



# Agenda

## Planning Decisions Committee

6.30pm, Wednesday 16 December 2020

MS Teams

## The Planning Decisions Committee

The Planning Decisions Committee is a delegated committee of Council with full authority to make decisions in relation to planning applications and certain heritage referrals. The committee is made up of three Councillors who are rostered on a quarterly basis.

## Participating in the Meeting

Planning Decisions Committee meetings are decision-making forums and only Councillors have a formal role. However, Council is committed to ensuring that any person whose rights will be directly affected by a decision of Council is entitled to communicate their views and have their interests considered before the decision is made.

There is an opportunity for both applicants and objectors to make a submission to Council in relation to each matter presented for consideration at the meeting.

Before each item is considered, the meeting chair will ask people in attendance if they wish to make submission. Simply raise your hand and the Mayor will invite you to come forward, take a seat at the microphone, state your name clearly for the record and:

- Speak for a maximum of five minutes;
- direct your submission to the chair;
- confine your submission to the planning permit under consideration;
- If possible, explain your preferred decision in relation to a permit application (refusing, granting or granting with conditions) and set out any requested permit conditions
- avoid repetition and restating previous submitters;
- refrain from asking questions or seeking comments from the Councillors, applicants or other submitters;
- if speaking on behalf of a group, explain the nature of the group and how you are able to speak on their behalf.

Once you have made your submission, please remain silent unless called upon by the chair to make further comment or to clarify any aspects.

Following public submissions, the applicant or their representatives will be given a further opportunity of two minutes to exercise a right of reply in relation to matters raised by previous submitters. Applicants may not raise new matters during this right of reply.

Councillors will then have an opportunity to ask questions of submitters. Submitters may determine whether or not they wish to take these questions.

Once all submissions have been received, the formal debate may commence. Once the debate has commenced, no further submissions, questions or comments from submitters can be received.

## Arrangements to ensure our meetings are accessible to the public

Planning Decisions Committee meetings are held at the Richmond Town Hall. The following arrangements are in place to ensure they are accessible to the public:

- Entrance ramps and lifts (via the entry foyer).
- Interpreting assistance is available by arrangement (tel. 9205 5110).
- Auslan interpreting is available by arrangement (tel. 9205 5110).
- A hearing loop and receiver accessory is available by arrangement (tel. 9205 5110).
- An electronic sound system amplifies Councillors' debate.
- Disability accessible toilet facilities are available.

## 1. Appointment of Chair

Councillors are required to appoint a meeting chair in accordance with the City of Yarra Governance Rules 2020.

## 2. Statement of recognition of Wurundjeri Woi-wurrung Land

*“Yarra City Council acknowledges the Wurundjeri Woi Wurrung people as the Traditional Owners and true sovereigns of the land now known as Yarra.*

*We acknowledge their creator spirit Bunjil, their ancestors and their Elders.*

*We acknowledge the strength and resilience of the Wurundjeri Woi Wurrung, who have never ceded sovereignty and retain their strong connections to family, clan and country despite the impacts of European invasion.*

*We also acknowledge the significant contributions made by other Aboriginal and Torres Strait Islander people to life in Yarra.*

*We pay our respects to Elders from all nations here today—and to their Elders past, present and future.”*

## 3. Attendance, apologies and requests for leave of absence

Anticipated attendees:

### Councillors

- Cr Edward Crossland      Councillor
- Cr Stephen Jolly          Councillor
- Cr Sophie Wade          Councillor

### Council officers

- Mary Osman (Manager Statutory Planning)
- Amy Hodgen (Senior Co-Ordinator Statutory Planning)
- Ally Huynh (Senior Co-Ordinator Statutory Planning)
- Danielle Connell (Senior Co-Ordinator Statutory Planning)
- Rhys Thomas (Senior Governance Advisor)
- Cindi Johnson (Governance Officer)

## 4. Declarations of conflict of interest

Any Councillor who has a conflict of interest in a matter being considered at this meeting is required to disclose that interest either by explaining the nature of the conflict of interest to those present or advising that they have disclosed the nature of the interest in writing to the Chief Executive Officer before the meeting commenced.

## 5. Confirmation of Minutes

Any Councillor who has a conflict of interest in a matter being considered at this meeting is required to disclose that interest either by explaining the nature of the conflict of interest to those present or advising that they have disclosed the nature of the interest in writing to the Chief Executive Officer before the meeting commenced.

## 6. Committee business reports

Item		Page	Rec. Page
6.1	PLN19/0922 - 82 Westgarth St Fitzroy - Full demolition of the existing building and construction of a six (6) storey building containing 20 dwellings (no permit required for use), and associated reduction in statutory car and bicycle parking requirements.	5	57
6.2	PLN11/0380.02 - 41 - 43 Stewart Street Richmond - Section 72 Amendment to Planning Permit PLN11/0380 to increase operating hours to include Saturday and Sunday from 8.00am to 7.00pm.	66	80
6.3	PLN20/0237 - 10 Taylor Street Fitzroy North - Part demolition of the existing dwelling for the construction of a ground and first floor addition	83	108
6.4	PLN19/0428 - 178 - 182 Bridge Road, Richmond - Partial demolition and use and development of the land for the construction of a six storey mixed-use building containing a retail premises and dwellings (permit required for dwelling use only) and a reduction of the car parking requirements	112	169
6.5	PLN20/0231 - 423-425 Smith Street, Fitzroy - Partial use of the land as a function centre with a maximum of three functions a week, between 9am and 11pm, catering for a maximum of 120 patrons and a reduction in the statutory car parking requirement.	180	196
6.6	PLN16/0434 – 26-52 Queens Parade, Clifton Hill - Section 87A amendment lodged with VCAT to an existing planning permit (PLN16/0434 issued 6 July 2018 at the direction of VCAT)		
<b>(TO BE DISTRIBUTED SEPARATELY AS A LATE ITEM)</b>			
6.7	PLN20/0365 - 447A Brunswick Street & Common Property of 445 - 447 Brunswick Street Fitzroy - Part demolition, buildings and works associated with the creation of a dwelling at first floor (permit not required for use).	199	219
6.8	PLN20/0245 - 6-4 St Heliers Street, Abbotsford - Part demolition and removal of vegetation, to allow for upgrade works to extend / renew the existing car park, including a new vehicle entrance and modification to a road in a road zone.	222	242

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- 6.1 PLN19/0922 - 82 Westgarth St Fitzroy - Full demolition of the existing building and construction of a six (6) storey building containing 20 dwellings (no permit required for use), and associated reduction in statutory car and bicycle parking requirements.**
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## **Executive Summary**

### **Purpose**

1. This report provides Council with an assessment of planning permit application PLN19/0922 submitted for 82 Westgarth Street Fitzroy VIC 3065. The application seeks approval for the full demolition of the existing building and construction of a six (6) storey building containing 20 dwellings (no permit required for use), and associated reduction in statutory car and bicycle parking requirements. The report recommends approval of the application, subject to conditions.

### **Key Planning Considerations**

2. Key planning considerations include:
  - (a) Built form and heritage (Clauses 22.02 and 43.01);
  - (b) Apartment Developments (Clause 58);
  - (c) Interface Uses Policy (Clause 22.05); and
  - (d) Car and bicycle parking provision (Clauses 52.06 and 52.34).

### **Key Issues**

3. The key issues for Council in considering the proposal relate to:
  - (a) Policy and strategic support;
  - (b) Built form and heritage;
  - (c) Clause 58;
  - (d) Off-site amenity impacts;
  - (e) Car parking, traffic, and bicycle provisions;
  - (f) Special Building Overlay; and
  - (g) Objector concerns.

### **Submissions Received**

4. Eighty five (85) objections were received to the application and can be summarised as:
  - (a) Design and overdevelopment (height, scale, bulk);
  - (b) Heritage impacts;
  - (c) On-site amenity (poor apartment layouts and internal amenity);
  - (d) Off-site amenity (visual bulk, daylight/solar access to north-facing windows, overshadowing, overlooking);
  - (e) Car parking, traffic impacts and pedestrian safety;
  - (f) Issues during construction (noise, traffic);
  - (g) Impacts to mental, physical health and wellbeing of surrounding residents and local ecosystems;
  - (h) Council prioritising developer interest; and
  - (i) Reduced property values.
5. Eight (8) support letters were received to the application and can be summarised as:
  - (a) Sustainable design; and

- (b) Thoughtful, balanced and quality design.

**Conclusion**

6. Based on the following report, the proposal is considered to comply with the relevant planning policy and key considerations, and should therefore be supported, subject to conditions generally requiring limited design changes.

**CONTACT OFFICER:** Nish Goonetilleke  
**TITLE:** Senior Statutory Planner  
**TEL:** 9205 5005

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- 6.1**            **PLN19/0922 - 82 Westgarth St Fitzroy - Full demolition of the existing building and construction of a six (6) storey building containing 20 dwellings (no permit required for use), and associated reduction in statutory car and bicycle parking requirements.**
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**Reference**            D20/163790  
**Author**                Nish Goonetilleke - Senior Statutory Planner  
**Authoriser**          Senior Coordinator Statutory Planning

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**Ward:**                        Nicholls  
**Proposal:**                Full demolition of the existing building and construction of a six (6) storey building containing 20 dwellings (no permit required for use), including associated reduction in the statutory car parking requirements.  
**Existing use:**              Warehouse  
**Applicant:**                Tract Consultants Pty Ltd  
**Zoning / Overlays:**      Mixed Use Zone (MUZ)  
                                    Heritage Overlay (Schedule 334)  
                                    Environmental Audit Overlay (EAO)  
                                    Special Building Overlay (SBO)  
**Date of Application:**      20 December 2019  
**Application Number:**    PLN19/0922

### Planning History

1. Council records show Planning Permit PLN16/0284 was issued by Council on 23 December 2016 for the use of the land as a store (vehicle storage).

### Background

2. The application was received by Council on 20 December 2019 and additional information was received on 14 May 2020. The application was advertised on 14 May 2020 and eighty five (85) objections and eight (8) support letters were received.
3. Whilst the advertising process was occurring, Council sought and received formal referral advice from internal departments within Council, including the Traffic Engineering Unit, Heritage, ESD Advisor, Strategic Transport Unit and City Works Unit. External referral comments were received from Urban Design, Acoustic Consultants and Melbourne Water.

### Section 57A Plans

4. The permit applicant submitted a set of amended plans to Council under Section 57(a) of the *Planning and Environment Act* (1987) (the "Act") on 25 September 2020. The Section 57(a) plans include the following changes:
  - (a) Podium reduced by one-storey, with the overall number of storeys reduced from 7 to 6, and overall height reduced from 24.92m to 22.22m (to the top of the lift overrun);
  - (b) Increased setbacks from the southern (rear) boundary at all levels to change the rectilinear form to a curved form, with reduced depth of the central courtyard (further east) from 2.5m to 1.5m;
  - (c) Reduced number of apartments (24 to 20), including numerous internal changes to apartments;

- (d) Ground floor, central, communal lobby entrance with mail and fire booster relocated further north-west, with the provision of DDA compliant access ramp to the lobby, including internal rearrangements of the lift and stair areas;
  - (e) Addition of two visitor bicycle spaces at ground floor;
  - (f) Waste storage area expanded to include four-way waste stream, with the outward opening doors of the waste area and electric services area changed to roller-doors;
  - (g) All finished floor areas of the car park, lobby and services area altered to meet Melbourne Water requirements;
  - (h) Vehicle access entrance ramp gradient decreased from 1:10 to 1:6; and
  - (i) Changes to privacy screening and materials to primarily consist of brick, timber and concrete (previously brick, concrete and glass).
5. In addition, the applicant lodged the following amended reports:
- (a) Sustainable Management Plan (SMP), dated October 2020 and prepared by LID Consulting;
  - (b) Daylight Modelling Report, dated October 2020 and prepared by LID Consulting;
  - (c) Traffic Impact Assessment (TIA), dated September 2020, prepared by O'Brien Traffic; and
  - (d) Waste Management Plan (WMP), dated November 2020, prepared by LID Consulting.
6. The amended plans and reports were not advertised, with the application given a discretionary exemption at Council's internal Development Assessment Panel (DAP) meeting held on 17 November 2020, on the basis that the proposed amendments would not result in any material detriment. However, the S57A plans were circulated to objectors with the invitations to the Planning Decisions Committee meeting.
7. The assessment in this report is based on the amended 57A plans submitted to Council on 12 November 2020.

### Planning Scheme Amendments

#### *Amendment C270*

8. Council has prepared a Built Form Framework for activity centres in Fitzroy and parts of Collingwood and on 17 December 2019, Council requested the Minister for Planning (the Minister) to consider the approval of proposed interim built form controls (interim Design and Development Overlays/DDOs). These interim DDOs would apply while permanent controls are being prepared.
9. Whilst the subject site is not included in the proposed DDO29, which outlines future, mandatory and preferred built form requirements in areas along Brunswick Street, the proposed wider framework will be considered as part of this application.
10. Whilst the Built Form Framework is considered in the assessment of this application (being an adopted document by Council) the Amendment has not yet been approved by the Minister and does not form part of the Yarra Planning Scheme (the Scheme). The request for interim controls has not undertaken elements of a formal Planning Scheme Amendment, including exhibition or an independent panel process, with the interim controls providing a 'placeholder' whilst the permanent controls are being prepared. As such, these temporary controls carry limited statutory weight until the formal Amendment is approved by the Minister.

## The Proposal

11. The application seeks approval for full demolition of the existing building and construction of a six (6) storey building containing 20 dwellings (no permit required for use), and associated reduction in statutory car and bicycle parking requirements. The proposal is summarised as follows:

### General

12. Construction of a 6 storey building (plus basement), with a maximum overall height and street-wall height of 11.47m and 20.27m (excluding the lift overrun) above natural ground level (NGL), respectively;
13. The building design would encompass a contemporary, rectilinear form with vertical window openings to Westgarth Street. The proposal incorporates a three-storey base to all title boundaries (with the exception of the southern boundary), with the upper levels (Levels 4 and 5) recessed 3m from Westgarth Street, between 0m to 2.5m from the eastern boundary and built abutting the majority of the western boundary, (with the exception of a 3.97m setback to the central courtyard between Levels 2 – 5). A central lift and stair access, including a central courtyard with a minimum width of 1.5m extends vertically from Levels 1 to 5. The proposed development is setback 0metres from the southern boundary and then increasingly setback in a curved form to a maximum of 8.56m at Level 5 (see image below);
14. The overall development is proposed to be finished in a mix of red brick, 'natural finish' and 'textured split face finish' pre-cast concrete, 'natural finish' and 'red paint finish' timber, metal screening/window frames/roller-dors, with glazing along all facades (see image below);



Proposed Westgarth Street Façade (W&W Architects November 2020)



Proposed Southern Façade (W&W Architects November 2020)

### Use

15. A total of 20 dwellings (no permit required use) at all levels consisting of:
- (a) Two (2) x 2 bedroom townhouses between ground floor and Level 1;
  - (b) Eighteen (18) apartments; 1 x 1 Bedroom;
    - i. 12 x 2 Bedrooms;
    - ii. 5 x 3 Bedrooms;
16. Twenty-two (22) on-site car parking spaces, all allocated to the dwellings, with two of the spaces providing access to electric vehicle (EV)-charging points;
17. Thirty (30) bicycle spaces in total; consisting of 28 resident spaces and 2 visitor bicycle spaces;

Buildings and Works

18. Full demolition of all fabric on site;

*Basement*

19. Setback 1.5m from the northern (front) boundary, 1.45m from the eastern boundary, 2.25m from the western boundary and 17.54m from the southern (rear) boundary), the basement level will consist of the following;
- (a) Two (2) x 8m<sup>3</sup> storage cages for the two townhouses and 6m<sup>3</sup> storage cages for 10 apartments between Level 1 and 3;
  - (b) Fourteen (14) 'Cora Expo' floor mounted and 14 'Cora CVR1' wall mounted bicycle parking spaces (equating to 28 resident bicycle parking spaces);
  - (c) Water and fire pump rooms;
  - (d) Lift and stair access to the upper levels;
  - (e) 8,000 litre rainwater tank connected for sanitary purposes;

*Ground floor*

20. The majority of the ground level would be constructed to all four title boundaries, with the exception of a 2.5m setback from the eastern boundary providing access to 22 car spaces (in car-stacker form) from the eastern Right-of-Way (ROW);
21. The ground floor would also consist of the following:
- (a) Open plan living/kitchen/dining areas and WCs of Townhouse 1 and 2 fronting Westgarth Street, including their north-facing terraces ranging between 13.9sqm and 16.4sqm, respectively;
  - (b) Ground floor, communal lobby entrance with mail and fire booster located to the north-west corner, with the provision of DDA compliant 1:20 access ramp;
  - (c) Two (2) x visitor bicycle parking located behind this lobby entrance, with the remainder of the communal corridor leading to a central court-yard, lift and stairs area;
  - (d) A 13.4sqm waste storage area, water metres and electricity/service areas located further east of the site and accessed from the eastern ROW;
22. A secondary pedestrian entrance is also provided from the eastern ROW;

*Level 1*

23. The majority of the development at Level 1 would be built to all title boundaries, with the exception of a minimum 0.2m eastern and rear setback. The proposed south-eastern 'curve' design of the building begins from this level and extends to Level 5;
24. This level accommodates the two bedrooms and bathroom of Townhouse 1 and 2, including their 6.1sqm and 13.2sqm, north-facing terraces, respectively;
25. The remainder of this level accommodates four x 2 bedroom apartments; one with an 8.1sqm, north-facing terrace and the remainder consisting of south-facing terraces ranging between 16sqm to 24.5sqm;

*Level 2*

26. The majority of Level 2 would be built to all title boundaries (with the exception of the central western setback outlined earlier), 2.2m front setback (with terraces encroaching this setback), a minimum 2m southern setback to the rear terraces and a minimum 0.2m setback from the eastern boundary;

27. This level accommodates five x 2 bedroom apartments; two with north-facing terraces ranging between 20.6sqm to 21.1sqm, and three with south-facing terraces ranging between 13.2sqm to 14.9sqm;

*Level 3*

28. This level would be built to the majority of the eastern boundary and western boundary, setback 3m from the front boundary (with terraces encroaching this setback), and a minimum 1.88m southern setback to the rear terraces;
29. This level accommodates one x 3 bedroom apartment; with an 80.9sqm north and east-facing terrace, one x 1 bedroom apartment and two x 2 bedroom apartments; with south-facing terraces ranging between 13.5sqm to 16.7sqm;

*Level 4*

30. The majority of Level 4 would be built to the western boundary, setback 3m from the front boundary, a minimum 3.01m from the southern boundary to the rear terraces and a minimum 0.28m setback from the eastern boundary to the terraces;
31. This level accommodates 2 x 3 bedroom apartments; one with a 12.7sqm north-facing terrace and one with a south-facing 14.9sqm terrace. The remainder of this level will consist of a one x 2 bedroom apartment with a south and east-facing terrace equating to 38.8sqm;

*Level 5*

32. The majority of Level 5 would be built to the western boundary, setback 3m from the front boundary, a minimum 3.43m from the southern boundary to the rear terraces and a minimum 2.5m setback from the eastern boundary;
33. This level accommodates 2 x 3 bedroom apartments; one with a 12.7sqm north-facing terrace and the other with a south-facing terrace equating to 39.1sqm; and

*Roof Plan*

34. The roof area, setback 2.7m from the front boundary, 2.2m from the eastern boundary and setback a minimum 5.7m from the southern boundary will accommodate the lift overrun, solar panels, A/C units and solar hot water units.

**Existing Conditions**

Subject Site



Subject site (Google Street View, July 2019)

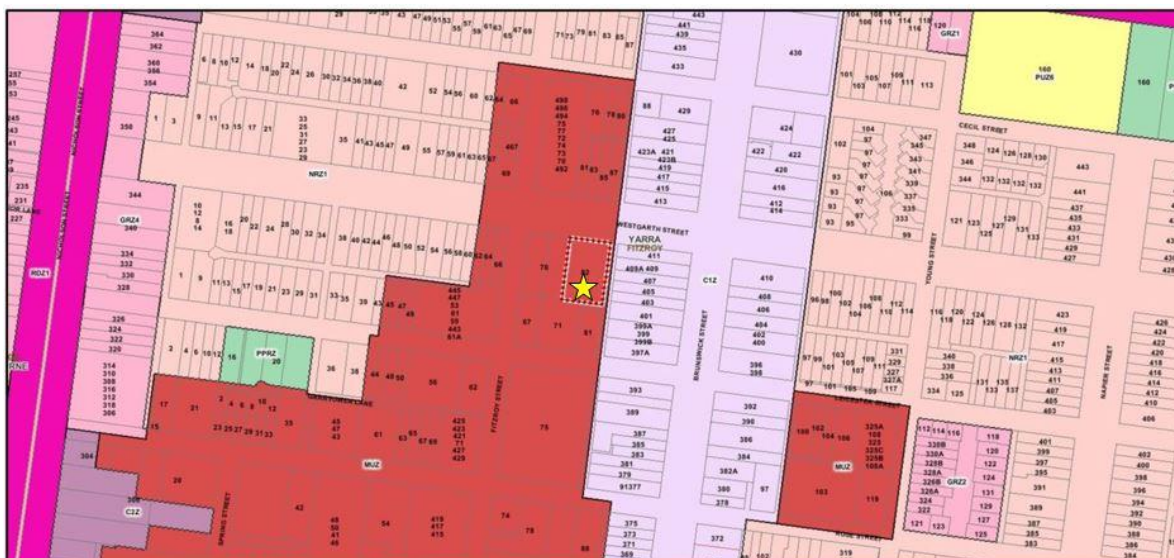
35. The subject site is located on the southern side of Westgarth Street, approximately 40m west of Brunswick Street and 230m east of Nicholson Street. The site is generally rectangular in shape with a frontage of 20.18m to Westgarth Street and a maximum depth of 30.46m, constituting a total area of approximately 611sqm. The eastern boundary abuts a 3.7m wide ROW.
36. The site is occupied by a single-storey, brick warehouse, with a high parapet, gable roof and built to all title boundaries. This site has high site coverage and has on-site car parking.

#### *Title and Plan of Subdivision*

37. There are no restrictive covenants or easements listed on the certificate of title provided for the subject site.

#### Surrounding Land

38. The land surrounding the subject site is predominantly within the Mixed Use Zone (MUZ), as depicted below (marked with a star). This zone contains a mixture of former industrial land with some remnant warehouses and factories, as well as contemporary residential developments (with heights generally ranging from 3 to 7 storeys) and older housing stock, typically of the Victorian-era and single-storey in scale. The emerging character of the surrounding area is increasingly diverse.
39. The site is located approximately 40m to the west of the Brunswick Street Activity Centre (AC), which is zoned Commercial 1 (C1Z) and comprises a diverse range of retail, hospitality and arts-based offerings and has a strong night time economy with many licensed premises including bars, nightclubs and restaurants.
40. The nearest residentially zoned land (other than the MUZ) is approximately 46m to the west, within the Neighbourhood Residential Zone (NRZ1). This land contains predominantly single to double-storey Victorian and Edwardian-era dwellings.
41. Approximately 200m to the south-west of the subject site is a north-south linear strip of land along Nicholson Street zoned Commercial 2 (C2Z). This streetscape is largely defined by older, single and double-storey factory buildings which typically house restricted retail and office uses.



Zoning map (Planning Maps Online, December 2020)

42. The wider area of Fitzroy is currently going through a period of transition from lower scale buildings to higher density development. The older building stock typically has high site coverage with buildings presenting to the public realm with no setbacks and single to three-storey high boundary walls. The emerging building stock consists of contemporary architectural responses, with generally rectilinear forms, and typically consisting of materials ranging from red brick, concrete and metal cladding with high proportions of glazing. As shown below, the following developments within this section of Fitzroy have been approved, some of which are under construction or already completed:

**Address and Distance to Subject Site**

No. 75 Westgarth Street, 18m north

**Development**

3-storey apartment building (Planning Permit 981497)

**Image**



(Google Street View, July 2019)

No. 61 Leicester Street, 40m south-west

Addition of a 4<sup>th</sup>-storey to the existing three-storey dwelling (Planning Permit PLN17/0373)



(Don Gallagher, August 2017)

No. 61 Rose Street, 95m south-west

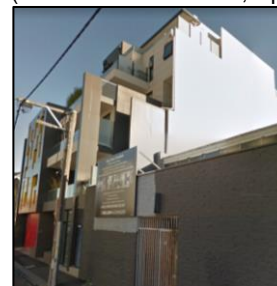
6-storey mixed-use building  
(Planning Permit PLN11/0576)



(Jackson Architecture, April 2015)

No. 45 Rose Street, 100m south-west

6-storey mixed-use building  
(Planning Permit PLN13/0538)



(Google Street View, July 2019)

No. 419 Fitzroy Street, 100m south-west

7-storey residential hotel  
(Planning Permit PLN18/0990)



(Woods Bagot, June 2020)

Nos. 71 – 75 Argyle Street, 200m south

7-storey mixed-use building  
(Planning Permit PLN16/1181)



(Jackson Celement Burrows, August 2020)

Nos. 37 – 39 Kerr Street & 46 – 52 Rose Street, 130m south-west

6-storey mixed-use building  
(Planning Permit PLN12/0951)



(Google Street View, July 2019)

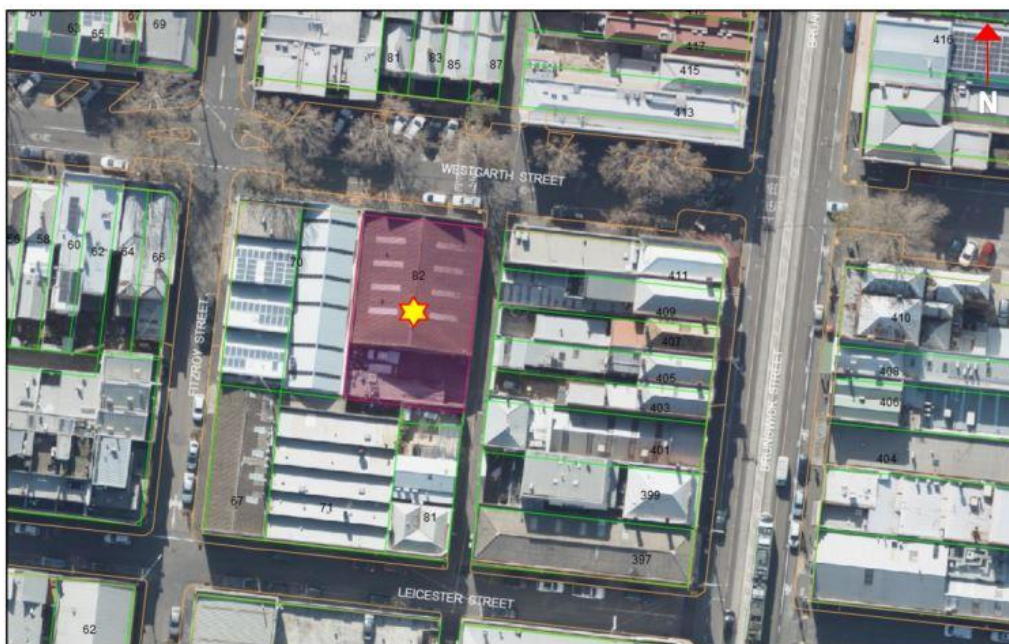
Nos. 142 – 144 Johnston Street & 3 Chapel Street, 600m south-east

6-storey mixed-use building  
(Planning Permit PLN15/0632)



(Google Street View, July 2019)

43. Immediately surrounding the subject site are the following properties:



51. Abutting the subject site to the west are Nos. 70 - 76 Westgarth Street; a double-storey brick building built to all title boundaries and used as a warehouse/factory, with an ancillary office further west. Vehicle access to the warehouse is provided via Westgarth Street whilst vehicle access to the office is provided via Fitzroy Street; further west. A number of solar panels are located above the office building.
52. Planning Permit PL07/0076 was issued under the direction of the Victorian Civil and Administrative Tribunal (VCAT) on 03 June 2009 for the demolition and construction of a four-storey residential building and associated reduction in the car parking requirements. This permit has since expired.
53. Planning application PLN20/0815 was submitted to Council on 12 November 2020 and proposes to use the existing office component as a food and drink premises (café). A decision is yet to be made on this application; i.e. still at the further information stage.

#### *East*

54. To the east of the site, across the ROW are the rear of single to double-storey, Victorian-era commercial buildings fronting Brunswick Street. Vehicle access to some of these sites are provided via this ROW.
55. Further east of the subject site is Brunswick Street which is identified as being an Activity Centre (AC). Therefore, the surrounding area includes a mixture of commercial uses (taverns, restaurants, retail stores, furniture stores, restricted retail, art galleries, offices etc.), light industrial, warehouses and pockets of residential buildings. Brunswick Street is covered by the Road Zone, Category 1 and carries two lanes of traffic in each direction.
56. The subject site located on Westgarth Street has good access to public transport, including:
  - (a) Brunswick Street tram lines approximately 40m to the east;
  - (b) Alexandra Parade bus routes approximately 150m to the north;
  - (c) Nicholson Street tram routes approximately 230m to the west;
  - (d) Smith Street tram lines approximately 560m east; and
  - (e) Johnston Street bus routes approximately 360m south.

### **Planning Scheme Provisions**

#### Zoning

57. The subject site is zoned Mixed Use Zone (MUZ). The following provisions apply:
  - (a) Pursuant to *Clause 32.04-2* of the Yarra Planning Scheme (the Scheme) a dwelling use is identified as 'Section 1 - Permit not required' uses. Therefore a planning permit is not required for the proposed apartments.
  - (b) Pursuant to *Clause 32.04-6* of the Scheme, a planning permit is required to construct an apartment building.
  - (c) An apartment development of five or more storeys, excluding a basement, must meet the requirements of *Clause 58* of the Scheme. Pursuant to *Clause 73.01* (General terms) of the Scheme, an apartment is defined as *a dwelling located above the ceiling level or below the floor level of another dwelling and is part of a building containing two or more dwelling*. Given the two proposed townhouses meet this definition, they too will be assessed under *Clause 58*.

- (d) Pursuant to *Clause 32.04-11* of the Scheme, *a building must not be constructed that exceeds the maximum building height specified in a schedule to this zone*. There is no maximum building height requirement in the schedule to the zone.

### Overlays

58. The subject site is affected by the Heritage Overlay (Schedule 334 – South Fitzroy Precinct). The following provisions apply:

- (a) Pursuant to *Clause 43.01-1* of the Scheme, a planning permit is required for demolition, to construct a building and carry out works, including:
- i. *A solar energy system attached to a building that primarily services the land on which it is situated if the services are visible from a street (other than a lane) or public park;*
  - ii. *A rainwater tank if the rain water tank is visible from a street (other than a lane) or public park;*
  - iii. *An electric vehicle charging station if the charging station is visible from a street (other than a lane) or public park.*
- (b) A planning permit is triggered under the overlay for the demolition and proposed works, aside from the solar energy facility (on the roof), underground rainwater tank and the EV charging stations (within the ground floor car park) as they are not visible from Westgarth Street.

59. The subject is affected by the Environmental Audit Overlay. The following provisions apply:

- (a) Pursuant to *Clause 45.03-1* of the Scheme, *before a sensitive use (residential use, child care centre, pre-school centre or primary school) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, either:*
- i. *A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or*
  - ii. *An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.*

60. A planning permit is not triggered under this control. However, as an apartment building is considered to be a sensitive use, a note would be required to be added to any planning permit issued informing the applicant of these obligations under the Environment Protection Act.

61. The subject site is affected by the Special Building Overlay (SBO). The following provisions apply:

- (a) Pursuant to *Clause 44.05-2* of the Scheme, a planning permit is required *to construct a building or to construct or carry out works*.

### Particular Provisions

#### *Clause 52.06 (Car Parking)*

62. The number of car parking spaces required under *Clause 52.06-5* of the Scheme must be provided to the satisfaction of the responsible authority. A planning permit is required for a reduction in the number of car parking spaces.
63. The following table identifies the car parking requirement under *Clause 52.06-5*, the provision on site, and the subsequent reduction:

Proposed Use	Quantity/ Size	Statutory Parking Rate	No. of Spaces Required	No. of Spaces On-site	Reduction Required
1 & 2 x bedroom dwellings	15	1 space per dwelling	15	15	0
3 x bedroom dwelling	5	2 spaces per dwelling	10	7	0
<b>Total</b>			<b>25</b>	<b>22</b>	<b>3</b>

64. With 22 car parking spaces provided on-site, the proposal seeks a total reduction of 3 car spaces.

*Clause 52.34 – Bicycle facilities*

65. Pursuant to *Clause 52.34-3*, in developments of four or more storeys, 1 resident bicycle parking space should be provided for every 5 dwellings (rounded up), plus 1 visitor space for every 10 dwellings as seen in the table below.

Use	Rate	No. required on-site	No. provided on-site
20 x dwellings	1 space per every 5 dwellings	4	28
	1 space for visitors to every 10 dwellings for developments	2	2
<b>Totals</b>		<b>6</b>	<b>30</b>

66. The proposal exceeds the bicycle parking rate for dwelling residents/visitors.

*Clause 53.06 Live Music and Entertainment Noise*

67. This clause applies to an application required under any zone of this Scheme to use land for, or to construct a building or construct or carry out works associated with:
- (a) *a noise sensitive residential use that is within 50 metres of a live music entertainment venue.*

68. Polly Bar at No. 401 Brunswick Street (approximately 4m, across the eastern ROW) and the Glamorama Bar at No. 393 Brunswick Street (approximately 34m to the south-east) are live music venues. Pursuant to *Clause 53.06-3*, a noise sensitive residential use must be designed and constructed to include acoustic attenuation measures that will reduce noise levels from any:

- (a) *Indoor live music entertainment venue to below the noise limits specified in State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2 (SEPP N2).*

69. The clause goes on to state:

- (a) *For the purpose of assessing whether the above noise standards are met, the noise measurement point may be located inside a habitable room of a noise sensitive residential use with windows and doors closed (Schedule B1 of SEPP-N2 does not apply).*
- (b) *A permit may be granted to reduce or waive these requirements if the responsible authority is satisfied that an alternative measure meets the purpose of this clause.*

*Clause 58 Apartment Developments*

70. *Clause 58 applies to applications to construct an apartment development within a Mixed Use Zone. This clause seeks to encourage apartment development that provides reasonable standards of amenity for existing and new residents and to encourage apartment development that is responsive to the site and surrounding area.*

General Provisions

*Clause 62 – General exemptions*

71. *Pursuant to Clause 62.02-2 (Buildings and works not requiring a permit unless specifically required by the planning scheme), of the Scheme:*
- (a) Any requirement in this scheme relating to the construction of a building or the construction or carrying out of works, other than a requirement in the Public Conservation and Resource Zone, does not apply to a:*
    - i. A rainwater tank with a capacity of not more than 10,000 litres;*
    - ii. A solar energy facility attached to a building that primarily services the land on which it is situated; and*
    - iii. An electric vehicle charging station.*
72. *Therefore, the proposed 8,000Ltr underground rainwater tank, solar panels on the roof and the EV charging stations within the car park does not trigger a planning permit under the MUZ.*

*Clause 65 - Decision Guidelines*

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

Planning Policy Framework (PPF)

74. *Relevant clauses are as follows:*

*Clause 11.01-1R (Settlement - Metropolitan Melbourne)*

75. *Relevant strategies include;*
- (a) Develop a network of activity centres linked by transport; consisting of Metropolitan Activity Centres supported by a network of vibrant major and neighbourhood activity centres of varying size, role and function.*
  - (b) Create mixed-use neighbourhoods at varying densities, including through the development of urban-renewal precincts that offer more choice in housing, create jobs and opportunities for local businesses and deliver better access to services and facilities.*

*Clause 11.02 (Managing Growth)*

*Clause 11.02-1S (Supply of Urban Land)*

76. *The objective is to ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.*

*Clause 11.03 (Planning for Places)*

*Clause 11.03-1R (Activity centres – Metropolitan Melbourne)*

77. Relevant strategies are:

- (a) *Support the development and growth of Metropolitan Activity Centres by ensuring they:*
  - i. *Are able to accommodate significant growth for a broad range of land uses.*
  - ii. *Are supported with appropriate infrastructure.*
  - iii. *Are hubs for public transport services.*
  - iv. *Offer good connectivity for a regional catchment.*
  - v. *Provide high levels of amenity.*

*Clause 13.04-1S (Contaminated and potentially contaminated land)*

78. The objective is *to ensure that potentially contaminated land is suitable for its intended future use and that contaminated land is used safely.*

*Clause 13.05-1S (Noise abatement)*

79. The objective is *to assist the control of noise effects on sensitive land uses; while the strategy is to ensure that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area.*

*Clause 13.07 (Amenity and Safety)*

*Clause 13.07-1S (Land use compatibility)*

80. The objective is *to safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects.*

*Clause 15.01 (Built Environment and Heritage)*

81. This clause outlines the following guidelines;

- (a) *Planning should ensure all land use and development appropriately responds to its surrounding landscape and character, valued built form and cultural context.*
- (b) *Planning must support the establishment and maintenance of communities by delivering functional, accessible, safe and diverse physical and social environments, through the appropriate location of use and development and through high quality buildings and urban design.*
- (c) *Planning should promote development that is environmentally sustainable and should minimise detrimental impacts on the built and natural environment.*
- (d) *Planning should promote excellence in the built environment and create places that:*
  - i. *Are enjoyable, engaging and comfortable to be in.*
  - ii. *Accommodate people of all abilities, ages and cultures.*
  - iii. *Contribute positively to local character and sense of place.*
  - iv. *Reflect the particular characteristics and cultural identity of the community.*
  - v. *Enhance the function, amenity and safety of the public realm.*

*Clause 15.01-1S (Urban design)*

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

*Clause 15.01-1R (Urban design - Metropolitan Melbourne)*

83. The objective is *to create distinctive and liveable city with quality design and amenity.*

*Clause 15.01-2S (Building Design)*

84. The objective is *to achieve building design outcomes that contribute positively to the local context and enhance the public realm.*

85. The strategies of this clause are:

- (a) *Ensure the site analysis provides the basis for the consideration of height, scale and massing of new development.*
- (b) *Ensure development responds and contributes to the strategic and cultural context of its location.*
- (c) *Minimise the detrimental impact of development on neighbouring properties, the public realm and the natural environment.*
- (d) *Ensure the form, scale, and appearance of development enhances the function and amenity of the public realm.*
- (e) *Ensure buildings and their interface with the public realm support personal safety, perceptions of safety and property security.*
- (f) *Ensure development provides safe access and egress for pedestrians, cyclists and vehicles.*
- (g) *Ensure development provides landscaping that responds to its site context, enhances the built form and creates safe and attractive spaces.*

86. *Clause 15.01-4R (Healthy neighbourhoods - Metropolitan Melbourne)*

87. The strategy is *to create a city of 20 minute neighbourhoods that give people the ability to meet most of their everyday needs within a 20 minute walk, cycle or local public transport trip from their home.*

*Clause 15.01-5S (Neighbourhood character)*

88. The objective is *to recognise, support and protect neighbourhood character, cultural identity, and sense of place.*

89. Strategies are:

- (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 the local environment and place by emphasising the:*
  - i. *Pattern of local urban structure and subdivision.*
  - ii. *Underlying natural landscape character and significant vegetation.*
  - iii. *Heritage values and built form that reflect community identity.*

*Clause 15.02 (Sustainable Development)*

*Clause 15.02-1S (Energy and resource efficiency)*

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

*Clause 15.03 (Heritage)*

*Clause 15.03-1S (Heritage conservation)*

91. The objective is *to ensure the conservation of places of heritage significance.*

92. Strategies include:

- (a) *Encourage appropriate development that respects places with identified heritage values.*
- (b) *Retain those elements that contribute to the importance of the heritage place.*
- (c) *Encourage the conservation and restoration of contributory elements of a heritage place.*
- (d) *Ensure an appropriate setting and context for heritage places is maintained or enhanced.*
- (e) *Support adaptive reuse of heritage buildings where their use has become redundant.*

*Clause 17 (Economic development)*

*Clause 17.02-1S (Business)*

93. The objective is to encourage development which meet the communities' needs for retail, entertainment, office and other commercial services.

*Clause 18.02-1S – (Sustainable personal transport)*

94. The objective is to promote the use of sustainable personal transport. Relevant strategies include:

- (a) *Encourage the use of walking and cycling by creating environments that are safe and attractive.*
- (b) *Develop high quality pedestrian environments that are accessible to footpath-bound vehicles such as wheelchairs, prams and scooters.*
- (c) *Require the provision of adequate bicycle parking and related facilities to meet demand at education, recreation, transport, shopping and community facilities and other major attractions when issuing planning approvals.*
- (d) *Ensure provision of bicycle end-of-trip facilities in commercial buildings*

*Clause 18.02-1R (Sustainable personal transport- Metropolitan Melbourne)*

95. Strategies include:

- (a) *Improve local travel options for walking and cycling to support 20 minute neighbourhoods.*
- (b) *Develop local cycling networks and new cycling facilities that support the development of 20-minute neighbourhoods and that link to and complement the metropolitan-wide network of bicycle routes - the Principal Bicycle Network*

*Clause 18.02-2S (Public Transport)*

96. The objective is to facilitate greater use of public transport and promote increased development close to high-quality public transport routes.

*Clause 18.02-2R (Principal Public Transport Network)*

97. A relevant strategy of this clause is to maximise the use of existing infrastructure and 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.

*Clause 18.02-4S (Car Parking)*

98. The objective is to ensure an adequate supply of car parking that is appropriately designed and located.

99. A relevant strategy is to *protect the amenity of residential precincts from the effects of road congestion created by on-street parking.*

Local Planning Policy Framework (LPPF)

100. The following LPPF provisions of the Scheme are relevant:

*Clause 21.04 (Land Use)*

101. Relevant objectives and strategies include;

- (a) *Objective 3: To reduce potential amenity conflicts between residential and other uses.*
  - i. *Strategy 3.2 Apply the Interface Uses policy at clause 22.05.*
  - ii. *Strategy 3.4 Discourage late night and 24 hour trading activities located near residential zones to minimize impacts on residential amenity.*

*Clause 21.04-2 (Activity Centres)*

102. Relevant strategies include;

- (a) *Strategy 4.1 Increase the range of retail, personal and business services, community facilities, and recreation activities, within individual centres.*
- (b) *Strategy 5.2 Support land use change and development that contributes to the adaptation, redevelopment and economic growth of existing activity centres.*
- (c) *Strategy 5.3 Discourage uses at street level in activity centres which create dead frontages during the day.*

*Clause 21.05-1 (Heritage)*

103. Relevant objectives and strategies include;

- (a) *Objective 14 To protect and enhance Yarra's heritage places:*
  - i. *Strategy 14.3 Protect the heritage skyline of heritage precincts.*
  - ii. *Strategy 14.4 Protect the subdivision pattern within heritage places.*
  - iii. *Strategy 14.6 Protect buildings, streetscapes and precincts of heritage significance from the visual intrusion of built form both within places and from adjoining areas.*
  - iv. *Strategy 14.8 Apply the Development Guidelines for Heritage Places policy at clause 22.02*

*Clause 21.05-2 (Urban design)*

104. The relevant objectives and strategies are:

- (a) *Objective 16 To reinforce the existing urban framework of Yarra;*
- (b) *Objective 17 To retain Yarra's identity as a low-rise urban form with pockets of higher development;*
- (c) *Objective 18 To retain, enhance and extend Yarra's fine grain street pattern;*
- (d) *Objective 20 To ensure that new development contributes positively to Yarra's urban fabric;*
- (e) *Objective 21 To enhance the built form character of Yarra's activity centres;*
  - i. *Strategy 21.1 Require development within Yarra's activity centres to respect and not dominate existing built form; and*
- (f) *Objective 22: To encourage the provision of universal access in new development.*

*Clause 21.05-4 (Public environment)*

105. The relevant objective and strategies are:

- (a) *Objective 28 To provide a public environment that encourages community interaction and activity:*
  - i. *Strategy 28.1 Encourage universal access to all new public spaces and buildings.*
  - ii. *Strategy 28.2 Ensure that buildings have a human scale at street level.*
  - iii. *Strategy 28.3 Require buildings and public spaces to provide a safe and attractive public environment.*

*Clause 21.06 (Transport)*

106. This clause builds upon the objectives outlined at *Clause 18*, promoting cycling, walking and public transport as alternatives to private motor vehicle usage.

*Clause 21.06-1 (Walking and cycling)*

107. The relevant objective and strategy include:

- (a) *Objective 30 To provide safe and convenient bicycle environments:*
  - i. *Strategy 30.2 Minimise vehicle crossovers on street frontages.*

*Clause 21.06-2 (Public transport)*

108. Relevant objectives and strategies include;

- (a) *Objective 31: To facilitate public transport usage.*
  - i. *Strategy 31.1 Require new development that generates high numbers of trips to be easily accessible by public transport.*

*Clause 21.06-3 (The road system and parking)*

109. Relevant objectives is *objective 32: To reduce the reliance on the private motor car.*

*Clause 21.07-1 (Environmentally sustainable development)*

110. The relevant objective and strategy of this clause is:

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

*Clause 21.08-7 Neighbourhoods (Fitzroy)*

111. The following relevant commentary is offered at this clause:

- (a) *Fitzroy is a mixed commercial and residential neighbourhood notable for the consistency of its Victorian streetscapes. It comprises a dense combination of residential areas, shopping precincts and commercial/ industrial activities.*
- (b) *The role of the Brunswick Street centre can be characterised as hospitality, entertainment, clothing and footwear, art galleries and studios, and non-government community services, all with a metropolitan focus.*

Relevant Local Policies

*Clause 22.02 (Development Guidelines for sites subject to Heritage Overlay)*

112. The relevant objectives of this clause are as follows:

- (a) *To retain significant view lines to, and vistas of, heritage places.*
- (b) *To preserve the scale and pattern of streetscapes in heritage places.*
- (c) *To ensure that additions and new works to a heritage place respect the significance of the place.*

113. The relevant sections of this clause are as follows:

*Clause 22.02-5.1 (Demolition)*

114. *Generally encourage the retention of a building in a heritage place, unless:*

- (a) *The building is identified as being not contributory*

*Clause 22.02-5.7 (New Development, Alterations or Additions)*

*Clause 22.02-5.7.1 (General)*

115. The relevant objectives of this clause are as follows:

- (a) *Encourage the design of new development and alterations and additions to a heritage place or a contributory element to a heritage place to:*
  - i. *Respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape.*
  - ii. *Be articulated and massed to correspond with the prevailing building form of the heritage place or contributory elements to the heritage place.*
  - iii. *Be visually recessive and not dominate the heritage place.*
  - iv. *Be distinguishable from the original historic fabric.*
  - v. *Not remove, cover, damage or change original historic fabric.*
  - vi. *Not obscure views of principle façades.*
  - vii. *Consider the architectural integrity and context of the heritage place or contributory element.*

*Clause 22.05 (Interface Uses Policy)*

116. The relevant policy is:

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

*Clause 22.07 (Development abutting laneways)*

117. This policy applies to applications for development that is accessed from a laneway or has laneway abuttal, with the relevant objectives as follows;

- (a) *To provide an environment which has a feeling of safety for users of the laneway.*
- (b) *To ensure that development along a laneway acknowledges the unique character of the laneway.*
- (c) *To ensure that where development is accessed off a laneway, all services can be provided to the development. To ensure that development along a laneway is provided with safe pedestrian and vehicular access.*

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

118. This policy applies to (as relevant) new buildings and contains the following objectives;

- (a) *To achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999 (or as amended).*
- (b) *Currently, these water quality performance objectives require:*
  - i. *Suspended Solids - 80% retention of typical urban annual load*
  - ii. *Total Nitrogen - 45% retention of typical urban annual load*
  - iii. *Total Phosphorus - 45% retention of typical urban annual load*
  - iv. *Litter - 70% reduction of typical urban annual load*
- (c) *To promote the use of water sensitive urban design, including stormwater re-use.*
- (d) *To mitigate the detrimental effect of development on downstream waterways, by the application of best practice stormwater management through water sensitive urban design for new development.*
- (e) *To minimise peak stormwater flows and stormwater pollutants to improve the health of water bodies, including creeks, rivers and bays.*
- (f) *To reintegrate urban water into the landscape to facilitate a range of benefits including microclimate cooling, local habitat and provision of attractive spaces for community use and wellbeing.*

*Clause 22.17 (Environmentally Sustainable Design)*

119. 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.

Incorporated Documents

120. Appendix 8 to the City of Yarra Review of Heritage Areas, 2007 identifies the subject site as being “Not-contributory” to the South Fitzroy Precinct (as identified by Schedule 334 to the Heritage Overlay).

**Advertising**

121. The originally submitted application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 363 letters sent to surrounding owners and occupiers and by two signs displayed on site; one at the Westgarth Street frontage and the other on the laneway façade.

122. Council received 85 objections, the grounds of which are summarised as follows:

- (a) Design and overdevelopment (height, scale, bulk);
- (b) Heritage impacts;
- (c) On-site amenity (poor apartment layouts and internal amenity);
- (d) Off-site amenity (visual bulk, daylight/solar access to north-facing windows, overshadowing, overlooking);
- (e) Car parking, traffic impacts and pedestrian safety;
- (f) Issues during construction (noise, traffic);
- (g) Impacts to mental, physical health and wellbeing of surrounding residents and local ecosystems;
- (h) Council prioritizing developer interest; and
- (i) Reduced property values.

123. Eight support letters were received to the application and can be summarised as:

- (a) Sustainable design; and
- (b) Thoughtful, balanced and quality design.

124. On 12 November 2020, the applicant submitted revised plans under Section 57(A) of the Act. The application was not re-advertised and was given a discretionary exemption at Council's internal Development Assessment Panel meeting held on 17 November 2020, on the basis that the proposed amendments would not result in material detriment as the changes were a reduction in built form. However, a copy of the plans were circulated to objectors with the invitations to the meeting.

## **Referrals**

### External Referrals

#### *Melbourne Water*

125. Pursuant to *Clause 44.05-6* of the Scheme, the advertised application was referred to Melbourne Water who objected to the proposed development. However, the amended (S57A) plans were also formally referred to Melbourne Water who were supportive of the revised proposal, subject to conditions. All comments have been included as attachments to this report.

126. The originally advertised application and the S57A plans were also referred to the following external referrals:

- (a) Urban Design (Hansen Partnership Pty Ltd); and
- (b) Acoustic (SLR Consulting).

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

### Internal Referrals

128. The originally advertised application was referred to the following areas within Council:

- (a) Traffic Engineering Unit;
- (b) Heritage Advisor;
- (c) Urban Design Unit (streetscapes and any capital works only);
- (d) ESD Advisor;
- (e) Strategic Transport Unit;
- (f) City Works Unit;
- (g) Open Space; and
- (h) Arborist.

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

130. The amended (S57A) plans were referred to all of the above Council departments, except for open space.

## **OFFICER ASSESSMENT**

131. The considerations for this application are as follows:

- (a) Policy and strategic support;
- (b) Built form and heritage;
- (c) Clause 58;
- (d) Off-site amenity impacts;

- (e) Car parking, traffic, and bicycle provisions;
- (f) Special Building Overlay; and
- (g) Objector concerns.

#### Policy and strategic support

132. The subject site is located within a MUZ, which has a key purpose to provide housing at higher densities. Consistent with the zone, the use of the land for dwellings do not require a planning permit and only the buildings and works are triggered by this provision. This indicates strong strategic support for residential uses within the precinct. It is considered that the proposed development achieves the various land use and development objectives outlined in the Scheme and is in accordance with relevant State and local planning policies applicable to the redevelopment of sites within areas such as this.
133. The subject site is within proximity (approximately 40m) to the Brunswick Street AC, which provides a wide range of retailing, services and food and drinks premises with good public transport links. This ensures that the site is well serviced by local infrastructure and commercial offerings.
134. With regards to the proposed development of the site, State and local policies encourage the concentration of development in and around activity centres, with more intense development on sites well connected to public transport, thereby ensuring the efficient use of existing infrastructure. The site is well connected to public transport opportunities, with trams along Brunswick Street, Smith Street and Nicholson Street, and bus services along Johnston Street and Alexandra Parade, encouraging the use of alternative modes of transport to and from the site and reducing reliance on motor vehicles, as encouraged by *Clauses 18.02 (Transport), 21.03 (Vision), 21.06-3 (The road system and parking) and 21.07 (Environmental sustainability)*.
135. However, policy support for more intensive development needs to be balanced with built form and heritage guidance at *Causes 15.03, 21.05-1 and 21.05-2* of the Scheme. These policies call for development that responds to the surrounding context with regard to urban character and cultural heritage. More specifically, Council's local policy at *Clause 22.02* seeks to maintain and conserve the significant historic character of the area.
136. As will be discussed in detail within this report, it is considered that the proposal achieves a good balance of State and local policy in relation to high quality developments and protection of heritage values. However, such strategic direction must be balanced against site constraints, the local built form context, the proposed architectural response and the potential for off-site amenity impacts. These aspects of the development will be discussed in the following sections of this report

#### Built form and Heritage

137. The primary built form considerations for the proposed development are the decision guidelines at *Clause 32.04-6 (Mixed Use Zone)* and policy at *Clause 15 (Built Environment and Heritage), Clause 21.05 (Built Form), Clause 22.07 (Development abutting laneways) and Clause 22.02 (Development Guidelines for Sites Subject to the Heritage Overlay)*. All of these provisions and guidelines support a development outcome that responds to the existing or preferred neighbourhood character and provides a contextual urban design response reflective of the aspirations for the area. Particular regard must be given to the acceptability of the design in terms of height and massing, street setbacks and relationship to adjoining buildings.
138. *Context*



The subject site (marked with a star) and surrounding built form heights (Council GIS, June 2020)

139. As outlined earlier within this report, built form in the immediate area is mixed, with a strong emergence of contemporary, higher-scale development. The immediate neighbouring streets, in particular Rose, Fitzroy Street and Kerr Street have altered substantially over recent years due to the approval and construction of a number of six-storey developments. These developments are interspersed throughout a predominantly triple to four-storey streetscape. This is most clearly demonstrated in the built form context map above.
140. Pockets of low-density, single and double-storey dwellings remain; however, aside from the abutting double-storey dwelling to the south at No. 81 Leicester Street, these are located largely to the north of Westgarth Street and further west of the subject site. Whilst the 'individually-significant', single-storey row of dwellings immediately across Westgarth Street will not be developed (given the heritage overlay), it is likely development will occur within the site on the north-western corner of Westgarth and Fitzroy Streets, with the double-storey building at Nos. 70 – 76 Westgarth Street and the surrounding single-storey warehouse buildings to the south-west classified as 'non-contributory' to the heritage precinct. Within the Mixed Use Zone and given this context it is clear that higher built form will be expected within the immediate surrounds.
141. As noted within the 'Planning Scheme Amendments' section of this report, Council has prepared a Built Form Framework for Brunswick Street (among other areas), and has also requested approval from the Minister to introduce an interim Design and Development Overlay (DDO) while permanent controls are prepared. Whilst the subject site is not included within the interim DDO29, the sites to the east, along Brunswick Street are. A relevant built form objective of the proposed DDO29 is *to ensure development responds to the heritage character and open streetscape of Brunswick Street by supporting a new lower- to mid-rise character (ranging from 4 to 6 storeys) behind a consistent street wall north of Leicester Street.*
142. The draft interim DDO29 outlines mandatory maximum height and street wall requirements, and anticipates sites fronting Brunswick Street (immediately east of the site) can potentially accommodate 17.4m (5-6-storeys) above retained heritage form, with large, corner sites identified for 20.8m (6-storey) opportunities under the interim DDO34 (Fitzroy Town Hall and Back Blocks).

The draft DDO29 also specifies that upper levels above the retained Brunswick Street street-wall must be setback a minimum of 8m, with development over 16.4m, the top most upper level above a heritage building should be setback a further 3.2m from the Brunswick Street frontage. The subject site is not located within an intact heritage streetscape such as Brunswick Street and increased upper level setbacks are not required (as they are along Brunswick Street). While the Built Form Framework which informed the DDO29 provides some analysis as to the preferred future scale sought within this section of Brunswick Street, this does not outweigh the emerging scale of recent development that has already occurred along the surrounding streets in Rose, Fitzroy and Kerr Streets (in the realm of 3 to 6-storeys).

143. As outlined previously, there is no dispute that strategically the subject site is appropriately located for a higher-density development, being within proximity to an activity centre and the C1Z, and with excellent access to cycling networks, public transport, services and facilities. Based on these attributes, it is a reasonable expectation that this site will experience intensification in use and development.
144. With regards to the surrounding heritage context, the site is located within the South Fitzroy Heritage Precinct, which covers the vast majority of Fitzroy. The immediate vicinity however does not have a highly intact heritage streetscape (unlike the properties further towards Nicholson Street). The majority of nearby properties are either contemporary, multi-storey residential developments (on ex-industrial sites) or single-storey warehouses or car parks, the majority of which are listed as non-contributory to the heritage precinct.
145. In light of this context, the proposed development would not unduly affect the significance of the broader heritage place in accordance with *Clause 22.02* of the Scheme. Council's Heritage Advisor concurred with this, stating that *generally in this corner of Fitzroy, the area is mixed with a number of non-contributory sites having been redeveloped with apartments up to approximately 6-storeys and with the upper levels being set well back to make them less apparent.*

#### *Demolition*

146. Prior to ascertaining if the proposed development of the land is acceptable, consideration of the extent of demolition is required. These considerations are outlined at *Clause 22.02* and *Clause 43.01* of the Scheme. As outlined in Council's heritage advice, the factory/warehouse building on the land appears to have been constructed c. 1950-60s, and is listed in *Appendix 8, City of Yarra Review of Heritage Overlay Areas 2007. (rev. May 2018)* as being 'not-contributory'. On this basis, the full demolition of the existing building is supported by local heritage policy at *Clause 22.02-5.1*.

#### *Built form (height and massing)*

##### *Height*

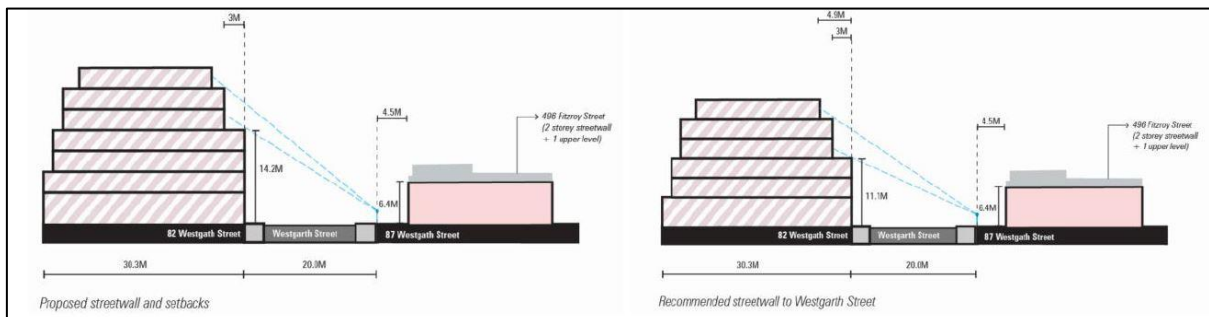
147. The development proposes an overall height of 6-storeys, with the building extending to a maximum height of 20.72m above NGL. The proposed roof plant area/lift overrun would add a further 1.5m to the height, resulting in an overall height of 22.22m above NGL. The street-wall to Westgarth Street would consist of a height of 11.47m above NGL, with the upper levels setback 3m from this frontage. Views to the roof plan area/lift overrun will be appropriately limited due to its location within the centre of the building.
148. Objectives at *Clause 22.02* of the Scheme aim to (amongst others) preserve the scale and pattern of streetscapes in heritage places, ensure that additions and new works to a heritage place respect the significance of the place and for new buildings to be visually recessive and not dominate the heritage place.

149. As demonstrated earlier in the report, the proposed height is within the contextual range of heights of nearby development. To the west are non-contributory commercial buildings which do not form part of an intact heritage streetscape. It is expected that higher built form would be located in this part of Westgarth Street given the Mixed Use zoning and non-contributory status of these buildings in such close proximity to an activity centre. This is clearly different to the residential lower scale to the west where less development is expected (maximum 7m and 2-storeys), and where heritage built form is more intact. A design objective of the DDO29 is *to ensure development maintains the prominence of the existing low-scale heritage street wall and fine-tune heritage character through recessive upper levels and a façade composition and articulation that complements the Brunswick Street character*. Whilst the proposal varies from the overall building height requirements associated with the DDO29, as stated earlier in the report, the subject site is not located within an intact heritage streetscape such as Brunswick Street. Furthermore, the proposed three-storey street wall, including its architectural quality, compliments the existing varied heritage character along Westgarth Street and will be discussed later in the report. It is also important to note that the interim DDO34 which include 'back blocks' within this area anticipates 6-storey buildings. Therefore, the current design is responsive in its design language and has regard to Council policy (both existing and proposed).
150. External urban design advice on the originally advertised plans (Hansen Partnership), recommended a revised overall height of 6-storeys from 7-storeys. This reduction was recommended from the podium to establish a 3-storey street wall as opposed to a 4-storey street wall. It was found that the reduction in the overall height to 6-storeys would *ensure the upper levels remain visually subservient to the recommended 3 storey street wall and from a strategic context perspective, a 6-storey proposal is commensurate with the anticipated outcome in behind the Brunswick Street spine encouraged in DDO34*. As part of the S57A plans the applicant reduced the overall height from 7-storeys to 6-storeys, which is considered to be a more suitable response, owing to the dimensions of Westgarth Street and mixed built form profile found in the surrounds as well as the limited heritage sensitivity on the subject site.
151. Whilst Council's Heritage Advisor found the deletion of one level from the podium to be an improvement, the overall height together with the top 3 levels were considered to be *still too high for the context and the podium height is still disproportionate to the single storey and double storey Victorian buildings in the streetscape*. The following options were recommended:
- (a) Either another level of the podium is deleted; or
  - (b) The floor to ceiling height(s) of the podium reduced; or
  - (c) Introduction of a setback to the top level of the podium to maintain an appropriate proportion.
152. The reduction of the podium by an additional level would make the upper levels more visually apparent. While reducing the floor-to-ceiling heights within the podium would greatly impact the internal amenity of the apartments which are currently limited to 2.7m floor-to-ceiling heights. Furthermore, the podium is limited to a three-storey base. Therefore, the additional podium height at Level 3, with the minimalist detailing associated with the terrace balustrade, combined with the 3m setback gives the overall podium a visually recessive appearance and allows the three-storey scale of the street wall to dominate the Westgarth Street streetscape. Given the lack of heritage fabric on or adjoining the site fronting Westgarth Street, along with the mixed character of the existing streetscape, and the way in which the development responds to surrounding built form, the surrounding context allows a higher scale to be supported.
153. Furthermore, the recently approved 7-storey residential hotel at No. 419 Fitzroy Street (approximately 100m south-west of the subject site), whilst a corner site; has a similar form with three-storey podium and setbacks of 3m between Levels 3 to 6 from Fitzroy Street and Rose Street.

Based on the above, and given the existing and emerging heights within the area as outlined earlier, the building height is supportable subject to further consideration of off-site amenity impacts.

### Massing

154. The development will provide a three-storey street-wall along the Westgarth Street interface, with the inclusion of small setbacks within lower level frontages, providing a good degree of articulation to the massing of this facade. The height of the street-wall is commensurate with the emerging built form character in the surrounding area (e.g. 3-storeys) and is considered to provide a human scale to the development, by focussing pedestrian sightlines to the lower levels. This outcome is supported.
155. As discussed earlier in the report, based on the advertised plans, whilst external urban design was supportive of the 3 clearly defined components of the development when viewed from Westgarth Street; i.e. 4-storey robust base, a setback 2-storey mid-level tier and a single-storey cap, the overall height of the podium was found to be a *notable departure from the 1-2 storey heritage fabric and 2-3 storey contemporary street wall that defines parts of Westgarth Street*. Therefore, it was recommended that the podium height be reduced by one-storey. The applicant reduced the overall street-wall by one-storey, with any additional height above the podium being associated with the balustrades of the terrace at Level 3.
156. Having regard to the recommended built form controls to side streets for the Brunswick AC spine (DDO29), Hansen Partnership were satisfied with the 3m setback of the upper levels. This would assist to maintain an adequate distinction between the street wall and the upper levels when viewed in the oblique from the footpath along Westgarth Street (south side) and from across Westgarth Street (north side). However, as shown in the diagram below, it was recommended that with the reduction in podium height, the upper two levels be setback 3m, with the additional level above set further back in order to ensure a visually prominent street wall.



Street-wall and upper level setbacks (Hansen Partnership June 2020)

157. However, the revised (S57A plans) propose a continuous 3m setback of the upper levels between Levels 3 to 5 from the Westgarth Street boundary and above the reduced podium. Hansen Partnership found that *this revised massing results in a 3+3 arrangement that will present and be easily understood as a 6-storey form*. As outlined earlier in the report, the intension behind the original recommendation was to create a 3+2+1 arrangement, whereby the building would present as a 5-storey form with a visually recessive top floor. Based on the S57A plans, it has been recommended that *a minimum 3m setback from the Level 4 façade (which could be utilised as terrace space) be provided at Level 5 along to Westgarth Street frontage*. Similarly, based on the S57A plans, Council's Heritage Advisor has also recommended further setbacks at the upper level.
158. However, an increased setback to the topmost level is not supported by Council planning officers, based on the following:

- (a) Whilst not located on a corner, the site abuts a ROW and is not a 'mid-block' location. Combined with this, given the size of the subject site, it allows for a more robust presentation to the street. The subject site has a different context to other recent developments (which are located mid-block along Rose and Kerr Streets) and responds more to a corner development;
- (b) The street level activation and the three-storey podium would maintain interest at the lower levels of the development, drawing the eye of pedestrians to these levels and thereby minimising the visual impact of the upper levels;
- (c) The proposed materials for the street-wall are predominantly red brick and glazing. Above the street wall, the upper levels will feature precast concrete, glazing and metal balustrades that increase in visual permeability as the development rises. As a result, the upper levels would appear recessive to the street wall and allow for a more visually 'lightweight' finish. This design response is demonstrated in the images below; and



Westgarth & Brunswick Street View (W&W Architects November 2020)



Westgarth & Fitzroy Street View (W&W Architects November 2020)

- (d) In addition, the consistent 3m upper level setback approach allows for the development to avoid a 'wedding cake' typology as it presents to Westgarth Street, Fitzroy Street and Brunswick Street, and presents more as a backdrop of built form.

159. The revised massing under the S57A plans have responded to the context of lower built form to the south, with generous setbacks provided to this interface. In particular, the rear south-eastern setbacks range from 2m at Level 2 to a maximum of 10.66m at Level 5 which are appropriately respectful of the abutting Victorian-era building at No. 81 Leicester Street (which is also located in a Mixed Use Zone). External urban design advice supports these setbacks, noting that the revised southern massing arrangement addresses a number of off-site amenity impacts to this neighbouring dwelling.

160. The revised development presents a 3-storey street wall that wraps around the corner into the eastern 3.7m wide ROW. The north-eastern upper levels are setback 2.5m (Levels 3 to 5) with the south-eastern upper levels setback between 0.66m to a maximum of 11.15m (Levels 3 to 5) from the eastern boundary/ROW as a result of the curved design. These varied setbacks are supported as it provides a degree of building separation between the street-wall and the commercial sites fronting Brunswick Street. Furthermore, Hansen Partnership found that the positioning of the light court to this interface *breaks the overall form visually and positive in 'breaking up' the broad elevation given its visual exposure from the east.*
161. The subject site presents a 6-storey party wall punctuated by the central courtyard (light-well) opening to the common boundary with Nos. 70-76 Westgarth Street. Based on the advertised plans, in order to improve the façade articulation along the exposed western boundary, external urban design recommended that *the treatment of this exposed façade in the short term, integrating a combination of textured precast concrete and natural concrete in a simple gridded pattern reflective of the industrial character of this urban block.* This will be required by way of condition. Therefore, a condition will require a façade strategy to be provided in conjunction with other Condition 1 requirements, which would detail the proposed design for the western elevation, including the podium. This provides Council certainty regarding the high architectural quality of the overall proposal prior to construction, and will also ensure the western elevation will maintain a level of articulation as opposed to sheer walls on boundaries. This condition will also require a sample board and coloured drawings outlining colours, materials and finishes for this elevation.

*Public Realm and pedestrian spaces*

162. *Clause 21.05 (Built form)* of the Scheme seeks new development to make a positive contribution to the enhancement of the public domain. This principle requires the design of interfaces between buildings and public spaces to enhance the visual and social experience of the user.
163. Active uses are proposed at all ground level, with windows and terraces allowing direct interaction and casual surveillance between the apartments and the public realm. This was confirmed by Hansen Partnership who found the positioning of two townhouses to the primary frontage with individual entrances and terraces positioned to Westgarth Street, *not only provides a strong sense of address to the residential uses within the building but also benefits the public realm by maximising the permeability of the street.* However, the plans do not clarify the transparency of the 1.7m high timber screening proposed along the northern perimeter of the townhouse terraces as part of the S57A plans. As a result, whilst maintaining a level of privacy, the visibility to and from Westgarth Street would be completely closed off. Therefore, a condition will required details/cross-section (and samples) of the screening provided to the terraces of townhouses 1 and 2 demonstrating visually permeable materials and connection to the street.
164. Similarly, with the relocation of the central lobby area (as per the advertised plans), the main pedestrian entrance to the apartments under the S57A plans is less noticeable in the street. Improved entry identification is required and could be achieved by providing lighting and numbering (or clearer material change) which would define the entry into the building. A condition will require the materiality of the proposed communal pedestrian entrance associated with the apartments to be clarified; i.e. to include lighting/property identification to the street.
165. Furthermore, the plans show a bench area within the recessed area associated with the main pedestrian entrance to the apartments. The purpose of this bench area is unclear and may cause an unsafe accessway. Therefore, a condition will require an elevation/details of the 'bench' proposed to the communal pedestrian entrance ensuring a safe space is maintained to the entry (or the bench deleted).

166. The advertised plans and Landscape Plan (dated March 2020, prepared by Land Design Partnership) indicated a narrow strip of landscaping will be incorporated into the street frontages.
167. Council's Urban Design Unit raised a number of concerns with the proposed garden beds within the front of the site. Given that it was unclear if the proposed garden beds are flush with the footpath or raised, the proposed garden bed configuration was not supported for a number of reasons:
- (a) *Width and depth not provided, concern healthy plant growth cannot be achieved;*
  - (b) *Single row of plants / species, which may result in unsightly gaps if specimen fails;*
  - (c) *Plants will overhang and obstruct the footpath;*
  - (d) *No noted irrigation and drainage;*
  - (e) *No formal edge along interface to footpath;*
  - (f) *Risk for ongoing maintenance and plant replacement that may lead to future infill of paving material.*
168. In order to provide a safe, attractive and functional environment for future residents and pedestrians along the Westgarth Street footpath, the revised proposal under S57A has since removed the landscaping located within the front boundary at ground floor from the plans. Landscaping is not a characteristic of the immediate streetscape, especially the southern side of Westgarth Street, and therefore the removal of the proposed vegetation along the Westgarth Street façade is supported.
169. The advertised landscape plan was referred to Council's Open Space Unit who were generally supportive of the extent of landscaping but provided additional recommendations. This will be discussed later in the report. Nonetheless, a condition will require the advertised landscape plan to be amended to remove vegetation along the Westgarth Street façade at ground floor.
170. Vehicle access has been provided via the eastern ROW (away from Westgarth Street). This ensures that these services do not impact on the pedestrian experience. In addition, the majority of the back-of-house services (water metre, waste, etc.) have been consolidated within the eastern ROW façade. This layout is supported by the external urban design advice, which noted that this would *ensure the frontage remains primarily pedestrian focussed considering Westgarth Street's role as an important shared street and cycling corridor between Nicholson and Brunswick Streets.*
171. Additional comments provided by Hansen Partnership include a recommendation to relocate the bicycle storage area from the basement to the ground floor as this area could then be easily accessible and more visible from the public realms. This *encourages sustainable transport use for building occupants.* However, as discussed later in the report, Council's Strategic Transport Unit found the location of the proposed bicycle storage to be appropriate. Based on the S57A plans, Hansen Partnership stated that whilst *it is unfortunate that the bike store room remains in the basement, we acknowledge that its provision in a more convenient location at Ground Floor is an urban design ideal outcome, rather than a planning requirement. Therefore, we accept its position within the basement.*

#### *Architectural quality*

172. Policy at *Clause 15.01-2S* encourages high standards in architecture and urban design, whilst *Clause 22.02* encourages the design of new development to respect (amongst others) the pattern, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape, and to consider the architectural integrity and context of the heritage place.

