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**6.6 PLN16/0434 - 26 - 56 Queens Parade, Fitzroy North**

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## **Executive Summary**

### **Purpose**

1. On 2 December 2020 Council received notice of the applicant's intent to substitute amended plans for the application plans at the hearing scheduled to commence on 15 February 2021.
2. This report provides Council with assessment of the amended plans and is to be read in conjunction with the previous officer report.

### **Key Planning Considerations**

3. Key planning considerations include:
  - (a) Built form (heritage and urban design)
  - (b) Design and Development Overlay – Schedule 16
  - (c) On and off site amenity.

### **Submissions Received**

4. There are approximately 120 parties to the appeal.
5. At the time of writing this report, no additional comments have been received by Council from any party in response to the amended plans.

### **VCAT Proceedings**

6. The merits hearing is scheduled for an 8 day hearing to commence on 15 February 2021.

### **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 the following key recommendations:
  - (a) Deletion of three studio types
  - (b) Provision of addition ground level communal facilities; and
8. Updates to a number of the conditions to reflect the amended plans

### **Key Planning Considerations**

9. Key planning considerations include: <Type text here...>
  - (a) clause 15.01 – Urban Environment – Higher Density Guidelines;
  - (b) clause 22.10 – Built Form and Design Policy; and
  - (c) clause 52.06 – Car Parking

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6.6	PLN16/0434 - 26 - 56 Queens Parade, Fitzroy North
<b>Reference</b>	D20/166137
<b>Author</b>	Mary Osman - Manager Statutory Planning
<b>Authoriser</b>	Manager Statutory Planning
<b>Ward:</b>	Nicholls
<b>Proposal:</b>	<p>Proposed substituted plans. Pursuant to section 87A of the <i>Planning and Environment Act 1987</i> amend Planning Permit PLN16/0434 which allows:</p> <ul style="list-style-type: none"> <li>• Construction of two or more dwellings on a lot in a 10 storey building plus two basements in the Mixed Use Zone under clause 32.04-6</li> <li>• Use of part of the land for the sale and consumption of liquor (on premises) under clause 52.27</li> <li>• Part demolition or removal of a building in a Heritage Overlay under clause 43.01-1</li> <li>• Construction of a building or construction or carrying out works in a Heritage Overlay under clause 43.01-2</li> <li>• Reduction of the car parking requirements under clause 52.06-2</li> <li>• Alterations of access to a road in Road Zone Category 1 under clause 52.29</li> </ul>
<b>Existing use:</b>	Vacant
<b>Applicant:</b>	Gurner 26 – 56 Queens Parade Pty Ltd
<b>Zoning / Overlays:</b>	Mixed Use Zone, abutting a Road Zone (Category 1), Environmental Audit Overlay, Design and Development Overlay (Schedule 16) and part Heritage Overlay (HO327 – North Fitzroy Precinct).
<b>Date of Application:</b>	17 July 2020 (lodged with VCAT), Notice to amend plans 2 December 2020
<b>Application Number:</b>	PLN16/0434

## Background

1. Planning Permit PLN16/0434 (the permit) was issued on 6 July 2018 at the direction of Victorian Civil and Administrative Tribunal (VCAT).
2. The permit allows:
  - (a) 'Construction of two or more dwellings on a lot in a 10 storey building plus two basements in the Mixed Use Zone under clause 32.04-6;
  - (b) Use of part of the land for the sale and consumption of liquor (on premises) under clause 52.27;
  - (c) Partial demolition or removal of a building in a Heritage Overlay under clause 43.01-1;
  - (d) Construction of a building or construction or carrying our works in a Heritage Overlay under clause 43.01-2;
  - (e) Reduction of the car parking requirements under clause 52.06-2;
  - (f) Alteration of access to a road in Road Zone Category 1 under clause 52.29'.
3. On 4 August 2020, Council received notice that an application to amend the permit and endorsed plans was lodged with VCAT pursuant to section 87A of the *Planning and Environment Act 1987* (the Act).

