade 10 metres where no heritage facade exists	None specified
Minimum & maximum setback to Queens Parade	None specified	0 metres to maximum 10 metres
Minimum upper level setback	None specified	Above existing heritage facade:

- 8 metre setback from 10 metres to 16 metres
 - 10 metre setback from 16 metres
- Above new street wall (where no existing heritage facade):
- 5 metre setback from 10 metres to 16 metres
 - 8 metre setback from 16 metres

Minimum setback(s) from rear boundaries - north and west adjacent to NRZ and GRZ	None specified	ResCode Standard B17 from rear boundary of adjoining properties to 10 metres Setback within 45 degree angle measured from 10 to 25 metres
Minimum setback(s) from side boundary - east adjacent to NRZ	None specified	0 metre setback to match party wall of existing adjoining development to 10 metres Setback within 45 degree angle measured from 10 to 25 metres
Minimum setback(s) from side boundary - east adjacent to MUZ	None specified	0 metre setback to match party wall of existing adjoining development, or 10 metre where no party wall exists 9 metre setback from the windows / balconies of adjoining apartments up to 16 metres 15 metre setback above 16 metres
Minimum setback(s) from side and rear boundaries west and north-west adjacent to MUZ	None specified	0 metre setback to match party wall of existing adjoining development, or 10 metre where no party wall exists Setback within 45 degree angle measured from 10 to 25 metres

Heritage Overlay (HO327 – North Fitzroy Precinct)

55. Only the western portion of the site is included within the Heritage Overlay.

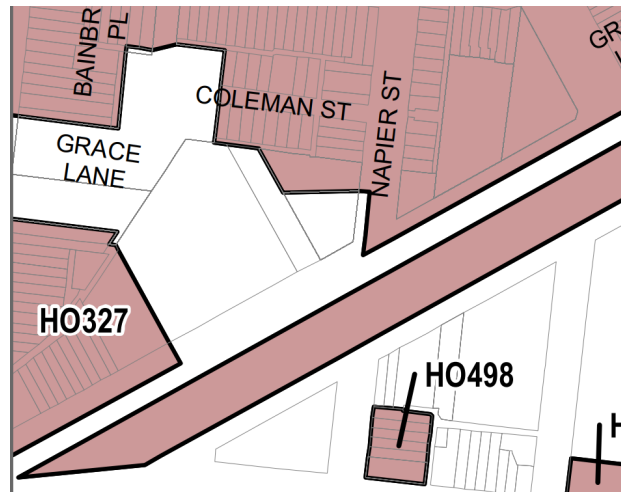


Figure 15 Heritage Overlay

56. A permit is required under Clause 43.01-1 of the Scheme to demolish or remove a building and to construct a building or construct or carry out works.

Environmental Audit Overlay (EAO)

57. The EAO only applies to the MUZ segment of the site. The requirements under Clause 45.03-1 of the Scheme continue to apply. Conditions 76 – 79 and a note on the Permit address the environment audit provisions of the Scheme.

Particular Provisions

Clause 52.06 – Car Parking

58. Clause 52.06-1 requires that a new use must not commence until the required car spaces have been provided on the land. Of note, on 31 July 2018 Amendment VC148 amended the car parking requirements in the Scheme, particularly relating to those areas located within close proximity to the Principle Public Transport Network (PPTN). The subject site is located within the PPTN area:

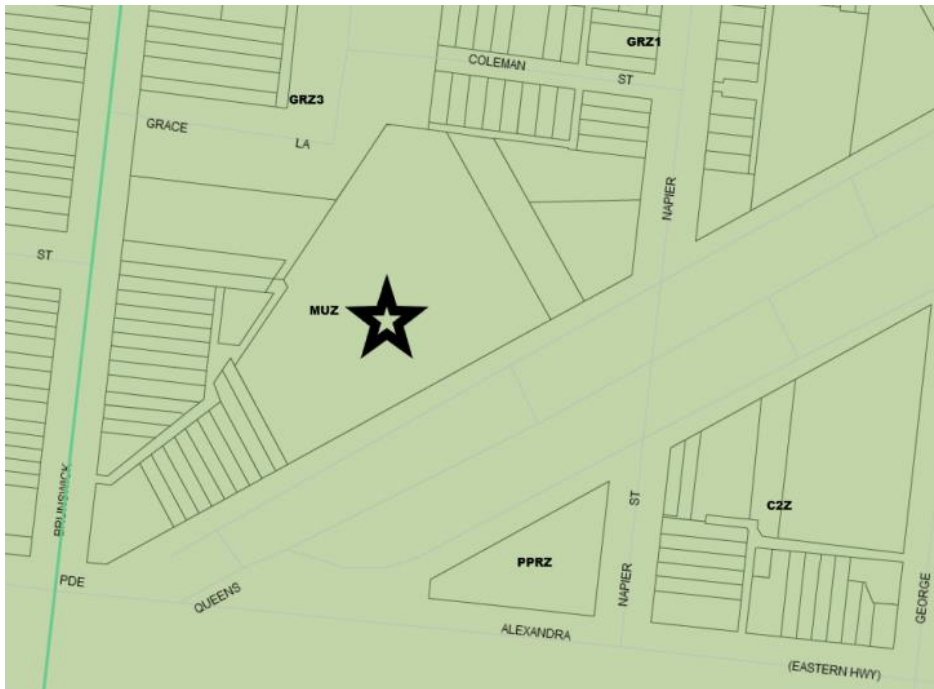


Figure 16 Principle Public Transport Network

59. Pursuant to Table 1 to Clause 52.06-5, Column B parking rates apply to a site within the PPTN area. Of note, there is no residential visitor parking requirement. The table below sets out the car parking requirements for the amended development proposal:

Use	Area/No	Rate	No. required	No. proposed	Reduction sought
Dwellings	14 x studio 45 x one bed 217 x two bed	1 space per dwelling	276		
	37x three or more bed	2 space per dwelling	74		
Office	1548sqm	3 car spaces to each 100sqm of net floor area	46		

Food and drink premises	40sqm	3.5 per 100sqm of leasable floor area	1		
Gym	846sqm	Satisfaction of the Responsible Authority	-		
Total			397	391	6

60. Pursuant to Clause 52.06-3, a permit is required to reduce the number of car spaces for the dwellings as required under Clause 52.06-5.

Clause 52.27 – Licensed Premises

61. A permit is required under this clause as a license is required under the *Liquor Control Reform Act 1998*.
62. Decision guidelines include:
- (a) *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
 - (b) *The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.*
 - (c) *The impact of the hours of operation on the amenity of the surrounding area.*
 - (d) *The impact of the number of patrons on the amenity of the surrounding area.*
 - (e) *The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.*

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

63. The relevant purpose of this provision is '*To ensure appropriate access to identified roads*'.
64. A permit is required to create or alter access to a road in a Road Zone, Category 1 (in this instance, the crossover to Queens Parade). An application must be referred to VicRoads under Section 55 of the Act.
65. Decision guidelines include:
- (a) *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
 - (b) *The views of the relevant road authority.*
 - (c) *The effect of the proposal on the operation of the road and on public safety.*
 - (d) *Any policy made by the relevant road authority pursuant to Schedule 2, Clause 3 of the Road Management Act 2004 regarding access between a controlled access road and adjacent land.*

Clause 52.34 – Bicycle Facilities

66. Pursuant to clause 52.34, a new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land. The table below sets out the bicycle parking requirements for the amended development proposal:

Land Use	Units/Area proposed	Rate for resident/ staff	Rate for visitors	No. required	No. proposed	Reduction sought
Dwellings	313	In developments of 4 or more storeys, 1 resident	In developments of 4 or more storeys, 1 visitor space	62 resident 31 visitor		0

		spaces to each 5 dwellings	to each 10 dwellings			
Office	1548sqm	1 to each 300sqm of net floor area if the net floor area exceeds 1000sqm	1 to each 1000sqm of net floor area if the net floor area exceeds 1000sqm	5 staff 1 visitor		0
Food and drink premises	40sqm	1 to each 300sqm of leasable floor area	1 to each 500sqm of leasable floor area	0		
Gym	846sqm	1 staff spaces per 4 employees	1 to each 200sqm of leasable floor area	2 staff 4 visitor		
Total				7 staff 36 visitor 62 resident	393 spaces	0

67. As such, the bicycle parking requirement is exceeded for the development.
68. Clause 52.34-3 also requires shower and change room facilities be provided at a rate of 5 shower/change room for the first 5 employee bicycle spaces, and 1 shower/change room per 10 spaces thereafter.
69. The proposal provides no information regarding provision of shower and change room facilities.

General Provisions

Clause 65 – Decision guidelines

70. 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 Municipal Planning Strategy and the Planning Policy Framework, as well as the purpose of the zone, overlay or any other provision. An assessment of the application against the relevant sections of the Scheme is contained in this report

Planning Policy Framework (PPF)

71. Relevant Clauses to this application are:
- (a) Clause 11.01-1S – Settlement
 - (b) Clause 11.02-1S – Supply of urban land
 - (c) Clause 11.03-2S - Growth areas
 - (d) Clause 13.05-1S – Noise abatement
 - (e) Clause 15.01-1S – Urban design
 - (f) Clause 15.01-2S – Building design
 - (g) Clause 15.01-5S –Neighbourhood character
 - (h) Clause 15.02-1S – Energy and resource efficiency

- (i) Clause 15.03-1S – Heritage conservation
- (j) Clause 16.01-1S – Integrated housing
- (k) Clause 16.01-2S – Location of residential development
- (l) Clause 16.01-3S – Housing diversity
- (m) Clause 16.01-4S – Housing affordability
- (n) Clause 17.01-1S – Diversified economy
- (o) Clause 17.02-1S – Business
- (p) Clause 18.02-2R – Principal Public Transport Network
- (q) Clause 18.02-4S – Car Parking

72. Clause 11.01-1S (Settlement) includes the following strategies:

- (a) *Develop compact urban areas that are based around existing or planned activity centres to maximise accessibility to facilities and services.*
- (b) *Ensure retail, office-based employment, community facilities and services are concentrated in central locations.*
- (c) *Encourage a form and density of settlements that supports sustainable transport to reduce greenhouse gas emissions.*
- (d) *Limit urban sprawl and direct growth into existing settlements.*

73. Clause 11.02-1S (Supply of urban land) has the objective:

- (a) *To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.*

74. Clause 11.03-2S (Growth areas) has the objective:

- (a) *To locate urban growth close to transport corridors and services and provide efficient and effective infrastructure to create benefits for sustainability while protecting primary production, major sources of raw materials and valued environmental areas.*

75. Clause 13.05-1S (Noise abatement) has the objective:

- (a) *To assist the control of noise effects on sensitive land uses.*

76. Clause 15.01-1S (Urban design) has the objective:

- (a) *To create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.*

77. Relevant strategies to achieve this objective include:

- (a) *Require development to respond to its context in terms of character, cultural identity, natural features, surrounding landscape and climate*
- (b) *Ensure development contributed to community and cultural lift by improving the quality of living and working environments, facilitating accessibility and providing for inclusiveness.*
- (c) *Ensure development supports public realm amenity and safe access to walking and cycling environments and public transport.*
- (d) *Ensure that the design and location of publically accessible private spaces, including car parking areas, forecourts and walkways, is of a high standard, creates a safe environment for users and enables easy and efficient use.*

78. Clause 15.01-2S (Building design) has the objective:

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

79. Relevant strategies to achieve this objective include:
- (a) *Ensure development responds and contributes to the strategic and cultural context of its location*
 - (b) *Minimise the detrimental impact of development on neighbouring properties, the public realm and the natural environment.*
 - (c) *Ensure the form, scale and appearance of development enhances the function and amenity of the public realm.*
 - (d) *Ensure buildings and their interface with the public realm support personal safety, perceptions of safety and property security.*
80. Clause 15.01-5S (Neighbourhood character) has the objective:
- (a) *To recognise, support and protect neighbourhood character, cultural identity, and sense of place.*
81. Relevant strategies to achieve this objective include:
- (a) *Ensure development responds to cultural identity and contributes to existing or preferred neighbourhood character*
 - (b) *Ensure development responds to its context and reinforces a sense of place and the valued features and characteristics of local environment and place by emphasising the:*
 - (i) *Pattern of local urban structure*
 - (ii) *Underlying natural landscape character and significant vegetation*
 - (iii) *Heritage values and built form that reflect community identity.*
82. Clause 15.02-1S (Energy and resource efficiency) has the objective:
- (a) *To encourage land use and development that is energy and resource efficient, supports a cooler environment and minimises greenhouse gas emissions.*
83. Relevant strategies to achieve this objective include:
- (a) *Improve the energy, water and waste performance of buildings and subdivision through environmentally sustainable development*
 - (b) *Promote consolidation of urban development and integration of land use and transport.*
 - (c) *Improve efficiency in energy use through greater use of renewable energy technologies and other energy efficiency upgrades.*
 - (d) *Support low energy forms of transport such as walking and cycling.*
 - (e) *Reduce the urban heat island effect by greening urban areas, building, transport corridors and open spaces with vegetation.*
84. Clause 15.03-1S (Heritage conservation) has the objective:
- (a) *To ensure the conservation of places of heritage significance.*
85. Clause 16.01-1S (Integrated housing) has the objective:
- (a) *To promote a housing market that meets community needs.*
86. Clause 16.01-2S (Location of residential development) has the objective:
- (a) *To locate new housing in designated locations that offer good access to jobs, services and transport.*
87. Clause 16.01-3S (Housing diversity)