173. As noted earlier, an increasing degree of modern, higher built form is visible within Westgarth, Fitzroy and Rose Streets, with these contemporary developments providing robust, symmetrical designs, straight lines, glazing and flat roof forms. The proposal responds well to these characteristics, by providing a contemporary, rectilinear form incorporating a mix of traditional (red brick) and modern materials (pre-cast concrete and glazing).
174. In compliance with *Clause 22.02-5.7* of the Scheme, the design language makes a notable reference to the industrial past by incorporating red brick in its podium, whilst the upper levels have a distinct change in materiality to pre-cast concrete; a more contemporary architectural presentation which helps to break down the overall massing of the development. This is considered appropriately respond to the more traditional brick material in the area at ground level and references materials and finishes in the broader heritage precinct. The design has incorporated vertical-rectangular window formats that are reflective (but not in imitation of) the dominant pattern of fenestration in the heritage precinct. As a result, Hansen Partnership considered *the architectural response of the proposed development to be well considered particularly in relation to its existing remnant heritage surrounds, past industrial context, and future built form aspirations.*
175. As shown below, given the site's abuttal to a street and the eastern ROW, the proposal wraps the brick and concrete treatment around the edge of the ROW. This helps to retain the visual link between the various exposed facades of the building, acknowledging views along Westgarth Street from the east.



Brick treatment wrapping around the ROW (W&W Architects December 2019)

176. Interestingly, the above render (which is of the originally advertised plans), does not show the front fences to the terraces. As demonstrated in this render, there needs to be a connection to the street while allowing for some privacy to the terraces. As discussed earlier, a condition will require details of the terrace treatment ensuring there is a visual connection to the street. This could be achieved in a number of different ways including through varying the visual permeability of the material (either spacing, change in material or angling of materials).
177. The inclusion of an alternatively layered brick treatment to the parapet forms within the podium level adds visual interest when viewed from Westgarth and Fitzroy Streets. Hansen Partnership concluded that *the profile and materiality of the building aids in the retention of the fine grain expression of the allotments to the east of Westgarth Street whilst smoothly transitioning from the Activity Centre/Spine to NRZ. Overall, the proposed development will be a positive contribution to the existing fabric of Fitzroy South, providing a new benchmark for developments in a similar transition zone.*

178. Council's Heritage Advisor was generally supportive of the revised architectural style and materials, including the horizontal openings being articulated by mullions and the use of pre-cast concrete 'natural finish' on visible wall surfaces as it was an *acceptable quantity and placements*.
179. Overall it is considered that the proposed development would achieve a good level of architectural quality. The proposal would significantly contribute to and improve the streetscape through active frontages and use of high-quality materials which the existing building within the subject site currently lacks.

#### *Site Coverage*

180. The majority of the land will be covered in built form, with the exception of the central courtyard. The degree of built form coverage proposed is similar to that found on many sites within proximity to the land, with intensive development a characteristic of the surrounding neighbourhood. Further, the EAO affecting the site would likely require extensive capping to occur over the land due to potentially contaminated soil. These works would cover 100% of the site and reduce permeability accordingly. The degree of built form is considered acceptable based on the context of the land, which has been one of commercial/warehouse style buildings, and is not considered to result in a visually bulky or imposing building.

#### *Laneway abuttal*

181. The eastern ROW is currently used by vehicles to access numerous sites fronting Brunswick Street, as well as Leicester Street. This ROW will be used for vehicle access for the 22 on-site car spaces.
182. Whilst a pedestrian entrance is located within the eastern wall providing a pedestrian link through the building for the proposed apartments on-site, this is a secondary entrance. This entrance is located within 8m of Westgarth Street and can be readily viewed from this area. However, to ensure pedestrian safety a condition will require external lighting to the entrance.
183. All proposed works, including a majority of the doors and windows will be located wholly within the title boundaries of the subject site. However, the secondary pedestrian entrance and the swing doors associated with the water meters will open on to the ROW. A notation confirms that the doors of the service cabinets are to be designed to swing 180-degrees and latched to the wall when opened and serviced. Council's Traffic Engineering Unit is supportive of this as this would ensure the ROW is not obstructed when the proposed service cabinets are open. However, it would be dangerous for on-coming traffic if the secondary pedestrian entrance swings outwards and on to the ROW. Therefore, a condition will require this secondary pedestrian door fronting the eastern ROW to open within the title boundaries of the subject site, with external lighting provided to this entry and be slightly recessed to allow pedestrians to move out of the laneway.
184. Given that the car parking access to the site will be provided from the ROW and the principal pedestrian entrance is provided via Westgarth Street, and subject to the conditions discussed, the proposal is consistent with *Clause 22.10-3.10* (Parking, traffic and access) which encourages *access to car parking areas and loading area not adversely affect pedestrian amenity* and *Clause 22.07-3* which states *pedestrian entries be separate from vehicle entries*.
185. A number of east-facing windows and terraces face the ROW, thereby providing a level of passive surveillance through activity at this frontage. Hansen Partnership is also supportive of the terraces wrapping around edges and window openings in this elevation as it would *aid in the passive surveillance of the laneway*. Potential overlooking to the habitable room windows and SPOS associated with the dwelling to the south-east will be discussed later within this report. Overlooking to the east, across the ROW is limited to commercial sites fronting Brunswick Street.

186. A designated internal bin storage room for waste is provided at ground level, ensuring that no refuse will be stored in the ROW.
187. Subject to condition, the ROW will continue to meet emergency services access requirements and will not obstruct existing access to other properties in the laneway. The objectives of *Clause 22.07* will be met.

*Light and Shade*

188. Under the revised proposal (S57A plans), as a result of the overall reduced scope, there will be no overshadowing to the public realm; i.e. Fitzroy Street during the morning hours. As a result of the site's location on the south side of Westgarth Street there will be no overshadowing caused to Westgarth Street.
189. While there would be additional overshadowing to the eastern ROW in the afternoon between 1.00pm to 3.00pm, this is not a main pedestrian thoroughfare. The subject site is in a location where a degree of overshadowing is inevitable due to the mixed built form character which has been established in this area. Irrespective of this, it is considered that the shadowing from the development would not affect the usability of the laneway.

Clause 58

*Standard D1 – Urban context*

190. The purpose of this Standard is to ensure that the design responds to the existing urban context and contributes to a preferred future development of the area, while also responding to the features of the site and the surrounding built form. This aspect has been discussed in detail earlier within this assessment and this Standard is considered to be met.

*Standard D2 – Residential Policies*

191. As outlined within the Strategic Policy section of this report, the proposed development has strong policy support under the MUZ and local policies of the Scheme. The site can clearly support a reasonable degree of higher density residential development, based on its proximity to public transport, community infrastructure and services. The Standard is met.

*Standard D3 – Dwelling diversity*

192. The provision of a diverse housing stock assists in achieving broader strategic goals by promoting housing choice, adaptability and encouraging a diverse range of people within a neighbourhood, including families. The proposed mix of dwelling sizes allows for a reasonable variety of dwellings to be provided and ensures that the Standard is met.

*Standard D4 - Infrastructure*

193. The proposal is located within an existing commercial and residential area with established utility services and infrastructure. There is no evidence to suggest that the proposed development would impact on the operation of these existing services and therefore the purpose of the Standard is considered to be met.

*Standard D5 – Integration with the street*

194. The proposed development would provide a significant improvement in terms of the subject site's interface with Westgarth Street subject to conditions as discussed previously in this report.

*Standard D6 – Energy efficiency*

195. The orientation of the subject site, with two abutting street frontages (Westgarth Street and the eastern ROW) somewhat dictates that proposed dwellings would be orientated to face north or east. The majority of the apartments have access to north-facing balconies, thereby increasing direct sunlight opportunities within these spaces. All dwellings have good access to natural ventilation with north, east, and south-facing windows.
196. The originally advertised SMP (dated December 2019 and prepared by LID Consulting) was referred to Council's ESD Officer for comment. This SMP was found to be generally acceptable, with the development incorporating a number of positive ESD outcomes into its design, as follows;
- (a) A BESS score of 69%;
  - (b) Average 6.9 Star (minimum) NatHERS ratings for dwellings;
  - (c) An 8,000 Litre underground rainwater tank for toilet flushing with a STORM score of 100%;
  - (d) Solar preheated electric heat pump hot water system with highly insulated ring main;
  - (e) A 12 kWp solar PV array to contribute to onsite electricity consumption;
  - (f) Energy efficient heating/cooling and lighting;
  - (g) Water efficient fixtures and taps;
  - (h) Balcony overhangs and wing-walls and some vertical elements providing reasonable summer solar gain protection. The sample NatHERS ratings comply with the maximum BADS Standard D6 for cooling loads (30MJ/m<sup>2</sup>);
  - (i) Embedded network with renewable energy purchasing through PPA or Green Power; and
  - (j) Electric vehicle charging power supply to at least 5% of car parking spaces.
197. Council's ESD Officer provided the following recommendations in order to improve the proposed conditions:
- (a) Clarify the bike parking numbers on-site and highlight the location of the 6 visitor parking spaces on the ground floor that cannot be identified;
  - (b) Comprehensive commissioning and tuning of all major appliances and building services;
  - (c) Consider FSC certified sustainable timber for all timber uses onsite; and
  - (d) An Environmental Management Plan will monitor and control activities undertaken during construction.
198. Based on the amended (S57A) SMP (dated October 2020, and prepared by LID Consulting), Council's ESD Officer found that the revised design and report provide an ESD standard generally higher than Council's 'best practice' standards; particularly the net-zero carbon standard that forms part of the proposal. However, there appears to be a discrepancy between the number of resident/visitor bicycle spaces on the SMP compared to the development plans; i.e. the SMP states 26 resident bicycle spaces and 4 visitor bicycle spaces, whilst the plans show 28 resident bicycle spaces and 2 visitor spaces. This discrepancy can be corrected by way of condition.
199. With regards to internal daylight, the advertised Daylight Modelling Report (dated April 2020 and prepared by LID Consulting) was also referred to Council's ESD Officer and the following recommendations were made:
- (a) Ensure reflectivity of internal courtyard materials/finish matches the 80% reflectivity assumed in the daylight modelling, with all external finishes on internal courtyard/atrium to have a minimum light reflectivity of 80% (0.8);
  - (b) A transom window, vent or similar to be introduced into the back wall of Apartment 101, or above the front door to improve access to natural ventilation to this dwelling.

200. Based on the amended (S57A) Daylight Modelling Report (dated October 2020, and prepared by LID Consulting), Council's ESD Officer found that whilst the overall daylight standard for bedrooms would meet the current BESS daylight minimum standard (i.e. 80% of bedrooms would meet the daylight factor standard of 0.5% to 90% of the floor area), the remaining 20% would fall extremely short of the standard. Based on the revised Daylight Modelling Report some of these bedrooms would have 0% of their floor area meeting the 0.5% daylight factor standard. These are the second bedrooms in every instance associated with Apartments 101, 103, 104, 204, 205, 303, 304 and 403.
201. The following design changes were recommended by Council's ESD Officer in order to improve daylight access into the secondary bedrooms of the abovementioned apartments can be addressed by way of condition:
- (a) Increase in the size of glazing (vertical or horizontal); or
  - (b) Improving / maximising the VLT of glazing; or
  - (c) Improving / maximising the reflectivity of surrounding surfaces, such as white bricks on lower levels of internal courtyard/light-well.
202. Overall, it is considered that subject to the conditions discussed above, the proposed development would exceed best practice in environmentally sustainable development in accordance with the overarching objectives under *Clause 22.17 (Environmentally sustainable development)* of the Scheme.

*Standard D7 – Communal open space*

203. This Standard only applies to developments which propose forty (40) or more dwellings and therefore does not apply to this proposal.

*Standard D8 – Solar access to communal open space*

204. Aside from the central courtyards, no communal open space is proposed as part of this development.

*Standard D9 – Safety*

205. The Standard encourages that dwelling entries should not be obscured or isolated from the street or internal accessway. The main pedestrian entrance to the two townhouses at ground floor would be provided via two individual entrances from Westgarth Street, behind the north-facing terraces. External Urban Design advise found that *the positioning of two townhouses to the primary frontage with individual entrances and POS positioned to Westgarth Street not only provides a strong sense of address to the residential uses within the building.* A secondary pedestrian accessway to the lobby would also be provided off the eastern ROW. It was found that this would *further ensures surveillance and activation of the laneway where it currently presents as an inactive interface.*
206. As discussed earlier in the report, as part of the S57A plans, the applicant relocated the centrally accessible, communal pedestrian entrance of the apartments to the north-west of the site, with a DDA compliant accessible ramp fronting Westergarth Street. However, given the setback of the communal entrance from Westgarth Street, with no indication of the type of material used for the apartment entrance, combined with a bench area, the visibility of this doorway is compromised. Therefore, as discussed earlier in the report, to further highlight the location of the pedestrian access point of the apartments along the Westgarth façade to passing pedestrians, the following will be required by way of condition:
- (a) The materiality of the proposed communal pedestrian entrance associated with the apartments to be clarified – to include lighting/property identification to the street;

- (b) Elevation/details of the 'bench' proposed to the communal pedestrian entrance ensuring a safe space is maintained to the entry (or the bench deleted); and
- (c) Details/cross-section (and samples) of the screening provided to the terraces of townhouses 1 and 2 demonstrating visually permeable materials and connection to the street.

207. The Standard recommends that *developments should be designed to provide good lighting, visibility and surveillance of car parks and internal accessways*. There is no indication of any source of lights on the northern façade, nor the eastern façade (secondary entrance), where residential walkways are provided. Therefore, in order provide safety and security for both residents and visitors, and improve the integration between the development and the street, a condition will require wall-mounted sensor lighting to be provided to all pedestrian entrances, including the individual apartments as well. Standard conditions will be imposed to ensure the lights are appropriately baffled and shielded to prevent light spill.

208. Overall, subject to condition, the development achieves a satisfactory outcome against the objective of this Standard.

#### *Standard D10 – Landscaping*

209. Given the MUZ, proximity to a C1Z, and the warehouse/factory uses, landscaping and vegetation does not form a large part of the characteristic of the immediately abutting sites. However, given the residential zone further west, the development aims to provide some landscaping at ground floor and Level 1. The advertised Landscape Plan (dated March 2020, prepared by Land Design Partnership) proposes a strip of landscaping to the front of the site (which has since been removed on the S57A plans), including the rear and central courtyard. This landscape plan was referred to Council's Open Space Unit who were generally supportive of the landscape plan but provided the following recommendations:

- (a) *Acer palmatum* within the internal courtyard would grow in partial shade and as such would be successful in its proposed location;
- (b) Given the proposed *Lagerstroemia* 'Natchez' requires full sun, it would not be suitable within the shaded, internal courtyard;
- (c) The 'Understorey Plants' are suitable for shaded garden beds, and the plant species acceptable.
- (d) The provision of a plant schedule and planting plan with the following information included:
  - (i) Botanical name, common name, mature height and spread, installation size and plant spacing's;
  - (ii) Plant locations and quantities; and
  - (iii) A legend containing key features, materials and surfaces
- (e) Landscape plan amended the following:
  - (i) Soil media and the dimensions for the planters;
  - (ii) Information on irrigation and drainage systems;
  - (iii) maintenance schedule, tasks and duration;
  - (iv) Load bearing weights for the building to be checked and confirmed by a suitably qualified structural engineer against the saturated bulk density of soil media, planter box and plant mass proposed.

210. Furthermore, a condition will require the landscape plan to be amended to show all revisions on the S57A plans; i.e. changes to the overall building.

211. Currently there is a street tree located in front of the subject site. Council's Arborists have advised that *the small Maple tree on the Westgarth Street frontage will require temporary fencing to be installed forming a Tree Protection Zone prior to the build commencing and remain in place and untouched throughout the duration of the development.* In order to ensure fencing is installed to protect this tree, a condition will require a Tree Management Plan to be submitted to Council prior to construction.

*Standard D11 – Access*

212. This objective and Standard seeks to ensure that the number of vehicle crossovers respects the character of the street, whilst maximising the retention of on-street car parking. The proposed development does not seek to introduce any new crossovers to Westgarth Street. Therefore, the proposal will continue to maintain the current kerb-side parking.
213. Whilst not shown on the plans, there is an existing vehicle crossover in front of the site which will be made redundant as a result of the proposed development. Therefore, a condition will require the existing redundant crossover on Westgarth Street to be removed and reinstated with footpath. This will also create an additional on-street car space on Westgarth Street.
214. The eastern ROW will service vehicle access to the apartments, with this ROW already used for this purpose. Council Engineers have provided standard conditions and notes to accommodate this development, such as the protection or relocation of infrastructure as necessary.
215. Further to the above, a standard condition will require a Construction Management Plan (CMP) to be prepared prior to the commencement of the development. This will ensure that any emissions and road disruptions during construction will be appropriately managed

*Standard D12 – Parking location*

216. The on-site car parking for 22 apartments will be provided in stacker form. The location of the residential parking will provide secure access to the residential lobby. Council's Traffic Engineering Unit have assessed the S57A plans and have confirmed that the swept path diagrams satisfactorily demonstrate vehicle turning movements into and out of the garage using the B85 design vehicle. This, together with the direct access between the garage and dwellings achieves the objective to provide "convenient" parking for residents. Council's Engineering Unit were also supportive of the following aspects of the revised proposal:
- (a) The convex mirrors on the north and south side of the car park doorway entrance, located internally to the title boundaries of the subject site;
  - (b) The rear-most car parking spaces are proposed to be allocated for B50 design 'small cars'. Since there are 22 car spaces proposed for the development, the allowance for four small car spaces on-site were found to be acceptable. However, a condition will require the location of these small cars to be identified on the development plans;
  - (c) Whilst the AS/NZS 2890.1:2004 permits a maximum grade of 1 in 8 from the boundary line, the submitted ground clearance analysis (prepared by O'Brien Traffic), shows that a B85 design vehicle would not scrape or bottom-out when traversing over the 1 in 6 grade ramp from the laneway into the property. Therefore, the proposed 1:6 grade ramp is supported.
217. This Standard requires that *shared accessways or car parks of other dwellings should be located at least 1.5m from the windows of habitable rooms.* Above the proposed eastern roller-door are east-facing living room windows which have alternate south-facing windows. Similarly, the east-facing bedrooms have alternate north-facing windows. Therefore, these east-facing windows can be closed, providing an adequate buffer from the car park on-site.

218. An objective of the Standard is to protect residents from vehicular noise within developments. Any noise impacts will be discussed later in the report. Nonetheless, given vehicles travel at low speeds through this area, unreasonable noise impacts are not expected.

*Standard D13 – Integrated water and stormwater management*

219. Decision guidelines of this Standard encourage the use of alternative water sources such as rainwater, stormwater and recycled water, and encourage proposals to facilitate stormwater collection, utilisation and infiltration within the development. Further, buildings should be designed to collect rainwater for non-drinking purposes such as flushing toilets, laundry appliances and garden use.
220. The application proposes the installation of an 8,000Ltr rainwater tank which would be connected for sanitary purposes of the apartments, thereby achieving a STORM rating of 100%. This meets Council's WSUD policy, as well as the Standard and *Clause 22.16 (Stormwater management)* of the Scheme.

*Standard D14 – Building setbacks*

221. This Standard seeks to ensure that building setbacks respond to the surrounding context of the site, and allow adequate internal and off-site amenity to be achieved. As discussed earlier in the report, the proposed development respects the existing and emerging built form along Westgarth Street and thereby, the proposal integrates with the surrounding neighbourhood character.
222. Adequate outlooks for each dwelling are provided, with apartments receiving adequate daylight from north, south and east-facing windows, including the central court-yard. The individual internal layouts of each dwelling, as will be discussed in detail later within this assessment, are considered appropriate.
223. The setbacks provided at each level, along with the privacy screening, prevent unreasonable overlooking to adjacent residential land. This aspect of the proposal will also be discussed in more detail within the 'off-site amenity' section of this report.

*Standard D15 – Internal views*

224. The arrangement of the north and south-facing terraces above each other ensure there are no internal views available between dwellings. However, the plans do not confirm the height, type or material used for balustrading between terraces in order to limit internal views between dwellings. Similarly, there appears to be internal views between the bedrooms of apartments fronting the central courtyard. Therefore, a condition will require all terraces and bedroom windows screened to comply with the objective of Standard D15 (Internal views objective) at Clause 58 of the Yarra Planning Scheme.

*Standard D16 – Noise impacts*

225. This Standard aims to contain noise sources in developments that may affect existing dwellings, whilst protecting residents from any external and internal noise sources. In this instance, the proposed development is not located in proximity to any noise generating areas as listed under Table D3 of this Standard. However, the Brunswick Street Activity Centre is located under 300m of the subject site. *Clause 22.05-4.1* of the Scheme recommends that residential development located in a MUZ be designed to *incorporate appropriate measures to protect the residents from unreasonable noise and other likely disturbances*. Therefore, the applicant provided an acoustic report, dated March 2020 and prepared by Octave Acoustics which assessed noise from any ancillary services, including the lift and car-stackers, internal noise levels from surrounding live music venues, noise from tram and traffic along Brunswick Street and *Clause 22.05* (Interface uses policy).

226. SLR Consulting peer reviewed the abovementioned acoustic report. It was found that the nearest noise sensitive uses are No. 81 Leicester Street (double-storey dwelling to the south) and the residential dwellings to the north, across Westgarth Street.
227. It was found that the car-stackers should comply with the relevant environmental legislation and guidelines, including SEPP N-1 limits and Lmax targets for sleep disturbance. The nearest existing dwelling is approximately 20m away, and therefore does not have a line of sight to the carpark entrance. Therefore, it was found that the car-stacker will not impact the abutting residential building to the south. However, as there are apartments directly above and adjacent to the carpark entrance, the car-stackers are required to comply at these locations. It was recommend that *a numerical specification be provided for airborne noise from the car-stackers, such that compliance with the relevant Leq and Lmax targets is achieved at apartments within the development.*
228. It was also found that noise from the car park and car park entrance gate were adequately addressed as a numerical specification was included. No concerns were raised with this element. Similarly, the noise from lifts is proposed to comply with the relevant legislation and as such SLR found that the acoustic report appropriately addressed this matter. The noise from the mechanical roof plant was found to have *no obvious high risk issues which would require consideration in more detail during the planning stage.*
229. The potential for noise impacts to the subject site were identified as being as the following sites:
- (a) Polly Bar at No. 401 Brunswick Street (music noise);
  - (b) Glamorama Bar at No. 393 Brunswick Street (music noise);
  - (c) Largo Butchers at No. 411 Brunswick Street (commercial / industrial noise); and
  - (d) Quick Snap industrial laundry at No. 71 Leicester St (commercial / industrial noise).
230. Whilst generally supportive of the original acoustic report, SLR Consulting provided the following comments:
- (a) *Our main concern is noise from the refrigeration plant at Largo Butchers, due to it operating 24 hours a day, and due to the large exceedance at night. Before internal targets are accepted, we request:*
    - (i) *Exploration of options for controlling the noise at the source;*
    - (ii) *Confirmation that further SEPP N-1 adjustments are not applicable (e.g. tonality, impulsiveness etc.);*
    - (iii) *If SEPP N-1 internal targets are accepted for either or both of these sources, the future occupants (owners or renters) need to be made aware of this to minimise the likelihood of complaint about industry noise. This information may be provided in a Section 173 agreement and in lease agreements; and*
    - (iv) *If SEPP N-1 internal targets are accepted for apartments exposed to noise from Largo Butchers mechanical plant, advice should be provided in the report for ensuring adequate fresh air indoors to bedrooms given that the equipment operates 24 hours.*
231. As a result, the applicant provided a revised acoustic report, dated September 2020 and prepared by Octave Acoustics. SLR Consulting peer reviewed this revised report and found that whilst most of the issues originally raised were addressed, the following matters remain outstanding:
- (a) *Noise Masking: the report provides recommendations for a noise masking to be installed in bedrooms exposed to music noise. The report should be updated to include the following statements:*
    - (i) *The octave band Leq of the noise masking is not to exceed the octave bands L90 levels by more than 5 dB;*

- (ii) *A post construction acoustic report is to be prepared demonstrating that the masking levels meet the requirements of the acoustic planning report, or included as a further condition in the planning permit;*
  - (iii) *The acoustic report should include a statement requiring future owners and tenants to be notified of the fact that the project proceeds on the assumption that music noise is assessable to indoor locations only, and that compliance with SEPP N-2 in bedrooms is to be met with the noise masking system operating. Alternative, this information may be provided in a Section 173 agreement and in lease agreements.*
- (b) *Glamorama Bar operations on Saturday 21 March 2020:*
- (i) *The assessment of music from the Glamorama Bar is based on attended measurements conducted just prior to the COVID-19 shutdown of all bars and restaurants in Victoria, and there is potential for reduced noise emissions due to potentially reduced activity in venues. SLR have requested confirmation be provided that the bar was operating as usual on this night. This information should be able to be provided by the venue.*
- (c) *Largo Butchers mechanical plant noise:*
- (i) *Comment on the noise character of emissions from Largo Butchers mechanical plant should be provided, so that it can be determined whether any SEPP N-1 corrections for tonality, impulsiveness, duration or intermittency are appropriate.*
  - (ii) *The report should include a statement requiring future owners and tenants to be notified of the fact that mechanical plant noise from Largo Butchers may be assessable to indoor locations only (pending the outcome of negotiations between the developer and the business).*
- (d) *Other Matters:*
- (i) *The report states that options for controlling noise from Largo Butchers mechanical plant will be investigated and that internal SEPP N-1 noise limits will only be adopted if an agreement cannot be reached with respect to reducing noise. We recommend that Council have some ongoing involvement in this matter, to help ensure that noise control options are exhausted before indoor targets are adopted.*

232. The above recommendations, aside from the S173 agreement, will be addressed by way of condition. Given that the noise masking requirements will be included as a condition (and a post construction report will be required demonstrating compliance), Council planning officers are not recommending a separate condition for a S173 agreement. Should the measurements not be met on site, the applicant would need to make further changes to the development which could then be considered at that time.

#### *Standard D17 – Accessibility objective*

233. This Standard requires the following:

- (a) *At least 50 per cent of dwellings should have:*
  - (i) *A clear opening width of at least 850mm at the entrance to the dwelling and main bedroom.*
  - (ii) *A clear path with a minimum width of 1.2 metres that connects the dwelling entrance to the main bedroom, an adaptable bathroom and the living area.*
  - (iii) *A main bedroom with access to an adaptable bathroom.*
  - (iv) *At least one adaptable bathroom that meets all of the requirements of either Design A or Design B specified in Table D4.*

234. All of the proposed apartments on-site show the above requirements, thereby meeting the requirements on the Standard.

*Standard D18 – Building entry and circulation*

235. The proposed residential lobby would be readily identifiable within Westgarth Street, subject to confirming the materiality of the pedestrian door and other conditions as discussed earlier in the report. The setback to the communal apartment entrance provides a degree of shelter to this passage.
236. The main lobby and those at each upper level would be sufficiently dimensioned to service residents coming and going to a development of this scale, with no services obstructing these passageway, and therefore are generally in line with the objectives under this Standard.

*Standard D19 – Private open space*

237. The Standard notes that 1 x bedroom, 2 x bedroom and 3 x bedroom dwelling should be provided with SPOS of 8sqm and a minimum width of 1.8m, 8sqm and a minimum width of 2m, 12sqm and a minimum width of 2.4m, respectively. Sizes of terraces throughout the building range from 8.1sqm to 39.1sqm, with the minimum widths exceeding the above requirements based on the number of bedrooms. In its current form, all dwellings meet these requirements.
238. Sliding doors are provided to all areas of open space, ensuring that they are not compromised by an outward opening door. In addition, as required by the Standard, there are no planter boxes or A/C units within these terrace spaces that encroach into these dimensions. Therefore, the proposal meets the requirements of this Standard.

*Standard D20 – Storage*

239. The Standard notes that 1 x bedroom, 2 x bedroom and 3 x bedroom dwelling should be provided with a total minimum storage volume and a minimum storage volume within the dwelling of 10m<sup>3</sup> and 6m<sup>3</sup>, 14m<sup>3</sup> and 9m<sup>3</sup>, 18m<sup>3</sup> and 12m<sup>3</sup>, respectively.
240. As outlined in the plans between A100, A109 to A114, each of the proposed apartments would exceed the storage requirement of this Standard, with the majority of this storage located within the apartments. Apartments 101, 102, 103, 104, 203, 204, 205, 303, 304 and 305 will also include 6m<sup>3</sup> of external storage located within the basement.

*Standard D21 – Common property*

241. The common property areas within the development are clearly delineated and would not create areas which were difficult to maintain into the future. The residential lobby, lift/stairs access areas and central courtyard are well conceived, with the refuse and bicycle storage rooms easy to access and generally cohesive with the overall building design. The Standard is met.

*Standard D22 – Site services*

242. Aside from the fire booster, all other site services and meters would be readily accessible from the main lobby or the eastern ROW. This will avoid any services within the Westgarth Street façade. This outcome is considered to provide a good design response to the objective of this Standard.

*Standard D23 – Waste and recycling*

243. A shared refuse room is provided at ground level, with this space easily accessible from the apartments. The advertised Waste Management Plan (WMP) dated December 2019 and prepared by LID Consulting Service states that waste collection is proposed via Westgarth Street and is to be undertaken by a private collection service.

244. The advertised WMP was referred to Council's City Works Branch, who identified a number of deficiencies with this document and the associated waste management procedures. These are outlined below;

- (a) *Detail the total space of the waste storage area in M<sup>2</sup>;*
- (b) *Detail the total footprint of suggested bins in M<sup>2</sup>;*
- (c) *Council does not offer a hard waste drop off service please check website for items accepted at the recycling centre;*
- (d) *Waste generation rates should align with Yarra's MUD Guidelines;*
- (e) *The WMP has conflicting information regarding Council and private collection procedures;*
- (f) *Reference to collections from Stawell street must be amended;*
- (g) *Council bins must be placed on the kerb for collection. The footpath must allow 1.5m for access and egress for pedestrians;*
- (h) *Council collection service does not offer option to increase frequency;*
- (i) *Council does not alter signage with regards to waste services at developments; and*
- (j) *Provide details on path of access from the bin store to the bin collection point.*

245. As a result, the applicant submitted S57A plans which enlarged the size of the waste storage area and revised the WMP. The amended WMP, dated November 2020 and prepared by LID Consulting was referred to Council's City Works Unit who found the revised WMP and plans to be satisfactory.

#### *Standard D24 – Functional layout*

##### *Living areas*

246. Table D8 within this Standard states that living areas (excluding dining and kitchen areas) should meet the minimum internal room dimensions specified below;

- (a) 1 bedroom dwelling - minimum width of 3.3m, with a minimum area of 10sqm; and
- (b) 2 or more bedroom dwelling – minimum width 3.6m, with a minimum area 12sqm.

247. All of the apartments meet the requirements of this Standard.

##### *Bedrooms*

248. This Standard notes that main bedrooms and all other bedrooms should have a minimum width and a minimum depth of 3m and 3.4qm, 3m and 3sqm, respectively.

249. The current proposed development is fully compliant with the bedroom dimensions required under this Standard.

#### *Standard D25 – Room depth*

250. All of the apartments would be single aspect. The Standard notes that the depth of a single aspect, open-plan, habitable room may be increased to 9m, if the following requirements are met:

- (a) *The room combines the living area, dining area and kitchen;*
- (b) *The kitchen is located furthest from the window; and*
- (c) *The ceiling height is at least 2.7 metres measured from finished floor level to finished ceiling level.*

251. These requirements are met in all dwellings. However, the decision guidelines associated with this Standard also highlight that any overhang above habitable room windows that limits daylight should be taken into consideration. In this instance, all of the north-facing habitable room windows between ground level to Level 3 and the south-facing habitable room windows at Level 2 would be affected by the overhang of terraces of levels above. Nonetheless, aside from the secondary bedrooms of Apartments 101, 103, 104, 204, 205, 303, 304 and 403 and subject to condition, Council's ESD Officer has confirmed that the apartments will not be inappropriately impacted.

*Standard D26 – Windows*

252. The majority of the habitable rooms within the proposed development contain a window within an external wall to the building, aside from the secondary bedrooms of Apartments 101, 103, 104, 204, 205, 303, 304 and 403 which relies on 'borrowed light' from the central court-yards. As discussed earlier in the report, Council's ESD Officer has provided recommendations to improve the daylight access into these windows which would be addressed by way of condition.

*Standard D27 – Natural ventilation*

253. A good degree of natural ventilation is provided for all dwellings, with cross-ventilation opportunities provided within the living rooms, and breeze paths also providing good cross-ventilation between habitable rooms. The Standard is met.

Off-site amenity

254. *Clause 15.01-2S* of the Scheme aims to provide building design that minimises the detrimental impact of development on neighbouring properties, the public realm and the natural environment, with potential impacts relating to overshadowing of SPOS, loss of daylight to windows, visual bulk and overlooking of sensitive areas. The relevant policy framework for amenity considerations is contained within *Clause 22.05 (Interface uses policy)* of the Scheme.
255. As shown earlier in the report, the site abuts land within the C1Z to the east (across the laneway), with the closest residentially zoned land (NRZ1) located approximately 46m to the west. The abutting site to the west and south-west are used for commercial purposes and built to all title boundaries. The nearest and most sensitive uses are the dwellings across Westgarth Street to the north and the abutting dwelling to the south-east at No. 81 Leicester Street.
256. Decision guidelines at *Clause 22.05-6* specify that Council should consider (as appropriate); *The extent to which the proposed buildings or uses may cause overlooking, overshadowing, noise, fumes and air emissions, light spillage, waste management and other operational disturbances that may cause unreasonable detriment to the residential amenity of nearby residential properties.*

*Setbacks and visual bulk*

257. As outlined earlier in the report, the proposed development would be visible from various points along Westgarth Street, Leicester Street, Fitzroy Street, and in oblique angles along Brunswick Street. However it is considered that the revised height of a three-storey podium, with recessed upper levels would not result in an overwhelming or visually dominant building. The introduction of setbacks at the upper levels of the building, combined with the extent of glazing and terraces, this design response is considered to be an acceptable response to the current context of the site. As discussed earlier in report, the three-storey podium would not result in a stark height transition to the double-storey commercial buildings to the east and west. The upper level setbacks at 3m would provide a degree of articulation when viewed from Brunswick Street and Fitzroy Street.

258. Abutting the subject site to the west and south-west are double-storey and single-storey commercial uses (factory/warehouse/offices). Given that this is not a sensitive interface and it is likely that this area will be developed into built form in the future (given the MUZ), the proposed six-storey wall along this shared boundary is acceptable.
259. The SPOS and north-facing habitable room windows (HRW) associated with the dwelling at No. 81 Leicester Street abuts the subject site to the south-east. However, these HRWs at ground and first floors are located over 7m from the subject site.
260. Currently a 3.1m high boundary wall is shared between the subject site and No. 81 Leicester Street. The development proposes a 4.92m high wall along the shared boundary with a variety of treatments, including setbacks and articulation at the upper levels, especially to the south-eastern corner, to assist in limiting visual impacts to this abutting site to the south-east.
261. As shown below, whilst direct views to the proposal will be available from this dwelling to the south; the separation provided by their SPOS and the curved upper level setbacks from the shared boundary will reduce the visual prominence of the new built form. The proposed 4.1m setback at Level 3 increasing up to 8.56m at Level 5 would provide a generous break between the sites, and ensure that this space will remain open in the future, even if the rear section of the site to the south is developed.



Proposed Southern Façade (W&W Architects November 2020)

262. As a result of the above, the proposed boundary wall with the upper-level setbacks would not be visually intrusive when viewed from the SPOS of No. 81 Leicester Street. Furthermore, the use of a number of different materials (brick, concrete and metal balustrades) would provide an appropriate level of articulation of the development when viewed from this neighbouring SPOS.

#### *Daylight and solar access to habitable room windows*

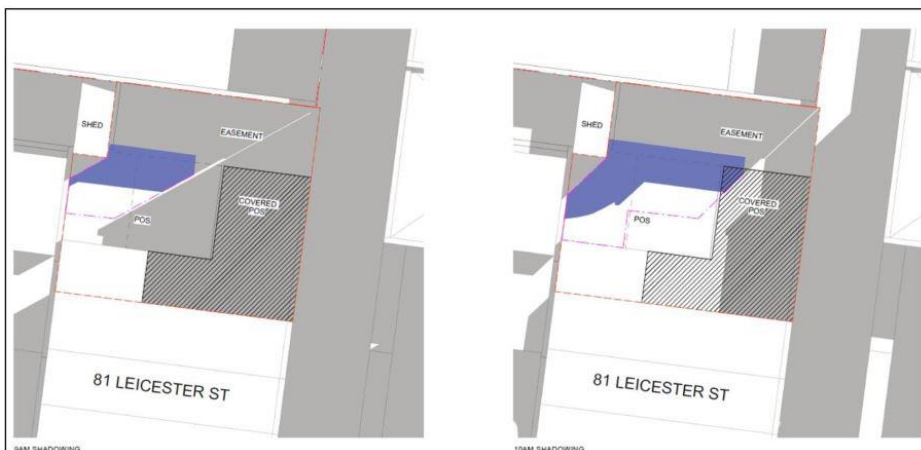
263. As noted previously, the HRWs of No. 81 Leicester Street are located at a distance of at least 7m from new built form. Therefore, there will be no unreasonable daylight and solar access impacts to these north-facing HRW of No. 81 Leicester Street.

#### *Overshadowing*

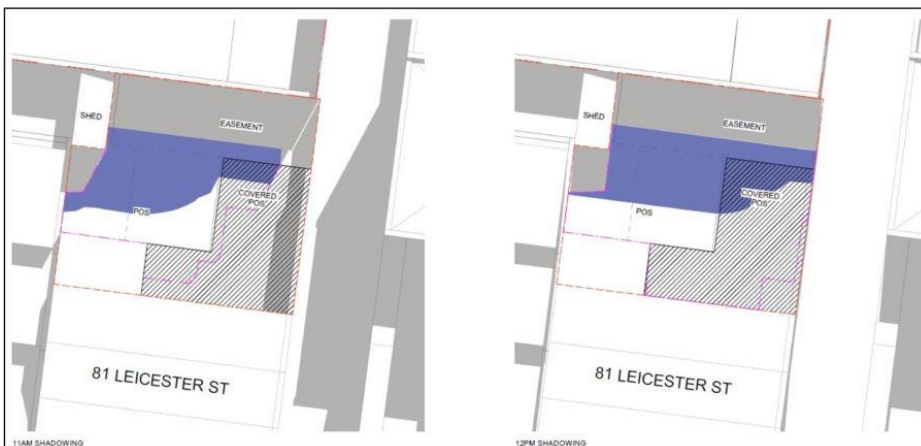
264. Although not strictly applicable in this instance, Standard B21 of Clause 55 notes;

- (a) *Where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September; and*
- (b) *If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.*

265. The majority of the morning shadows will fall on existing built form associated with the commercial tenancies at Nos. 70 – 76 Westgarth Street, Nos. 67 – 69 and No. 71 Leicester Street. Decision guidelines at *Clause 32.04-14* of the Scheme considers *the impact of overshadowing on existing rooftop solar energy systems on dwellings on adjoining lots in a MUZ*. Whilst some of the morning shadows will reach the solar panels at No. 70 – 76 Westgarth Street, this is not associated with a sensitive residential use, and therefore is considered acceptable. The most sensitive interface and the immediately impacted SPOS is associated with No. 81 Leicester Street to the south-east. The shadow diagrams; A040, A041, A042 and especially A043, A044, A045 and A046 indicate the level of additional shadowing to this abutting SPOS to the south.
266. The submitted shadow diagrams show that the total SPOS area of No. 81 Leicester Street is approximately 95sqm, with approximately 31sqm already covered by existing verandah/pergola structures. Whilst this SPOS is mostly impacted due to its southern position from the subject site and abutting warehouses, the shadow diagrams illustrate that as a result of the proposed architectural form of the building whereby curved setbacks have been introduced from the southern boundary, the proposal has limited it's shadow impacts as follows:



9am to 10am shadows (W&W Architects November 2020)



11am to 12noon shadows (W&W Architects November 2020)

- (a) As shown above, the area of additional shadows caused by the development on the SPOS of this neighbouring dwelling to the south range between 7sqm to 26sqm between 9am to 12noon (depicted in purple). Nonetheless, this SPOS will continue to maintain between 22sqm to 45sqm of unshadowed SPOS, with a minimum dimension of 3m between these hours (depicted in white);



1pm to 2pm shadows (W&W Architects November 2020)

- (b) As shown above, this neighbouring SPOS will be mostly impacted during the afternoon hours between 1pm, 2pm and 3pm. The additional overshadowing on the SPOS covers an area of 38sqm and 48sqm between 1pm to 2pm, with this reducing to an area of only 23sqm at 3pm. Therefore, this SPOS will continue to have unshadowed areas of SPOS between limited 28sqm, 10sqm and 22sqm, at 1pm, 2pm and 3pm, respectively. Therefore, based on the 1 hour limited timeframe where this SPOS will be mostly impacted (between 1pm and 2pm), it is considered that this neighbouring SPOS can continue to be utilised for outdoor recreation and service needs;
- (c) The additional shadows do not reach the first floor, north-facing balcony area between 9am to 3pm; and
- (d) Furthermore, in the context of the subject site in a MUZ where increased densities are encouraged under the purpose of the zone, the above outcome is not considered to be unreasonable.

267. The additional shadows between 1pm to 3pm which fall on the eastern ROW and the rear of buildings fronting Brunswick Street are considered acceptable as the ROW is not a main pedestrian thoroughfare and the sites to the east are used for commercial purposes.

268. Based on the above, it is considered that the proposed development will not adversely affect the use of this SPOS areas for outdoor recreation and service needs, generally in accordance with *Clause 22.05* of the Scheme.

#### Overlooking

269. The proposed development has been designed to limit unreasonable overlooking to abutting sensitive interfaces, with the dwelling at No. 81 Leicester Street to the south, being the closest residential buildings.

270. Whilst not strictly applicable to development within the MUZ, Standard B22 of *Clause 55.04-6* of the Scheme is a useful tool to establish unreasonable overlooking within the 9m radius and 45 degree arc of habitable room windows and terraces. The floor plans and overlooking sections (A300) clearly demonstrate the 9m overlooking radius as specified in *Clause 55* of the Scheme; with these diagrams confirming that there will be no direct line of sight provided from HRW or southern terraces of the proposed development.

271. The proposal incorporates 1.7m high 'translucent fluted glazing' to the southern and eastern perimeters of the terraces between Levels 1 and 2. As the transparency of this proposed material has not been identified on plan; i.e. 25% maximum transparency, there is potential for overlooking into the SPOS of No. 81 Leicester Street. Therefore, in order to limit unreasonable overlooking, a condition will require these south-facing terraces between Levels 1 and 2 to be provided with a maximum of 25% transparency.
272. Views from the north-facing windows and terraces at all levels will fall within the public realm; i.e. Westgarth Street, existing built form or front setbacks of dwellings to the north, east and west, and therefore screening is not required to these windows and balconies.
273. Similarly, views from the east-facing windows and terraces between Levels 1 to 5 (aside from the section of eastern terraces discussed earlier) will fall on commercial uses to the east.
274. Views from sections of any west-facing terraces and the central courtyard (non-habitable area) will fall within public realm (Westgarth Street or Fitzroy Street) and on existing built form of abutting warehouse/factory/office buildings to the west.

#### *Noise*

275. It is considered that the residential facet to the proposal is unlikely to result in unacceptable noise emissions to nearby properties given the nature of residential use generally not creating significant noise levels. Noise impacts from the proposed car-stacker, garage door, mechanical plant equipment on surrounding residential uses, as well as noise impacts from commercial uses to the proposed development on-site were already discussed earlier in the report.

#### *Wind*

276. A Wind Assessment was not undertaken as part of the proposal. This is acceptable, as the proposed height of the development is similar to that of other six-storey buildings found within the immediate area and the neighbouring buildings are between single to three-storeys in height. Wind impacts are of more concern when a proposed development is significantly higher than surrounding built form.
277. Nonetheless, the setbacks above the triple-storey podium will provide a degree of articulation which would combat wind impacts by removing sheer walls to all facades. Landscaping and balustrades surrounding the terrace will also alleviate unreasonable wind impacts within these space.

#### *Equitable development*

278. To ensure the 'fair, orderly, economic and sustainable development of land' in accordance with the objective of the Act, matters of equitable development must be considered. The Scheme aims to facilitate equitable development opportunities for neighbouring properties within the context of the site's location and that of adjoining properties. In this instance, the site has direct abuttal with three properties; the first being the double-storey, commercial building to the west (Nos. 70 – 76 Westgarth Street), the second being the single-storey commercial building to the south-west (No. 71 Leicester Street) and the double-storey dwelling to the south-east (No. 81 Leicester Street).
279. Given the 'individually-significant' status of the building to the south-east, it is unlikely that any development beyond two to three-storeys will occur in the future at No. 81 Leicester Street. Furthermore, given the alternate easterly outlook afforded to some of the proposed apartments, including the substantial setbacks proposed from the southern boundary; future developments to the south-west and south-east can occur without impeding the internal amenity of the dwellings within the proposed development.

Therefore, the equitable development opportunities of the southern sites are not impeded by the design of this development.

280. The direct abuttal of the proposed, six-storey western wall with the commercial building to the west would allow a degree of built form to be constructed directly along this boundary, without inhibiting the internal amenity of any dwellings within the proposed development. However, any future developments to the western site will need to give consideration to the proposed centrally located courtyards on-site. Nonetheless, this central courtyard is associated with the communal corridors at all levels and not off main living areas.
281. Westgarth Street provides a good degree of separation from any further higher development to the north, with the eastern ROW also allowing outlook and daylight to be maintained to the east-facing dwellings.
282. As a result of the above, it is considered that the proposal does not unduly compromise or prejudice the future development potential of adjoining properties.

#### Parking layout, traffic and bicycle parking

##### *Car parking*

283. Under the *Clause 52.06-5* of the Yarra Planning Scheme, the development's parking requirements are as follows:

Proposed Use	Quantity/ Size	Statutory Parking Rate	No. of Spaces Required	No. of Spaces On-site	Reduction Required
1 & 2 x bedroom dwellings	15	1 space per dwelling	15	15	0
3 x bedroom dwelling	5	2 spaces per dwelling	10	7	0
<b>Total</b>			<b>25</b>	<b>22</b>	<b>3</b>

284. Based on the table above, the development meets the majority of the statutory car parking rate associated with the apartment, with a parking shortfall of 3 resident car parking spaces. Before a requirement for car parking is reduced, the applicant must satisfy the Responsible Authority that the provision of car parking is justified having regard to the assessment requirements of *Clause 52.06-6*.

##### *Availability of Car Parking*

285. The subject site is located within an area containing predominantly time-restricted car parking, with periods ranging from ¼ hour to 2 hours. A large proportion of parking is restricted to 1 to 2 hours, extending along both sides of Westgarth Street.
286. There are currently two car parking spaces provided along the Westgarth Street frontage of the site; these would not be impacted by the development as car parking on-site would be accessed via the eastern ROW. Instead, the crossover in front of the site would be made redundant as a result of providing vehicle access to the site from the side. Therefore, a condition will require this redundant crossover to be demolished and re-instated as standard footpath and kerb and channel. This will allow for existing on-street car parking in front of the subject site to increase from two to three.

287. The advertised Traffic Report, dated 30 April 2020 and prepared by O'Brien Traffic, sourced average car ownership data for the Fitzroy area from the 2016 ABS Census data. The data indicated that 2 bedroom apartment have an average car ownership of 0.8 cars per household and 3 bedroom apartments have an average of 1.1 cars per dwelling. The data also concluded that some 35% and 26% of 2 and 3 bedroom dwellings, respectively, do not own a car. Therefore, the census data suggests that there is a market demand for dwellings without any on-site parking, especially if located close to public transport nodes. Council's Traffic Engineering Unit considered these findings appropriate given the location of the subject site, which is in proximity to a number of public transport modes.

*Parking Demand for Dwelling Use*

288. Future residents would know up-front that the some of the apartments will have no car parking spaces provided on-site. Council Traffic Engineer Unit raised no concerns with the reduction in residential car parking as data indicates that car ownership is influenced by a number of factors and not limited to public transport access, proximity to employment and education centres, affordability issues, environmental concerns, and access to services. Given the location of the subject site; i.e. near two activity centres with access to public transport, combined with the area's coverage of 2P restrictions this would provide regular turnover of parking throughout the day.

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

289. The additional reduction in car parking being sought by the proposal is supported by the following:
- (a) The site is within walking distance from the Brunswick Street Activity Centre, as well as the Johnston Street Neighbourhood Activity Centre which consists of a number of retail, entertainment and commercial premises;
  - (b) Tram services operating along Brunswick Street (40m east), Nicholson Street (230m west) and Smith Street (560m east). The site also has access to bus services operating along Alexandra Parade (150m north) and Johnston Street (360m south);
  - (c) The site has good connectivity to the on-road bicycle network, with a generous amount of on-site bicycle parking spaces proposed;
  - (d) The lack of opportunities to park on-street in the surrounding area would be a disincentive for employees of the office to commute to work by car, with the short-term parking restrictions allowing employees to park for limited periods if necessary;
  - (e) The proposed development is considered to be in line with the objectives contained in Council's *Strategic Transport Statement*. The site is ideally located with regard to sustainable transport alternatives and the reduced provision of on-site car parking would potentially discourage private motor vehicle ownership and use; and
  - (f) A GoGet car share pod is located along Westgarth Street, some 20m east of the subject site.
290. The reduction in the car parking requirement associated with the dwelling use is considered appropriate in the context of the development and the surrounding area.

*Car park access and layout*

291. As discussed earlier in the report (under Clause 58), the proposed car parking layout and access shown on the S57A plans and amended Traffic Report were assessed by Council's Traffic Engineering Unit, who confirmed that the width of the garage entrance and the headroom clearance are satisfactory and met all relevant standards and guidelines. The dimensions of the car parks and garage were also found to be suitable.

292. Swept path diagrams were submitted, which demonstrated that entering and exiting the garages is satisfactory for the B85 design vehicle. As all of the car parking spaces are allocated to the dwellings, users of the car parks will become accustomed to the manoeuvres required to access these spaces.
293. As stated earlier in the report, the submitted S57A plans were supported by Council's Traffic Engineering Unit, with no additional conditions.

#### *Bicycle parking*

294. The revised proposal under a S57A of the Act generates a demand of 6 statutory spaces, and provides a total of 30 spaces, thereby exceeding the requirement outlined at *Clause 52.34* of the Scheme. There would be 14 horizontal and 14 wall-mounted resident bicycle parking spaces for the apartments in an internal bike store, within the basement level and accessed from the communal pedestrian entrance. The provision of horizontal bicycle spaces accords with the requirements of AS2890.3-2015, with Clause 2.1(e) of this Standard noting that a minimum of 20% of the bicycle spaces must be provided in the form of horizontal rails. Council's Strategic Transport Unit have confirmed that *resident bicycle spaces and access ways appear to be in accordance with the clearance requirements of AS2890.3*.
295. The revised (S57A) proposal incorporates 2 visitor bicycle spaces located behind the lobby wall of the building (adjacent to the entrance to the car park). Council's Strategic Transport Unit found that *bicycles parked at this location could create an obstruction for people using the adjacent corridor* as the standard bicycle envelope is 1.8m but an envelope of only 1.5m is provided. Furthermore, the required aisle width of 1.5m is also not provided. Given the development is providing an additional 8 resident bicycle spaces above the best practice recommendation of 20 resident spaces, it has been recommended by Council's Strategic Transport Unit to delete the visitor bicycle hoops from this location. This will be required by way of condition. As a result, this would now create a trigger for a reduction in the visitor bicycle parking. However, this reduction of 2 visitor bicycle spaces is considered appropriate as set out above, and the reduction will be captured within the permit preamble.
296. Council's BESS guidelines encourage the use of fuel efficient and electric vehicles (EV). Council's Strategic Transport Unit, whilst supportive of the two EV-charging units within the car park, recommended that they be electronically wired. However, given that the proposal incorporates a car stacker, this is not plausible and as such will not be required by way of condition.

#### *Traffic*

297. Given the allocation of all on-site car parking spaces to most of the dwellings, any traffic generated by the site will be restricted to 3 apartments. With only 20 dwellings proposed in total, the level of traffic that would be generated is unlikely to have a discernible impact upon traffic levels along Westgarth Street and surrounding road networks.
298. The primary use of the eastern ROW is currently to access garages. Therefore, the increased use of the eastern ROW by vehicle traffic is considered reasonable, with this outcome supported Council's Traffic Engineers.

#### Special Building Overlay

299. The site is included in the SBO. In instances where development applications are included in the SBO area, Council relies on advice of the relevant floodplain management authority (Melbourne Water) with regard to flooding.

300. In response to Melbourne Water's objection to the advertised plans, the applicant lodged amended plans under S57A of the Act, revising the floor levels. Melbourne Water reviewed the amended plans and confirmed that the plans are in compliance with the minimum finished floor level requirements subject to conditions. These will be included as conditions.

Objector concerns

301. The objector concerns are outlined and discussed below:

- (a) *Design and overdevelopment (height, scale, bulk, site coverage and permeability).*

Matters relating to height, scale and bulk are discussed at paragraphs 138 to 145 and 147 to 161. Site coverage and permeability are discussed in paragraph 180.

- (b) *Heritage impacts*

Heritage have been discussed in paragraphs 137 to 161 and 172 to 179.

- (c) *On-site amenity (poor apartment layouts and internal amenity);*

On-site amenity of the apartments have been discussed in paragraphs 190 to 253.

- (d) *Off-site amenity (visual bulk, daylight/solar access to north-facing windows, overshadowing, overlooking);*

Visual bulk is discussed in paragraph 257 to 262. Daylight/Solar access to north-facing windows have been discussed in paragraph 263. Overshadowing and overlooking have been discussed in paragraphs 264 to 268 and paragraphs 269 to 274 respectively.

- (e) *Car parking, traffic impacts and pedestrian safety;*

Car parking, traffic impacts and pedestrian safety have been discussed in paragraphs 283 to 293 and also within relevant sections of the Clause 58 assessment at paragraphs 212 to 218. Council's Traffic Engineering Unit have deemed the eastern ROW to have sufficient width and capacity to service vehicles associated with the new dwellings.

- (f) *Issues during construction (noise, traffic);*

This will be managed by via a conditional requirement for a Construction Management Plan (CMP), to be approved by Council's Construction Management Unit.

- (g) *Impacts to mental, physical health and wellbeing of surrounding residents and local ecosystems;*

The proposed development is located on a site which was previously used as a warehouse, with full site coverage. There are no existing trees proposed to be removed, with the existing trees on the Westgarth Street footpath proposed to be protected during construction. Therefore, there is no impact on the local ecosystem. As discussed earlier in the report, the proposed development has been lowered in height and increased in setback appropriately in order to reduce any off-site amenity impacts to neighbouring lots. Any noise, traffic and pollution to occur during the construction phase will be managed by the CMP.

- (h) *Council prioritizing developer interest; and*

Each application Council receives is assessed independently on its merits using relevant policy.

(i) *Reduced property values.*

VCAT has consistently found that property values are speculative and not a planning consideration. Fluctuations in property prices are not a relevant consideration when assessing an application under the provisions of the *Planning & Environment Act* (1987), nor the Yarra Planning Scheme.

## Conclusion

Based on the report, the proposal is considered to comply with the relevant policies of the Yarra Planning Scheme and is recommended for approval, subject to conditions.

## RECOMMENDATION

That having considered all relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant a Planning Permit PLN19/0922 full demolition of the existing building and construction of a six (6) storey building containing dwellings (no permit required for use), and associated reduction in statutory bicycle and car parking requirements at No. 82 Westgarth Street Fitzroy VIC 3065, subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans prepared by Walter & Walter Architects, dated 19.10.2019 (A015, A016, A017), dated 14.09.2020 (A100), date 02.11.2020 (A101), dated 14.09.2020 (A102, A103), dated 19.10.2020 (A104, A105, A106, A107), dated 14.09.2020 (A109, A110, A111, A112, A113, A114), dated 19.10.2020 (A200, 202), dated 12.11.2020 (A201, A203), dated 14.09.2020 (A210, A300a and A301) but modified to show the following:
  - (a) Existing vehicle crossover on Westgarth Street shown on ground floor plans demonstrating that it will be removed and replaced with footpath, kerb and channel;
  - (b) The materiality of the proposed communal pedestrian entrance associated with the apartments to be clarified – to include lighting/property identification to the street;
  - (c) Elevation/details of the 'bench' proposed to the communal pedestrian entrance ensuring a safe space is maintained to the entry (or the bench deleted);
  - (d) Details/cross-section (and samples) of the screening provided to the terraces of townhouses 1 and 2 demonstrating visually permeable materials and connection to the street;
  - (e) Wall-mounted sensor lighting to be provided to all pedestrian entrances;
  - (f) Secondary pedestrian entrance fronting the eastern ROW to open within the title boundaries of the subject site, with external lighting provided to this entry and be slightly recessed;
  - (g) The location of the 4 small cars to be identified on the development plans;
  - (h) All terraces and bedrooms screened to comply with the objective of Standard D15 (Internal views objective) at Clause 58 of the Yarra Planning Scheme;
  - (i) South-facing terraces at Level 1 and 2 to be provided with a maximum 25% transparency to the 'translucent fluted glazing';
  - (j) The on-site visitor bicycle spaces deleted;
  - (k) Design changes to implement recommendations of the Sustainable Management Plan Condition No. 3 of this permit;
  - (l) Design changes to implement recommendations of the Daylight Modelling Plan Condition No. 5 of this permit;
  - (m) Design changes to implement recommendations of the Acoustic Report Condition No. 7 of this permit; and

- (n) Design changes to implement recommendations of the Landscape Plan Condition No. 10 of this permit.
- 2. The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
  - (a) In conjunction with the submission of development plans under Condition 1, a Façade Strategy and Materials and Finishes Plan to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. When approved, the Façade Strategy and Materials and Finishes Plan will be endorsed and will then form part of this permit. This must detail:
    - (i) elevation drawings at a scale of 1:20 illustrating typical podium details, entries and doors, and utilities, including detailed design of the western elevation; and
    - (ii) a sample board and coloured drawings outlining colours, materials and finishes.

### **Sustainable Management Plan**

- 3. Before the plans are endorsed, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Sustainable Management Plan will be endorsed and will form part of this permit. The Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by Sustainable Development Consultants and dated October 2020, but modified to include the following:
  - (a) All design changes required under Condition 1 of this permit.
  - (b) Number of bicycle spaces on-site to match the development plans.
- 4. The provisions, recommendation and requirements of the plans and endorsed Sustainable Development Assessment must be implemented and complied with to the satisfaction of the Responsible Authority.

### **Daylight Modelling Report**

- 5. Concurrently with the endorsement of condition 1 plans, an amended Daylight Modelling Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Daylight Modelling Report will be endorsed and will form part of this permit. The Daylight Modelling Report must be generally in accordance with the Daylight Modelling Report prepared by Sustainable Development Consultants and dated May 2020, but modified to include the following:
  - (a) All design changes made under the revised S57A plans, received by Council on 12.11.2020.
  - (b) Apartments 101, 103, 104, 204, 205, 303, 304 and 403 amended to either:
  - (c) Increase in the size of glazing (vertical or horizontal); or
    - (i) Improve / maximise the VLT of glazing; or
    - (ii) Improve / maximise the reflectivity of surrounding surfaces, such as white bricks on lower levels of internal courtyard/light-well.

### **Waste Management Plan**

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

## Acoustic Report

7. Before the development commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Octave Acoustics and dated 21 September 2020, but modified to include;
  - (a) Noise Masking:
    - (i) The octave band Leq of the noise masking is not to exceed the octave bands L90 levels by more than 5 dB;
    - (ii) A post construction acoustic report to be prepared demonstrating that the masking levels meet the requirements of this acoustic planning report;
    - (iii) A statement requiring future owners and tenants to be notified of the fact that the project proceeds on the assumption that music noise is assessable to indoor locations only, and that compliance with SEPP N-2 in bedrooms is to be met with the noise masking system operating;
  - (b) Glamorama Bar operations on Saturday 21 March 2020:
    - (i) Confirmation be provided that the bar was operating as usual on this night;
  - (c) Largo Butchers mechanical plant noise:
    - (i) Comment on the noise character of emissions from Largo Butchers mechanical plant, so that it can be determined whether any SEPP N-1 corrections for tonality, impulsiveness, duration or intermittency are appropriate.
    - (ii) A statement requiring future owners and tenants to be notified of the fact that mechanical plant noise from Largo Butchers may be assessable to indoor locations only (pending the outcome of negotiations between the developer and the business).
8. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
9. Before the building is occupied, an Acoustic Report to the satisfaction of the Responsible Authority must be prepared by a suitably qualified acoustic engineer and must be submitted to and approved by the Responsible Authority. When approved, the Acoustic Report will be endorsed and will form part of this permit. The Acoustic Report must demonstrate the following:
  - (a) The masking system is adequate and meets the requirements of the acoustic report.

## Landscape Plan

10. Before the development commences, a Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Landscape Plan will be endorsed and will form part of this permit. The Landscape Plan must:
  - (a) Include all design changes made under the revised S57A plans, received by Council on 12.11.2020;
  - (b) Delete Lagerstroemia 'Natchez' from the internal courtyard;
  - (c) Provide a plant schedule and planting plan with the following information including:
    - (i) show the type, location, quantity, height at maturity and botanical names of all proposed plants;
    - (ii) a legend containing key features, materials and surfaces;
    - (iii) soil media and the dimensions for the planters;
    - (iv) information on irrigation and drainage systems;

- (v) maintenance schedule, tasks and duration;
- (vi) Load bearing weights for the building to be checked and confirmed by a suitably qualified structural engineer against the saturated bulk density of soil media, planter box and plant mass proposed.

to the satisfaction of the Responsible Authority.

11. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:
  - (a) implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
  - (b) not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
  - (c) replacing any dead, diseased, dying or damaged plants,

to the satisfaction of the Responsible Authority.

### **Tree Management Plan**

12. Before the development commences, a Tree Management Plan to the satisfaction of the Responsible Authority must be prepared by a suitably qualified Arborist and must be submitted to and approved by the Responsible Authority. When approved the Tree Management Plan will be endorsed and will form part of this permit. The Tree Management Plan must make recommendations for the protection of the tree on the Westgarth Street footpath, including:
  - (a) pre-construction;
  - (b) during construction; and
  - (c) post construction
  - (d) the provision of any barriers;
  - (e) any pruning necessary; and
  - (f) watering and maintenance regimes,

to the satisfaction of the Responsible Authority.

13. The provisions, recommendations and requirements of the endorsed Tree Management Plan must be complied with and implemented to the satisfaction of the Responsible Authority.
14. The use and development must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
15. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
16. Before the building is occupied, any wall located on a boundary facing public property must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.
17. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.

18. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority.
19. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all external lighting capable of illuminating access to the pedestrian entries and car parking area must be provided. Lighting must be:
  - (a) located;
  - (b) directed;
  - (c) shielded; and
  - (d) of limited intensity.to the satisfaction of the Responsible Authority.
20. The area set aside for the parking of vehicles, together with the associated access lanes as delineated on the endorsed plan must:
  - (a) be designed, provided and completed to the satisfaction of the Responsible Authority;
  - (b) thereafter be maintained to the satisfaction of the Responsible Authority;
  - (c) be made available for such use at all times and not used for any other purpose;
  - (d) be properly formed to such levels that it can be used in accordance with the endorsed plan; and
  - (e) be drained and sealed with an all-weather seal coat;all to the satisfaction of the Responsible Authority.
21. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the car stackers must be installed in accordance with the manufacturer's specifications by a suitably qualified person. The car stackers must be maintained thereafter to the satisfaction of the Responsible Authority.
22. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the redundant vehicular crossing on Westgarth Street must be demolished and re-instated as standard footpath and kerb and channel:
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
23. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the footpath along the property's Westgarth Street frontage must be stripped and re-sheeted with a cross-fall of 1:40 or unless otherwise specified by Council;
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
24. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the half width road pavement of Westgarth Street (in between the south kerb to the centre of the road) must be profiled (grinded). Any isolated areas of pavement failure must be reinstated with full-depth asphalt. All road markings are to be reinstated following the completion of the re-sheet works. The road hump in Westgarth Street must remain intact;
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.

25. Prior to the completion of the development, subject to the relevant authority's consent, the relocation of any service poles, street line markings, car parking sensors, service structures, fire hydrants or service pits necessary to facilitate the development must be undertaken:
- (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
26. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated (including the full re-sheeting of the footpath at the front of the property if required by Council):
- (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.

Melbourne Water Conditions (27 -31)

27. Prior to the endorsement of plans, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Plans must be submitted with surface and floor levels to Australian Height Datum (AHD) and must be modified to show:
- (a) The finished floor levels of the services area set no lower than 23.80 metres to AHD or as otherwise agreed in writing with the relevant utility providers.
  - (b) The ground floor including entrances to the lifts/stairs (excluding minimum transition areas, car stackers and any approved services areas) must be set no lower than 24.10 metres to AHD, which is 300mm above the applicable flood level of 23.80 metres to AHD.
  - (c) The services areas (including but not limited to electrical, water, fire etc.) must be set no lower than 23.80 metres to AHD, or as otherwise agreed in writing with the relevant utility providers.
  - (d) The car stacker must be constructed with finished floor levels set no lower than 23.80 metres to AHD, which is at the applicable flood level.
  - (e) Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed) reduced to the AHD, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.
28. Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:
- (a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
  - (b) works necessary to protect road and other infrastructure;
  - (c) remediation of any damage to road and other infrastructure;
  - (d) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land,
  - (e) facilities for vehicle washing, which must be located on the land;
  - (f) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
  - (g) site security;
  - (h) management of any environmental hazards including, but not limited to:
    - (i) contaminated soil;

- (ii) materials and waste;
- (iii) dust;
- (iv) stormwater contamination from run-off and wash-waters;
- (v) sediment from the land on roads;
- (vi) washing of concrete trucks and other vehicles and machinery; and
- (vii) spillage from refuelling cranes and other vehicles and machinery;
- (i) the construction program;
- (j) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
- (k) parking facilities for construction workers;
- (l) measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;
- (m) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
- (n) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced;
- (o) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads;

If required, the Construction Management Plan may be approved in stages. Construction of each stage must not commence until a Construction Management Plan has been endorsed for that stage, to the satisfaction of the Responsible Authority.

29. During the construction:

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

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

31. The development, once commenced, must be completed to the satisfaction of the Responsible Authority.

32. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:

- (a) Monday-Friday (excluding public holidays) before 7 am or after 6 pm;
- (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm;
- (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

33. This permit will expire if:

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

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

**Notes:**

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5555 to confirm.

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

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

Provision must be made for drainage of the site to a legal point of discharge. Please contact Council's Building Services on 9205 5555 for further information.

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

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

The removal of any kerbside parking sensors and any reinstatement of parking sensors will require the Permit Holder to pay Council the cost of each parking sensor taken out from the kerb/footpath/roadway. Any costs associated with the reinstatement of road infrastructure due to the removal of the parking sensors must also be borne by the Permit Holder.

No pipes, ducting or protrusions from the ceiling or walls are to be installed above or within the space clearance envelopes for the car stacker devices.

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

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

The applicant must liaise with Council's open space unit for the protection of the street trees in the vicinity of the site.

Melbourne Water Note: This property is subject to flooding from the Alexandra Parade Main Drain when the capacity of the drainage system is exceeded. The applicable flood level for the proposed development for a storm event with a 1% chance of occurrence in any given year is 23.80 metres to AHD.

## Attachments

- 1 PLN19/0922 - 82 Westgarth Street Fitzroy - Site Location Plan
- 2 PLN19/0922 - 82 Westgarth Street Fitzroy - Advertised Plans
- 3 PLN19/0922 - 82 Westgarth Street Fitzroy - Traffic Engineering Comments (Advertised Plans)

- 4 PLN19/0922 - 82 Westgarth Street Fitzroy - Heritage Comments (Advertised Plans)
- 5 PLN19/0922 - 82 Westgarth Street Fitzroy - Internal Urban Design Comments (Advertised Plans)
- 6 PLN19/0922 - 82 Westgarth Street Fitzroy - ESD Comments (Advertised Plans)
- 7 PLN19/0922 - 82 Westgarth Street Fitzroy - Open Space Comments (Advertised Plans)
- 8 PLN19/0922 - 82 Westgarth Street Fitzroy - Waste Management Comments (Advertised Plans)
- 9 PLN19/0922 - 82 Westgarth Street Fitzroy - Arborist Comments (Advertised Plans)
- 10 PLN19/0922 - 82 Westgarth Street Fitzroy - External Urban Design Comments (Advertised Plans)
- 11 PLN19/0922 - 82 Westgarth Street Fitzroy - External Acoustic Comments (Advertised Plans)
- 12 PLN19/0922 - 82 Westgarth Street Fitzroy - External Melbourne Water Comments (Advertised Plans)
- 13 PLN19/0922 - 82 Westgarth Street Fitzroy - Strategic Transport Comments (Advertised Plans)
- 14 PLN19/0922 - 82 Westgarth Street Fitzroy - S57A Plans (Decision Plans)
- 15 PLN19/0922 - 82 Westgarth Street Fitzroy - Traffic Engineering Comments (S57A Plans)
- 16 PLN19/0922 - 82 Westgarth Street Fitzroy - Heritage Comments (S57A Plans)
- 17 PLN19/0922 - 82 Westgarth Street Fitzroy - ESD Comments (S57A Plans)
- 18 PLN19/0922 - 82 Westgarth Street Fitzroy - Waste Management Comments (S57A Plans)
- 19 PLN19/0922 - 82 Westgarth Street Fitzroy - Strategic Transport Planning Comments (S57A Plans)
- 20 PLN19/0922 - 82 Westgarth Street Fitzroy - External Urban Design Comments (S57A Plans)
- 21 PLN19/0922 - 82 Westgarth Street Fitzroy - External Acoustic Comments (S57A Plans)
- 22 PLN19/0922 - 82 Westgarth Street Fitzroy - External Melbourne Water Comments (S57A Plans)

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**6.2 PLN11/0380.02 - 41 - 43 Stewart Street Richmond - Section 72 Amendment to Planning Permit PLN11/0380 to increase operating hours to include Saturday and Sunday from 8.00am to 7.00pm.**

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## **Executive Summary**

### **Purpose**

1. This report provides an assessment of the proposed amendment to Planning Permit PLN11/0380 which seeks to extend the operating hours of the office use to include Saturday and Sunday from 8:00am to 7:00pm.

### **Key Planning Considerations**

2. Key planning considerations include:
  - (a) clause 13.05-1S – Noise Abatement;
  - (b) clause 21.04 – Land Use; and
  - (c) clause 22.05 – Interface Uses Policy.

### **Key Issues**

3. The key issues for Council in considering the proposal relate to:
  - (a) Policy and strategic support;
  - (b) Off-site amenity impact assessment of proposed increase of hours; and
  - (c) Objector concerns.