4. The amendment sought to generally:
  - (a) Increase the number of dwelling on (50 new dwellings);
  - (b) Increased provision of office floor area and reduction in café/retail space;
  - (c) Provision of 51 additional car parking spaces; and
  - (d) Redesign of the building massing and architectural design of the buildings.
5. On 14 October 2020 Council considered the application at is Planning Decisions Committee meeting and resolved that had it been in a position to determine the application, it would have refused the application on the following grounds:
  - (a) The proposed massing does not respond to the existing or preferred character of the area and will dominate the surrounding area;
  - (b) The proposed massing will result in unacceptable off-site amenity impacts;
  - (c) The proposal will result in unacceptable on-site amenity impacts, including natural daylight and ventilation.
  - (d) The application lacks sufficient information to enable a proper assessment against the relevant provisions of the Yarra Planning Scheme.
6. A compulsory conference was held on 27 October 2020 and while discussion regarding the outstanding issues was had, the parties did not reach agreement.
7. At the conference, Council requested any amended plans be circulated earlier than required to enable them to be considered by Council, enabling sufficient time for all parties to prepare for the February hearing.
8. On 2 December 2020 Council received notice of the applicant's intent to substitute amended plans for the application plans at the hearing scheduled to commence on 15 February 2021. Planning officers were provided with a draft set of plans earlier to enable the consideration of these plans at the PDC meeting of 16 December 2020.
9. This report provides Council with an assessment of the amended plans and is to be read in conjunction with the previous officer report (previous officer report can be found at: <https://www.yarracity.vic.gov.au/about-us/council-information/past-council-and-committee-meetings/2020-planning-decisions-committee-meetings>)

### **The Proposal**

10. The amended plans are accompanied by a statement of changes further to those already proposed by the original amendment application outlined in the officer's report of 14 October 2020.
11. The amendments to the plans include as described by the project architect:
  - (a) *The section of podium between Tower 2 and Tower 3, on the north side of the site, has been deleted to improve daylight access to lower level apartments;*
  - (b) *The separation between Tower 2 and Tower 3 has been increased to 11 metres by reducing the floor plate size of Tower 3;*
  - (c) *The setbacks of Tower 3 from the west and the setbacks of Tower 2 from the north have been increased.*
  - (d) *Six additional pages of sections have been added to the set of plans to provide a greater level of detail as to interface relationships, overlooking and landscaping.*
  - (e) *The apartment Type/bedroom number mix has changed to increase the number of studio and one-bedroom apartments and decrease the number of 2 and 3 bedroom apartment, and convert townhouses to apartments. This has resulted in consequential internal layout and elevation detail changes, and a net change in dwelling numbers from 313 to 337.*
  - (f) *The home-office component has been deleted.*

(g) *A half basement level has been added to reduce reliance on car stackers.*

12. The planning permit preamble as outlined previously will also need to be amended to include:

- (a) Permit preamble to be varied to introduce new uses 'office and gym'.
- (b) Modification to a number of the conditions of the original permit as a result of the proposed design modifications to the various buildings;

13. Below is a more detailed description of the proposed amendments:

*Demolition*

14. No change from previous report.

*Layout*

15. The amended application seeks to increase the number of dwellings again, the composition of dwellings is outlined below:

Dwellings Type	Endorsed	Original amended application	Amended application	Net Change from Endorsed Plans
Studio	0	14	55	+55
1 Bedroom	103	45	154	+51
2 Bedroom	114	217	116	+2
3+ Bedroom	46	37	12	-34
<b>Total</b>	<b>263</b>	<b>313</b>	<b>337</b>	<b>+74</b>

16. The commercial uses are also proposed to be varied:

Land Use	Endorsed	Original amended application	Amended application	Net Change from Endorsed Plans
Café/Restaurant	255sqm	40sqm	100sqm	-1555sqm
Shop	201sqm	-	-	-201sqm
Office	-	1548sqm	1354sqm	+1354sqm
Gym	-	864sqm (not clear if all area is proposed as a commercial gym or combination of resident/commercial	796sqm – commercial gym	+796sqm

17. Car parking provision and allocation are proposed as follows:

Land Use	Endorsed	Original amended application	Amended application
Dwellings	318 for main site and 6 for rear site	350 for main site and 6 for rear site	349 for main site and 6 for rear site
Visitors	9	-	-

Café/Restaurant		1	1
Shop		Not applicable	Not applicable
Office	-	15	13
Gym		17	15
	7 spaces for commercial spaces	2 (spare car parking space)	
<b>Total</b>	<b>340</b>	<b>391</b>	<b>384</b>

18. The plans in more detail are described below (comparison between original amended application and amended application –substituted plans):

New Basement 3

- (a) New part basement level located to the eastern portion of the site.
- (b) Provision of 92 car parking spaces;
- (c) 182 storage areas.

Basement 2

- (a) Car park layout re-organised with a decrease in parking provision from 214 to 167 spaces;
- (b) Services relocated
- (c) Re-organisation of storage areas decreasing from 198 to 131.
- (d) Re organised bike storage area providing 288 bike spaces (reduction from 333 bike spaces) with enlarged access way increasing from 1.5m to 1.8m in width;
- (e) Introduction of Bicycle workshop area;
- (f) Relocation of lift core to the north eastern corner.