- (a) *To provide for a range of housing types to meet diverse needs.*
88. Clause 16.01-4S (Housing affordability) has the objective:
- (a) *To deliver more affordable housing closer to jobs, transport and services.*
89. Clause 17.01-1S (Diversified economy) has the objective:
- (a) *To strengthen and diversify the economy.*
90. Clause 17.02-1S (Business) has the objective:
- (a) *To encourage development that meets the community's needs for retail, entertainment, office and other commercial services.*
91. Clause 18.02-2R (Principal Public Transport Network) includes the following strategy of relevance to this site:
- (a) *Maximise the use of existing infrastructure and increase the diversity of development along the Principal Public Transport Network, particularly at interchanges, activity centres and where principal transport routes intersect.*
92. Clause 18.02-4S (Car Parking) has the following objective:
- (a) *To ensure an adequate supply of car parking that is appropriately designed and located.*
- Local Planning Policy Framework (LPPF)
93. The following sections of the Municipal Strategic Statement (MSS) are relevant:
- (a) Clause 21.04-1 – Accommodation and housing
(b) Clause 21.04-3 - Industry, office and commercial
(c) Clause 21.05-1 – Heritage
(d) Clause 21.05-2 – Urban design
(e) Clause 21.06 – Transport
(f) Clause 21.07 – Environmental sustainable design
(g) Clause 21.08-8 – North Fitzroy
94. Clause 21.04-1 (Accommodation and housing) has the following objectives:
- (a) *Objective 1 - To accommodate forecast increases in population.*
(b) *Objective 2 - To retain a diverse population and household structure*
(c) *Objective 3 - To reduce potential amenity conflicts between residential and other uses.*
95. Clause 21.04-3 (Industry, office and commercial) includes the objective:
- (a) *Objective 8 - To increase the number and diversity of local employment opportunities.*
96. Clause 21.05-1 (Heritage) includes the objective:
- (a) *Objective 14 - To protect and enhance Yarra's heritage places.*
97. Clause 21.05-2 (Urban design) has the objectives:
- (a) *Objective 17 - To retain Yarra's identity as a low-rise urban form with pockets of higher development.*
(b) *Objective 19 - To create an inner city environment with landscaped beauty.*

- (c) *Objective 20 - To ensure that new development contributes positively to Yarra's urban fabric*

98. Clause 21.05-3 (Built form character) has the objective:

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

99. On the Built Form Character Map (Figure 14) for Collingwood, the site is shown to fall within a 'Non-residential' area. The built form objective for area is:

- (a) *To improve the interface of development with the street.*

100. Clause 21.06 (Transport) has the objectives:

- (a) *Objective 30 – To provide safe and convenient pedestrian and bicycle environments.*
- (b) *Objective 31 – To facilitate public transport usage.*
- (c) *Objective 32 – To reduce the reliance on the private motor car.*
- (d) *Objective 33 – To reduce the impact of traffic*

101. Clause 21.07-1 (Ecologically sustainable development) includes the objective:

- (a) *Objective 34 – To promote ecologically sustainable development.*

102. Clause 21.08-8 (North Fitzroy) includes the following description of the area:

- (a) *The North Fitzroy is known for the beautiful Edinburgh Gardens which combine open space, sportsgrounds, barbecue area, gardens with long-established European elm trees, skate bowl, tennis and basketball courts, bandstand, bowling greens and bocce links, remnants of the old Melbourne rail loop, and a heritage listed grandstand. The neighbourhood is largely residential.*
- (b) *The northern part of North Fitzroy has a low density residential character consisting of late Victorian and early Edwardian double fronted dwellings. Further south dwellings are more likely to be single fronted and one or two storeys.*

103. The site is identified as a strategic redevelopment site on page 29:

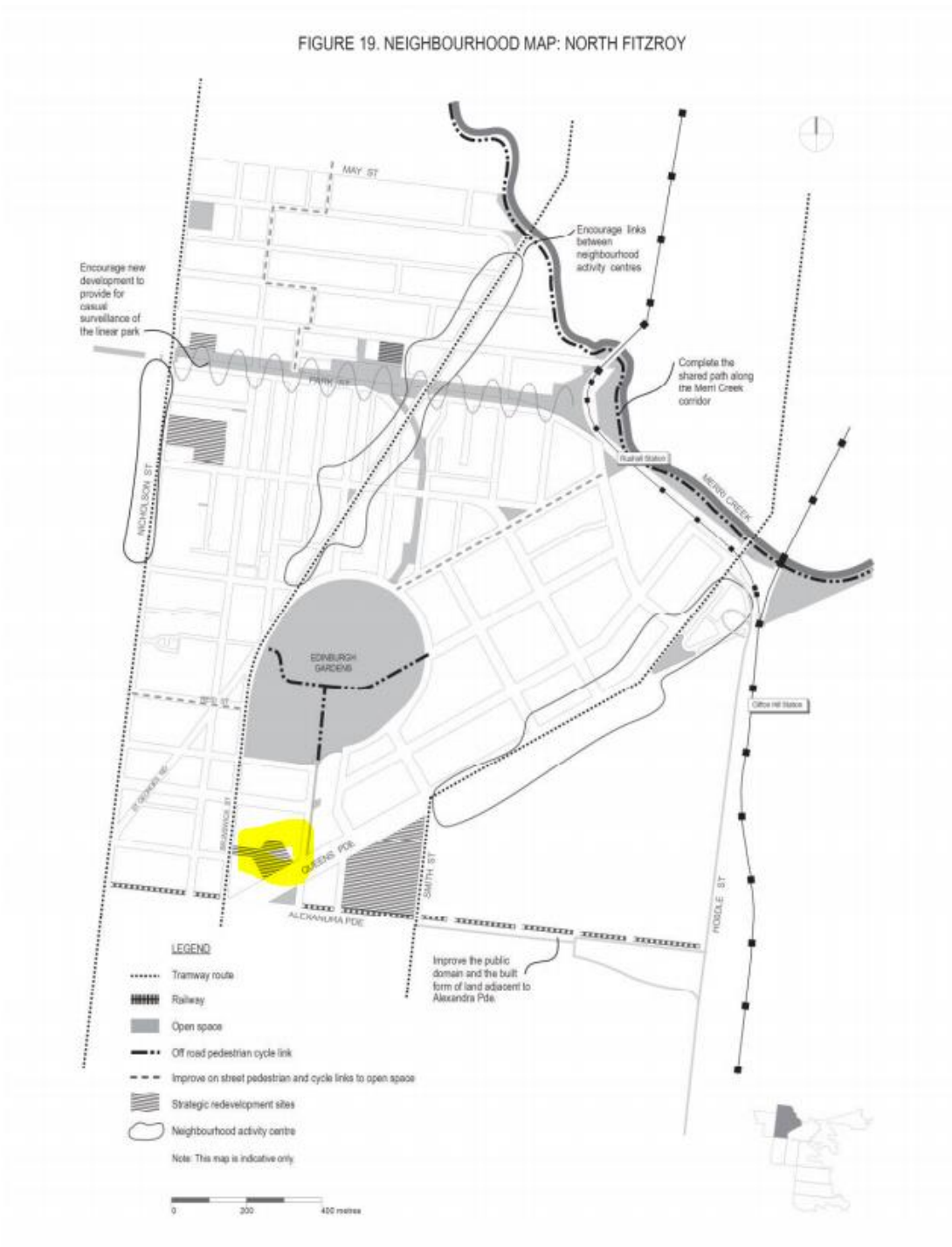


Figure 17 MSS Map

104. Of these identified sites, the policy also has an aim of:
- (a) *Encouraging the redevelopment of the following sites in a way that contributes positively to the urban fabric and public domain of Yarra, and where subject to the Heritage Overlay, protects the heritage of the site and of the area:*

Relevant Local Policies

105. The following local policies are relevant:
- (a) Clause 22.02 – Development Guidelines for Sites Subject to the Heritage Overlay
 - (b) Clause 22.05 – Interface Uses Policy
 - (c) Cluse 22.07 – Development Abutting Laneways
 - (d) Clause 22.16 – Stormwater Management (Water Sensitive Urban Design)

(e) Clause 22.17 – Environmentally Sustainable Development

106. Clause 22.02 (Development Guidelines for Sites Subject to the Heritage Overlay) applies to all land within a Heritage Overlay. The application proposes no change to the extent of demolition or the scale of the development within HO336.
107. The architectural treatment of the additions behind the building will be considered further in the assessment section of this report.
108. Clause 22.05 (Interfaces Uses Policy) policy applies to use or development within Mixed Use and Commercial Zones (among others). The objectives of the policy 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.*
109. At Clause 22.05-4.1 the policy lists guidelines for dwelling design to address noise, fumes and overlooking impacts from nearby commercial or industrial development. At Clause 22.05-4.2 the policy list guidelines for non-residential development design near residential properties which address overlooking, visual bulk, acoustic protection, light spill, waste management and construction management.
110. Clause 22.07 (Development Abutting Laneways) applies to applications for development that is accessed from a laneway or has laneway abuttal. It is policy that (amongst other matters):
- (a) *Lighting be designed to avoid light spill into adjacent private open space and habitable rooms.*
 - (b) *Windows and balconies overlook laneways but do not unreasonably overlook private open space or habitable rooms on the opposite side of the laneway. Development respect the scale of the surrounding built form*
 - (c) *Development not obstruct existing access to other properties in the laneway*
 - (d) *The laneway not be used for refuse storage. All laneway upgrades which provide improved access to the development be funded by the developer.*
111. Clause 22.10 (Built form and design policy) applies to all new development not included in a Heritage Overlay. The objectives of this policy are:
- (a) *Ensure that new development positively responds to the context of the development and respects the scale and form of surrounding development where this is a valued feature of the neighbourhood character.*
 - (b) *Ensure that new development makes a positive contribution to the streetscape through high standards in architecture and urban design.*
 - (c) *Limit the impact of new development on the amenity of surrounding land, particularly residential land.*
 - (d) *Design buildings to increase the safety, convenience, attractiveness, inclusiveness, accessibility and ‘walkability’ of the City’s streets and public spaces.*
 - (e) *Create a positive interface between the private domain and public spaces.*
 - (f) *Encourage environmentally sustainable development.*
112. The policy comprises 10 design elements that address the following issues: urban form and character; setbacks and building height; 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.

113. Clause 22.16 (Stormwater Management (Water Sensitive Urban Design)) applies to new buildings and extensions to existing buildings which are 50sqm in floor area or greater. Clause 22.16-3 requires development to improve the quality and reduce the flow of water discharge to waterways; manage the flow of litter being carried off-site in stormwater flows; and encourage the use of green roofs, walls and facades in buildings where practicable.
114. Clause 22.17 (Environmentally Sustainable Design) applies to non-residential development with a gross floor area of 100sqm or greater. 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.

Other Relevant Documents

Urban Design Guidelines for Victoria (Department of Environment, Land, Water and Planning, 2017)

115. Clause 15.01-2S requires consideration to be given to this document, as relevant.

Advertising

116. The permit applicant was directed to advertise the application. At the time of writing this report 119 statements of grounds were received by Council, with the following issues raised;

- (a) Built form (urban design and heritage) and massing
- (i) Scale of development is out of context with the surrounding heritage neighbourhood
 - (ii) Intensification of site
 - (iii) Treatment of heritage building
 - (iv) Reduced spacing between buildings
 - (v) Presentation to Queens Parade is not in keeping with the area
 - (vi) Poor architectural response – arches not common to the area
 - (vii) Design change from curved forms to more angular increases visual bulk
 - (viii) Quality of the development has been eroded
 - (ix) Lack of landscaping
 - (x) Charcoal paint does not comply with VCAT order
 - (xi) Buildings are too high
 - (xii) Impact on Edinburgh Gardens
- (b) amenity (off-site, on-site, overlooking, overshadowing, loss of light);
- (i) visual bulk of the development has increased
 - (ii) poor internal amenity of dwellings (loss of larger dwellings and introduction of studios)
 - (iii) communal spaces have poor amenity
 - (iv) overlooking to surrounding residences
 - (v) overshadowing of surrounding area
 - (vi) the dwelling typologies are not responsive to the Covid world
 - (vii) interface with properties to the rear
 - (viii) lack of information regarding new uses proposed on site
- (c) traffic and car parking
- (i) increased pressure on road network and parking availability
 - (ii) car stackers are impractical and won't be used.
 - (iii) Increased demand on struggling public transport network
 - (iv) Lack of emergency vehicle access

- (d) ESD
 - (i) No area for cloths drying;
 - (ii) Reliance on gas appliances conflicts with sustainable objectives;
 - (iii) Lack of solar panels
 - (iv) Poor ESD initiatives
 - (v) Insufficient provision of bike facilities
- (e) Other
 - (i) The amendment should be withdrawn and a new application lodged
 - (ii) Not complaint with VCAT decision
 - (iii) Application lacks detail
 - (iv) Concern with ability for a permit to be amended after a long planning process
 - (v) Loss of views
 - (vi) Property devaluation
 - (vii) No provision of affordable housing
 - (viii) Disruption during construction process
 - (ix) Development will cater to a transient population

Referrals

Internal Referrals

117. The application was referred to the following units within Council and external consultants:

- (a) Engineering Services Unit;
- (b) City Works Units;
- (c) ESD Advisor;
- (d) Heritage Advisor; and
- (e) MGS Architects – Urban Design

118. Referral comments have been included as attachments to this report.

OFFICER ASSESSMENT

119. The primary considerations for this application are as follows:

- (a) Principles relevant to Sections 87A Amendments
- (b) policy and strategic support;
- (c) Uses;
- (d) Built Form and Design
- (e) Landscaping
- (f) On-Site Amenity Impacts
- (g) Off –Site Amenity Impacts
- (h) Car Parking /Traffic/ Bikes
- (i) Waste Management
- (j) Construction Management
- (k) Objector’s concerns

Principles relevant to Sections 87A Amendments

120. A number of the statement of ground forms raised concern with the process engaged by the permit applicant to amend the application. The power to amend a permit under section 87A is a very broad power because section 87A empowers the Tribunal to cancel or amend a permit ‘if it considers it appropriate to do so’. There is no more specificity in the Act as to relevant considerations.