### **Submissions Received**

4. Twenty-eight objections were received to the application, these can be summarised as:
  - (a) Noise (music, alcohol/social related activities, renovation works after hours, open windows)
  - (b) Lack of adherence to existing permit conditions (operating hours, noise)
  - (c) Operating hours
  - (d) Light spill
  - (e) Pollution (cigarette smoke, discarded cigarette butts and beer cans)
  - (f) Privacy screens not maintained causing overlooking issues; and
  - (g) Reduced on-street car parking availability.

### **Conclusion**

5. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported subject to the following key recommendation:
  - (a) Before the increase in operating hours permitted under this amended permit commences, an amended Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Management Plan will be endorsed and will form part of this permit. The amended Management Plan must be generally in accordance with the Management Plan submitted on 2 October 2020, but modified to include/address:
    - (i) Operating hours in accordance condition 2 of this permit;
    - (ii) Security and site management procedures (including appropriately limiting access to the building and external site areas during sensitive hours);

- (iii) Induction procedure for all new members when commencing, addressing the following matters:
  - Noise management;
  - Litter and waste management;
- (iv) The contact details of a site manager for surrounding properties to contact with any complaint or concerns. The contact person must be made available between the following hours:
  - Monday to Thursday      7:00am – 9:30pm
  - Friday                      7:00am – 11:30pm
  - Saturday and Sunday      8:00am – 7:00pm.

**CONTACT OFFICER:**    **Konrad Bruhn**  
**TITLE:**                    **Senior Statutory Planner**  
**TEL:**

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**6.2                      PLN11/0380.02 - 41 - 43 Stewart Street Richmond - Section 72 Amendment to Planning Permit PLN11/0380 to increase operating hours to include Saturday and Sunday from 8.00am to 7.00pm.**

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**Reference**                      D20/159156  
**Author**                         Konrad Bruhn - Senior Statutory Planner  
**Authoriser**                    Senior Coordinator Statutory Planning

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**Ward:**                              Melba  
**Proposal:**                        Section 72 Amendment to Planning Permit PLN11/0380 to increase operating hours to include Saturday and Sunday from 8.00am to 7.00pm.  
**Existing use:**                    Office  
**Applicant:**                      Yianni Tsilivarakos  
**Zoning / Overlays:**           Mixed Use Zone  
     Heritage Overlay – Schedule 332; Environmental Audit Overlay  
**Date of Application:**           20 November 2019  
**Application Number:**        PLN11/0380.02

**Planning History**

1. The building on site contains 4 storeys (including ground floor level) with varying permits controlling their different uses. This application is only related to the northern tenancy of level 1 with the relevant planning history included below.  
Level 1 – northern tenancy (subject site)
  2. Planning Permit PLN11/0380 was issued on 27 September 2011. The permit allows the use of the first floor as an office (northern tenancy) and waiver of the associated car parking requirement. The use of an office has commenced on site.  
 (a) Amended Planning Permit PLN11/0380 was issued on 17 May 2019, allowing an increase in operating hours from Monday to Friday: 8.00 to 6.00pm - to Monday to Friday: 8:00am to 9:30pm and increase number of staff from 10 to a maximum of 45.
  3. For completeness, the planning history of the other tenancies within the building are also provided below.  
Level 1 – southern tenancy
  4. Planning Permit PLN12/0233 was issued on 14 September 2012. The permit allows the use Level 1 (southern tenancy) as an office and a reduction of the car parking requirements. The use may operate between 8:00am and 9:30pm (Monday to Friday).  
Level 2
  5. Planning Permit PLN12/0013 was issued on 28 June 2012. The permit allows the use of Level 2 as an office and a waiver of the associated car parking requirement.  
 (a) Amended Planning Permit PLN12/0013 was issued on 20 February 2015, allowing an increase in operating hours of the existing office from 8am - 6pm, Monday to Friday, to 7am -9.30pm, Monday to Thursday and 7am - 11.30pm, Friday.  
Level 3
  6. Planning Permit PLN10/1004 was issued on 26 May 2011. The permit allows the use of the third level (top floor) as an office. The use may operate between 9:00am and 6:00pm (Monday to Friday).
-

- (a) Amended Permit PLN10/1004.01 was issued on 2 November 2011, allowing an increase in the number of persons allowed on site from 15 to 36 at any one time.

General (to the whole building)

7. Planning Permit PL06/0648 was issued on 23 August 2006 for use of the site as a Temporary Music Academy. The permit required the use to cease on 31 October 2006. It is understood that the use ceased upon expiration of the permit.
8. Planning Permit SP08/0030 was issued for the removal of carriageway easement on 11/07/2008. The carriageway easement ran north/south along the eastern boundary of the site.
9. Certification reference SC08/0035 was certified on 11/07/2008 for the removal of the easement.
10. Planning Permit PL10/0459 was issued on 6 September 2010. The permit allows the development of the land for part demolition, and retrospective approval for a gate on the northern boundary and the construction of a new gate on the eastern boundary (each in the north-east corner of the site).
11. Planning application PLN11/0353 was issued on 15 August 2011. The permit allows retrospective approval for buildings and works including part demolition, for the installation of air conditioning units on the roof of the building, and relocation of one air vent.
12. Planning Permit PLN12/0261 was issued on 31 January 2013. The permit allows the development of the land for the replacement of obscure glass with clear glass along the southern and western façade of the building and opaque and clear glass on the eastern façade (including partial demolition).
13. Planning Permit PLN12/0617 was issued on 12 October 2012. The permit allows the development of the land for part demolition and construction of works associated with the relocation of an existing loading dock.
14. Planning Permit PLN13/0274 allows the development of the land for works to install two air conditioning units to the roof of the existing building.
15. Planning Permit PLN19/0584 was issued on 4 October 2019. The permit allows part demolition associated with the replacement of a side gate.

**Background**

Lodgment of S57A plans

16. The permit applicant submitted a revised proposal to Council under Section 57(a) of the *Planning and Environment Act (1987)* (the “Act”) on 30 June 2020 in response to concerns raised by Council’s Planning Officer and objectors. The Section 57(a) documents included the following changes:
  - (a) Limiting the increased operating hours to Saturday - Sunday 8.00am to 7.00pm (only), with no changes to the existing weekday hours.
17. The amended proposal was not re-advertised, however the documents were circulated to the objectors along with their PDC invites.

**The Proposal**

18. Condition 2 of Planning Permit PLN11/0380 currently limits operating hours as follows:

*The office may only operate between 8.00am and 9.30pm Monday-Friday, unless with the prior written consent of the Responsible Authority.*
19. It is proposed to increase the operating hours to include Saturday and Sunday from 8:00am to 7:00pm.

**Existing Conditions**

Subject Site

20. The subject site is located on the northern side of Stewart Street, approximately 75m east of its intersection with Margaret Street in Richmond. The subject site is an irregular shape and has a 29.62m wide frontage to Stewart Street, a depth of 46.90m, and a total area of 1333m<sup>2</sup>.
21. The subject site is described on title as Lot 2 on Plan of Subdivision 050194. There are no restrictive covenants registered on title.
22. The subject site is developed with the former Australian Knitting Mill, which is a four storey building with redbrick cladding, constructed in the inter-war period. The building is generally construct to all title boundaries, however it is setback approximately 7m from the eastern side boundary which serves as a carriageway easement that provides vehicle access to surrounding properties.
23. The building at the subject site originally formed part of the greater Australian Knitting Mills complex, however it has been predominantly used as an office, with several planning permits having been issued for various tenancies within the building. No car parking is provided on-site.
24. Level 1 of the building is divided into two tenancies, with the northern tenancy being the subject of this application. The southern tenancy of level 1 (which is not part of this application) is also used as an office in accordance with Planning Permit PLN12/0233. Currently the both tenancies at level 1 are occupied by Inspire 9 (applicant for this amendment application) which is a co-working office environment. Inspire 9 offers full and part time memberships on a monthly fee basis.
25. Levels 2 and 3 are also used as offices in accordance with Planning Permits PLN12/0013 and PLN10/1004 respectively, however these tenancies are leased to other businesses and do not operate under the Inspire 9 co-working membership model. The manager of Inspire 9 (applicant of the subject application) has advised that while the tenancies at level 2 and 3 are leased to other businesses, they manage the entire building.
26. It is unclear how the ground floor tenancy(s) is currently used, although the officer report for the original planning permit application dated 22 August 2011 identified it as being used for textiles manufacturing.

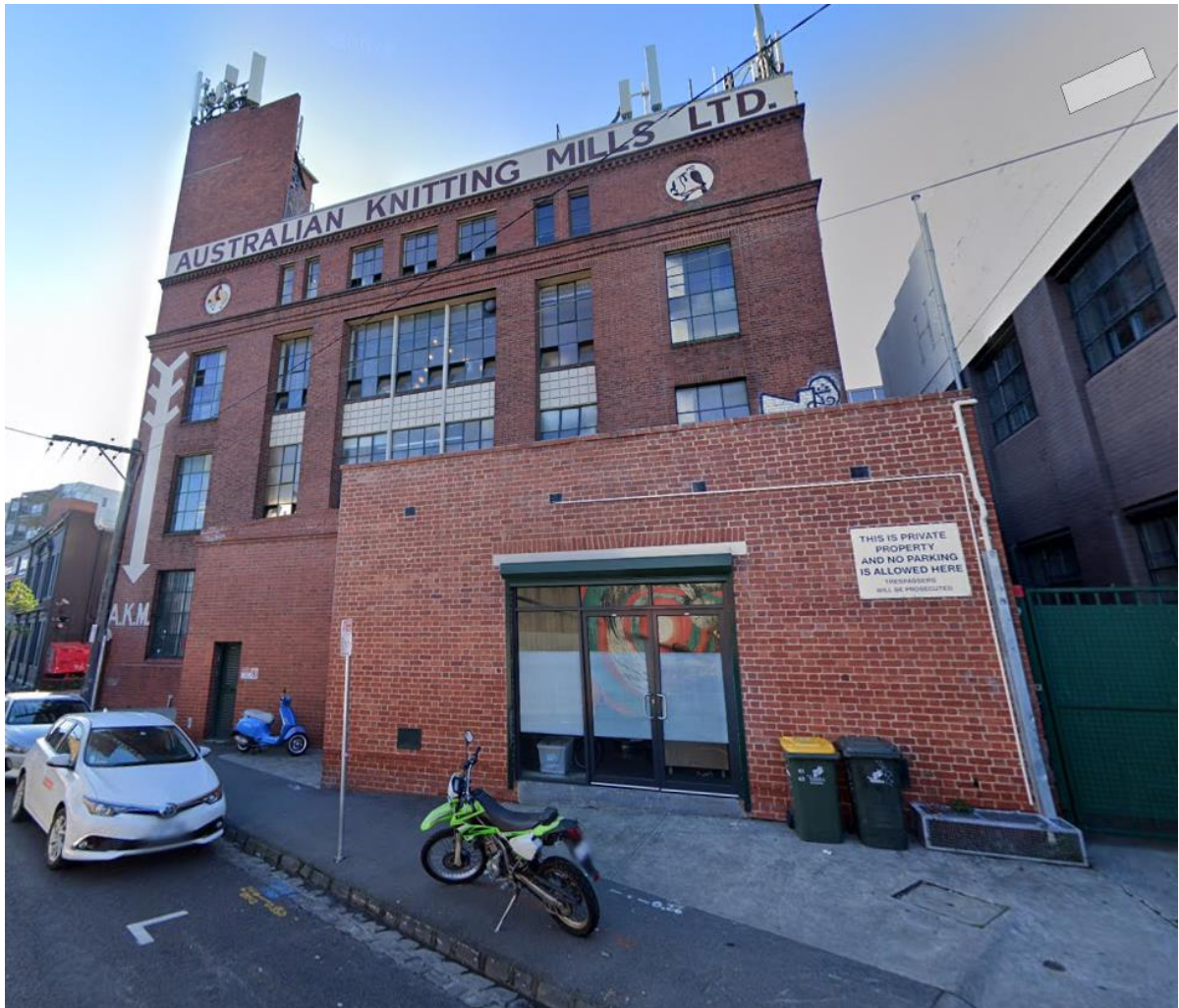


Figure 1: The subject site from Stewart Street (Source: Google Maps, June 2019).

#### Surrounding Land

27. The subject site is located at the northern the periphery of the Swan Street Activity centre at its Hoddle Street end. The subject site is located within a cluster of imposing former mill and industrial buildings which have been converted for a mixture of uses, but primarily for offices and apartment dwellings. Richmond Station and the railway bridges are located to the south of the subject site running parallel to Stewart Street.
28. To the west, the subject site adjoins No. 33 Stewart Street which is developed with double-storey, Victorian-era building. It appears that the building is currently used for retail and offices.
29. To the east, the subject site adjoins No. 49 Stewart Street & 16-24 Tennyson Street which are developed with a double storey industrial style building from the interwar period. The building has been converted and subdivided into individual lots which appear to be used for a mixture of residential and commercial purposes.
30. To the north, the subject site adjoins No. 24 Tanner Street which is developed with a four storey former knitting mill building which has been converted and subdivided into individual lots which appear to be primarily used for dwellings with some commercial uses.
31. The railway line and Richmond Station is located on the southern side of Stewart Street.

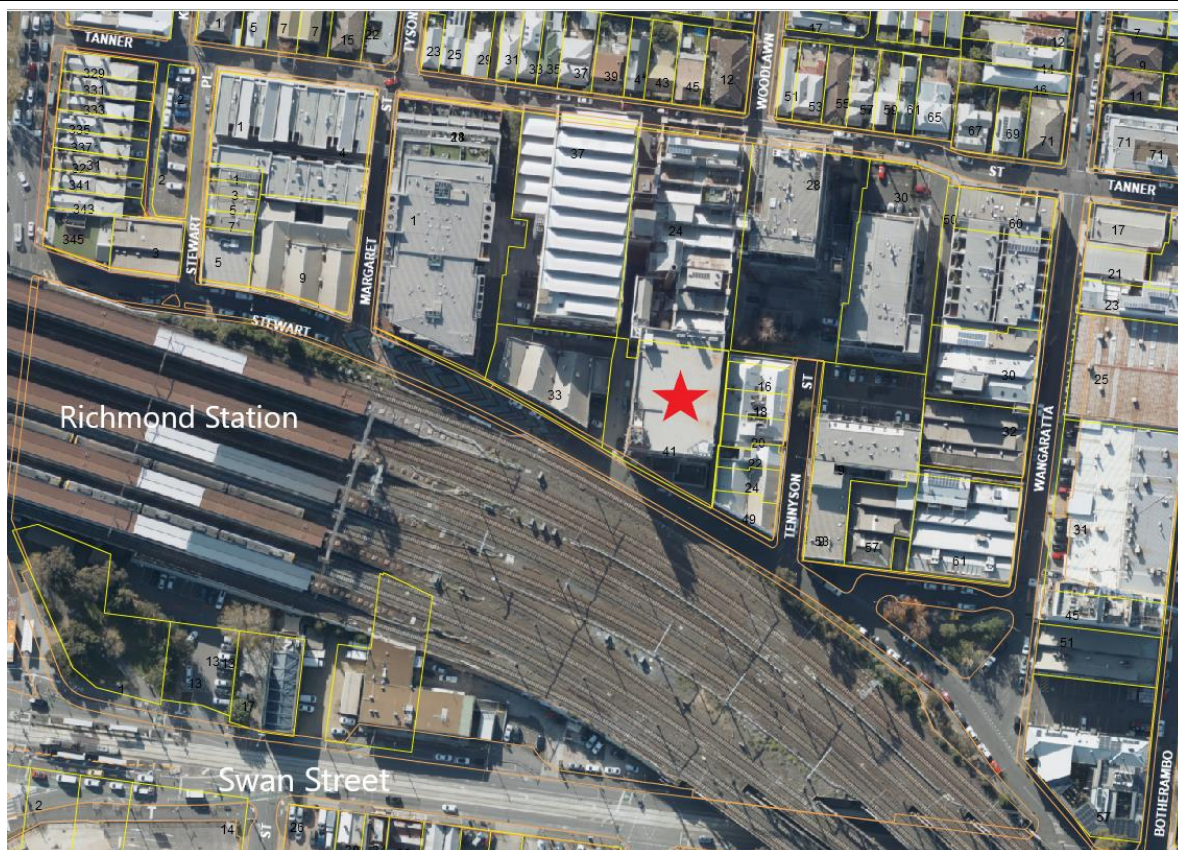


Figure 2: The subject site and surrounding land (Source: Yarra Council GIS, June 2020).

## Planning Scheme Provisions

### Zoning

32. The subject site is located within the Mixed Use Zone. The purpose of the Mixed Use Zone as relevant to this application is:
  - (a) To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.
33. Pursuant to Clause 32.04-2, a planning permit is required to use the land for an office because the leasable floor area exceeds 250m<sup>2</sup>. The subject tenancy has a leasable floor area of 367m<sup>2</sup>.

### Overlays

34. The subject site is located within the Heritage Overlay – Schedule 332. The application does not require a planning permit under the provisions of the Heritage Overlay as it does propose any demolition, building or works.
35. The subject site is also located within the Environmental Audit Overlay. The use of the land for an office is not a sensitive use, therefore the requirements at Clause 45.03-1 are not applicable to this application.

### Particular Provisions

#### *Clause 52.06 – Car Parking*

36. Clause 52.06-2 requires that before an existing use is increased by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use, the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay must be provided to the satisfaction of the responsible authority.
37. The car parking measure for the use of the land as an office specified at Clause 52.06-5 is 3 spaces to each 100m<sup>2</sup> of net floor area.

38. Given that the application does not propose to increase the net floor area of the office, no planning permit is required pursuant to Clause 52.06-3.

General Provisions

*Clause 65 – Decision Guidelines*

39. 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 offered in further in this report.

Planning Policy Framework (PPF)

40. *Clause 11.03-1S (Activity Centres)*

41. The relevant objectives of this clause include:

- (a) *To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community.*

*Clause 11.03-1R (Activity centres – Metropolitan Melbourne)*

42. Relevant strategies are:

- (a) *Support the development and growth of Metropolitan Activity Centres by ensuring they:*
- (i) *Are able to accommodate significant growth for a broad range of land uses.*
  - (ii) *Are supported with appropriate infrastructure.*
  - (iii) *Are hubs for public transport services.*
  - (iv) *Offer good connectivity for a regional catchment.*
  - (v) *Provide high levels of amenity*

*Clause 13.05-1S (Noise abatement)*

43. The relevant objective of this clause is:

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

44. Noise abatement issues are measured against relevant State Environmental Protection Policy (SEPP) and other Environmental Protection Authority (EPA) regulations.

*Clause 13.07 (Amenity and Safety)*

*Clause 13.07-1S (Land use compatibility)*

45. The objective of this clause is:

- (a) *To safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects.*

*Clause 17.01 – (Employment)*

*Clause 17.01-1S – (Diversified economy)*

46. The objective of this clause is:

- (a) *To strengthen and diversify the economy.*

47. The relevant strategies of this clause are:

- (a) *Protect and strengthen existing and planned employment areas and plan for new employment areas.*
- (b) *Facilitate growth in a range of employment sectors, including health, education, retail, tourism, knowledge industries and professional and technical services based on the emerging and existing strengths of each region.*
- (c) *Improve access to jobs closer to where people live.*

*Clause 17.02 – (Commercial)*

*Clause 17.02-1S – (Business)*

48. The relevant objective of this clause is:

- (a) *To encourage development that meets the communities' needs for retail, entertainment, office and other commercial services.*

49. The relevant strategies of this clause are:

- (a) *Plan for an adequate supply of commercial land in appropriate locations.*
- (b) *Ensure commercial facilities are aggregated and provide net community benefit in relation to their viability, accessibility and efficient use of infrastructure.*
- (c) *Locate commercial facilities in existing or planned activity centres.*

Local Planning Policy Framework (LPPF)

50. The relevant policies in the Municipal Strategic Statement can be described as follows:

*Municipal Strategic Statement (MSS)*

51. Relevant clauses are as follows:

*Clause 21.04-3 (Industry, office and commercial)*

52. The objective of this clause is:

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

53. The relevant strategy of this clause is to:

- (a) *Encourage residential and business land use within the Mixed Use Zone to locate on the same site.*

Relevant Local Policies

*Clause 22.05 – Interface Uses Policy*

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

55. It is policy that:

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

56. Relevantly, before deciding on an application for non-residential development, Council will consider as appropriate:

- (a) *The extent to which the proposed buildings or uses may cause overlooking, overshadowing, noise, fumes and air emissions, light spillage, waste management and other operational disturbances that may cause unreasonable detriment to the residential amenity of nearby residential properties.*

### **Advertising**

57. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by letters sent to surrounding owners and occupiers and by a sign displayed on site. Council received 28 objections, the grounds of which are summarised as follows):
- (a) Noise (music, alcohol/social related activities, renovation works after hours, open windows)
  - (b) Lack of adherence to existing permit conditions (operating hours, noise)
  - (c) Operating hours
  - (d) Light spill
  - (e) Pollution (cigarette smoke, discarded cigarette butts and beer cans)
  - (f) Privacy screens not maintained causing overlooking issues; and
  - (g) Reduced on-street car parking availability.
58. The amended application lodged pursuant to Section 57A of the Act proposes reduced operating hours, therefore it has not been re-advertised as the amended proposal would not cause material detriment to any person. The amended report has been sent to the objectors with the invitations to this PDC meeting for their reference.
59. No planning consultation meeting was held due to Covid-19 restrictions.

### **Referrals**

60. The application was not required to be referred to any internal departments or external referral authorities.

## **OFFICER ASSESSMENT**

61. This application seeks to amend Planning Permit PLN11/0380 pursuant to Section 72 of the Planning and Environment Act 1987. The current permit allows the use of the land for an office, with Condition 2 of the permit limiting the hours of operation to 8:00am to 9:30pm, Monday to Friday. The application seeks only to increase the hours of operation permitted under Condition 2 to include Saturday and Sunday from 8:00am to 7:00pm.
62. The ambit of Council's discretion in deciding the application is limited only to consideration of the proposed increase in operating hours.
63. The primary considerations for this application are as follows:
- (a) Policy and strategic support;
  - (b) Off-site amenity impact assessment of proposed increase of hours;
  - (c) Objector concerns.

### Policy and Strategic Support

64. The use of the subject land for an office is strongly supported by planning policies with both the state and local frameworks. The subject site is located within the Mixed Use Zone, the purpose of which is to provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality. The use of the land for an office is generally accepted to be compatible with dwellings in a mixed use context given the limited propensity to cause detrimental off-site amenity impacts such as noise and pollution.

65. Clause 21.04-3 also seeks to increase the number and diversity of employment opportunities, specifically identifying service industries as an area where opportunities have been created by declines in traditional manufacturing businesses. Furthermore, a strategy at Clause 21.04-3 is to encourage residential and business land use within the Mixed Use Zone to locate on the same site.
66. Whilst Saturday and Sunday from 8:00am to 7:00pm does not fall in line with ‘traditional’ business hours (i.e. 9:00am to 5:00pm) the proposed hours would provide the business occupying the tenancy with greater flexibility and adaptability to meet changing demands and needs of overseas clients (as an example). The proposed increase in operating is therefore consistent with the relevant state and local policies outlined above.

Off-site amenity impact assessment of proposed increase of hours

67. As noted in the ‘surrounding land’ section earlier in this report, there are dwellings located within the converted former mill buildings to the east and north of the subject site. Therefore Clause 22.05-6 requires that Council consider:
- (a) *The extent to which the proposed use may cause overlooking, overshadowing, noise, fumes and air emissions, light spillage, waste management and other operational disturbances that may cause unreasonable detriment to the residential amenity of nearby residential properties.*
68. The application does not propose any alterations or extensions to the existing building, therefore overlooking and overshadowing are not relevant considerations in this assessment.
69. The remaining matters are assessed in detail below:
- Noise*
70. It is proposed to increase the hours of operation to include Saturday and Sunday from 8:00am to 7:00pm. This assessment will therefore consider the impact of noise within this time frame.
71. Clause 73.03 of the Yarra Planning Scheme provides the following definition of an office:
- (a) *Land used for administration, or clerical, technical, professional or other business like activity. No goods or materials intended for manufacture, sale, or hire may be stored on the land. Other than electoral office and medical centre, it does not include any other defined use.*
72. The use of the land for an office should generate limited noise impacts to surrounding land, should the use operate in accordance with the definition in the Scheme.
73. Clause 13.05-1S stipulates that the relevant noise regulation policy reference is the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 (SEPP N-1).
74. Notably, this control defines day, evening and night periods as follows:

<b>Day</b>	0700–1800 Monday–Friday 0700–1300 Saturdays.
<b>Evening</b>	1800–2200 all days 1300–1800 Saturdays 0700–1800 Sundays and public holidays
<b>Night</b>	2200–0700

*Figure 3: Definition of day, evening and night periods in the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 (SEPP N-1).*

75. The additional operating hours fall within the ‘day’ period, which is the least sensitive time, and the ‘evening’ period. The additional hours do not fall within the ‘night’ period which is the most sensitive time.

76. Condition 6 of Planning Permit PLN11/0380 requires that *noise emissions must comply with the State Environment Protection Policy or any other standard recommended by the Environment Protection Authority*. This condition is also replicated on Planning Permits PLN12/0013 and PLN12/0233 which apply to levels 2 and level 1 (southern tenancy).
77. This condition ensures that the proposal remains consistent with the objective of Clause 13.05-1S (Noise Abatement) and is enforceable by Council's Planning Enforcement Unit. The inclusion of the day and evening periods of Saturday and Sunday is unlikely to contribute to the concerns with live music and alcohol consumption in any case.
78. There is otherwise limited guidance in the Scheme with regard to appropriate operation hours for an office in the Mixed Use Zone, however the VCAT decision *Alexander v Bayside CC [2007] VCAT 2300* affirms that in a Mixed Use zone, one cannot reasonably expect the same level of residential amenity capable of being enjoyed in a purely residential area:
- [32] *I have considered the implications of the Mixed Use zoning within which the review site and Mr Berenholtz's property are included. I accept Mr Tesdorpf's submission that in a Mixed Use zone, one cannot reasonably expect the same level of residential amenity capable of being enjoyed in a purely residential area. Similarly, although to a lesser extent, this argument also holds true for houses adjoining the laneway in Sarah Street and houses at the Bluff Road end of Eliza and Love Streets within a Residential 1 zone. I note for example that Council's Discretionary Uses Policy in Residential Areas only applies to all residential zones and but appears to exclude the Mixed Use Zone.*
79. Further Clause 22.01 (Discretionary Uses in the Residential 1 Zone) of the Yarra Planning Scheme, which similarly only applies to non-residential uses in the General and Neighbourhood Residential Zones, includes a policy limiting the operation of non-residential uses to between 8:00am to 8:00pm.
80. The acceptability of these hours in residential zones implies that they are also acceptable in the less sensitive Mixed Use Zone context in which a range of commercial uses are encouraged.
81. The impact of offices on adjacent residential land was considered in *Pertile v Yarra CC [2019] VCAT 851*, with Member Deidun acknowledging that flexible working hours are necessary to provide for an efficient workforce:
- [47] *For similar reasons, I also do not support a condition that seeks to restrict the hours in which an office use may operate from the review site. We all take part in an economy that is no longer based on the standard working hours, and I anticipate that increased flexibility in working hours is likely to be needed to provide an efficient workforce in the future.*
82. And whilst the subject proposal in this VCAT case was a different zoning context (IN3Z/NRZ1 interface), Member Deidun also acknowledged the limited impact of offices on residential land use:
- [48] *As was observed in the evidence of Ms Paul, the proposed office use on the review site is one of the most benign uses the residents could hope to expect within the Industrial 3 Zone. The only real off-site amenity impact arising from the proposed use of the land as an office on the adjacent residential area, is that arising from increased traffic. I anticipate that the extent of office workers that would choose or need to work outside of the common weekday daytime working hours would be a much lower proportion of the overall number of office workers to be accommodated on the review site....*

*...Given the proximity of the residential neighbourhood to an industrial precinct, a certain level of amenity impact from the businesses occurring within the precinct is to be anticipated and expected. I regard the extent of likely amenity impact to result from the absence of any control over the operating hours of this office building to be sufficiently low, and to represent an appropriate outcome for this interface location.*

83. Considering the relatively low propensity of offices to generate noise, and limited sensitivity of the proposed hours, it is not anticipated that the extended hours would cause any unreasonable noise impacts to surrounding properties, particularly in a Mixed Use Zone context.
84. Notwithstanding the above, it is acknowledged that there have been several complaints related to noise from employees drinking alcohol, playing amplified music and dispersing from the subject site late at night. These matters are also mentioned in the majority of objections to this application.
85. However, it should also be acknowledged that there are several concurrent planning permits to use different parts of the building at the subject site for an office. Notably:
  - (a) Planning Permit PLN12/0013 allows the office on level 2 of the building at the subject site to operate from 7:00am to 9:30pm (on Monday to Thursday) and 7:00am to 11:30pm (on Friday);
  - (b) Planning Permit PLN12/0233 allows the office in the southern tenancy of level 1 at the subject site to operate from 8:00am to 9:30pm (Monday to Friday);
86. It is therefore plausible that office employees leaving the premises between 9:30pm and 11:30pm on a Friday evening are permitted to do so under respective Planning Permits. However, this is a matter for Council's Planning Enforcement Unit to investigate separately.
87. Council's Planning Enforcement Unit has confirmed that there are no outstanding planning enforcement investigation affecting the subject site and it appears that there have been no complaints lodged in 2020, with the last complaint relating to an advertised public event having been lodged and resolved in December 2019.
88. Nonetheless, acknowledging the history of complaints for the overall subject site and the co-working environment of the subject tenancy, the applicant is agreeable to a condition requiring the preparation of an amended Management Plan which details:
  - (a) Security and site management procedures (including appropriately limiting access to the building and external site areas during sensitive hours)
  - (b) Induction procedure for all new members when commencing, addressing noise management
  - (c) The contact details of a site manager for surrounding properties to contact with any complaint or concerns.
89. The applicant has advised that while the tenancies at level 2 and 3 are leased to other businesses, they manage the entire building. As such, the nominated contact person should be made available to neighbours during the business hours of all planning permits benefitting the site.

#### *Light Spillage*

90. The use of office lighting and lighting of external accessways during the proposed operating hours on Saturdays (8:00am to 7:00pm) would not cause any unreasonable amenity impacts to adjoining properties given that these are predominantly daylight and early evening time periods.

#### *Fumes and Air Emissions*

91. The use of the land for an office does not include manufacturing, repair or storage of goods for sale or hire, as such the increase in hours of the existing office use would not emit any unreasonable fumes and air emissions to surrounding properties.

*Waste Management*

92. The proposed increase in operating hours of the office should not result in the capacity of the existing waste management being exceeded. It is also noted that Condition 4 of Planning Permit PLN11/0380 limits the collection of goods associated with the business Monday to Friday, between 8:00am and 6:00pm. This is to be retained and carried forward.

Objector Concerns

93. The following matters have been addressed the assessment section of this report:
- (a) Noise (after hours)
  - (b) Lack of adherence to existing permit conditions (operating hours, noise)
  - (c) Operating hours
  - (d) Light spill
94. The outstanding objector concerns are addressed in detail below:
- (a) Noise (music and alcohol/social related activities):
    - (i) Within reason, 'knock off drinks' and background music are considered to be ancillary components of the use of the land for an office provided that these activities are undertaken within the hours specified on the planning permit. It is noted that Planning Permit PLN12/0013 allows the office on level 2 of the building at the subject site to operate from 7:00am to 9:30pm (on Monday to Thursday) and 7:00am to 11:30pm (on Friday), as such employees consuming modest amounts of alcohol as late as 11:30pm on a Friday at the subject site (level 2) would not be in breach of their planning permission.
  - (b) Noise (renovation works after hours)
    - (i) Condition 2 of Planning Permit PLN11/0380 does not preclude the owner of the land or permit holder from carrying out building or works outside of the specified hours. Should there have been a planning permit associated with the renovation works, there may have been a permit condition restricting the hours at which works could be carried out. This permit condition would have been enforceable at the time if it were applicable. Similarly, there are local laws requirements relating to the time at which works may be carried out, and if breached, this would have been a matter for Council's Community Amenity Unit to investigate and enforce if necessary.
  - (c) Noise (open windows)
    - (i) There is no requirement on the existing planning permit for windows to be closed during operating hours. Should the resultant noise emanating from the office exceed SEPP N-1, planning enforcement may be in a position to enforce the closure of windows.
  - (d) Pollution (cigarette smoke, discarded cigarette butts and beer cans)
    - (i) Planning Permit PLN11/0380 relates to an office at level 1 which is fully internalised within the existing building at 41-43 Stewart Street. The cigarette smoke from employees therefore may not be related to employees from the tenancy that is the subject of this permit. Similarly, littering from employees may not be attributable to the tenancy which is the subject of this permit and may be a matter for the EPA to investigate separately.
    - (ii) The applicant has provided a Management Plan which stipulates that cleaning and waste management is controlled through their cleaning and waste management contractors, however this does not sufficiently address concerns with regard to littering and behaviour of employees, particularly given the co-working office business model would result in a high turnover of members that may not be familiar waste procedures.

In addition to the noise management procedures outlined in the assessment section of this report, it is recommended that the Management Plan be amended to also cover waste and litter management in the induction procedure.

- (e) Privacy screens not maintained causing overlooking issues
  - (i) Planning Permit PLN11/0380 allows the use of an existing building and does not include any conditions requiring the maintenance of any privacy screening. Non-compliance with plans endorsed as part of any past buildings and works planning permits showing privacy screening would be a matter for planning enforcement to investigate separately.
- (f) Reduced on-street car parking availability
  - (i) Whilst the increase in operating hours may result in an increased demand for on-street car parking on Saturdays and Sundays in reality, the proposed amendment does not increase the car parking measure for the use of the land as an office. As noted in the planning scheme provisions section of this report, the car parking measure for the use of the land as an office specified at Clause 52.06-5 is based on net floor area. Given that the application does not propose to increase the net floor area of the office, no planning permit is required pursuant to Clause 52.06-3 and the impact on car parking availability is not a relevant consideration in this application.

## Conclusion

1. The proposed amendment is consistent with the purpose of the Mixed Use Zone and the objectives and policies of the Planning Policy Framework and the Local Planning Policy Framework.
2. Accordingly, the proposal is considered to be an acceptable planning outcome, subject to the conditions recommended in this report.

## RECOMMENDATION

That a Notice of Decision to Grant an amended Planning Permit PLN11/0380.02 be issued generally in accordance with the plans and reports noted previously as the “decision plans” subject to the following changes to conditions:

- Change Condition 2 from:

*The office may only operate between 8.00am and 9.30pm Monday-Friday, unless with the prior written consent of the Responsible Authority.*

to:

*Except with the prior written consent of the Responsible Authority, the use authorised by this permit may only operate between the following hours:*

- (a) Monday to Friday 8.00am – 9.30pm
- (b) Saturday and Sunday 8.00am – 7.00pm

- Add new condition 5 (Management Plan);
- All remaining conditions renumbered accordingly;
- Permit expiry updated to reflect the issue date of the amended permit.

Full list of conditions is as follows (amended conditions in bold):

1. The layout of the use on the endorsed plans must not be altered without the written consent of the Responsible Authority.
2. **Except with the prior written consent of the Responsible Authority, the use authorised by this permit may only operate between the following hours:**
  - (a) **Monday to Friday 8.00am – 9.30pm**
  - (b) **Saturday and Sunday 8.00am – 7.00pm**
3. No more than 45 staff may be on the premises at any one time.
4. All delivery and collection of goods associated with the business must be conducted between 8am and 6pm Monday to Friday.
5. **Before the increase in operating hours permitted under this amended permit commences, an amended Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Management Plan will be endorsed and will form part of this permit. The amended Management Plan must be generally in accordance with the Management Plan submitted on 2 October 2020, but modified to include (or show, or address):**
  - (a) **Operating hours in accordance with condition 2 of this permit;**
  - (b) **Security and site management procedures (including appropriately limiting access to the building and external site areas during sensitive hours);**
  - (c) **Induction procedure for all new members when commencing, addressing the following matters:**
    - (i) **Noise management;**
    - (ii) **Litter and waste management;**
  - (d) **The contact details of a site manager for surrounding properties to contact with any complaint or concerns. The contact person must be made available between the following hours:**
    - (i) **Monday to Thursday 7:00am – 9:30pm**
    - (ii) **Friday 7:00am – 11:30pm**
    - (iii) **Saturday and Sunday 8:00am – 7:00pm.**
6. The amenity of the area must not be detrimentally affected by the use, through:
  - (a) The transport of materials, goods or commodities to or from land;
  - (b) The appearance of any buildings, works or materials;
  - (c) The emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
  - (d) The presence of vermin.
7. Noise emissions must comply with the State Environment Protection Policy or any other standard recommended by the Environment Protection Authority.
8. This permit will expire if:
  - (a) **The increase in operating hours is not commenced within two (2) years from the date of amendment PLN11/0380.02.**

The Responsible Authority may approve extensions to these time limits if requests are made within three months of expiry.

NOTE: This site is subject to a Heritage Overlay pursuant to the Yarra Planning Scheme. Unless hereby approved, a planning permit may be required for any demolition, re-painting or other external alterations, sandblasting, exterior works (including the installation of external airconditioning units, solar panels, and any other heating/cooling units) to an existing building or buildings, construction of a building or fence, changes to the natural topography of the land or the subdivision or consolidation of land.

NOTE: A building permit may be required before development is commenced. Please contact Council's Building Department on Ph. 9205 5351 to confirm.

## Attachments

- 1 PLN11/0380.02 - 41 - 43 Stewart Street Richmond - Application to Amend Planning Permit
- 2 PLN11/0380.02 - 41 - 43 Stewart Street Richmond S52 - Certificate of Title
- 3 PLN11/0380.02 - 41 - 43 Stewart Street Richmond S52 - Existing Planning Permit
- 4 PLN11/0380.02 - 41 - 43 Stewart Street Richmond S52 - Existing Endorsed Plans
- 5 PLN11/0380.02 - 41 - 43 Stewart Street Richmond - Written Submission and S57A Management Plan (Decision Plan)
- 6 PLN11/0380.02 - 41 - 43 Stewart Street Richmond S52 - Site Context Plan

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**6.3                    PLN20/0237 - 10 Taylor Street Fitzroy North - Part demolition of the existing dwelling for the construction of a ground and first floor addition**

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## **Executive Summary**

### **Purpose**

1. This report provides Council with an assessment of a planning permit application submitted for 10 Taylor Street Fitzroy North, which seeks approval for part demolition of the existing dwelling for the construction of a ground and first floor addition. The report recommends approval, subject to conditions.

### **Key Planning Considerations**

2. Key planning considerations include:
  - (a) Planning Policy Framework and Local Planning Policy Framework
  - (b) Clause 22.02 – Development guidelines for sites subject to the heritage overlay;
  - (c) Clause 22.07 – Development abutting laneways
  - (d) Clause 22.16 – Stormwater Management (Water Sensitive Urban Design)
  - (e) Clause 32.09 – Neighbourhood Residential Zone
  - (f) Clause 43.01 – Heritage Overlay
  - (g) Clause 54 – One dwelling on a lot (Rescode)

### **Key Issues**

3. The key issues for Council in considering the proposal relate to:
  - (a) Clause 54 – One dwelling on a lot
  - (b) Heritage
  - (c) Development abutting laneways
  - (d) Objector concerns

### **Submissions Received**

4. Eight objections were received to the application, these can be summarised as:
  - (a) design (height, scale, bulk, character);
  - (b) heritage
  - (c) amenity (off-site, overlooking, visual bulk, overshadowing, loss of light);
  - (d) errors of surrounding site context depicted within the supplied plans

### **Conclusion**

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

**CONTACT OFFICER:**    **Robert Galpin**  
**TITLE:**                    **Statutory Planner**  
**TEL:**                      **9205 5139**

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**6.3                      PLN20/0237 - 10 Taylor Street Fitzroy North - Part demolition of the existing dwelling for the construction of a ground and first floor addition**

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**Reference**                D20/166658  
**Author**                   Robert Galpin - Statutory Planner  
**Authoriser**             Senior Coordinator Statutory Planning

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**Ward:**                                Nicholls Ward

**Proposal:**                        Part demolition of the existing dwelling for the construction of a ground and first floor addition  
**Existing use:**                   Residential (Single Dwelling)  
**Applicant:**                      URPS Pty Ltd  
**Zoning / Overlays:**        Neighbourhood Residential Zone (Schedule 1), Heritage Overlay (Schedule 327)  
**Date of Application:**        24 April 2020  
**Application Number:**        PLN20/0237

**Planning History**

6. The Subject Site has the following Planning History
- (a) Planning Permit PL07/0411 was issued at the direction of VCAT on 2 March 2009 for part demolition, alterations and additions to allow for the construction of a double storey extension to the existing dwelling, including the construction of an outbuilding. This permit has not been acted upon and has since lapsed.
  - (b) Planning Permit PLN14/0043 was issued on 14 August 2014 for development of the land for a ground and first floor addition to the existing dwelling, including part demolition.
  - (c) An amendment to Planning Permit PLN14/0043 was lodged on 24 February 2020 seeking approval for additional demolition works.
  - (d) Demolition works commenced in early March 2016 prior to Council determination of the amendment application, with illegal works to remove the front roof commenced in March 2016. A Building Order to stop works and an Emergency Order prohibiting any further works was issued by Council's Building Department on 04 April 2016.
  - (e) As part of the application process the applicant submitted an engineering report on 07 September 2016 in regards to the structural capabilities of the two chimneys. This report determined that the chimneys were unsafe in their current state and should be demolished to floor level and removed. Council's building department confirmed that the chimneys present a danger of collapse due to their unrestrained height and should be reduced in height to where they thicken out. Accordingly, an Emergency Order to remove the chimneys was issued on 9 September 2016.
  - (f) An Amendment to Planning Permit PLN14/0043 was subsequently issued on 24 October 2016 to demolish the two chimneys and construct light weight replacement chimneys (brick clad), demolition and reconstruction of the front verandah, weatherboards, windows and roof and demolition of the front fence and construction of a new fence and new conditions 1 a), b), c).
  - (g) An extension of time for the completion of the development was granted on 20 February 2019 requiring the development to be completed by 19 December 2019.

- (h) Plans to comply with the revised Condition 1 requirements were not submitted and the permit subsequently lapsed as a result of not being completed by 19 December 2019.
- (i) It was purchased by the current owner in October 2019 as essentially a street façade wall, with some remnant side and internal walls and remnant brick fireplaces / chimney breasts.

## **Background**

### Lodgement of Section 57A Amended Plans

- 7. In order to address concerns raised by Council Officers and objectors, amended plans were lodged pursuant to Section 57A on 20 November 2020. The key changes within the amended proposal are as follows;
  - (a) Modified garage southern boundary wall.
  - (b) Increased width of garage to the rear laneway
  - (c) Correct references to the existing conditions of No. 8 Taylor Street
- 8. The amended plans dated 20 November 2020 form the decision plans for this application

## **The Proposal**

- 9. The application is for part demolition of the existing dwelling for the construction of a ground and first floor addition. Further details of the proposal are as follows:

### Demolition

- (a) Additional demolition to the remnants of the existing dwelling is proposed as follows;
  - (i) Demolition of the southern and northern weatherboard walls
  - (ii) Demolition of the front porch
  - (iii) Demolition of the outhouse
  - (iv) Demolition of the existing slab
  - (v) Demolition of 'internal walls' and chimney base
- (b) Demolition of the existing shed and rear car parking structure
- (c) Demolition of the existing brick pier front fence
- (d) Demolition of the existing metal boundary fencing

### Development

- (a) Reconstruction of the front portion of the original heritage dwelling
  - (i) The existing façade will be retained with no change to the front setback
  - (ii) The front porch reconstructed
  - (iii) A new colorbond roof to match the original profile
  - (iv) New weatherboard northern and southern walls
  - (v) The original dwelling will be internally modified to include a study, bathroom and master bedroom with ensuite
- (b) Construction of a two storey rear addition with basement and rear single car garage comprising;
  - (i) A cinema room, cellar, laundry and drying room at basement level
  - (ii) An open plan kitchen/dining/lounge and rear garage at ground floor

- (iii) Three additional bedrooms, a bathroom and rumpus room with east facing balcony at first floor.
- (iv) The addition will incorporate a predominantly flat roof form with a rake to the south.
- (c) The addition will be a maximum height of 6.55m from natural ground level
- (d) The dwelling will be set back between 11.03m – 1.61m from the southern boundary, with the exception of part of the rear garage, which will be constructed to the southern boundary at ground floor.
- (e) The first floor will be set back 1.62m from the southern boundary for its entire length.
- (f) The ground floor will be set back from the northern boundary by 1.4m for a length of 11.17m and constructed to the northern boundary for a length of 5.77m.
- (g) At first floor the dwelling (living room void) will be partially constructed to the northern boundary with the stairwell set back 1.4m and the remainder set back 5.45m from the northern boundary.
- (h) The rear garage will be partially constructed to the southern boundary
- (i) The first floor balcony will be constructed to the eastern title boundary incorporating a 1.7m high privacy screen, with the first floor set back 1.5m from the eastern boundary.
- (j) Secluded Private Open Space is located to the north-eastern corner and includes a pool
- (k) A new 1.2m high timber picket fence is proposed within the front setback fronting Taylor Street and a portion of the northern laneway.
- (l) The addition will be constructed of red brick, weatherboard and glazing with a white colorbond roof
- (m) A 2sqm raingarden and 3,000L underground rainwater tank are proposed for stormwater treatment.

## **Existing Conditions**

### Subject Site

- 10. The subject site is located on the eastern side of Taylor Street between Miller Street to the north and Clausen Street to the south in Fitzroy North. A right-of-way (ROW) abuts the full length of both northern and eastern boundaries.
- 11. The site is generally rectangular in shape, with a slight splay to the north eastern corner. The site has a frontage to Taylor Street of 12.19m, a boundary length of 31.62m to the north, a boundary length of 34.67m to the south and yields a total site area of approximately 419sqm.
- 12. The remnants of a single-storey, detached, Federation-era dwelling of weatherboard construction are located on the site following the demolition outlined within the Planning History section of the report. The front façade, verandah, portions of the northern and southern walls, a concrete slab and the chimney basis remain.
- 13. The dwelling is generally set back 4.83m from the front boundary, set back 1.4m from the northern boundary and set back 1.61m from the southern boundary.
- 14. Private open space and outbuildings (i.e. shed and garage) are located at the rear.
- 15. A low brick fence extends along the front boundary. With metal boundary fences located to the north and south



*Image 1: The subject site as viewed from Taylor Street (source real-estate listing October 2019)*



*Image 2: The subject site as viewed from the rear (source real-estate listing October 2019)*

#### Surrounding Land

16. The surrounding land is residential in use and is within the North Fitzroy Heritage Precinct. The precinct is noted for having a large number of substantially intact 19th century and early 20th century buildings.. Lots within the vicinity of the subject site are typically long with large open spaces at the rear.

17. To the south of the subject site is a single-storey, semi- attached dwelling, set back 1.28m from the shared boundary. The northern elevation of this dwelling contains 5 north-facing habitable room windows facing the subject site. Private open space and a single storey studio (constructed on the common boundary) are located at the rear.
18. To the north of the subject site across the ROW is a row of three the rear outbuildings of single-storey dwellings fronting onto Miller Street.
19. Similarly, to the east, across the ROW, are single-storey dwellings with their frontages to Rae Street. The dwellings are detached and contain private open space areas and outbuildings to their rears.
20. To the west, across Taylor Street, is developed with a mix of single and double storey dwellings of both heritage significance and modern infill development oriented to Taylor Street.



*Image 3: The subject site shown in red (source Council GIS mapping June 2020)*

## **Planning Scheme Provisions**

### Zoning

21. The subject site is zoned Neighbourhood Residential Zone (Schedule 1). The following provisions apply:
    - (a) Pursuant to Clause 32.09-5, a planning permit is required to construct or extend one dwelling on a lot less than 500sqm.
    - (b) Pursuant to Clause 32.09-10, the maximum building height of a dwelling must not exceed 9m in height and must contain no more than 2 storeys at any point. The proposed development will have a maximum overall height of 6.55m and will contain no more than two storeys. As such, the proposal complies with these requirements.
    - (c) The minimum garden area requirement at Clause 32.09-4 for a lot between 400sqm and 500sqm triggers a garden area requirement of 25%. The proposed development will have a garden area of 37%, as such, proposal complies with these requirements.
  22. As the lot is less than 500sqm in area, a permit is required under the zone.
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## Overlays

### *Heritage Overlay*

23. The subject site is affected by the Heritage Overlay Schedule 327. The following provisions apply:
- (a) Pursuant to Clause 43.01-1, a planning permit is required to demolish or remove a building and to construct a building or carry out works. Including;
    - *A fence if visible from the street*
  - (b) Appendix 8 to the City of Yarra Review of Heritage Areas, 2007 – The site is identified as being ‘Contributory’ to the Fitzroy North Precinct.
24. As such, a permit is required under this overlay.

## Particular Provisions

### *Clause 54 – One dwelling on a lot*

25. This clause applies as the development is for the extension of a dwelling on a lot under 500sqm. The provision includes 19 performance standards with objectives that are broken down into headings of Neighbourhood Character, Site Layout and Building Massing, Amenity Impacts, On-site Amenity and Facilities, and Detailed Design. A development should meet all the standard and must meet all the objectives of the provision.

## General Provisions

### *Clause 65 – Decision guidelines*

26. 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. The Responsible Authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause.
27. Amongst other things, the Responsible Authority must consider the relevant Municipal Planning Strategy and the Planning Policy Frameworks, as well as the purpose of the Zone, Overlay or any other Provision.

### Planning Policy Framework (PPF)

#### *Clause 15.01-1S – Urban design*

28. The objective of this clause is ‘*to create urban environments that are safe, healthy, functional and enjoyable and provide good quality environments with a sense of place and cultural identity*’.
29. A relevant strategy includes ‘*require development to respond to its context in terms of character, cultural identity, natural features, surrounding landscape and climate*’.

#### *Clause 15.01-2S – Building Design*

30. The objective of this Clause is:
- (a) To achieve building design outcomes that contribute positively to the local context and enhance the public realm.
31. Relevant strategies include:
- (a) *Require a comprehensive site analysis as the starting point of the design process.*
  - (b) *Ensure the site analysis provides the basis for the consideration of height, scale and massing of new development.*
  - (c) *Ensure development responds and contributes to the strategic and cultural context of its location.*
  - (d) *Minimise the detrimental impact of development on neighbouring properties, the public realm and the natural environment.*

#### *Clause 15.01-5S – Neighbourhood Character*

32. The objective of this Clause is:

- (a) *To recognise, support and protect neighbourhood character, cultural identity, and sense of place.*
- (b) *Ensure development responds to its context and reinforces a sense of place and the valued features and characteristics of the local environment and place by emphasising the:*
  - (i) *Pattern of local urban structure and subdivision.*
  - (ii) *Underlying natural landscape character and significant vegetation.*
  - (iii) *Heritage values and built form that reflect community identity.*

*Clause 15.03-1S – Heritage conservation*

33. The objective of this clause is *to ensure the conservation of places of heritage significance.*

34. Relevant strategies include:

- (a) *Provide for the conservation and enhancement of those places that are of aesthetic, archaeological, architectural, cultural, scientific or social significance.*
- (b) *Encourage appropriate development that respects places with identified heritage values.*
- (c) *Retain those elements that contribute to the importance of the heritage place.*
- (d) *Encourage the conservation and restoration of contributory elements of a heritage place.*
- (e) *Ensure an appropriate setting and context for heritage places is maintained or enhanced.*

*Clause 21.05-1 – Heritage*

35. The relevant objective and associated strategies of this clause are as follows:

- (a) *To protect and enhance Yarra's heritage places.*
  - (i) *Conserve, protect and enhance identified sites and areas of heritage significance including pre-settlement ecological heritage.*
  - (ii) *Support the restoration of heritage places.*
  - (iii) *Protect the heritage skyline of heritage precincts.*
  - (iv) *Protect the subdivision pattern within heritage places.*
  - (v) *Protect buildings, streetscapes and precincts of heritage significance from the visual intrusion of built form both within places and from adjoining areas.*
  - (vi) *Apply the Development Guidelines for sites subject to a Heritage Overlay policy at clause 22.02.*

*Clause 21.05-2 – Urban design*

36. The relevant objectives and associated strategies of this clause are as follows:

- (a) *To reinforce the existing urban framework of Yarra.*
  - (i) *Maintain and strengthen the preferred character of each Built Form Character Type within Yarra.*
- (b) *To retain, enhance and extend Yarra's fine grain street pattern.*
  - (i) *Enhance the amenity of laneways by applying the Development Abutting Laneway policy at Clause 22.07.*

*Clause 21.08-8 – North Fitzroy*

37. This clause sets out the locally specific implementation of the objectives and strategies for Yarra's neighbourhoods. The subject site is located within the 'North Fitzroy' neighbourhood, and is identified as having the 'Heritage Overlay' Built Form Character Type. The specific objective for this built form character is to *ensure that development does not adversely affect the significance of the heritage place*.
38. This clause also sets out that the implementation of built form strategies in Clause 21.05 includes *supporting development that maintains and strengthens the preferred character of the relevant Built Form Character Type*.

Relevant Local Policies

39. The local policies relevant to this application are as follows:
- (a) Clause 22.02 – Development guidelines for sites subject to the heritage overlay;
  - (b) Clause 22.07 – Development abutting laneways;
  - (c) Clause 22.16 – Stormwater Management (Water Sensitive Urban Design).

*Clause 22.02 – Development guidelines for sites subject to the heritage overlay*

40. This policy applies to all land within a Heritage Overlay. The relevant objectives of this policy are:
- (a) *To conserve Yarra's natural and cultural heritage.*
  - (b) *To conserve the historic fabric and maintain the integrity of places of cultural heritage significance.*
  - (c) *To retain significant view lines to, and vistas of, heritage places.*
  - (d) *To preserve the scale and pattern of streetscapes in heritage places.*
  - (e) *To encourage the preservation, maintenance, restoration and where appropriate, reconstruction of heritage places.*
  - (f) *To ensure the adaption of heritage places is consistent with the principles of good conservation practice.*
  - (g) *To ensure that additions and new works to a heritage place respect the significance of the place.*
  - (h) *To encourage the retention of 'individually significant' and 'contributory' heritage places.*

*Clause 22.07 – Development abutting laneways*

41. This policy applies to applications for development that is accessed from a laneway or has laneway abuttal. The relevant objectives of this policy are:
- (a) *To provide an environment which has a feeling of safety for users of the laneway.*
  - (b) *To ensure that development along a laneway acknowledges the unique character of the laneway.*
  - (c) *To ensure that where development is accessed off a laneway, all services can be provided to the development.*
  - (d) *To ensure that development along a laneway is provided with safe pedestrian and vehicular access.*

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

42. This policy applies to applications for extensions to existing buildings which are 50 square metres in floor area or greater. The relevant objectives of this policy are:

- (a) *To achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999 (or as amended). Currently, these water quality performance objectives require:*
  - (i) *Suspended Solids – 80% retention of typical urban annual load.*
  - (ii) *Total Nitrogen – 45% retention of typical urban annual load.*
  - (iii) *Total phosphorus – 45% retention of typical urban annual load.*
  - (iv) *Litter 70% reduction of typical urban annual load.*
- (b) *To promote the use of water sensitive urban design, including stormwater re-use.*
- (c) *To mitigate the detrimental effect of development on downstream waterways, by the application of best practice stormwater management through water sensitive urban design for new development.*
- (d) *To minimise peak stormwater flows and stormwater pollutants to improve the health of water bodies, including creeks, rivers and bays.*
- (e) *To reintegrate urban water into the landscape to facilitate a range of benefits including microclimate cooling, local habitat and provision of attractive spaces for community use and well being.*

### **Advertising**

43. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 16 letters sent to surrounding owners and occupiers and by a sign displayed on site. Council received 8 objections, the grounds of which are summarised as follows:
- (a) design (height, scale, bulk, character);
  - (b) heritage
  - (c) amenity (off-site, overlooking, visual bulk, overshadowing, loss of light);
  - (d) errors of surrounding site context depicted within the supplied plans.
44. The Section 57A amended plans dated 20 November 2020 to correct the site context of number 8 Taylor Street, increase the setback of southern garage wall and increase the width of the garage to the east were not re-advertised under the provisions of Section 57B of the *Planning and Environment Act (1987)* as the amendments were granted a discretionary exemption at Council's Development Assessment Panel meeting held on 24 November 2020 as it was considered that the changes would not result in any material detriment to any persons. Whilst the plans were not formally re-advertised, the plans however, have been uploaded to Council's website, with a summary of changes and link to the website included in the invitations sent to the objectors for this PDC meeting.

### **Referrals**

45. The referral comments obtained from Council's Heritage Advisor are based on the advertised plans dated 23 June 2020. Updated comments following the receipt of the Section 57A Plans were not obtained given the minimal variation.
46. Updated comments from Council's Engineering Unit were obtained on 23 November 2020 following the submission of the Section 57A amended plans.

#### External Referrals

47. The application was not required to be referred to any external authorities under the provisions of the Scheme

#### Internal Referrals

48. The application was referred to the following units within Council:
- (a) Heritage Advisor

- (b) Engineering Unit

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

## **OFFICER ASSESSMENT**

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

- (a) Clause 54 – One dwelling on a lot
- (b) Heritage
- (c) Development abutting laneways
- (d) Objector concerns

### Clause 54 – One dwelling on a lot

51. As detailed earlier in the report, Clause 54 comprises 19 design objectives and standards to guide the assessment of new residential development. Given the site's location within a built up inner city residential area, strict application of the standard is not always appropriate, whether the proposal meets the objective is the relevant test. The following objectives are not relevant to this application:

- (a) A2 – Integration with the street objective – No change proposed;
- (b) A3 – Street setback objective – No change;
- (c) A8 – Significant Trees – None affected
- (d) A18 – Solar access to open space objective – Does not apply to dwelling extensions

52. The remaining objectives and standards are assessed in detail below:

### *A1 – Neighbourhood character objective*

53. The immediate streetscape character is diverse, with a variety of dwelling designs, varying in height and setbacks. Predominantly, these dwellings are single and double storey period dwellings, with modern infill development also present. Number 7 Taylor Street to the immediate west also provides an example of a visible first floor addition within the streetscape.

54. The proposed addition will be in keeping with the character of the area. The addition is generally consistent with the character of the area in terms of a modern rear addition. Two storey construction to the rear is not uncommon in the area, and the proposed design responds to the sensitive interface to the south to ensure there will be no unreasonable offsite amenity impacts (as detailed further below). Further discussion regarding heritage character is provided within the Heritage Assessment. The objective is met.

### *A4 – Building height objective*

55. The proposed dwelling will have a maximum overall height of 6.55m, which complies with the 9m maximum required by the standard. The objective is met.

### *A5 – Site coverage objective*

56. The proposed dwelling will have an overall site coverage of approximately 62%, which does not comply with the 60% maximum required by the standard. A variation is considered to be acceptable in the site's inner city context, where small lot sizes and higher levels of site coverage are common.

### *A6 – Permeability objectives*

57. The proposed dwelling will incorporate permeable surfaces totalling approximately 31% of the site, compliant with the 20% minimum required by the standard.

58. Additionally, the proposal incorporates a 3,000L underground rainwater tank connected to toilets for flushing (annotated on the basement plan) and a 2sqm raingarden. This will achieve a STORM rating of 100%, compliant with the requirements of Clause 22.16 (Storm Water Management - Water Sensitive Urban Design). The objectives are met.

*A7 – Energy efficiency protection objectives*

59. Overall, the proposal will achieve an appropriate level of energy efficiency, consistent with the objective of the standard. The dwelling will achieve adequate levels of natural lighting through the proposed northern, eastern and southern windows. These additions will reduce the reliance on artificial lighting.

The plans submitted also demonstrate that all habitable rooms are fitted with operable windows or doors to allow for effective natural cross ventilation. There are no west facing windows at first floor whilst the proposed first floor north facing windows are restrained in size, these features will assist to restrict heat transfer.

60. There are no solar panels associated with the immediately surrounding dwellings, as such, the proposal will not diminish the productivity of any neighbouring solar energy services.

*A10 – Side and rear setbacks objective*

61. The proposed ground and first floor of the addition will be setback from the northern, eastern and southern boundaries as shown in the table below:

Standard A10 Table					
Proposed Wall	Wall height (m)	A10 Setback (m)	Proposed setback (m)	Difference	Compliance
Southern Wall (Ground Floor)	3.22	1.00	1.04	0.03	Yes
Northern Wall (Ground Floor Study/Bathroom)	3.40	1.00	1.40	0.40	Yes
Northern Wall (Ground Floor Dining Room)	3.10	1.00	6.63	5.63	Yes
Northern Wall (Ground Floor Garage)	3.33	1.00	7.30	6.30	Yes
Eastern Wall (Ground Floor Living Room)	3.25	1.00	10.70	9.70	Yes
Eastern Wall (Ground Floor Dining)	3.29	1.00	5.83	4.83	Yes
Southern Wall (First Floor - Below Roof Rake)	4.75	1.35	1.62	0.27	Yes

Southern Wall (First Floor - Highest Point of Rake)	6.05	1.74	2.80	1.07	Yes
Northern Wall (First Floor excl. stairwell)	6.30	1.81	5.05	3.24	Yes
Northern Wall (Stairwell)	6.26	1.80	1.40	-0.40	No
Eastern Wall (First Floor Void)	6.30	1.81	10.70	8.89	Yes
Eastern Wall (First Floor Rumpus)	6.30	1.81	1.50	-0.31	No

62. As shown in the table above, the proposed addition will be set back from the southern title boundaries to comply with the standard. There are non-compliances with regards to the proposed northern stairwell and the eastern setback of the first floor Rumpus room. These are discussed in turn below.

#### North Wall

63. The northern stairwell wall will be set back from the northern boundary by 1.4m, which will not comply with the 1.8m minimum required by the standard. Given this wall will abut the laneway to the north, with the outbuildings of dwellings fronting Miller Street beyond, a variation is considered to be acceptable from an amenity perspective. The SPOS of the dwellings located on the southern side Miller Street are separated from the proposed built form by the existing outbuildings and laneway. The combined 10m setback will ensure there are no adverse amenity impacts to the properties to the north of the laneway.

#### East Wall

64. The eastern first floor rumpus room wall is setback from the eastern boundary (behind the proposed balustrade) by 1.5m, which would not comply with the 1.81m minimum required by the standard. Given this wall will abut the rear laneway to the rear, a variation is considered to be acceptable from an amenity perspective. The nearest sensitive interface is the Secluded Private Open Space (SPOS) of No. 579 Rae Street on the opposite side of the 3.3m wide laneway. The combined 4.8m setback will ensure there are no adverse amenity impacts to the dwelling to the east of the laneway.
65. Within the context of the site surrounds and the existing inner urban character, comprising high levels of built form and minimal side and rear setbacks, the proposal is considered an acceptable outcome from a character perspective.

#### *A11 – Walls on boundaries objective*

66. The proposal incorporates walls on both the southern, eastern and northern boundaries, as shown in the table below:

Standard A11 Table					
Boundary	Proposed total length	Maximum length requirement	Proposed height	Maximum height requirement	Complies?
North	5.77m	15.41m	6.3m	3.6m overall / 3.2m average	No (height)
South	3.88m	16.17m	2.9m	3.6m overall / 3.2m average	Yes
East	4.3m	10.55m	5.22m (including privacy screen)	3.6m overall / 3.2m average	No (height)

#### North

67. The proposed wall along the northern boundary of the site will result in a total wall length along this boundary of 5.77m, which complies with the 15.41m maximum allowed by the standard. The wall will be 6.4m in height, which will exceed the 3.6m maximum (and 3.2m average) of the standard. A variation is considered acceptable given the wall will abut the laneway and outbuildings of dwellings fronting Miller Street and will not directly abut any sensitive interfaces such as SPOS or habitable room windows. As such, the wall will not result in any unreasonable offsite amenity impacts. Furthermore, built form on boundaries is common along throughout the precinct, and the proposal is therefore consistent with the character of the surrounding area. The objective is met.

#### East

68. On-boundary construction associated with the rear garage and first floor privacy screen will consist of a 4.3m long, 5.22m high wall. The wall is considered an acceptable variation to the standard given that the wall abuts the rear laneway and does not have any direct interfaces with areas of SPOS or habitable room windows whilst it is acknowledged that the SPOS of 579 Rae Street is located the on the opposite side of the 3.3m laneway, this distance is considered an acceptable separation. The variance in materials between the rear roller door, brick wall and timber batten screen will assist in breaking up the mass of the wall. High levels of boundary wall construction are evident throughout the surrounding streetscape and broader inner urban context of the subject site. As such, it is considered that the addition will be in keeping with the neighbourhood character and would not result in any unreasonable visual bulk impacts.

#### *A12 – Daylight to existing windows objective*

69. The proposed southern wall of the dwelling will be located opposite five north facing habitable room windows of No. 8 Taylor Street. These ground floor windows are set back from the shared boundary by approximately 1.28m.
70. Pursuant to Clause 54.04-3, Standard A12 states:

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

71. Compliance with the requirements of the standard is shown in the table below;

Standard A12 Table						
Proposed Wall	Opposite window	Wall height (m)	A12 Setback (m)	Proposed setback (m)	Difference	Compliance
Southern Wall Ground Floor	North Facing Windows of 8 Taylor Street	3.100	1.550	2.243	0.693	Yes
Southern Wall First Floor (below rake)	North Facing Windows of 8 Taylor Street	4.63	2.32	2.82	0.51	Yes
Southern Wall First Floor (top of rake)	North Facing Windows of 8 Taylor Street	6.19	3.10	3.78	0.69	Yes

72. The table above demonstrates that the proposal is compliant with regards to the ground floor windows of 8 Taylor Street.

*A13 - North facing windows objective*

- 73. The proposal seeks to construct a 3.1m – 6.19m high wall setback between 1.01m and 2.73m from the southern boundary. This will impact the five north facing habitable room windows of No. 8 Taylor Street.
- 74. Pursuant to Clause 54.04-4 (North Facing Windows Objective) Standard A13 is applicable to a north-facing habitable room window of an existing dwelling within 3 metres of a boundary on an abutting lot. The Standard requires a building should be setback from the boundary 1 metre, plus 0.6 metre for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres, for a distance of 3 metres from the edge of each side of the window.
- 75. As demonstrated within the below diagram, the proposal has been designed with a rake to the southern first floor roof form to comply with the requirements of Standard A13.

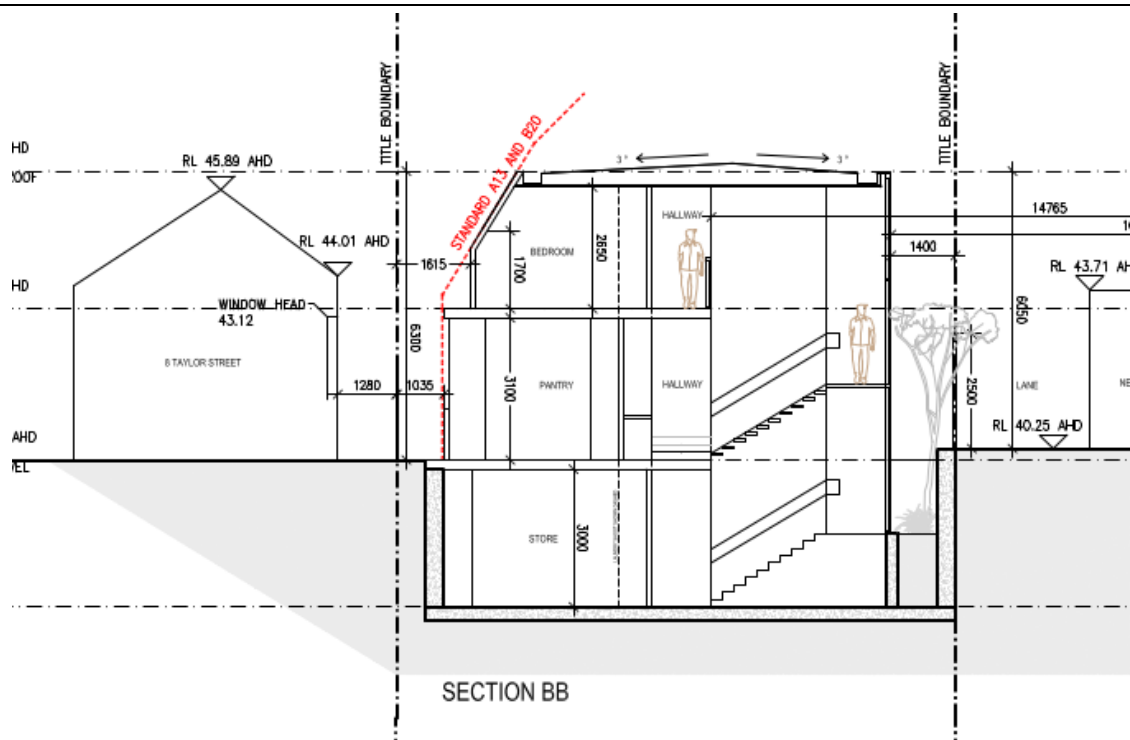


Image 5: A cross-section of the proposed development with the setback requirements of Standard A13 shown in red.

*A14 – Overshadowing open space objective*

76. Pursuant to Clause 54.04-5, Standard A14 states;

- (a) Where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September.
- (b) If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.

77. Given the existing extent of built form within the immediate area, the dwelling to the south at No. 8 Taylor Street does not presently comply with the above requirements of the standard. Therefore, any increase in overshadowing from the proposed development will not comply with Standard A14.

78. As demonstrated in the submitted shadow diagrams and table below, the proposed development will increase the extent of current overshadowing to the southern area of SPOS associated with the dwelling to the south (No. 8 Taylor Street) between the hours of 9am - 11am. As such, the proposal does not comply with the requirements of Standard A14.

*Table 4: Overshadowing*

Overshadowing impact to adjoining SPOS 8 Taylor Street (22m <sup>2</sup> )							
Time	9:00 AM	10:00 AM	11:00 AM	12:00 PM	1:00 PM	2:00 PM	3:00 PM
Additional Shadow	1.5m <sup>2</sup> (7%)	2.3m <sup>2</sup> (11%)	1.1m <sup>2</sup> (5%)	0m <sup>2</sup> (0%)	0m <sup>2</sup> (0%)	0m <sup>2</sup> (0%)	0m <sup>2</sup> (0%)
Remaining Area of SPOS with	0.14m <sup>2</sup>	0.82m <sup>2</sup>	5.54m <sup>2</sup>	9.24m <sup>2</sup>	6.5m <sup>2</sup>	2.11m <sup>2</sup>	0.07m <sup>2</sup>

sunlight access							
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79. Under the existing conditions, the SPOS of 8 Taylor Street has limited access to direct sunlight, this is due to current dimensions and the location of the SPOS being located between the existing dwelling, outbuilding and boundary fence. Whilst the proposal will increase the extent of overshadowing during the morning hours, the extent of additional overshadowing will be relatively minor. A maximum of 2.3sqm (approximately 11%) of the SPOS is affected at 10:00am. The extent of additional overshadowing is reduced at 11:00am to 1.1sqm and from 12:00pm there is no additional overshadowing from the current conditions. Langdon Street Reserve is located approximately 130m to the west proving additional open space for outdoor recreational needs. Given the inner urban context of the site characterised by high levels of overshadowing, the proposal is considered an acceptable variation to the standard.