Basement 1

- (a) Car park layout reorganised with a decrease in parking provision from 177 to 125
- (b) Re-organisation of storage area decreasing from 114 to 95;
- (c) Ramp to lower level relocated away from loading dock;
- (d) Services relocated;
- (e) Resident amenities approximately 550sqm (no detailed provided regarding proposed use);
- (f) New commercial gym area 573sqm connected to the level above;

Floor Plans

- 19. The amended plans seek to further vary the building envelopes and dwelling and commercial mix across the site.
- 20. As previously described, the amendment maintains the general arrangement of buildings around the site being three towers with perimeter housing. For ease of reference:
  - (a) Tower 1 references the western most building inclusive of the retained heritage building.
  - (b) Tower 2 being the central built form;
  - (c) Tower 3 being the eastern most building

In more detail:





**Figure 1 – Application Ground Floor Plan**



**Figure 2 – Proposed Amended Ground Floor Plan**

*Ground Floor*

- (a) Tower 1
  - (i) Office floor area reduced and internal lift and stair access shown;
  - (ii) Deletion of café area;
  - (iii) Dwelling numbers remain at 6;
  - (iv) Separation distance between tower 1 and tower 2 (northern) reduced by 100mm.
- (b) Tower 2
  - (i) Tower 2 has been separated into two sections with the ground floor perimeter built form deleted creating a break in the built form with this area proposed to be landscaped.
  - (ii) A residential amenities area and food and drinks premises added orientated to Queens Parade.
  - (iii) Dwelling numbers increased from 14 to 18.
  - (iv) Building envelope changes include reduced access way width between Tower 1 and Tower 2 from 6.15m to 5.4m, the break in tower two's form creates an open 11m landscape area.
- (c) Tower 3
  - (i) Reduction in Gym floor area from 300sqm to 223sqm;
  - (ii) Enlarged visitor bike area with the introduction of end of trip facilities;
  - (iii) concentration of services in one location rather than flanking the lobby area;
  - (iv) vehicular entry/exit in same location;
  - (v) dwelling numbers increased from 6 to 8 dwellings.
- (d) Perimeter
  - (i) No change to perimeter setbacks, ranging from 3m to 6m;
  - (ii) Dwelling numbers decreased to 7 dwellings by break in built
  - (iii) Retention of 4m side access way to laneway.

*First Floor*

- (a) Tower 1
  - (i) Dwelling numbers increased from 9 to 13;
  - (ii) Reduction to setback from the northern boundary from 11.7m to 11.45m and increase in the setback from the main access way from 10m to 11m.
- (b) Tower 2
  - (i) Dwelling numbers increased from 16 to 22;
  - (ii) Building envelope changes between Tower 1 and Tower 2 increased from 10m to between 11 – 11.9m and Tower 2 and 3 increased in part from 14.6m to 14.8m.
- (c) Tower 3
  - (i) Dwelling numbers increased from 12 to 15;
  - (ii) Setbacks to east have remained the same.
- (d) Perimeter
  - (i) No change to perimeter setbacks

- (ii) Dwelling numbers increased by deleting townhouse type and replacing with apartments, increase of 10 dwellings

*Second Floor*

- (a) Tower 1
  - (i) Reduction in office floor area from 433sqm to 385sqm;
  - (ii) Dwelling numbers increased from 10 to 13;
- (b) Tower 2
  - (i) Dwelling numbers increased from 18 to 22;
  - (ii) Same as level below;
- (c) Tower 3
  - (i) Dwelling numbers remain the same at 15;
  - (ii) Setbacks to east have remained the same.
- (d) Perimeter
  - (i) No change to perimeter setbacks
  - (ii) Dwelling numbers increased by deleting townhouse type and replacing with apartments, increase of 10 dwellings