121. Key principles for assessing applications under s.87A arising from Tribunal decisions include:
- (a) Amendments which are quite substantial can be made, and new primary permissions can be granted by way of amendment to an existing permit. However the power to amend does not include the power to change the permit into something that creates new, substantive rights that are fundamentally different to the permission granted by the permit (ie a 'transformation' of that permit or of the rights granted by the permit).
 - (b) In the absence of a change of circumstance or some other good and sound reason, key or core components of a Tribunal determination or mediated settlements should generally not be undone via a section 87A application.
 - (c) The scope of consideration of a section 87A proceeding is confined to the proposed changes. A debate about the entirety of the approved development is not re-opened.
 - (d) The amendments must be assessed on their own merits, and not by reference to whether they are "better" or "worse" than the situation approved under the current permit.
 - (e) In assessing the planning merits of the amendment, the relevant test in the exercise of the discretion is whether the proposal would result in an acceptable planning outcome as opposed to an ideal outcome when having regard to the relevant planning policies currently applicable to the subject land and not the policies that were in place at the time of the original grant of the permit.
122. This report assesses the application against these key principles and considers as relevant the section of the Yarra Planning Scheme applicable to the site.

Policy and Strategic Support

123. The amended proposal continues to offer a higher density residential/mixed use development in an area where planning policy directs such developments given the site is well serviced by infrastructure, public transport and services (Clauses 11.01-1S, 11.03-2 and 18.02-2R).
124. The interim VCAT order for the subject site (Gurner 26 – 56 Queens Parade Pty Ltd v Yarra City Council identified the site as:

'We do not need to dwell on this context. There is no real dispute between the parties. There is strong support for intensive development of both sites. There is broad support under State policy in the latest form of Plan Melbourne. The main site is a strategic redevelopment site under local policy, where much new redevelopment in Yarra is encouraged. Both sites are in a Mixed Use Zone. The main site is unusually large, it is on a wide boulevard, and has good access to public transport and services, including shops in Brunswick Street and Smith Street, and open space at the Edinburgh Gardens. It is in DDO16, where built form to ten storeys is contemplated'.

125. The proposal to increase housing yield enjoys strong policy support because housing policy encourages more housing in areas close to activity centres and public transport (Clause 16.01-2S). While the proposal changes the mix of apartments within the development, a diversity in housing type is maintained as shown in the table below:

Dwellings Type	Endorsed	Proposed	Net Change
Studio	0	14	+14
1 x Bedroom	103	45	-58
2 x Bedroom	114	217	+103
3+ Bedroom	46	37	-9
Total	263	313	+50

Land Use	Endorsed	Proposed	Net Change
Café/Restaurant	255sqm	40sqm	-215sqm
Shop	201sqm	-	-201sqm
Office	-	1548sqm	+1548sqm
Gym	-	864sqm (not clear if a commercial gym or combination of resident/commercial)	+864sqm

126. However, while policy support exists for a higher density development on the site the amenity of the dwellings must be considered and will be assessed later in the report
127. The deletion of the shop and reduction in food and drinks offering is proposed to be replaced with office space and a new gym. The planning scheme does not compel developments to include certain types of uses within the MUZ therefore the deletion of the shops and food and drinks premises is not a reason for refusal of the application. Importantly, the proposal continues to provide a diversity of uses to complement the residential component of the development and the mixed use nature of the locality.
128. The deletion of all residential visitor parking is acceptable because of State Government reform in how car parking is to be managed, particularly in areas that are well connected to public transport networks. Amendment VC148 amended the Scheme to delete the requirement for residential visitor parking on sites within the PPTN area. It also reduces car parking requirements for commercial uses within the PPTN area which will be addressed later in the report, it is however important to note Council's strong transport policy, which seeks to discourage people driving cars and instead using sustainable forms of transport in well serviced areas.
129. In summary, the proposal continues to enjoy broad planning policy support.

Use

130. As set out in the section above, the change to the mix of uses is not unacceptable and continues to provide a mixed use development.
131. The introduction of office floor area as a result of deletion of the dwellings previously contained within the heritage building will continue to provide adequate activation of the street frontage. Planning policy encourages office-based employment to be concentrated in central locations therefore the 1548sqm of office floor area enjoys support in this location. A condition restricting office hours of operation (7am to 7pm, seven days a week) should be included on any amended permit issued for the site.
132. Floor plans should also be updated to show interlinking staircases, staff toilets and the like as the floor plans currently lack detail.
133. A gym is proposed to be located at basement and ground floor level. The application documentation is not clear if all or part of the gym is proposed to be used as a commercial space. While a gym in this location is considered to be an appropriate use, no information has been provided as to how the facility will operate. The following information is required further consideration:
- Clarification regarding actual use (resident only or commercial or a mix)
 - Hours of operation
 - Patron and staff number;

- (d) Are classes proposed
- (e) Acoustic information

134. The reduction in size of the food and drinks premises (by 215sqm) and deli/shop (by 201sqm) will likely result in less off-site impacts due to less patronage and lower levels of waste turnover needing collection.

Built Form and Design

Demolition – Heritage

135. Only the very western part of the subject site is affected by HO327, as shown on the map below, it is noted that the area covered by the heritage overlay does not correlate with the extent of the heritage building on site.

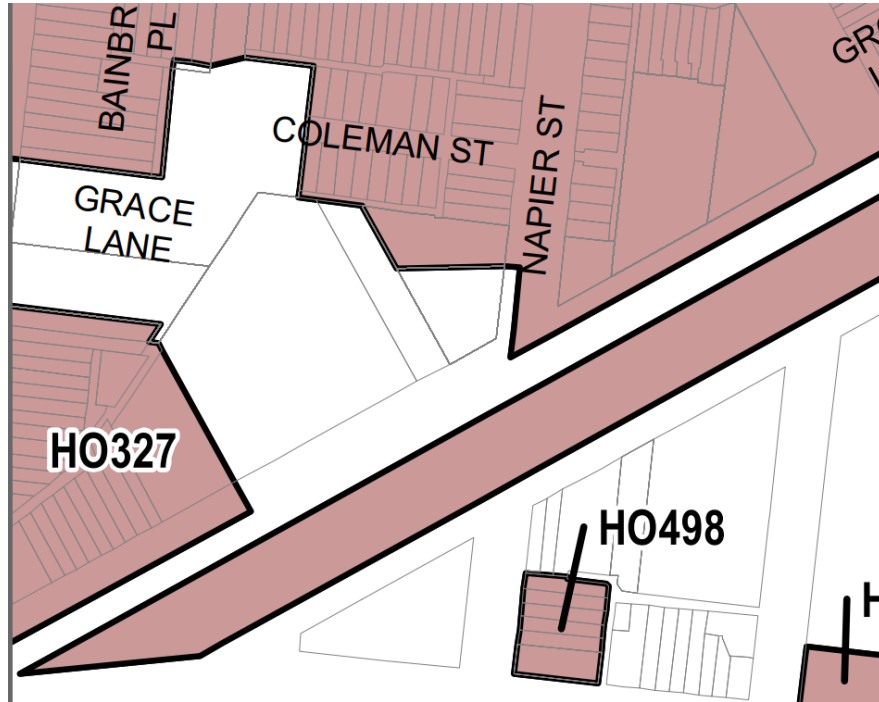


Figure 18 Heritage Overlay

136. The heritage building on site is the former electro plate K G Luke Pty Ltd electro – plate manufacturers constructed 1937-38 and is graded as individually significant.



Figure 19 Part of the subject site – former K G Luke factory

137. The citation for the subject site states the following:

What is significant?

The former K.G. Luke Pty Ltd. electro plate manufacturers factory complex (part) at 26 Queens Parade, Fitzroy North was created in 1938 for Kenneth G. Luke and has historical associations with K.G. Luke Pty Ltd. (see also 28-58 Queens Pde).

In 1921 Kenneth Luke became a partner in a small metal-spinning and silverware business at Carlton. By 1925 he was its proprietor and an employer of seven. These employees were still with him thirty years later, with 650 others, making an ever-increasing range of products: silverware, stainless steel surgical equipment, plated goods and glass-washing machines. In 1929 he bought a larger factory in Queen's Parade, Fitzroy (since redeveloped), doubled his staff and introduced new lines. At the outbreak of World War 2 production was again stepped up and Luke became an honorary adviser to the Department of Supply and Shipping. Luke went on to achieve many major public roles. In 1938-55 he was president of the Carlton Football Club. A delegate (from 1935) to the Victorian Football League, he was its vice president (1946-55) and president (1956-71). With post-war growth generating record crowds, he consolidated central administration and professionalised the game for players.

The place has a fair integrity to its creation date.

Fabric from the creation date at the K.G. Luke Pty Ltd. electro plate manufacturers factory, former (part) is locally significant within the City of Yarra, compared to other similar places from a similar era.

How is it significant?

The K.G. Luke Pty Ltd. electro plate manufacturers factory, former (part) at 26 Queens Parade, Fitzroy North is historically and architecturally significant to the locality of Fitzroy North and the City of Yarra.

Why is it significant?

The K.G. Luke Pty Ltd. electro plate manufacturers factory, former (part) is significant as:

'An unusual large 'Art Deco' (or Moderne style) factory/warehouse that has a very intact façade of architectural merit especially in its parapet profile' (part 26-58, bricks painted).

This (factory) was co-located on the spur railway line through the Edinburgh Gardens and the Queens Pde 'Fitzroy' rail station which was a lucrative goods railway line from 1891 to 1980, serving this and other interwar industries nearby' (Wight 2001).

The building is closely associated with the nationally known (Sir) KG Luke and his highly successful business enterprise as well as his sporting links, both local and national.

138. Clause 22.02 has the following objectives (amongst others):

- (i) *To conserve Yarra's natural and cultural heritage.*
- (ii) *To conserve the historic fabric and maintain the integrity of places of cultural heritage significance*
- (iii) *To encourage the preservation, maintenance, restoration and where appropriate, reconstruction of heritage places.*
- (iv) *To ensure the adaptation of heritage places is consistent with the principles of good conservation practice.*

139. The following development guidelines are relevant under Clause 22.02-5.1:

(i) *Removal of Part of a Heritage Place or Contributory Elements*

- *Encourage the removal of inappropriate alterations, additions and works that detract from the cultural significance of the place.*
- *Generally discourage the demolition of part of an individually significant or contributory building or removal of contributory elements unless:*
- *For individually significant buildings or works, it can be demonstrated that the removal of part of the building or works does not negatively affect the significance of the place.*

140. The amendment documentation is consistent with the extent of demolition already approved and endorsed and remains satisfactory.

Height/scale/Massing

141. As discussed in the *Strategic Policy Support* section of this report, in regard to building height there is broad urban design aspiration set out at Clause 21.05-2 to support pockets of taller development in activity centres and on strategic redevelopment sites. More specific the heritage overlay and the most specific control applicable to the site is the Design and Development Overlay Schedule 16 – Queens Parade which provides specific direction for the redevelopment of the site.

142. As previously outlined, the specific design requirements for this subject site require the development to:

- (i) *Provide an interface to neighbouring residential properties that minimises visual bulk and mass and provides building separation along side and rear boundaries abutting existing properties.*
- (ii) *Maintain the prominence and significance of the art deco facade.*
- (iii) *Retain, enhance and incorporate the existing heritage facade into the redevelopment of the site and to create a consistent parapet height along the streetscape.*
- (iv) *Recognise the low scale, buildings and fine grain subdivision pattern of existing development to the north and west.*
- (v) *Encourage pedestrian permeability within and through the precinct.*
- (vi) *Avoid a repetitive stepped form within the 45 degree angle profile.*
- (vii) *Ensure development above the street wall is designed as a series of separate development parts with building separation to enable views to the sky*

143. The design approach for the site while maintains elements of the approved development being:

- (i) Retention of the heritage building;
- (ii) Construction of a new three storey street wall
- (iii) Three Tower forms
- (iv) Low scale permitter buildings

144. However seeks to vary the massing and presentation of the building form and as it presents in the round.

Queens Parade



Figures 20 and 21 Approved Queens Parade Renders

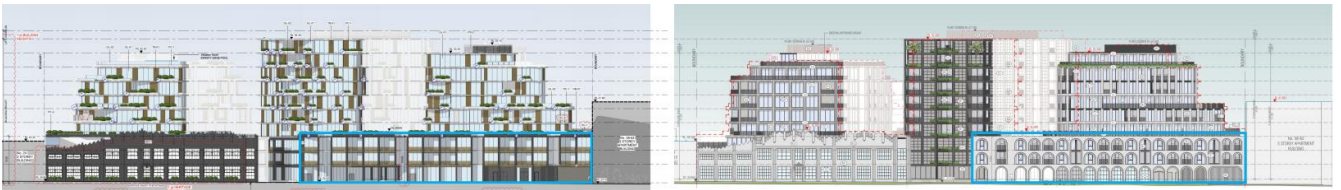


Figures 22 and 23 Proposed Queen Parade Renders

145. The key changes to the Queens Parade Façade relate to the deletion of the organic and curved forms and replaced with more angular and geometric façade articulation

Street wall / Podium

146. The amended proposal seeks to build on the design of the streetwall as it presents to Queens Parade and proposes to continue to maintain the façade of the heritage building and creates a new podium section that is more solid in presentation as the base to Tower 3 and connects back to Tower 2.