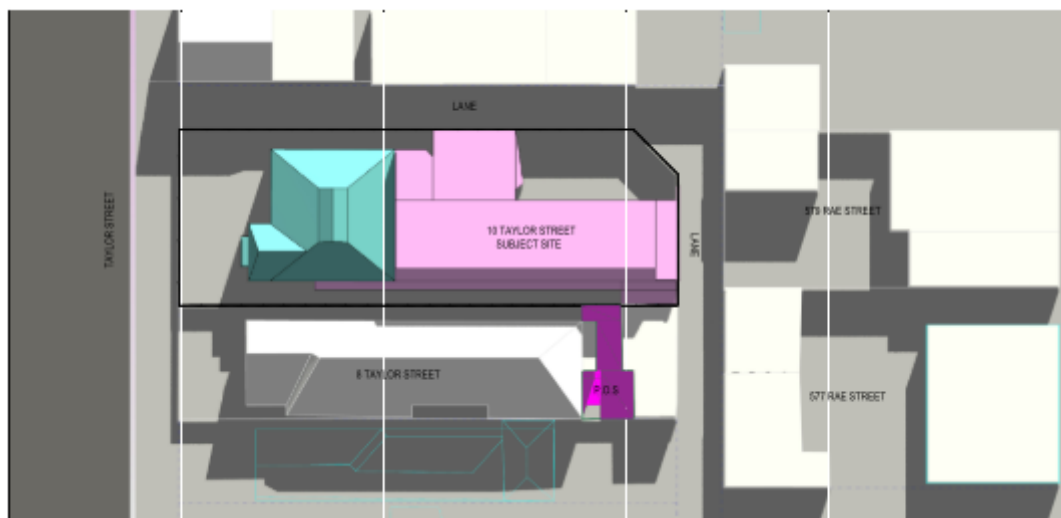


Image 6: Proposed overshadowing at 9:00am

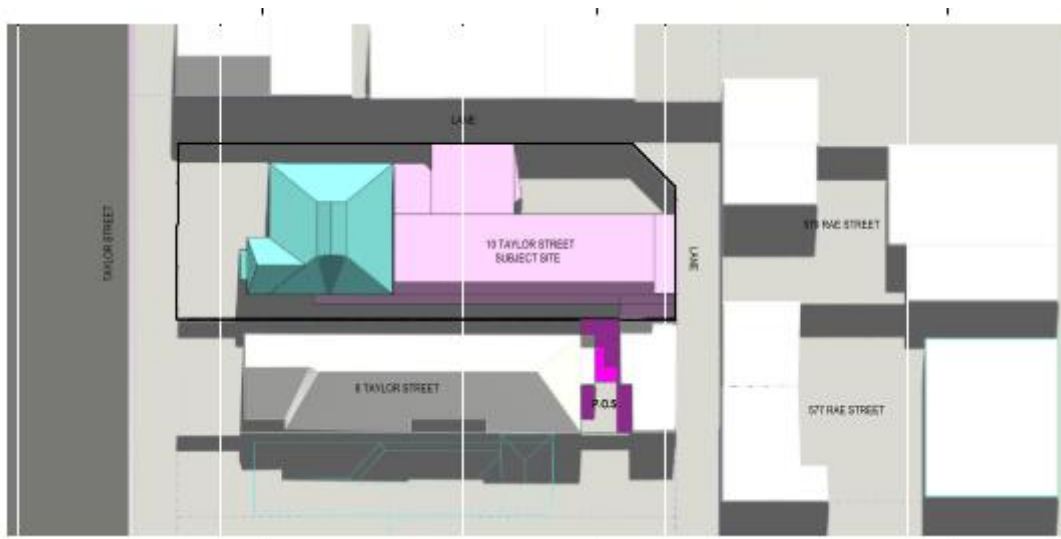


Image 7: Proposed overshadowing at 10:00am

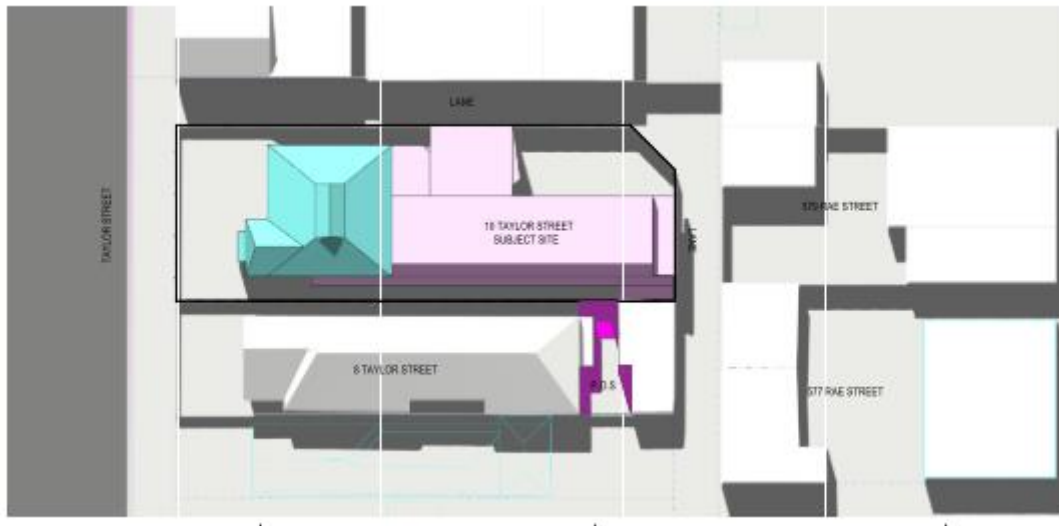


Image 8: Proposed Overshadowing at 11:00am

#### A15 – Overlooking objective

80. Pursuant to the requirements of Standard A15 (Overlooking) a habitable room window, balcony, terrace, deck or patio should be located and designed to avoid direct views into the secluded private open space and habitable room windows of an existing dwelling within a horizontal distance of 9 metres (measured at ground level) of the window, balcony, terrace, deck or patio. Views should be measured within a 45 degree angle from the plane of the window or perimeter of the balcony, terrace, deck or patio, and from a height of 1.7 metres above floor level.
81. A habitable room window, balcony, terrace, deck or patio with a direct view into a habitable room window of an existing dwelling within a horizontal distance of 9 metres (measured at ground level) of the window, balcony, terrace, deck or patio should be either:
  - offset a minimum of 1.5 metres from the edge of one window to the edge of the other, or
  - have sill heights of at least 1.7 metres above floor level, or
  - have fixed, obscure glazing in any part of the window below 1.7 metres above floor level, or
  - have permanently fixed external screens to at least 1.7 metres above floor level and be no more than 25 per cent transparent.
82. The proposed addition will incorporate windows and doors at ground and first floor, as well as a first floor balcony that could provide potential overlooking opportunities. The proposed ground floor dining, living and kitchen windows look out to the rear yard, where the proposed fences provides a visual barrier above 1.8m in height. Given the finished floor level of these rooms are below 0.8m (at 0.25m) above natural ground level with proposed minimum 2m high boundary fences (as shown by the dotted line on the elevations), the standard does not apply to these windows. A condition will however require that the southern boundary fence height is annotated on the ground floor plans and to be a minimum of 1.8m high where opposite and to 45 degrees both sides of the proposed kitchen and dining room windows.
83. The proposed first floor southern bedroom windows will be screened to a height of 1.7m from the internal finished floor level with timber batten screens. The permeability of the screens is however noted on the elevations as 33%. To ensure compliance with the requirements of Standard A15, a condition of the permit will require the screens are a maximum of 25% permeable.

84. The east facing Rumpus window and balcony will also be screened to 1.7m from the internal finished floor level, to the east and south, restricting views to the adjoining areas of SPOS. The materiality of the screen will vary, being brick to the south and timber batten to the east, the permeability of the timber battens has not been shown on the plans and will be conditioned to be a maximum of 25% as per the requirements of Standard A15.
85. To the north of the Rumpus balcony the proposal appears to utilise clear glazing. As demonstrated in the image below views to the SPOS of the dwelling to the north may be obtainable. A condition of the permit will subsequently require the proposal demonstrate compliance with the requirements of Standard A15.

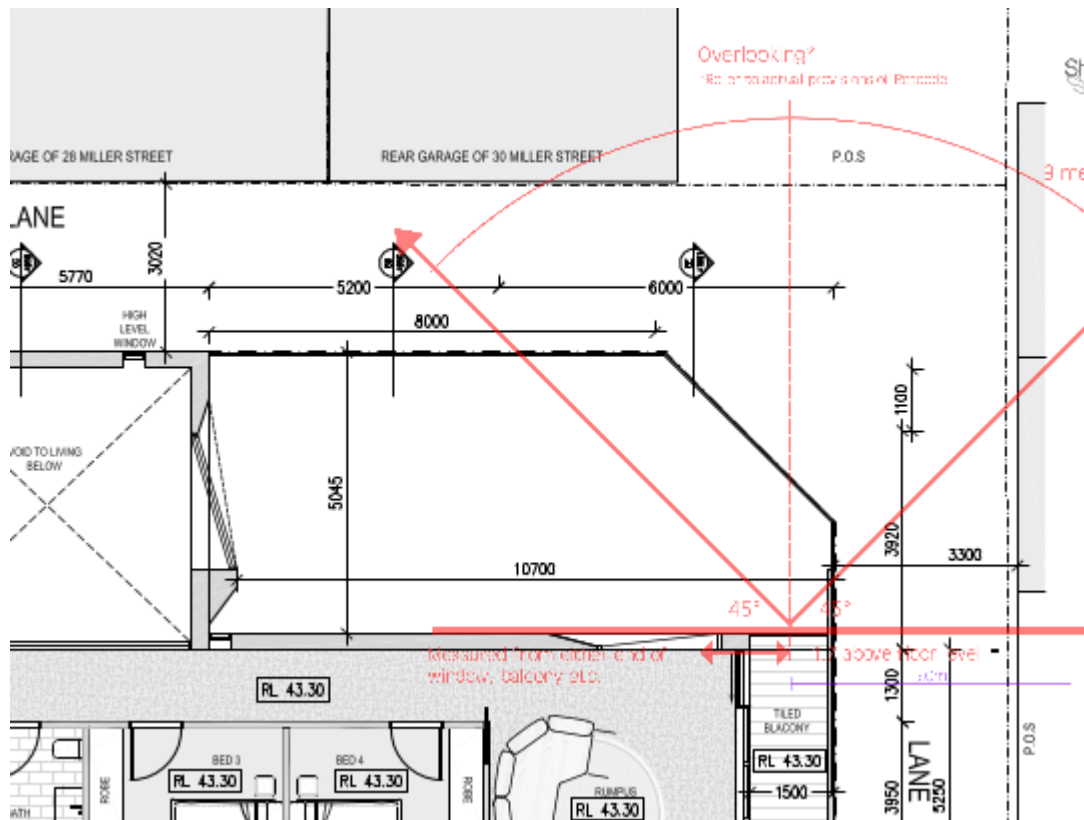


Image 6: potential overlooking from the north of the first floor balcony to the adjacent SPOS of the dwelling to the north.

86. Similarly the first floor northern rumpus window is untreated and may have views to the northern SPOS. Whilst the applicant has provided a sectional diagram (Section EE) demonstrating there will be no views, the diagram has been drawn from the incorrect standing height (showing 1.6m as opposed to 1.7m), does not show the height of the adjoining boundary fence and shows the view line to the ground of the SPOS rather than a height of 1.7m above the SPOS (height in which views of outdoor activity can readily occur). Whilst it remains likely that the existing boundary fence will limit views, a condition of the permit will require that compliance with the requirements of Standard A15 is demonstrated with any additional screening measure required shown on the plans.

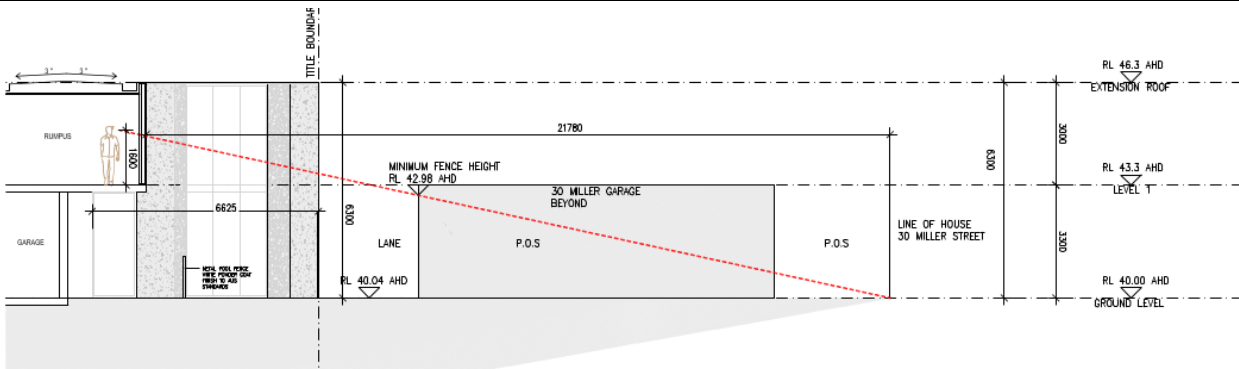


Image 7: the supplied Section EE

87. Subject to the conditions outlined above the proposal will achieve full compliance with the requirements of the Standard.

*A16 – Daylight to new windows objective*

88. The proposed dwelling addition incorporates habitable room windows that will all be clear to the sky for an area of over 3sqm, and with a minimum dimension of over 1m, which complies with the requirements of the standard.

*A17 – Private open space objective*

89. The proposed dwelling incorporates approximately 155sqm of POS, including 53sqm of secluded POS within the rear yard, and a 7.5sqm at the first floor balcony. Compliant with the 40sqm total minimum requirement and 25sqm minimum single secluded POS area requirement of the standard. The main area of secluded POS will have a minimum dimension of 6.62m (compliant with the minimum 3m requirement) and will be easily accessible from the main living areas. The standard and objective are met.

*A20 – Front fences objective*

90. The proposal seeks to incorporate a 1.2m high, timber picket fence. The design of the fence is simplistic and is considered compliant with the requirements of Standard A20.

Heritage

91. This assessment will be based on the decision guidelines of Clause 43.01-8 and the heritage policy of Clause 22.02.

*Demolition*

92. As previously identified, the existing dwelling has had significant demolition works undertaken prior to obtaining a permit and it was purchased by the current owner as essentially a street façade wall, with some remnant side and internal walls and remnant brick fireplaces / chimney breasts.
93. The proposed removal of the rear garage, shed and front and side fences is supported by heritage policy at Clause 22.02-5.1, as these features are not original elements and do not contribute to the significance of the precinct.
94. The remaining demolition to the includes elements of the original dwelling including the removal of the front porch, remaining weatherboard side walls and associated windows, remaining internal walls, out-house, floor slab and fireplaces/chimney bases.
95. Clause 22.02-5.1 of the Yarra Planning Scheme states (with relevant considerations underlined) states:

**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:*

- (a) *That part of the heritage place has been changed beyond recognition of its original or subsequent contributory character(s).*
- (b) *For a contributory building:*
  - (i) *that part is not visible from the street frontage (other than a laneway), abutting park or public open space, and the main building form including roof form is maintained; or*
  - (ii) *the removal of the part would not adversely affect the contribution of the building to the heritage place.*

96. Council's Heritage Advisor noted that the remaining dwelling was in poor condition and was supportive of the extent of demolition stating;

*"The fabric behind the facade is in poor condition and of low integrity, having undergone significant change during the demolition work.*

*Considering the condition and integrity of the remaining internal and side fabric, the proposed extent of demolition behind the façade is acceptable. Salvage of the brick from the fireplaces and chimney breasts for use as part of the new chimneys is supported*

*While sympathetic in style, the porch slab, posts and awning are not original elements and their removal is supported in light of reinstatement and restoration works. The mini orb sheet metal to the awning is likely to be earlier fabric than the porch awning, however it is in poor condition and unlikely to be functioning correctly as part of the drainage system. Removal is supported"*

97. Overall, the proposed demolition is supported and will not adversely impact the heritage significance of the heritage precinct

*Additions*

98. The proposed ground and first floor addition to the dwelling will be respectful of the character and rhythm of the streetscape as well as articulated and massed to correspond with the form of the existing dwelling. Additionally, the contemporary materials proposed will ensure that the addition will be clearly distinguishable from the original historic fabric of the dwelling.
99. The height of the proposed addition at 6.55m is compliant with the 'envelope' created by projected sight lines in Figure 2 of Clause 22.02-5.7.1. Furthermore the proposed works are setback 15.16m from the street, ensuring that the full original form can be reconstructed. This 15.16m setback generally exceeds that of other existing first floor additions evident throughout the area such as the setback of No. 7 Taylor Street directly opposite the subject site at 9.8m, No. 556 Rae Street at 12m and No. 42 Clausen Street at 11.3m.

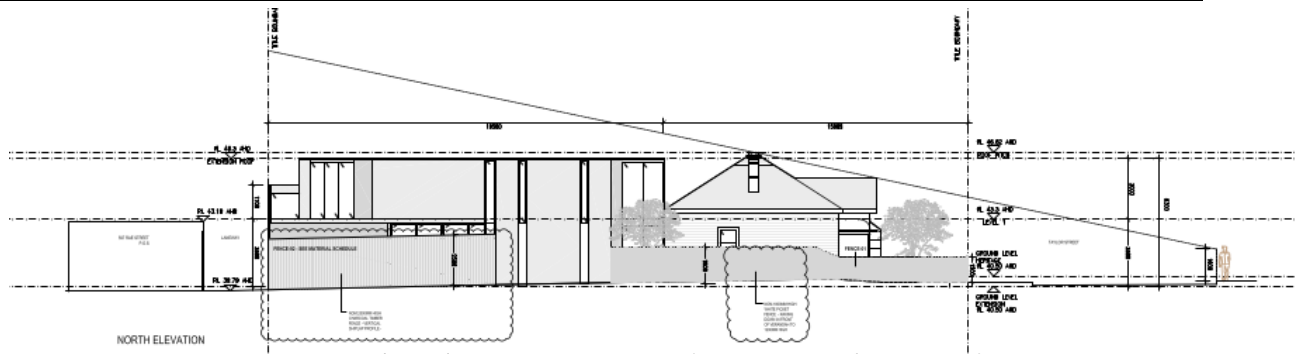


Image 8: Diagram demonstrating compliance with Figure 2 of Clause 22.02-5.7.1

100. Whilst the addition will be visible from the principal street from oblique angles, the addition incorporates a setback and rake to south. This will assist in breaking up the mass of the addition, ensuring the addition will not dominate the original heritage dwelling.
101. Council's Heritage Advisor was supportive of both the height and setbacks of the proposed addition stating;

*"The proposed front setback at the upper floor level sits comfortably back from the sightline requirements for contributory dwellings (refer Fig 2) and is acceptable.*

*Given the setback, the proposed scale and height of the ground and first floor addition is acceptable."*

102. Council's Heritage Advisor was also supportive of the proposed flat roof form noting;

*"The proposed roof form of the ground and first floor rear addition is flat but is adequately separated from the original dwelling. The roof form will not visually dominate the proposed hipped form of the primary dwelling or the setting of any neighbours. The roof form is supported."*

#### Materials and Appearance

103. The proposal seeks to adopt a contemporary design approach for the proposed new building at the rear. Council's Heritage Advisor was supportive of the proposal stating;

*"This approach is not unacceptable provided that adequate respect is given to the heritage character of the surrounding area through details such as external materials, proportions and fenestration."*

104. The proposed external materials for the new development are weatherboard, Colorbond cladding, spotted gum timber and glazed aluminium framed windows. The predominant external materials in the street are weatherboard, galvanised corrugated iron, face brick and timber.
105. The proposed materials of timber, masonry and corrugated metal will be sympathetic to the surrounding heritage fabric and are considered appropriate.
106. Council's Heritage Advisor was supportive of the materials and design of the proposed rear addition stating;

*"The window proportions to the extension are supported.*

*The proposed appearance is acceptable given the setback of the contemporary style addition from the primary dwelling and non-intrusive colour palette."*

107. Council's Heritage Advisor was however not supportive of the weatherboard side walls associated with the southern elevation of the rear addition, recommending;

*"A contrasting, but complimentary, material is used in place of weatherboards for the extension to distinguish the original building footprint from the extension."*

This is consistent with the requirements of Clause 22.02-5.7.1 which encourages additions to be distinguishable from the original historic fabric. Following discussions with the applicant a replacement material of a light coloured rendered wall was suggested. This would be considered an acceptable material as it will not detract from the original dwelling or broader heritage precinct. A condition of the permit will subsequently require the southern wall associated with the addition be constructed of a light coloured rendered wall or similar

#### *Front Fence*

108. The proposed front fence will incorporate timber pickets and will have a maximum height of 1.2m. This is consistent with the requirements of Clause 22.02-5.7.2 which requires fences to be a maximum of 1.2 metres high if solid or 1.5 metres high if more than 50% transparent (excluding fence posts). The proposed front fence will continue to allow for views to the contributory façade of the dwelling as encouraged by Clause 22.02-5.7.2. A condition of the permit will require that the fence is shown on the floor plans.

#### *Reconstruction Works*

109. The proposal seeks to partially reconstruct the original Federation dwelling. Works proposed by this application include restoration of the front façade, provision of a new roof frame and sheeting, two brick chimneys, weatherboard side walls, a new porch and verandah.
110. The reconstruction and restoration of heritage fabric is supported by policy at Clause 22.02-5.3, which seeks to encourage the restoration of a heritage place or contributory element if evidence exists to support its accuracy. In regard to reconstruction, the policy encourages works if:

*The reconstruction will enhance the heritage significance of the heritage place*

*Evidence exists to support the accuracy of the reconstruction.*

111. Given that the demolition of the original dwelling occurred only recently, there is substantial information available in the form of photographs, plans and site surveys to support an accurate reconstruction.
112. Council's Heritage Advisor has reviewed the proposed extent of works and is generally supportive of the reconstruction works, however, has provided a series of recommendations in order to achieve a historically accurate dwelling. These are detailed in the below extract from the 19 November 2020 referral report as follows;

<b>Suggested condition</b>	<b>Explanation</b>
Front façade restoration works to the weatherboards, windows and gable end (joinery and render) must be undertaken by a tradesperson with experience with traditional building techniques.	<i>Poor quality work could compromise the condition and integrity of the scarce heritage fabric remaining.</i>
Prepare a schedule of restoration work for the façade and integrate it with the drawings.	<i>A schedule of restoration work will encourage the work to be carried out appropriately.</i>

Salvage, repair and reuse weatherboards from the front façade. Preference repair over replacement. If replacement of any timber is required, the new weatherboards must match the width and profile of existing. Side wall weatherboards must also match the width and profile of the front façade.	<i>Much of the weatherboard appears to be in sound condition and can be retained/repared.</i>
Retain and restore side light and fan light joinery to the front door.	<i>The timber joinery surrounding the door appears to be in sound condition and can be retained/repared.</i>
Treatment of the render to the gable end must be carried out by hand, involving inspection and removal of loose, unfit or drummy render by hand, and replacement or patch repair as necessary with a cement of matching consistency and type (likely including lime).	<i>The render appears to be in sound condition. Full replacement is not supported.</i>
Should the barge board require replacement, the decorative diamond shapes must be reinstated on the new barge board.	<i>This element contributes towards the aesthetic significance of the place within the streetscape.</i>
The proposed colour scheme to the primary dwelling should adopt an appropriate Federation/Edwardian era colour scheme, as set out in Heritage Victoria <i>What house is that? A guide to Victoria's housing styles</i> (3 <sup>rd</sup> ed.).	<i>The proposed extensive use of white is not in keeping with colour schemes for Edwardian/Federation era dwellings. Further, no detail is provided as to the colour scheme for decorative elements.</i>
Ensure that the roofing material specified for the primary roof is Heritage Grade Z600, not Colorbond. Amend plans accordingly.	<i>Although the material schedule specifies red coloured Heritage Grade Z600, the material specified on Plans Part 2 (page 5 of PDF) identify it as 'red coloured colour bond corrugated roof metal'.</i>
Provide detail on the drawings for the new verandah post and porch. Specify turned timber posts with simple decorative detail, coupled with simple timber brackets.  For reference, consult: Ian Evans, 1986 [1988]. <i>The Federation house: A restoration guide</i> . The Flannel Flower Press, Mullumbimby NSW.	<i>This will assist with visually integrating the dwelling into the streetscape and is aesthetically appropriate to the dwelling itself.</i>
Provide detail on the drawings for the new verandah post and porch. Specify turned timber posts with simple decorative detail, coupled with simple timber brackets.  For reference, consult: Ian Evans, 1986 [1988]. <i>The Federation house: A</i>	<i>This will assist with visually integrating the dwelling into the streetscape and is aesthetically appropriate to the dwelling itself.</i>

restoration guide. The Flannel Flower Press, Mullumbimby NSW.	
As part of the chimney reinstatement works, the new chimneys should match the location, height, materiality and profile of the former chimneys. This work should be evidenced by photographs of the building prior to demolition; these are available on Google Streetview. Amend plans accordingly to include this detail.	<i>Replication of original features which have photographic evidence will have a positive heritage outcome for the site.</i>
Replace front façade windows with an appropriate Federation style, taking into consideration materials, form and proportions.  For reference, consult: Ian Evans, 1986 [1988]. <i>The Federation house: A restoration guide</i> . The Flannel Flower Press, Mullumbimby NSW.	<i>Opportunity exists here to replace the windows with a more period appropriate style, taking into consideration materials, form and proportions. From a heritage perspective, this will be a better outcome than the retention of the current windows.</i>

113. The existing level of detail supplied on the decision plans does not provide adequate information to allow for a historically accurate reconstruction. It is recommended that the applicant engage a qualified independent heritage architect to prepare the required documentation in order to ensure the building is reconstructed and restored appropriately as detailed by Council's Heritage Advisor above. As such additional information will be required as follows;

Existing and proposed plans and elevations at the level of detail required for an authentic reconstruction (minimum scale 1:50), including but not limited to: setbacks, RL levels, pitch of roof, chimney location and details (decorative features, number of courses), size and location of openings, weatherboard and guttering profile specifics, materials, etc.

The provision of a 'Reconstruction Methodology Report' prepared by a suitably qualified heritage consultant, outlining the process for dismantling the building, protecting contributory elements, reconstructing the building and reinstating historically accurate details including the above recommendations of Council's Heritage Advisor.

114. A condition of the permit will therefore require that these documents are submitted prior to the endorsement on any plans.
115. Overall, subject to conditions, the demolition, the addition and the proposed reconstruction respond to the decision guidelines and policy as outlined in Clause 22.02 and Clause 43.01 and is therefore supported from a heritage perspective.

#### Development abutting laneways

116. Clause 22.07 (Development abutting laneways) encourages development to respect the character of the laneway and provide a safe environment for pedestrian and vehicular users of the laneway. The proposed addition will be partially built to the eastern title boundary abutting the rear lane, and will be respectful of the scale and character of the surrounding built form in the laneway.

There are numerous examples of built form along the lane, with rear garages and outbuildings associated with dwellings fronting Taylor and Rae Streets forming the predominant character of the laneway.

117. Policy also requires that where vehicle access is proposed, that it be provided to ensure ingress and egress does not require multiple vehicular movements. Council Engineers have reviewed the supplied Section 57A plans and confirmed that the proposed garage door width at 4.3m will allow vehicles to be able to ingress/egress the garage effectively.
118. The policy also discourages doors or gates protruding into the laneway. A condition of the permit will require an annotation included on the plans confirming the garage door will not extend beyond the title boundaries.

#### Objector concerns

A response to objector concerns is provided below;

#### *Impact on neighbourhood character and excessive site coverage;*

119. This issue has been discussed in paragraphs 53,54 and 56

#### *Heritage impacts*

120. This issue has been discussed in paragraphs 91-115

#### *Amenity impacts (i.e. daylight to existing windows; overshadowing; overlooking and visual bulk);*

121. This issue has been discussed in paragraphs 61-87

#### *Incorrect site context;*

122. The Section 57A Amended plans submitted on 20 November 2020 were updated to reflect the correct site context of No. 8 Taylor Street., identifying all five north facing windows and correctly referencing the rear outbuilding as a studio rather than a garage.
123. The plans continue to show 26 Miller Street identified as a double storey dwelling despite being a single storey dwelling. The council officer has undertaken an assessment based on the correct site conditions, this error is subsequently of no consequence.

#### **Conclusion**

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

#### **RECOMMENDATION**

That the Planning Decisions Committee resolves to issue a Notice of Decision to Grant a Planning Permit PLN20/0237 for part demolition of the existing dwelling for the construction of a ground and first floor addition at 10 Taylor Street Fitzroy North generally in accordance with the plans noted previously as the “decision plans” and subject to the following conditions:

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans prepared by Kennon dated 18 November 2020 (A 003 – A 4000) but modified to show:
  - (a) Existing and proposed plans and elevations of the reconstructed portion of the dwelling at a minimum scale 1:50, including setbacks, RL levels, pitch of roof, chimney location and details (number of courses), size and location of openings, weatherboard and guttering profile specifics and materials..
  - (b) The location and details (permeability) of the proposed front fence.
  - (c) The permeability of the timber batten privacy screens to have a maximum of 25% openings, compliant with Standard A15 (Overlooking) of clause 54.04-6 of the Yarra Planning Scheme.
  - (d) Section diagrams depicting view lines taken from a height of 1.7m above finished floor level to demonstrate compliance with Standard A15 (Overlooking) of clause 54.04-6 of the Yarra Planning Scheme with regards to;
    - (i) The first floor north facing Rumpus room window to the Secluded Private Open Space to the north
    - (ii) The first floor balcony (northern interface) to the Secluded Private Open Space to the north.
  - (e) Additional screening if required by Condition 1(d)
  - (f) The southern boundary fence height annotated on the ground floor plans and to be a minimum of 1.8m high where opposite and to 45 degrees both sides of the proposed kitchen and dining room windows.
  - (g) The southern wall associated with the new rear addition be constructed of a light coloured render, in place of weatherboards or an alternative material to the satisfaction of the Responsible Authority.
  - (h) An annotation confirming the rear garage door will not extend beyond the title boundaries
  - (i) An annotation to state that for any new internal concrete work, the finished floor levels along the edge of the slab must be 40mm above the edge of the Right of Way.
  - (j) All works as detailed within the Reconstruction Methodology Report required by Condition 3.
2. The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. The provision of a 'Reconstruction Methodology Report' prepared by a suitably qualified heritage architect, outlining the process for dismantling the building, protecting contributory elements, reconstructing the building and reinstating historically accurate details. The report to incorporate the following works/details;
  - (a) Front façade restoration works to the weatherboards, windows and gable end (joinery and render) must be undertaken by a tradesperson with experience with traditional building techniques.
  - (b) Salvage, repair and reuse weatherboards from the front façade. Preference repair over replacement. If replacement of any timber is required, the new weatherboards must match the width and profile of existing. Side wall weatherboards must also match the width and profile of the front façade.
  - (c) Retain and restore side light and fan light joinery to the front door.
  - (d) Treatment of the render to the gable end must be carried out by hand, involving inspection and removal of loose, unfit or drummy render by hand, and replacement or patch repair as necessary with a cement of matching consistency and type (likely including lime).

- (e) Should the barge board require replacement, the decorative diamond shapes must be reinstated on the new barge board.
  - (f) The proposed colour scheme to the primary dwelling to adopt an appropriate Federation/Edwardian era colour scheme,
  - (g) Ensure that the roofing material specified for the roof over the original dwelling is Heritage Grade Z600.
  - (h) Provide detail on the drawings for the new verandah post and porch. Specify turned timber posts with simple decorative detail, coupled with simple timber brackets.
  - (i) As part of the chimney reinstatement works, the new chimneys to match the location, height, materiality and profile of the former chimneys. This work to be evidenced by photographs of the building prior to demolition
  - (j) Replace front façade windows with an appropriate Federation style, with regard to materials, form and proportions.
4. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
5. Before the development is occupied all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority.
6. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the pedestrian entry from the laneway, must be provided within the property boundary. Lighting must be:
- (a) located;
  - (b) directed;
  - (c) shielded; and
  - (d) of limited intensity,
- to the satisfaction of the Responsible Authority
7. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
- (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
8. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
- (a) Monday-Friday (excluding public holidays) before 7 am or after 6 pm,;
  - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm; or
  - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.
9. This permit will expire if:
- (a) the development is not commenced within two years of the date of this permit; or
  - (b) the development is not completed within four years of the date of this permit.

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

Notes:

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5555 to confirm.

A local law permit (e.g. Asset Protection Permit, Road Occupation Permit) may be required before development is commenced. Please contact Council's Construction Management Branch on Ph. 9205 5555 to confirm.

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

## Attachments

- 1 PLN20/0237 - 10 Taylor Street Fitzroy North - Site Location
- 2 PLN20/0237 - 10 Taylor Street Fitzroy North - Decision Plans
- 3 PLN20/0237 - 10 Taylor Street Fitzroy North - Heritage Referral updated 19.11.2020
- 4 PLN20/0237 - 10 Taylor Street Fitzroy North - Engineering Comments
- 5 PLN20/0237 - 10 Taylor Street Fitzroy North -Updated Engineering Comments (in response to 57A plans

- 
- 6.4 PLN19/0428 - 178 - 182 Bridge Road, Richmond - Partial demolition and use and development of the land for the construction of a six storey mixed-use building containing a retail premises and dwellings (permit required for dwelling use only) and a reduction of the car parking requirements**
- 

## **Executive Summary**

### **Purpose**

1. This report provides the Planning Decisions Committee (PDC) with an assessment of a planning application submitted for 178-182 Bridge Road, Richmond. The report recommends approval of the application, subject to a number of conditions.

### **Key Planning Considerations**

2. Key planning considerations include:
  - (a) Clause 22.02 – Development Guidelines for Sites Subject to the Heritage Overlay;
  - (b) Clause 22.05 – Interface Uses Policy;
  - (c) Clause 22.17 – Environmentally Sustainable Development;
  - (d) Clause 34.01 – Commercial 1 Zone;
  - (e) Clause 43.01 – Heritage Overlay;
  - (f) Clause 43.02 – Design and Development Overlay - Schedule 21;
  - (g) Clause 52.06 – Car Parking; and
  - (h) Clause 58 - Apartment Developments.

### **Key Issues**

3. The key issues for Council in considering the proposal relate to:
  - (a) Policy and strategic support;
  - (b) Dwelling use;
  - (c) Built form, urban design and heritage;
  - (d) Clause 58, including internal amenity and ESD considerations;
  - (e) Off-site amenity impacts;
  - (f) Car parking and traffic; and
  - (g) Objector concerns.

### **Submissions Received**

4. A total of twenty-five (25) objections and one letter of support were received to the application, and can be summarised as follows:
  - (a) Built form, height, scale, setback and design (wedding cake presentation);
  - (b) The built form responds to anticipated future multi-level built form to the east and west, which will unlikely occur;
  - (c) Impact on heritage values;
  - (d) Impacts on views to Pelaco Sign, Richmond Town Hall and impact on heritage skyline;
  - (e) Equitable development for eastern and western abutting properties and southern adjacent residential property at No. 2 Waltham Street;
  - (f) On-site amenity;
  - (g) Insufficient transition in built form to the Neighbourhood Residential Zone 1;
  - (h) Off-site amenity impacts;
  - (i) Wind tunnel impact;
  - (j) Impact on car parking;
  - (k) Impact on social wellness with regard to lack of visitor and customer parking;

- (l) One loading bay and one accessible car space should be provided on site;
- (m) Deliveries via Bridge Road frontage;
- (n) Greenhouse gas emissions due to air conditioning units;
- (o) Loss of property values;
- (p) Applicant did not consult with surrounding owners;
- (q) Disruption during construction phase, including noise and impact on traffic and tram services along Bridge Road;
- (r) A construction management plan should be prepared in consultation with neighbouring properties.

## **Conclusion**

5. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported subject to the following key modifications as shown on the amended sketch plans received by Council on 25 September 2020, including:
- (a) Sloping partition walls to eastern and western boundaries at the Bridge Road frontage at Levels 4 and 5 so as to reduce the repetitive 'wedding cake form' created by the partition walls;
  - (b) Modifications to the fenestration of the northern wall at Levels 1-3 to provide less variation in architectural treatment along the Bridge Road frontage;
  - (c) Deletion of the two central verandah posts to ensure improved free passage to the tram stop and less clutter at the Bridge Road frontage;
  - (d) The eastern and western boundary walls to consist of a light grey textured precast finish to the upper levels to provide some texture along the boundary walls; and
  - (e) The schedule of colours and finishes updated in accordance with the amended sketch plans received by Council on 25 September 2020.

**CONTACT OFFICER:** Michelle King  
**TITLE:** Principal Planner  
**TEL:** 9205 5333

Authoriser: Senior Coordinator Statutory Planning

**Application Number:** PLN19/0428

5. On 24 July 2020, the applicant submitted an updated Waste Management Plan (WMP) by Northern Environmental Design, dated 07/07/2020, to address issues and outstanding information identified by Council's City Works Branch, including:
  - Total space of the waste storage area in M<sup>2</sup>;
  - Total footprint of suggested bins in M<sup>2</sup>;
  - Waste generation rates to align with Yarra's MUD Guidelines;
  - Food waste diversion management;
  - E-waste and hard waste storage areas;

- A clause in the WMP stating potential review into the service if operational requirements change;
- The bin store plan to show path of access from the bin store to the bin collection point, hard waste and e waste storage.

6. Council's City Works Branch reviewed the updated WMP dated 7 July 2020 and confirm that the above matters are now satisfied.

Lodgment of 'without prejudice sketch plans'

7. On 28 August 2020, the applicant submitted amended 'without prejudice plans' in an effort to address the design recommendations identified by Council's Urban Designer and shading devices as recommended by Council's ESD Officer, and includes:
- (a) Replacement of the repetitive form created by the partition walls on the sides of the balconies with sloping partition walls;
  - (b) Provision of less variation in material and architectural treatment along Bridge Road frontage;
  - (c) Provision of textured panelling along the eastern and western walls;
  - (d) Removal of two central structural posts to the front verandah;
  - (e) The use of charcoal metal finish is reduced and the provision of a light grey brickwork in lieu of dark grey brickwork to the front wall; and
  - (f) The inclusion of northern shading devices at Levels 1-3.
8. The sketch plans have addressed all urban design recommendations except for one, i.e. the woodland grey paint finish to the front verandah is retained and not changed to match the respective heritage buildings. Council's Urban Design Officer has accepted this on the basis that Council's Heritage Advisor raised no concern with the paint finish.

Lodgment of 'sketch plans' (25 September 2020)

9. On 25 September 2020, the plans discussed above were formally submitted as 'sketch plans' incorporating all of the changes outlined, including showing the depth of the new northern shading devices.
10. Assessment is based on the advertised plans, with reference made to the sketch plans received on 25 September 2020.

**The Proposal**

11. The proposal is for partial demolition, construction and use of a six storey mixed-use building containing retail premises and dwellings (permit required for dwelling use only), construction of a verandah over a Road Zone Category 1 and a reduction of the car parking requirements. The proposal particulars can be summarised as follows:

Demolition

12. The proposed demolition works to the two heritage shopfronts on site include:
- (a) Demolition at the rear of the double storey shopfront at No. 178 Bridge Road, including ground and first floors, walls and roof. The heritage shop at the street frontage will be retained for a depth of 8m (to the depth of the hipped roof), however the entry door will be replaced with a new glazed door comprising black aluminium frame. The north-facing vertical double-hung windows at Level 1 will be removed and replaced with new double-glazed windows generally to match existing, and the roof will be removed and replaced with galvanised metal sheet finish. The northern chimney will be retained, while the southern chimney will be demolished;

- (b) Demolition works to the rear of the single storey shopfront at Nos. 180-182 Bridge Road, including walls and roof. Heritage fabric to be retained includes the front façade and parapet, the western boundary wall for a depth of 8m from the street, the walls to the recessed entry, in part, and the return wall along the eastern boundary for a depth of 0.6m. The shopfront windows will be removed and replaced with new clear glass shopfront windows with black aluminium framing, the entry door will be removed and replaced with new glass and timber panel doors with grey border and a new concrete ramp will be constructed to the communal entry.
- (c) In addition to the above, the existing canopies to the two shopfronts over the Bridge Road footpath will be demolished as will the rear boundary and internal fencing (not shown on plans). A condition can require these items to be reflected on the demolition plans.

Treatment to front facade of heritage buildings

- 13. The tile finish to the front façade of the double storey Victorian era shop at Lower Ground Level will be retained. The front façade of the double storey, Victorian era shop at Level 1 will be repainted in a beige colour, to match existing.
- 14. The front façade and parapet to the single storey shopfront at Nos. 180-182 Bridge Road will be rendered flat and painted in off-white colour, to match existing.

Use and buildings and works

- 15. As a general description, the proposal is a six storey, mixed use development recessed behind the two Victorian era shopfronts at the Bridge Road frontage. A retail tenancy is to be provided at Lower Ground Level generally to the western side of the Bridge Road frontage and dwellings are provided above at Levels 1-5. Car parking is provided at Upper Ground Level at the rear of the site, accessed off Sheridan Place to the rear.
- 16. The development comprises:
  - (a) 151m<sup>2</sup> retail floor space at Lower Ground Level;
  - (b) 15 apartments at Levels 1-5;
  - (c) A total of 3 car spaces at Upper Ground Level, accessed off Sheridan Place to the rear;
  - (d) A total of 17 bicycle spaces within a bike store at Upper Ground Level; and
  - (e) An 18m<sup>2</sup> communal waste store located at Upper Ground Level, with bin transfer and collection to occur to the rear along Sheridan Place.
- 17. Entry to the retail tenancy is provided via a single door along the Bridge Road frontage and via double doors to the communal entry at the eastern side of the Bridge Road frontage.
- 18. Entry to the dwellings is provided via the communal entry at the Bridge Road frontage, eastern side, and via a secondary entry at the rear of the building, off Sheridan Place. Access to the dwellings at Levels 1-5 is provided via communal lift and stairwell.
- 19. A summary of dwelling details is provided in the following table:

Dwelling	Level	Beds	Useable balcony	Internal Storage	External storage
1	1	1	14.94m <sup>2</sup>	10.9m <sup>3</sup>	-
2	1	1	23.43m <sup>2</sup>	16.4m <sup>3</sup>	-
3	1	1	14.1m <sup>2</sup>	10.7m <sup>3</sup>	-
4	1	1	14.4m <sup>2</sup>	10.7m <sup>3</sup>	1m <sup>3</sup> (L1)
5	2	1	10.4m <sup>2</sup>	12m <sup>3</sup>	-
6	2	1	9.0m <sup>2</sup>	15.6m <sup>3</sup>	-
7	2	1	14.4m <sup>2</sup>	10.7m <sup>3</sup>	-

8	2	1	14.1m <sup>2</sup>	10.7m <sup>3</sup>	1m <sup>3</sup> (L1)
9	3	1	10.4m <sup>2</sup>	12m <sup>3</sup>	-
10	3	1	9.0m <sup>2</sup>	15.6m <sup>3</sup>	-
11	3	1	8.8m <sup>2</sup>	9.9m <sup>3</sup>	1.4m <sup>3</sup> (L1)
12	3	1	9.1m <sup>2</sup>	9.1m <sup>3</sup>	2.1m <sup>3</sup> (L1)
13	4	2	26.21m <sup>2</sup>	12.4m <sup>3</sup>	2m <sup>3</sup>
14	4	2	16.1m <sup>2</sup>	14.8m <sup>3</sup>	1.4m <sup>3</sup> (L1)
15	5	2	26.42m <sup>2</sup> & 9.28m <sup>2</sup>	11.6m <sup>3</sup>	3.1m <sup>3</sup>

*Built form and architectural detail*

20. The existing double storey and single storey shopfronts at the Bridge Road frontage will be retained and will include clear glazing at the street frontage. The recessed entry to the single storey shop at No. 180-182 Bridge Road will be retained and will be used as the communal entry to the building. A new verandah will be constructed over the Bridge Road footpath comprising a lean-to roof profile with semi-circular element over the communal entry and five posts, taking inspiration from the former verandah to the Forbes Auction Rooms at 180-182 Bridge Road c1950s. The fascia, circular element and posts will be painted dark grey and the roof will have a grey galvanised metal finish.
21. Behind the street edge form, the proposed development steps up to a maximum 20.2m building height, with the roof top plant projecting 1.3m above roof level.
22. At the Bridge Road frontage, the upper level development is setback 6m at Level 1 and 6m and 8.2m to the eastern and western ends of Levels 2 and 3 to allow for recessed balconies. The 6m setback behind the front façade to No. 180-182 Bridge Road is used as two terraces to the dwellings at Level 1. Level 4 is setback 10.3m from the street, with a 2.9m deep balcony across the building façade projecting into this setback. Level 5 is setback further to 15.4m from the street, with 3.5m deep balcony across the building façade projecting into this setback.
23. To the rear of the site along the Sheridan Place interface, the development comprises a somewhat consistent 3.17m setback at Upper Ground Level and at Levels 1-3. A minor projection is found at the Upper Ground Level to the eastern side and 2m deep balconies at Levels 1 and 2 project into this setback. At Level 4 the building sets back from Sheridan Place 5.9m, with a 2.1m deep centrally located balcony projecting into this setback. At Level 5 the building sets back again with 6.4m setback from the laneway.
24. The development is constructed the eastern and western side boundaries to a maximum six storeys. A 3m x 3m lightwell is located midway along the eastern boundary.
25. The roof top plant and lift core is centrally located with 15.5m and 17.6m setback from Bridge Road.
26. The upper levels will comprise dark grey brickwork, charcoal metal, off-white render finishes and clear glass windows to the Bridge Road façade and light grey precast concrete walls to the side boundary walls. The front facade comprises a variation of architectural treatment, fenestration and materials at Levels 1-3 and as identified by Council's Urban Design Unit this takes place in 4 vertical sections across the front wall.
27. The proposal integrates landscaping within the built form in the form of planter boxes along the northern perimeter to the terraces/balconies at Levels 1, 4 and 5.
28. To the rear, the building comprises a consistent architectural presentation, with consistent fenestration, balconies and finishes, including light grey precast concrete wall at the Upper Ground Level, an off-white render finish to Levels 1-5, clear glass windows, and dark grey horizontal balcony privacy screens.
29. In other regards:

- (a) a fire booster cupboard is located at the Bridge Road frontage, integrated into the front façade at Lower Ground Level to the eastern side, with an off-white render finish to the cupboard doors to match the front façade;
- (b) the building comprises an array of 20 roof top solar panels;
- (c) a 7,000 litre underground water tank is located south of the building, connected to toilet flushing in all 15 apartments; and
- (d) the provision of 1 car space with EV charging station is provided within the garage.

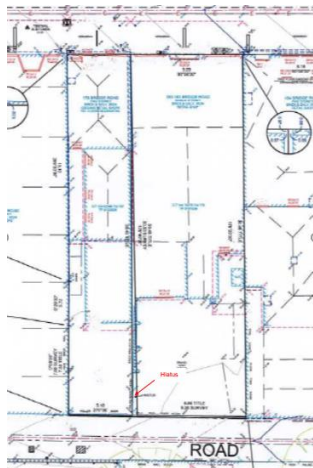
Reduction in car parking requirements

30. Three car spaces are proposed on site, allocated to the 3 x 2 bed dwellings. The applicant is seeking a total reduction of 17 car spaces, which includes 5 car spaces associated with the retail tenancy and 12 car spaces associated with the 12 x 1 bed dwellings.

**Existing Conditions**

Subject Site

31. The subject site consists of two side-by-side properties along the southern side of Bridge Road, known as No. 178 Bridge Road (west) and Nos. 180-182 Bridge Road (east), located midway between Peluso Place and Waltham Street, in Richmond. No. 178 Bridge Road comprises a 5.19m frontage to Bridge Road, No. 180-182 Bridge Road comprises a 9.09m frontage to Bridge Road, with a combined 14.28m frontage to the street. The site has a depth of 30.5m and a combined site area of 437m<sup>2</sup>. The site comprises an approximate 3m north-easterly fall toward the Bridge Road frontage.
32. As highlighted in the correspondence by Peter Mulcahy & Associates P/L, dated 12 March 2020, a narrow hiatus parcel of land is located between the two lots at the rear of the site (see below). This hiatus land has no formal status or title. It is the intention of the applicant to submit an application to Land Victoria to amend the title to take up the land in the excess. In light of this, a condition should be included requiring that no development take place outside the title boundaries. This will act as a mechanism to ensure that no development can take place across the hiatus land, until the updated Title/s are released.



**Hiatus shown (applicant supplied)**

33. For assessment purposes, the development will be assessed with hiatus land included.

*178 Bridge Road, Richmond*

34. No. 178 Bridge Road comprises a single fronted, double storey Victorian era terrace with shop and shop-top residence. This building is constructed to the Bridge Road frontage and side boundaries.

The building comprises a glazed shopfront with recessed glazed entry offset to the west side, light yellow tile finish with black and green bands and canopy over the Bridge Road footpath at ground level and a beige render finish, with two vertical double hung windows and simple parapet along the front wall at first level. The side walls are red brick. Beyond the front parapet is a galvanised hipped roof form with two chimneys along the western boundary. Double and single storey additions are located to the rear. Open car parking is provided at the rear of the site, accessed via Sheridan Place and double roller door at the rear of the site.

*180-182 Bridge Road, Richmond*

35. No. 180-182 Bridge Road comprises a double fronted, single storey Victorian era shop comprising glazed shopfront windows with black framing, a centrally located recessed glazed entry with sidelights and transom with black framing, an off-white rendered finish, canopy over the Bridge Road footpath and a tall stepped parapet along the street frontage designed in three bays with raised central cap to each bay and raised piers in between. The wall to the parapet is recessed and includes street number and 'Forbes' sign imprinted into the central bay. Beyond the front parapet to the rear is a flat and low profile gable roof and single storey additions to the rear. Open car parking is provided at the rear of the site, accessed via Sheridan Place and double roller door at the rear of the site.



Subject site, looking south from Bridge Road (Source: Google maps, streetview Jul. 2019)

36. No covenants or easements affect the certificates of title submitted for the subject site.

#### Surrounding Land

37. The site is located within the Bridge Road Major Activity Centre (MAC). The Bridge Road MAC is a long commercial shopping strip that extends from Punt Road in the west to the Yarra River in the east, comprising an array of retail, dining and community, health and business services in addition to residential uses at upper levels. The built form in the Bridge Road MAC is evidently varied in style, scale and era, however the immediate streetscape in this section of Bridge Road, between Punt Road in the west and Church Street in the east, displays a more consistent character with one and two storey Victorian and Edwardian era shopfronts along the Bridge Road frontage, with evident taller built form located behind.
38. As identified by the Tribunal in the *Richmond 048 Service Pty Ltd ATF Richmond 048 Trust v Yarra CC [2018] VCAT 1167* decision for site Nos. 150-152 Bridge Road and 1-3 Allowah Terrace, Bridge Road is designated in the Scheme and Plan Melbourne as a major activity centre which means it is an area where intense new development is encouraged. Such development is evident already as the strip is undergoing physical change, particularly on the north side of Bridge Road between Punt Road and Church Street.

39. Along the north side of the Bridge Road MAC west of Church Street, Bridge Road has experienced, and is continuing to experience, significant redevelopment. Recently constructed buildings and current approvals range between 7 and 14 storeys. The upper levels of these developments are set back between 12m and 19m from Bridge Road, maintaining the existing shopfronts as the dominant element within the streetscape.
40. Multi-storey development along the northern side includes the 8 storey mixed use development located opposite the subject site at Nos. 209-211 Bridge Road and No. 32 Bosisto Street, Richmond.
41. The south side of Bridge Road has experienced limited redevelopment to date and presents as a relatively intact heritage streetscape. However, it is of note that VCAT recently approved a five storey development at No. 242 Bridge Road, located along the southern side of Bridge Road toward the Church Street end. Planning Permit PLN16/1027 was issued on 1 March 2018 for use of dwelling at ground level, part demolition and construction of a five storey addition and reduction of car parking requirements. Construction of this development has not yet commenced.
42. It is also of note that at the recent PDC Meeting on 23 September 2020 Council resolved to support a commercial development across two nearby properties at Nos. 150-152 Bridge Road, 1-3 Allowah Terrace and 195 Lennox Street consisting of part demolition of existing buildings to construct a multi-level commercial complex (maximum six storeys plus roof plant/roof garden and two level basement) for use as office (including associated event/showroom and wellness centre), medical suites and retail (no permit required for use), construction of a canopy over a Road Zone Category 1, and reduction in car parking requirements associated with office and retail uses. The applicant lodged an appeal at the Victorian Civil and Administrative Tribunal (VCAT) under S79 of the *Planning and Environment Act (1987)* (the Act) for failure to determine within the prescribed time. A compulsory conference was held on 14 October 2020 with the hearing scheduled for 14 December 2020.

*North*

43. To the north of the site is Bridge Road, comprising a 20m wide road reserve, metered parallel on-street parking, bicycle lanes and tram services including Tram Routes 48 and 75, with tram stop No. 17 located forward of the subject site.

*West*

44. To the west of the site is the former Love & Lewis, later Lover & Pollards, Department Store building at Nos. 170-176 Bridge Road. This building is a double storey, Victorian era commercial building presenting as a triple storey scale with estimated 11.2m building height. This building is constructed to the Bridge Road frontage and common boundary with the subject site and comprises four separate glazed shopfronts along the Bridge Road frontage at ground level with painted brick work finish in varying colours and tiered canopy over the Bridge Road footpath and a consistent rendered finish with arched windows, a high parapet with evenly placed piers and moulding in maroon and green painted finish at first level along the Bridge Road frontage. Beyond the front parapet to the rear is a series of galvanised transverse gable roof forms.

*East*

45. To the east is a double fronted, double storey Victorian era commercial building. This building also stands prominently in the streetscape, with estimated maximum 12.5m building height to a prominent galvanised hipped roof form beyond the front parapet. The building comprises a glazed shopfront with black render finish and entry to the western side along the Bridge Road frontage at ground level.

Circle and square configured fenestration break up the ground and first levels along the front facade. At first level the building comprises a light yellow render finish two vertical double-hung windows, a recessed balcony centrally located along the front façade with arch and piers, bold moulding detailing and high intricate parapet with central pediment and piers. Moulding to the front façade at first level is painted in dark green colour. Beyond the front parapet is a high pitched and low pitched galvanised roof to the north and south. To the rear of the double storey building are single storey additions.

*South*

46. To the south of the site is Sheridan Place, a laneway providing rear vehicular access to various commercial premises fronting Bridge Road. Sheridan Place is flanked with double and triple storey side and rear walls, boundary fences and roller doors to the north and the boundary fence/wall to No. 2 Waltham Street to the south.
47. Beyond Sheridan Place to the south is the rear open car park to Nos. 170-176 Bridge Road (west) and the rear secluded private open space (SPOS) to No. 2 Waltham Street (west). No. 170-176 Bridge Road is located within the C1Z. The open car park is raised above the laneway level and accessed off Peluso Place to the west. No. 2 Waltham Street is located within the NRZ1. The SPOS to No. 2 Waltham Street comprises a high brick wall and small outbuilding constructed along Sheridan Place. The SPOS at No. 2 Waltham Street wraps around the dwelling to the north and south sides, with a deck area to the north side of the dwelling.

*Local services and facilities available to the site*

48. The site has immediate access to the retail, dining, community, health and business services along the Bridge Road MAC and is located 2km from the Melbourne CBD.
49. The site is within the Principal Public Transport Network (PPTN) area. The site comprises immediate access to Tram Routes 48 and 75 along Bridge Road, with tram stop No. 17 located forward of the site, is within 220m from Tram Route 78 along Church Street, and is within reasonable walking distance to the bus services along Punt Road and the West Richmond Railway Station.
50. The site also benefits from immediate access to the on-road bicycle network with bicycle lanes provided along Bridge Road and bicycle lanes provided along Lennox Street and Church Street 150m west and 220m east of the site, respectively.
51. Bridge Road comprises 2P ticketed parking and a clearway affecting the north and south sides during the afternoon and morning periods, respectively.
52. The site also benefits from convenient access to a GoGet CarShare pod along Waltham Street located 50m east of the site.



Aerial image of subject site and broader area (Source: Google maps, mapdata 2020)

## Planning Scheme Provisions

### Zoning

#### *Clause 34.01 - Commercial 1 Zone (C1Z)*

53. The site is located within the C1Z. The purpose of the C1Z is as follows:
- (a) *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
  - (b) *To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.*
  - (c) *To provide for residential uses at densities complementary to the role and scale of the commercial centre.*
54. Pursuant to Clause 34.01-1 of the Scheme, accommodation (including dwelling) is a section 1 – permit not required use subject to condition *any frontage at ground floor level must not exceed 2 metres*. The communal entry to the dwellings occupies 6.8m of the Bridge Road frontage and does not meet the condition, therefore a permit is required for the dwellings.
55. Pursuant to Clause 34.01-1 of the Scheme, retail premises is a section 1 – permit not required use.
56. Pursuant to Clause 34.01-4, a permit is required to construct a building or construct or carry out works. An apartment development must meet the requirements of Clause 58.

#### *Clause 36.04 - Road Zone*

57. Pursuant to Clause 36.04-2, a permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 36.04.1. Under Clause 36.04-1, retail and accommodation are innominate uses and therefore fall into the section 2 - permit required category. As such, a permit is required for the construction of a new verandah over the Bridge Road footpath.

58. Pursuant to Clause 36.04-3, amongst other things Council must consider the views of the relevant road authority.  
Overlays

*Clause 43.01 - Heritage Overlay (HO310 Bridge Road Precinct, Richmond)*

59. Pursuant to Clause 43.01-1, a permit is required to demolish or remove a building, to construct a building or construct or carry out works, and to externally alter a building by structural work, rendering, sandblasting or in any other way.
60. Under Clause 43.01-1, a permit is required to externally paint a building if the schedule specifies external paint controls apply. External paint controls apply under the HO310.
61. As identified in the incorporated document City of Yarra Review of Heritage Areas 2007 Appendix 8 the buildings on site are graded 'contributory' to the HO310 Bridge Road Precinct, Richmond.

*Clause 43.02 - Design and Development Overlay (DDO21 – Bridge Road Activity Centre)*

62. Pursuant to Clause 43.02-2, a permit is required to construct a building or construct or carry out works. The buildings and works must be constructed in accordance with the requirements of the schedule.
63. The DDO21 is an interim control and is set to expire on 30 June 2021. Permanent controls are proposed to be introduced through the full amendment process, these controls are currently in the preliminary planning stage.
64. Under Schedule 21, the site is located within Precinct 1 – Bridge Road West. Schedule 21 comprises the following mandatory requirements for the site:
- (a) The heritage frontage to Bridge Road must be retained;
  - (b) The built form above must be setback at least 6m from the Bridge Road frontage; and
  - (c) The maximum building height is 21m.

Particular Provisions

*Clause 52.06 – Car Parking*

65. Pursuant to Clause 52.06-2 of the Scheme, the car parking spaces required under Clause 52.06-5 of the Scheme must be provided on the land. Clause 52.06-3 requires a planning permit to reduce the requirement to provide the number of car parking spaces required under this clause. Pursuant to Clause 52.06-5 of the Scheme, the car parking requirements for the proposed development are taken from column B of table 1 given the land is identified as being within the PPTN Area.
66. Under Clause 52.06-5, the proposed provision and subsequent shortfall are shown below:

Land Use	Quantity/size	Statutory Rate	Required car spaces	Proposed car spaces	Reduction Sought
Shop	151m <sup>2</sup>	3.5 car spaces to each 100m <sup>2</sup> of leasable floor area	5.2 (or 5 rounded down)	0	5
Dwelling	15 x 1 & 2 bed dwelling	1 space to each 1 or 2 bed dwelling, plus 0 visitor spaces to every 5 dwellings.	15	3	12
<b>Total</b>	-	-	<b>20</b>	<b>3</b>	<b>17</b>

67. In this instance, a planning permit is required to reduce the statutory requirements by 17 spaces.

*Clause 52.34 – Bicycle Facilities*

68. Pursuant to Clause 52.34-1, 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.
69. The bicycle facilities requirements at Clause 52.34-5 are shown below:

Proposed Use	Quantity/ Size	Statutory Parking Rate	No. of Spaces Required	No. of Spaces Allocated
Dwelling	15	In developments of four or more storeys, 1 resident bike space to each 5 dwellings	3 resident spaces	
		In developments of four or more storeys, 1 visitor bike space to each 10 dwellings	1.5 visitor spaces (or 2 to the nearest whole number)	
Retail premises other than specified in Table 1 to Clause 52.34-5	151m <sup>2</sup>	1 employee space to each 300 sqm of leasable floor area	0.5 employee spaces (or 1 to the nearest whole number)	
		1 shopper space to each 500 sqm of leasable floor area	0 shopper spaces	
Bicycle Parking Spaces Total			4 resident/ employee spaces	17 resident/employee spaces
			2 visitor spaces	0 visitor spaces

70. The development comprises a total 17 bicycle spaces within the bike store. The total bicycle space provision exceeds the statutory requirement, however given these bicycle spaces are located inside the bike store they are considered to catered only to resident/staff use. The development doesn't include easily accessible visitor bicycle spaces, and therefore falls short of the 2 visitor bicycle spaces required under Clause 52.34. This is addressed in further detail later in the report.

*Clause 58 - Apartment Developments*

71. The provisions of Clause 58 apply to an application to construct or extend an apartment development if the apartment development is in the C1Z. A development must meet all of the objectives and should meet all of the standards of the Clause.

General Provisions

*Clause 65 - Decision Guidelines*

72. 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 Municipal Planning Strategy and the Planning Policy Framework, as well as the purpose of the zone, overlay or any other provision.

Planning Policy Framework (PPF)

73. The following PPF provisions of the Scheme are relevant:

*Clause 11 - Settlement*

74. Under Clause 11, the Scheme outlines:

- (a) *Planning is to facilitate sustainable development that takes full advantage of existing settlement patterns and investment in transport, utility, social, community and commercial infrastructure and services.*

*Clause 11.02-1S - Supply of urban land*

75. The objective of this clause is:

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

*Clause 11.03-1S - Activity centres*

76. The objective of this clause is:

- (a) *To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community.*

*Clause 11.03-1R- Activity centres – Metropolitan Melbourne*

77. The relevant strategy of this clause is:

- (a) *Support the development and growth of Metropolitan Activity Centres by ensuring they are able to accommodate significant growth for a broad range of land uses.*

*Clause 13.05-1S - Noise abatement*

78. The objective of this clause is:

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

*Clause 13.07-1S - Land use compatibility*

79. The objective of this clause is:

- (a) *To safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects.*

*Clause 15.01-1S - Urban Design*

80. The objective of this clause is:

- (a) *To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.*

*Clause 15.01-1R - Urban design – Metropolitan Melbourne*

81. The objective of this clause is:

- (a) *To create a distinctive and liveable city with quality design and amenity.*

*Clause 15.01-2S - Building design*

82. The objective of this clause is:

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

*Clause 15.015-S - Neighbourhood character*

83. The objective of this clause is:

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

*Clause 15.02-1S - Energy and resource efficiency*

84. The objective of this clause is:

- (a) *To encourage land use and development that is energy and resource efficient, supports a cooler environment and minimises greenhouse gas emissions.*

*Clause 15.03-1S - Heritage conservation*

85. The objective of this clause is:

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

*Clause 16.01-1S – Housing supply*

86. The objective of the clause is:

- (a) *To facilitate well-located, integrated and diverse housing that meets community needs.*

*Clause 16.01-1R – Housing supply – Metropolitan Melbourne*

87. The relevant strategy of this clause is to:

- (a) *Manage the supply of new housing to meet population growth and create a sustainable city by developing housing and mixed use development opportunities in locations that are metropolitan activity centres and major activity centres.*

*Clause 16.01-2S - Housing affordability*

88. The objective of the clause is:

- (a) *To deliver more affordable housing closer to jobs, transport and services.*

*Clause 17.01-1S - Diversified economy*

89. The objective of this clause is:

- (a) *To strengthen and diversify the economy.*

*Clause 17.02-1S - Business*

90. The objective of this clause is:

- (a) *To encourage development that meets the community's needs for retail, entertainment, office and other commercial services.*

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

91. The objective of this clause is:

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

*Clause 18.02-1S - Sustainable personal transport*

92. The objective of this clause is:

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

*Clause 18.02-2S - Public Transport*

93. The objective of this clause is:

- (a) *To facilitate greater use of public transport and promote increased development close to high-quality public transport routes.*

*Clause 18.02-4S - Car parking*

94. The objective of this clause is:

- (a) *To ensure an adequate supply of car parking that is appropriately designed and located.*

Local Planning Policy Framework (LPPF)

95. The following LPPF provisions of the Scheme are relevant:

*Clause 21.03 – Vision*

96. At Clause 21.03, the vision for the City of Yarra in 2020 is (as relevant):

*Land use*

- (a) *Yarra will have increased opportunities for employment.*

- (b) *Yarra's exciting retail strip shopping centres will provide for the needs of local residents, and attract people from across Melbourne.*

*Built form*

- (c) *Yarra will have a distinctive identity as a low-rise urban form, with areas of higher development and highly valued landmarks.*
- (d) *All new development will demonstrate design excellence.*

*Transport*

- (e) *Most people will walk, cycle and use public transport for the journey to work.*

*Environmental sustainability*

- (f) *Buildings throughout the City will adopt state-of the-art environmental design.*

97. Under the Figure 1 Strategic Framework Plan at Clause 21.03, the site is located within the Bridge Road MAC.

*Clause 21.04-1 – Accommodation and housing*

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

*Clause 21.04-2 – Activity centres*

99. The relevant objectives of this clause are:
- (a) *To maintain a balance between local convenience and regional retail roles in Yarra's activity centres.*
  - (b) *To maintain the long term viability of activity centres.*

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

100. The objective of this clause is:
- (a) *To increase the number and diversity of local employment opportunities.*

*Clause 21.05-1 – Heritage*

101. The relevant objective of this clause is:
- (a) *To protect and enhance Yarra's heritage places.*

*Clause 21.05-2 – Urban Design*

102. The relevant objectives of this clause are:
- (a) *To reinforce the existing urban framework of Yarra.*
  - (b) *To retain Yarra's identity as a low-rise urban form with pockets of higher development.*
  - (c) *To ensure that new development contributes positively to Yarra's urban fabric.*
  - (d) *To enhance the built form character of Yarra's activity centres.*
  - (e) *To encourage the provision of universal access in new development.*
103. A relevant strategy of this Clause is Strategy 17.2:
- (a) *Development on strategic redevelopment sites or within activity centres should generally be no more than 5-6 storeys unless it can be demonstrated that the proposal can achieve specific benefits such as:*
    - (i) *Significant upper level setbacks*
    - (ii) *Architectural design excellence*
    - (iii) *Best practice environmental sustainability objectives in design and construction*

- (iv) *High quality restoration and adaptive re-use of heritage buildings*
- (v) *Positive contribution to the enhancement of the public domain*
- (vi) *Provision of affordable housing*

*Clause 21.05-4 – Public environment*

104. The relevant objective of this clause is:

- (a) *To provide a public environment that encourages community interaction and activity.*

*Clause 21.06-1 - Walking and cycling*

105. The objective of this clause is:

- (a) *To provide safe and convenient pedestrian and bicycle environments.*

*Clause 21.06-2 – Public transport*

106. The relevant objective of this clause is:

- (a) *To facilitate public transport usage.*

*Clause 21.06-3 – The road system and parking*

107. The relevant objectives of this clause are:

- (a) *To reduce the reliance on the private motor car.*
- (b) *To reduce the impact of traffic.*

*Clause 21.07-1 – Environmentally sustainable development*

108. The relevant objective of this clause is:

- (a) *To promote environmentally sustainable development.*

*Clause 21.08-10 – Central Richmond (Area between Bridge Road and Swan Street)*

109. Clause 21.08-10 describes the Bridge Road MAC as an important regional centre and splits it into three distinct precincts describing Bridge Road West, from Punt Road to Church Street, as encompassing:

- (a) *a variety of retail outlets, with an emphasis on fashion, clothing and footwear. The precinct includes the Epworth Hospital and associated health services.*

110. Under the Figure 23: Central Richmond Neighbourhood Map at Clause 21.08-10:

- (a) The subject site is located within the Bridge Road MAC; and
- (b) The Pelaco sign is shown as a landmark to be protected.

Relevant Local Policies

*Clause 22.02 Development Guidelines for Sites Subject to the Heritage Overlay*

111. This policy applies to all new development included in a heritage overlay. The relevant objectives of this Clause include to conserve Yarra's natural and cultural heritage; to conserve the historic fabric and maintain the integrity of places of cultural heritage significance; to retain significant view lines to, and vistas of, heritage places; to preserve the scale and pattern of streetscapes in heritage places; to encourage the preservation, maintenance, restoration and where appropriate, reconstruction of heritage places; to ensure that additions and new works to a heritage place respect the significance of the place; and to encourage the retention of 'contributory' heritage places.

112. At Clauses 22.02-5.1, 22.02-5.7.1, and 22.02-5.7.2 of the Scheme, the policy provides requirements with regard to demolition; new development, alterations and additions; and specific requirements relating to sites comprising commercial and retail heritage places or contributory elements, and specific requirements for garages, ancillaries and services.

*Clause 22.03 – Landmarks and tall structures*

113. The policy applies to all development. The relevant objective of this policy is to maintain the prominence of Yarra's valued landmarks and landmark signs. Amongst other things, the policy requires development to protect views to landmark signs, including the Pelaco Sign at 21-31 Goodwood Street, Richmond.

*Clause 22.05 - Interface Uses Policy*

114. This policy applies to applications for use or development within mixed use, business and industrial zones (including the C1Z). The policy acknowledges that the mix of land uses and development that typifies inner city areas can result in conflict at the interface between uses and aims to reduce conflict between commercial, industrial and residential activities.
115. At Clause 22.05-4.2 of the Scheme, the policy requires new non-residential development near residential properties to be designed to minimise overlooking, overshadowing, visual bulk, loss of daylight, off-site acoustic impacts, unsightly views into the commercial development and light spill.

*Clause 22.12 – Public Open Space Contribution*

116. The subject site is in an area where land in lieu of cash is the preferred method of public open space contribution (area 3121B).

*Clause 22.07- Development Abutting Laneways*

117. This policy applies to applications for development that are accessed from a laneway or has laneway abuttal. The objectives of this policy are to provide an environment which has a feeling of safety for users of the laneway; to ensure that development along a laneway acknowledges the unique character of the laneway; to ensure that where development is accessed off a laneway, all services can be provided to the development; and to ensure that development along a laneway is provided with safe pedestrian and vehicular access.
118. At Clause 22.07-3 of the Scheme, the policy provides requirements in relation to traffic, vehicular access, pedestrian access, lighting, overlooking beyond the laneway, built form scale, obstruction to access along the laneway, and refuse storage.

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

119. This policy applies to applications for new buildings. The relevant objectives of this policy is to achieve best practice water quality performance objectives; to promote the use of water sensitive urban design, including stormwater re-use; to mitigate the detrimental effect of development on downstream waterways, by the application of best practice stormwater management through water sensitive urban design in new development; and to minimise peak stormwater flows and stormwater pollutants to improve the health of water bodies (creeks, rivers and bays).

*Clause 22.17 - Environmentally Sustainable Development*

120. This policy applies throughout the City of Yarra to residential and non-residential development that requires a planning permit. The overarching objective is that development should achieve best practice in environmentally sustainable development from the design stage through to construction and operation. The policy considerations are energy performance, water resources, indoor environment quality, stormwater management, transport, waste management and urban ecology. Under Clause 22.17-4 of the Scheme, a Sustainability Management Plan (SMP) is required for developments of 10 or more dwellings. A SMP has been submitted with the application material.