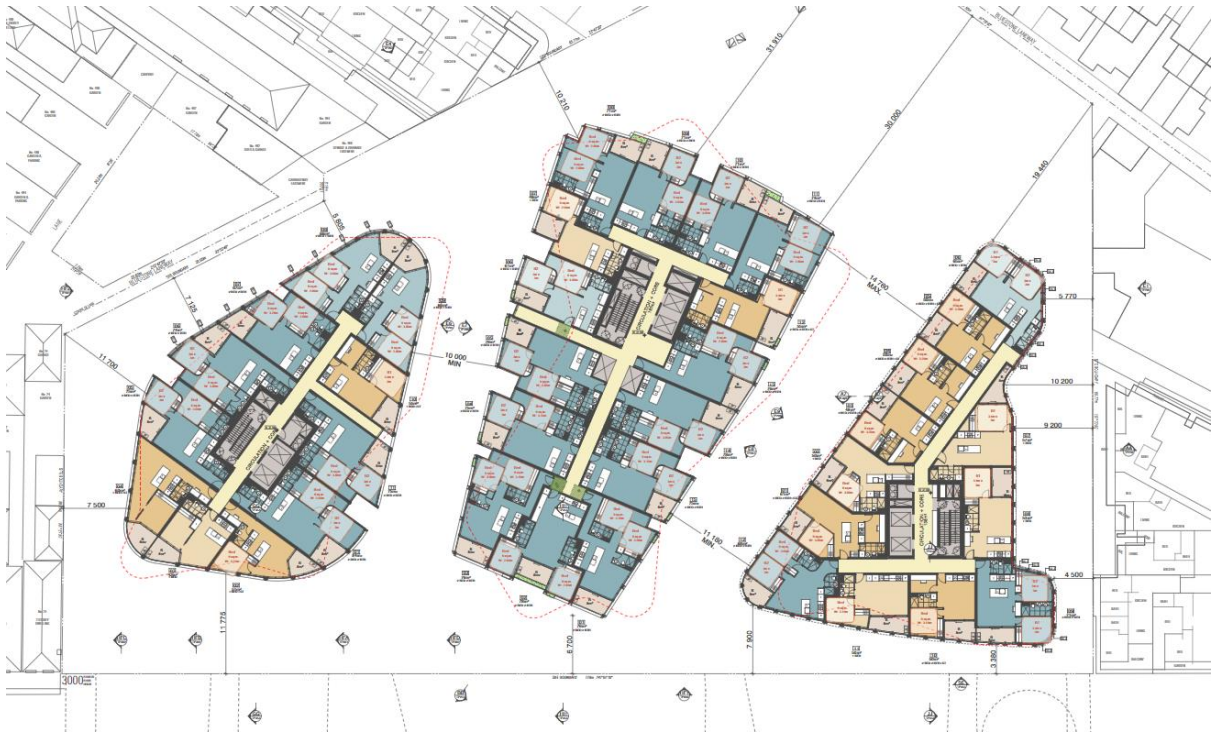
*Third Floor*

- (a) Generally the tower shapes take form with the perimeter built form now shown as a communal roof terrace rather than individual townhouse roof terraces.
- (b) Tower 1
  - (i) Dwelling numbers decreased by 1 to 10;
  - (ii) Reduction to terrace area to the northern end of tower;
- (c) Tower 2
  - (i) Dwelling numbers increased from 14 to 15
  - (ii) Separation between Tower 1 and Tower 2 increased from 10 to 11m;
- (d) Tower 3
  - (i) Dwelling numbers decreased from 12 to 11;

*Fourth Floor*

- (a) At fourth floor the three tower forms are clear of perimeter built form
- (b) Setbacks generally same as original application plans;





**Figure 3 – Original Application Fourth Floor Plan**



**Figure 4 – Proposed Amended Fourth Floor Plan**

- (c) Tower 1
  - (i) Dwelling numbers remain at 10;
  - (ii) Reduction in setback from the west from 7.5 to 7.3m
- (d) Tower 2
  - (i) Increase in dwellings numbers by 2 to 13 to 15;
  - (ii) Reduction in setback from the north from 10.2m to 9m;

- (e) Tower 3
  - (i) Reduction in dwelling numbers from 12 to 11;
  - (ii) Reduction in setback from the north eastern corner of tower from 5.7 to 5.6m

*Fifth Floor*

- (a) Tower 1
  - (i) Dwelling numbers reduced from 11 to 9;
  - (ii) Reduction in setback from the west from 7.9 to 7.3m
- (b) Tower 2
  - (i) Dwelling numbers increase from 14 to 15;
- (c) Tower 3
  - (i) Dwelling numbers remain at 7;
  - (ii) Setback to Queens Parade decreased from ranging between 5.3 – 7.9m to 5.3 – 7.8m.