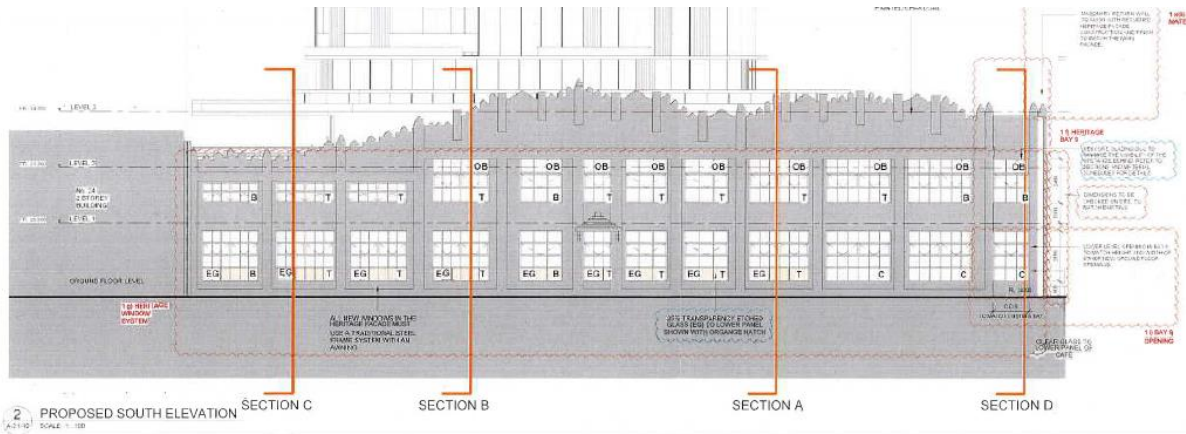


Figures 24 Endorsed and proposed streetwall

Heritage facade

- 147. The use of the heritage façade is retained and now presents as a commercial building rather than having dwellings behind.
- 148. The change in use enables the deletion of the terrace areas previously approved immediately behind the façade and enables floor area to abut to the façade.
- 149. Council’s heritage advisor provided the following comment:

‘I note that the “internal courtyard” behind the retained façade has been deleted and that offices, entry and a food and drink premises (Ground floor) and offices (Level 1) will abut the rear of the retained façade. This will eliminate the concept that only a façade is being retained and will enable some degree of presentation of a three-dimensional building.’



Figures 25 Endorsed heritage building



Figures 26 Proposed heritage building

- 150. The application retains the proposed terrace area at second floor level and similar to the endorsed plans sets the slab back from the windows and uses obscure glazing to mask this from view from the street. Council heritage advisor has reviewed this and confirms that *‘At Level 2 there is an L-shaped setback behind the façade/parapet decoration. This will assist in the separation of the new built form and the retained façade’.*

151. The treatment to the façade has deleted reference to render to paint, in response Council's Heritage advisor states:

I note that all references to rendering of the façade are to be deleted which is supported from a heritage perspective. Instead paint removal is to be investigated which is the preferred approach. My advice of 15 October, 2016 was, inter alia viz.: This must be undertaken.

The proposed decorative finishes are Rn1 – Pale Grey render finish and Rn2 – Off-white render finish, noting that references to render are to be deleted. It is not clear from the Lovell Chen report whether these colours were derived from microscopic paint analysis and this should be clarified. If they are then they are acceptable but if not their basis needs to be articulated. Other colours are neutral and acceptable.

Steel-framed windows, with awnings, are appropriate and some, to my recollection, are extant. Their replacement is acceptable.

152. It is suggested that the permit applicant clarify these matters prior to the issue of an amended permit

153. The new section of streetwall significantly departs from the presentation currently endorsed.

New Podium

154. The existing façade treatment as shown in the figure below included large expanses of glass with regularly places columns interspersed with timber balustrades.



Figures 27 Endorsed streetwall

155. The revised façade treatment introduces the use of arches set within a light masonry wall depicted in a light grey colour. Steel framed windows and balustrades in a regular pattern are interspersed across the façade.



Figures 28 Proposed streetwall

156. The arches appear to have deep reveals adding further depth to the presentation of the long façade.

157. The 'services' and car parking entry are treated with charcoal metal batterns providing continuity to this overall façade appearance.

158. It is acknowledged that a number of the statements of grounds made reference to the use of the arches within the facade. Arches are not uncommon to the area as visible from the images below and are a reasonable design reference to be incorporated into the façade of this proposal.



Figures 29 Arches in the summary context

159. Council urban design consultant raised no concern with the design language or materiality of the proposal and should an amended permit be granted a condition should require the submission of a detailed façade strategy be submitted to ensure proper execution and craftsmanship shown on the renders.

160. The DDO control also mandates a 10m height for the street wall for this section. The proposed height as shown on the elevations is RL34.3 or 9.9m in height complying with the control.

161. Balustrading associated with the terraces are shown to sit above this height but setback (no dimension on plans), this is consistent with the currently endorsed plans.

Tower 1

162. The massing of Tower 1 proposes an amended form and articulation however incorporates some of the curved elements originally endorsed.

163. The articulation is proposed to be regularised in a grid pattern interspersing framed glazing with terraces with metal balustrades departing from the timber screens and more horizontal banding evident in the current plans (see below). The material pallet is a light coloured render with black and charcoal metal features.



Figures 30 Tower 1 endorsed renders



Figures 31 Tower 1 render

164. Tower 1 is the only building abutting heritage fabric and Council's heritage advisor reviewed the proposed setback as stated below and supports the amendments:

At Level 2 there is an L-shaped setback behind the façade/parapet decoration. This will assist in the separation of the new built form and the retained façade, moreover since at Level 3 there is an articulated and deeper setback of 9.55 - 11 metres and with a clear setback of 2.26 metres behind the parapet for most of the length of the façade.

At the levels above (Levels 4 – 8) the setback of the western pod increases, beyond 13 metres and is acceptable.

The lift shaft connects the Ground level to Level 2 and with the overrun being at Level 3. The bulk and scale of the lift shaft in the setback and in the context of a wide street (Queens Parade) and a 46 metre long façade, will have minimal visual effect, if any, on views to the façade and is acceptable.

165. The amended plans generally seek to maintain the setback from Queens Parade, albeit the curve to the façade is proposed to be simplified. When assessing these setbacks to the preferred controls outlined within the DDO, the setbacks comply.
166. The revised presentation to Queens Parade is an acceptable amendment and should be supported subject to a detailed façade strategy being submitted.

Tower 2

167. Tower 2 proposes a complete departure in form and design from that currently endorsed. The placement of this building at ground level is proposed to be on a less acute angle facilitating a greater presence to the street.
168. Architecturally, the design of the Tower presents as regularised grid metal framed formation windows interspersed with open terraces clad in a charcoal finish in contrast to the lighter coloured Towers 1 and 3. The undulated façade has been flattened and landscaping is shown on the renders as cascading down the façade.
169. No landscape plans has been submitted with the application and should be provided to ensure the outcome depicted in the renders is achievable



Figures 32 Endorsed Tower 2 render



Figures 33 Proposed Tower 2 render

170. The setback to Queens Parade is shown at a minimum setback of 6.7m increasing as the building angles away from the street. This setback is not compliant with the preferred setbacks outlined within the DDO (8 metres from 16 metres) however is consistent with those shown on the endorsed plans.

171. The ground level setbacks lead into the two main accessways which lead to the lobby areas to the other towers compliant with the DDO and consistent with the endorsed plans



Figures 34 Endorsed and proposed ground floor accessway

172. The revised presentation of Tower 2 is an acceptable amendment and should be supported subject to a detailed façade strategy being submitted.

Tower 3

173. The proposed amended scheme for Tower 3 similar to Tower 1 retains some of the curved edges but simplifies its form and adopts a more regularised grid pattern interspersing framed glazing with terraces with metal balustrades departing from the timber screens and more horizontal banding evident in the current plans (see below). The concrete columns are more regular than those proposed for Tower 1.
174. Landscaped edges are shown on the renders but no landscape plan has been submitted.



Figures 35 Endorsed Tower 3 render



Figures 36 Proposed Tower 3 render

175. Setbacks adopted from Queens Parade are comparable to those already endorsed with the main variance being the straightening of the façade. When assessing these against the DDO provisions, they do not comply with the preferred setbacks however the proposal continues to present an acceptable presentation to the street.

Massing – Towers 1 & 2

176. The internal spacing of the Towers has narrowed between Towers 1 and 2. The endorsed plans show the separation distance between 11.3 – 17.3m reducing down to 10m.
177. It is acknowledged that the 10m proposed is generous and is a distance which negates the need to screen dwellings. However, Council's urban designer raises concern with this:

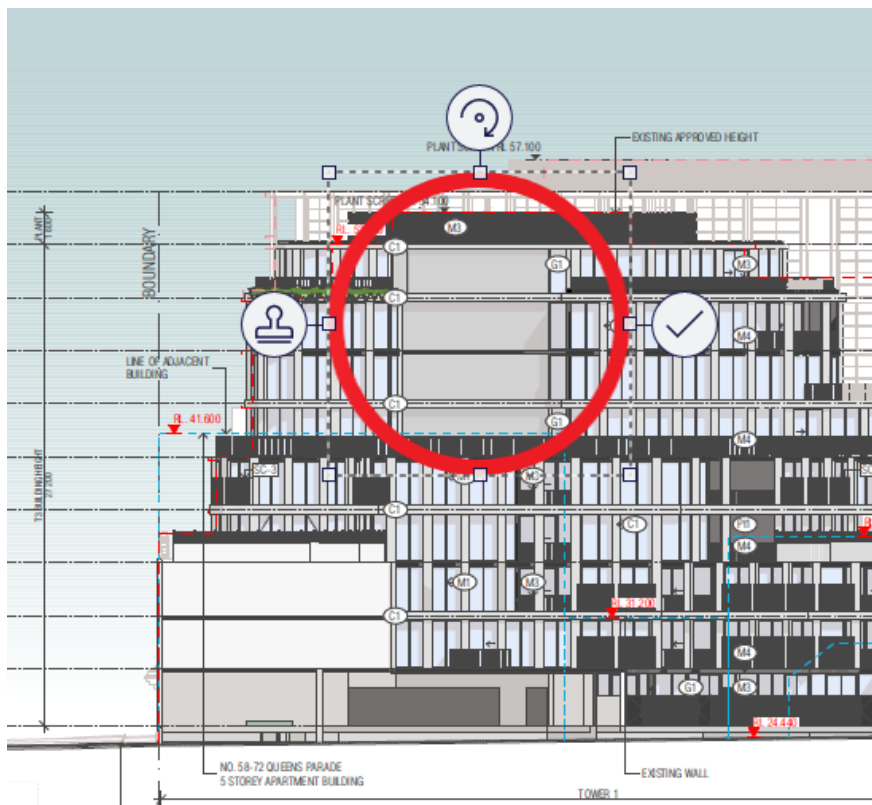
The diminishing of landscaping in conjunction to these reduced setbacks reduces separations between tower and design language which seeks to amplify the physical presence of the built form against the earlier stepped form and landscape approach when combined with these reduced setbacks clearly amplifies the perceived bulk form these hinterland locations.

This is at odds with the policy for the site that specifically seeks to, provide an interface to neighbouring residential properties that minimise visual bulk and mass and provided building separation alongside and rear boundaries abutting existing properties'.

178. As stated later in the report, a view study from the north should be undertaken.
179. The architectural language proposed as part of the amendment is a site responsive design which presents an acceptable outcome. It is suggested however that a review of the massing, namely between Towers 1 and 2 be reviewed to address concerns with building bulk.

All Elevations

180. The proposed amendment similarly to the endorsed plans have been designed in the round ensure consistent use of materials and façade detailing.
181. The ease elevation depicts a large expanses of blank wall which should being the stair element at levels 5 – 8.



Figures 37 blank wall

Landscaping

- 182. Clause 15.01-1S (Urban design) includes the strategy ‘Ensure that development provides landscaping that supports the amenity, attractiveness and safety of the public realm’ and Clause 21.05-2 (Urban design) includes the objective ‘To create an inner city environment with landscaped beauty’.
- 183. The proposed renders detail a good amount of landscaping forming part of the overall design response for the site. No landscape plans have been submitted with the application and its suggested that this information be provided.

Environmental Sustainability

- 184. Council’s ESD officer advised that the Sustainable Management Plan (SMP) submitted with the amendment is disappointing and has offered the following comments:
 - (a) SMP has a commitment to a 6.5 average NatHERS star rating. This is the bare minimum for development in the City of Yarra under the current local ESD policy. Setting a ‘bare minimum’ standard for a major development of this scale and opportunity is disappointing and an underwhelming goal. Larger developments like this logically enable a much higher performance standard in ESD. The sample set of ratings have an average of 6.8 Star. Recommend that an average 7 Stars is confirmed as a consistent and clear commitment throughout the SMP and all documents.
 - (b) The SMP has a commitment to 20% improvement on NCC 2016 energy efficiency standards that roughly equate to minimum energy efficiency standards under the current NCC 2019 standards. This is not acceptable for a development of this scale. Recommend that a minimum 10% improvement on NCC 2019 energy efficiency standards be met.