Other Documents

121. Clause 15.01-2S states that planning must consider as relevant:

- (a) *Urban Design Guidelines for Victoria (UDGV) (Department of Environment, Land, Water and Planning, 2017);*
- (b) *Apartment Design Guidelines for Victoria (ADGV) (Department of Environment, Land, Water and Planning, 2017).*

**Advertising**

122. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 1,310 letters sent to surrounding owners and occupiers and by two signs displayed on Bridge Road and one on the laneway. Council received 25 objections and 1 letter of support. The grounds of objection are summarised as follows:

- (a) Built form, height, scale, setback and design (wedding cake presentation);
- (b) The built form responds to anticipated future multi-level built form to the east and west, which will unlikely occur;
- (c) Impact on heritage values;
- (d) Impacts on views to Pelaco Sign, Richmond Town Hall and impact on heritage skyline;
- (e) Equitable development for eastern and western abutting properties and southern adjacent residential property at 2 Waltham Street;
- (f) On-site amenity;
- (g) Insufficient transition in built form to the southern NRZ1;
- (h) Off-site amenity impacts;
- (i) Wind tunnel impact;
- (j) Impact on car parking;
- (k) Impact on social wellness with regard to lack of visitor and customer parking;
- (l) One loading bay and one accessible car space should be provided on site;
- (m) Deliveries via Bridge Road frontage;
- (n) Greenhouse gas emissions due to air conditioning units;
- (o) Reduction in property values;
- (p) Applicant did not consult with surrounding owners;
- (q) Disruption during construction phase including noise and impact on traffic and tram services along Bridge Road;
- (r) A construction management plan should be prepared in consultation with neighbouring properties.

123. No consultation meeting was held as a result of the state of emergency declared in Victoria and the current health advice related to the COVID-19 pandemic.

*Head, Transport for Victoria*

124. In accordance with Section 52 of the Act, it was deemed that the Head, Transport for Victoria (both the Roads Corporation and Public Transport divisions) may have an interest in the application due to the works within the Road Zone, Category 1 and adjacent to an existing tram stop.
125. The Roads Corporation and Public Transport divisions of Transport for Victoria provided a combined response, requesting several conditions be implemented on any planning permit issued. A copy of the response is included as an attachment to this report.

## **Referrals**

### External Referrals

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

### Internal Referrals

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

- (a) Streetscapes and Natural Values Unit;
- (b) Open Space Unit;
- (c) Urban Design Unit;
- (d) Heritage Advisor;
- (e) Engineering Unit;
- (f) Strategic Transport Unit;
- (g) Strategic Planning Unit;
- (h) City Works Unit; and
- (i) ESD Advisor.

### External Consultants

- (j) Acoustics (SLR Consulting); and
- (k) Wind (MEL Consultants).

128. All referral comments are based on the advertised plans, however, supplementary advice was received on the sketch plans from the Urban Design Unit and from the City Works Unit based on the updated WMP. The supplementary advice is also included as attachments to the report.

## **OFFICER ASSESSMENT**

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

- (a) Policy and strategic support;
- (b) Dwelling use;
- (c) Built form, urban design and heritage;
- (d) Clause 58;
- (e) Off-site amenity impacts;
- (f) Car parking and traffic;
- (g) Car park access and layout;
- (h) Bicycle facilities and strategic transport; and
- (i) Objector concerns.

### Policy and Strategic Support

130. The proposal has strong strategic planning policy support at both State and local levels. The subject site is within the C1Z and forms part of the Bridge Road MAC. The key purpose of the C1Z is:
- (a) *To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses; and*
  - (b) *To provide for residential uses at densities complementary to the role and scale of the commercial centre.*
131. The PPF and LPPF at Clause 11.03-1S and at Clause 21.04-2 encourage the concentration of retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community and support the long term viability of activity centres.
132. The PPF at Clause 16.01-1R requires management of the supply of new housing to meet population growth and create a sustainable city by developing housing and mixed use development opportunities in locations that are metropolitan activity centres and major activity centres.
133. The proposal provides a 151m<sup>2</sup> retail tenancy at ground level with 15 apartments above, pursuant to State and local planning policy. The retail tenancy will provide an active interface along the Bridge Road commercial strip and will help to support the retail focus of the Bridge Road MAC. The development provides for improved housing supply within the well serviced Bridge Road MAC, and the overall development will help to support the long term viability of the Bridge Road MAC, particularly with the provision of 15 apartments above and the new residents utilising the retail, dining, community, health and business services along Bridge Road.
134. Clause 17.02-1S of the PPF *encourages development that meets the community's needs for retail, entertainment, office and other commercial services*. The proposed retail tenancy at ground level will provide for this.
135. Clause 17.01-1S of the PPF *encourages growth in a range of employment sectors, including health, education, retail, tourism, knowledge industries and professional and technical services based on the emerging and existing strengths of each region*. Clause 21.04-3 of the LPPF *aims to increase the number and diversity of local employment opportunities*. The 151m<sup>2</sup> retail tenancy will continue to provide an employment source for the community and is in accordance with the PPF and LPPF.
136. In addition to this, Clause 11 states that *planning is to facilitate sustainable development that takes full advantage of existing settlement patterns and investment in transport, utility, social, community and commercial infrastructure and services*. The site has immediate access to the Bridge Road MAC, the Bridge Road tram services, is within close proximity to tram services along Church Street and is within reasonable walking distance to bus services along Punt Road and the West Richmond Railway Station. The proposed mixed use development benefits from the established settlement pattern and the existing transport, utility, social and commercial infrastructure and services available in the area, in accordance with the PPF.
137. Overall, the mixed-use development has strong strategic planning policy support. However, policy support for more intensive development on this site must be balanced with other planning considerations, including the local built form context (including streetscape, heritage values, landmarks), the proposed architectural response, equitable development opportunities, public realm, pedestrian spaces, light and shade, Clause 58 *Apartment Developments* requirements, including on-site amenity and ESD considerations, off-site amenity considerations, car and bicycle space provision and car park design.

Dwelling use

138. Of particular relevance to this application, 'dwelling' is a permit required use given the communal entrance exceeds 2m at the Bridge Road frontage, as outlined earlier in this report.
139. As identified above, a key purpose of the C1Z is *to provide for residential uses at densities complementary to the role and scale of the commercial centre*.
140. Further to this, the PPF and LPPF at Clauses 16.01-1S, 16.01-2S and 21.04-1 encourage higher density housing on sites that are well located in relation to jobs, services and public transport; a diverse range of housing choice that can also allow for aging in place; and more affordable housing closer to jobs and services.
141. The proposed development provides increased density housing above the retail tenancy and within the Bridge Road MAC, with excellent access to services, employment and public transport. Future residents will have immediate access to the retail, dining, community, health and business services offered along the Bridge Road MAC; and will be within 2km from the Melbourne CBD with convenient access to employment opportunities as well as having excellent access to public transport including Tram Routes 48 and 75 along Bridge Road, with tram stop No. 17 located forward of the site, and is within 220m from Tram Route 78 along Church Street, and is within reasonable walking distance to the bus services along Punt Road and the West Richmond Railway Station. Furthermore, the proposed development comprises a mix of 15 x 1 and 2 bed apartments, offering housing diversity and choice, more affordable housing options in the area and with lift access will allow for aging in place.
142. There is strong State and local planning policy support for high density housing at this location. However, the policy support for higher density housing must be balanced with other planning considerations, as discussed earlier. This is addressed in the following sections of the report.

Built form, urban design and heritage

143. In considering the built form, design and heritage of the proposed development the relevant considerations of the Scheme are provided at Clause 15 *Built Environment and Heritage*, Clause 21.05 *Built Form*, Clause 22.02 *Development Guidelines for sites subject to the Heritage Overlay*, Clause 22.03 *Landmarks and tall structures*, Clause 22.07 *Development Abutting Laneways*, Clause 22.16 *Stormwater Management (Water Sensitive Urban Design)*, and Clause 22.17 *Environmentally Sustainable Development*. Supplementary guidance is also provided under the Department of Environment, Land, Water and Planning's UDGv and ADGV.
144. However, more specific to the Bridge Road MAC and this development site is the interim DDO21 control. The interim DDO21 provides relevant design objectives and guidelines, including prescribed requirements for building and street wall height; setbacks; building separation; views to landmarks; overshadowing to the street; vehicular access; building design; heritage building design; and precinct specific requirements.

*Bridge Road streetscape*

145. Considering the strategic direction for the C1Z and Activity Centres, i.e. to create vibrant mixed use commercial centres and to support the long term viability of activity centres, more intensive development of the site and surrounding land within the Bridge Road MAC is anticipated. However, the strategic direction must be balanced against other considerations including site context, taking into consideration streetscape, heritage values and the equitable development opportunities of adjacent land.

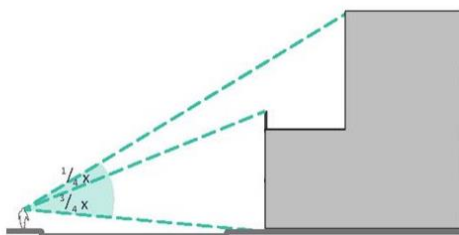
146. As outlined earlier in the report, the Bridge Road MAC is a traditional retail strip consisting of commercial use and development, largely comprising a single and double storey street wall interface. Many commercial buildings along the strip are Victorian and Edwardian with projecting canopies and verandahs over the Bridge Road footpath. Higher development has emerged to the rear of lower scale commercial/shop buildings, mainly concentrated on the north side of Bridge Road. The south side of the Bridge Road has experienced limited redevelopment.
147. Along this stretch of Bridge Road, the southern side (including the subject site) rises noticeably to the south-west toward Richmond Hill and the Pelaco Sign site at Nos. 21-31 Goodwood Street, Richmond. Therefore, building heights and setbacks must be treated differently along the northern and southern sides of the street at this location. This is reflected in the DDO21 control whereby Precinct 1 – Bridge Road West Plan prescribes a preferred maximum building height of 28m for land on the north side of Bridge Road opposite the subject site and requires a lower mandatory maximum building height of 21m for the subject site and other adjacent land along the southern side of Bridge Road at this location.
148. The development includes the retention of the double storey Victorian era shop at No. 178 Bridge Road for a depth of 8m and the front façade to the Victorian era shop at Nos. 180-182 Bridge Road, with a retail tenancy at ground level along the Bridge Road frontage and a recessive six storey built form setback 6m from Bridge Road. Retention of the two Victorian era shopfronts and the provision of a retail tenancy at the Bridge Road frontage ensures that the immediate Edwardian/Victorian commercial character of the commercial strip is protected, that the established 1-2 storey street wall is retained and ensures an active street frontage to support the retail focus of the Bridge Road MAC. The proposed development provides a positive response at the Bridge Road interface.
149. With regard to the building height, there is planning policy support for a six storey development on site. At Clause 21.05-2, Strategy 17.2 requires development on strategic redevelopment sites or within activity centres to be no more than 5-6 storeys. More significantly, the interim DDO21 control allows a maximum building height of up to 21m on site.
150. Further to this, the proposed 6m setback meets the minimum upper level setback of the DDO21, will help to maintain prominence of the two heritage buildings on site, and will achieve a comfortable level of street enclosure along Bridge Road. However, the architectural detailing and treatment must be better resolved to achieve a positive architectural result and the finishes must be selected to better compliment the heritage buildings on site. This will be addressed in later in the report.

*Height, scale and massing (streetscape, equitable development and interface with residentially zoned land)*

151. At Clause 43.02-2, the Design and Development Overlay states that buildings and works must be constructed in accordance with any requirements in a schedule to the overlay. However, a permit may be granted to construct a building or construct or carry out works which are not mandatory requirements of the schedule.
152. Pursuant to the Building Heights and Setbacks – Precinct 1 Plan, the relevant building height and setback requirements for the site are as follows:
- (a) A maximum building height of 21m (mandatory);
  - (b) The street wall must retain the heritage frontage (mandatory);
  - (c) The upper level setback must be a minimum 6m (mandatory).
153. As stated at sub-clause 2.1 of the DDO21, the building height does not include plant rooms, lift overruns, screens to service areas or other such equipment, provided the roof area occupied by service equipment is minimised, these structures have minimal visibility and do not extend higher than 3.6m above the maximum building height.

154. Discounting the roof top plant and lift overrun, the development has a maximum building height of 20.2m as is annotated on the north elevation, in accordance with the mandatory DDO21 building height requirement. The roof top plant and lift overrun are recessed, visibility to these structures is minimised and these structures do not extend 3.6m above the maximum building height requirement. The development satisfies the mandatory maximum building height prescribed by the interim DDO21 control.
155. As indicated earlier, the double storey Victorian era terrace at No. 178 Bridge Road and the front façade to the single storey Victorian era shop at Nos. 180-182 Bridge Road are being retained in accordance with the mandatory DDO21 streetwall requirement. This will adequately maintain the prominent street wall character of Bridge Road and will help to protect the heritage streetscape.
156. It is of note that the Heritage building design requirements of the DDO21 requires development to retain the primacy of the three-dimensional form of the heritage building as viewed from the public realm to avoid 'facadism'. This has been achieved in relation to No. 178 Bridge Road, where the double storey Victorian era terrace is retained to a depth of 8m. However, the built form to the rear of the single storey Victorian era shop facade at Nos. 180-182 Bridge Road will be demolished and replaced with new development. While 'facadism' is not typically acceptable, Council's Heritage Adviser has stated that there is little heritage value at the rear of this shop and has supported the extent of demolition to the rear of this building. On this basis, the extent of demolition to the rear of the shop at Nos. 180-82 Bridge Road will have no adverse impact on heritage values.
157. The upper level setback to Levels 1-3 is a minimum of 6m. This satisfies the mandatory minimum upper level setback requirement of the interim DDO21 control.
158. In addition to this, the interim DDO21 requires that in relation to new development along Bridge Road within Precinct 1, the upper level setback must be in accordance with Figure 2 requirements, that is *development must occupy no more than one quarter of the vertical angle defined by the whole building in the view from a sightline at a height of 1.7m above the footpath on the opposite side of the street, as seen below.*

Figure 2 – Setback for Upper Level Development



DDO21 Figure 2 setback requirement

159. Based on a sightline taken from the northern side of Bridge Road at 1.7m through the top of the parapet to the double storey Victorian era terrace at No. 178 Bridge Road, the upper level development will occupy an estimated one quarter (25%) of the vertical angle, pursuant to the interim DDO21 requirements.
160. However, it is evident that this is not achieved in relation to the single storey shop at Nos. 180-182 Bridge Road. Based on a sightline taken from the northern side of Bridge Road at 1.7m through the top of the parapet to the single storey Victorian era shop the upper level development will occupy an estimated 42% of the vertical angle, exceeding the maximum 25% prescribed by the interim DDO21 control.

161. Notwithstanding the above, it is considered that the overall development achieves a high level of compliance with the key DDO21 design objectives including maintaining the street wall character and heritage values along Bridge Road, comprising an adequately recessive and distinct upper level development and providing a comfortable level of street enclosure, as is seen below. Further to this, Council's Strategic Planning Unit have reviewed the proposal against the interim DDO21 requirements and have supported this variation. The variation to the DDO21 upper setback viewline requirement in relation to the shop at Nos. 180-182 Bridge Road is accepted.



Streetview of proposed development, looking south-east along Bridge Road (Application material)



Streetview of proposed development, looking south-west along Bridge Road (Application material)

162. Further to the above requirements, sub-clause 2.2 of the Schedule requires development along the Bridge Road frontage to *adopt the same setback for at least 75% of the height of the proposed built form above the front street wall to avoid repetitive stepped form*. This has not been achieved in the proposed built form, with a series of front setbacks being proposed at the Bridge Road frontage including a 6m setback at Levels 1-3, a 10.3m setback at Level 4 and a 15.3m setback at Level 5.
163. Effectively the development results in a stepped form, contrary to the intent of the interim DDO21 control. However as advised by Council's Urban Design Officer, in this case the stepping of Levels 4 and 5 is acceptable given the development comprises substantial setbacks at Levels 4 and 5. Therefore when viewed from Bridge Road, the building reads as a one and two storey heritage streetwall with 2-3 storey recessed upper levels, with no appreciable visibility to Levels 4 and 5. Based on this, a variation to the DDO21 requirement is accepted.
164. Although Council's Urban Design Unit considered the upper level setbacks to be acceptable, concern was raised with regard to the stark stepping created along the side walls. Council's Urban Design Unit advised that *the 1.7m partition wall/balustrade on the sides of the balconies majorly contributes in creating a 'wedding cake' design along the eastern and western façade which is not supported*.



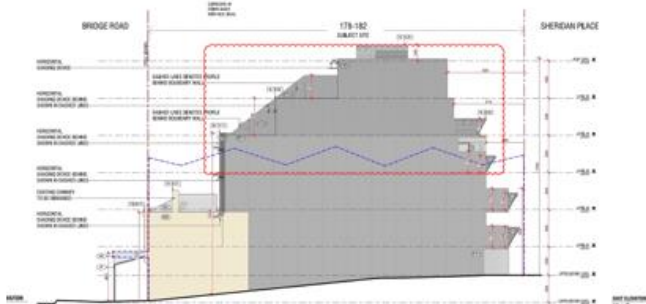
**West Elevation**



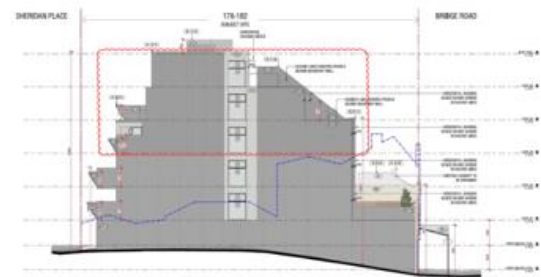
**East Elevation**

**'Wedding cake' profile toward Bridge Road frontage, circled**

165. In response to the concerns raised by Council's Urban Design Unit and so as to reduce the repetitive built form created by the eastern and western partition walls, the applicant submitted sketch plans on 25 September 2020 showing a sloping wall to the eastern and western partition walls at Levels 4 and 5, as shown below.



**West Elevation**



**East Elevation**

**Sketch plans showing sloping eastern and western partition walls**

166. Council's Urban Design Unit reviewed the sketch plans and confirmed that the sloping partition walls to the east and west have resolved this design issue. The sloping partition walls will be required via condition.

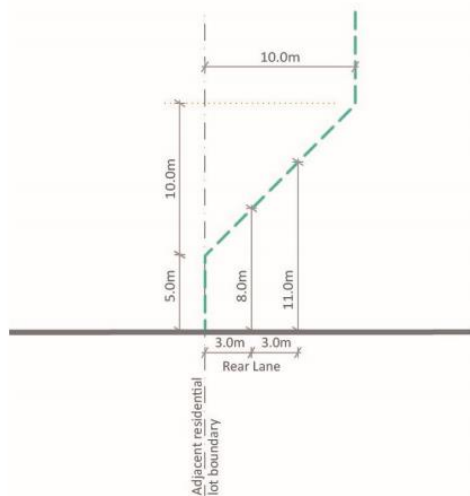
*Building separation (including equitable development considerations)*

167. Pursuant to the interim DDO21 control, a new development must provide a design response that considers the future development opportunities of adjacent properties in terms of outlook, daylight and solar access to windows, as well as managing visual bulk.
168. In terms of building separation, the interim DDO21 requires that:
- (a) *Where a development shares a common boundary, upper level development must:*
    - (i) *Be setback a minimum of 4.5m from the common boundary where a habitable room window (HRW) or balcony is proposed;*
    - (ii) *Be setback a minimum 3.0m from the common boundary where a commercial or non-habitable room window is proposed;*
- Where the common boundary is a laneway, the setback is measured from the centre of the laneway.*

169. There are no east or west-facing HRWs along the eastern and western boundary walls. Where balconies to the upper level development are located adjacent to eastern and western boundaries, the balconies have either a northern or southern outlook and in a majority of instances comprise high partition wall or screen adjacent to the side boundary.

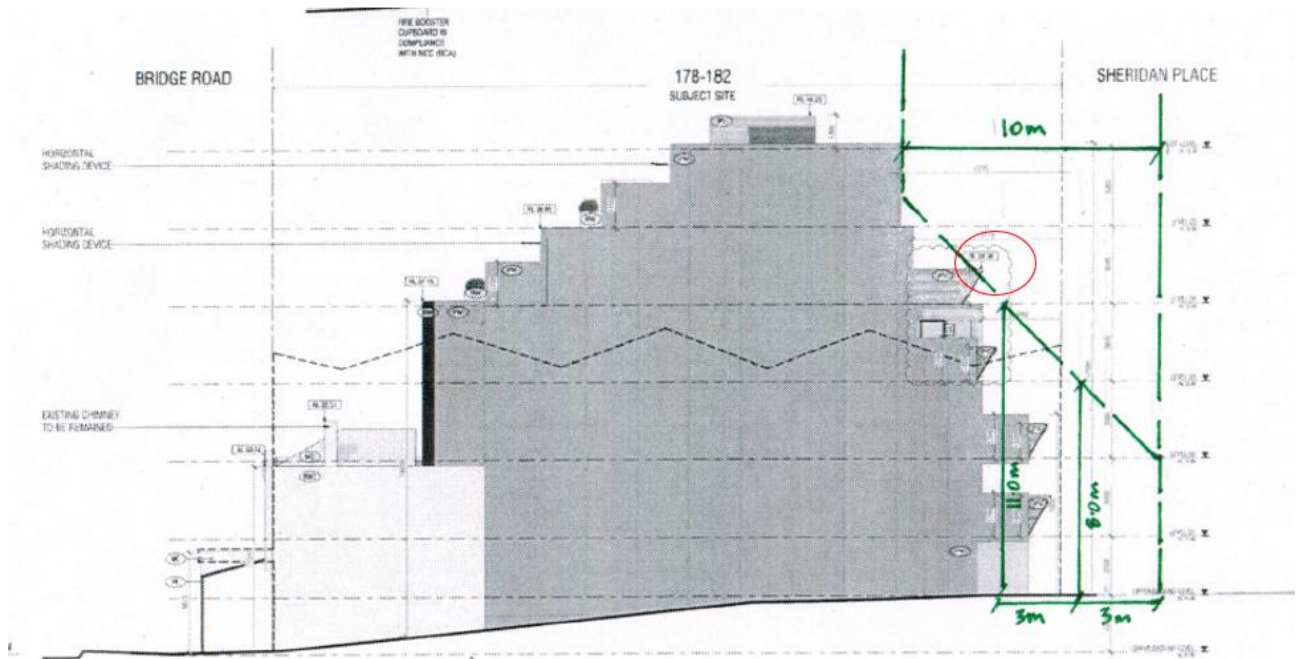
170. With regard to the southern setback, the interim DDO21 requires that where the common boundary is a laneway, the setback is measured from the centre of the laneway. Given there are south-facing HRWs and balconies, the DDO21 requires upper level development to comprise a minimum 4.5m setback from the center of the laneway. The upper level development (being Levels 4 and 5) are setback beyond 4.5m from the centre of the laneway.
171. Overall, based on the above assessment, the development satisfies the building separation requirements. The equitable development opportunities of the eastern, western and southern adjacent land is adequately protected, should this land be developed in the future.  
*Interface with neighbouring residential properties*
172. Pursuant to sub-clause 2.2 to the interim DDO21 control, buildings must be setback from residentially zoned land as shown in Figure 1 to the DDO21, shown below.

Figure 1 – Setback for Interface with Residential Zoned Land



DDO21 Figure 1 setback requirement from residentially zoned land

173. No. 2 Waltham Street to the south is located within the NRZ1. The development to the south has been designed to largely meet the setback requirements of Figure 1. The balcony at Level 4 does encroach marginally into the Figure 1 setback requirement as shown in Figure 12, however this is negligible and is not expected to result in adverse off-site visual bulk impacts to the south. The minor variation to the Figure 1 setback requirement is acceptable.



**Demonstration of encroachment into Figure 1 setback requirement.**

174. There is no other adjacent residentially zoned land for consideration. Off-site amenity impacts to the south will be addressed later in the report.

#### *Heritage*

175. The primary heritage considerations for this application relate to whether compliance is achieved with Clause 43.01 (Heritage Overlay), Clause 22.02 (Development Guidelines for Sites Subject to the Heritage Overlay) and the interim DDO21 Heritage building design requirements at sub-clause 2.2 to the Schedule.

#### *Demolition*

176. With regard to the removal of part of a heritage place or contributory elements, policy at Clause 22.02-5.1 states that demolition works to a contributory building should be discouraged unless:
- (a) *That part is not visible from the street (other than a laneway), abutting park or public open space, and the main building form including roof form is maintained;*
  - (b) *The removal of that part would not adversely affect the contribution of the building to the heritage place.*
177. As identified earlier in the report, the Victorian era buildings at Nos. 178 and 180-182 Bridge Road are both graded 'contributory'.
178. In relation to the double storey Victorian era terrace at No. 178 Bridge Road, the demolition works will take place at the rear of the building including ground and first levels beyond 8m from the street, including walls and roof. The Victorian era terrace at the Bridge Road frontage will be retained for a depth of 8m, however the glazed entry door will be replaced with new glazed door comprising black aluminium frame, the new north-facing vertical windows at first level will be double glazed windows to match existing, the roof over will be removed and replaced with galvanised metal sheet finish. The northern chimney will be retained, while the southern chimney will be removed. The front canopy will be removed and replaced with verandah.

179. The demolition works to the double storey terrace are largely located to the rear of the building and will have no impact on heritage values. The replacement of the hipped roof, front windows at first level and glazed entry like for like will have no impact on heritage values. The demolition of the southern chimney to the hipped roof form will have no foreseeable impact on heritage values given the southern chimney is not visible from the street and the northern chimney will continue to be retained. The front canopy is not original to the Victorian era terrace. Council's Heritage Advisor raised no objection in relation to the proposed demolition works to the double storey terrace building.
180. In relation to the single storey Victorian era shop at Nos. 180-182 Bridge Road demolition will largely take place at the rear of the shopfront, including walls and roof over. The heritage fabric to be retained includes the front façade and parapet, the western boundary wall for a depth of 8m from the street, the walls to the recessed entry, in part, and the return wall along the eastern boundary for a depth of 0.6m. The shopfront windows will be removed and replaced with new clear glass shopfront windows with black aluminium framing, wall and fire booster cupboard to the east, the entry door will be removed and replaced with new glass and timber panel doors, a new concrete ramp will be constructed to the communal entry and the front canopy will be removed and replaced with a verandah.
181. Council's Heritage Advisor confirms that there is little heritage value toward the rear of the shop at Nos. 180-182 Bridge Road. In addition to this, Council's Heritage Advisor has raised no concern with the replacement and modification to shopfront windows, recessed entry and demolition of the front canopy. Overall, the proposed demolition works will have no adverse impact on heritage values and is supported.
182. Council's Heritage Advisor has required a schedule of conservation works and that the interpretative plaque to both shopfronts be retained and reaffixed in similar positions. This will be required via conditions.

*Buildings and works*

183. Clause 22.02-5.7.1 of the Scheme encourages the design of new development to:
- (a) *Respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape.*
  - (b) *Be articulated and massed to correspond with the prevailing building form of the heritage place or contributory elements to the heritage place.*
  - (c) *Be visually recessive and not dominate the heritage place.*
  - (d) *Be distinguishable from the original historic fabric.*
  - (e) *Not remove, cover, damage or change original historic fabric.*
  - (f) *Not obscure views of principle façades.*
  - (g) *Consider the architectural integrity and context of the heritage place or contributory element.*
  - (h) *Encourage setbacks from the principal street frontage to be similar to those of adjoining contributory buildings; where there are differing adjoining setbacks, the greater setback will apply.*
  - (i) *Encourage similar façade heights to the adjoining contributory elements in the street. Where there are differing façade heights, the design should adopt the lesser height.*
  - (j) *Minimise the visibility of new additions by encouraging upper level additions to heritage places to be sited within the 'envelope' created by projected sightlines (for Contributory buildings refer to Figure 2).*
  - (k) *Discourage elements which detract from the heritage fabric or are not contemporary with the era of the building such as unroofed or open upper level decks or balconies.*
184. In relation to infill development, the DDO21 requires facade treatments and the articulation of infill buildings on land affected by the heritage overlay to:
- (a) *ensure the façade treatments and the articulation of new development are simple and do not compete with the more elaborate detailing of the adjoining heritage building(s);*

- (b) *respect the vertical proportions of the nineteenth and early twentieth century facades of the heritage streetscape and/or adjoining heritage building(s);*
  - (c) *avoid large expanses of glazing with a horizontal emphasis except to ground floor shopfronts;*
  - (d) *maintain the existing canopy/verandah height of the heritage streetscape and/or adjoining heritage building; and*
  - (e) *be articulated to reflect the fine grained character of the streetscape.*
185. The DDO21 requires upper level development on land affected by the heritage overlay to:
- (a) *be visually recessive and not visually dominate the heritage building and the heritage streetscape;*
  - (b) *retain the primacy of the three-dimensional form of the heritage building as viewed from the public realm to avoid 'facadism';*
  - (c) *utilise visually lightweight materials and finishes that are recessive in texture and colour and provide a juxtaposition with the heavier masonry of the heritage facades;*
  - (d) *incorporate simple architectural detailing that does not detract from significant elements of the heritage building and the heritage streetscape;*
  - (e) *be articulated to reflect the fine grained character of the streetscape.*
186. As outlined in the report, the Victorian era terrace at No. 178 Bridge Road will be retained for a depth of 8m as will the shopfront to 180-182 Bridge Road. The broader six storey development will be located to the rear of the shopfronts and the hipped roof to the double storey terrace dwelling, and will be setback a minimum 6m from the street. The original shopfronts, the orientation to the street and the built form to the double storey Victorian era terrace in its three dimensional form, including hipped roof form and northern chimney, will be retained and will continue to contribute to the heritage values of the Bridge Road streetscape.
187. As discussed earlier in the report, the substantial demolition works to the rear of the shopfront at Nos. 180-182 Bridge Road will result in facadism, contrary to the DDO21 Heritage design requirements. However as confirmed by Council's Heritage Officer, there is little heritage value at the rear of this shop. A variation to the DDO21 heritage building design requirements is accepted in relation to this.
188. Further to the above, the DDO21 Heritage building design requirements require:
- (a) *highly reflective glazing in historic openings to be avoided;*
  - (b) *the retention of solid built form behind retained facades and avoid balconies behind existing openings; and*
  - (c) *the inter-floor height of the existing building to be maintained and that new floor plates and walls avoid cutting through historic openings.*
189. The proposal provides clear glazing to the windows of the heritage buildings, avoids balconies behind the openings to the two existing heritage buildings and the development appears to retain the floor heights of the existing heritage buildings at the street frontage. This is supported.
190. The proposal includes the removal and replacement of the eastern shopfront window at Nos. 180-182 Bridge Road with new clear glass shopfront window with higher sill, wall and fire booster cupboard. While this is not ideal in the context of the heritage streetscape, the location of the service cupboard here is necessary. The application of an off-white render finish to the fire booster cupboard doors will help to ensure that this service will blend in appropriately with the front façade. No objection was raised by Council's Heritage Advisor in response to this.

191. Council's Heritage Advisor raised concern with the upper level setback to Levels 1-3, advising the front wall should be a flat, unarticulated setback with no recesses to balconies to the east and west sides so as to match the emerging new built form on the northern side of Bridge Road, and that the upper level setback should be increased to match the setback at Level 4, i.e. 10.3m. The Heritage Advisor raises no concern in relation to the more substantial front setbacks at Levels 4 and 5.
192. However as demonstrated earlier in the report, the proposed development meets the mandatory minimum 6m upper level setback of the interim DDO21 control, and satisfies the DDO21 upper level viewlines requirement to the rear of the double storey Victorian era terrace. While the development does not satisfy the DDO21 upper level viewlines requirement to the rear of the single storey shopfront at 180-182 Bridge Road, it is considered that the overall development is sufficiently recessive and will not visually dominate the heritage buildings on site or the heritage streetscape, particularly in this instance where there is a recess created by the two prominent abutting heritage buildings on either side along the Bridge Road frontage, as is seen earlier in the report. On this basis, the upper level as proposed is supported.
193. Council's Heritage Advisor raised concern with the recesses to the front wall due to the eastern and western balconies. However, the balconies are enclosed with solid partition walls to the sides and continue to give the perception of solid built form at the street frontage. The balconies in themselves are not of concern in the context of the heritage streetscape. However of greater concern is the development provides too many variations in material and architectural treatments. As highlighted by Council's Urban Design Unit, the front wall to Levels 1-3 is broken into four vertical segments.



**Illustration provided in Urban Design Advice, demonstrating four vertical segments across the front façade at Levels 1-3**

194. It is considered that the extent of variations in architectural treatment, materials and use of feature charcoal metal finish will compete with the heritage buildings on site. The design clutters the overall façade and will not respect the vertical proportions of the Victorian era facades on site or within the heritage streetscape, contrary to the DDO21 heritage building design requirements. This was raised as a concern by Council's Urban Design Unit. In response, the applicant submitted sketch plans on 25 September 2020 showing the following amendments:
- (a) More consistent fenestration and improved solid to void ratio across the front facade;
  - (b) Provision of two primary finishes only, with the wall to the rear of the double storey Victorian era terrace now comprising a mid-grey brick finish, and the wall to the rear of the wider single storey shopfront comprising an off- white render finish;
  - (c) Use of a mid-grey brick finish in lieu of the darker grey brick finish; and
  - (d) A reduction in the use of charcoal metal finish.



**Advertised Plan upper level facade**



**Sketch Plan upper level facade**

195. The sketch plan provides a more simplified upper level facade with less glazing and more consistent window configurations, two clear vertical segments and a more muted colour palette so as not to compete with the heritage shopfronts on site. The vertical window configurations achieve improved consistency with the two vertical windows at first level to the double storey Victorian era terrace and the other Victorian era terraces in the Bridge Road streetscape. The more muted colour palette will not compete with the heritage shopfronts on site. With the mid-grey brickwork finish behind the light yellow double storey Victorian terrace and the off-white render finish behind the white single storey shopfront, the vertical proportions of the heritage buildings are now reinforced and the front facade makes better reference to the fine grained character of the heritage streetscape, in accordance with the DDO21 Heritage building design requirements.  
The amendments shown in the sketch plans will make a positive contribution to the heritage streetscape and will be facilitated via conditions.
196. It is of note that Council's Heritage Advisor raised no concern with the proposed finishes, however concern was raised with regard to the off-white render finish (i.e. unless a high quality finish/render application is used, the off-white render will overtime deteriorate, stain and have an unsightly appearance similar to that seen in many recent developments along Bridge Road). In response to this, a condition will be included to ensure a high quality off-white render finish is adopted.
197. The proposed built form is sufficiently recessive and contemporary in architectural design and is therefore clearly distinguishable from the original historic fabric, as is required by policy at Clause 22.02-5.7.1.
198. The policy guidelines at Clause 22.02-5.7.1 discourage elements which detract from the heritage fabric or are not contemporary with the era of the building such as unroofed or open upper level decks or balconies. Two open terraces are proposed at Level 1 to the rear of the shopfront parapet at Nos. 180-182 Bridge Road, contrary to policy. However, the parapet will be 1 -1.8m in height above the finished floor level (FFL) to the two terraces and the 1.2m deep planter provided immediately south of the parapet will provide a buffer to ensure that people and typical balcony appurtenances here will not be highly visible from the street. In this regard, the northern terraces at Level 1 will not adversely affect heritage values. It is also of note that Council's Heritage Advisor raised no concerns in relation to these open terraces. On this basis, the open terraces at Level 1 are supported.
199. All other balconies are provided in relation to the recessive 6 storey contemporary built form and will have no impact on heritage values.

200. The DDO21 Heritage building design requirements require that new development maintain the existing canopy/verandah height of the heritage streetscape and or adjoining heritage building.
201. A new verandah is proposed forward of shopfronts for the full width of the property. As identified by the applicant's heritage consultant, while this verandah does not reinstate the original verandahs as established in the late 19<sup>th</sup> century and early 20<sup>th</sup> century, it does take inspiration from the early Forbes Auctions Rooms verandah c1950s, as shown below.

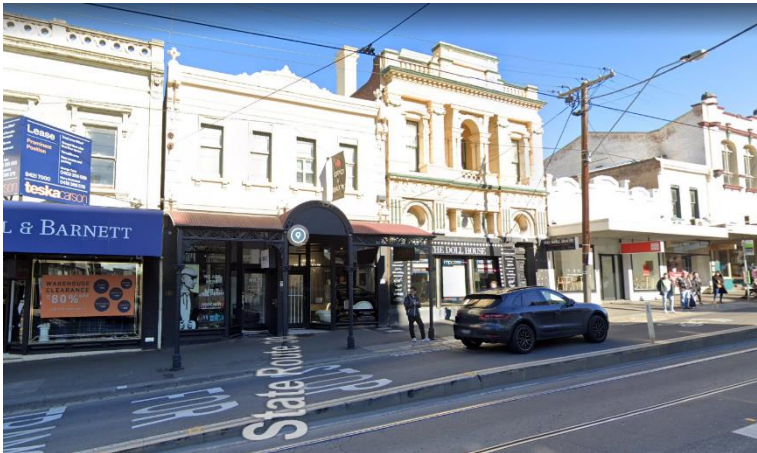


View of former verandah to Forbes Auction Rooms, c1950s



Proposed Front verandah taking inspiration

202. The new verandah will be constructed over the Bridge Road footpath with lean-to roof profile and semi-circular element over the communal entry to the building with five posts. The fascia, circular element and posts will be painted dark grey and the roof will have a grey galvanised metal finish.
203. It is of note that the proposed verandah is also very similar in design to the front verandah seen at No. 186-188 Bridge Road, further east of the site (as seen below).



Front verandah to 186-188 Bridge Road (Source: Google maps, streetview Jun. 2019)

204. The verandah design is considered to be adequately respectful of heritage values and will reasonably maintain the canopy height of the western abutting heritage building at the Bridge Road frontage, pursuant to the DDO21 Heritage building design requirements. Council's Heritage Advisor raised no objection to the proposed front verandah.
205. Council's Urban Design Unit initially raised concern with the dark grey paint colour to the fascia, circular element and posts. However, given Council's Heritage Advisor raised no concern, this was later accepted.

206. Council's Urban Design Unit also raised concern with the number of structural posts creating visual clutter and potentially obstructing access to tram services. In response to this concern, the applicant submitted sketch plans on 25 September 2020 showing removal of the two central verandah posts. The removal of the central posts improves pedestrian movements to the tram stop without adversely affecting the architectural integrity of the front verandah, and is supported. This amendment will be required via condition.
207. Overall, and based on the amended sketch plans received on 25 September 2020, the proposal achieves a high level of compliance with the Development Guidelines for Sites Subject to the Heritage Overlay policy at Clause 22.02 and interim DDO21 Heritage building design requirements and is supported.

*Architectural Quality*

208. The heritage buildings will remain generally intact, and repainted to match existing. The retention of shopfront windows at the Bridge Road frontage continues to contribute positively to the established pattern of shopfronts along the street, the provision of a retail tenancy at the Bridge Road frontage allows for commercial activity at the frontage, as is generally required by the DDO21 Building design requirements, and the location of the retail tenancy and communal entry at the Bridge Road frontage ensures an active frontage and is supported. The location of the booster cupboard has been integrated appropriately into the front façade with fire booster cupboard doors finished in off-white render to blend in well with the front façade. Overall, the treatment of existing shopfronts at the Bridge Road interface achieves a high quality architectural result.
209. As indicated earlier in the report, the front verandah will be constructed along the full width of the property and is generally consistent with the height of the canopy to the western abutting heritage building, in accordance with the DDO21 Building design requirements. The verandah will have a grey galvanized lean-to roof profile, semi-circular element over the communal entry and dark grey fascia, circular element and posts, is appropriate in the context of the retained shopfronts and is adequately respectful of the heritage streetscape.
210. With regard to the upper level development, the use of alternative finishes to that used for the heritage buildings will draw a clear distinction between original historic fabric and the new development, pursuant to the DDO21 Building design requirements. The vertical articulation also assists in providing visual interest and breaking down the overall scale of the building. However, and as indicated earlier in the report, the Urban Design Unit raised concern with the excessive variations in architectural treatment and material at the Bridge Road frontage.
211. The sketch plans address this, showing more consistent fenestration and improved solid to void ratio across the façade, as well as the provision of two primary finishes, only, including mid-grey brickwork to the wall at the rear of the double storey Victorian era terrace and off-white render to the wall at the rear of the single storey shopfront, use of mid-grey brick work in lieu of darker grey brick and a reduction in the use of charcoal metal finish. As discussed, this achieves a more simplified upper level façade, consists of less glazing and is provides more consistent window configurations. The two clear vertical segments now better reflect the proportions of the heritage buildings on site and better reflects the prevailing subdivision pattern as is required by the DDO21 building design requirements, and the more muted colour palette achieves a softer contrast to the finishes of the heritage buildings. Overall, these amendments achieve an improved architectural result and will be facilitated via conditions.
212. The interim DDO21 Building design requirements require new development to be expressed in the round and to provide detail on facades when viewed from all directions. It is acknowledged that the solid walls to the east and west are necessary to ensure equitable development opportunities of the eastern and western abutting properties are adequately protected. However, Council's Urban Design Unit raised concern that the east and west boundary walls with light grey precast panel finish would present as large blank walls.

As identified by Council's Urban Design Unit the building to the west comprises a triple storey scale with sloping roof. Therefore only the two top levels will be visible along the western boundary wall. This is considered to be acceptable.

213. However the property to the east is a two storey building with single storey additions to the rear. While a lightwell is provided along the eastern boundary, this does not go far enough in breaking down the visual mass when viewed from surrounding land. In response to this, the applicant submitted sketch plans on 25 September 2020 which show a textured precast material to both the eastern and western walls at upper levels. Council's Urban Design Unit confirmed that this is an acceptable design response and the eastern and western walls are now sufficiently textured to add visual interest and achieve a high quality architectural result. The textured precast panel finish along the eastern and western boundary walls will be facilitated via condition.
214. The southern elevation along Sheridan Place comprises a recessive built form, consistent fenestration, projecting balconies, a consistent off-white rendered finish and grey permeable balcony privacy screens and will achieve a high quality architectural result.
215. Further to the above, it is considered that a façade strategy and materials and finishes schedule should be submitted to include the points referenced above and to demonstrate:
- (a) elevations at a scale of 1:20 illustrating typical podium details, entries and doors, and utilities and typical mid-level and upper level facade details;
  - (b) section drawings to demonstrate façade systems, including fixing details and joints between materials or changes in form;
  - (c) information about how the façade will be maintained, including any vegetation; and
  - (d) a sample board and coloured drawings outlining colours, materials and finishes.
216. This will ensure that the materials to be utilised for the development are reviewed prior to construction, with higher degree of detail provided to ensure they are of a high architectural quality in accordance with the plans submitted to date.

#### *Landscaping*

217. The proposal includes a 1.2m deep planter box along the northern perimeter to the north facing terraces at Level 1, and includes an 0.8m deep planter box along the northern perimeters to the north-facing balconies at Levels 4 and 5.
218. Council's Urban Design Unit advises that *this will provide some relief from the hard edge character and is highly supported and the provision of planting will majorly contribute in reducing the hard edge character of the built form and makes the overall form visually interesting*. The extent of landscaping is supported.
219. However, Council's Landscape Architect has reviewed the submitted Landscape Plan and advised that there are some minor errors with plant call-outs and numbers and that the schedule of planting includes *Agapanthus praecox ssp. Orientalis*, which is listed as an environmental weed in the advisory list of environmental weeds in Victoria. The use of *Agapanthus* is not considered acceptable. Given that the planter boxes will be facing north, free draining and irrigated, Council's Landscape Architect advised that a more appropriate 'native' substitute/s should be used. The applicant has responded indicating that the *Dianella* species – Little Jess can be used as replacement. This is in line with the landscape comments. These matters will be addressed via conditions.
220. Council's Landscape Architect has advised that the load bearing weights for the building need to be checked and confirmed by suitably qualified structural engineers against the saturated bulk density of soil media, planter box and plant mass proposed. However this is not a relevant planning consideration and would be undertaken at the building stage.

*Landmarks, views and vistas*

221. Policy at Clause 22.03 *Landmarks and tall structures* identifies the Pelaco sign as a prominent and valued landmark sign and requires new development within the vicinity of the Pelaco sign to be designed and located to ensure that this landmark remains as the principal built reference in the area. The interim DDO21 provides specific guidance in this regard.
222. The DDO21 requires new development to maintain existing views to the Pelaco sign when viewed from the following viewing points to the west:
- (a) *The footpath on the north west corner of Wellington Parade; and*
  - (b) *The tram Stop 13 on Wellington Street immediately west of Simpson Street*
- Where a landmark is currently viewed from the above viewing points with a “clear sky” backdrop, the development must maintain views to some clear sky between the landmark and the proposed development.*
223. Whilst not referenced within the DDO21, Council’s Heritage Adviser identified that an important viewline of the Pelaco sign is in the east, from the steps of the Richmond Town Hall. It is clear that policy does not identify this as a key view line, however the applicant submitted further information to demonstrate the development would not block views of the Pelaco sign, as discussed in detail below.
224. The Pelaco building is a 4-5 storey building with the prominent Pelaco sign affixed above with north-south alignment, east and west facing, comprising a 32m height and located at the Richmond Hill hilltop. The subject site is located 95m to the north-east of the Pelaco Sign and due to the topography of the land sits 5.5m lower than the Pelaco Site, as shown below.



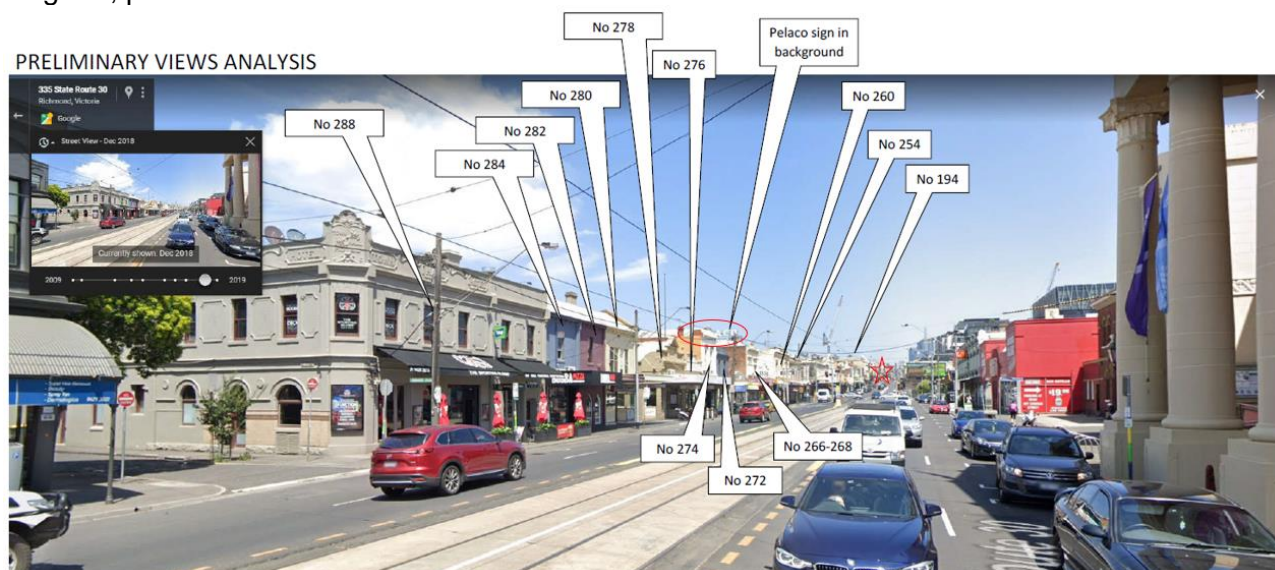
Subject site located 95m north-east of the Pelaco Sign and sitting 5.5m lower than the Pelaco site. (Source: aerial/contours taken from VicPlan)

225. When viewed from the footpath on the north-west corner of Wellington Parade and tram Stop 13 on Wellington Street immediately west of Simpson Street in the west, it is evident that the proposed six storey development will sit to the north-east and lower than the Pelaco sign and will have no appreciable visible impact on viewlines to the sign. The significant distant vantage points as identified in the interim DDO21 are protected.



Existing views of Pelaco Sign from the north-west corner of Wellington Parade (Source: Google maps, streetview Jul. 2019)

226. In response to the concerns raised by Council's Heritage Advisor relating to views of the Pelaco Sign from the Richmond Town Hall in the east, the applicant submitted a views analysis diagram, provided below.



Applicant's views analysis from Richmond Town Hall (Source: application material, marked for explanation with Pelaco Sign circled in red and estimated location of subject site marked with red star)

227. From this views analysis, it is evident that the subject site sits north of the viewline and the proposed six storey building will have no impact on the viewline to the Pelaco sign.

#### *Public Realm, Pedestrian Spaces, Light and Shade*

##### *The Bridge Road public realm*

228. The glazed shopfront windows at the Bridge Road frontage allows for internal views from the Bridge Road commercial strip to enhance the pedestrian experience and the retail entry and communal entry at the Bridge Road frontage provide an active frontage within the Bridge Road MAC. The proposed verandah over the Bridge Road footpath appropriately provides residents, staff, visitors, pedestrians and people using the Bridge Road tram services weather protection and enhances the amenity of the Bridge Road public realm.

As discussed earlier in the report, the removal of the two central posts will improve pedestrian movement to the tram services at this location. This will be required via condition.

229. The interim DDO21 provides requirements for overshadowing impacts to the Bridge Road footpath. Pursuant to the DDO21 control, development must not overshadow any part of the southern footpath of Bridge Road to a distance of 3m from the kerb between 11am and 2pm at 22<sup>nd</sup> September. Due to the location of the site on the southern side of Bridge Road, there will be no overshadowing to the Bridge Road footpath, pursuant to the DDO21. Overall, the development will have no adverse shadowing impact on Bridge Road and the commercial strip will continue to enjoy good access to sunlight and daylight.

*Vehicular, pedestrian and cyclist arrangements*

230. Formal pedestrian access to the retail tenancy and apartments above will be provided at the Bridge Road frontage via separate entry to the retail tenancy and via communal entry, respectively. Provision of formal pedestrian access at the Bridge Road frontage satisfies the DDO21 Vehicular access requirements.
231. Secondary pedestrian access is provided at the rear of the building and is recessed 3.1m from Sheridan Place, pursuant to the DDO21 Vehicular access requirements. This will ensure pedestrian safety.
232. Vehicular access to the garage is provided to the rear of the building via shared crossover off Sheridan Place and is kept clear of the principal street frontage, as per the DDO21 Vehicular access requirements.
233. In addition to the above, separate entry to the bicycle store is provided at the rear of building, accessed off Sheridan Place. This arrangement will likely avoid pedestrian/cyclist conflicts at the street frontage and is supported. The rear bicycle store entry is setback 1.4m from Sheridan Place which will help to ensure cyclist safety.

*External lighting*

234. In terms of lighting, the Bridge Road frontage will be appropriately illuminated by street lighting during evening times. There are no particular lighting requirements here.
235. However, with a secondary pedestrian entry and bicycle store access provided at the rear of the building, there is risk to safety and security at the Sheridan Place interface during evening times. Therefore lighting must be provided at these locations, this will be required via condition. Pursuant to Clause 22.07 *Development abutting laneways*, lighting must be designed to avoid light spill into adjacent private open space and HRWs. This will be required via Council's standard condition.

*Wind impact*

236. The applicant submitted a Wind Impact Statement, by Vipac Engineers & Scientists, dated 07/02/2020. This report was peer reviewed externally by MEL Consultants. MEL Consultants raised no concerns with the analysis approach, site exposure, regional wind climate and description of the development used in the assessment and have agreed with the Vipac assessment of expected wind conditions (i.e. the development satisfies the walking criterion at street level along Bridge Road and Sheridan Place, the relevant standing criterion at the building entrances along Bridge Road, and the wind conditions on the balconies/terraces satisfy the relevant walking criterion).

237. Given the intended use of these outdoor spaces for dwelling use, it is considered that the development should meet sitting levels, rather than walking. The recommendation for precautions to be undertaken to securely fix or remove lightweight items on balconies is unreasonable to implement for apartments. This can be addressed via condition, to the satisfaction of the Responsible Authority.
238. Overall, there will be no adverse wind impacts at street level, at the building entries and the wind impact to balconies/terraces satisfies the relevant criterion.

Clause 58, including internal amenity and ESD considerations

239. Clause 58 comprises design objectives and standards to guide the assessment of new apartment development. Given the site's location within a built up inner city residential area, strict application of the standard is not always appropriate, whether the proposal meets the objective is the relevant test. The following objectives are not relevant to this application:
- (a) *Communal open space objective* – The standard applies to developments with 40 or more dwellings.
  - (b) *Solar access to communal outdoor open space objective* – There is no communal open space proposed.
  - (c) *Access objectives* – There is no vehicular access or crossovers proposed at the street frontage.
240. The remaining objectives and standards are assessed in detail below:

*Urban context objective*

241. The objective is to ensure that the design responds to the existing urban context or contributes to a preferred future development of the area.
242. This has been considered earlier in the report under the *Built form, urban design and heritage* assessment. The proposed development provides an acceptable design response with regard to retention of heritage values, building height and massing. Subject to the amendments shown in the sketch plans received by Council on 25 September 2020, the building design will also achieve a positive response to the heritage buildings on site and the fine grained character of the streetscape and will achieve a high quality architectural result.
243. Overall, the proposed development achieves a positive response with the existing and emerging character of Bridge Road. The objective and standard are satisfied.

*Residential policy objectives*

244. As outlined earlier in the report under the *Policy and strategic support* and *Dwelling use* assessments, the proposal has strong planning policy support at state and local levels. The site can adequately support an intensive mixed use development with high density housing based on its location within the Bridge Road MAC and convenient access to public and community infrastructure and services. The objective and standard are satisfied.

*Dwelling diversity objective*

245. The development comprises 12 x 1 bed apartments and 3 x 2 bed apartments. This provides a reasonable variety in dwelling size. The objective and standard are satisfied.

*Infrastructure objectives*

246. The proposal is located within an established area with existing utility services and infrastructure. There is no evidence to suggest that the proposed development would unreasonably overload the capacity of these existing services. The objective and standard are satisfied.

*Integration with the street objective*

247. The proposal retains the existing shopfronts at the Bridge Road frontage, retains the retail entry at No. 178 Bridge Road and includes a communal entry at Nos.180-182 Bridge Road. The development will continue to integrate well with the Bridge Road MAC and provides good accessibility for staff, residents, customers and visitors at the Bridge Road frontage. The objective and standard are satisfied.

*Energy efficiency objective*

248. Amongst other things, the standard requires:
- (a) Living areas and private open space to be located on the north side of the development, if practical; and
  - (b) Dwellings located in Climate Zone 21 Melbourne (as is the case here) to not exceed a maximum NatHERS annual cooling load of 30MJ/M<sup>2</sup> per annum.
249. Of the 15 dwellings, 8 comprise a north-facing balcony/terrace and 7 comprise a north-facing living area. Other balconies and living areas are south-facing. It is considered that this is an acceptable balance of north-facing balconies/terraces and living spaces in the context of 15 dwellings, generally in accordance with the standard. Where dwellings have south-facing balconies and living areas, these spaces will receive sufficient daylight access. The development achieves a good level of energy efficiency.
250. Further to this, the submitted SMP prepared by Northern Environmental Design, dated 07/02/2020, confirms that all dwellings comprise less than the maximum 30MJ/M<sup>2</sup> NatHERS annual cooling load, as is required under the standard.
251. Policy at Clauses 15.01-2S, 21.07-1, 22.16 and 22.17 of the Scheme encourage ecologically sustainable development with regard to water and energy efficiency, building construction and ongoing management. Positive attributes of the proposed development are outlined in the submitted SMP and include the following:
- (a) 7.6-star average NatHERS rating;
  - (b) A full BESS Report with a score of 57%, representing 'best practice';
  - (c) A STORM report showing that in conjunction with a 7,000 litre rainwater tank connected for toilet flushing in all 15 apartments, a STORM Rating score of 100% is achieved, demonstrating best practice;
  - (d) Water efficient heat rejection and fire-test systems;
  - (e) 5kW rooftop solar PV system proposed, avoiding 8.8 tonnes of CO<sup>2</sup> (GHG emissions) per year;
  - (f) 20% improvement on 2016 NCC Lighting Power Density Requirements;
  - (g) Heating and cooling systems within one-star, or CoP/EER 85% of better than available;
  - (h) 'Energy Efficient' life design with reduced friction, adjustable speeds and LEDs;
  - (i) Maximum levels of Portland Cement specified for concrete building components;
  - (j) A minimum of 1x EV charging station and 17 bicycle parking spaces on site;
  - (k) Tenancy meters for utilities provided to measure centralised building systems and common area consumption;
  - (l) Building User Guide provided to building occupants with the intent to reduce energy and water consumption.

252. All of these features are supported and will contribute to positive ESD outcomes. There were a couple of recommendations made by Council's ESD Advisor to further improve the energy efficiency of the development, as follows:
- (a) Up to 40% of general waste is comprised of organic compost. Using the generation rates of the WMP this is potentially 210 litres per week, and therefore there is a significant demand for organic waste collection. Clarify and update WMP accordingly.
  - (b) Re-evaluate the materials schedule in terms of urban heat – in particular the darker tones of PF (paint finish) and BW (brick wall) (TP200) could be lighter with higher SRI for urban heat mitigation.
253. In relation to the first recommendation above the updated WMP dated 07/07/2020 includes the provision of a 240L food waste bin collected once a week. Council's City Works Unit reviewed the WMP and have supported the report. The SMP should be amended to include statement that a 240L food waste bin will be collected once a week, in line with the WMP. This will be facilitated via condition.
254. In relation to the second recommendation above, the sketch plan makes changes to the overall schedule of colours and finishes, including use of a mid grey brick finish in lieu of the darker grey brick finish and replacement of the charcoal metal finish with off-white render. It is expected that this will help in mitigating the urban heat effect. The SMP should be updated to discuss how the amended schedule of colours and finishes as shown on the sketch plans received by Council on 25 September 2020 assist with urban heat mitigation. This will be facilitated via condition.
255. In addition to these recommendations, Council's ESD Officer has highlighted that there is some information missing from the SMP that should be incorporated, as follows:
- (a) Clarify shading treatment to windows on north façade at Levels 1-3;
  - (b) Clarify the extent to which building fabric and subsequent performance has been exceeded;
  - (c) Clarify thermal performance of non-residential component;
  - (d) Provide a statement confirming availability to car share facilities in the immediate vicinity;
  - (e) The SMP provides statement that a target recycle rate of 80% of demolition and construction waste will be adopted for the construction phase to minimize the volume of waste to landfill. This statement must be clarified within a site specific Construction Waste Management Plan included.
256. The sketch plans received on 25 September 2020 show 250mm deep shading devices to the north-facing windows at Levels 1-3. A condition is required to ensure that the development plans are amended to show these shading devices. The SMP must also be amended to reflect this. All other outstanding items can be facilitated via conditions.
257. Based on the existing ESD commitments outlined and the further elements required via conditions, it is considered that the development will achieve a high level of energy efficiency and is supported.

### *Safety*

258. The retail entry and the principal communal entry are located at the Bridge Road frontage. The retail entry is recessed, however the shopfront windows are designed with glass return. There is visibility through shopfront windows to this recessed entry and therefore no risk of concealment. The communal entry is only marginally recessed an estimated 300mm. This does not allow for opportunities for concealment. It is considered that both entries will be clearly visible from the street and will adequately provide for the safety and security of staff, residents and visitors, pursuant to the objective and standard.

259. As outlined earlier in the report, a secondary entrance and access to the bicycle store is provided at the rear of the building. This area is somewhat isolated and could pose a risk to safety during evening times. To improve safety and security, external lighting should be provided to the secondary entrance and bicycle store access. This will be required via condition.

260. In other regards, balconies and terraces will be adequately protected from inappropriate use as public thoroughfares, in accordance with the standard requirements.

*Landscaping objectives*

261. Landscaping does not play a significant role in the Bridge Road streetscape. However, terrace planting in this instance is supported as it will provide relief from the hard edge presentation of the development.

262. Under the proposed development, a 1.2m deep planter box is provided along the northern perimeter to the north facing terraces at Level 1, and an 0.8m deep planter box is provided along the northern perimeters to the north-facing balconies at Levels 4 and 5. This helps to soften the overall built form and provides visual interest, and is supported.

*Parking location objectives*

263. The three car spaces within the rear garage are allocated to the 3 x 2 bed apartments. These car spaces are conveniently accessed via the secondary entry at the rear of the building, and the perforated metal garage door will ensure that the car spaces are adequately secure and well ventilated, pursuant to the objective and standard.

*Integrated water and stormwater management objectives*

264. The objective encourages stormwater collection, utilization and infiltration within the development.

265. As outlined in the report, the development comprises a 7,000 litre underground rainwater tank connected to toilet flushing in all 15 apartments. The rainwater tank will rely on 232m<sup>2</sup> roof area for collection and will have a supply reliability of 60%. The provision of the 7,000 litre rainwater tank for toilet flushing achieves a STORM Rating Score of 100%, demonstrating best practice and is in accordance with the objective and standard.

266. A Water Sensitive Urban Design (WSUD) Report by Northern Environmental Design, dated 07/02/2020, was submitted with the application material. Amongst other things, the WSUD Report describes the use of the 7,000 litre rainwater tank and necessary ongoing maintenance program, including the ongoing maintenance of gutters, roof, tank inlets, pipework and rainwater pump. To ensure the ongoing and efficient use of the rainwater tank for toilet flushing in all apartments, the WSUD Report will be endorsed and will form part of any permit issued.

*Building setback objective*

267. As established in the detailed *Built form, urban design and heritage* assessment provided earlier in the report, the front setback to Bridge Road appropriately responds to the existing Bridge Road context.

268. The development comprises 0m setbacks to the side boundaries, with solid walls to the east and west. This is acceptable as it will continue the established side-by-side built form along the Bridge Road MAC and will protect the equitable development opportunities of the eastern and western adjoining properties.

This is also acceptable in terms of internal amenity given all apartments will have a northerly and/or southerly outlook and will receive good sunlight and/or daylight access. The north/south orientation also protects visual privacy should a future development be constructed on the eastern and western sites.

- 269. Dwellings 2, 3, 6, 7, 10, 11 and 13 comprise a living area window to the eastern lightwell. This lightwell is 3m x 3m and will sufficiently allow a secondary light source to these open plan living areas. However due to the location of these windows positioned opposite one another, internal viewing opportunities must be addressed.
- 270. At Level 1, the internal facing open plan living room windows will comprise of fixed obscure glass up to 1.7m above finished floor level (FFL). Internal viewing is prevented here.
- 271. At Levels 2 and 3 the opposite living space windows are 'highlight windows'. To prevent internal viewing here, the sills must be no more than 1.7m above FFL. This can be facilitated via condition.
- 272. At Level 4, the south-facing open space living area window is located opposite a bathroom window. As this window is a non HRW and is expected to comprise of obscure glazing, there is no risk of internal viewing here.
- 273. All other internal viewing will be considered in the following section of the report.
- 274. To the rear, the development provides a recessive built form. That is, as the height increases the setbacks to Sheridan Lane and the residential property at No. 2 Waltham increases. This will help to protect the general amenity of the SPOS to 2 Waltham Street in terms of off-site visual bulk impacts and sunlight access to the SPOS, and is supported. Overlooking to the south and necessary measures to prevent overlooking here is discussed in detail later in the report.

*Internal views objective*

- 275. Internal viewing between opposite HRWs in the lightwell is discussed above, and will be addressed via conditions.
- 276. In other regards, the standard requires windows and balconies to be designed to prevent overlooking of more than 50% of private open space of a lower dwelling directly below and within the same development.

*North*

- 277. A 1.7m high screen is provided between Terrace 1 and 2 at Level 1. There is no risk of internal viewing here.
- 278. There are opportunities for internal viewing from the north-facing Dwelling 5 bed window, and Dwelling 6 balcony and bed window at Level 2; and the north-facing Dwelling 9 bed window, and Dwelling 10 balcony and bed window at Level 3 down to Terrace 1 and 2 at Level 1.
- 279. Given the location of Terrace 1 and 2 facing Bridge Road and above the 'podium' created by the retained heritage building, it is considered that some screening to protect immediate views is required, however full compliance with the standard requirement would not be necessary. Protection of immediate views downwards could include mitigation measures such as ledges or louvres to limit views. A condition will facilitate this.
- 280. Based on a sightline analysis, there will be no internal viewing from the north-facing balcony at Level 4 down to Terrace 1 and 2 due to the recessive design and use of planter box.

Similarly, there will be no internal viewing from the north-facing balcony at Level 5 down to the north-facing balcony at Level 4, due to the recessive design and use of planter box.

*South*

- 281. A 1.7m high screen is provided between the south-facing Balconies 3 and 4 at Level 1 and the south-facing Balconies 7 and 8 at Level 2. To effectively prevent internal viewing, these screens must be no more than 25% transparent. This will be required via condition.
- 282. There is no internal viewing from the south-facing Balconies 7 and 8 at Level 2 down to the south facing balconies at Level 1 due to the 'one on top of the other' format.
- 283. There will be internal viewing from the south-facing bed window to Dwelling 11 and the south-facing living window to Dwelling 12 at Level 3 down to the south facing Balconies 7 and 8 at Level 2. To prevent internal viewing here, these windows should comply with the requirements of the objective of clause 58.04-2. This will be required via condition.
- 284. There will be internal viewing from the south-facing open plan living area windows of Dwelling 15 at Level 5 down to Balcony 14 at Level 4. To prevent internal viewing here, these windows should comply with the requirements of the objective of clause 58.04-2. This will be required via condition.

*Noise impacts objectives*

- 285. The applicant submitted an Acoustic Report, prepared by Clarity Acoustics (**Clarity**), dated 07/02/2020. This report was peer reviewed externally by SLR Consulting Australia P/L (SLR).
- 286. The objective at Clause 58.04-3 *Noise impacts* is to:
  - (a) *Contain noise sources in developments that may affect existing dwellings; and*
  - (b) *To protect residents from external and internal noise sources.*

*On-site acoustic amenity considerations from external noise sources*

- 287. The standard requires buildings within a noise influence area in Table D3 to be designed and constructed to achieve the following prescribed noise levels:
  - (a) *Not greater than 35dB(A) for bedrooms, assessed as an LAeq,8h from 10pm to 6am;*
  - (b) *Not greater than 40dB(A) for living areas, assessed LAeq,16h from 6am to 10pm.*
- 288. Under Table D3 a noise influence area includes sites within 300m of the Industrial 1, 2 and 3 Zone boundary, within 300m of a road carrying 40,000 Annual Average Daily Traffic Volume, within 80m of a railway line servicing passengers in Victoria and within 135m of a railway line servicing freight in Metropolitan Melbourne.
- 289. SLR and Clarity both agree that the site is not within a noise influence area and therefore the noise limit criteria prescribed by the standard is not applicable. Instead, Clarity have referenced AS2107 *Houses and apartment in inner city areas or entertainment districts or near major roads* and have adopted the target of 35dBA  $L_{eq}$  for all living spaces, with this target to be met for living rooms between hours 6am and 10pm and for bedrooms between hours 10pm and 6am. SLR confirm that the use of AS2107 targets is reasonable, acknowledging that the living rooms target is 5dB better than the standard, and will provide a good level of acoustic amenity if achieved.
- 290. Clarity conducted noise surveys and noise monitoring on site in relation to background noise and traffic noise, and it was found that traffic noise was the dominant noise source incident at the façade of the proposed residential development.

291. Under Section 5.2 and Appendix D of the submitted Acoustic Report, Clarity have recommended a combination of glazing and façade upgrade treatments at the front and rear of the building to reach these targets, including:
- (a) Glazing 1 (G1): min. sound insulation rating 35dB  $R_w$ , design: 6mm/12mm airgap/6mm;
  - (b) Glazing 2 (G2): min. sound insulation rating 42 dB  $R_w$ , design: 6mm/12mm airgap/12.76mm laminated.
292. It is also recommended that the fixed façade should have a minimum sound insulation performance of at least 10dB higher than the associated glazed elements, i.e. Wall 1 (W1) to comprise of 45dB  $R_w$  and Wall 2 (W2) to comprise 52 dB  $R_w$ .
293. SLR confirm that from their indicative calculations, the proposed glazing should enable the targets typically nominated in the City of Yarra to be met. Therefore there are no further requirements in this regard. This is not shown on the plans, a condition will ensure the requirements of the Acoustic Report are shown on the plans.

*On-site and off-site acoustic amenity impacts from mechanical plant*

294. In relation to the operation of mechanical plant equipment on site, Clarity have used SEPP N-1 *Control of Noise from Commerce, Industry and Trade* as the relevant criteria. SLR confirm that using SEPP N-1 as the criteria to assess mechanical plant noise is satisfactory.
295. For assessment purposes, Clarity have used the night-time SEPP N-1 noise limit as this will ensure compliance with day and evening period SEPP N-1 noise limits. The mechanical plant equipment assessed includes:
- (a) The centralised roof mounted condenser deck with 15 condenser units;
  - (b) Two additional condenser units associated with the retail tenancy located at the rear of the development at Ground Level;
  - (c) A kitchen exhaust fan associated with the retail tenancy to be installed on the roof; and
  - (d) The operation of the rear garage door.
296. Based on the following recommendations, Clarity state that the operation of the mechanical plant equipment meets the night-time SEPP N-1 noise criteria with regard to both the nearest affected residential buildings and apartments on site:
- (a) The selected roof top condensers (x15) to not exceed power level 68dB  $L_{Aeq}$ ;
  - (b) The selected Ground Level condensers (x2) to not exceed power level 67dB  $L_{Aeq}$ ;
  - (c) The roof/ceiling separating the roof plant from the apartment below being constructed to achieve a minimum sound insulation of 50dB  $R_w$  (examples of how to achieve this is provided in the Clarity Report); and
  - (d) The garage door to incorporate appropriate vibration isolation to limit structure-borne noise transfer to apartments above,
297. SLR generally agree with these findings. However, SLR have raised concern that an explicit specification is not provided for the retail kitchen exhaust fan (just an assumed sound power level). Given its proximity to an apartment outdoor deck, SLR have recommended that the sound power level be specified for the retail kitchen exhaust fan to meet night-time SEPP N-1 noise limits.
298. SLR also advised that the Acoustic Report should include advice for addressing structure-borne noise from the kitchen exhaust fan and condenser units to meet night time SEPP N-1 limits, given this noise can be difficult to control for equipment installed on a lightweight roof, as is the case in this instance.

299. Conditions will be required to ensure that the Clarity Acoustic Report is amended to address the above two requirements. Once amended, the Acoustic Report will be endorsed and will form part of any permit issued.

*Accessibility objectives*

300. The standard requires that at least 50% dwellings should provide;
- (a) *A clear opening width of at least 850mm at the entrance to the dwelling and main bedroom;*
  - (b) *A clear path with a minimum width of 1.2m that connects the dwelling entrance to the main bedroom, an adaptable bathroom and the living area;*
  - (c) *A main bedroom with access to an adaptable bathroom;*
  - (d) *At least one adaptable bathroom that meets all of the requirements of either Design A or Design B specified in Table D4.*
301. The submitted plans demonstrate that Dwellings 1, 2, 4, 5, 6, 8, 9, 10, 12, 14 and 15 are designed to meet the standard requirements, that is a total of 11 dwellings or 73.3% of all dwellings, exceeding the minimum requirement. However, to satisfy the standard design requirements the following plan notations are also required:
- (a) All adaptable bathrooms with door opening inwards are to comprise a door with readily removable hinges; and
  - (b) All adaptable bathrooms are to comprise a hobless (step-free) shower;
  - (c) All Design Option B adaptable bathrooms (as per Standard D17 requirements) are to comprise a shower with removal shower screen.
302. With the above measures in place, the development will be adequately designed for those with limited mobility, pursuant to the objective. The above requirements will be required via condition.