*Sixth Floor*

- (a) Tower 1
  - (i) Increase in dwelling numbers by 1 to 8;
  - (ii) Setback to Queens Parade reduced from 11.7 to 11m, increased setbacks from the north previously shown as 10.3 – 11.9m increasing to 10.6 – 12.1m
- (b) Tower 2
  - (i) Dwelling numbers reduced by 2 to 13;
  - (ii) Setback to north east reduced from 30.5 to 30m
- (c) Tower 3
  - (i) Dwelling numbers remain at 7;
  - (ii) Setback to Queens Parade reduced by 100mm to 7.8m

*Seventh Floor*

- (a) Tower 1
  - (i) Decrease in dwelling numbers by 1 to 3;
  - (ii) Setbacks generally the same
- (b) Tower 2
  - (i) Dwelling numbers increased by 1 to 13;
  - (ii) Setbacks generally the same
- (c) Tower 3
  - (i) Dwelling numbers increased from 4 to 7;
  - (ii) Setbacks generally the same

*Eighth Floor*

- (a) Tower 1
  - (i) Roof top used as communal open space consistent with the endorsed plans.
- (b) Tower 2
  - (i) Dwelling numbers remain at 8;
  - (ii) Increased setbacks from the north with introduction of additional landscaping.

(c) Tower 3

- (i) Dwelling numbers increase from 2 to 4;

*Ninth Floor*

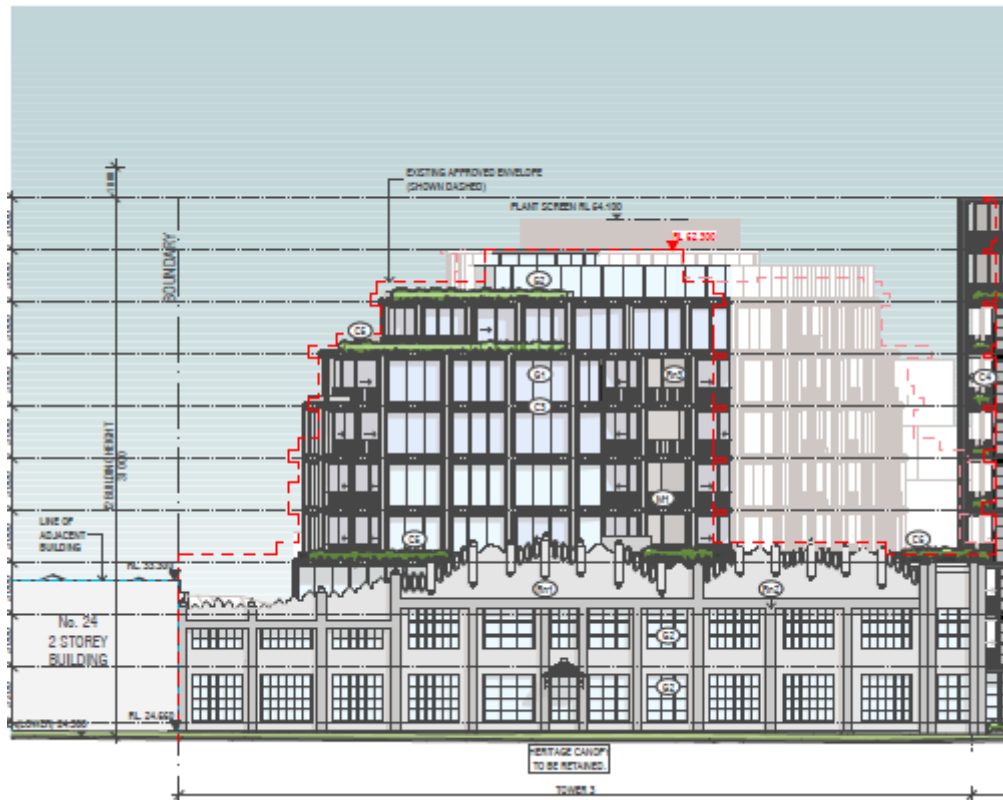
(a) Tower 2

- (a) Dwelling numbers remain at 8;

*Building Design*

21. No new renders have been provided with the amended plans. The elevations show that the architectural language as previously depicted in the renders is consistent. The description offered in the 14 October 2020 report remains valid

*Tower 1*



**Figure 5 – Proposed Amended Tower 1 Elevation**



**Figure 6 – Original Application Tower 1 Render**

22. No change to the overall height of Tower 1, proposed height at RL52.300 or 27.7m to the top of the building and RL54.1 or 29.5m to the top of the plant.