- (c) There is no solar PV onsite generation in this development. This is a missed opportunity to incorporate the 'low hanging fruit' of sustainable energy. Recommend that onsite solar PV be installed on any available suitable roof space to contribute to common area electricity consumption. Consider building-integrated PV systems for other building envelope elements such as glazing and balcony balustrades.
- (d) The commitment in the SMP to installing gas storage hot water is committing a largely redundant technology to the life of this building. Recommend reconsidering the natural gas connection in the development and specifying heat-pump hot water and induction cooktops in an all electric building.
- (e) Recommend the applicant seriously consider a zero carbon performance standard enabled via an embedded network operator and renewable energy purchasing, in addition to the recommendations above. I'm happy to give any further guidance on achieving zero carbon development performance standard in this project.

185. It is suggested that the applicant reassess the ESD initiatives proposed for the development.

On-Site Amenity Impacts

186. The application benefits from the transitional provisions under Clause 58 (Apartment Developments) therefore the *Guidelines for Higher Density Residential Development* (Department of Sustainability and Environment) [DSE Guidelines] are the applicable guidelines for considering internal amenity.

Dwelling layout

187. Objective 5.3 of the DSE Guidelines is '*To create functional, flexible, efficient and comfortable residential apartments*

188. The comparison document found at attachment 5 of this report includes within this typical apartment layouts. Condition 1(n) on the permit requires:

- (a) *Each bedroom with either minimum dimensions of 3 metres by 3 metres or a minimum of 9 square metres provided on side of a rectangle that fits in the bedroom is no less than 2.8 metres. Each change to the dimensions or area of a bedroom must be absorbed within in the building envelope*

189. While most of the 'typical apartment layouts' show that this condition can be accommodated, the layout for the studio apartments show that this minimum dimension projects into the hallway and backs onto the dining room table. This apartment typology does not comply with this condition and should be deleted.

190. Existing condition 1(n) should remain on any amended permit.

Daylight and ventilation - Apartments

191. Objective 5.4 of the DSE Guidelines is '*To ensure that a good standard of natural lighting and ventilation is provided to internal building spaces*'.

192. As further guidance to achieve this, Council's best practice under Clause 22.17 (BESS) has a minimum 80% of living rooms achieving a daylight factor greater than 1% to 90% of the floor area and a minimum 80% of bedrooms achieving a daylight factor of 0.5% to 90% of the floor area of each room. The applicant has not submitted the daylight modelling for the site.

193. Both Council's consultant urban designer and ESD officer have raised concerns with the internal amenity of a number of the lower level apartments. As outlined by Council's ESD officer:

- (a) *There are no site constraints that prevent all dwellings from reaching the best practice daylight factor standard in all dwellings.*

194. Based on the advice received, it is suggested that the following apartment be redesigned to ensure acceptable level of internal amenity (there are no apartment numbers annotated on the plans therefore where possible images will identify the apartments required to be amended):

195. At ground floor the following apartments are considered to offer poor internal amenity:

Ground floor issues

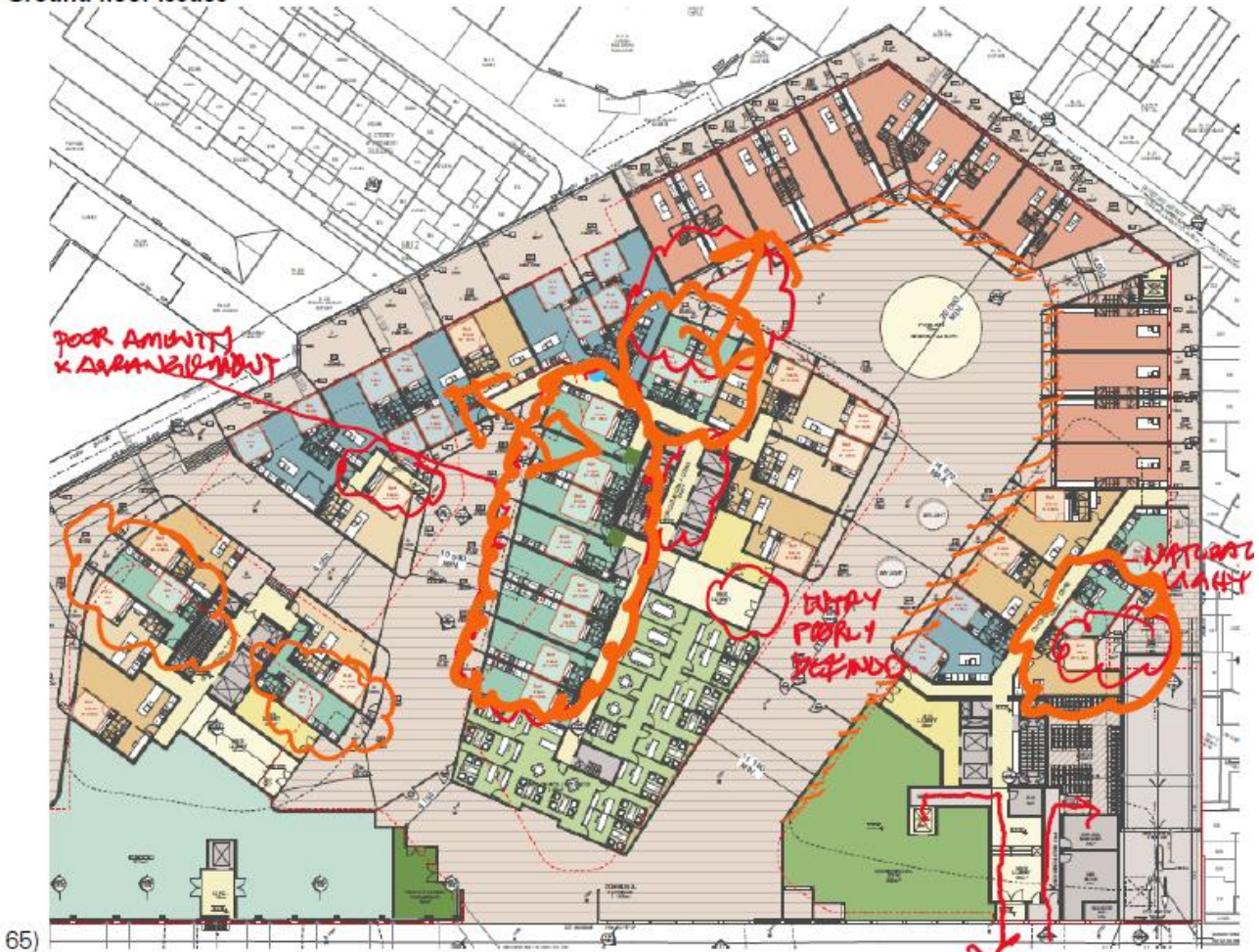


Figure 38 Plan annotated by Mr Rob McGauran – Ground floor Plan

196. At Levels 1 & 2, the following apartments are considered to offer poor internal amenity (the floor plates generally repeat). The urban design advise also raises concern with the excessive amount of screening to deal with inter-locking (assessed below) which also adds to the poor internal amenity of some of the proposed apartments.



Figure 39 Plan annotated by Mr Rob McGauran – First floor Plan

197. Contained within the urban designed referral appended to this report are a series of additional recommendations for improving internal amenity. It is suggested that the permit applicant undertake a review of all the dwellings to ensure:

- (a) *That all unit living areas accommodate free of circulating access to kitchen and bedroom and bathroom areas sufficient space to comfortably sit the number of residents capable of being accommodate by bedroom occupancy numbers;*
- (b) *That all habitable rooms achieve adequate daylighting and ventilation to all area;*
- (c) *That all balconies are accessible directly from living areas;*

198. Further, Council's ESD officer also suggests:

- (a) *Furthermore, I strongly suggest that the applicant submit daylight modelling to demonstrate that Council's best practice standards in daylight and natural ventilation are met in all habitable rooms. With a large site and numerous design options, and no site constraints, there appears to be no strategic justification for proposing dwellings with poor indoor environment quality.*

Daylight and ventilation – Amenities

199. The plans show two areas of resident amenities located in Basement 1. No information regarding how these spaces will fitted out as has been provided. These space have no access to daylight other than two skylights as shown in the figure below.

200. These types of areas are typically located in areas where access to daylight and ventilation are readily available. Advice received by Council's ESD advisor states:

- (a) *In addition to poor daylight and amenity to dwellings, the resident's communal areas, amenities and gym are located in the basement with no natural ventilation or daylight, completely reliant on mechanical and electrical systems and very poor amenity. I strongly recommend that these rooms are relocated to ground floor to improve their access to daylight and natural ventilation. It is possible that these spaces could be located on the ground floor courtyard including areas current occupied by poor amenity dwellings. The nature of the larger open plan communal areas would be better suited to the areas in the acute angled building envelope that are unlikely to meet daylight and natural ventilation standards if used as dwellings.*

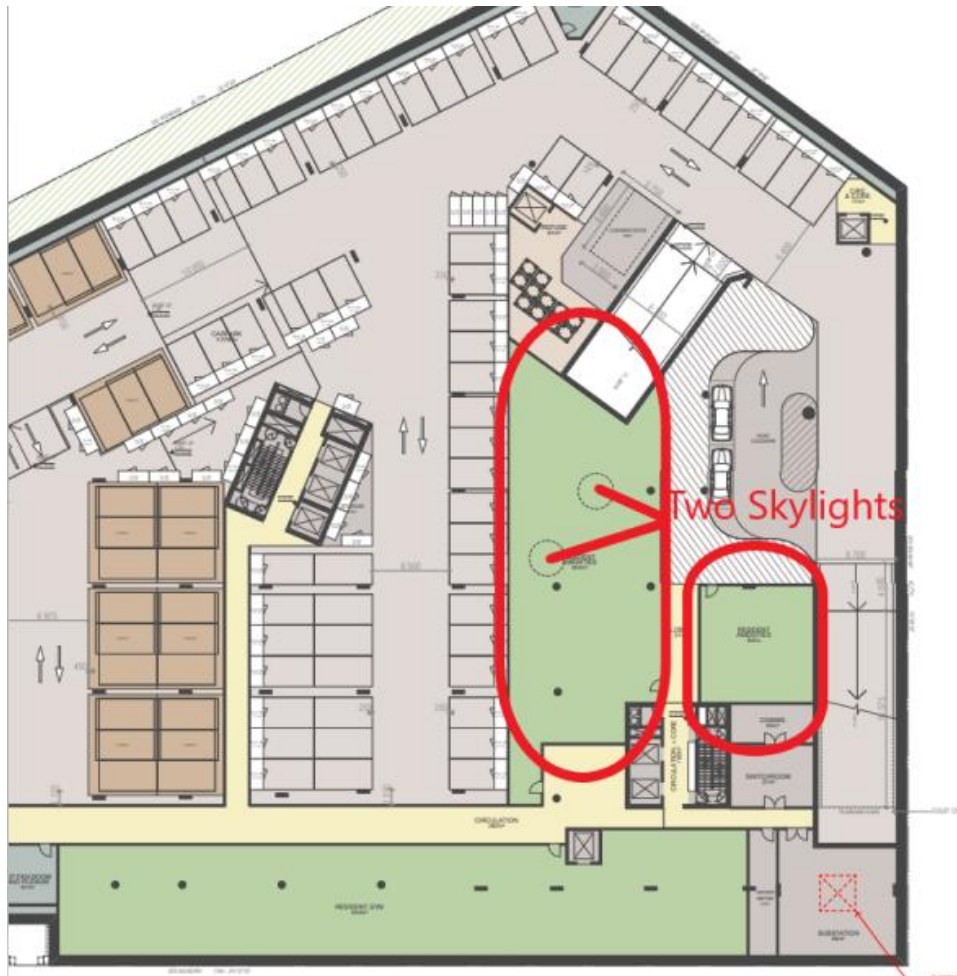


Figure 40 Basement 1 Plan

201. It is recommended that these space be relocated from the basement level.

202. A second amenities and communal outdoor space at level 8 tower 1 offers excellent amenity.

Daylight and ventilation – Corridors

203. To further improve the internal amenity of the buildings it is suggested that exploration of providing circulation corridors with access to daylight and natural ventilation.

204. Based on the plans as submitted the application is not supported.

Internal overlooking

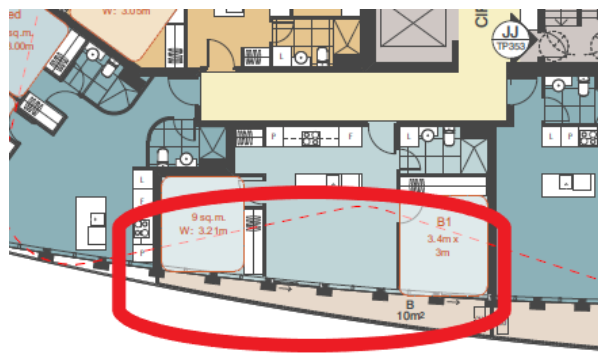
- 205. Objective 2.9 of the DSE Guidelines aims *'To maximise residential amenity through the provision of views and protection of privacy within the subject site and on neighbouring properties'*.
- 206. Protection of neighbouring properties privacy has been addressed in the *Off-site amenity impacts* assessment of this report. In regard to views between apartments within the development, the heights of walls / screens between balconies needs to be annotated on the plans. If an amended permit is to issue, a permit condition can address this.
- 207. A review however of the layout of apartments which have poor internal and then require screening to prevent interlooking should be undertaken.