*Building entry and circulation objectives*

303. The communal dwelling entry is located at the Bridge Road frontage, is clearly separated from the retail entry, comprises double glazed doors, will be clearly visible and identifiable from Bridge Road and includes verandah over which appropriately creates a transitional space around the entry. A short ramp is provided to the communal entry off Bridge Road, allowing for safe, functional and efficient movement; and the communal entry comprises a foyer area at the frontage with an emphasis on glazing at the street frontage to appropriately allow for internal and external sightlines.
304. The fire booster cupboard is located at the street frontage, however it is integrated well into the front façade with window above and will have no adverse impact on the active street frontage.
305. Stairs are provided in the communal circulation area to encourage use by residents, and the communal corridor areas at Lower Ground/Upper Ground, and at Levels 1-5 all have at least one operable door/window for natural daylight access and natural ventilation. The objective and standard are satisfied.

*Private open space objective*

306. The relevant private open space requirements are as follows:
- (a) At podium level, provision of a 15m<sup>2</sup> terrace, with minimum dimension of 3m, and convenient access from a living room;
  - (b) For 1 bed dwellings, an 8m<sup>2</sup> balcony, with minimum dimension of 1.8m and convenient access from a living room; and

- (c) For 2 bed dwellings, an 8m<sup>2</sup> balcony with minimum dimension of 2m and convenient access from a living room.

307. Dwellings 1 and 2 comprise of a 14.94m<sup>2</sup> and 23.43m<sup>2</sup> usable terrace area at the northern podium area, respectively. While the size of each terrace meets the standard, the terraces fall short of the minimum 3m dimension requirement. However it is considered that the minimum 2m dimension, northerly aspect and immediate access from their respective living rooms will ensure that these terraces will adequately cater to the future resident's passive outdoor recreation and service needs, pursuant to the objective. On this basis, a variation to the standard is supported.
308. The other 1 bed dwellings, including Dwellings 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12, comprise of balconies ranging between 8.8m<sup>2</sup> to 14.4m<sup>2</sup>, with minimum 2m dimension and immediate access from their respective living areas and satisfies the standard requirements.
309. Dwellings 13, 14 and 15 (being the 2 bed dwellings) comprise of 26.21m<sup>2</sup>, 16.1m<sup>2</sup> and 9.28m<sup>2</sup> usable balcony area, with minimum 2.1m dimension and immediate access from their respective living areas, in accordance with the standard. It is also of note that Dwelling 15 comprises of a substantial secondary north-facing balcony with 26.42m<sup>2</sup> useable area and minimum 2.7m dimension, accessed off the master bed.
310. Overall, all dwellings will comprise of adequate private open space, in accordance with the objective. A variation to the standard is supported.

*Storage objective*

311. For 1 bed dwellings the standard requires a total minimum 10m<sup>3</sup> storage, of which a minimum 6m<sup>3</sup> must be provided within the dwelling. For 2 bed dwellings the standard requires a total minimum 14m<sup>3</sup> storage, of which a minimum 9m<sup>3</sup> must be provided within the dwelling.
312. The 1 bed dwellings will comprise of between 10.7m<sup>3</sup> to 16.4m<sup>3</sup> total storage, with in excess of 6m<sup>3</sup> internal storage, satisfying the standard requirements.
313. The 2 bed dwellings will comprise of between 14.4m<sup>3</sup> to 16.2m<sup>3</sup> total storage, with in excess of 9m<sup>3</sup> internal storage, satisfying the standard requirements.
314. Dwellings 4, 8, 11, 12, 13, 14, and 15 will have a combined internal and external storage arrangement. However, the minimum internal storage requirements of the standard are satisfied.
315. Adequate storage is provided to all dwellings, pursuant to the objective.

*Common property objectives*

316. The common property areas within the development are clearly delineated and would not create areas which are difficult to maintain into the future, pursuant to the objective and standard.

*Site services objectives*

317. The majority of site services will be located at Ground Level, adjacent to the common area. This is acceptable and will ensure that these services can be installed and easily maintained.
318. The mailboxes appear to be located adjacent to the communal entry lobby for ease of access by residents and Australia Post.

*Waste and recycling objectives*

319. In accordance with the standard, the submitted development plan and the updated WMP by Northern Environmental Design dated 07/07/2020 demonstrate the following:

- (a) The development comprises of a dedicated bin store room (18m<sup>2</sup>) at the Upper Ground Level with general rubbish, recycle rubbish and food waste disposal options, easily accessible by staff and residents;
- (b) The WMP confirms that garden waste will be removed by gardening contractors at the time of garden maintenance, in accordance with body corporate requirements;
- (c) The WMP confirms that facilities will be provided on site to facilitate the washing and cleaning of bins to remove waste-smear and odour and that it is the body corporate's responsibility to keep bins clean;
- (d) The WMP confirms that the bin store area will be ventilated in accordance with AS1668 and will comprise of smooth, slip resistant, impervious flooring and will be appropriately drained;
- (e) The WMP specifies that all rubbish will be collected by private contractor once a week at the corner of Sheridan Place and Waltham Street. The collection staff (driver and assistant) will have access to the bin store and it is the responsibility of the collection staff to transfer bins from the bin store via ramp and access door at the Sheridan Place interface, to the collection point, and back again. Bins will be returned to the bin store immediately after collection. The collection staff will transfer bins via bin tug, if required. With the collection point at the corner of Sheridan Lane and Waltham Street, there is no foreseeable truck movement conflicts;
- (f) Further to the above, the WMP outlines that each residential unit will comprise of separate receptacles for garbage and recycling, and that a 30L bin box/container for garbage and recyclables will be provided by the body corporate to each unit's kitchen to facilitate the transfer of garbage and recyclables from the units to bin store room. As outlined earlier, each residential unit comprises internal storage space in excess of the minimum requirements and can easily accommodate a 30L bin box container for garbage and recyclables.

320. Council's City Works Unit reviewed the updated WMP by Northern Environmental Design, dated 07/07/2020, and confirm there are no outstanding requirements.

*Functional layout objective*

*Bedrooms*

321. The standard requires main beds to have minimum 3m x 3.4m dimensions, with other beds to have minimum 3m x 3m in dimensions. The standard also requires that in addition to these minimum internal dimensions, all beds are to accommodate a wardrobe. From a review of the plans, it is confirmed that all bedrooms are designed to meet the minimum standard requirements.

*Living areas*

322. The standard requires the living areas (excluding dining and kitchen) for a 1 bed dwelling to comprise of minimum 3.3m dimension and 10m<sup>2</sup> in area. For 2 bed dwellings the standard requires living areas (excluding dining and kitchen) to comprise of minimum 3.6m dimension and 12m<sup>2</sup> in area. From a review of the plans, it is confirmed that all living areas are designed to meet the standard requirements.

323. The objective and standard are satisfied.

*Room depth objective*

324. The standard requires single aspect habitable rooms to not exceed a depth of 2.5 times the ceiling height. In this instance the ceiling height is 2.7m, and therefore the maximum room depth is 6.75m.
325. The standard allows a single aspect open plan living area to be increased to 9m in depth if all the following requirements are met:
- (a) The room combines living area, dining and kitchen;
  - (b) The kitchen is located furthest from the window; and
  - (c) The ceiling height is 2.7m. This excludes where services are provided above the kitchen.
326. From a careful review of the plans, it is evident that all single aspect habitable rooms meet the minimum room depth requirements of the standard. Therefore all habitable rooms will receive adequate daylight access, pursuant to the objective.

*Windows objective*

327. The standard requires:
- (a) A habitable room to have a window in an external wall of the building;
  - (b) A window may provide daylight to a bedroom from a smaller secondary area (snorkel arrangement) within a bedroom where the window is clear to the sky and the secondary area has a minimum 1.2m width and minimum 1.5m x the width, measured from the external surface of the window.
328. The majority of habitable rooms have a window in an external wall of the building and the bedroom snorkel arrangements for Dwellings 1, 5 and 9 satisfy the minimum dimension requirements of the standard. These habitable rooms will receive ample daylight access.
329. However, Dwelling 1 comprises a study nook with no window to an external wall. As this study nook is designed with dual sliding doors to the open plan living/dining/kitchen area and the open plan living area has north and east facing windows, it is considered that this study nook can receive adequate daylight access as desired via the operable sliding doors. Based on this, the provision of no windows to Dwelling 1's study nook is considered acceptable.

*Natural ventilation objectives*

330. The standard requires that at least 40% of dwellings (or in this instance a minimum of 6 out of the 15 dwellings) should provide effective cross-ventilation that has:
- (a) A maximum breeze path through the dwelling of 18m;
  - (b) A minimum breeze path through the dwelling of 5m;
  - (c) Ventilation openings with approximately the same area.
- The breeze path must be measured between the ventilation openings on different orientations of the dwelling.
331. From close review it appears that Dwellings 1, 2, 3, 5, 6, 7, 9, 10, 11, 12, 13, 14 and 15 satisfy the standard breeze path requirements, being 86.6% of all dwellings. The standard is satisfied.

Off-site Amenity

332. The site is surrounded by C1Z to the north, east and west. The abutting properties to the east and west comprise of 2-3 storey commercial development and the land to the south-west is used as the open car park to Nos. 170-176 Bridge Road. There will be no foreseeable off-site amenity impacts to these properties. However the property to the south-east, beyond Sheridan Place at No. 2 Waltham Street, is zoned NRZ1 and comprises a single storey dwelling at the Waltham Street frontage with SPOS to the rear (west), in the area adjacent to the development site. This property is the development site's most sensitive interface. Off-site amenity impacts must be considered in relation to this property.

333. A relevant design objective of the DDO21 is *to minimize amenity impacts on residential properties adjoining the Bridge Road Activity Centre including overlooking, overshadowing and visual bulk impacts*. Figure 1 is included in the DDO21 to assist with managing visual bulk impacts with respect to adjacent residentially zoned land.
334. In addition to this, policy at Clause 22.05-4.2 requires new non-residential development near residential properties to be designed to minimise overlooking, overshadowing, visual bulk, loss of daylight, off-site acoustic impacts, unsightly views to commercial development, and light spill. As the proposal is a mixed-use development, the off-site amenity considerations under Clause 22.05-4.2 will be considered.

*Visual bulk*

335. The interim DDO21 Figure 1 provides the relevant setback requirements for interface with residential zoned land. It is established earlier in the report that the development to the south has been designed to largely meet the setback requirements of Figure 1. There is a minor encroachment in relation to the balcony balustrade at Level 4, as shown earlier in the report, however this is negligible and will not in itself result in adverse off-site visual bulk impacts to the south. Overall, it is considered that the development achieves an acceptable transition in built form and setbacks in the context of the residential land at No. 2 Waltham Street to the south-east. The recessive built form will adequately help to diminish off-site visual bulk impacts to the south.

*Overshadowing*

336. Policy at Clause 22.05-4.2 requires non-residential development to be designed so as to minimize overshadowing impacts to private open spaces. The shadow diagrams demonstrate that there will be overshadowing to the SPOS at No. 2 Waltham Street between 11am to 3pm. There is no overshadowing impact during 9am-10am.
337. The SPOS to No. 2 Waltham Street is located to the rear (west) and wraps around the dwelling to the north and south sides. Based on the submitted shadow diagrams, it is evident that the greatest overshadowing impact will take place at 3pm with an estimated 16m<sup>2</sup> of the northern courtyard area being overshadowed.
338. However, in observing the shadow diagrams and acknowledging that the lot to No. 2 Waltham Street comprises an estimated 18m width, it is evident that the principal SPOS area to the west of the dwelling will continue to receive a good level of sunlight access at this time and throughout the course of the day.
339. Based on this, it is considered that the proposed development will not unreasonably affect the use of the southern SPOS for outdoor recreation and service needs. There is no concern with regard to overshadowing to the SPOS at No. 2 Waltham Street.
340. It is of relevance to note here that the C1Z building and works decision guidelines at Clause 34.01-8 requires the consideration of overshadowing to existing rooftop solar energy systems of adjoining dwellings within Neighbourhood Residential Zone. The dwelling at No. 2 Waltham Street comprises existing roof mounted solar panels to the northern face of its hipped roof form. Whilst the submitted shadow diagrams do not show the solar panels, it is clear that the proposed building would not cast shadow on the roof of the building, therefore not resulting in any overshadowing of the solar panels.

*Daylight to HRWs*

341. The development is located adjacent to the rear SPOS to No. Waltham Street and away from the dwelling and its north facing windows. There will be no impact on daylight access to existing HRWs.

### *Overlooking*

342. Rescode provides an accepted guide for the assessment of overlooking. Amongst other things, the standard requires a window or balcony to be located and designed to avoid direct views into the SPOS or HRW of an existing dwelling within a horizontal distance of 9m and 45 degree arc of the window or balcony.
343. The following balconies and windows are within a horizontal distance of 9m from the SPOS to No. 2 Waltham Street:
- (a) Balconies 3 and 4, at Level 1;
  - (b) Balconies 7 and 8, at Level 2;
  - (c) Balconies 11 and 12, at Level 3;
  - (d) Balcony 14, at Level 4;
  - (e) The south-facing bed window to Dwelling 11, at Level 3; and
  - (f) The south facing living window to Dwelling 12, at Level 3.
344. All aforementioned balconies are designed with an angled screening device with 800mm deep ledge at 1.3m in height above FFL to the south. This device allows horizontal views to the south but restricts views downwards toward the SPOS of 2 Waltham Street. To ensure these devices will effectively prevent overlooking to the SPOS at No. 2 Waltham Street, the screening devices must be annotated as being no more than 25% transparent. This will be facilitated via condition.
345. An objection was raised in relation to overlooking from the sides of the south facing balconies. The balconies at Levels 1, 2 and 3 comprise of a solid wall up to 1.7m above FFL to the eastern boundary. This will prevent overlooking to No. 2 Waltham Street. The eastern privacy screen to Balcony 14 at Level 4 is 1.3m in height. However when standing at the eastern perimeter of the balcony there are no direct views into the SPOS of No. Waltham Street within a horizontal distance of 9.0m. There will be no unreasonable overlooking from the eastern side of this balcony.
346. There is a clear view from the south-facing bed window to Dwelling 11 and the south-facing living window to Dwelling 12 at Level 3 down to the SPOS of No. 2 Waltham Street. A condition will be included to ensure overlooking is addressed from these windows, to the SPOS at No. 2 Waltham.

### *Noise*

347. Policy at Clause 22.05-4.2 requires non-residential development to provide a high level of acoustic protection to adjoining properties.
348. On-site and off-site acoustic impacts have been addressed earlier in the report under the Clause 58 assessment. It is reiterated that in relation to mechanical plant equipment, the submitted Acoustic Report by Clarity recommends:
- (a) The selected roof top condensers (x15) to not exceed power level 68dB  $L_{Aeq}$ ;
  - (b) The selected Ground Level condensers (x2) to not exceed power level 67dB  $L_{Aeq}$ ; and
  - (c) The garage door to incorporate appropriate vibration isolation to limit structure-borne noise transfer to apartments above.
349. Subject to these requirements, the mechanical plant equipment on site will meet the night-time SEPP N-1 noise criteria in relation to the nearest affected residential buildings. Subject to other conditions to address on-site acoustic amenity as discussed, the Clarity Report will be endorsed and will form part any permit issued. This will ensure that surrounding residences will not be adversely affected by noise generated by mechanical plant equipment on site.

350. Further to this, the WMP specifies that waste will be collected at the corner of Sheridan Lane and Waltham Street, with bins being transferred via the rear ramp and door at the Sheridan Lane interface and down Sheridan Lane via bin tug, as required. The WMP specifies that waste will be collected once a week between the following hours:
- (a) Monday to Saturday 10am and 3.00pm; and
  - (b) Sundays and Public Holidays 10am and 3.00pm.
351. The waste collection hours will ensure that the acoustic amenity of the adjoining and nearby residential properties will be adequately protected and that typical rest times will not be disturbed.
352. It is of note that the retail tenancy is provided at the Bridge Road frontage. All ingress and egress activity, including staff, customers and deliveries will take place at the Bridge Road frontage, away from the more sensitive residential land to the south. There will be appreciable noise impacts generated from the retail use.

*Unightly views into the development*

353. Policy at Clause 22.05-4.2 requires new development to minimize opportunities for views from adjoining residential properties into the site where storage and business activity could present an unsightly appearance.
354. The development will have a high quality architectural result at the Sheridan Place interface. All car parking, bicycle storage and bins will be stored inside the building. As noted earlier, the WMP states that waste collection staff will have access to the bin store and will transfer bins from the bin store to the collection point, and back to again. The bins will be returned to the bin store immediately after collection. There will be no unsightly views to the development from Sheridan Place. Further to this, given the bins will be returned to the bin store immediately after collection, there will be no adverse visual amenity impact along Waltham Street on collection days.

*Light spill*

355. Policy at Clause 22.05-4.2 requires light spill to HRWs of nearby residential properties to be minimized. As discussed earlier in the report, the secondary pedestrian entry and bicycle store access provided at the rear of the building must comprise external lighting to minimise risk to safety and security at the Sheridan Place interface during evening times. It is also possible that the southern balconies may comprise external lighting. Pursuant to policy at Clause 22.05-4, all fixed external lighting must be located, directed, shielded and of limited intensity to ensure no adverse light spill onto neighbouring HRWs. This will be required via Council's standard condition.
356. In other regards, vehicles will egress the site at the Sheridan Place interface. Due to the position of the garage and the high fencing to the northern boundary at No. 2 Waltham Street, there will be no adverse light spill from vehicle headlights to the HRWs of the dwelling at No. 2 Waltham Street.

*Commercial waste*

357. Policy at Clause 22.05-4.3 requires the submission of a WMP that includes details of proposed waste management practices, storage and disposal, demonstrating that the amenity of the surrounding area will not be unreasonably affected. The submitted updated WMP by Northern Environmental Design, dated 07/07/ 2020 has been reviewed by Council's City Works Branch and is supported. There are no foreseeable off site amenity impacts associated with waste management and collection.

*Construction management*

358. Policy at Clause 22.05-4.4 requires all development to ensure that construction times, storage and disposal methods minimize disruption to nearby residential and business uses. Council's standard construction management plan (major projects) condition will be included on the permit to ensure that construction is adequately managed to minimize off-site disturbance.

Car parking and traffic

359. As identified earlier in the report, with 3 car spaces provided on site (allocated to the 3 x 2 bed dwellings), the applicant is seeking a total reduction of 17 car spaces, including 5 car spaces associated with the retail tenancy and 12 car spaces associated with the 12 x 1 bed dwellings.
360. The relevant considerations for a reduction in car parking requirements are found at Clause 52.06-7 of the Scheme. Council's Engineering Unit provides an assessment against these considerations. Council's Engineering Unit advises that the provision of 3 resident car spaces on-site is appropriate based on the following:

*Car parking demand for flat-type 1 and 2 bed dwellings*

361. The 2016 ABS Census data for the Richmond area shows that for flat-type dwellings the average car ownership for one and two bed dwellings is 0.74 and 0.92 cars per dwelling, respectively. This suggests that there is a market demand for dwellings without any on-site car parking, especially when located close to public transport nodes. Council's Engineering Unit recognises that car ownership is influenced by a number of factors (including public transport access, proximity to employment and education centres, affordability, environmental concerns and access to services) and that in inner areas many households do not own a car for a range of reasons.
362. The proposal for 12 x 1 bed dwellings without on-site car parking reflects the statistical trend for car ownership in the Richmond area.

*Car parking demand for the retail tenancy*

363. Council's Engineering Unit advise that retail uses typically generate a staff parking demand of 1 space per 100m<sup>2</sup> of floor area. This equates to 2 long term car spaces for the retail tenancy on site. In addition, Council's Engineering Services Unit identify that demand for on-street parking in the area is generally high and that the local streets consist of time based parking restrictions. This will be a disincentive for retail staff to travel to the site by private motor vehicle.

*Car parking survey data*

364. As part of the Traffic Engineering Report, Traffix Group conducted an inventory and spot survey of the car parking within 150m of the subject site along Bridge Road and Waltham Street. The inventory survey shows that there was 55-57 short-term parking spaces and no long-term parking spaces in the vicinity of the subject site. The spot survey of car parking was undertaken at 4pm on Tuesday, 28 January 2020. At the time of the survey, it was found that 29 of the short-term car spaces were occupied and 26 were vacant (being an occupancy rate of 53%).
365. Council's Engineering Services Unit have reviewed the application material, including the Traffix Report, and confirm that the reduction of 17 car spaces associated with the 1 bed dwellings and retail tenancy is appropriate.
366. The proposed reduction in car parking is supported based on the following:

- (a) The site has excellent access to public transport services, including immediate access to Tram Routes 48 and 75 along Bridge Road with tram stop No.17 located forward of the site, is within 220m of Tram Route 78 along Church Street and is within reasonable walking distance to other modes of public transport including bus services along Punt Road and the West Richmond Railway Station. The site also has immediate access to the on-road bicycle network. This offers convenient alternative modes of transport to residents, staff, customers and visitors and is expected to reduce the overall impact on the local car parking conditions;
- (b) The spot parking survey undertaken by Traffix Group confirms that there is no long term parking in the area. The future occupants of the 1 bed dwellings and the retail staff would be well aware of this and that there is no allocated on-site car parking available to them. Therefore, the future occupants of the 1 bed dwellings are expected to be 'no private motor vehicle ownership' households and the retail staff are expected to opt for alternative modes of transport to the site. The site's convenient access to public transport and the on-road bicycle network including the provision of 17 bicycle spaces on site (in excess of the statutory requirement) will support this;
- (c) The site's convenient access to shops, businesses, essential facilities and amenities within the Bridge Road MAC will also reduce resident reliance on private vehicle use/ownership;
- (d) Council's Engineering Unit confirm that although the demand for on-street parking in Richmond is generally high, the streets surrounding the site comprise of short-term parking restrictions. This will ensure a turnover of car parking for customers and visitors to the site. Traffix Group confirm that from their spot survey undertaken on Tuesday 28 January 2020, that a total 26 short-term car spaces were available in the area. This will easily cater to the customer/visitor car parking demand;
- (e) As advised by Council's Engineering Unit, customers and visitors to the site who choose to drive might combine their visit by engaging in other business or activities whilst in the area. On this basis, the overall demand for parking is expected to be less than the sum of individual demands for each premises in the activity centre;
- (f) Council's Engineering Unit supports the car parking reduction as it is considered to be in line with the objectives contained in Council's *Strategic Transport Statement*. The site is ideally located with regard to sustainable transport alternatives and the reduced provision of on-site car parking would potentially discourage private motor vehicle ownership and use.
- (g) Practice Note 22 – *Using the Car Parking Provisions* indicates that car parking should be considered on a centre-basis rather than on a site/individual basis. This is applicable to activity centres, such Bridge Road, where spare on-street car parking capacity would be shared amongst sites within the centre. The principle is, the overall demand for parking within the Bridge Road MAC as a whole is expected to be less than the sum of individual demands for each premises within the centre;
- (h) Further to this, the site has convenient access to a GoGet CarShare pod located along Waltham Street, 50m east of the site. This may also provide an alternative option of transport for residents, staff, customers and visitors and may help to reduce overall car parking demand in the area.

367. In addition to the above considerations, Clause 52.06-7 decision guidelines include local traffic management as a relevant consideration. Council's Engineering Services Unit acknowledge that all development traffic will be utilising Sheridan Place to access the site and advise that the traffic generated by the development should not have a detrimental impact on the traffic operation of the surrounding road network.

368. Overall, and as advised by Council's Engineering Unit, the proposed reduction in car parking is considered appropriate for this locality, is acceptable when considered against the relevant Clause 52.06-7 considerations and is consistent with the purpose of Clause 52.06.

*Car park access and layout*

369. Clause 52.06-9 of the Scheme includes relevant design standards for car parking. Council's Engineering Unit have provided advice in relation to these matters and confirm that a high level of compliance is achieved. However the following outstanding information must be provided:
- (a) The roller door width is to be clearly dimensioned;
  - (b) The depth of the car spaces is to be clearly dimensioned;
  - (c) The provision of a 40mm lip from the edge of the laneway to the FFL of the front edge of the slab at ground level, demonstrated through a cross sectional drawing showing the reduced level of the west and east edge of Sheridan Place, the centreline of Sheridan Place and the finished floor level of the slab.
370. The above requirements will be facilitated via condition.

Bicycle facilities and strategic transport

371. As outlined earlier in the report, under Clause 52.34 of the Scheme the proposed development requires the provision of a minimum 4 resident/employee bicycle spaces and 2 resident visitor bicycle spaces on site. A total 17 resident/employee bicycle spaces are provided within the bike store on site. This far exceeds the statutory requirement, however it is of note that no easily accessible visitor bicycle spaces are provided on site, falling short of the minimum 2 visitor bicycle spaces required under Clause 52.34.
372. The application was referred to Council's Strategic Transport Unit for advice. Strategic Transport have supported the variation of the 2 visitor bicycle spaces on the following basis:
- (a) *The development only provides a statutory trigger to provide 2 visitor spaces; and Council's best practice rate recommends the provision of 4 visitor spaces.*
  - (b) *The rear access is not suitable for retail visitor use, and is not particularly suitable for visitors to the residential component; however if residential visitors are concerned about the security of their bikes they can request access to the bike store through their hosts.*
  - (c) *It is not recommended the applicant provide visitor spaces at the frontage due to the heritage constraints of the site; and because the existing footpath outside the subject site is already significantly cluttered.*
  - (d) *Council's urban design team are currently planning a street furniture upgrade of Bridge Road, and the inclusion of additional bike hoops by the developer is likely to interfere with this process.*
  - (e) *There are a number of visitor bike spaces in reasonable proximity to the subject site which are likely to cater for the peak expected demand of 4 visitor spaces.*
373. Based on the advice of Council's Strategic Transport Unit, the variation of 2 visitor bicycle spaces is accepted.
374. In relation to the design of the bicycle store room on site, Council's Strategic Transport Unit raised concern with the 1m wide x 1:20 grade ramp located adjacent to the flat floor, advising that the ramp will result in tripping hazard for people trying to remove their bikes from the hanging racks and also the 1m aisle width falls short of the minimum 1.5m required under AS2890.3. To eliminate this hazard, Council's Strategic Transport Unit recommends that the 1:20 grade be extended across the entire bike store floor area. The applicant has responded confirming that this can be accommodated. This will be required via condition.
375. Council's Strategic Transport Unit have advised that although it is acceptable that no EV charging points are installed, to allow for easy provision for EV charging in the future each of the three car parking bays should be electrically wired to be EV ready.

376. The plans clearly show the provision of 1 x EV charging station, contrary to the Strategic Transport Units advice. Nonetheless, conditions will be required to ensure that the remaining two parking bays are electrically wired to be EV ready and that the proposed and future charging stations are to comprise a minimum 40A single phase electrical sub circuit, as per the Strategic Transport Unit advice.

Objector concerns

377. Many of the objector concerns have been discussed within the body of the report as shown below. Outstanding objections raised are addressed as follows:

- (a) *Built form, height, scale, setback and design (wedding cake presentation);*
  - (i) This is addressed at paragraphs 151-174 and 208-216.
  - (ii) In addition to these considerations, an objection was raised that the proposed development will dominate the Waltham street streetscape. The subject site is located 30m west of Waltham Street. This provides sufficient distance to ensure that the proposed development will not have a prominent presentation within the Waltham Street streetscape. There is no concern in this regard.
- (b) *The built form responds to anticipated future multi-level built form to the east and west, which will unlikely occur;*
  - (i) The proposed development is designed generally in accordance with the built form requirements of the interim DDO21 control and the sheer 6 storey walls to the east and west will protect the equitable development opportunities of the eastern and western adjoining properties, should this take place in the future. This is considered to be a favourable design response for the site and is supported.
- (c) *Impact on heritage values;*
  - (i) This is addressed at paragraphs 175-207.
  - (ii) In addition to these considerations, an objection was raised with regard to the insufficient built form transition to the southern HO332. Council's Heritage Advisor has reviewed the application and raised no particular concern with regard to the built form transition to the south in relation to heritage values. The built form transition to the HO332 is not of concern.
- (d) *Impacts on views to Pelaco Sign, Richmond Town Hall and impact on heritage skyline;*
  - (i) Views to the Pelaco Sign and impact on the heritage skyline is addressed at paragraphs 221-227.
  - (ii) With regard to views to the Richmond Town Hall, it is of note that the Richmond Town Hall is located 370m to the north-east, on the northern side of Bridge Road. Due to the distance and position of the Richmond Town Hall in relation to the site, it is considered that the proposed development will have no impact on critical views to the Clocktower of Richmond Town Hall. This is not of concern.
- (e) *Equitable development for eastern and western abutting properties and southern adjacent residential property at 2 Waltham Street;*
  - (i) This is addressed at paragraphs 167-174.
- (f) *On-site amenity;*
  - (i) This is addressed at paragraphs 239-331.
  - (ii) In addition to these considerations, an objection was raised in relation to the insufficient daylight access to lightwell windows. It is of note that where a HRW is provided to the lightwell, it serves as a secondary source of daylight to the open plan living area. The primary daylight to these rooms is from the north and south. There is no concern in this regard.

- (g) *Insufficient transition in built form to the southern NRZ1;*
  - (i) This is addressed at paragraphs 172-173.
- (h) *Off-site amenity impacts;*
  - (i) Off-site amenity impacts to No. 2 Waltham Street and noise impacts to nearby residences is addressed at paragraphs 332-358.
  - (ii) An objection was also raised with regard to overshadowing to No. 2a Waltham Street to the east. The shadow diagrams show that there will be overshadowing to the roof of the converted warehouse building at 2a Waltham Street. This will have no adverse off-site amenity impacts to the residence.
- (i) *Wind tunnel impact;*
  - (i) This is addressed at paragraphs 236-238.
- (j) *Impact on car parking;*
  - (i) This is addressed at paragraphs 359-370.
  - (ii) In addition to these considerations, an objection was raised in relation to the impact on car parking in Waltham Street after restricted parking hours. As outlined earlier in the report, the surrounding streets comprise short-term parking restrictions. There is no long term parking in the area. It would be impractical for the 1 bed dwelling residents to own a private motor vehicle and rely on after hours parking (9pm to 7.30am) in Waltham Street. Staff will be at the site during typical business hours. Therefore, there will be no appreciable impact from staff on the car parking in Waltham Street during the 9pm-7.30am hours. The car parking needs of customers and visitors is short term only and is not expected to have a detrimental impact on car parking along Waltham Street.
- (k) *Impact on social wellness with regard to lack of visitor and customer parking;*
  - (i) As outlined earlier in the report, Council's Engineering Unit confirm that although the demand for on-street parking in Richmond is generally high, the short-term parking restrictions will ensure a turnover of car parking for customers and visitors to the site. Traffic Group confirm that from their spot survey undertaken on Tuesday 28 January 2020, that a total 26 short-term car spaces were available in the area. This will easily cater to the customer/visitor car parking demand. There is no foreseeable adverse impact on the social wellness of visitors and customers with regard car parking.
- (l) *One loading bay and one accessible car space should be provided on site;*
  - (i) The application was referred to Council's Engineering Unit. The Engineering Unit raised no concern in this regard.
- (m) *Deliveries via Bridge Road frontage;*
  - (i) An objection was raised with regard to the impractical arrangement of deliveries taking place at the Bridge Road frontage and causing conflict with people using the tram stop located forward of the site. A loading zone is located approximately 70m east of the site along Bridge Road. Delivery personnel are expected to park here or otherwise use other vacant parking bays along Bridge Road for deliveries to the site. Deliveries to the site are expected to be infrequent. This is a similar to the arrangement of other retail premises along the Bridge Road MAC and is not expected to cause any particular conflict with pedestrians or tram patrons.
- (n) *Greenhouse gas emissions due to ac units;*
  - (i) The application was referred to Council's EDS Officer for comment. No objection was raised in relation to the use of ac units at the site.

- (o) *Loss of property values;*
  - (i) The Victorian Civil and Administrative Tribunal have generally found subjective claims that a proposal will reduce property values are difficult, if not impossible to gauge and of no assistance to the determination of a planning permit application. It is considered the impacts of a proposal are best determined through an assessment of the amenity implications rather than any impacts upon property values. The report provides a detailed assessment of the amenity impacts of this proposal.
- (p) *Applicant did not consult with surrounding owners;*
  - (i) Whilst it is encouraged that the applicant consult with neighbouring property owners/occupants prior to submission, it is not mandatory. The application was advertised in accordance with Section 52 of the *Planning and Environment Act 1987*. The number of submissions received would suggest that public notice was effective in notifying surrounding owners and occupants about this application.
- (q) *Disruption during construction phase including noise and impact on traffic and tram services along Bridge Road;*
  - (i) Some noise and other off-site impacts are inevitable when any construction occurs. The developer will be required to meet relevant Local Law and EPA regulations regarding construction practices to ensure these impacts are mitigated. Further to this, a Construction Management Plan will be required as a condition. This will include submission of a traffic management plan, which will help to mitigate disruption of traffic and trams along Bridge Road.
- (r) *A construction management plan should be prepared in consultation with neighbouring properties.*
  - (i) As noted above, a detailed Construction Management Plan will be required via condition and must be prepared to Council's satisfaction. This will ensure that disturbances to neighbouring properties during the construction phase are appropriately mitigated.

## Conclusion

- 378. The proposed development is considered to demonstrate a high level of compliance with policy objectives contained within the Planning Policy Framework and Municipal Strategic Statement.
- 379. The proposal, subject to the conditions recommended, is an acceptable planning outcome that demonstrates clear compliance with the relevant Council policies.

## RECOMMENDATION

That a Notice of Decision to Grant Planning Permit PLN19/0428 be issued for partial demolition and use and development of the land for the construction of a multi-storey mixed-use building containing a retail premises and dwellings (permit required for dwelling use only), construction of a verandah over a Road Zone Category 1 and a reduction of the car parking requirements at 178-182 Bridge Road, Richmond generally in accordance with the decision plans and subject to the following conditions:

1. Before the use and development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans, prepared by T-A Square Architects dated May 2020 but modified to show:

Built form / plan detail

- (a) A plan notation indicating that no development will take place outside the title boundaries of the site (excluding the verandah over Bridge Road);
- (b) The demolition plan including demolition of the front canopies over the Bridge Road footpath and the rear and internal fencing;
- (c) Sloping partition walls to eastern and western boundaries at the Bridge Road frontage at Levels 4 and 5, as shown on the sketch plans received by Council on 25 September 2020;
- (d) Modifications to the fenestration of the northern wall at Levels 1-3, as shown on the sketch plans received by Council on 25 September 2020;
- (e) Modifications to the application of finishes, as shown on the sketch plans received by Council on 25 September 2020;
- (f) Provision of 250mm deep shading devices to the north facing windows at Levels 1-3, as shown on the sketch plans received by Council on 25 September 2020;
- (g) Deletion of the two central verandah posts, as shown on the sketch plans received by Council on 25 September 2020;
- (h) The eastern and western boundary walls to consist of a light grey textured precast finish to the upper levels as shown on the sketch plans received by Council on 25 September 2020;
- (i) A plan notation indicating that the internal facing kitchen windows to Dwellings 6, 7, 10 and 11 will comprise a sill height of 1.7m above finished floor level;
- (j) The north-facing bedroom windows to Dwellings 5, 6, 9 and 10 and the north-facing balconies to Dwellings 6 and 10 to comprise additional screening measures to limit views into the lower level balconies in accordance with the Objective of clause 58.04-2, to the satisfaction of the Responsible Authority;
- (k) A plan notation indicating that the privacy screens between Balconies 3 and 4 and between Balconies 7 and 8 will be no more than 25% transparent;
- (l) A plan notation indicating that all balcony privacy screens/devices along the southern elevation of the building are to be no more than 25% transparent;
- (m) The south facing bed window to Dwelling 11, the south facing living window to Dwelling 12, and the south-facing open plan living area windows to Dwelling 15 to comply with the requirements of the objective of clause 58.04-2;
- (n) Detailed diagrams demonstrating compliance with Clause 55.04-6 Overlooking (Standard B22) from the south-facing Dwelling 11 bedroom window and Dwelling 12 living room window into the secluded private space of No. 2 Waltham Street. Any additional screening measures used to achieve compliance are to be shown.
- (o) A plan notation stating that all adaptable bathrooms with door opening inwards are to comprise a door with readily removable hinges;
- (p) A plan notation stating that all adaptable bathrooms are to comprise a hobless (step-free) shower;
- (q) A plan notation indicating that all Design Option B adaptable bathrooms (as per Standard D17 requirements) are to comprise a shower with removable shower screen;

- (r) The schedule of colours and finishes updated in accordance with the sketch plans received by Council on 25 September 2020 and to include a more detailed description of the off-white render finish and application, demonstrating long lasting durability and high quality architectural result, to the satisfaction of the Responsible Authority;
- (s) Acoustic materials/treatments as per endorsed Acoustic Report.

#### Car Parking and Access

- (t) The entire floor of the bike store to comprise a 1:20 grade, eliminating the variation between flat floor and ramp;
- (u) A plan notation stating the car spaces will be electrically wired to be EV;
- (v) The roller door width clearly dimensioned;
- (w) The depth of the car spaces clearly dimensioned;
- (x) The provision of a 40mm lip from the edge of the laneway to the finished floor level of the front edge of the slab at ground level, demonstrated through a cross sectional drawing showing the reduced level of the west and east edge of Sheridan Place, the centreline of Sheridan Place and the finished floor level of the slab;

#### Reports and Plans

- (y) Any amendments as required by the endorsed Conservation Management Plan pursuant to Condition 6;
  - (z) Any amendments as required by the endorsed Landscape Plan pursuant to Condition 8;
  - (aa) Any amendments as required by the endorsed Sustainable Management Plan pursuant to Condition 10;
  - (bb) Any amendments as required by the endorsed Acoustic Report pursuant to Condition 12;
  - (cc) Any amendments as required by the endorsed Wind Report pursuant to Condition 14;
  - (dd) Any amendments as required by the endorsed Waste Management Plan pursuant to Condition 16;
- 2. The use and development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
  - 3. In conjunction with the submission of development plans under Condition 1, a Façade Strategy and Materials and Finishes Plan to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. When approved, the Façade Strategy and Materials and Finishes Plan will be endorsed and will then form part of this permit. This must detail:
    - (a) elevations at a scale of 1:20 illustrating typical podium details, entries and doors, and utilities and typical mid-level and upper level facade details;
    - (b) section drawings to demonstrate façade systems, including fixing details and joints between materials or changes in form;
    - (c) information about how the façade will be maintained, including any vegetation; and
    - (d) a sample board and coloured drawings outlining colours, materials and finishes.
  - 4. As part of the ongoing consultant team, T-A Square Architects or an architectural firm to the satisfaction of the Responsible Authority must be engaged to:
    - (a) oversee design and construction of the development; and

- (b) ensure the design quality and appearance of the development is realised as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.

- 5. Before the use and development commences, the 'hiatus land' between Lot 1 on TP813292N and Lot 1 on TP579700B must form part of the subject site. Title documents demonstrating this must be submitted to and be approved by the Responsible Authority.

#### **Conservation Management Plan**

- 6. Before the demolition commences, a Conservation Management Plan prepared by a suitably qualified heritage practitioner/ architect must be submitted to and approved by the Responsible Authority. When approved, the Conservation Management Plan will be endorsed and will form part of this permit. The Conservation Management Plan must include, but not be limited to, the following:
  - (a) A schedule of conservation works required for the retained shopfront/s;
  - (b) Retention of the two interpretative plaques and re-affixed in similar positions.
- 7. The provisions, recommendations and requirements of the endorsed Conservation Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

#### **Landscaping Plan**

- 8. Before the use and development commences, an amended Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Landscape Plan will be endorsed and will form part of this permit. The amended Landscape Plan must be generally in accordance with the Landscape Plan prepared by John Patrick Landscape Architects, but modified to include (or show):
  - (a) Necessary corrections to plant call-outs and numbers;
  - (b) Replacement of the *Agapanthus praecox ssp. Orientalis* with *Dianella* species - Little Jess,all to the satisfaction of the Responsible Authority.
- 9. Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:
  - (a) implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
  - (b) not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
  - (c) replacing any dead, diseased, dying or damaged plants,to the satisfaction of the Responsible Authority.

#### **Amended Sustainable Management Plan Required**

- 10. Before the use and development commences, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Management Plan will be endorsed and will form part of this permit. The amended Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by Northern Environmental Design, dated 07/02/2020 and Water Sensitive Urban Design (WSUD) Report by Northern Environmental Design, dated 07/02/2020, but modified to include or show:

- (a) A statement that a 240 litre food waste bin will be collected once a week, as per the endorsed Waste Management Plan;
  - (b) A statement discussing how the amended schedule of colours and finishes, as shown on the sketch plans received by Council on 25 September 2020, assist with urban heat mitigation;
  - (c) Clarify shading treatment to north facing windows at Levels 1-3, as shown on the amended sketch plans received by Council on 25 September 2020;
  - (d) Clarify the extent to which building fabric and subsequent performance has been exceeded;
  - (e) Clarify thermal performance of the non-residential component;
  - (f) Provide a statement confirming availability to car share facilities in the immediate vicinity;
  - (g) Include a site specific Construction Waste Management Plan specifying a target rate of 80% of demolition and construction waste will be adopted for the construction phase to minimize the volume of waste to landfill.
11. The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

**Amended Acoustic Report Required**

12. Concurrent with the plans requested at Condition 1, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report by Clarity Acoustics, dated 07/02/2020, but modified to include:
- (a) The sound power level for the retail tenancy kitchen exhaust fan to be specified, meeting night-time SEPP N-1 noise limits;
  - (b) Recommendations for structure borne noise from the kitchen exhaust fan and condenser units to meet night time SEPP N-1 limits.
13. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.

**Amended Wind Report**

14. Before the use and development commences, an amended Wind Assessment to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Wind Assessment will be endorsed and will form part of this permit. The amended Wind Assessment must be generally in accordance with the Wind Assessment prepared by Vipac Engineers & Scientists and dated 7 February 2020, but modified to include or show:
- (a) Demonstrate sitting criterion is achieved for all dwelling balconies to the satisfaction of the responsible authority.
15. The provisions, recommendations and requirements of the endorsed Wind Assessment Report must be implemented and complied with to the satisfaction of the Responsible Authority.

**Waste Management Plan**

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

### **Car parking**

18. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the area set aside on the endorsed plans for the car parking spaces, access lanes, driveways and associated works must be:
- (a) constructed and available for use in accordance with the endorsed plans;
  - (b) formed to such levels and drained so that they can be used in accordance with the endorsed plans;
  - (c) treated with an all-weather seal or some other durable surface; and
  - (d) line-marked or provided with some adequate means of showing the car parking spaces;

to the satisfaction of the Responsible Authority.

### **Lighting**

19. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating pedestrian and vehicular entrances and the internal entrance courtyard must be provided within the property boundary. Lighting must be:
- (a) located;
  - (b) directed;
  - (c) shielded; and
  - (d) of limited intensity,
  - (e) to the satisfaction of the Responsible Authority.

### **General**

20. The amenity of the area must not be detrimentally affected by the development or use, including through:
- (a) the transport of materials, goods or commodities to or from land;
  - (b) the appearance of any buildings, works or materials;
  - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
  - (d) the presence of vermin.
21. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
22. Before the building is occupied, any wall located on a boundary facing public property must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.
23. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority.
24. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
25. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
26. All pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

27. The development must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
28. The development must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).

**Road Infrastructure**

29. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the kerb and channel and footpath along the Bridge Road frontage must be reconstructed:
  - (a) With a cross-fall of 1 in 40 unless otherwise specified by Council;
  - (b) at the permit holder's cost; and
  - (c) to the satisfaction of the Responsible Authority.
30. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development (including trenching and excavation for utility service connections) must be reinstated:
  - (a) at the permit holder's cost,
  - (b) to the satisfaction of the Responsible Authority.
31. Prior to the completion of the development, subject to the relevant authority's consent, the relocation of the any assets necessary to facilitate the development must be undertaken:
  - (a) in accordance with any requirements or conditions imposed by the relevant authority;
  - (b) at the permit holder's cost; andto the satisfaction of the Responsible Authority.
32. Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.
33. Prior to the completion of the development, subject to the relevant authority's consent, the relocation of any service poles, street line markings, car parking sensors, service structures or service pits necessary to facilitate the development must be undertaken:
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
34. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the removal of any kerbside parking sensors and any reinstatement of parking sensors will require the Permit Holder to pay Council the cost of each parking sensor taken out from the kerb/footpath/roadway. Any costs associated with the reinstatement of road infrastructure due to the removal of the parking sensors must also be borne by the Permit Holder.

**Department of Transport (Conditions 35 to 38)**

35. The construction of the development must not disrupt tram operations on Bridge Road without the prior written consent of the Head, Transport for Victoria (Department of Transport).
36. Any request for written consent to disrupt tram operations on Bridge Road during the construction of the development must be submitted to the Department of Transport not later than 8 weeks prior to the planned disruption and must detail measures that will occur to mitigate the impact of the planned disruption.
37. During construction of the development, the existing tram stop infrastructure on Bridge Road must not be damaged or altered. Any damage or alteration to tram infrastructure must be rectified at no cost to and to the satisfaction of the Department of Transport.

38. Separate consent may be required from the Department of Transport (Head, Transport for Victoria) under the Road Management Act 2004 for buildings and works undertaken outside the title boundary within a Road Zone Category 1. Please contact Department of Transport prior to commencing any works.

**Construction Management Plan**

39. Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:
- (a) a detailed dilapidation report which details and documents the existing and post construction conditions of the surrounding road infrastructure and adjoining private properties;
  - (b) works necessary to protect road and other infrastructure;
  - (c) remediation of any damage to road and other infrastructure;
  - (d) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land;
  - (e) facilities for vehicle washing, which must be located on the land;
  - (f) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
  - (g) site security;
  - (h) management of any environmental hazards including, but not limited to:
    - (i) contaminated soil;
    - (ii) materials and waste;
    - (iii) dust;
    - (iv) stormwater contamination from run-off and wash-waters;
    - (v) sediment from the land on roads;
    - (vi) washing of concrete trucks and other vehicles and machinery; and
    - (vii) spillage from refuelling cranes and other vehicles and machinery;
  - (i) the construction program;
  - (j) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
  - (k) parking facilities for construction workers;
  - (l) measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;
  - (m) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
  - (n) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced;
  - (o) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads;

- (p) a Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with Noise Control Guideline 12 for Construction (Publication 1254) as issued by the Environment Protection Authority in October 2008. The Noise and Vibration Management Plan must be prepared to the satisfaction of the Responsible Authority. In preparing the Noise and Vibration Management Plan, consideration must be given to:
  - (i) using lower noise work practice and equipment;
  - (ii) the suitability of the land for the use of an electric crane;
  - (iii) silencing all mechanical plant by the best practical means using current technology;
  - (iv) fitting pneumatic tools with an effective silencer;
  - (v) other relevant considerations.
- (q) any site-specific requirements.

40. During the construction:

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

If required, the Construction Management Plan may be approved in stages. Construction of each stage must not commence until a Construction Management Plan has been endorsed for that stage, to the satisfaction of the Responsible Authority.

- 41. The provisions, recommendations and requirements of the endorsed Construction Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
- 42. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
  - (a) before 7 am or after 6 pm, Monday-Friday (excluding public holidays);
  - (b) before 9 am or after 3 pm, Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday); or
  - (c) at any time on Sundays, ANZAC Day, Christmas Day and Good Friday.

**Time expiry**

43. This permit will expire if:

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

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

Notes:

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

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

A vehicle crossing permit is required for the construction of the vehicle crossing(s). Please contact Council's Construction Management Branch on 9205 5555 for further information.

Provision must be made for drainage of the site to a legal point of discharge. Please contact Council's Building Services on 9205 5555 for further information.

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

All future businesses and residents (whether as owners, lessees/tenants, occupiers) within the development approved under this permit, will not be permitted to obtain business, resident or visitor parking permits.

A local law permit (e.g. Asset Protection Permit, Road Occupation Permit) may be required before development is commenced. Please contact Council's Construction Management Branch on Ph. 9205 5555 to confirm.

The applicant must apply for a Legal Point of Discharge under Regulation 133 – Stormwater Drainage of the *Building Regulations* 2018 from Yarra Building Services unit. Any storm water drainage within the property must be provided and be connected to the nearest Council pit of adequate depth and capacity (legal point of discharge), or to Council's satisfaction under Section 200 of the *Local Government Act* 1989 and Regulation 133.

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

No parking restriction signs or line-marked on-street parking bays are to be removed, adjusted, changed or relocated without approval or authorisation from Council's Parking Management unit and Construction Management branch. Any on-street parking reinstated (signs and line markings) as a result of development works must be approved by Council's Parking Management unit.

Only roof runoff, surface water and clean groundwater seepage from above the water table can be discharged into Council drains.

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

Use of Security Cameras must comply with Section 8(1) of the Surveillance Devices Act (2007) which outlines a permit holder's responsibility in relation to surveillance devices. Please ensure compliance with the relevant legislation at all times the security cameras are in use.

Load bearing weights for the building need to be checked and confirmed by suitably qualified structural engineers against the saturated bulk density of soil media, planter box and plant mass proposed.

**Public Open Space Contribution**

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

## **Department of Transport**

Foreseen disruptions to tram operations and mitigation measures must be communicated to Department of Transport eight (8) weeks prior by telephoning 1800 800 007 or emailing customerservice@transport.vic.gov.au.

**CONTACT OFFICER:** Michelle King  
**TITLE:** Principal Planner  
**TEL:** 9205 5333

### **Attachments**

- 1** PLN19/0428 - 178-182 Bridge Road, Richmond - Site Plan
- 2** PLN19/0428 - 178-182 Bridge Road, Richmond - Plans Part 1
- 3** PLN19/0428 - 178-182 Bridge Road, Richmond - Plans Part 2
- 4** PLN19/0428 - 178-182 Bridge Road, Richmond - Plans Part 3
- 5** PLN19/0428 - 178-182 Bridge Road, Richmond - Sketch Plans (25/09/20)
- 6** PLN19/0428 - 178-182 Bridge Road, Richmond - Dept. of Transport
- 7** PLN19/0428 - 178-182 Bridge Road, Richmond - Streetscapes and Natural Values Unit
- 8** PLN19/0428 - 178-182 Bridge Road, Richmond - Open Space Unit
- 9** PLN19/0428 - 178-182 Bridge Road, Richmond - Urban Design Unit (Original)
- 10** PLN19/0428 - 178-182 Bridge Road, Richmond - Urban Design Unit (Supplementary)
- 11** PLN19/0428 - 178-182 Bridge Road, Richmond - Heritage Advisor
- 12** PLN19/0428 - 178-182 Bridge Road, Richmond - Engineering Unit
- 13** PLN19/0428 - 178-182 Bridge Road, Richmond - Strategic Transport Unit
- 14** PLN19/0428 - 178-182 Bridge Road, Richmond - Strategic Planning
- 15** PLN19/0428 - 178-182 Bridge Road, Richmond - ESD Advisor
- 16** PLN19/0428 - 178-182 Bridge Road, Richmond - City Works Unit
- 17** PLN19/0428 - 178-182 Bridge Road, Richmond - Acoustic Consultant
- 18** PLN19/0428 - 178-182 Bridge Road, Richmond - Wind Consultant

- 
- 6.5 PLN20/0231 - 423-425 Smith Street, Fitzroy - Partial use of the land as a function centre with a maximum of three functions a week, between 9am and 11pm, catering for a maximum of 120 patrons and a reduction in the statutory car parking requirement.**
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## **Executive Summary**

### **Purpose**

1. This report provides an assessment for the partial use of the land as a function centre with a maximum of three functions a week, between 9am and 11pm, catering for a maximum of 120 patrons and a reduction in the statutory car parking requirement.

### **Key Planning Considerations**

2. Key planning considerations include:
  - (a) Clause 11.01 – Settlement;
  - (b) Clause 22.05 – Interface Use Policy;
  - (c) Clause 34.01 – Commercial 1 Zone (use); and
  - (d) Clause 52.06 – Car Parking

### **Key Issues**

3. The key issues for Council in considering the proposal relate to:
  - (a) Use of the land as a function centre;
  - (b) Off-site amenity impacts;
  - (c) Car parking.

### **Submissions Received**

4. Seven objections were received to the application, these can be summarised as:
  - (a) Car parking
    - (i) Insufficient on-street parking available;
    - (ii) Car parking report provided by applicant is inadequate;
  - (b) Excessive noise (patrons smoking outside, roller door, waste vehicles/collections);
  - (c) Excessive hours of operation (particularly until 11.00pm);
  - (d) Applicant's transparency in proposed hours of operation/centre operational details;
  - (e) Patrons smoking within the rear laneway creating litter and smell of cigarette smoke to adjoining residents;
  - (f) Possibility of extending the proposed hours of operation, number of functions and locations within the propose building where function can be held; and
  - (g) Waste bins being placed on Westgrath Street.

### **Conclusion**

5. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported subject to the following key recommendations:
  - (a) Restriction in the hours of operation, number of events per week, duration of functions and patron numbers as per the advertised plans;

- (b) The presence of an event manager at all times functions take place and security after-hours.
- (c) Patrons access to the function centre to be restricted to Smith Street, with the rear (fire) exit door along the laneway only to be used in cases of emergencies.
- (d) Provision of only background music;
- (e) Submission of an updated waste management plan.

**CONTACT OFFICER:** Gary O'Reilly  
**TITLE:** Senior Statutory Planner  
**TEL:** 9205 5040

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- 6.5**                      **PLN20/0231 - 423-425 Smith Street, Fitzroy - Partial use of the land as a function centre with a maximum of three functions a week, between 9am and 11pm, catering for a maximum of 120 patrons and a reduction in the statutory car parking requirement.**
- 

**Reference**                D20/162626  
**Author**                   Gary O'Reilly - Senior Statutory Planner  
**Authoriser**             Coordinator Statutory Planning

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**Ward:**                        Nicholls  
**Proposal:**                Partial use of the land as a function centre with a maximum of three functions a week, between 9am and 11pm, catering for a maximum of 120 patrons and a reduction in the statutory car parking requirement.  
**Existing use:**             Office  
**Applicant:**               United Co. Pty Ltd C/- Fulcrum Urban Planning Pty Ltd  
**Zoning / Overlays:**     Commercial 1 Zone  
                                      Heritage Overlay (HO333)  
                                      Environmental Audit Overlay  
                                      Special Building Overlay  
**Date of Application:**    17 April 2020  
**Application Number:**   PLN20/0231

### Planning History

1. Planning permit 97/1481 was approved on the 2 January 1998 for the purpose of alterations and additions to the existing factory building and new advertising signage.
2. Planning permit PN15/1258 lapsed on 21 June 2016 to allow for building and works and alterations to the existing building.
3. Planning permit PLN16/0700 was issued on 22 November 2016 for the development of the land for part demolition, buildings and works including new canopies to the Smith Street entrances and to construct and display business identification signage (non-illuminated).
  - (a) A secondary consent application to the above permit was approved on 27 April 2017 and allowed the replacement of the existing roller door with two (2) single-pane clear-glazed windows and with red-brick plinth on the northern elevation and the replacement of the two (2) existing roller doors and two single-doors with three-double sets of single-pane clear-glazed windows and including a red-brick plinth.
4. Planning permit PLN16/0843 was issued (at the direction of VCAT) on 10 October 2017 for
  - (a) *In accordance with the endorsed plans:*
    - (i) *To construct a building and construct or carry out works*
    - (ii) *Reduction in the standard car parking requirement.*
  - (b) The development allows for construction of a commercial development of five additional levels to the existing building (total 8 storeys) containing office space and a reduction in the car parking requirement (figure 1). The existing car park on the roof will be maintained on level 2 and form part of the overall building. A total of 74 car parking spaces and 130 bicycle spaces are to be provided.



**Figure 1 - Approved development perspective - PLN16/0843**

- (c) This permit is still valid with an extension of time recently approved (18 November 2020), stipulating that construction must commence before the 10 October 2021.
- 5. Amendment planning permit PLN16/0843.01 was approved on the 20 December 2019 to allow for construction of a communal roof terrace for the office building, with associated lobby and amenities.
- 6. Amended planning permit PLN16/0843.02 has been recently submitted on the 17 November 2020 for an increase in the office ceiling heights and an increase in the rear setback of the approved building. No decision has been made on this application to date.
- 7. Planning permit PLN17/0649 lapsed on the 15 November 2017. This sought a liquor licence and a reduction in car parking.
- 8. Planning Permit PLN17/1027 was issued by Council on 24 May 2018 for *sale and consumption of liquor and reduction in car parking requirements associated with a restaurant (no permit required for the restaurant use)*. The licensed restaurant is currently operating in the north-west corner of the building, consistent with the location of the café as per endorsed plans of planning permit PLN16/0843.
  - (a) The permit allows for a maximum of 83 patrons, must provide tables and chairs for 75% of patrons and is permitted to operate between the hours of 9.00am to 4.00pm.
- 9. Amended planning permit PLN17/1027.01 lapsed on the 13 December 2019 and which sought to allow for an increase to licensed area and increase to operating hours. This application sought permission to extend the red line area into the building's foyer for the use as an ancillary function centre. It also sought to extend the hours of operation as follows:
  - (a) Sunday to Thursday, 9.00am to 1.00pm
  - (b) Friday to Saturday, 9.00am to 1.00am
- 10. Planning permit PLN19/0118 was issued on 18 March 2020 for the construction and display of business identification signage, including an internally illuminated high wall sign.

### **Background**

- 11. The amendment application was lodged on 17 April 2020, with further information submitted July 2020. The application was advertised, with 7 objections received.
- 12. Due to COVID-19 (Coronavirus) restrictions, no planning consultation meeting occurred.
- 13. During the course of the application, advice was obtained from Council's Engineering Services Unit. The referral advice is attached to this report.

### **The Proposal**

- 17. The application seeks the partial use of the land as a function centre (310sqm) and a reduction in the statutory car parking requirement.

18. More specifically the proposal (as advertised) is for the following:

Function centre

19. It is proposed to use two sections of the existing building foyer on the ground floor for the purpose of holding temporary events and functions (figure 2 – hatched red).

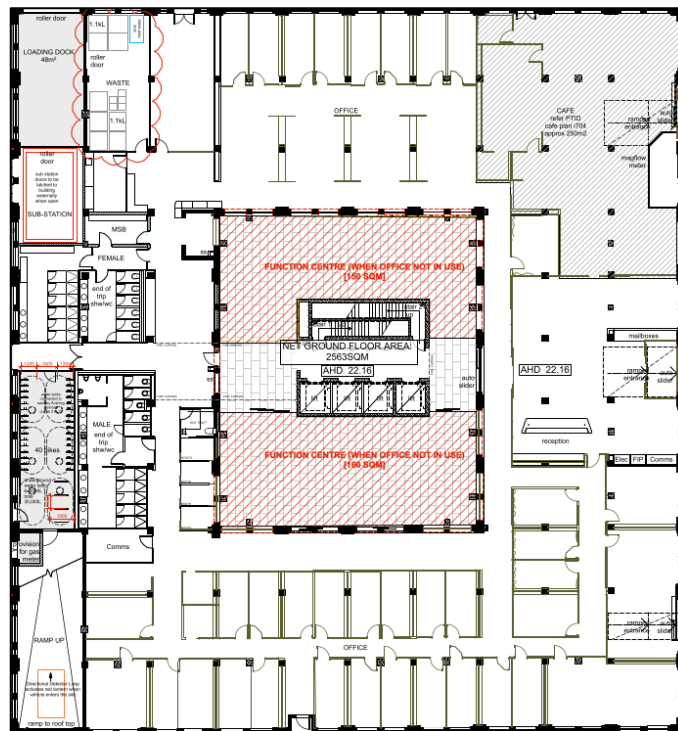


Figure 2 - Ground floor plan with function centre areas hatched in red

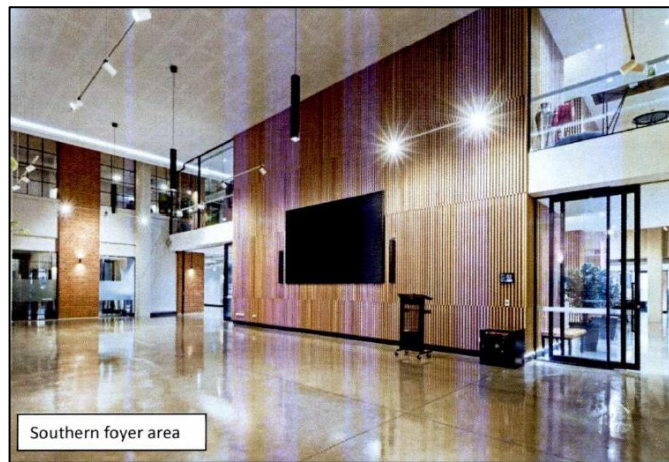
20. Both areas are centrally located within the host building and divided into two separate sections, to the north and south of the central pedestrian walkway/accessway. Both spaces are to be separated from the main office use via internal glazing/walls.

- (a) The function area to the north of the lift core has a total 150sqm (figure 3).



Figure 3 - Northern office space

- (b) The function area to the south of the lift core has a total 160sqm (figure 4).



**Figure 4 - Southern office space**

21. The operational details of the function centre are as follows:

- (a) The spaces will cater to a range of corporate events, for example workshops, training, product lunches, network events and seminars;
- (b) A maximum of 120 patrons will be present at any one time;
- (c) It is proposed to have a maximum of three function per week;
- (d) Events are expected to last between 1 – 2 hours.
- (e) Functions can occur between Monday to Sunday, between the hours of 9.00am and 11.00pm.
- (f) Recorded background music may be played during some events.
- (g) Access to the functions will be via the reception area off Smith Street, where patrons will be guided to the event area.
- (h) The event spaces are expected to be used by existing office tenants, however they will also be available for external bookings.
- (i) The restaurant within the building (Mr Huxley) will facilitate and service the areas. Should external catering be requested, the caterer will be responsible for the service of food and liquor under the supervision of the Event Manager.
- (j) The restaurant's kitchen will be open during functions with canapes, finger food, buffet and/or la carte available from the current restaurant menu.
- (k) Depending on the event taking place, the operators will have floor staff serving alcohol. Alcohol at the event will be subject to a renewable limited liquor licence. This type of which does not trigger the need for a planning permit as they are exempted under Clause 52.27 of the Yarra Planning Scheme.

Subject Site

- 22. The subject site is located on the west side of Smith Street at the junction of Smith Street and Westgarth Street, in Fitzroy. The land is rectangular in shape with three street frontages to Smith Street, Westgarth Street and Leicester Street and is bounded by a laneway on the western (rear) boundary. The site abuts Smith Street for a length of 54m and Westgarth Street and Leicester Street for a length of 50m. The site has an area of approximately 2,600sqm.
- 23. The site is developed with a two-storey building (figure 5) constructed in the mid-late 1920s as a factory/warehouse. The building is constructed to all boundaries, with a rooftop car park for 74 cars.



**Figure 5 - Subject site No. 423-425 Smith Street, Fitzroy**

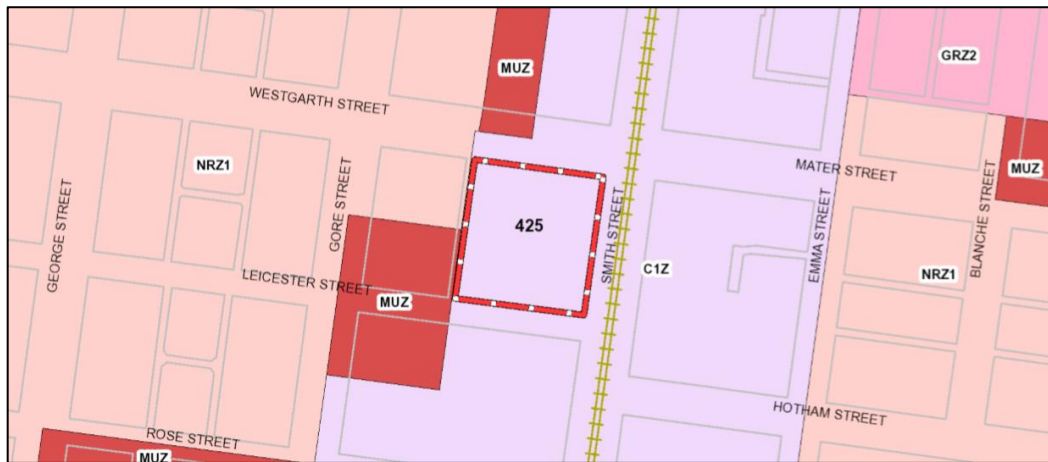
24. Access to the building is currently gained from all street frontages and along the rear laneway. The ground floor is occupied by a mix of office space (1508sqm) and a restaurant within the north-east corner (250sqm). Both uses are as-of-right uses under the Commercial 1 Zone and as such are not subject to any use restrictions.
  - (a) The restaurant however operates with a liquor licence approved under planning permit PLN17/1027. This permits the sale and consumption of liquor in association with the restaurant. A maximum of 83 patrons are permitted and liquor can be sold / consumed between the hours of 9.00am to 4.00pm. There are no restrictions identified on the permit with respect to the days of operation.
25. In addition to the office and restaurant uses, the ground floor has provision for an internal bicycle storage area and substation. Both accessed via the rear laneway.
26. The first floor is occupied by 2,000sqm of office space accessed by a centrally located lift core and stairwell. Adjacent to the lift and stairwell are two void areas, below is where the proposed use is to be located.
27. The site has provision for 74 car spaces located on the roof. Vehicle access is provided from Leicester Street to the south via a ramp within the south-west corner. The ramp is accessed via a roller door. In addition to the car spaces the roof is also occupied by 80 bicycle spaces and building services (AC units & cold water tank and pumps).

Restrictive covenant/easements

28. There are no restrictive covenants or easements shown on the Certificate of Title provided with the application.

Surrounding Land

29. The site is located within the Smith Street Activity Centre which is characterised by a variety of retail and commercial uses in many different building styles. The adjoining properties to the north-east, east and south are located within the same Commercial 1 Zone. Residential (Mixed Use) zones are located to the west and north-west (figure 6). Commercial activity is abundant within the precinct, with active ground floor shopfronts and offices/residences located on the upper floors.



**Figure 6 - Zoning map of subject site and surrounds (Source: Vic Plan)**

30. To the north, on the opposite side of Westgarth Street, are a number of commercial properties fronting both Smith Street and Westgarth Street. The buildings are occupied by a vet's clinic, restricted retail premises and a charity shop. To the north-west are dwellings located within a Neighbourhood Residential Zone (NRZ), approximately 20m from the subject site (figure 6).
31. To the east of Smith Street, are a number of residential and commercial businesses including a gym and other retail (shop) uses. The buildings vary in height between one and nine storeys.
32. To the south is Leicester Street, which is a one-way street with short term car parking along the northern side of the street. On the opposite side of the Street is Nos. 411-421 Smith Street and 180 Leicester Street. The site is occupied by a two-storey, late-Victorian brick building similar in style to the building on the subject site. This site is used as a retail (clothing shop).
33. To the west is a 3m wide laneway, beyond are a row of single storey dwellings (4 in total) to the north-west within a NRZ. There is also a single storey warehouse/photography shop located to the south-west within a MUZ. These properties all have frontages to Gore Street, with their rear boundaries facing the subject site/laneway. All dwellings have their secluded private open spaces located towards the rear, with a number of carport and garage structures constructed along the laneway.
34. All of the surrounding streets have short term (1P & 2P) on-street ticketed parking during normal business hours.
35. The site is serviced well by public transport with:
  - (a) Tram services operating along Smith Street;
  - (b) Bus services that operate along Alexandra Parade, 225m to the north-west;
  - (c) Tram services operating along Brunswick Street, 452m to west of the site;
  - (d) Bus services operating along Johnston Street, 435m to south of the site; and
  - (e) Smith Street is frequented regularly by taxis / Uber type services being located within an Activity Centre and 3.5km from the CBD.

## **Planning Scheme Provisions**

### Zoning

#### Commercial 1 Zone

36. Pursuant to Clause 34.01-1 of the Yarra Planning Scheme (the 'Scheme'), a planning permit is required for the use of the land as a function centre (place of assembly).

37. Pursuant to Clause 62.02-2 of the Scheme a planning permit is not required for, *“the internal rearrangement of a building or works provided the gross floor area of the building, or the size of the works, is not increased and the number of dwellings is not increased.”* As the proposed works do not increase the gross floor area, no permit is triggered for internal works.

Overlays

Heritage Overlay – Schedule 333 – Smith Street Precinct

38. Pursuant to Clause 43.01 of the Scheme, a planning permit is not required for the use as a function centre.
39. Pursuant to Clause 43.01-1 of the Scheme a planning permit is not required for internal works associated with the function centre.
- (a) Under schedule 333 of Clause 43.01 no internal alterations controls apply. Therefore, the proposed internal works are also exempted under Clause 62.02-2 as discussed above.

Environmental Audit Overlay

40. Pursuant to Clause 45.03-1 (Environment Significant Overlay) of the Scheme, *“before a sensitive use (residential use, child care centre, pre-school centre or primary school) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, either:*
- (a) *A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or*
- (b) *An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use”.*
41. As the proposed use is not a sensitive use, the above provision do not apply.

Special Building Overlay

42. The subject site is partially affected by the Special Building Overlay (SBO). Pursuant to Clause 44.05 of the Scheme, a planning permit is not required for the use as a function centre.
43. Pursuant to Clause 44.05-2 of the Scheme, a planning permit is not required for internal works associated with the function centre. Pursuant to Clause 62.02-2 of the Scheme a planning permit is not required for, *“the internal rearrangement of a building or works provided the gross floor area of the building, or the size of the works, is not increased and the number of dwellings is not increased.”* As the proposed works do not increase the gross floor area, no permit is triggered for internal works.

Particular Provisions

Clause 52.06 – Car parking

44. Pursuant 52.06-2 of the Scheme states that before a new use commences, the number of car spaces required under Clause 52.06-5 must be provided on the land to the satisfaction of the Responsible Authority. Pursuant to Clause 52.06-5 the site is included in the Principal Public Transport Network Area under the Principal Public Transport Network Area Maps (State Government of Victoria, 2018) and therefore the car park rate under Column B (Table 1) applies.
45. Pursuant to Clause 52.06-2, the car parking spaces required under Clause 52.06-5 must be provided on the land. Clause 52.06-3 requires a planning permit to reduce the number of car parking spaces required under this clause. Pursuant to Clause 52.06-5, the car parking requirements for the proposed amendment are as follows:

Use	Statutory Requirement	On-site Provision	Reduction requested
Place of assembly (Function Centre), max 120 patrons	36 (0.3 to each patron permitted)	0	36
Total	36	0	36

46. Pursuant to Clause 52.06-3, a permit is required to reduce (including reduce to zero) the number of car spaces required under Clause 52.06-5.

#### General Provisions

##### Clause 65 – Decision guidelines

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

#### Planning Policy Framework (PPF)

##### Clause 11.01-1S – Settlement

48. The objective of this clause is “*to promote the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements*”.

##### Clause 13.05-1S – Noise abatement

49. The relevant objective of this clause is “*To assist the control of noise effects on sensitive land uses*”.

##### Clause 17.01-1S – Diversified employment

50. The objective of this clause is “*to strengthen and diversify the economy*”.

##### Clause 17.02-1S – Business

51. The objective of this clause is “*to encourage development that meets the community’s needs for retail, entertainment, office and other commercial services*”.