*Tower 2*



**Figure 7 – Proposed Amended Tower 2 Elevation**

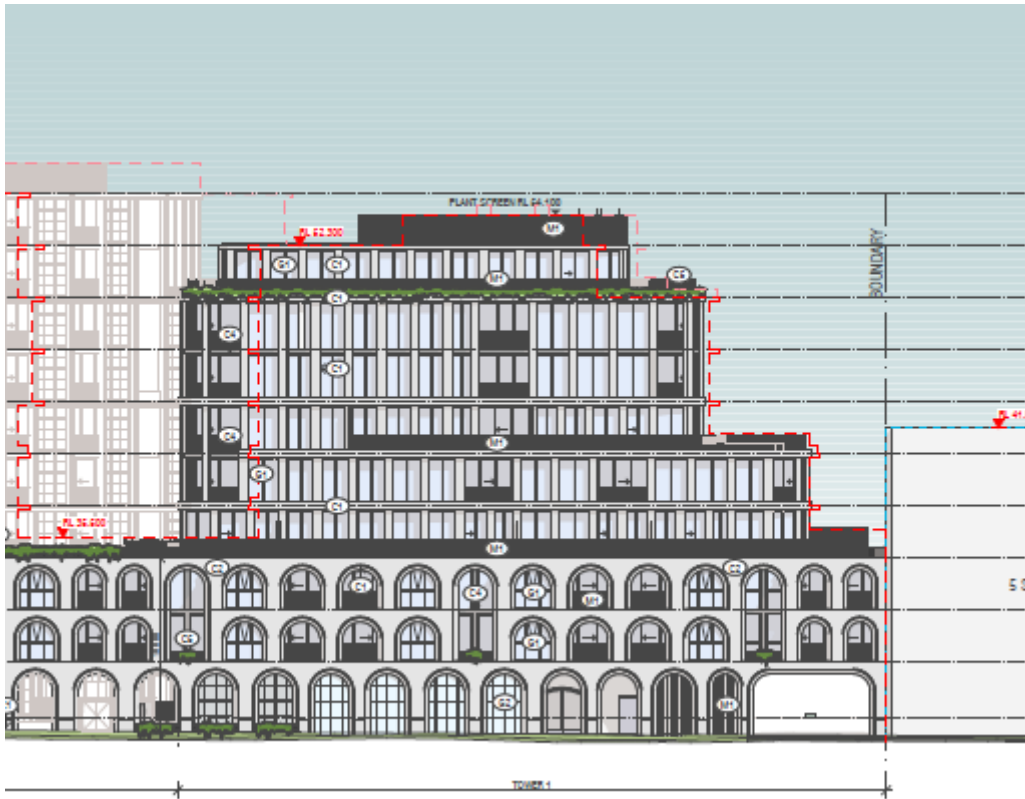


**Figure 8 – Original Application Tower 2 Render**

23. No change to the overall height of Tower 2, proposed height at RL55.300 or 30.9m to the top of the building and RL57.100 or 32.7 to the top of the plant.

*Tower 3*





**Figure 9 – Proposed Amended Tower 3 Elevation**



**Figure 10 – Original Application Tower 3 Render**

24. No change to the overall height of Tower 3, proposed height at RL52.300 or 27.9m to the top of the building and RL54.1 or 29.7m to the top of the plant.