Private and communal open space

- 208. Objective 6.1 of the DSE Guidelines is *'To ensure access to adequate open space for all residents'*. The guidelines state that *'If a balcony is intended serve as private open space it should be of sufficient size to accommodate outdoor seating, with good connections between these spaces and the building interior.'* Minimum balcony sizes are not specified.
- 209. Most apartments are provided with a minimum 8sqm balcony with direct access off the living room. However some apartments balconies are narrow in depth which should be reconsidered or plans provided which show dimensions and how they can be furnished to show functionality, these specific apartments are shown below:



Figure 41 Level 5 – Tower 1



Level 5 - Tower 3

- 210. Additionally, the following apartments have inadequate open space provision:

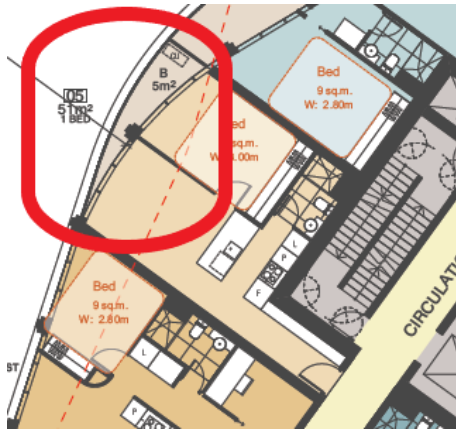


Figure 42 Level 6 – Tower 1

- 211. These matters could be addressed by condition if an amended permit were granted.
- 212. With respect to communal open space, a large area at ground floor being the areas between buildings is available however these spaces would be in shadow for a significant part of the day not dissimilar to what has already been approved.
- 213. Other areas of communal open space are located at level 8 of Tower 1 offers excellent amenities for the future residents.
- 214. It is not clear from the plans what the area behind the ramp (Tower 3) is meant to be used for, clarification regarding this space should be provided:

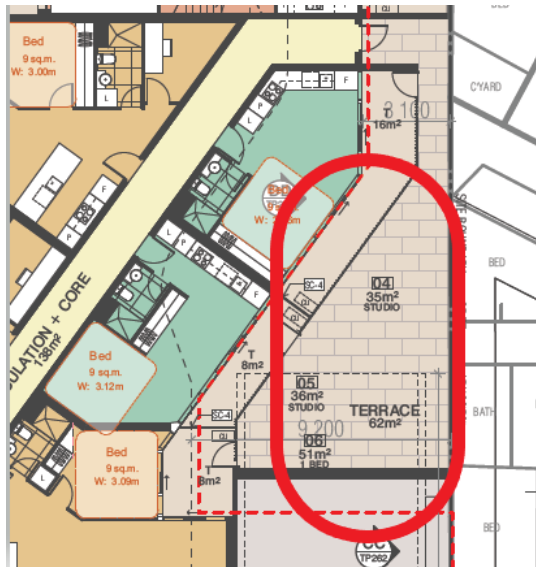


Figure 43 Ground Level – Tower 3

Noise

- 208. No amended acoustic report has been submitted with the application. Additional information is required regarding any impact of the new uses proposed on site. This could be addressed via a permit condition.

Site services and circulation

- 209. Objective 4.6 of the DSE Guidelines is *'To incorporate provision for site services in the building design to ensure good function and ease of service and maintenance'*.

- 210. The urban design advice suggests improvements could be made to the mail areas to better facilitate for parcel deliveries. The mail service location should be shown on plan, this could be addressed via a permit condition.
- 211. As mention later in the report, Councils Waste Services Unit is satisfied with the proposed waste storage and management procedures.

Storage

- 212. Objective 5.5 of the DSE Guidelines is *‘To provide adequate storage space for household items’*. The plans show storage provided in the basement levels, no development schedule has been submitted, this could be addressed via a permit condition.

Off- Site Amenity Impacts

- 213. The key policy directives in relation to offsite amenity impacts are at clause 22.05 (Interface uses policy) and clause 22.10-3.8 (off-site amenity section of the Built form and design policy). These policies require consideration of the off-site impacts associated with visual bulk, solar access and privacy.

Visual bulk

The amended proposal seeks to amend the massing of the development as it presents to the three sensitive interfaces and each will be discussed in turn. The DDO-16 outlines a number of discretionary setback controls as they apply to the site which have been outlined earlier in the report. Regard will be given to these requirements but consideration will also focus on the interfaces with surrounding land which has already been approved by the existing approval.

Western boundary

- 214. To the immediate west of the site are two, two storey Victorian era dwellings with open space to the rear of the site with garage structures interfacing with the ROW.



Figure44 Ground Level – Tower 1

215. The interface with these dwellings at the lower levels (ground to fourth floor) are generally consistent with the endorsed plans, the variation to the setback starts at level 5 where the building is proposed to be constructed 2.5m closer to the common boundary decreasing the setback from 12.9m to 10.4m (see yellow highlight). This is repeated at level 6 with the variation being 14.1m decreasing to 11.6m.

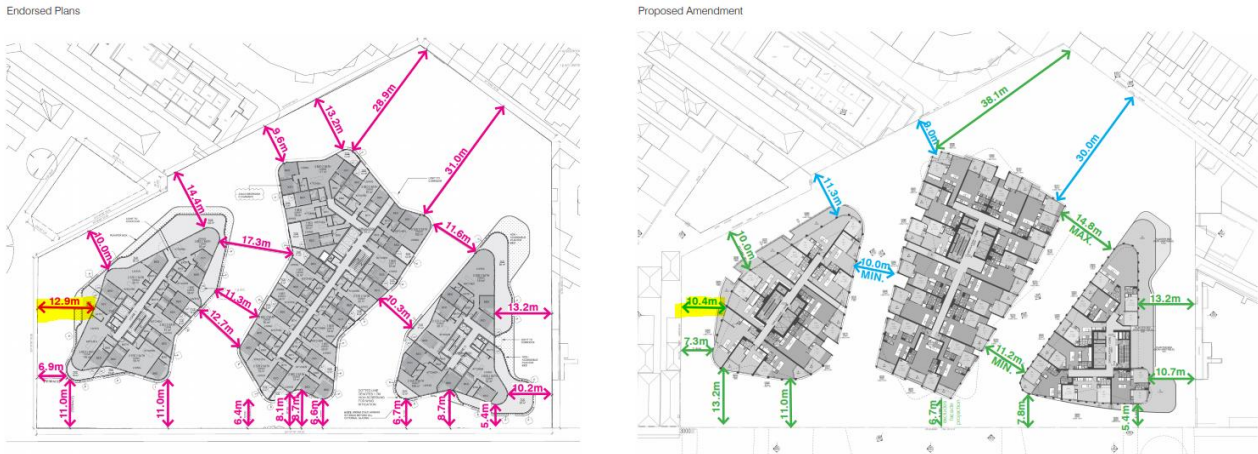


Figure 45 Level 5 Comparison Document

216. At level 7 the setbacks proposed equate to those currently endorsed and then increase again at the upper most level. The section diagrams below the endorsed and proposed building envelope.



Figure 46 Section Endorsed Amended Proposal

217. The proposed amendment also seeks to increase the overall height of Tower 1 by 200mm and introduce a plant area rising to RL 54.10 being a total additional height of 1.8m.

218. While there are changes proposed to this setback, the separation distances are generous and are considered to be an acceptable outcome.

Northern Boundary

219. The northern interface to the site has a diverse range of housing typologies including:

- (a) Single and two storey housing at 484 – 498 Brunswick Street (properties at 484 – 490 Brunswick separated from the site by 26 – 56 Queens Parade rear site not forming part of this application);

- (b) A six storey apartment building at 496 Brunswick Street;
- (c) A five storey apartment building at 12 – 20 Grace Lane; and
- (d) Single storey Victorian cottages at 18 – 24 Coleman Street.

220. The ground level is consistent in its arrangement of 6m setbacks where the site interfaces with the Brunswick Street properties and reducing to 3m to the Grace Lane and Coleman Street properties. The use of this setback area as private open space is consistent with the endorsed plans. These setbacks are consistent at level 1.

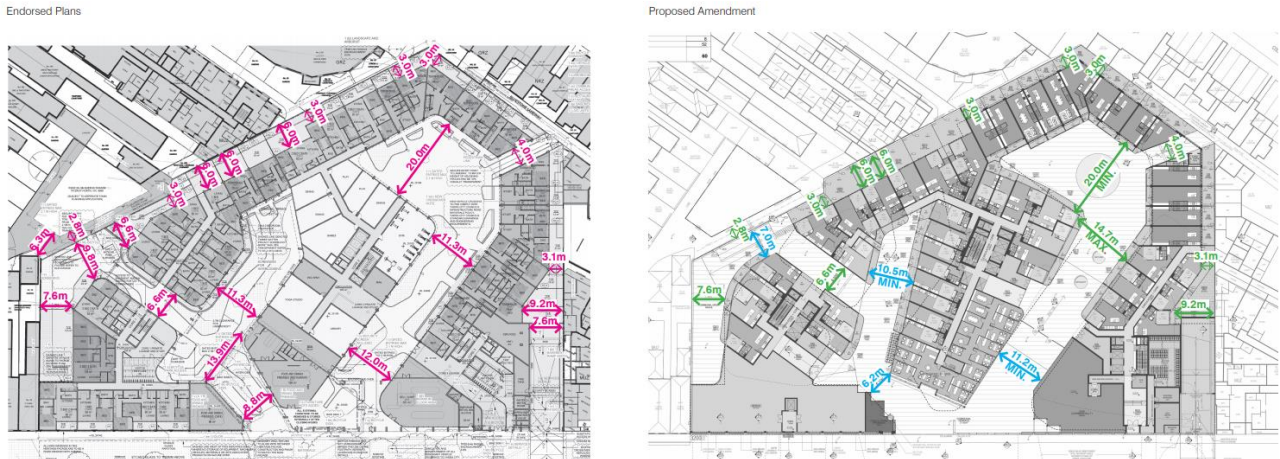


Figure 47 Ground Comparison Document

221. At level 2 the setbacks are again consistent with the endorsed showing a setback of 6m where the site interfaces with the Brunswick Street properties and reducing to 4.6m to the Grace Lane and Coleman Street properties.

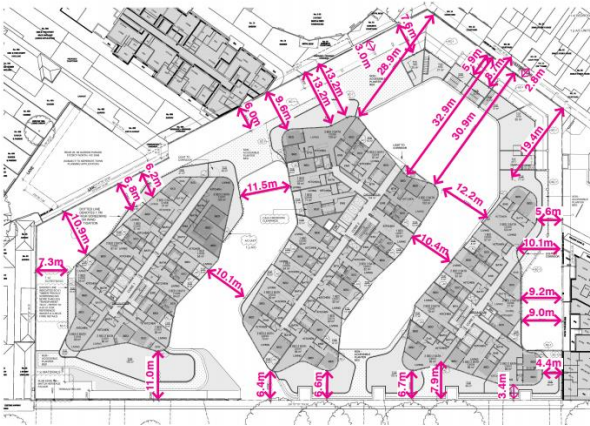


Figure 48 Level 2 Comparison Document

222. The apparent differences start to appear at level 3 and above. At the podium level additional roof terraces to the townhouses are proposed which generally are setback the same distances as similarly proposed terrace shown on the endorsed plans.

223. The variation to the shape and alignment of Tower 2, coupled with the reduced separation between Towers 1 and 2 and how they are perceived from the adjoining properties needs further analysis.

Endorsed Plans



Proposed Amendment



Figure 49 Level 3 Comparison Document

- 224. No views of the building from these vantage points are provided but it appears that the outlook from the apartment building from 496 Brunswick Street may be improved due to the alignment of the break between Towers 1 and 2. The setback to this interface reduces from 9.6m to 9m however this is an acceptable separation between these two buildings at this point as the building then angles away.
- 225. The view from the Grace Lane apartment building appears to enable a greater visibility of the breadth of Tower 2. It is acknowledged that there are generous separation distances to the boundary however the cumulative impact of the expanse of Towers 1 and 2 may present as a wall of taller built form when considered from this view.



Figure 50 North West Elevation – Endorsed



Figure 51 North West Elevation – Proposed

226. Council’s urban designer has raised concerns with this interface. The reduced setbacks from the boundary at the upper most levels and reduced separation between the Towers results in built form presenting to much mass as it presents to the residential area.

227. The advice suggest:

- (a) *Maintain more generous setbacks to the northern residential hinterland areas consistent with the preferred controls for the site.*

228. The interface with the Coleman Street properties at the upper levels is acceptable. While there is some variation to the setbacks, they remain in the order of 30m from the site boundary.

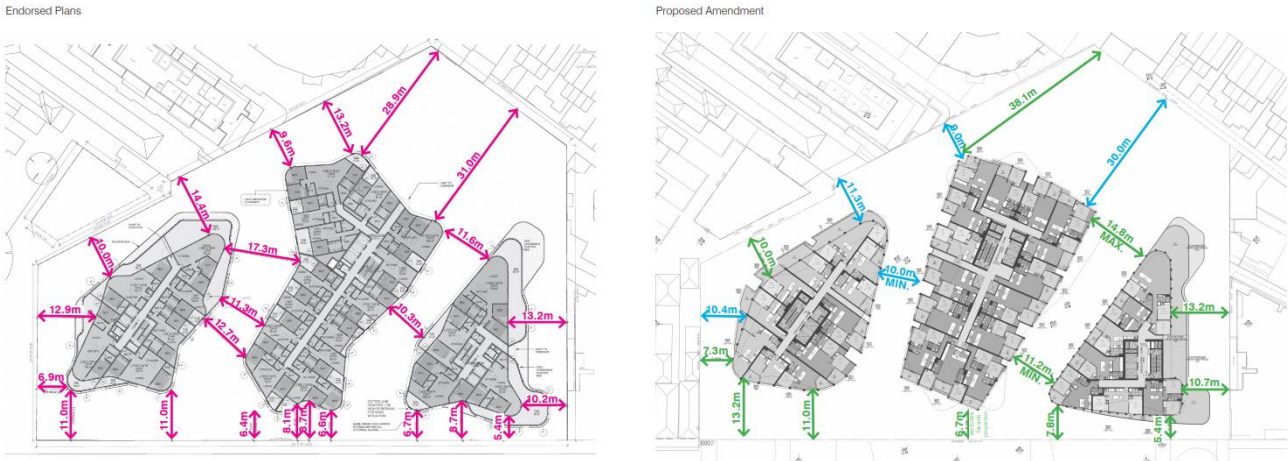


Figure 52 Level 5 Comparison Document



Figure 53 North East Elevation – Endorsed



Figure 54 North East Elevation – Proposed

Eastern Boundary

- 229. The eastern boundary interfaces with a 5 storey apartment building at 58 Queens Parade and a series of 3 storey townhouses at 497 Napier Street.
- 230. The proposed amendment adopts the setbacks shown on the endorsed plan and increases these at the upper levels. The eastern elevation is however proposed more angular instead of undulating however on balance this interface is considered to be acceptable.