##### Clause 18.01-1S – Land use and transport planning

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

##### Clause 18.02-1S – Sustainable personal transport

53. The objective of this clause is “*to promote the use of sustainable personal transport*”.

##### Clause 18.02-1R – Principal public transport network

54. The strategies for this clause are:

- (a) *Maximise the use of existing infrastructure and 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.*

#### Local Planning Policy Framework (LPPF)

##### Clause 21.04 – Land use

##### Clause 21.04-2 – Activity centres

55. Relevant objectives and strategies for this clause are:

- (a) *Increase the range of retail, personal and business services, community facilities, and recreation activities, within individual centres.*

- (b) *Support land use change and development that contributes to the adaptation, redevelopment and economic growth of existing activity centres.*

Clause 21.08-7 – Neighbourhoods (Fitzroy)

56. This clause sets out the locally specific implementation of the objectives and strategies for Yarra's neighbourhoods. The subject site is included in the Fitzroy area which is a mixed commercial and residential neighbourhood notable for the consistency of its Victorian streetscapes. It comprises a dense combination of residential areas, shopping precincts and commercial/industrial activities.
57. The subject site is located within the Smith Street Major Activity Centre.
- (a) *"The Smith Street major activity centre serves multiple roles for local residents whilst attracting visitors from a larger catchment. It is a classic main road strip generally consisting of buildings of two to four storeys interspersed with the occasional building of up to 6 storeys. The subdivision pattern is consistent, and the pattern of the streetscape is generally fine grain. Unlike many other Victorian shopping strips the street is also characterised by the variance in profile and design of buildings. It has a high proportion of individually significant heritage buildings, supported by contributory buildings from the Victorian-era and Edwardian-eras.*
- (b) *The Activity centre has developed a strong factory outlet focus including a sports retail focus, at the north of the centre between Johnston Street and Alexandra Parade. Between Johnston Street and Gertrude Street the centre provides much of the convenience retailing for the surrounding neighbourhoods. The area also hosts a variety of restaurants and cafes. The southern precinct, south of Gertrude Street is home to an array of galleries and clothing stores".*

Relevant Local Policies

Clause 22.05 – Interface Uses Policy

17. This policy applies to applications for use or development within Business Zones (amongst others). The relevant objectives of this clause are:
- (a) *To ensure that residential uses located within or near commercial centres or near industrial uses enjoy a reasonable level of amenity".*
18. It is the policy under this clause that:
- (a) *New non-residential use and development within Business and Mixed Use and Industrial Zones are designed to minimise noise and visual amenity impacts upon nearby, existing residential properties.*

**Advertising**

60. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 472 letters sent to surrounding owners and occupiers and by three signs displayed on site. Council received 7 objections, the grounds of which are summarised as follows:
- (a) Car parking;
- (i) Insufficient on-street parking available;
- (ii) Car parking report provided by applicant is inadequate.
- (b) Excessive noise (patrons smoking outside, roller door, waste vehicles/collections);
- (c) Excessive hours of operation (particularly until 11.00pm);
- (d) Applicant's transparency in proposed hours of operation/centre operational details;
- (e) Patrons smoking within the rear laneway creating litter and smell of cigarette smoke to adjoining residents;

- (f) Possibility of extending the proposed hours of operation, number of functions and locations within the proposed building where function can be held;
- (g) Waste bins being placed on Westgrath Street;

61. As a result of COVID-19 (Coronavirus) restrictions, no consultation meeting was held.

### **Referrals**

62. The referral comments are based on the advertised plans. Additional comments have also been obtained from Council's Acoustic Consultant on the amended acoustic report and Council's City Works Unit on the amended Waste Management Plan, both received on the 10 June 2020, post advertising.

#### External Referrals

63. The application was not required to be externally referred.

#### Internal Referrals

64. The application was referred to the following units within Council:

- (a) Engineering Services (traffic);
- (b) City Works Unit (waste).

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

### **OFFICER ASSESSMENT**

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

- (a) Use;
- (b) Car parking; and
- (c) Objector concerns;

#### Use

66. Pursuant to Clause 34.01-1 of the Scheme, a planning permit is required to use the land as a place of assembly (function centre) within a C1Z. Pursuant to Clause 34.01-8, the Responsible Authority must consider (where relevant):

- (a) *The effect that existing uses may have on the proposed use;*
- (b) *The availability of and connection to services;*
- (c) *The effect of traffic to be generated on roads;*
- (d) *The interim use of those parts of the land not required for the proposed use.*

67. In addition, it is an objective under clause 22.05 of the Scheme, "*to ensure that residential uses located within or near commercial centres or near industrial uses enjoy a reasonable level of amenity*". Policy under Clause 22.05 further states that, "*new non-residential use and development within Business and Mixed Use and Industrial Zones are designed to minimise noise and visual amenity impacts upon nearby, existing residential properties*". The following is an assessment against the relevant impacts identified under the C1Z and Clause 22.05 guidelines.

68. It is proposed to use two sections of the existing building's foyer on the ground floor (figure 2) for the purpose of holding temporary events and functions. The spaces will cater for a range of corporate events, for example; workshops, training, product lunches, network events and seminars. The proposed 120 patron capacity across the two areas (i.e. 310sqm) is considered an appropriate capacity for the space i.e. 1 patron per 2.58sqm. While the function areas will be available for external bookings, it is expected that they will be used primarily by existing office tenants. Therefore, the proposed function centre is unlikely to have a noticeable additional impact upon existing infrastructure, including car parking availability, as will be discussed later in this report.

69. The proposed hours of operation are between 9.00am and 11.00pm, with events lasting for a maximum of 1 - 2 hours and will occur a maximum of three times a week. The proposed hours are considered acceptable given the Activity Centre context of the site and typical of many function centres. To ensure no more than three events per week occur, a condition will be included for a log book to be kept on site and for it to be available for inspection by Council officers upon request.
70. The main entrance to the building is via Smith Street, which, given its location within an Activity Centre and distance from residential zones, is unlikely to result in offsite amenity impacts. Furthermore, given the function centre use is central to the building, it is also unlikely that there will be any queueing along Smith Street. There is a secondary access point into the building via the rear laneway (clouded blue in Figure 8 below). This is poorly lit and has an interface with a residential zone. Use of this access point by patrons for entry, exit or as a smoking area is not supported as it presents both safety and amenity concerns to the residential interface. To ensure that the laneway access is not used by patrons of the function centre, a condition will be included for this exit into the lane to only be used in emergencies. If patrons are wishing to smoke, they can do so along Smith Street, where there is passive surveillance and limited amenity impacts.



Figure 7 - Rear exit along laneway

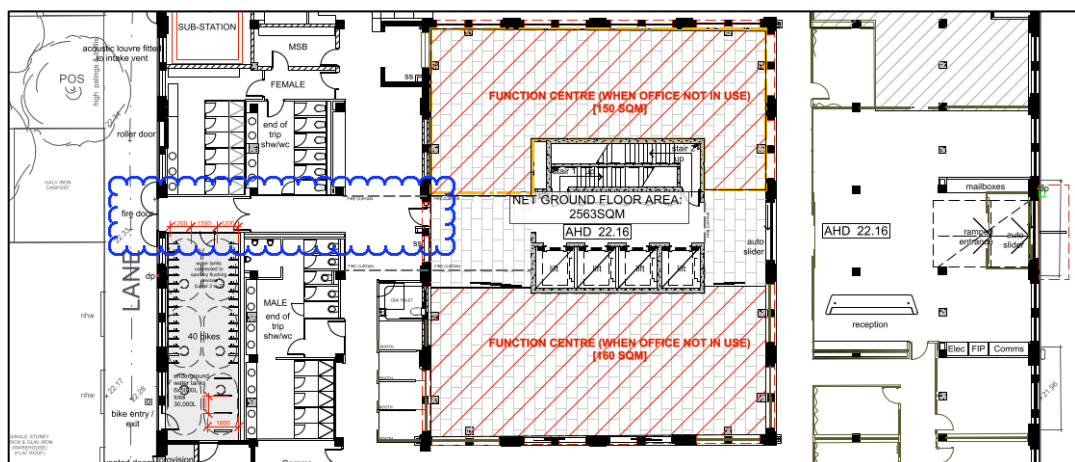


Figure 8 - Ground floor plan

71. With respect to the effect on the existing uses within the site, the function centre is to be separated via glass walls which are proposed and existing to the first floor. The applicant has indicated that the function centre is to be used when the offices are not in use. Internal dividing glass doors are to be installed which will provide a barrier between both uses and protect the office employees from the associated noise impacts (i.e. patron noise or background music). Glazing is already installed to the first floor (figures 3 and 4) which provide existing protection.

However, if events are to occur during office hours, it is expected that any adverse impacts could be adequately managed at the time by the building manager and/or event manager.

72. An event manager will be present at all times when a function is occurring and will primarily be responsible for patron management. For after-hours events, security will be hired and present on site in addition to the event manager. This will ensure that there is adequate supervision on site to reduce the risk of any anti-social behavior. Conditions are recommended on any permit that issues to include these venue management requirements.
73. The existing restaurant (Mr. Huxley) within the building will likely service the proposed function centre (where food is required). Should external catering be requested, the caterer will be responsible for the service of food and liquor under the supervision of the Event Manager.
74. The applicant has confirmed that depending on the event, alcohol may be served under a limited liquor licence. Pursuant to Clause 52.27 of the Scheme, no planning permit is required for a limited liquor licence. The applicant/owner will however require permission from the Victorian Commission for Gambling and Liquor Regulation (VCGLR) for the sale and consumption of liquor under a limited licence.
75. During events, the applicant has stated that recorded background music may be played. To ensure that music levels do not exceed background levels at any time when the venue is in operation, a condition will be included for only background music to be played. Given the location of both spaces being internal to the building's foyer and the restriction of only background music, it is considered that excessive noise would not likely emanate from the site.
76. Additional protection will also be provided by way of condition requiring the applicant to meet the State Environment Protection Policy SEPP N-2 (Control of Music Noise from Public Premises).
77. A bin storage room is provided in the north-west corner of the building, adjacent to the loading bay off Westgarth Street and accessed via a roller door. A waste management plan (WMP), prepared by Leigh Design and dated 14 July 2020, has been submitted. The WMP takes into account both existing uses (offices and restaurant) and the proposed function centre.
78. The WMP states that the building will utilise five, 1,100L General Waste Bins, four 1,100L Recycling Bins, five Secure paper bins and an area for hard/other waste. Collection times for the bins will be 3 times per week by a private waste contractor. The report states the bins will be collected at the loading bay and will not be left on public area at any time.
79. The WMP has been referred to Council's City Works Unit (waste) who have stated that the waste management plan for 423-425 Smith Street, Fitzroy authored by Leigh Design and dated 14/7/20 is not satisfactory from a City Works Branch's perspective. The following concerns have been identified:
  - (a) *The size of the bin storage area must be provided in M<sup>2</sup>, this is to ensure enough space is allocated to form an effective waste system;*
  - (b) *Food waste diversion should be included as a requirement.*
80. Both of the above concerns can be addressed via a condition of the permit.
81. The WMP does not take into account the approved offices approved under planning permit PLN16/0843. It is considered that the additional waste generated can be stored on site. This can be achieved by using the existing waste storage area and altering the frequency of collections or extending the waste storage area internally which will not trigger a planning permit. A condition will be included for an updated WMP to be submitted which takes into account the alternative situation in the event that the land is redeveloped with the office development approved under planning permit PLN16/0843.

20. In addition, a standard condition will be included with respect to the emptying of bottles into bins will not occur after 10pm on any day, before 7am Monday to Saturday, or before 9am on a Sunday or Public Holiday.
21. A further standard condition will also be included stating that deliveries and collection of goods to and from the land may only occur between 7am and 10pm Monday to Saturday, or after 9am on a Sunday or public holiday except for those allowed under any relevant local law.

#### Car parking

82. Pursuant to Clause 52.06 of the Scheme, the use as a function centre (place of assembly), with a maximum of 120 patrons generates a car parking demand of 36 car space. Although the subject site has provision for 74 car spaces on the roof, none are to be allocated to the function centre. Therefore requiring a full reduction of 36 car space.
83. As discussed earlier in this report, planning permit PLN16/0843 was approved in October 2017 for the construction of five additional levels of office space (total 8 storeys). The existing 74 car parking spaces on the roof will be retained within level 2 of the new building. No additional parking is to be provided for the function centre in this future situation either.
84. A traffic report prepared by TTM Consulting has been provided by the applicant. The report provides a review of the existing site conditions and surrounds, the proposal and an assessment against Clause 52.06 of the Scheme.
85. As discussed earlier in this report, the subject site is in close proximity to public transport services including:
  - (a) Tram services operating along Smith Street;
  - (b) Bus services that operate along Alexandra Parade, 225m to the north-west;
  - (c) Tram services operating along Brunswick Street, 452m to west of the site;
  - (d) Bus services operating along Johnston Street, 435m to south of the site; and
  - (e) Smith Street is frequented regularly by taxis / Uber type services being located within a Major Activity Centre and 3.5km from the CBD.
86. There are a number of short term car parking spaces within the immediate area. The TTM traffic report conducted a parking survey of the surrounding area on Tuesday, 17 March 2020. The survey area included sections of Smith Street, Gore Street, Cecil Street, Westgarth Street, Mater Street, Leicester Street, Hotham Street and Rose Street (figure 9). An inventory of 132 and 158 spaces were identified within the survey area. The results of the survey indicate that the peak occupancy occurred at 1pm with 42% of spaces occupied or 85 vacant spaces.



Figure 9 - On-street parking survey area (Source: TTM Consulting report)

87. Concerns have been raised with accuracy of the survey with respect to the timing corresponding with the travel restrictions imposed in response to the pandemic. However, upon review of the timeline, it was identified that these restriction did not come into effect until 23 March 2020, with the survey carried out 6 days earlier. Therefore, it is considered that the survey results are an accurate representation of the existing conditions. Council's Traffic Engineers have also raised no objection to the timing of this survey.
88. Car parking associated with the function centre is essentially short-stay parking for patrons and long-stay parking for staff. As there are no on-site car spaces provided, the site's parking short-fall would be accommodated off-site (in the surrounding road network or any off-street car park).
89. Council's Engineering Department have reviewed the proposal and have no objection to the waiver of on-site parking provision for this site. Referral comments have identified that in similar use applications within Collingwood and Fitzroy, a number of developments have been approved with reduced or no on-site parking. Given this context, the referral advice states that, *"Patrons to the site would be fully aware with the lack of on-street parking in the surrounding area. The site's proximity to public transport services would encourage some patrons to commute to and from the site by sustainable transportation modes such as catching public transport, riding a bicycle or walking."*
90. In addition, Council Traffic Engineers have stated, *"the proposed development is considered to be in line with the objectives contained in Council's Strategic Transport Statement. The site is ideally located with regard to sustainable transport alternatives and the reduced provision of on-site car parking would potentially discourage private motor vehicle ownership and use"*.
91. Based on the above assessment a car parking reduction is considered acceptable for the following reasons:
- (a) The subject site has excellent access to public transport (as discussed in paragraph 85).
  - (b) The venue will most likely be used by the office users within the host building and catered by the existing restaurant on site. Therefore, a large portion of the attendees and staff at the event will have already utilised the existing 74 on-site car parking spaces located on the roof or the future 74 spaces upon redevelopment of the site.
  - (c) The subject site is located within an Activity Centre where multi-purpose trips are likely.
  - (d) The parking survey undertaken by TTM indicate that there is sufficient on-street car parking.
  - (e) Planning policy under Clause 21.06 supports provision of less car parking in activity centres and within the PPTN area and seeks to reduce the reliance on the private motor car.
  - (f) For external groups attending the venue, the restricted parking and high turnover of car spaces in the area provides a level of protection as to the availability of on-street car parking for existing residents/business. The high turnover of spaces should ensure that there are some car spaces available throughout the day. Furthermore, given the lack of long term parking, it is unlikely staff will drive to the site.
92. It is considered that taking into account the type of use, peak parking demand and availability of parking both on-site and on-street, the generation of multi-trip patrons and the proximity to public transport there is sufficient car parking provided.

Objector concerns

93. The majority of the issues raised by the objectors have been addressed within the body of this report, as follows:
- (a) Car parking;  
Paragraphs 82 to 92

- (b) Excessive hours of operation (particularly until 11.00pm);  
Paragraph 69
- (c) Excessive noise (patrons smoking outside, roller door, waste vehicles/collections);  
Paragraphs 70, 75 and 76

94. Outstanding concerns raised by the objectors are discussed below:

- (a) Applicant's transparency in proposed hours of operation/centre operational details;  
The applicant has provided the full details of the venue's operation. These details are identified within paragraphs 17 to 21 of this report. These details will be included as conditions of the permit and are enforceable.
- (b) Patrons smoking within the rear laneway creating litter and smell of cigarette smoke to adjoining residents;  
As discussed within this report, access to the function centre by patrons will be restricted to Smith Street only. A condition will be included for the rear exit to be only used in emergencies (paragraph 70).
- (c) Possibility of extending the proposed hours of operation, number of functions and locations within the propose building where function can be held;  
Any alterations to the permitted operation of the function centre will be subject to a future amendment to the planning permit (if one is to issue) pursuant to Section 72 of the *Planning and Environment Act 1987*. As discussed above, the operation details as outlined in paragraphs 17-21 will be a condition of the permit and any breaches will be subject to possible enforcement proceedings.
- (d) Waste bins being placed on Westgarth Street;  
The WMP specifies that waste associated with the function centre will be collected within the loading bay and not along Westgarth Street.

## Conclusion

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

## RECOMMENDATION

That the Planning Decisions Committee resolves to issue a Notice of Decision to Grant a planning permit PLN20/0231 for the partial use of the land as a function centre and a reduction in the statutory car parking requirement at 423-425 Smith Street, Fitzroy, generally in accordance with the plans and reports noted previously as the "decision plans" and subject to the following conditions:

1. The function centre use as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
2. Before the function centre use approved by this permit commences, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Waste Management Plan will be endorsed and will form part of this permit. The amended Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by Leigh Design and dated 14 July 2020, but modified to include:
  - (a) The size of the bin storage area provided in square metres.
  - (b) Details of all food waste diversion measures.
  - (c) An alternative scenario for waste management in the event that the site is redeveloped in accordance with Planning Permit PLN16/0843.

3. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
4. No more than 120 patrons are permitted on the land at any one time in associated with the function centre use approved by this permit.
5. Except with the prior written consent of the Responsible Authority, the use authorised by this permit may only operate Monday to Sunday, between the hours of 9.00am and 11.00pm.
6. An event manager must be present on site at all times when a function is taking place.
7. Security must be present on site for all after-hours events i.e. between the hours of 5.00pm to 11.00pm.
8. A maximum of 3 functions may take place within a 1 week period. A log book of all functions must be kept on site and available for inspection by Council officers upon request.
9. Functions are to last a maximum of 2 hours, unless with the prior written consent of the Responsible Authority.
10. The fire door exit along the rear (laneway) interface must only be used in cases of emergencies.
11. The amenity of the area must not be detrimentally affected by the use, including through:
  - (a) The transport of materials, goods or commodities to or from land;
  - (b) The appearance of any buildings, works or materials;
  - (c) The emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or;
  - (d) The presence of vermin.

To the satisfaction of the Responsible Authority.

12. The use must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).
13. The provision of music and entertainment on the land must be at a background noise level.
14. Speakers external to the building must not be erected or used.
15. Emptying of bottles and cans into bins may only occur between 7am and 10pm on Monday to Saturday or after 9am on a Sunday or public holiday.
16. Delivery and collection of goods to and from the land may only occur between 7am and 10pm Monday to Saturday, or after 9am on a Sunday or public holiday except for those allowed under any relevant local law.
17. This permit will expire if:
  - (a) The use is not commenced within two years from the date of this permit; or
  - (b) The use is discontinued for a period of two years;

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

NOTES:

A building permit may be required before development is commenced. Please contact Council's Building Department on Ph. 9205 5555 to confirm.

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

All future business (*whether as owners, lessees/tenants, occupiers*) within the development approved under this permit, will not be permitted to obtain business parking permits.

## Attachments

- 1 PLN20 0231 - 423 - 425 Smith Street Fitzroy - Site Plan
- 2 PLN20 0231 - 423 - 425 Smith Street Fitzroy - Advertised Plans
- 3 PLN20 0231 - 423 - 425 Smith Street Fitzroy - Engineering Referral Advice
- 4 PLN20 0231 - 423 - 425 Smith Street Fitzroy - Waste Referral Advice

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**6.7 PLN20/0365 - 447A Brunswick Street & Common Property of 445 - 447 Brunswick Street Fitzroy - Part demolition, buildings and works associated with the creation of a dwelling at first floor (permit not required for use).**

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## **Executive Summary**

### **Purpose**

1. This report provides an assessment of Part demolition, buildings and works associated with the creation of a dwelling at first floor (permit not required for use) at 447A Brunswick Street & Common Property of 445 - 447 Brunswick Street, Fitzroy.

### **Key Planning Considerations**

2. Key planning considerations include:
  - (a) Clause 22.02 – Development Guidelines for Sites Subject to the Heritage Overlay;
  - (b) Clause 22.05 – Interface Uses Policy;
  - (c) Clause 34.02 – Commercial 1 Zone;
  - (d) Clause 53.06 – Live music and entertainment noise; and
  - (e) Clause 55 – Two or more dwellings on a lot and residential buildings.

### **Key Issues**

3. The key issues for Council in considering the proposal relate to:
  - (a) Commercial 1 Zone and DDO2;
  - (b) Interface with Live music, entertainment or licenced venues;
  - (c) Heritage;
  - (d) Clause 55, including impacts of the proposal on common property;
  - (e) Special Building Overlay considerations; and
  - (f) Objector concerns.

### **Submissions Received**

4. Six (6) objections were received to the application, these can be summarised as:
  - (a) Off-site amenity impacts (overlooking and loss of daylight);
  - (b) Restriction of surrounding commercial uses;
  - (c) Insufficient noise attenuation
  - (d) Insufficient access to waste storage for dwelling;
  - (e) Lack of owners corporation approval; and
  - (f) Structural concerns.
5. In addition the application has been called up to PDC by Councillor Stephen Jolly.

### **Conclusion**

6. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported subject to conditions ensuring that the site does not impinge upon existing live music entertainment venues in the surrounds.

**CONTACT OFFICER:** Jacob Martin  
**TITLE:** Statutory Planner  
**TEL:** 9205 5018

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**6.7                      PLN20/0365 - 447A Brunswick Street & Common Property of 445 - 447 Brunswick Street Fitzroy - Part demolition, buildings and works associated with the creation of a dwelling at first floor (permit not required for use).**

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**Reference**                D20/160282  
**Author**                    Jacob Martin - Statutory Planner  
**Authoriser**              Co-Ordinator Statutory Planning

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**Ward:**                      Nicholls Ward  
**Proposal:**                Part demolition, buildings and works associated with the creation of a dwelling at first floor (permit not required for use).  
**Existing use:**            Office  
**Applicant:**              Harmonic Design  
**Zoning / Overlays:**    Commercial 1 Zone (C1Z)  
                                   Design and Development Overlay (DDO2)  
                                   Special Building Overlay (SBO)  
                                   Heritage Overlay (HO331)  
**Date of Application:**    3 June 2020  
**Application Number:**   PLN20/0365

**Planning History**

1.    Planning Permit No. 4712 was granted 6 January 1988 *to install new shopfront at No. 445 Brunswick Street, Fitzroy and to use the ground floor of Nos. 445-447 for the purpose of a pharmacy and consulting room and the first floor for the purpose of an office in accordance with the attached endorsed plans.*
2.    Planning Permit No. 1986 was granted 23 June 1992 *to alter the rear of the building.*
3.    Planning Permit No. 1820 was granted 22 April 1992 *to construct alterations to the building and use premises for medical consulting room/office.*

**The Proposal**

4.    The application is for part demolition, buildings and works associated with the creation of a dwelling at first floor (permit not required for use). Further details of the proposal are as follows:

*Demolition*

- (a)    The ground floor gate to Brunswick Street (within common property).
- (b)    Internal walls (no permit required).
- (c)    External walls / window surrounds at the rear first floor.

*Development*

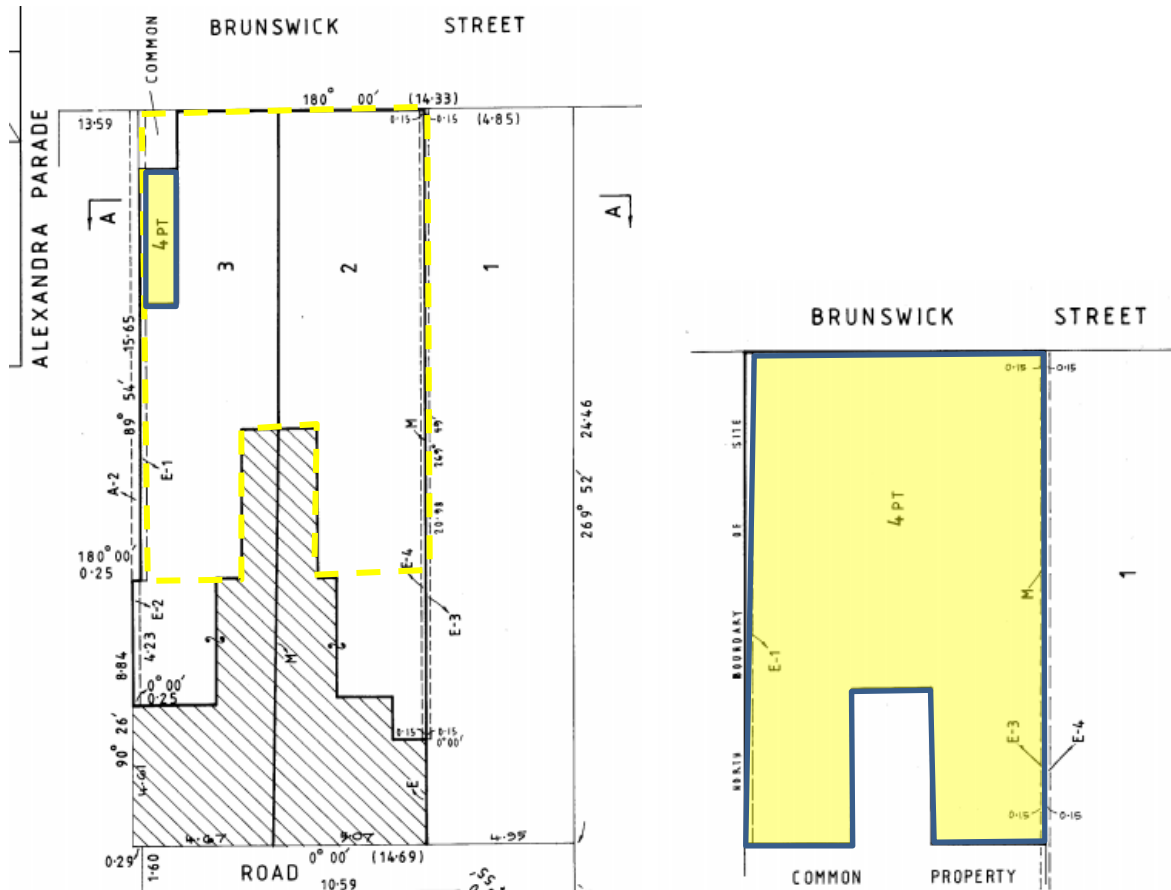
- (a)    Internal reconfiguration of the first floor to enable use of a dwelling inclusive of an open-plan office/ kitchen area, single bedroom and WC's.
  - (b)    A ground floor entry door to Brunswick Street in place of demolished gate, including two integrated letterboxes, a street number and modification of the existing panel over.
  - (c)    A first floor deck within common property in the space between the proposed bedroom and WC's, including the following characteristics:
    - (i)    4.7m long, 2.7m wide, 13.5sqm in area.
    - (ii)   1.7m high, 25% transparent screening along its western side.
-

- (iii) A floor level of 3.55m above ground.
- (d) Doors to proposed deck in area of demolition to first floor walls.

## Existing Conditions

### Subject Site

5. The site is located on the west side of Brunswick Street in Fitzroy, approx. 30m south of the intersection of Brunswick Street and Alexandra Parade. The site is made up of Lot 4 (i.e. No. 447A Brunswick) and the common property of Plan of Subdivision 302072R. Refer to image of the Plan of Subdivision identifying the site below:



**Plan of Subdivision. Ground floor (left) and first floor (right). Subject site yellow**

### *No. 447A Brunswick Street*

6. At first floor the site is U-shaped, with the eastern side of the U being 14.33m wide along the Brunswick Street frontage and extending to the rear for a length of approx. 15.7m. At ground floor the site includes an area comprising a staircase accessed via common property immediately adjacent Brunswick Street, which provides access to the first floor above.

### *Common Property*

7. A small parcel of common property is located between the end of the staircase to No. 447A and Brunswick Street itself. This common property also provides pedestrian access to Lot 3 (447 Brunswick Street). The purpose of this common property is principally to provide pedestrian access to 447 and 447a Brunswick Street.
8. Common property is also located at the rear of the site, in an open area at ground and first floor, including the 'inside' (light court) area of the U-shape first floor area of No. 447A.

9. The overall building which the subject site is within is part of a row of similar two-storey Victorian-era commercial buildings. The ground floor is comprised of two highly glazed commercial shopfronts, a pharmacy to the south and a vacant commercial use the north. Based on historical photos of the site and the 'existing conditions' plans provided with the application, this northern tenancy has historically been used for storage associated with the pharmacy. This has resulted in a 'central' door to the pharmacy, with a secondary door along the north side of the building which provides access to 447A Brunswick Street first floor area above. At the rear is a ground floor service area which is shown on the title and plans as being accessed by an unnamed laneway at the rear. However, inspection of the site (and Council's aerial imagery) reveals that this laneway has been constructed over and is inaccessible by the public.



Subject site from Brunswick Street, highlighted yellow dashed.

#### *Title*

10. The titles submitted with the application do not show any easements of relevance to the currently considered application and do not include any restrictive covenants on the land. The party wall easements delineated on the title plan will not be affected by the proposal.

#### Surrounding Land

11. The site is located within the Brunswick Street Major Activity Centre. A mixture of uses, including residential, retail, office and food and drink premises surround the site. The site is proximate to both Alexandra Parade - which is a declared Arterial Road (named Highway) by the Department of Transport (VicRoads) as well as Brunswick Street, which is a busy collector road hosting both tram and vehicle traffic.
12. North of the site is an attached two-storey Victorian shop similar to that at the subject site with contemporary glazed ground floor. The site is vacant but formerly occupied by a dentist (medical centre) use. Further north is a shop which fronts the corner of Brunswick Street and Alexandra Parade. At the rear of this corner site is a café which benefits from an on-premises liquor license approved under Planning Permit PLN10/0794.
13. The section of Brunswick Street which is opposite the subject site to the east comprises a large single level retail building (Swimwear Galore) and the Royal Derby Hotel at the corner of Brunswick Street and Alexandra Parade. The Royal Derby Hotel is a licensed venue and includes a bar, accommodation and live music elements. The existing liquor license (No. 31912682) allows for the consumption of liquor on the premises:

Sunday	10.00am – 11.00pm
Good Friday	12.00 noon – 11.00pm

ANZAC Day	12.00 noon – 11.00pm
On any other day	7.00am – 1.00am the following day except for the morning of Good Friday.

Furthermore, this license allows for live music to be provided subject to varying conditions. Consumption of liquor associated with or ancillary to entertainment is permitted *on any morning other than Monday, Good Friday or the following Good Friday until 3 a.m.*

14. The land immediately south of the subject site comprises a two storey attached commercial terrace building, also known as Lot 1 on Plan of Subdivision 302072R. This building is occupied by café (Blonde). Further south is 441 Brunswick Street, which is also occupied by an attached commercial terrace building currently used as a shop (Lucrezia & De Sade).
15. To the west is an unnamed laneway, with the rear of a dwelling at No. 90 Alexandra Parade beyond. It appears that this laneway is within the ownership of Council, but has been fenced off by the owner or occupier of No. 90 Alexandra Parade to form part of this sites rear SPOS. Beyond are further dwellings fronting Alexandra Parade.



Site surrounds, subject site yellow

## Planning Scheme Provisions

### Zoning

16. The subject site is zoned Commercial 1 (C1Z). The following provisions apply:

#### *Use*

17. Pursuant to Clause 34.01-1, a planning permit is required to use the land for 'dwelling' only if 'any frontage at ground floor level exceeds 2m'. The residential frontage for the proposal addresses Brunswick Street, with the entrance 0.98m in width. As such, planning permission is not required to use the site for a dwelling.

#### *Development*

18. Pursuant to Clause 34.01-4, a planning permit is required to construct a building or construct or carry out works.

19. It is noted that typically, pursuant to Clause 62.02-2, a permit is not required for the internal rearrangement of a building if the gross floor area or the number of dwellings on the site is not increased. As the proposed works seek to facilitate the number of dwellings on the land increasing from zero to one; a planning permit is required for the internal works for the dwelling in this instance.

#### Overlays

##### *Design and Development Overlay – Schedule 2*

20. The subject site is affected by the Design and Development Overlay (DDO2). DDO2 relates to 'Main Roads and Boulevards' and seeks to recognise the importance of main roads to the image of the city (amongst other design objectives).
21. Pursuant to Clause 43.02-2, a planning permit is required to construct a building or construct or carry out works. This does not apply if a schedule to this overlay specifically states that a permit is not required. The application is not exempt from the permit requirement under Schedule 2 and as such a planning permit is required.

##### *Special Building Overlay*

22. The subject site is affected by the Special Building Overlay (SBO). The following provisions apply:
23. Pursuant to Clause 44.05-1, a planning permit is required to construct a building or construct or carry out works. This does not apply to:
- (a) To an alteration to an existing building where the original building footprint remains the same and floor levels are constructed to at least 300mm above flood level.
  - (b) To an upper storey extension to an existing building.

As the floor level of the ground floor has not been provided, it cannot be established that a planning permit is not required under the SBO and therefore it is deemed that a planning permission is required for the demolition and construction of a new pedestrian door at ground level.

24. Pursuant to Clause 44.05-6, the application must be referred to the relevant floodplain management authority (Melbourne Water).

##### *Heritage Overlay*

25. Pursuant to Clause 43.01, a planning permit is required to:
- (a) Construct a building or construct or carry out works.
  - (b) Demolish or remove a building.
26. The site is identified as being 'contributory' to the Brunswick Street Heritage Precinct by the *City of Yarra Review of Heritage Areas 2007 Appendix 8 (revised from time to time)*.

#### Particular Provisions

##### *Clause 53.06 – Live music and entertainment noise*

27. This clause applies to an application required under any zone of this Scheme to use land for, or to construct a building or construct or carry out works associated with:
- (a) *a noise sensitive residential use that is within 50 metres of a live music entertainment venue.*

28. As described earlier, the Royal Derby Hotel at No. 446 Brunswick Street on the opposite side of Brunswick Street, is a live music entertainment venue less than 50 metres from the Site. A noise sensitive residential use must be designed and constructed to include acoustic attenuation measures that will reduce noise levels from any:
- (a) *Indoor live music entertainment venue to below the noise limits specified in State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2 (SEPP N2).*
29. The clause goes on to state:
- (a) *For the purpose of assessing whether the above noise standards are met, the noise measurement point may be located inside a habitable room of a noise sensitive residential use with windows and doors closed (Schedule B1 of SEPP-N2 does not apply).*
  - (b) *A permit may be granted to reduce or waive these requirements if the responsible authority is satisfied that an alternative measure meets the purpose of this clause.*

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

30. The Commercial 1 Zone contains a decision guideline that requires consideration of the objectives, standards and decision guidelines of this clause. It has particular relevance to the proposal as the development is for the construction of a dwelling on common property. There is no requirement that the proposal 'must' meet all the objectives of this clause, due to the clause not ordinarily being applicable to land within the C1Z.

General Provisions

*Clause 65 General Provisions*

31. 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, amongst other things, the relevant State Planning Policy Frameworks and Local Planning Policy Framework, as well as the purpose of the Zone, Overlay or any other Provision.

Planning Policy Framework (PPF)

32. The following PPF provisions of the Scheme are relevant:

*Clause 11 – Settlement*

*Clause 11.01-1R – Settlement – Metropolitan Melbourne*

33. Strategies include;
- (a) *Focus investment and growth in places of state significance, including;*
    - (i) *Metropolitan Activity Centres.*
  - (b) *Create mixed-use neighbourhoods at varying densities, including through the development of urban renewal precincts that offer more choice in housing, create jobs and opportunities for local businesses and deliver better access to services and facilities.*

*Clause 13.03 – Floodplains*

*Clause 13.03-1S – Floodplain management*

34. The objective is;
- (a) *To assist the protection of:*
    - (i) *Life, property and community infrastructure from flood hazard.*
    - (ii) *The natural flood carrying capacity of rivers, streams and floodways.*

- (iii) *The flood storage function of floodplains and waterways. Floodplain areas of environmental significance or of importance to river health.*

35. Strategies include;  
(a) *Avoid intensifying the impact of flooding through inappropriately located use and development.*

*Clause 13.05 – Noise*

*Clause 13.05-1S – Noise abatement*

36. The objective is;  
(a) *To assist the control of noise effects on sensitive land uses.*

37. Strategies include;  
(a) *Ensure that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area.*

*Clause 13.07 – Amenity and safety*

*Clause 13.07-1S – Land use compatibility*

38. The objective is:  
(a) *To protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.*

*Clause 15.01 – Built Environment and Heritage*

*Clause 15.01-1S – Urban design*

39. The objective is:  
(a) *To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.*

*Clause 15.01-1R – Urban design - Metropolitan Melbourne*

40. The objective is:  
(a) *To create a distinctive and liveable city with quality design and amenity.*

*Clause 15.01-2S – Building design*

41. The objective is:  
(a) *To achieve building design outcomes that contribute positively to the local context and enhance the public realm.*

42. Relevant strategies 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.*

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

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

*Clause 15.01-5S – Neighbourhood character*

44. The objective is;
- (a) *To recognise, support and protect neighbourhood character, cultural identity, and sense of place.*

*Clause 15.03 – Heritage*

*Clause 15.03-1S – Heritage conservation*

45. The objective is;
- (a) *To ensure the conservation of places of heritage significance.*
46. Relevant strategies include;
- (a) *Provide for the protection of natural heritage sites and man-made resources.*
  - (b) *Provide for the conservation and enhancement of those places that are of aesthetic, archaeological, architectural, cultural, scientific or social significance.*
  - (c) *Encourage appropriate development that respects places with identified heritage values.*
  - (d) *Retain those elements that contribute to the importance of the heritage place.*
  - (e) *Encourage the conservation and restoration of contributory elements of a heritage place.*
  - (f) *Ensure an appropriate setting and context for heritage places is maintained or enhanced.*
  - (g) *Support adaptive reuse of heritage buildings where their use has become redundant.*

*Clause 16 – Housing*

*Clause 16.01 – Residential Development*

*Clause 16.01-1S – Integrated housing*

47. The objective is;
- (a) *To promote a housing market that meets community needs.*
48. A relevant strategy is;
- (a) *Increase the supply of housing in existing urban areas by facilitating increased housing yield in appropriate locations, including under-utilised urban land.*

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

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

*Clause 16.01-2S – Location of residential development*

50. The objective is;
- (a) *To locate new housing in designated locations that offer good access to jobs, services and transport.*
51. Strategies include;

- (a) *Increase the proportion of new housing in designated locations within established urban areas and reduce the share of new dwellings in greenfield and dispersed development areas.*
- (b) *Encourage higher density housing development on sites that are well located in relation to jobs, services and public transport.*
- (c) *Ensure an adequate supply of redevelopment opportunities within established urban areas to reduce the pressure for fringe development.*
- (d) *Identify opportunities for increased residential densities to help consolidate urban areas.*

*Clause 16.01-2R – Housing opportunity areas-Metropolitan Melbourne*

52. Strategies include;
- (a) *Identify areas that offer opportunities for more medium and high density housing near employment and transport in Metropolitan Melbourne.*
  - (b) *Facilitate increased housing in established areas to create a city of 20 minute neighbourhoods close to existing services, jobs and public transport.*
  - (c) *Direct new housing to areas with appropriate infrastructure.*

*Clause 16.01-3S – Housing Diversity*

53. The objective is;
- (a) *To provide for a range of housing types to meet diverse needs.*

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

54. The strategy is;
- (a) *Create mixed-use neighbourhoods at varying densities that offer more choice in housing.*

Local Planning Policy Framework (LPPF)

*Clause 21.04-2 – Activity Centres*

*Clause 21.05 – Built form*

*Clause 21.05-1 – Heritage*

55. Objectives and strategies include;
- (a) *Objective 14 – To protect and enhance Yarra's heritage places.*
    - (i) *Strategy 14.2 – Support the restoration of heritage places*
    - (ii) *Strategy 14.3 – Protect the heritage skyline of heritage precincts*
    - (iii) *Strategy 14.6 – Protect buildings, streetscapes and precincts of heritage significance from the visual intrusion of built form both within places and from adjoining areas.*
    - (iv) *Strategy 14.8 – Apply the Development Guidelines for sites subject to a Heritage Overlay policy at clause 22.02*

*Clause 21.05-2 – Urban design*

56. The relevant objectives are:
- (a) *Objective 16 – To reinforce the existing urban framework of Yarra;*
  - (b) *Objective 20 – To ensure that new development contributes positively to Yarra's urban fabric;*
    - (i) *Strategy 20.1 – Ensure development is designed having particular regard to its urban context and specifically designed following a thorough analysis of the site, the neighbouring properties and its environs.*

*Clause 21.05-3 – Built form character*

57. The general objective of this clause is:  
(a) *Objective 23 – To maintain and strengthen the identified character of each type of identified built form within Yarra.*

*Clause 21.05-4 – Public environment*

58. The relevant objective and strategies of this clause are:  
(a) *Objective 28 – To provide a public environment that encourages community interaction and activity:*  
(i) *Strategy 28.3 – Require buildings and public spaces to provide a safe and attractive public environment.*

*Clause 21.08-5 Neighbourhoods (Fitzroy)*

59. Pursuant to Clause 21.08-7 of the Scheme, Fitzroy is described as *a mixed commercial and residential neighbourhood notable for the consistency of its Victorian streetscapes. It comprises a dense combination of residential areas, shopping precincts and commercial / industrial activities*
60. Figure 18 of Clause 21.08-7 shows the subject site as being within the heritage overlay built form character area where the objective is to ensure that development does not adversely affect the significance of the heritage place.

Relevant Local Policies

*Clause 22.02 – Development Guidelines for Sites Subject to the Heritage Overlay*

61. This policy applies to all land within a Heritage Overlay, and aims to provide guidance for the protection and enhancement of the City's identified places of cultural and natural heritage significance.

*Clause 22.05 – Interfaces Uses Policy*

62. This policy applies to applications within the Commercial Zone (among others), and aims to reduce conflict between commercial, industrial and residential activities. The policy acknowledges that the mix of land uses and development that typifies inner city areas can result in conflict at the interface between uses.
63. It is policy that:  
(a) *New residential use and development in or near commercial centres and activity centres and near industrial uses includes design features and measures to minimise the impact of the normal operation of business and industrial activities on the reasonable expectation of amenity within the dwellings.*

Other documents

*Planning Practice Note PPN81: Live music and entertainment noise*

64. Released in May 2016 by the Department of Environment Land Water and Planning, Planning Practice Note 81 gives guidance to decision makers about the operation of Clause 52.43 – Live Music and Entertainment Noise (subsequently renumbered to Clause 53.06). The practice note outlines the purpose and operation of the clause, including examples of when discretion should be applied as well as providing examples for planning permit conditions.

65. Regarding attenuation a noise sensitive residential use, the practice note provides the following measures that may be utilised to help meet the requirements of the clause:
- (a) *Locating noise-sensitive rooms (particularly bedrooms) away from significant noise exposure by using spaces like walkways, laundries and storage as a buffer.*
  - (b) *Using acoustic glazing, wall, ceiling and roof construction.*
  - (c) *Sealing gaps, joints and service penetrations and using acoustic insulation.*
  - (d) *Using setbacks and acoustic fencing.*
  - (e) *Using a noise masking system (for example by relying on heating, ventilation or airconditioning noise).*
66. Regarding when it is appropriate to require that an acoustic assessment be conducted, the practice note provides that: *To avoid imposing the cost burden of a professional acoustic assessment (to demonstrate compliance with Clause 52.43-3) on small residential developments or for minor changes to an existing live music venue, a council could also consider requiring established design measures for acoustic attenuation, such as locating bedrooms of a new dwelling away from a low-impact venue.*
67. The practice note goes on to say that: *An acoustic report should not be necessary if the context of the site, surrounds and proposal present clear options for straightforward remedies and a professional assessment and report is unlikely to improve outcomes.*
68. Appendix 1 of the practice note provides example permit conditions for varying circumstances, regarding attenuating a noise-sensitive residential use. The practice note provides that where a less stringent approach is being used for a noise sensitive residential use near a low-impact live music entertainment venue, conditions which may include a requirement for non-specific attenuation measures and a retrospective acoustic assessment (which may be required at any future time by the Responsible Authority). \

## **Advertising**

69. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 21 letters sent to surrounding owners and occupiers and by a sign displayed on site. Council received 6 objections, the grounds of which are summarised as follows):
- (a) The proposed development should it go ahead would be detrimental to the existing licenced venue at No. 451b Brunswick Street.
  - (b) Proposed rear balcony will block sunlight to commercial uses at ground floor.
  - (c) Noise from the Royal Derby Hotel cannot easily be attenuated at the site.
  - (d) The site does not have sufficient access to waste disposal at the rear of the site.
  - (e) The owner's corporation has not approved works within the common property.
  - (f) Structural issues associated with the proposed balcony.
  - (g) Overlooking from the proposed balcony.

The application was called up to PDC by Councillor Stephen Jolly on 31/10/2020.\

## **Referrals**

### External Referrals

70. As stated earlier in this report, the application was referred to Melbourne Water who have no objection to the proposal, subject to the condition that the proposed new door on ground floor be flood proofed.
71. Referral responses/comments have been included as attachments to this report.

### Internal Referrals

72. Given the scope of the proposal, the application was not referred to any internal departments.

## OFFICER ASSESSMENT

73. The primary considerations for this application are as follows:
- (a) DDO2 & Commercial 1 Zone;
  - (b) Live music and entertainment noise & Interface Uses;
  - (c) Heritage;
  - (d) Clause 55;
  - (e) Special Building Overlay; and
  - (f) Objector concerns

### DDO2 & Commercial 1 Zone

74. The following assessment will be based around the decision guidelines of the Design and Development Overlay – Schedule 2 as well as those of the Commercial 1 Zone:
75. The proposed alterations to the ground floor pedestrian entrance of the site is not expected to have a substantial impact on the Brunswick Street streetscape. The proposed door is to replace a visually permeable gate in the same position and will result in a visually enhanced entrance to the ground floor commercial building and first floor dwelling through improved design detail and quality. The new door will also be flush with the street frontage to avoid creating a potential entrapment space and is therefore an appropriate outcome from a pedestrian safety perspective.
76. The proposed entrance will also remain consistent with the existing character of the streetscape which is of commercial frontages constructed on the front boundary. Overall the proposed works are acceptable in terms of their impact on the public realm and Brunswick Street streetscape.
77. The works proposed will enable the creation of a ‘shop-top’ dwelling at first floor. Shop-top dwellings are strongly supported by the purpose of the Commercial 1 Zone, which includes: *to provide for residential uses at densities complementary to the role and scale of the commercial centre*. It is noted that, as described earlier, the actual use of the site as a dwelling does not require a planning permit under the Yarra Planning Scheme. Furthermore, a permit is required for a dwelling if its frontage exceeds 2 metres, which further reinforces the appropriateness of dwellings above ground level within a C1Z and activity centre/main road context (such as the subject proposal). This shows a clear strategic expectation for dwellings to be interspersed amongst the various commercial uses permitted under the C1Z.

### Live music and entertainment noise & Interface Uses

78. The following assessment is informed by the decision guidelines of Clause 22.05 (Interface Uses Policy) as well as Clause 53.06 (Live music and entertainment noise), incorporating strategic policies where relevant.
79. As described above, the proposal is situated within the primarily commercial context of Brunswick Street, with commercial uses to the north, south and below. The nature of these uses (an office/medical centre, café and pharmacy, respectively) are such that there is no expectation of internal amenity, solar access, overshadowing, or privacy (as one would expect of a dwelling). Thus, the proposed works at the site, including the addition of a balcony at first floor will not impact on the operation of these uses and is acceptable.

80. In terms of surrounding residential uses, amenity impacts from the proposed works will be assessed in detail (with the assessment of Clause 55) below.
81. With regard to the Royal Derby Hotel to the north-east (No. 446 Brunswick Street), live music forms part of the operation of this venue, therefore Clause 53.06 (Live Music and Entertainment Noise) applies. As detailed earlier, this venue is permitted to operate between 7.00am and 1.00am the following day, throughout most of the year.
82. While the considerations of Clause 53.06 are applicable to this application, weight must be given to the fact that a permit is not required for the dwelling use of the site. Furthermore, the site is located within a busy section of Brunswick Street where a high level of ambient noise from trams and vehicle traffic (along both Brunswick Street and Alexandra Parade) is anticipated. It is expected that this ambient noise will serve to 'drown out' a reasonable degree of any noise produced by the Royal Derby Hotel in associated with live music.
83. The site is approximately 20m from the Royal Derby Hotel (at the very nearest point) and the proposed bedroom (which is most sensitive in terms of noise) is located at the rear of the site, insulated from Brunswick Street by the 10m deep open plan/ office and living space to the east. In addition, the first floor rooms of the north-adjointing site (No. 449 Brunswick Street) further insulate the bedroom along the north boundary. This will result in a reasonable buffer between the bedroom and the Royal Derby Hotel to the north-east. Given this separation, the reasonable level of insulation and the existing ambient noise, it is not anticipated that there will be any unreasonable level of noise transmission from the Royal Derby Hotel and Brunswick Street more generally.
84. Furthermore, the applicant has indicated that they are willing to voluntarily retrofit the dwelling with acoustically-insulated double glazing which can be required by way of a permit condition.
85. As detailed above, PPN81 provides guidance to decision makers on appropriate permit conditions to deal with attenuating a noise sensitive residential use. PPN81 suggests that in low-risk development, issues of acoustic attenuation may be dealt with by conditions which require non-specific and broad attenuation measures. It is also suggested that these more general conditions can be supplemented by a planning permit condition which is recommended to read as follows:

*The responsible authority may at any time require an acoustic report, prepared by a suitably qualified acoustic engineer. The report must be to the satisfaction of the responsible authority and identify all potential noise sources and noise attenuation work required to address any noise issues to comply with State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2. The recommendations of the report must be implemented and complied with to the satisfaction of the responsible authority.*

86. The inclusion of planning permit conditions such as those suggested by the PPN81 (as above), would serve to place the onus for attenuating noise on the owner of the site if a dispute were ever to arise from an occupant regarding the existing live music venue. By providing the option for a costly acoustic assessment to be required only if conflict arises in the future, the applicant is not unnecessarily burdened to commission a report which may ultimately determine that no further change is necessary to attenuate the dwelling.
87. It is considered, subject to a condition requiring that the dwelling be appropriately attenuated, acoustically treated double glazing be provided on the east-facing room windows and providing Council with ability to request an acoustic report from a suitably qualified professional and implementation of associated recommendations at any point in the future, the proposed works will be acceptable in terms of Clause 22.05 (Interface Uses Policy) as well as Clause 53.06 (Live music and entertainment noise).

### Heritage

88. In considering the design and built form of the proposed development, the most relevant aspects of the Scheme are provided at Clause 15 (Built Environment and Heritage), Clause 21.05 (Built Form) and Clause 22.02 (Development Guidelines for Sites Subject to the Heritage Overlay). All of these provisions and guidelines support a development outcome that responds to the existing heritage character and provides a contextual urban design response reflective of the aspirations for the area. Particular regard must be given to the acceptability of the design in terms of height and massing, street setbacks and relationship to adjoining buildings.
89. The larger building which contains the subject site (and other lots) is graded 'contributory' within Brunswick Street Heritage precinct.
90. The proposal will result in the demolition of the existing non-original steel security gate at the ground floor Brunswick Street frontage and replacement with a solid contemporary door. The nature of the subject building (and the north and south adjoining buildings) is that contemporary glazed frontages are prevalent at ground floor, with contributory heritage elements, such as ornate windows, detailing and roof parapets more definitive at first floor. In this case, as a result of the existing verandah at the front of the site, the ground and first floor of the site are visibly distinct and separated. As such, the proposed door will be viewed in the context of the glazed contemporary frontage and will not interfere with the appreciation of contributory heritage elements at first floor or the overall presentation of the building.
91. At the rear, the proposal will involve demolition of existing windows (and window surrounds) and replacing them with doors as well as the installation of a first floor deck with privacy screening. This portion of the building will be largely concealed from when viewed from the public realm due to the continuous street wall along Brunswick Street and the U-shaped built form of the existing building on the Site. It is noted that Clause 22.02-5.7 specifically encourages new additions to be located towards the rear of the site, which the proposed first floor deck successfully achieves and is therefore considered both minor and acceptable in heritage terms.
92. Any changes to the first floor front windows of the site, required by way of permit condition for the purpose of acoustic treatment, would need to be appropriate to the existing heritage building. As such, any permit condition to this effect will reflect this requirement.

### Clause 55

93. In this instance, Clause 55 is relevant to an assessment of this application due to part of the proposed works (first floor deck) being located within common property delineated on the plan of subdivision for the site.
94. It is important to note that 'the objectives, standards and decision guidelines of 55' is simply a decision guideline in the C1Z for this application. The preamble to Clause 55 states that these provisions apply to applications in the Neighbourhood Residential Zone, General Residential Zone, Residential Growth Zone, Mixed Use Zone or Township Zone. None of which apply to the site. Nonetheless, the objectives, standards and decision guidelines form a basis as to whether the proposed works that relate to a dwelling are indeed appropriate.
95. It is also important to consider that the site's location within an inner city activity centre (Brunswick Street) and the limited extent of works results in many of the objectives / standards of Clause 55 not being relevant to an assessment of the proposal. The following standards / objectives are considered to be not relevant by this proposal. Relevant provision are assessed further below.

- (a) *B2 – Neighbourhood character objective* – The Site is affected by HO311 and DDO2 and is also affected by planning policies relating to activity centres. Together, these provisions are considered to outweigh the need to respond to ‘neighbourhood’ character. Refer to the discussion regarding ‘C1Z and DDO2’ and ‘heritage’ above.
- (b) *B3 Dwelling diversity objective* – Not relevant to development with less than 10 dwellings
- (c) *B6 – Street setback objective* – As the works are to retrofit an existing building there will be no change to street setback from the existing conditions.
- (d) *B7 – Building height objective* – there is no prescribed maximum height pursuant to the Commercial 1 Zone and the height of the building is unchanged regardless.
- (e) *B11 – Open space objective* – No communal open space provided or required for the development
- (f) *B13 – Landscaping objectives* – Not relevant given the nature and scale of the proposal
- (g) *B14 – Access objective & B15 – Parking location objective* – No proposed changes to vehicle access at the site.
- (h) *B19 – Daylight to existing windows objective* – There are no habitable room windows facing the site on abutting lots
- (i) *B20 – North-facing windows objective* – There are no north-facing habitable room windows within 3 metres of the site
- (j) *B21 – Overshadowing objective* – The site does not immediately adjoin private open space of a dwelling.
- (k) *B23 – Internal views objective* – Only one dwelling is to be created, no views between dwellings is provided
- (l) *B32 – Front fences objective* – No fences are proposed

*Standard B2 – Residential Policy objectives*

96. The proposed works are considered to meet the objectives of Standard B2 for the following reasons:
- (a) The works will enable a ‘shop-top’ dwelling at the site, which contributes to a greater diversity of housing choices in the inner city area as encouraged by Clause 16.01-3R (*Housing diversity*) and 21.08-7 (*Fitzroy*).
  - (b) The works will enable a dwelling in an area well served by public transport (trams and bicycle networks immediately adjacent the site), community infrastructure, public open space and commercial uses.

*Standard B4 – Infrastructure objectives*

97. Given the site is situated in an established Major Activity Centre, it is not expected to unreasonably overload the capacity of utility services and infrastructure. The site is already connected to appropriate utility services and infrastructure (albeit for a commercial use), and this can readily be extended to accommodate the residential use. It is also arguable that a sole commercial use of the site would have placed a greater demand on services and infrastructure than the proposed dwelling / office use.

*Standard B5 - Integration with the street objective*

98. The objective of this Standard is “*to integrate the layout of the development with the street*”.
99. Generally, the ground floor works to Brunswick Street are supported as the proposed doorway has been designed to have a clearly visible and accessible entry. The entrance to the first floor dwelling and ground floor commercial use will continue to be provided from Brunswick Street.

*Standard B8 - Site coverage*

100. The standard does not account for development such as the currently considered application as it assumes that a site is a single contiguous piece of land (and not an existing subdivided building) and as such consideration of the site coverage objective (not the standard) is appropriate. The objective seeks to ensure that the site coverage respects the existing or preferred neighbourhood character and responds to the features of the site. The proposal meets the objective as:
- (a) Given that the existing building directly fronts Brunswick Street, there will be no notable change in site coverage from the existing conditions as a result of the proposed rear deck.
  - (b) Little to no site coverage is typically expected in a commercial area such as the Brunswick Street surrounds (as commercial buildings typically have no need for open, undeveloped land). As such any reduction in site coverage as a result of the proposed rear deck will not be out of character with this commercial context.

*Standard B9 – Permeability objective*

101. As above, the standard does not account for development such as the currently considered application. As such it is appropriate to consider the objective which seeks:
- (a) *To reduce the impact of increased stormwater run-off on the drainage system.*
  - (b) *To facilitate on-site stormwater infiltration.*
  - (c) *To encourage stormwater management that maximises the retention and reuse of stormwater.*
102. Council's aerial imagery (below) shows the rear of the site is entirely comprised of brick paving. As such, the addition of the rear deck is not expected to result in any further decrease in permeability and will therefore not increase the amount of stormwater run-off from the site.



Council's aerial imagery (dated June 2020) which shows the existing paving at the rear of the site.

103. The proposed deck is limited to 13.5m<sup>2</sup> in area and would represent a small portion of the common property associated with the Site. Furthermore, it is not unusual for C1Z land and land within the Brunswick Street Major Activity Centre to have near 100% site coverage (and no permeable surfaces).

*Standard B10 – Energy efficiency protection objectives*

104. The objectives of this standard are concerned with the energy efficiency of proposed and surrounding dwellings. Given that the existing ground floor uses of the site are commercial in nature, the proposal will not result in any unreasonable impacts to surrounding sites. The dwellings to the west are significantly setback from the site so as to be unaffected by the proposed works.

105. In terms of the proposed dwelling itself, the glazing and operable doors to the proposed first floor deck which will allow for ample daylight access and natural ventilation of the open-plan habitable rooms beyond. Overall, the proposal is considered acceptable in terms of the energy efficiency protection objective.

*Standard B12 – Safety objective*

106. The dwelling is considered to have meet the objective of Standard B12 *to ensure the layout of development provides for the safety and security of residents and property*. As discussed above in the assessment against Standard B2 (Integration with the Street), the proposal will result in a highly visible access to the first floor dwelling directly from Brunswick Street. The new door will also be positioned flush with the Brunswick Street frontage to ensure no potential entrapment spaces are created adjacent the public realm.

*Standard B17 – Side and rear setbacks objective & Standard B18 Walls on boundaries objective*

107. No new boundary or side and rear walls are proposed under the currently considered application. As the proposed first floor deck is located within the U-shaped alcove created by the existing built form on its north, east and south side and is well separated from the dwelling to the west (set-back approximately 9m) it will not result in any unreasonable visual bulk impacts to the dwelling to the west.

*Standard B22 – Overlooking objective*

108. The proposed first floor deck is screened along its western side by a 1.7m high privacy screen with a maximum transparency of 25%. As such it is fully compliant with the requirements of Standard B22, despite the proposed deck being located greater than 9 metres from the private open space of the existing at 90 Alexandra Parade (west).

*Standard B24 – Noise objective*

109. The impact of surrounding noise on the dwelling which will be created as a result of the proposed works has been comprehensively assessed above in the live music and entertainment noise & interface uses section of this report. Permit conditions will require that the dwelling be appropriately treated to prevent unacceptable noise.
110. It is reasonable to expect that any noise generated on the site would only be residential in nature without causing any unreasonable acoustic impacts on neighbouring properties.

*Standard B25 – Accessibility objective*

111. The objective of Standard B25 is *to encourage the consideration of the needs of people with limited mobility in the design of developments*. Given the limitations of the site (with the only access provided via a staircase), it is not possible to easily facilitate accessible access to the site. Any future occupants would be aware of these difficulties before residing at the site.

*Standard B26 – Dwelling entry objective*

112. The entry of dwellings have been discussed at length at Standard B2 (Integration to the street objective) and Standard B12 (Safety objective) and it is considered that the entrance to the site is appropriately visible from Brunswick Street and will provide a sense of personal address. The existing verandah over the Brunswick Street footpath will also provide shelter to anyone accessing the site.

*Standard B27 – Daylight to new windows objective*

113. Although no new windows are proposed, where they are required for the purpose of acoustic treatment they will be located to face the proposed first floor deck, or Brunswick Street which are outdoor spaces and clear to sky, thereby complying with Standard B27.

*Standard B28 – Private open space objective and B29 – Solar access to POS objective*

114. As above, Standards B28 and B29 do not account for the type of 'shop-top' dwelling that this proposal will facilitate. The respective objectives seek *to provide adequate private open space for the reasonable recreation and service needs of residents and to allow solar access into the secluded private open space of new dwellings and residential buildings.*
115. The proposal will provide a 13.5sqm rear deck, which will be supplemented by the internal open-plan living space. This is considered a reasonably sized area of SPOS to a dwelling such as proposed at the subject site. For reference, although not applicable in this case as this proposal does not constitute an 'apartment' Standard B43 at Clause 55.07-9 (which applies to apartment developments) would require only an 8sqm balcony, with a minimum dimension of 1.8m. The 13.5sqm deck proposed will provide a reasonably large outdoor space for the occupants of the dwelling at the site and is acceptable.
116. In terms of solar access to this first floor balcony, although there is existing built form to the north, the balcony will be clear to the sky and have a reasonably open western side, with 1.7m high screening. It is considered that it will receive a reasonable amount of solar access consistent with an inner-city apartment and is acceptable.

*Standard B30 – Storage objective*

117. The standard requires that *each dwelling should have convenient access to at least 6 cubic metres of externally accessible, secure storage space.* Whilst a dedicated storage space has not been nominated on the plans, the bedroom is provided with a 1.6sqm of floor area dedicated to a robe, 4sqm to an island bench within the kitchen and ample open space is provided within in the open-plan living space/ office. As such it is considered that the proposal has met the storage objective, which is *to provide adequate storage facilities for each dwelling.*

*Standard B33 – Common property objectives*

118. There are no additional common property areas which are proposed by the application. The addition of a front door in lieu of the existing front gate will not impact the functionality or management of the common property beyond. Similarly the proposed first floor deck is not expected to affect the functionality or maintenance of the common property below as a service yard area. The proposal is acceptable in terms of Standard B33.

*Standard B34 – Site services objective*

119. A mailbox integrated within the front door has been provided for the proposed dwelling.
120. The plans indicate that the common bin storage is located within the rear laneway of the site. It is acknowledged that the existing subdivision of the site makes easily accessible bin storage difficult (given that No. 447A Brunswick has effectively no dedicated floor area at ground floor), however it is not anticipated that the proposed works associated with a dwelling use will result in significantly greater waste generation than the existing office use. As such, it is anticipated that the current conditions regarding waste disposal will be sufficient to accommodate the dwelling at the site.

Special Building Overlay

121. As the proposal includes no change to any floor levels of the building, or any additional floor area at ground floor, there will be no impact on the floodplain or flooding risk at the site. Furthermore, the application was referred to Melbourne Water who offered no objection subject to the inclusion of a condition requiring that the proposed door at ground floor be flood proofed. As such, subject to the inclusion of this condition the proposal is acceptable in terms of the Special Building Overlay.

Objector concerns

122. objector concerns are addressed in detail below:

- (a) The proposed development, should it go ahead would be detrimental to the existing licenced venue at No. 451b Brunswick Street.
  - (i) Clause 53.06 applies only to *live music entertainment venues*, which include food and drinks premises, nightclubs function centres or residential hotels that include live music entertainment. It is noted that the endorsed noise and amenity action plan under existing planning permit PLN10/0794 which approves the sale and consumption of liquor at No.451b explicitly states that there will be no live bands in association with the venue. General impacts to surrounding commercial uses have been considered between paragraphs 78 - 87.
- (b) Proposed rear balcony will block sunlight to commercial uses at ground floor.
  - (i) The Yarra Planning Scheme does not provide for protection of sunlight to commercial uses or non-habitable room windows. The amenity impacts to the surrounding commercial uses has been considered between paragraphs 78 - 87.
- (c) Noise from the Royal Derby Hotel cannot easily be attenuated at the site.
  - (i) Relevant issues associated with impacts as a result of noise from the Royal Derby Hotel have been comprehensively assessed between paragraphs 81 - 87.
- (d) The site does not have sufficient access to waste disposal at the rear of the site.
  - (i) Relevant issues associated with waste disposal from the site has been considered in paragraph 120.
- (e) The owner's corporation has not approved works within the common property.
  - (i) Issues of unapproved works within common property have been addressed in several decisions of the Victorian Civil and Administrative Tribunal (VCAT), such as *H S Rekaris & Associates Pty Ltd v Stonnington CC [2009] VCAT 2585* affecting Unit 3 and common property at 55 Alexandra Avenue, South Yarra which dealt with a similar situation. This matter required a planning permit for a deck within common property and where the owners corporation did not consent the works. The tribunal found at Paragraph 14:  
  
*...regardless of whether one or two owners would need to change their minds, [to allow works under the Owners Corporations Act 2006] it is my view that a change of mind (for whatever reason or motivation) is potentially a much simpler and quicker likelihood than a change of policy or a change in elected representatives (in the case of a Council or public authority). As such, I am not persuaded this application is futile.*
  - (ii) The tribunal went to conclude at Paragraph 15:

*The opposition of some of the owners at this time is a relevant factor in the consideration of the overall planning merits of this case. But, in my opinion, this factor is not a determinative one having regard to the overall planning merits and considerations I have already explained in these reasons. I find the proposed deck extension has no unreasonable amenity impacts and no adverse effect on the significance of the heritage place.*

- (iii) This case is similar to the subject application, in that the approval of the owner's corporation is subject to change and the planning permit application is therefore not futile. The above assessment has considered the relevant planning merits. The lack of consent from the owner's corporation is not relevant to this assessment and must be acquired outside of the planning permit process (i.e. as required under the *Owners Corporations Act 2006*).
- (f) Structural issues associated with the proposed balcony.
  - (i) The feasibility or structural integrity of any works cannot be given weight as part of the planning permit process. Assessment of this issues will be provided at a later stages in the development process (i.e. when a building permit is sought).
- (g) Overlooking from the proposed balcony.
  - (i) Overlooking has been assessed earlier in this report. The Yarra Planning Scheme does not provide for consideration of the overlooking of commercial uses. Nonetheless, paragraph 108 confirms that Standard B22 (overlooking) would be met even if the ground level service yard / common area was secluded private open space associated with another dwelling. Accordingly, the proposed deck would not result in any unreasonable loss of privacy.

## Conclusion

123. Based on the report, the proposal is considered to comply with the relevant policies of the Yarra Planning Scheme and is recommended for approval, subject to conditions

## RECOMMENDATION

That having considered all relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant a Planning Permit PLN20/0365 for part demolition, buildings and works associated with the creation of a dwelling at first floor (permit not required for use) at 447A Brunswick Street & Common Property of 445-447 Brunswick Street, Fitzroy VIC 3065, subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans prepared by Harmonic Building Design, variously dated 2020.07.14 and 2020.07.29, but modified to show the following:
  - (a) The first floor east facing windows to be comprised of acoustically treated double glazing, with any replacement windows having an appearance appropriate to the heritage building; and

(b) A notation indicating the ground floor door to Brunswick Street is 'Flood Proofed' as per Melbourne Water condition 6 (below).

2. The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

3. The Responsible Authority may at any time require an Acoustic Report to the satisfaction of the Responsible Authority which must be prepared by a suitably qualified acoustic engineer and which must be submitted to and approved by the Responsible Authority. When approved, the Acoustic Report will be endorsed and will form part of this permit. The Acoustic Report must assess the following:

(a) The impact the dwelling at the subject site has on the operation of the Royal Derby Hotel located at No. 446 Brunswick Street, Fitzroy VIC 3056.

The acoustic report must assess the compliance of the use and, where necessary, make recommendations to limit the noise impacts in accordance with the State Environment Protection Policy (Control of noise from industry, commerce and trade) No. N-1 (SEPP N-1), State Environment Protection Policy (Control of music noise from public premises) No. N-2 (SEPP N-2) or any other requirement to the satisfaction of the Responsible Authority.

4. The provisions, recommendations and requirements of any endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.

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

6. The proposed new door on ground floor will need to be flood proofed.

7. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:

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

8. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:

- (a) Monday-Friday (excluding public holidays) before 7 am or after 6 pm;
- (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm;
- (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

9. This permit will expire if:

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

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

Notes:

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5555 to confirm.

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

## Attachments

- 1 PLN20/0365 - 447A Brunswick Street and Common Property of 445 - 447 Brunswick Street Fitzroy - Advertising S52 - Plans
- 2 PLN20/0365 - 447A Brunswick Street & Common Property of 445-447 Brunswick Street Fitzroy - Melbourne Water Referral Comments
- 3 PLN20/0365 - 447A Brunswick Street and Common Property of 445 - 447 Brunswick Street - Site Location Plan

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- |            |  |
|------------|--|
| <b>6.8</b> | <b>PLN20/0245 - 6-4 St Heliers Street, Abbotsford - Part demolition and removal of vegetation, to allow for upgrade works to extend / renew the existing car park, including a new vehicle entrance and modification to a road in a road zone.</b> |
|------------|--|
- 

## **Executive Summary**

### **Purpose**

1. This report provides Council with an assessment of planning permit PLN20/0245 and recommends approval subject to conditions.
2. The application was called up to PDC by Councillor Amanda Stone.

### **Key Planning Considerations**

3. Key planning considerations include the following:
  - (a) Clause 15.01 – Urban environment
  - (b) Clause 18.02-4S – Car Parking
  - (c) Clause 21.07-2 – Yarra River, Merri Creek and Darebin Creek
  - (d) Clause 42.03 – Significant Landscape Overlay (Schedule 1)

### **Key Issues**

4. The key issues for Council in considering the proposal relate to:
  - (a) strategic policy;
  - (b) removal of vegetation; and
  - (c) objector concerns.

### **Submissions Received**

5. One letter of support and two objections were received to the application, raising the following issues (summarised):
  - (a) Traffic and car parking as a result of the reduction in the number of parking bays currently provided;
  - (b) No area designated as a pick-up and delivery area;
  - (c) The lack of a pedestrian crossing on Clarke Street results in inappropriate pedestrian behaviour; and
  - (d) Dumping of rubbish on surrounding streets.
6. One objector, like the supporter, expressed their support for the relocation of the primary entrance to Johnston Street and away from St Heliers Street.

### **Conclusion**

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

**CONTACT OFFICER:** John Theodosakis  
**TITLE:** Principal Planner  
**TEL:** 92055307

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<b>6.8</b>	<b>PLN20/0245 - 6-4 St Heliers Street, Abbotsford - Part demolition and removal of vegetation, to allow for upgrade works to extend / renew the existing car park, including a new vehicle entrance and modification to a road in a road zone.</b>
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<b>Reference</b>	D20/166673
<b>Author</b>	John Theodosakis - Principal Planner
<b>Authoriser</b>	Senior Coordinator Statutory Planning

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<b>Ward:</b>	Langridge
<b>Proposal:</b>	Part demolition and removal of vegetation, to allow for upgrade works to extend and renew the existing car park, including roadworks to a road in a road zone, Category 1.
<b>Existing use:</b>	Abbotsford Convent Car park
<b>Applicant:</b>	John Di Natale – Abbotsford Convent Foundation
<b>Zoning / Overlays:</b>	Special Use Zone – Schedule 4; Road Zone – Category 1 Heritage Overlay – Schedule 9 and part Victoria Heritage Register - H0951; Significant Landscape Overlay – Schedule 1.
<b>Date of Application:</b>	06 January 2020
<b>Application Number:</b>	PLN20/0245

## Background

### Aboriginal Cultural Heritage Significance

1. The subject site is located within an area of Aboriginal Cultural Heritage Sensitivity. A subsequent section of this report determines that a Cultural Heritage Management Plan is not required for the subject application.