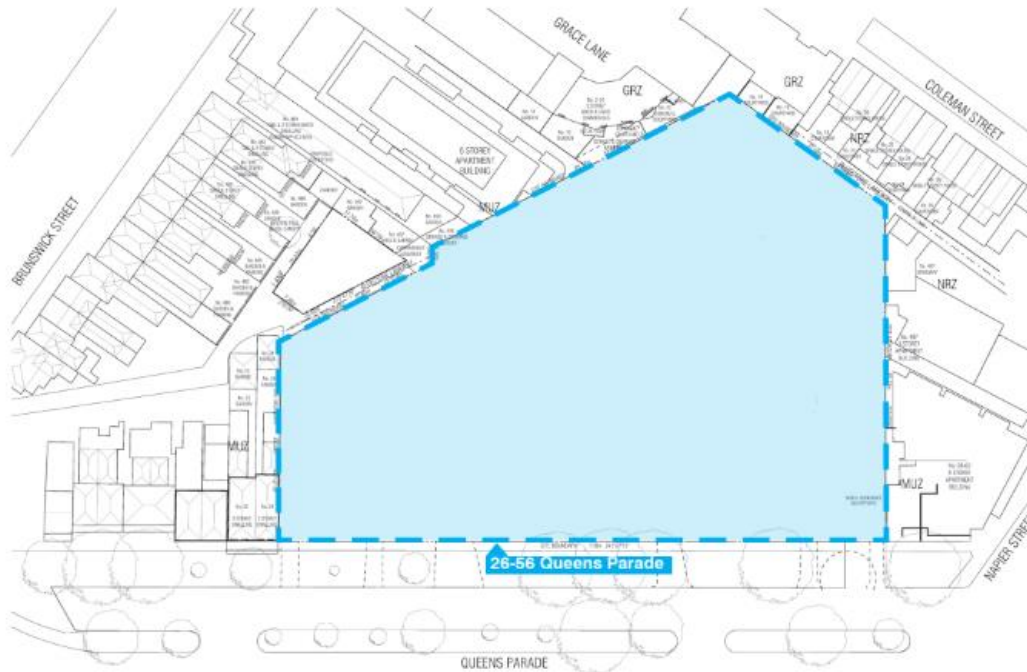
### **Existing Conditions**

#### Subject Site

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



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



**Figure 11 - Extract from comparison documentation**

*The site is comprised of 8 titles:*

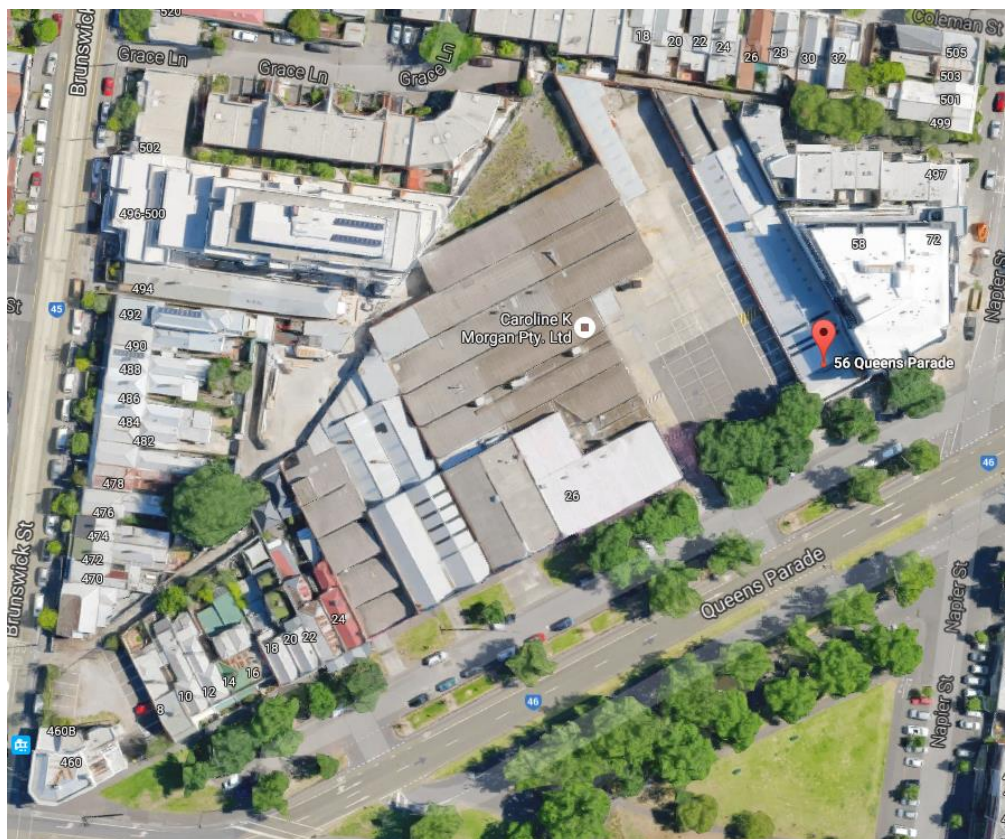
- Volume 5562 Folio 300;
- Volume 7224 Folio 622;
- Volume 6157 Folio 317;
- Volume 6157 Folio 316;
- Volume 2637 Folio 268;
- Volume 2776 Folio 162;
- Volume 5978 Folio 502; and
- Volume 5978 Folio 503.