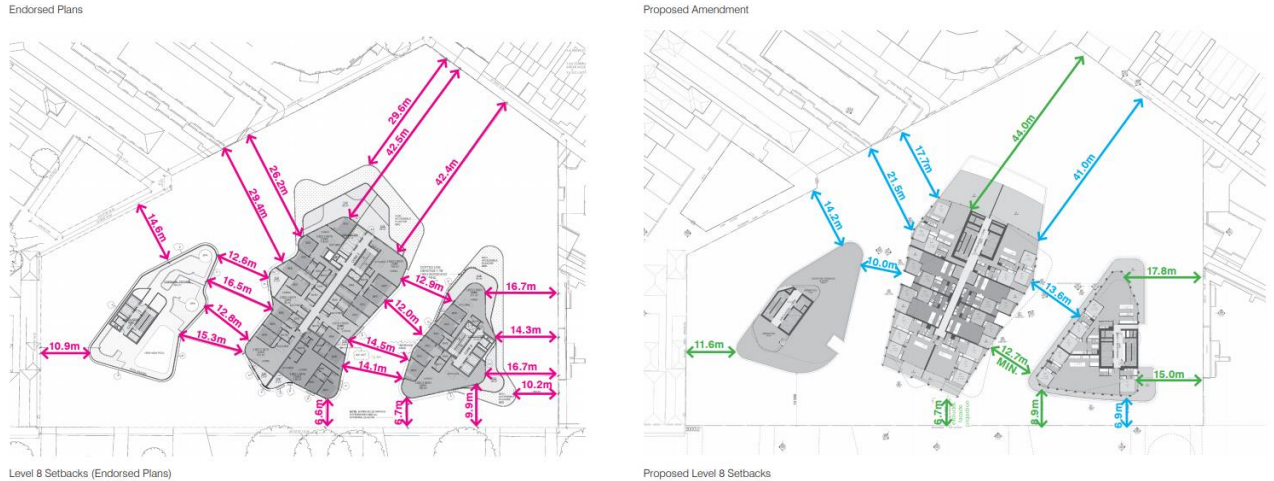


Figure 55 Level 8 Comparison Document

Privacy

- 231. The amended proposal changes the types of privacy screening and overlooking mitigation but does not intend to undo the extent of privacy protection approved.

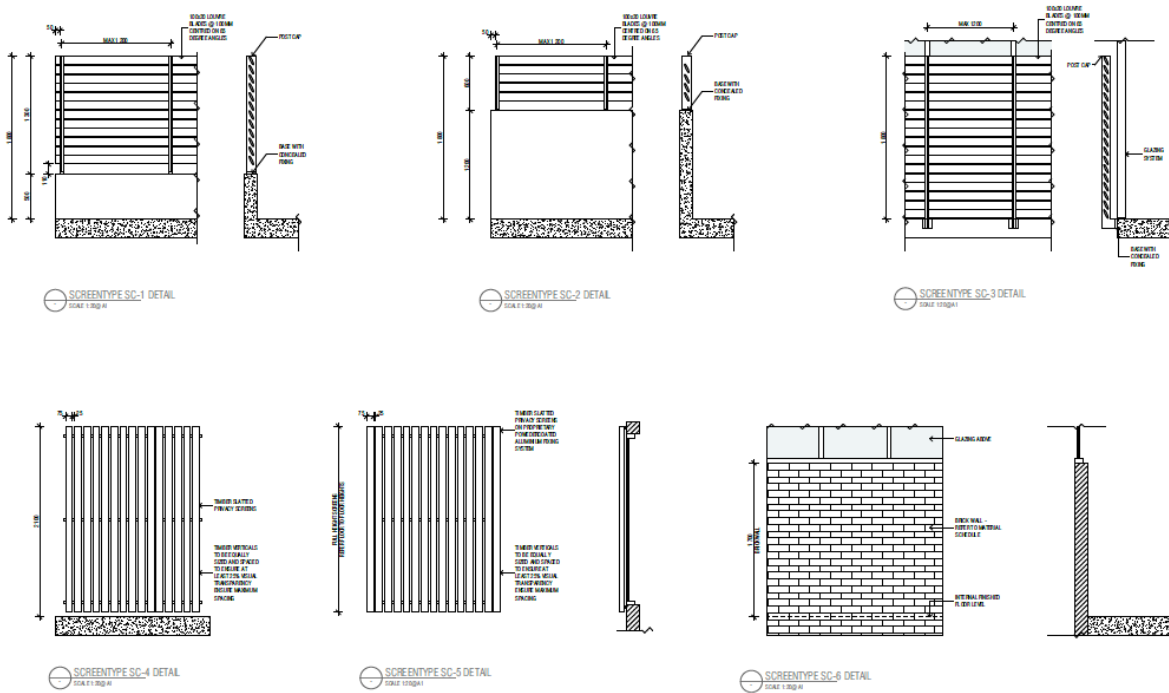


Figure 56 screen types - proposed

232. The plans show screening details of the various screen types proposed for the site, addition options are shown in the comparison document which includes glass fritted. The elevations are not clear where each type of screen is proposed, this could be addressed via a condition on any amended permit. Clarity is also required where the additional screen types as shown in the comparison document are proposed to be used.

Solar access

233. The amended proposed results in some variation to the shadowing on the properties to the west and north.
234. More specifically to the west at 9am at the Equinox the following residential properties (20, 22 and 24 Queens Parade) will have an increase in overshadowing with this falling on the rooves of these properties.

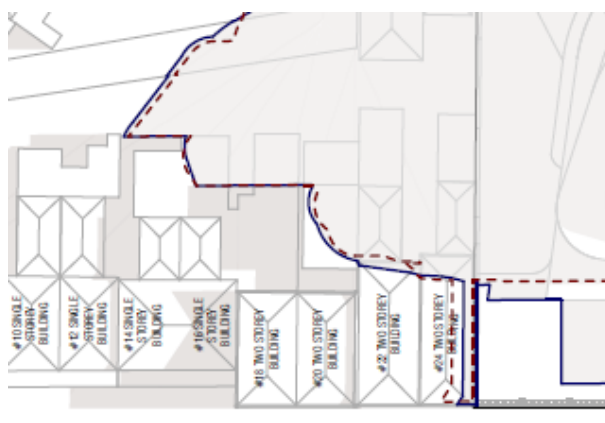


Figure 57 Shadows at 9am

235. The shadow contracts at 10am to affect 22 and 24 under the amended proposal however the overshadowing affects the private open space areas of the two adjoining properties, see figure below (new shown in yellow). It is not clear if these areas are already overshadowed by existing conditions, further information should be provided to ensure minimal new shadowing on these properties.

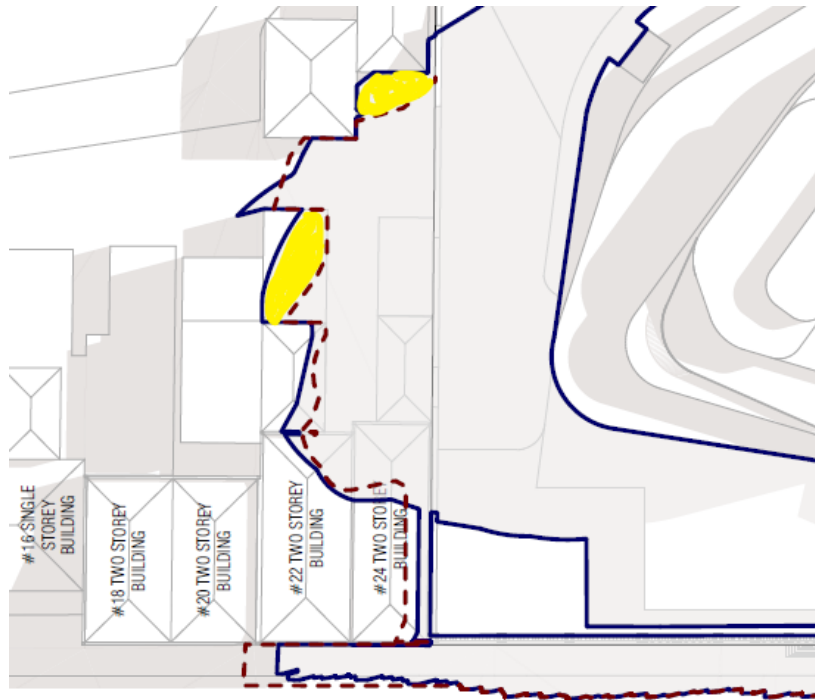


Figure 58 Shadow at 10am

236. To the north additional shadow falls towards 492 and 494 Brunswick Street. The shadow appears to fall on the sewage easement raising limited concern.

237. Additional shadow is cast to the Queens Parade service road, however this area was generally already overshadowed by the proposal raising no additional concerns.

Car Parking /Traffic/ Bikes

Car parking provision

238. As already stated in the *Policy and strategic support* section of this report, the deletion of all residential visitor parking within the development is acceptable because the planning scheme has been amended since the grant of the permit via Amendment VC148 and there is no statutory requirement to provide on-site residential visitor parking. To require the provision of visitor parking would in fact be contrary transport planning objectives in the scheme which seek to discourage people driving to areas that are well connected to public transport networks.

239. Amendment VC148 also amended car parking rates for commercial uses within the PPTN area, including lowering the car parking rate for office use and food and drinks premises. The following table shows the car parking reduction of the approved development and the car parking reduction for the amended proposal:

Use	Area/No	Rate	No. required	No. proposed	Reduction sought
Dwellings	14 x studio 45 x one bed 217 x two bed	1 space per dwelling	276		
	37x three or more bed	2 space per dwelling	74		

Office	1548sqm	3 car spaces to each 100sqm of net floor area	46		
Food and drink premises	40sqm	3.5 per 100sqm of leasable floor area	1		
Gym	846sqm	Satisfaction of the Responsible Authority	-		
Total			397	391	6

240. The table above shows that the amended proposal pursuant to clause 52.06 for the scheme is seeking a reduction of 6 car parking spaces.
241. Pursuant to Clause 52.06-7 of the Scheme, before deciding on an application to reduce the number of car parking spaces required, the following decision guidelines include (but not limited to):
- (a) *Any relevant local planning policy or incorporated plan.*
 - (b) *The Car Parking Demand Assessment.*
 - (c) *Access to or provision of alternative transport modes to and from the land*
 - (d) *Any adverse economic impact a shortfall of parking may have on the economic viability of any nearby activity centre.*
 - (e) *Local traffic management in the locality of the land.*
 - (f) *The impact of fewer car parking spaces on local amenity, including pedestrian amenity and the amenity of nearby residential areas.*

Relevant policy

242. Both state and local policy discourage facilitating car based travel by encouraging reduced rates of car parking in locations that are well connected to public transport networks, and where cycling and walking are practical alternatives to car based travel. More specifically:
- (a) Clause 18.02-2S has the specific objective *'[t]o facilitate greater use of public transport and promote increased development close to high-quality public transport routes'*.
 - (b) Clause 18.02-2R seeks to increase the diversity and density of development along the Principal Public Transport Network, particularly at interchanges, activity centres and where principal public transport routes intersect.
 - (c) Clause 21.02-1S has the specific objective *'[t]o promote the use of personal transport'*; and
 - (d) Clause 21.06 states *'Yarra needs to reduce car dependence by promoting walking, cycling and public transport use as viable and preferable alternatives'*.
243. The often quoted Tribunal decision of *Ronge v Moreland CC (Red Dot)* highlights policy direction around car parking provision and the benefits that flow from limiting car parking provision in appropriate locations. The following statements are from the decision summary:

State and local planning policies are already acknowledging the change that is required in the way in which people travel with Plan Melbourne 2017-2050 and State policies referring to 20-minute neighbourhoods and greater reliance on walking and cycling....

Our roads are already congested and will be unimaginably so if a 'business-as-usual' approach is accepted through until 2050. The stark reality is that the way people move around Melbourne will have to radically change, particularly in suburbs so well served by different modes of public transport and where cycling and walking are practical alternatives to car based travel.

Oversupplying parking, whether or not to comply with Clause 52.06, has the real potential to undermine the encouragement being given to reduce car based travel in favour of public transport, walking and cycling.

One of the significant benefits of providing less car parking is a lower volume of vehicle movements and hence a reduced increase in traffic movements on the road network.

244. As such, a car parking provision below the statutory rate enjoys strong policy support in appropriate locations and can deliver broad community benefits.