### Stage 1 works

2. Planning permit No. PLN19/0693 was issued on 06 January 2020 for '*Part demolition, buildings and works associated with road works*' at the Road Seg. of 436-452 Johnston Street, Abbotsford. This has been issued with the intent of facilitating traffic signalization at the proposed intersection associated with the Johnston Street vehicle access point to the north of the car park (see Figure 1). The traffic signals on the northern side have formed part of this planning permit, on the Computershare site to the north of Johnston Street and opposite side of the carpark, whilst those to the south of Johnston Street, that form part of the current planning application before Council will complete the works intended to create this intersection and vehicle entrance to the Abbotsford Convent carpark.

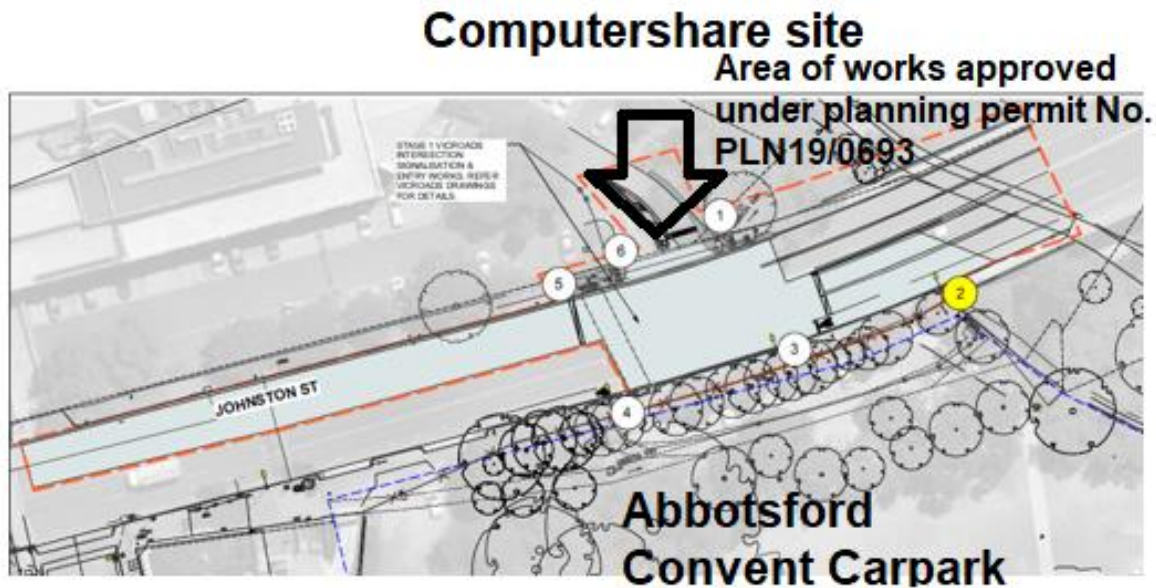


Figure 1. Location of traffic signals approved under Planning Permit No. PLN19/0693.

#### Application process

3. The application was lodged on 27<sup>th</sup> April 2020, and further information subsequently requested on 14<sup>th</sup> May 2020. The request was satisfied on 11<sup>th</sup> June 2020 and the application was advertised with 936 letters sent to the surrounding properties and with 5 signs displayed on site. At the time of writing this report, two (2) objections have been received and one letter of support. It is highlighted that all objectors and supporter were hand delivered their invitation to this meeting as these did not include an email.
4. Whilst this process was occurring, Officers sought and received advice from Council's Engineering and Strategic Transport Units, and Council's Arborist in relation to tree removal. The application was also referred externally to the Department of Transport.

#### **The Proposal**

5. The application is for partial demolition and removal of vegetation and creation of a new entrance in a road zone, to allow for upgrade works to extend the existing Abbotsford Convent Car Park. Essentially, the proposal includes the following, that are also known as the State 2 works linking those already approved as part of the Stage 1 development process associated with planning permit No. PLN19/0693:
  - (a) The removal of vegetation (i.e. 13 "Melaleuca linarifolia" trees along the Johnston Street frontage/ south side of the road reserve, and 49 trees within the car park, of which 8 are Victorian natives (Sweet Pittosporum x 3, Gossamer Wattles x 3, Coast Wattle x 1, Sweet Bursaria x 1);
  - (b) partial demolition of the northern half of the car park surface to make way for its reconfiguration and renewal;
  - (c) The demolition of the steel rail and wire mesh fence on the south side of Johnston Street;
  - (d) The construction of a new vehicle crossover to Johnston Street to provide entry to the Abbotsford Convent Car Park (traffic light controlled) that will link this with the Stage 1 development works approved at the Computershare site approved under planning permit No. PLN19/0693;
  - (e) Entry into and exit from the convent car park controlled by two lanes with electronic ticketing boom gates;
  - (f) Provision of new car park access lanes in the northern part of the car park;

- (g) The southern part of the car park sealed and formally laid out and the existing bitumen sealed with the northern part of the car park modified to accommodate the new entry and circulation arrangements identified at Figure 3;
- (h) A provision of 212 car parking spaces line-marked, inclusive of 6 accessible spaces and 2 short-term pick-up/drop-off spaces;
- (i) Provision of a storm water drainage system, incorporating on-site retention and filtration areas;
- (j) Dedicated pedestrian access from Johnston Street and St Heliers Street provided centrally through the car park and at the north east/eastern boundary of the site;
- (k) The planting of a total of 105 replacement trees is proposed that include 86 canopy trees (Eucalyptus - Red Gum, Yellow Box, Red Box) up to 30m height on maturity and 19 smaller trees (Acacia and he Oak) of 8 - 9m height on maturity;
- (l) Areas designated for the provision of art installations (sculptures) at the Johnston Street interface ranging between 31m in length and 5m in height (see Figure 4);
- (m) Provision of one business identification sign of 3sq.m. (see Figure 4);
- (n) Installation of bollards / fencing along the perimeter of the northern and southern perimeters of the site, and north side of the car spaces (labelled as the *17 No. Parking Spaces* on the Proposed Works Plan).

6. With the above in mind, the existing car park will be modified from (Figure 3):

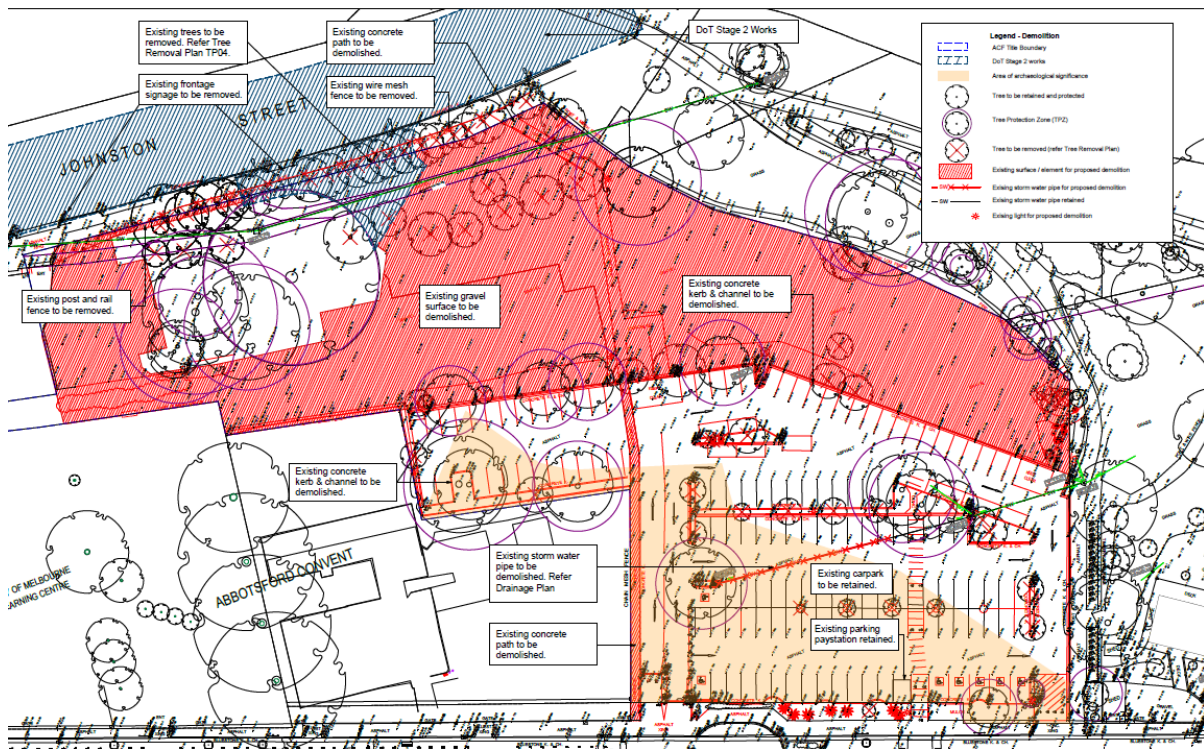


Figure 2. Existing layout identifying areas of the car park to be demolished.

7. To (Figures 3 and 4):

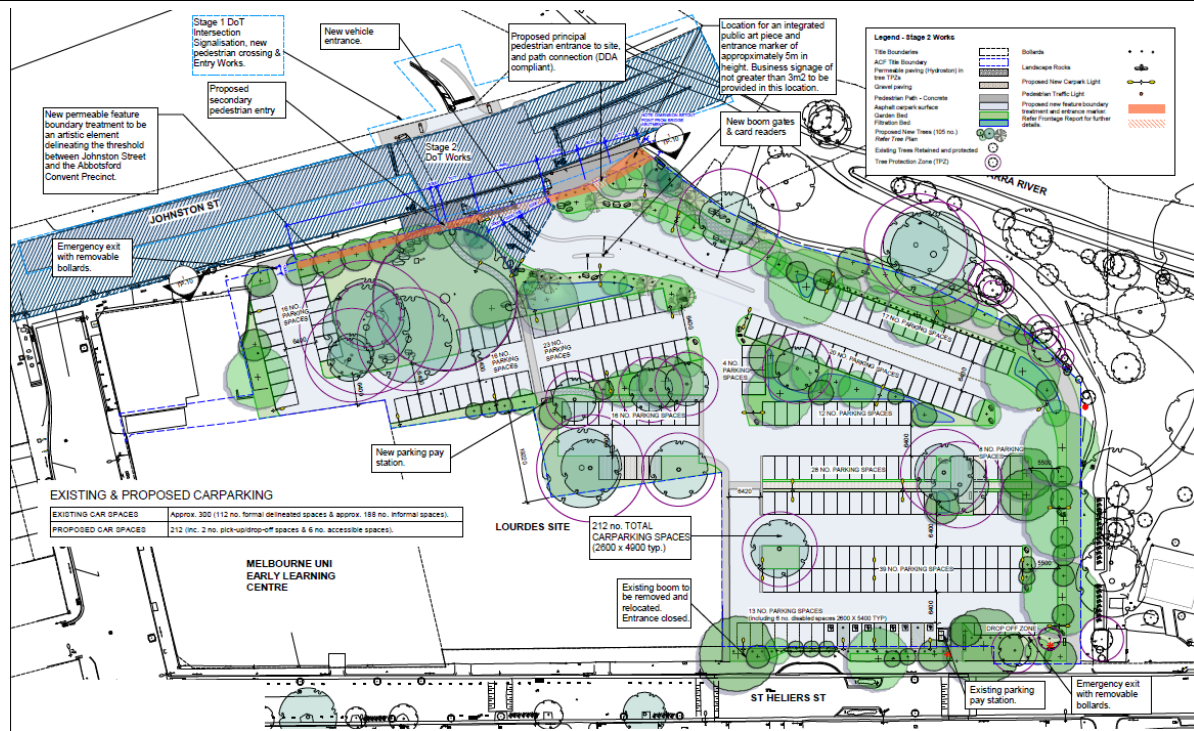


Figure 3. Proposed layout

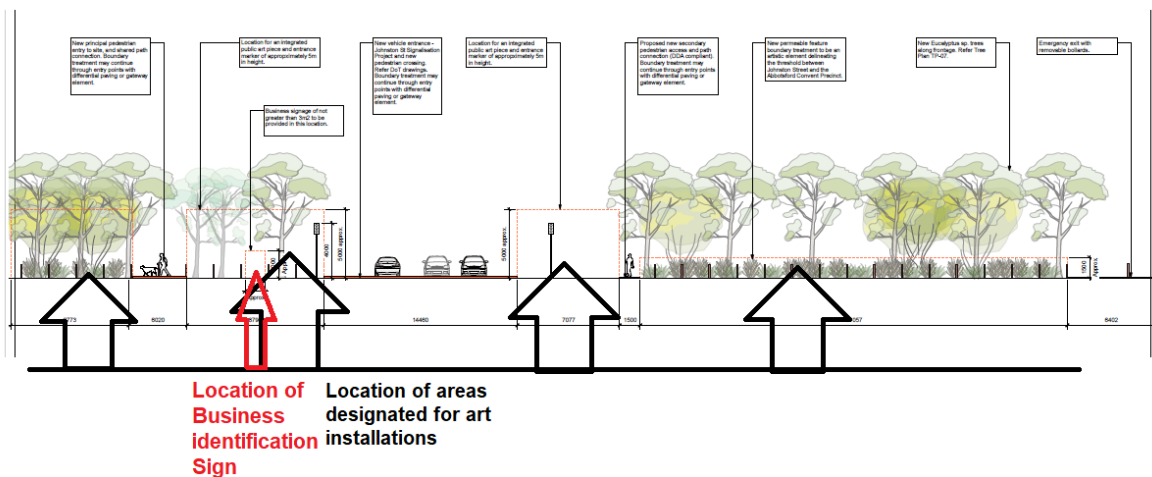


Figure 4. Johnston Street interface showing locations designated for art installations and business identification sign.

## Existing Conditions

### Subject Site

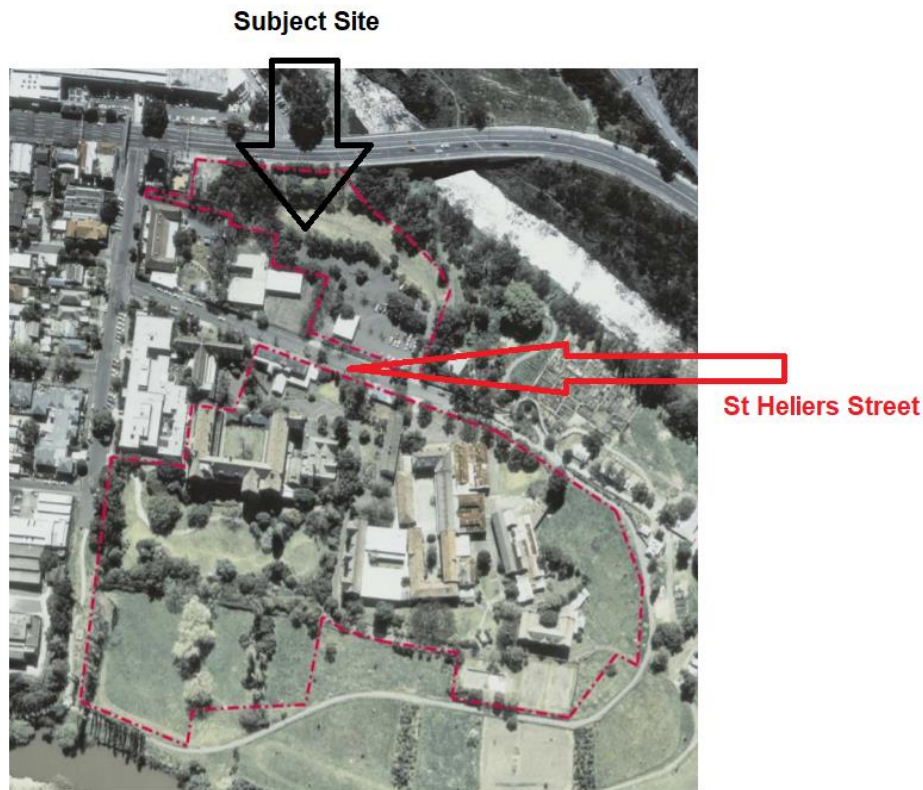


Figure 5. Aerial of Abbotsford Convent precinct identifying Subject Site / car park and St Heliers Street for context.

8. The Abbotsford Convent precinct is generally bounded by Johnston Street in the north, the Yarra River to the east and south and Clarke Street to the west. St Heliers Street separates the northern portion of the precinct, which contains the existing open air car park (i.e. the subject site), from the southern portion, which contains the various buildings and gardens that comprised the former convent. Clarke Street and St Heliers Street are the existing means of vehicle access to the existing car park.
9. The Abbotsford Convent entrance is from St. Heliers Street (that physically ends at the Collingwood Children's farm entrance, although the road reserve continues 'on title' and cuts the farm in half). The existing car park (Certificate of Title Volume No. 10894 and Folio No. 151 has a frontage to Johnston Street of approximately 93 m. This parcel of land also has a frontage of approximately 75m to St Heliers Street. The title limits the use of the land 'solely for car parking purposes'.
10. The car park contains a mix of formal and informal car spaces, with approximately 112 car spaces formally set out and delineated in the southern portion of the site, which is sealed. Boom gates with ticket machines control all car access from St Heliers Street (one lane in and one lane out). Pedestrian access to the car park is available from St Heliers Street (2 points) and Johnston Street (2 points). There are numerous trees on the car park perimeter and within the car park. A shared pathway connection to the Main Yarra Trail exists on the eastern edge of the car park.

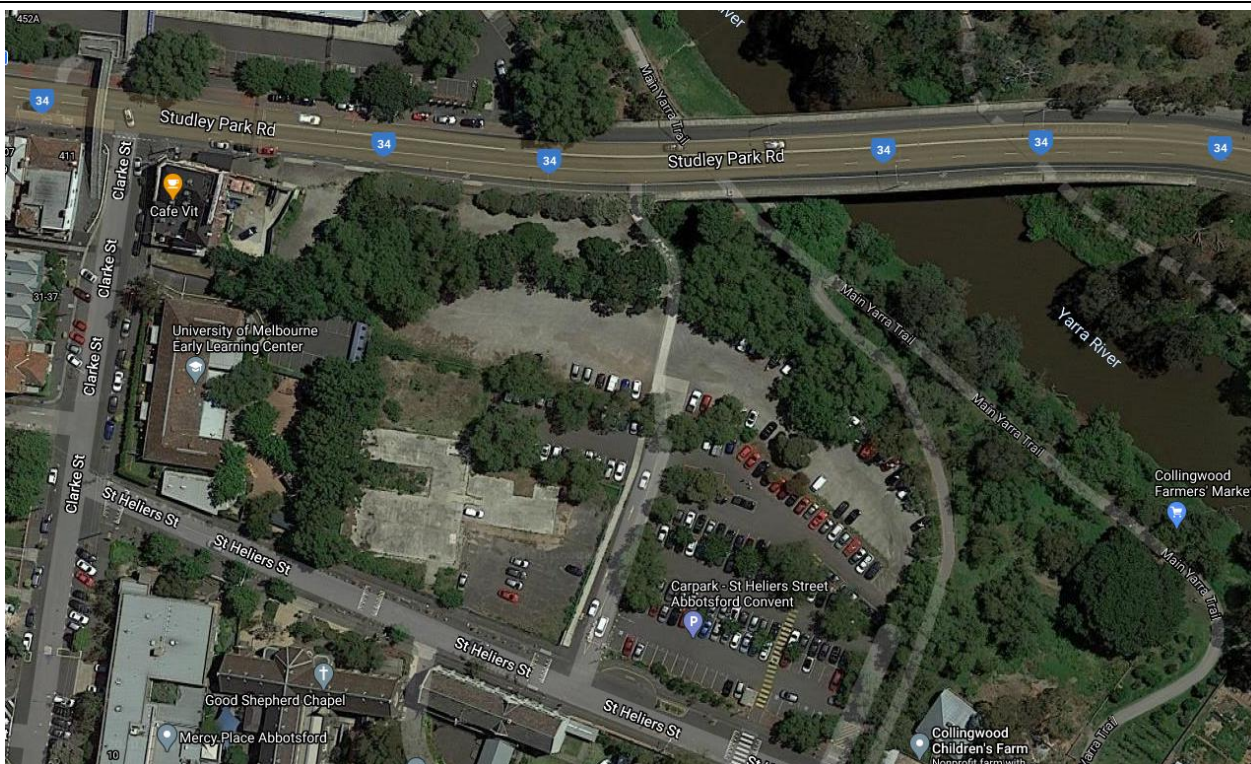


Figure 6. Aerial of Abbotsford Convent precinct identifying Subject Site / car park extracted from Google (map data 2020)

The Johnston Street frontage of the car park includes a steel rail and wire mesh fence and a number of paperbark trees with unused vehicle crossovers and an informal pedestrian entry near the western part of the site frontage.



Figure 7. Subject Site / car park along Johnston Street extracted from Google (image February 2020).

### Surrounding Land

11. In a broad sense, Johnston Street is a main east-west road between Carlton and the Yarra River. At Abbotsford, Johnston Street connects to Studley Park Road, Kew and suburbs to the east. It presently provides two vehicle lanes and a bicycle lane west bound and a bus lane and vehicle lane that is east bound. Johnston Street is a clearway on the south side in the morning period and also on the north side in the afternoon peak period. Two hour parking is available adjacent to the kerb on both sides, outside of the clearway periods. Pedestrian pathways are provided on both sides of Johnston Street.
12. On the north side of Johnston Street commercial activities are predominant. Two large commercial enterprises are located on the northern side between the Yarra River and Trenerry Crescent (i.e. the Computershare site at No. 452 Johnston Street and Glaxo Smith Kline - GSK).

13. The Abbotsford Convent precinct extends over an area of approximately 7 hectares with the southern portion, containing all of the various buildings and gardens that comprise the former convent. The former convent is used as an arts, education and community precinct and is run by the Abbotsford Convent foundation. Markets are held on most weekends and there are a couple of eatery establishments (such as a bakery) within the grounds that operate during the week. The convent consists of several buildings in a landscape setting and is protected by heritage controls from Heritage Victoria. The main lawn area has an outlook over parts of the farm and towards the Yarra River.
14. The Main Yarra Trail used by cyclists and pedestrians is on the west bank of the Yarra River and extends to the north and south, below the Johnston Street bridge to the east of the car park. Further east is the Yarra River as it meanders around the eastern interface of Abbotsford. On the opposite side of the river, land rises steeply and is naturally vegetated with native species. It forms part of Yarra Bend Park, managed by Parks Victoria and located in the City of Boroondara.

### **Planning Scheme Provisions**

#### Zoning

*Special Use Zone (Schedule 4 – Former Convent of the Good Shepherd – St Helier's Street, Abbotsford)*

15. The subject site is located in a Special Use Zone, and is subject to the controls detailed at Schedule 4 at Clause 37.01 of the Yarra Planning Scheme (the Scheme)
16. Pursuant to Schedule 4 at Clause 37.01-4 of the Scheme, a planning permit is required to construct a building or to construct or carry out works, except where they are generally in accordance with the approved Master Plan.
17. Pursuant to Clause 37.01-5 of the Scheme, sign requirements are at Clause 52.05. This zone is in Category 3 – High Amenity areas unless a schedule to this zone specifies a different category.

#### *Abbotsford Convent Master Plan 2004-5*

18. The Abbotsford Convent Master Plan (the 'Master Plan') is referenced in the Special Use Zone, Schedule 4 and the Significant Landscape Overlay, Schedule 1. The Master Plan area applies to the land owned by the Abbotsford Convent Foundation to the north and south of St Heliers Street as shown below:

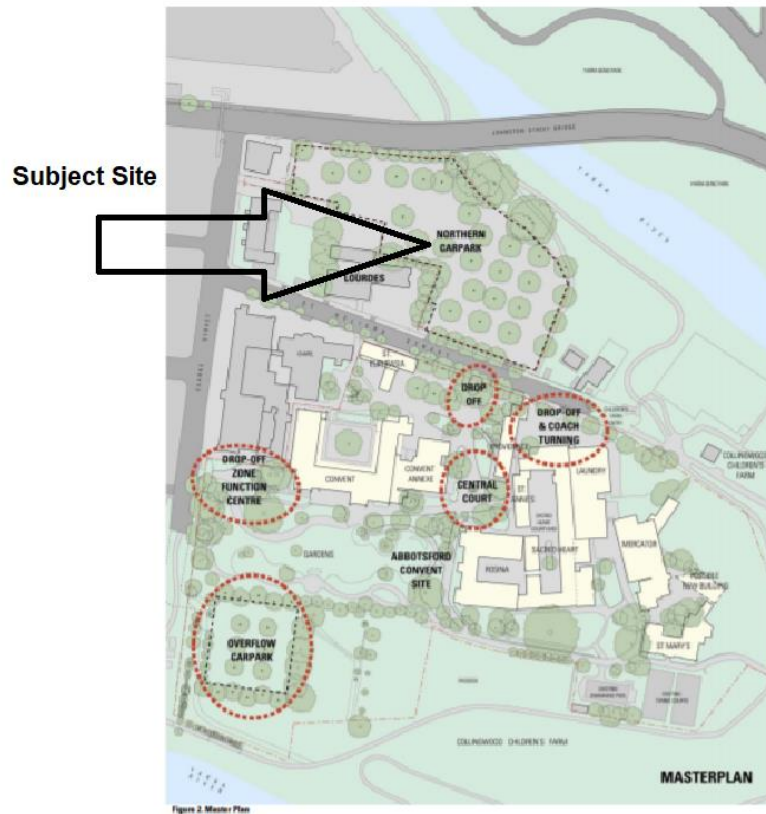


Figure 8. Abbotsford Convent Master Plan with car park area / subject site identified.

19. The master plan identifies the subject site as the principal carpark for the precinct and that *the amount of carparking provided on site as of 29 September 2005 is sufficient to meet the parking requirement of the Special Use Zone 4. It also anticipates that the current provision will be increased in a series of stages as funding permits and demand requires, such that adequate carparking is provided for the tenants on site at any time throughout the development of the precinct.*

Road Zone – Category 1 (RZ1)

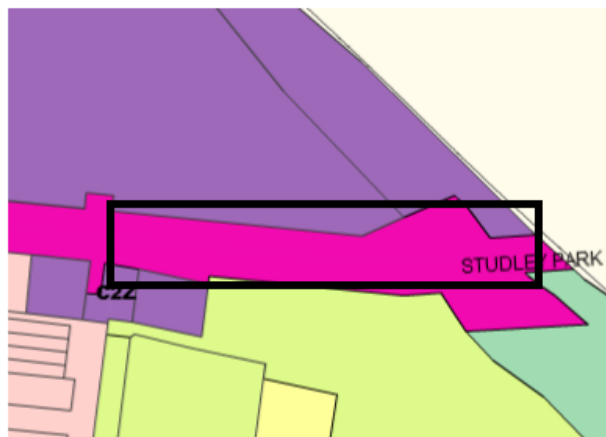


Figure 9. Road Zone identified in pink with portion of Subject Site in lime green to the south identifying Special Use Zone.

20. Pursuant to Clause 36.04-2 of the Scheme, a planning permit is required to construct or carry out works for a use in Section 2 of Clause 26.04-1 of the Scheme. Pursuant to Clause 62.01 the use of land for a Road does not require a permit. The road segment pertaining to Johnston Street is a Section 1 use and the roadworks do not require a planning permit under this zone.

However, there is a planning permit requirement for the removal of any trees in the road reserve (13 street trees) and any works adjacent to a road reserve are addressed separately.

### Overlays

*Heritage Overlay, Schedule 9 (part Victorian Heritage Register – VHR H0951)*

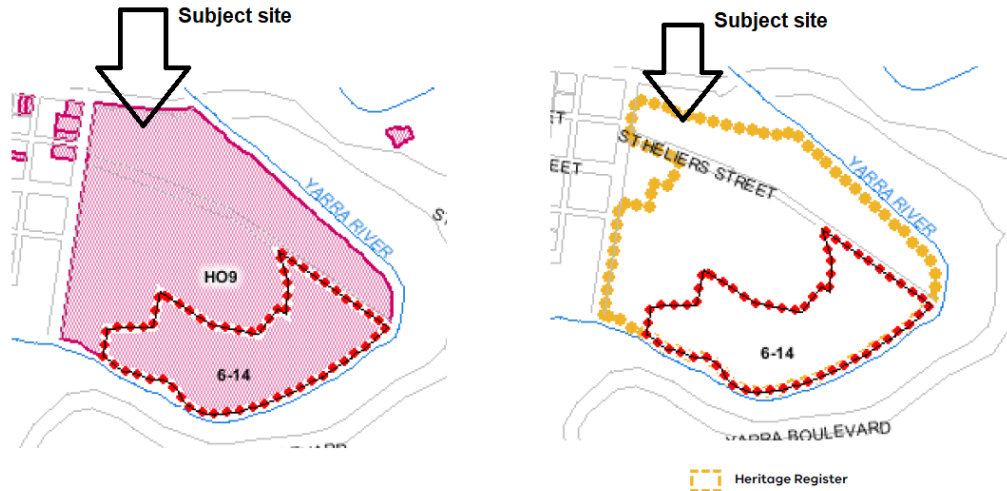


Figure 10. Heritage Overlay area and area included in the Victorian Heritage Register

21. Under Cause 43.01-1 of the Scheme, a permit is required for roadworks which change the appearance of a heritage place or which are not generally undertaken to the same details, specifications and materials. The southern part of the site is on the Victorian Heritage Register and clause 43.01-3 of the Scheme states that no permit is required under this overlay 'To develop a heritage place which is included in the Victorian Heritage Register...'. However, the permit applicant will require separate permission from Heritage Victoria for the works.
22. The City of Yarra Review of Heritage Overlay Areas 2007 does not grade the subject site, being the car park, presumably as part of the site is on the Victoria Heritage Register. That said, permission under the Heritage Overlay is limited to northern section and street furniture such as the traffic signals and areas for art installations, including the construction and display of a sign.

*Significant Landscape Overlay – Schedule 1 (SLO1 – Yarra (Birrarung) River Corridor Environs)*

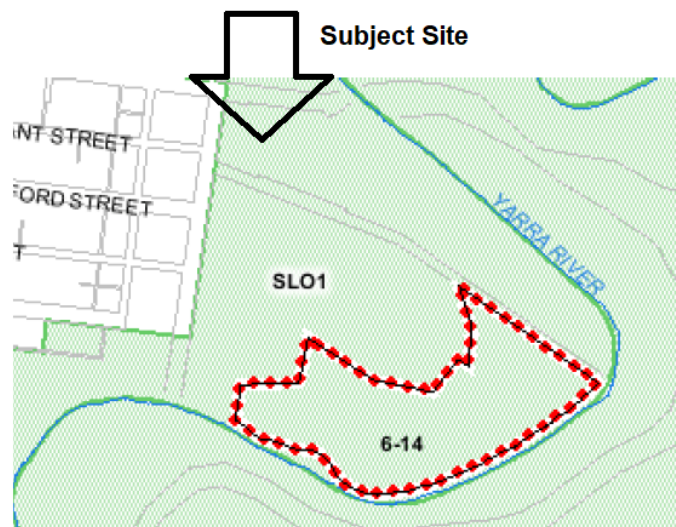


Figure 11. Significant Landscape Overlay in green

23. Pursuant to Clause 42.03-2 of the Scheme, a planning permit is required to construct a building or construct or carry out works, including fencing.

24. Clause 62.02-2 - *Buildings and works not requiring a permit unless specifically required by the planning scheme* specifically exempts roadworks and street furniture including postboxes, telephone booths, fire hydrants, bus shelters, shade sails, traffic control devices and public toilets on the road reserve.

Particular Provisions

*Clause 52.05 – Signs (Category 3 – High Amenity Areas)*

25. Pursuant to Clause 52.05-13 of the Scheme, a business identification sign is a Section 2 – permit required sign.

*Clause 52.16 – Native Vegetation Precinct Plan.*

26. Clause 52.16-1 specifies that this clause applies to land if a native vegetation precinct plan corresponding to that land is incorporated into this scheme and listed in the schedule to this clause. This does not apply to the subject area.

*Clause 52.17 – Native Vegetation*

27. Pursuant to clause 52.17-1 a permit is required to remove, destroy or lop native vegetation, including dead native vegetation. This does not apply:
- (a) If the table to Clause 52.17-7 specifically states that a permit is not required.
  - (b) If a native vegetation precinct plan corresponding to the land is incorporated in to this scheme and listed in the schedule to Clause 52.16.
  - (c) To the removal, destruction or lopping of native vegetation specified in the schedule to this clause.
28. The Arboricultural Assessment and Report by Glen Waters Arboriculture accompanying this application identifies eight Victorian Native trees to be removed those being #23 — in St Heliers St, #51, #58, #59, #61, #76, #79 and #89 and their removal is a further trigger for a planning permit under this clause.
29. Pursuant to Clause 52.17-2, an application to remove, destroy or lop native vegetation must comply with the application requirements specified in the *Guidelines for the removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning 2017).
30. Clause 52.17-5 specifies the need to provide new planting to offset native vegetation losses. *Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road*
31. Pursuant to Clause 52.29 of the Scheme, a planning permit is required to create or alter access to a road in Road Zone Category 1 and an application must be referred to the Roads Corporation, in this instance being VicRoads. VicRoads has provided a response indicating support for the application subject to conditions.

General Provisions

*Clause 65 – Decision Guidelines*

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

Planning Policy Framework (PPF)

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

*Clause 12.01-1S – Protection of biodiversity*

34. A relevant objective is *“to assist the protection and conservation of Victoria’s biodiversity”*.  
*Clause 12.01-2S – Native vegetation management*
35. A relevant objective is *“to ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation”*.  
*Clause 12.03-1R – Yarra River Protection*
36. The objective of this clause is *to maintain and enhance the natural landscape character of the Yarra River corridor*.  
*Clause 12.03-1S – River corridors, waterways, lakes and wetlands*
37. A relevant objective is *“to protect and enhance river corridors, waterways, lakes and wetlands”*.  
*Clause 12.05-1S - Environmentally sensitive areas*
38. The objective of this clause is *to protect and conserve environmentally sensitive areas*.  
*Clause 15.01-1S – Urban Environment*
39. The relevant objective of this clause is *“to create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity”*.  
*Clause 15.03-1S - Heritage conservation*
40. The objective of this clause is *to ensure the conservation of places of heritage significance*.  
*Clause 18.02-3S - Road system*
41. The objective of this clause is *to manage the road system to achieve integration, choice and balance by developing an efficient and safe network and making the most of existing infrastructure*.  
Local Planning Policy Framework (LPPF)  
*Clause 21 – Municipal Strategic Statements (MSS)*  
*Clause 21.05-1 – Heritage*
42. A relevant objective of this clause is *to protect and enhance Yarra's heritage places*.  
*Clause 21.06 – Transport*
43. The relevant objective of this clause is *‘to provide safe and convenient pedestrian and bicycle environments’*.  
*Clause 21.07-2 – Yarra River, Merri Creek and Darebin Creek*
44. The objectives of this Clause are:  
(a) *To balance the ecological and recreational potential of the waterway Corridors; and*  
(b) *To protect and enhance the environmental values of land within the waterway Corridors; and*  
*Clause 21.08 – Neighbourhoods*
45. The following is a relevant section extracted from within the description of Abbotsford:  
(a) *The Collingwood Children’s Farm and the Abbotsford Convent site comprise a regional arts and cultural destination. Care must be taken that future development of these facilities do not compromise the amenity of nearby residential areas.*
46. The relevant built form strategy is *to ensure that development does not adversely affect the significance of the heritage place*.  
Relevant Local Policies  
*Clause 22.02 – Development Guidelines for Sites Subject to the Heritage Overlay*
47. This clause has the following objectives:  
(a) *To conserve Yarra’s natural and cultural heritage.*
-

- (b) *To conserve the historic fabric and maintain the integrity of places of cultural heritage significance.*
- (c) *To retain significant view lines to, and vistas of, heritage places.*
- (d) *To preserve the scale and pattern of streetscapes in heritage places.*
- (e) *To encourage the preservation, maintenance, restoration and where appropriate, reconstruction of heritage places.*
- (f) *To ensure the adaptation of heritage places is consistent with the principles of good conservation practice.*
- (g) *To ensure that additions and new works to a heritage place respect the significance of the place.*
- (h) *To encourage the retention of 'individually significant' and 'contributory' heritage places.*
- (i) *To protect archaeological sites of cultural heritage significance.*

*Clause 22.02-5.1 - Demolition*

*Full Demolition or Removal of a Building*

48. A relevant objective of this clause is to *encourage the retention of original street furniture and bluestone road or laneway materials and details (where relevant).*

*Clause 22.04 – Advertising Signs Policy*

49. The objectives of this clause are:

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

*Clause 22.08 – Protection of biodiversity*

50. The objectives of Clause 22.08-2 of the Scheme are:

- (a) *To protect and enhance Yarra's natural biodiversity.*
- (b) *To protect the long-term survival and viability of remnant vegetation.*
- (c) *To ensure the survival of indigenous species.*
- (d) *To minimise the impacts of introduced flora and fauna on indigenous vegetation.*
- (e) *To manage sites to allow for the natural regeneration of indigenous vegetation.*

Other relevant legislation

*Aboriginal Heritage Act 2006 - Cultural Heritage Management Plan (CHMP)*

51. The subject site is located within an area of cultural heritage sensitivity. The permit applicant in response to this component, provided a Desktop Historical Archaeological Assessment regarding archaeological structural remains and artefact deposits prepared by Ochre Imprints. As indicated earlier, part of this land is within the registered extent of the former Convent of the Good Shepherd which is listed on the Victorian Heritage Register as place H0951.
52. The concluding statement relating to the desktop analysis indicated that the greatest historical archaeological sensitivity is in the southern component of the carpark where there *may be archaeological structural remains and artefact deposits relating to its occupation from the mid nineteenth century to the early decades of the twentieth century.* This is recognised in the VHR listing which includes this area in the boundary of the site.

*This area also accords with the least amount of fill on the earlier surface which means that any subterranean excavation for services, bollards, paths and relaying the surface of the carpark may have an impact on historical archaeological deposits.*

53. In relaying this conclusion, Ochre Imprints indicated that *where works are not able to be confined to existing fill, a permit application will be required for impacts to the VHR:*
- (a) *The Permit application for VHR must outline management strategies for historical archaeology.*
54. *If it is likely that works will impact archaeologically sensitive deposits, a meeting will be required with Heritage Victoria to develop strategies for managing any archaeological deposits in the context of the excavation activity:*
- (a) *HV may require test excavation in advance of development activities or monitoring during works if the works are minor*
55. With the above in mind a note will remind the permit holder that separate permissions from Heritage Victoria must be sought.

### **Advertising**

56. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 936 letters sent to surrounding owners and occupiers and by 5 signs displayed on site.
57. Council received 2 objections and 1 letter of support, the grounds of which are summarised as follows:
- (a) Traffic and car parking as a result of the reduction in the number of parking bays currently provided;
- (b) No area designated as a pick-up and delivery area;
- (c) The lack of a pedestrian crossing on Clarke Street results in inappropriate pedestrian behaviour; and
- (d) Dumping of rubbish on surrounding streets.
58. One objector, like the supporter, expressed their support of the relocation of the primary entrance to Johnston Street and away from St Heliers Street given that this would re-direct traffic to Johnston Street and away from residential streets to the west of the convent.

### **Referrals**

#### External Referrals

59. Department of Transport.

#### Internal Referrals

60. The application was referred to the following units within Council:
- (a) Engineering Services Unit;
- (b) Arborist; and
- (c) Strategic Transport Unit.
61. Referral comments are included as attachments to this report.

### **OFFICER ASSESSMENT**

62. The primary considerations for this application are as follows:
- (a) Policy and Strategic Policy;
- (b) Heritage;
- (c) Special Use Zone (SUZ) and Abbotsford Convent Master Plan;
- (d) Car Park Layout;
- (e) Significance Landscape Overlay (SLO);

- (f) Business identification sign (Clauses 52.05 and 22.04) and
- (g) Objections.

Policy and Strategic Support

- 63. It is the objective of clause 11.02-1S of the Scheme *“to ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.”* This is further complemented with clause 19.02-3R which seeks to *“Maintain and strengthen Melbourne’s distinctiveness as a leading cultural and sporting city with world-class facilities”*
- 64. The subject site is an existing outdoor open air car park tailored to the car parking needs of the Abbotsford Convent that is used as an arts, education and community precinct and is run by the Abbotsford Convent foundation. With markets being a principal use of the weekends and eatery establishments (such as a bakery) within the grounds that operate during the week, the car park plays a significant part in assisting the operation of the Abbotsford Convent’s array of uses.

Heritage

- 65. With the exception of vegetation removal that will be considered in a later section, the extent of demolition within the northern part of the car park is fully supported from a heritage perspective as it does not involve the removal of any significant or contributory element connected to the precinct.
- 66. It is submitted that various elements as these relate to the roadworks are considered to not be a subject relevant to the heritage provisions as these will not 'change the appearance of a heritage place'. In relation to H09, and the locations of the art installations (sculptures) and sign, the northern part faces Johnston Street which is part of a busy main road on the perimeter of the Convent precinct and these elements are considered and supported from a heritage perspective.
- 67. The location of the sign and areas intended for the art installations, location do not make a contribution to the Abbotsford Convent heritage buildings and the proposed road and infrastructure works will have no impact on its significance or cultural importance in this regard given the separation distance and location adjacent Johnston Street. For reasons detailed under the following heading, the locations of the traffic lights, the boom gates, and car park entrance in general is supported.
- 68. From a heritage perspective, it is reiterated that separate permissions with further regard to the *Aboriginal Heritage Act 2006* will be required to be sought from Heritage Victoria before any works can proceed.

Special Use Zone (SUZ) and Abbotsford Convent Master Plan

- 69. The SUZ decision guidelines directs the Responsible Authority to focus on the provision of landscaping and the possible effect the proposed buildings and works have on the amenity of the neighbourhood. It also aims to implement the Abbotsford Convent Master Plan at Schedule 4. The car park is a key component for the operation of the Convent and adjacent community areas and public spaces. Some of the key findings in the Master Plan include:
  - (a) *The need for public awareness, access, circulation networks/paths and car parking should also address the needs of users of the convent and those of current and potential users of other attractions in the locality.*
  - (b) *The entry procedure requires careful management from the arrival point to build an awareness of the landscape.*
  - (c) *Carparking should be concentrated in one or two areas and be landscaped to properly recognise vistas, sightlines, heritage features and the landscape.*

70. The Master Plan objectives include:

- (a) *encouraging public access,*
- (b) *providing car parking in a practical, efficient and unobtrusive manner and*
- (c) *providing access points (to the precinct) around the perimeter of the site.*

71. The proposal includes demolition works associated with the existing car park surface and vegetation removal to allow for access changes to align the existing entry/exit to the traffic signals approved as part of the Stage 1 works associated with the Computershare site under planning permit No. PLN19/0693.

These works, together with the signalization of this entry point will facilitate safer movement of vehicles and pedestrians in and out of the car park from Johnston Street. The removal of the vehicle access point from St Heliers Street, has been considered and supported by Council's Engineer further indicating that the two boom gates would be providing sufficient queuing storage without impacting the operation of Johnston Street.

72. The details of the Master Plan in relation to 'Vehicle Circulation & Car Parking' identified Clarke Street and St Heliers Street as the access point to the car park, it also indicates that signalization of the Clarke Street /Johnston Street could occur and that the principal car park on the north side of St Heliers St 'should be sufficient to meet the car parking requirements of Special Use Zone 4.'

73. The permit applicant has indicated that an analysis of various options to provide better vehicle access to the Convent precinct, subsequent to the approval of the Master Plan, by GTA/Cardno has concluded that the creation of a new entry directly from Johnston Street into the car park provides the best traffic management solution. The Transport Impact Assessment report by One Mile Grid, also assesses the proposed car parking provision and concludes it is adequate and consistent with state and local planning policy. Council's Engineer has also reviewed the plans and report and supports this location, including the reconfiguration and onsite, line-marked provision of 212 car spaces.

74. The Master Plan also provides guidance on the 'front door' of the precinct and visitor circulation. It notes that the ACF is committed to a vehicle free pedestrian zone with car parking at the periphery of the site. It is intended that the pedestrian zone within the precinct will tie into the local pedestrian and cycle path network along the east side of the car park.

75. It is agreed by Council Officers that the new car park entry, provides a major opportunity to better promote the precinct's identity, and establish a type of gateway to the north of a non-sensitive interface, and in a location well removed from the heritage graded, buildings within the Abbotsford Convent complex.

76. The provision of an art/sculptural installation and integrated business identification sign, will better identify the subject site as a cultural arts precinct stitching the car park to the broader complex through enhancing the identity of the entrance and directing traffic to the north of the car park, away from Clarke Street to the west and St Heliers Street to the south. The pathways to be provided facilitate direct connections between the local pathway networks to the north and south and west of the river. Overall, it is considered that the proposal is consistent with policy embedded in the SUZ and consistent with the purpose and intent of the Master Plan.

77. It is submitted that the works proposed will have no impact on the River's landscape, will not affect the river function nor cause any visual intrusion. The infrastructure to be provided relates to functional and safety requirements, surface treatment and will primarily occur with the road reserve of Johnston Street and within the car park.

78. The roadworks proposed within the Johnston Street road reserve do not require a permit in respect of the Road Zone 1 (Clause 62.01), but are subject to the permit requirements under Clause 42.03 Significant Landscape Overlay, Schedule 1. SLO1 relates to the Yarra River environs and primary concerns (and decision guidelines) of the overlay provisions are vegetation removal and the maintenance of the river corridor landscape quality. These matters will be considered later in the report.

### Car Park Layout

79. The works proposed to provide the intersection are associated with traffic control and main road management and entrance into and out of the car park and new road and paving, including boom gates will not have any material impact on the overall landscape quality of the Yarra River corridor. Council's Engineer is in full support of the layout with regard to the car park entrance via Johnston Street, control of the intersection with car park boom gates, the at-grade spaces and aisle widths and has provided advice in relation to each component as attached to this report, and demonstrate full compliance with the provisions at Clause 52.29 of the Scheme.

The works include a new vehicle entry and modifications to align the car park (lane marking and signal activation) with the entrance point to the Computershare site to the north of Johnston Street. These works, together with the signalization of this entry point will facilitate safer movement of vehicles and pedestrians.

80. The roadworks proposed within the Johnston Street road reserve do not require a permit in respect of the Road Zone 1 (Clause 62.01), but are subject to the permit requirements under Clause 42.03 Significant Landscape Overlay, Schedule 1. SLO1 also applies to the car park, and even more broadly the Abbotsford Convent Precinct. SLO1 relates to the Yarra River environs and primary concerns (and decision guidelines) of the overlay provisions are vegetation removal and the maintenance of the river corridor landscape quality.
81. In relation to H09, the identified works are all limited to the area of the car park that does not make a contribution to the Abbotsford Convent heritage buildings. As such, the proposed road and infrastructure works will have no impact on the site significance or cultural importance in this regard. In relation to Clause 52.29 of the Scheme, the proposed introduction of the proposed roadworks to facilitate a new vehicle entrance and the impact of this new intersection on the operation of Johnston Street has been supported by Council's Engineering Services Unit. The Department of Transport have also provided advice in support subject to conditions that can form part of any planning permit.

### Significant Landscape Overlay

82. With regard to vegetation removal, it is proposed to remove 13 "Melaleuca linarifolia" trees along the Johnston Street frontage/ south side of the road reserve, and 49 trees within the car park.
83. Landscape character objectives outlined in Schedule 1 to the SLO which are relevant to this application aim;
- (a) *To protect and enhance the natural landscape character of the Yarra River corridor where the river, its topography, adjacent public open space and a continuous corridor of vegetation and canopy trees are the dominant features;*
  - (b) *To protect, rehabilitate and expand a continuous corridor of riparian and indigenous vegetation using appropriate indigenous species;*
  - (c) *To protect and enhance both terrestrial and aquatic habitat to allow the movement of wildlife within the Yarra River corridor; and,*
  - (d) *To retain exotic vegetation of heritage or neighbourhood character where it contributes to landscape significance.*
84. An arborist report, prepared by Glenn Waters (dated 14 March 2020) outlined the inspection of 109 trees forming the combined number of those in the Johnston Street reserve and within the carpark. From this inspection, 62 trees have been identified for removal, with some identified as being Victorian natives (i.e. # 76 #79 and #89 Sweet Pittosporum #51, #58, and #59 Gossamer Wattles, #61 Coast Wattle, #23 Sweet Bursaria x 1)

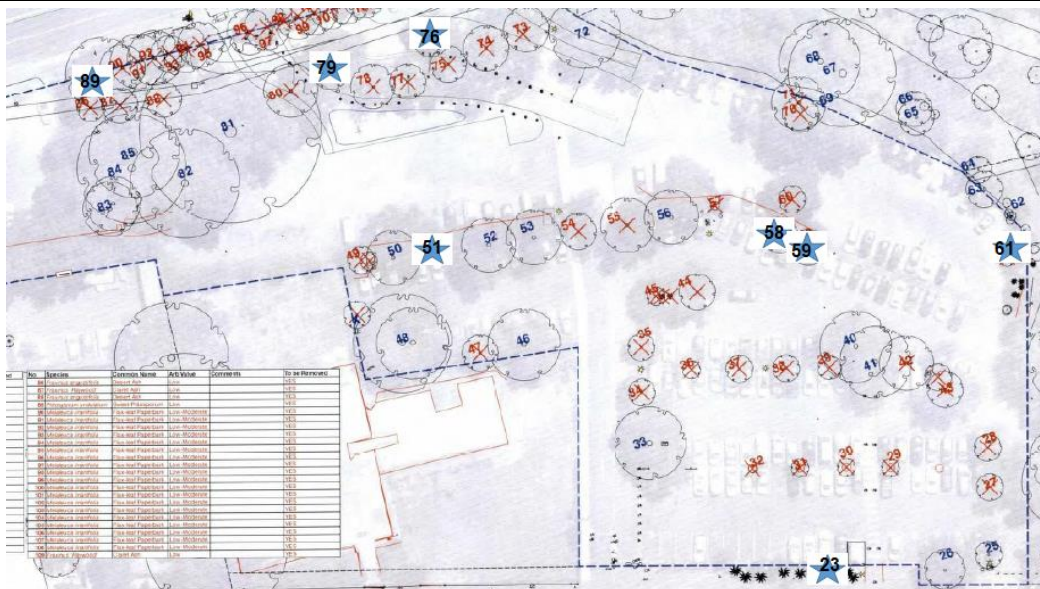


Figure 13. Tree removal plan with emphasis on the locations of native trees to Victoria.

85. The arborist report submitted with the application identifies that the Gossamer and Coast Wattles are a recognised 'weed' species. The remainder have been identified as having low to moderate health with low arboricultural value.
86. In terms of a weed species, this is defined as any plant that requires some form of action to reduce its effect on the economy, the environment, human health and amenity. Weeds are also known as invasive plants. Weeds typically produce large numbers of seeds, assisting their spread. They are often excellent at surviving and reproducing in disturbed environments and are commonly the first species to colonise and dominate in these conditions. A weed can be an exotic species or a native species that colonises and persists in an ecosystem in which it did not previously exist. Weeds can inhabit all environments; from our towns and cities through to our oceans, deserts and alpine areas.
87. A 'common' species is a plant that is 'common to the surrounding area' and not classified as a 'weed'.
88. Given the nature of the Abbotsford Convent complex and the fact that it is a hub for the arts, an upgrade to the car park that reduces traffic volumes along St Heliers Street and directs traffic to and from Johnston Street, is a much expected and better outcome. As such, the removal of trees to facilitate the renewal of the car park is supported.
89. Council's Arborist has reviewed the arborist report submitted with the application and has no objection to the vegetation removal and whilst any vegetation loss is unfortunate, there is significant landscaping throughout to absorb the vegetation removal proposed and still provide sufficient habitat to wildlife and maintain the landscaped interface to the Yarra River. No trees immediately adjacent to the Yarra River are proposed to be removed or disturbed, ensuring little if any effect on the habitat value, wildlife corridor and long term viability of remnant and revegetated areas along the River corridor. The proposed works will not affect the future enjoyment of the area by the community as all works will be contained with the car park and road reserve along Johnston Street to the north of the car park.
90. Council's Arborist was generally supportive of the proposal and has made some requests that can be addressed with conditions (i.e. Tree Management Plans, a tree and planting plans, and management plan or any filtration beds).

*Clause 52.17 (Native vegetation)*

There are eight trees identified as native to Victoria that are proposed to be removed. These trees require consideration under Clause 52.17 (Native Vegetation) of the Scheme. The purpose of clause 52.17 is *to ensure permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity.*

Where vegetation is permitted to be removed, this provision seeks to ensure than an offset is provided in a manner that makes a contribution to Victoria's diversity equivalent to the contribution made by the native vegetation to be removed. Information on how to determine these offset requirements are provided within the *Guidelines for the removal, destruction or lopping of native vegetation* (DELWP, December 2017).

91. An assessment by Council officers suggests that the biodiversity value of the trees to be removed is low, given there are eight native trees proposed for removal with three identified as weeds, and potentially harmful, therefore reducing the more accepted number to five. To off-set this loss, the application proposes the planting of a total of 105 replacement trees that include 86 canopy trees (Eucalyptus - Red Gum, Yellow Box, Red Box) up to 30m height on maturity and 19 smaller trees (Acacia and Oak) of 8 - 9m height on maturity. All trees to be planted are Victorian native species and therefore appropriate to the biodiversity of this riverside locality. A range of grasses and groundcover is also proposed as part of the landscape works. To confirm that this accords with the *Guidelines for the removal, destruction or lopping of native vegetation* (DELWP, December 2017), a condition will require the submission of a Biodiversity Report to be prepared by a qualified ecologist for endorsement.
92. The landscaping anticipated as part of the tree replacement and offset for any vegetation loss will re-establish a connection with the landscaping of the surrounding environs, and made even stronger with the removal of weed species and introduction of many more trees native to Victoria. This is a significant improvement on the natural environs of the car park, but also the River, in terms of re-establishing its connection with wildlife.
93. Council's Arborist has also requested the need for a Tree Management Plan to be included as a condition of any approval. This will ensure that all tree protection zones and root systems of existing trees to be retained are identified and protected during and excavation, resurfacing and associated buildings and works to make way for the renewal of the car park.
94. In further response to the removal and more specifically the protection of wildlife, a condition will also require that a qualified zoologist inspect the trees to determine if there are any fauna present, and if so, a Wildlife Management Report be submitted to Council for endorsement.

Business identification sign (Clauses 52.05 and 22.04)

95. The business identification sign to Johnston Street is only 3sq.m.in area and will appropriately confirm this is the car park entrance to the Abbotsford Convent. The car park entrance is further highlighted by the traffic signals and the art installations (sculptural elements) and a larger sign is unnecessary. This sign is considered to comply with the objectives at Clause 22.04-2 and 52.05 as it will not result in visual clutter, or compete with surrounding business signs or cause loss to the amenity or safety of the road. Conditions ensuring no flashing or intermittent light and no illumination by external or internal light will also be included relating to the sign and art installations.

Other Matters

96. Council's Strategic Transport Unit raised some concerns relating to an emergency exit and removable bollards to the south of the carpark, along St Heliers Street. The presence of trees on the proposed plans makes this space unusable and a condition will require the deletion of plan notations relating to this or the plans adjusted to ensure the function of this intended use.
97. It was further indicated that the plans should be further adjusted to accurately reflect the existing conditions i.e. the deletion of the bike hoops to the east as these were removed in 2018. This can also be addressed with a condition. Further concerns were raised about the existing conditions plan omitting detail relating to the vehicle entrance to the car park via St Heliers Street and a zebra crossing. The vehicle entrance is in fact, shown on the plans and the zebra crossing is shown on the proposed plans.

Objections

98. Following is a response in relation to the issues which have been raised by the objectors:

- (a) Traffic and car parking as a result of the reduction in the number of parking bays currently provided;
- (b) No area designated as a pick-up and delivery area;

99. The existing car park contains a mix of formal and informal car spaces, with approximately 112 car spaces formally set out and delineated in the southern portion of the car park. It has been suggested that the car park provides over 300 spaces, but this is anecdotal as the car spaces beyond the 112, are not line marked. The current application will renew the car park and will line mark this and provide a formal 212 space, being 100 more spaces than that currently formally provided on site. This number also includes 6 accessible spaces and 2 short terms pick up / drop off spaces directly opposite Convent buildings, and St Heliers Street (see Figure 12 below).

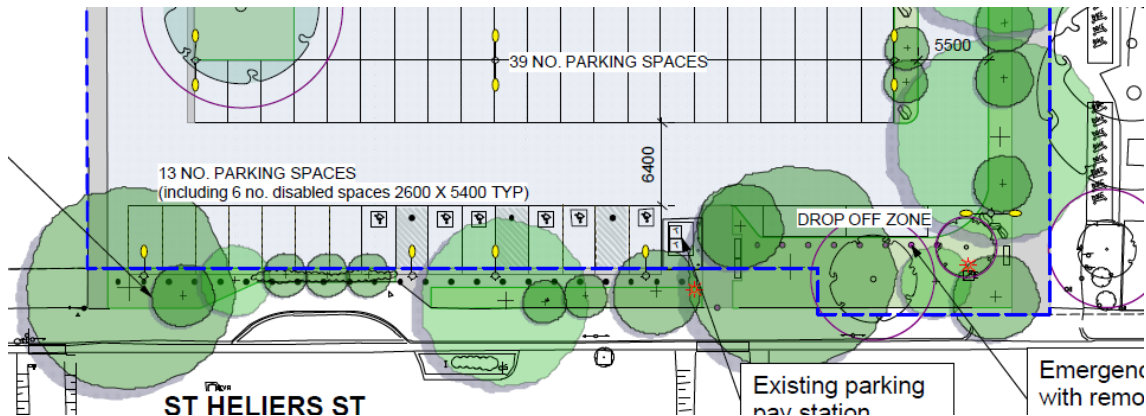


Figure 12. Extracted from Stage 2 – Proposed Works Plan showing 6 accessible spaces and 2 short terms pick up / drop off spaces.

- (c) The lack of a pedestrian crossing on Clarke Street results in inappropriate pedestrian behaviour; and
  - (d) Dumping of rubbish on surrounding streets.
96. The above concerns raised relate to patron behaviour and conduct and are not planning considerations. The car park will not generate any waste relating to rubbish and the lack of a pedestrian crossing is not a reason for unruly pedestrian behaviour, nor is it a solution. Unruly behaviour should be policed.

## Conclusion

97. The proposal to carry out works in order to create a signalized intersection on Johnston Street, Abbotsford and provide improved access to the car park is consistent with the objectives of the Scheme and therefore supported from a planning perspective. The roadworks are also supported on the basis that any permit issued includes the conditions as required by the Department of Transport and Council's internal departments.
98. The proposed development is considered to demonstrate a high level of compliance with policy objectives contained within the Planning Policy Framework and Municipal Strategic Statement and the *Abbotsford Convent Master Plan*. Notably, subject to the conditions in the recommendation section of this report, the proposal is an acceptable planning outcome that demonstrates clear compliance with the relevant Council policies and should therefore be supported.

## RECOMMENDATION

1. That having considered all objections and relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant a Planning Permit (PLN20/0245) for part demolition and removal of vegetation, to allow for upgrade works to extend / renew the existing car park, including a new vehicle entrance and modification of a road in a road zone at 6-14 St Heliers Street, Abbotsford generally in accordance with the plans received by Council and noted previously as the “decision plans” and subject to the following conditions:

### Amended Plans

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the decision plans (plans prepared by Urban Initiatives and received by Council on 22 April 2020) but modified to show / include the following:
  - (a) The deletion of plan notations relating to the “emergency exit” in the southern part of the car park or the plans adjusted appropriately to ensure the function of the “emergency exit”.
  - (b) The existing conditions and proposed plans to accurately reflect the true conditions of the area (i.e. deletion of bike hoops to the east).

### Reports

- (c) Any requirement of the Department of Transport’s conditions (conditions 6-8) (where relevant to show on plans).
- (d) Any requirement of the endorsed Arboricultural report (condition 9) (where relevant to show on plans).
- (e) Any requirement of the endorsed Biodiversity report (condition 11) (where relevant to show on plans).
- (f) Any requirement of an approved Cultural Heritage Management Plan approved by Heritage Victoria and plans identical to those endorsed by Heritage Victoria.

### General

2. All buildings and works and roadworks as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. Any damage to road(s) and footpath(s) or other Council infrastructure as a result of any buildings and works / roadworks endorsed must be reinstated to the satisfaction of the Responsible Authority.
4. The amenity of the area must not, to the satisfaction of the Responsible Authority, be detrimentally affected by the buildings and works / roadworks including through:
  - (a) The transport of materials, goods or commodities to or from land.
  - (b) The appearance of any roadworks.
  - (c) The emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
  - (d) The presence of vermin.
5. All buildings and works / roadworks must be maintained in good order and appearance to the satisfaction of the Responsible Authority.

Department of Transport's Conditions (6 – 8)

6. The buildings and works including associated roadworks must be in general accordance with the Traffic Signal Plan, Drawing number 691978, Site no. 3323 and Drawings 692465 Revision 8 dated 4 March 2019 Sheets 1 to 4 respectively, to the satisfaction of and at no cost to the Head, Transport for Victoria.
7. Prior to the occupation of the car park the following roadworks on Johnston Street must be completed at no cost to and/or to the satisfaction of the Head, Transport for Victoria:
  - (a) The modification, relocation, upgrade and remediation works of various elements of the access where it intersects Johnston Street, including any such remedial works associated with the operation of the carpark, inclusions or changes to the pedestrian crossing, bicycle line marking, road line marking, signage, signal hardware and associated road works at Johnston Street.
8. All disused or redundant vehicle crossings must be removed and the area reinstated to kerb, channel and footpath to the satisfaction of and at no cost to Head, Transport for Victoria prior to the occupation of the buildings hereby approved.

Amended Arboricultural Report

9. Before the removal of any trees, an amended Arboricultural Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Arboricultural Report will be endorsed and will form part of this permit. The amended Arboricultural Report must be generally in accordance with the Arboricultural Report prepared by Glenn Waters (dated 14 March 2020) but modified to include (or show):
  - (a) A Tree Management Plan, prepared by a suitably qualified arborist that at a minimum:
    - (i) Provides an inspection schedule that includes site inspections during construction.
    - (ii) Tree protection requirements.
    - (iii) Confirmation that tree protection will not be removed, altered or interfered with, without prior inspection and written authorisation by the project arborist.
    - (iv) Confirms that the project arborist will oversee all excavation and demolition works within identified Tree Protection Zones.
    - (v) Shows TPZ fencing on plan.
  - (b) A Tree Plan that identifies the location of all proposed trees by species.
  - (c) A Planting plan that identifies vegetation as being of Local Provenance.
  - (d) A management plan for the filtration beds and identified useful life span.
10. The provisions, recommendations and requirements of the endorsed Arboricultural Report must be complied with and implemented to the satisfaction of the Responsible Authority.

Biodiversity Report

11. Before the development commences, a Biodiversity Report to the satisfaction of the Responsible Authority must be prepared by a suitably qualified ecologist and must be submitted to and approved by the Responsible Authority. When approved the Biodiversity Report will be endorsed and will form part of this permit. The Biodiversity Report must make recommendations for:
  - (a) Strategic biodiversity score of native vegetation to be removed,;
  - (b) The offset requirement associated with the vegetation removal.

12. The provisions, recommendations and requirements of the endorsed Biodiversity Report must be complied with and implemented to the satisfaction of the Responsible Authority.

Providing net gain offsets

13. In order to offset the removal of the scattered tree approved by this permit, the permit holder must provide a native vegetation offset that meets the following requirements and is in accordance with the *Permitted clearing of native vegetation – Biodiversity assessment guidelines* and the *native vegetation gain scoring manual*: The offset must:
  - (a) Be for a minimum of the general Biodiversity Equivalence Units as identified within the Biodiversity Report pursuant to Condition 11; and
  - (b) have a strategic biodiversity score consistent (or greater than) that identified within the Biodiversity Report pursuant to Condition 11.

Evidence of offset secured

14. Prior to the removal of any vegetation, evidence that an offset has been secured must be provided to the satisfaction of the Responsible Authority. This offset must meet the offset requirements set out in this permit and be in accordance with the requirements of *Permitted clearing of native vegetation – Biodiversity assessment guidelines* and the *native vegetation gain scoring manual*. Offset evidence must include:
  - (a) A credit register extract from the Native Vegetation Credit Register.

Wildlife management

15. Before the removal of any tree approved under this permit, a qualified zoologist must inspect the trees to determine if there are any fauna present, and if so, a Wildlife Management Report must be submitted to and approved by the Responsible Authority, detailing the type of fauna found and measures to be taken to manage these, to the satisfaction of the Responsible Authority. This report must also outline any particular specifications on how and when the trees should be removed to best protect any wildlife present in the trees to be removed and the tree removal will then occur in accordance with the recommendations of the zoologist.
16. A qualified zoologist must be present during the removal of any tree approved under this permit.

Sign and art installation(s)

17. The sign and any art installation(s) must not include any flashing or intermittent light.
18. The sign and any art installation(s) must not be illuminated by external or internal light.
19. The sign and any art installation(s) must be constructed, displayed and maintained to the satisfaction of the Responsible Authority.

Site Management Plan

20. Before the removal of any vegetation approved under this permit, a Site Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed as evidence of its approval. The plan must provide for or include the following:

- (a) a pre-conditions survey (dilapidation report) of the subject site and all adjacent Council roads frontages and nearby road infrastructure;
- (b) protection works necessary to road and other infrastructure (limited to an area reasonably proximate to the site);
- (c) remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site)
- (d) containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build up of matter outside the site,
- (e) on site facilities for vehicle washing;
- (f) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
- (g) Site security;
- (h) preferred arrangements for trucks delivering to the site including delivery and unloading points and expected frequency;
- (i) parking facilities for construction workers;
- (j) measures to ensure that sub-contractors/tradespersons operate in accordance with the Site Management Plan;
- (k) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
- (l) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced; and
- (m) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads.

#### Road Infrastructure

- 21. Before the car park operates, or by such later date as approved in writing by the Responsible Authority, the vehicle intersection and abutting streets must be constructed:
  - (a) in accordance with any requirements or conditions imposed by Council;
  - (b) Demonstrating satisfactory access into and out of the site with a vehicle ground clearance check using the B99 design vehicle, and be fully dimensioned with actual reduced levels (to three decimal places) as per Council's Vehicle Crossing Information Sheet;
  - (c) The vehicle crossing shall be constructed in accordance with Department of Infrastructure's and City of Yarra's requirements and specifications;
  - (d) at the permit holder's cost; and
  - (e) to the satisfaction of the Responsible Authority
- 22. The Permit Holder must obtain the consent of the relevant power authority for the relocation of any power poles. All costs associated with the relocation will be at the Permit Holder's cost.
- 23. Before the car park operates, or by such later date as approved in writing by the Responsible Authority, all building works and connections for underground utility services, any footpath along the property's frontages must be reconstructed (including kerb and channel):
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
- 24. Before the car park operates, or by such later date as approved in writing by the Responsible Authority, the full width road pavements surrounding the site, must be profiled and re-sheeted:
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.

25. Before the car park operates, or by such later date as approved in writing by the Responsible Authority, any isolated areas of road pavement failure as a consequence of construction traffic impacts must be reconstructed:
- (a) at the permit holder's cost;
  - (b) to the satisfaction of any other relevant authority; and
  - (c) to the satisfaction of the Responsible Authority.
26. Before the car park operates, or by such later date as approved in writing by the Responsible Authority the relocation of any service poles, structures or pits necessary to facilitate the car park must be undertaken:
- (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
27. Before the car park operates, or by such later date as approved in writing by the Responsible Authority, any redundant vehicular crossing must be demolished and re-instated as standard footpath and kerb and channel:
- (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.

#### Lighting

28. Before the car park operates, or by such later date as approved in writing by the Responsible Authority, a public lighting design scheme along the car park's road frontages and within, demonstrating adequate lighting levels for pedestrians as per Australian Standard requirements must be submitted to and approved by the Responsible Authority. Notations must confirm that the lighting scheme has been approved by CitiPower and all lighting infrastructure and hardware will be funded by the Permit Holder.
29. Before the car park operates, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the pedestrian and vehicular entrances must be provided on the subject site. Lighting must be:
- (a) located;
  - (b) directed;
  - (c) shielded; and
  - (d) of limited intensity
- to the satisfaction of the Responsible Authority.

#### Time expiry

30. This permit will expire if:
- (a) The demolition / buildings and works / roadworks are not commenced within two years of the date of this permit; and
  - (b) The buildings and works / roadworks is not completed within four years of the date of this permit.
  - (c) The signage component and art installation(s) of this permit expire 15 years from the date of the permit.

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

Notes:

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5555 to confirm.

A vehicle crossing permit is required for the construction of the vehicle crossing(s). Please contact Council's Construction Management Branch on 9205 5555 for further information.

Provision must be made for drainage of the site to a legal point of discharge. Please contact Council's Building Services on 9205 5555 for further information.

A local law permit (e.g. Asset Protection Permit, Road Occupation Permit) may be required before development is commenced. Please contact Council's Construction Management Branch on Ph. 9205 5555 to confirm.

A local law permit may be required for tree removal. Please contact Council's Compliance Branch on 9205 5555.

The applicant must apply for a Legal Point of Discharge under Regulation 133 – Stormwater Drainage of the *Building Regulations* 2018 from Yarra Building Services unit.

Any storm water drainage within the property must be provided and be connected to the nearest Council pit of adequate depth and capacity (legal point of discharge), or to Council's satisfaction under Section 200 of the *Local Government Act* 1989 and Regulation 133.

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

Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.

No parking restriction signs or line-marked on-street parking bays are to be removed, adjusted, changed or relocated without approval or authorisation from Council's Parking Management unit and Construction Management branch. Any on-street parking reinstated (signs and line markings) as a result of development works must be approved by Council's Parking Management unit.

Only roof runoff, surface water and clean groundwater seepage from above the water table can be discharged into Council drains.

*Department of Transport's Notes:*

Separate consent for works within the road reserve and the specifications of these works is required under the Road Management Act. For the purposes of this application the works may include (but are not limited to) the provision of:

- Works associated with the new traffic signals at the intersection of Johnston Street,
- New bicycle lane line marking
- Signs and associated road works
- Road line marking, kerb and channel

Separate consent may be required from Head, Transport for Victoria under the Road Management Act 2004 for buildings and works undertaken outside the title boundary within a Road Zone Category 1 (Johnston Street). Please contact the Department prior to commencing any works.

### *Aboriginal Cultural Heritage Sensitivity*

The site is located within an Area of Aboriginal Cultural Heritage Sensitivity. The proposed development must comply with the requirements of the Aboriginal Heritage Act 2006. Separate permission must be obtained from Heritage Victoria.

A portion of this development associated with this application was not assessed against Clause 43.01 of the Yarra Planning Scheme (Heritage Overlay) as heritage matters are considered by Heritage Victoria and separate permission must be obtained from Heritage Victoria.

### Attachments

- 1 PLN20/0245 - Existing and Proposed Plans - inclusive of vegetation removal plans, existing conditions / demolition plans and proposed.
- 2 PLN20/0245 - Design Report
- 3 PLN20/0245 - Arboricultural Report
- 4 PLN20/0245 - Traffic Report and Modelling Analysis and Road Safety Audit Report
- 5 PLN20/0245 - Desktop Archaeological Assessment
- 6 Referral Advice (Collated) Dept. of Transport, Engineering Services Unit, Arborist and Strategic Transport.