245. The following table shows the car parking provision between the approved development and amended proposal:

Proposed Use	Endorsed Proposal		Amended Proposal	
	Quantity/ Size	Car Parking Provision	Quantity/ Size	Car Parking Provision
Studio Dwellings			14	276
One-Bedroom Dwellings	103	217	45	
Two-Bedroom Dwellings	114		217	
Three-Bedroom Dwellings	46	92	37	74
Residential Visitors*	263 dwellings	9		
Rear Site (Dwellings)	3	6	3	6
Office			1,548 m ²	15
Gym			864 m ²	17
Retail	496 m ²	7	40 m ²	1
Unallocated		9		2
	Total	340 spaces		391 spaces

246. If a permit were to issue, condition 49 of the permit requiring the submission of a Car Park Management Plan would need to be amend to reflect the new car parking arrangements.

Traffic impacts

247. The trip generation for the amended proposal was reviewed by Councils Engineering Services Unit who advised:

'According Traffix Group, the amended proposal would result in an increase of 23 trips in each peak hour compared to the endorsed proposal. The resultant peak hour traffic volume for the development would now be 107 trips in each peak hour (an average of one vehicle every 1 minute 47 seconds).

We agree that this level of traffic should not have a detrimental impact on the surrounding road network'.

248. Officers are satisfied that if the amendment was approved the additional 51 cars would have a detrimental impact on the surrounding road network.

Car park design layout

249. Council's Engineering Services Unit has reviewed the amended car park design and layout and advised:

- (a) the access arrangements are comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004;
- (b) the dimensions of the car spaces and aisles comply with Clause 52.06-9 of the Scheme and the accessible parking space complies with the Australian/New Zealand Standard AS/NZS 290.6:2009; and
- (c) the ramp gradients comply with Australian/New Zealand Standard AS/NZS 2890.1:2004.

250. Information required to be shown on the plans include:

- (a) Development entrance to be dimensions along the property boundary
- (b) Clearances to walls;
- (c) Swept path diagrams satisfying that a B85 design vehicle can enter and exit the end stacker platforms satisfactorily.

251. These could be included as a condition on any amended permit granted.

Bicycle Facilities

252. The table shows the bicycle parking facilities of the amended proposal:

Land Use	Units/Area proposed	Rate for resident/ staff	Rate for visitors	No. required	No. proposed	Reduction sought
Dwellings	313	In developments of 4 or more storeys, 1 resident spaces to each 5 dwellings	In developments of 4 or more storeys, 1 visitor space to each 10 dwellings	62 resident 31 visitor		0
Office	1548sqm	1 to each 300sqm of net floor area if the net floor area exceeds 1000sqm	1 to each 1000sqm of net floor area if the net floor area exceeds 1000sqm	5 staff 1 visitor		0
Food and drink premises	40sqm	1 to each 300sqm of leasable floor area	1 to each 500sqm of leasable floor area	0		
Gym	846sqm	1 staff spaces per 4 employees	1 to each 200sqm of leasable floor area	2 staff 4 visitor		

Total				7 staff 36 visitor 62 resident	393 spaces	0
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- 253. The proposal provides bicycle parking in excess of this requirement with a total of 393 spaces provided.
- 254. The proposal provides no information regarding provision of shower and change room facilities.
- 255. Pursuant to Clause 52.34-5 also requires shower and change room facilities be provided at a rate of 5 shower/change room for the first 5 employee bicycle spaces, and 1 shower/change room per 10 spaces thereafter. Little to no information has been provided regarding change rooms and or showers other than a comment that this could form a condition of permit.
- 256. Councils consultant urban designer has raised a number of concerns with the layout and location of the bike parking and the lack of shower and change room facilities, it is recommended the following concerns be addressed:

(a) *Provide direct access from the street without steps to bicycle storage and lifts (not via a lobby and stairs as currently proposed);*

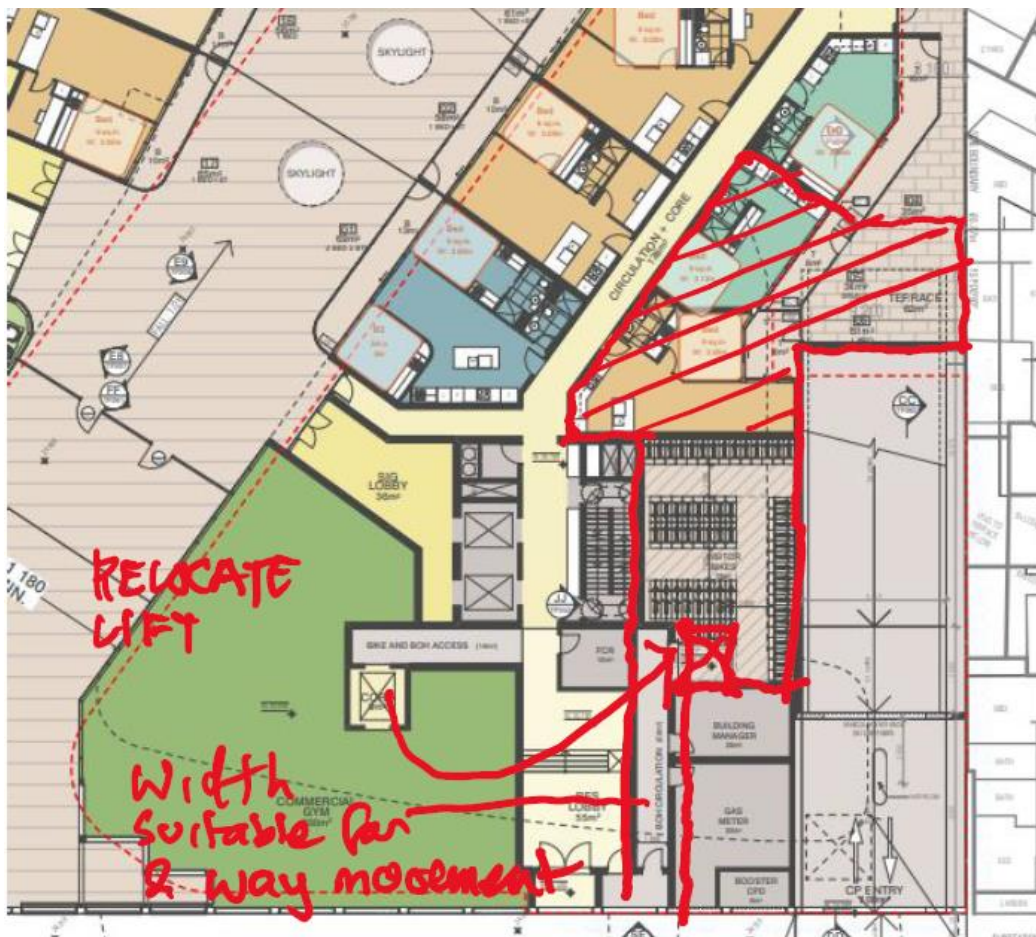


Figure 59 Ground floor Plan

(b) Expand ground level bicycle storage and relocate a substantial amount of basement level 2 bicycle storage to ground level and basement 2 level storage to basement level 1;



Figure 60 MSS Basement 1 Plan

- (c) Show the locations or provide electric charging stations for bicycles and cars.
- (d) Provide generously scaled and conveniently accessible end of travel facilities of benchmark best practice levels to justify the proposed parking provision of less than 1 per 100sqm for office;

257. Further to this, advice received from Council’s ESD also made comment on the poor arrangement of the bike parking areas:

- (a) Although the number of bicycle spaces provided appears to meet the minimum best practice standard for the number of bike parking spaces, the location of the majority of bicycle spaces on a lower level basement does not encourage the use of bicycles and should be relocated to ground floor with easy access to streets and clear, visible entry/exit points.

258. Additionally, the plan extract below contained in the comparison documentation eludes to 80 bike spaces provided at ground level. The application plans are inconsistent with these plans, greater clarity and resolution around the location and access to bike parking is required.



Figure 61 MSS Map

259. In summary while the provision of bike parking exceeds the requirements of the planning scheme, the current arrangement is not satisfactory.

Waste Management

260. Condition 37 on the Permit requires a Waste Management Plan (WMP) be submitted. An amended WMP has been submitted and Council's Contract Management Unit has advised that it is satisfactory. The amended WMP will be required to be endorsed under the amended Permit, if one is to issue.

Construction Management

261. Condition 58 of the existing permit requires the preparation of a Construction Management Plan, this condition should remain on any amended permit granted.

Objectors 'concerns

262. Matters raised by objectors that have been addressed within the body of the report are summarised below with associated paragraph references:

- (a) Built form (urban design and heritage) and massing - See paragraphs 135 - 181
 - (i) Scale of development is out of context with the surrounding heritage neighbourhood
 - (ii) Intensification of site
 - (iii) Treatment of heritage building
 - (iv) Reduced spacing between buildings
 - (v) Presentation to Queens Parade is not in keeping with the area
 - (vi) Poor architectural response – arches not common to the area
 - (vii) Design change from curved forms to more angular increases visual bulk
 - (viii) Quality of the development has been eroded
 - (ix) Lack of landscaping (see paragraphs 182 – 183)

- (x) Charcoal paint does not comply with VCAT order
- (xi) Buildings are too high
- (xii) Impact on Edinburgh Gardens
- (b) amenity (off-site, on-site, overlooking, overshadowing, loss of light) – See paragraphs 186 - 237
 - (i) visual bulk of the development has increased
 - (ii) poor internal amenity of dwellings (loss of larger dwellings and introduction of studios)
 - (iii) communal spaces have poor amenity
 - (iv) overlooking to surrounding residences
 - (v) overshadowing of surrounding area
 - (vi) interface with properties to the rear
- (c) traffic and car parking - See paragraphs 238 - 248
 - (i) increased pressure on road network and parking availability
 - (ii) car stackers are impractical and won't be used.
 - (iii) Increased demand on struggling public transport network
 - (iv) Lack of emergency vehicle access
- (d) ESD - See paragraphs 184 - 185
 - (i) No area for cloths drying;
 - (ii) Reliance on gas appliances conflicts with sustainable objectives;
 - (iii) Lack of solar panels
 - (iv) Poor ESD initiatives
 - (v) Insufficient provision of bike facilities (see paragraphs 252 – 259)
- (e) Other
 - (i) The amendment should be withdrawn and a new application lodged
 - (ii) Not complaint with VCAT decision
 - (iii) Application lacks detail
 - (iv) Concern with ability for a permit to be amended after a long planning process
 - (v) Disruption during construction process

263. Matters raised in objectors that are not addressed within the report are discussed below:

- (a) Loss of views
- (b) Property devaluation
- (c) Development will cater to a transient population
- (d) the dwelling typologies are not responsive to the Covid world

These are not relevant planning matters

- (e) No provision of affordable housing – There is no requirement within the Yarra Planning scheme for the is site to provide affordable housing

Conclusion

264. Based on the above report, the proposal is not considered to adequately respond to a number of policy objectives contained within the Yarra Planning Scheme and on balance, is not considered to result in a net community benefit.

RECOMMENDATION

That having considered all objections and relevant planning policies, had Council been in a position to determine the application within the prescribed time, it would have resolved to issue a Notice of Refusal to grant amended Planning Permit PLN16/0434 for:

- (a) 'Construction of two or more dwellings on a lot in a 10 storey building plus two basements in the *Mixed Use Zone* under clause 32.04-6;
 - (b) Use of part of the land for the sale and consumption of liquor (on premises) under clause 52.27;
 - (c) Partial demolition or removal of a building in a *Heritage Overlay* under clause 43.01-1;
 - (d) Construction of a building or construction or carrying out works in a *Heritage Overlay* under clause 43.01-2;
 - (e) Reduction of the car parking requirements under clause 52.06-2;
 - (f) Alteration of access to a road in Road Zone Category 1 under clause 52.29'.
- on the following grounds:

1. The proposed massing does not respond to the existing or preferred character of the area and will dominate the surrounding area;
2. The proposed massing will result in unacceptable off-site amenity impacts;
3. The proposal will result in unacceptable on-site amenity impacts, including natural daylight and ventilation.
4. The application lacks sufficient information to enable a proper assessment against the relevant provisions of the Yarra Planning Scheme.

CONTACT OFFICER: Mary Osman
TITLE: Manager Statutory Planning
TEL: 9205 5300

Attachments

- 1 PLN16/0434 - 26 - 52 Queens Parade Fitzroy North - Planning Permit
- 2 PLN16/0434 - 26 - 56 Queens Parade, Fitzroy North - Endorsed Plans - Part 1
- 3 PLN16/0464 - 26 - 56 Queens Parade Fitzroy North - Endorsed Plans - Part 2
- 4 PLN16/0434 - 26 - 56 Queens Parade, Fitzroy North - Endorsed Plans - Part 3
- 5 PLN16/0434 - 26 - 56 Queens Parade, Fitzroy North - Endorsed Plans - Part 4
- 6 PLN16/0434 - 26 - 56 Queens Parade, Fitzroy North - Amended Plans - Part 1
- 7 PLN16/0434 - 26 - 56 Queens Parade, Fitzroy North - Amended Plans - Part 2
- 8 PLN16/0434 - 26 - 56 Queens Parade, Fitzroy North - Amended Plans - Part 3
- 9 PLN16 0434 - 26 - 56 Queens Parade Fitzroy North - Amended Plans - Application Referrals
- 10 PLN16/0464 - 26 - 56 Queens Parade Fitzroy North - Amended Plans - Urban Design Advice
- 11 PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Comparison Document - Part 1
- 12 PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Comparison Document - Part 2
- 13 PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Comparison Document - Part 3
- 14 PLN16/0434 - 26 - 56 Queens Parade Fitzroy North - Comparison Document - Part 4