*The site has a frontage of 119m to Queens Parade, a western boundary length of 39.2m, a north-west boundary length of 33.6m, leading to an adjoining north-west boundary length of 65.8m. The north-east boundary length is 37.5m and the east boundary length is 65.8m. All lengths are approximate. Should a permit issue, a condition should require all title boundaries to be shown on the floor plans as per the certificates of title. The site has an overall area of approximately 8,028m<sup>2</sup>.*

*The site is developed with a series of buildings:*

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

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



**Figure 12 Subject site – Aerial extract from Google maps.**

### Restrictive Covenants

26. The original officer report remains relevant:

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

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

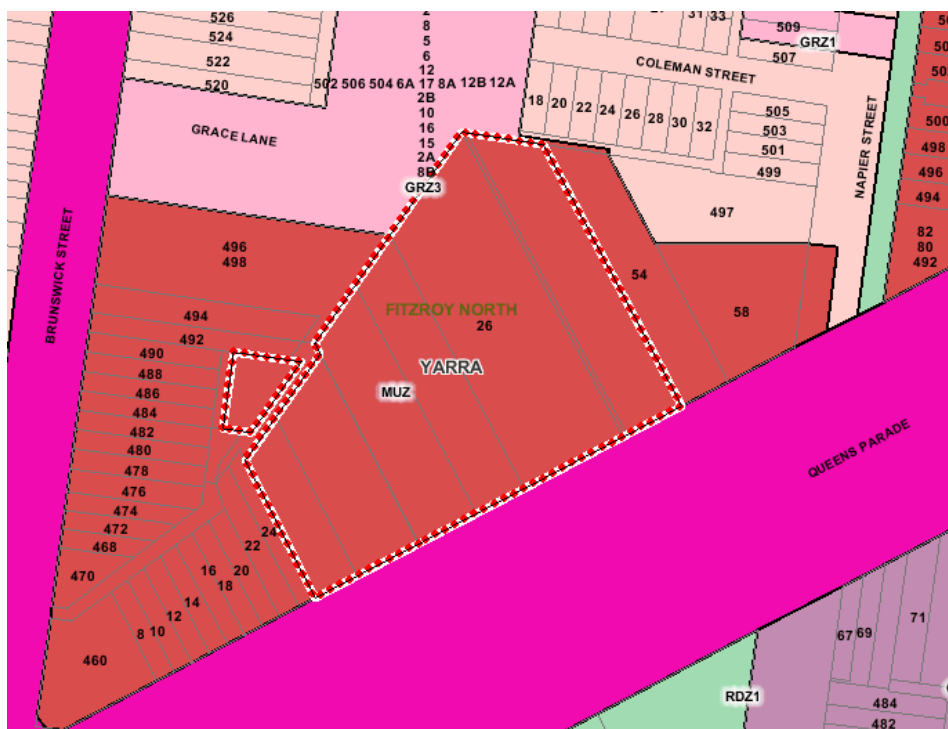
### Surrounding Land

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



**Figure 13 Subject site**

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



**Figure 14 Subject site**

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

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

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



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

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

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

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

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

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

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

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

## **Planning Scheme Provisions**

### Legislation

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

28. Section 87A of the Act states:

#### Cancellation or amendment of permit issued at direction of Tribunal

(1) *In addition to the powers conferred by section 87, the Tribunal may cancel or amend a permit that has been issued at its direction if it considers it appropriate to do so.*

(2) *The Tribunal may only cancel or amend a permit under this section at the request of—*

- (a) the owner or occupier of the land concerned; or*
- (b) any person who is entitled to use or develop the land concerned.*

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

## Zoning

### *Mixed Use Zone (MUZ)*

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

### *Road Zone, Category 1*

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

## Overlays

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

35. Pursuant to clause 43.02-2 of the Scheme, a permit is required to construct a building or construct or carry out works.
36. Design and Development Overlay – Schedule 16 was gazetted on 1 October 2020, but was in interim form when the application was originally assessed by VCAT.
37. The DDO outlines the following (relevant) design objectives:
  - (a) *To ensure development responds to the heritage character and streetscapes and varying development opportunities and supports:*
    - (i) *A new mid rise character behind a consistent street wall in Precincts 2, 3A and 5B*
  - (b) *To protect the integrity of historical streetscapes and clusters of heritage buildings of a similar scale and materiality;*
  - (c) *To ensure development respects the architectural form and qualities of heritage buildings and streetscapes and maintains the visual prominence of the St John the Baptist church belfry and spire, the former ANZ Bank building, the former United Kingdom Hotel and the former Clifton Motors Garage;*
  - (d) *To promote design excellence that ensures new development respects the wide, open boulevard character of Queens Parade including where existing historic trees are key elements in the streetscape, they remain the dominant visual feature.*
  - (e) *To ensure development responds to sensitive interfaces by ensuring the overall scale and form of new buildings provides a suitable transition to low scale residential area and protects these properties from an unreasonable loss of amenity through visual bulk, overlooking and overshadowing.*
38. The subject site is included within precinct 2A.



**Figure 15 Design and Development Overlay - Schedule 16 Map**

39. The DDO outlines specific design requirements for Precinct which should:
  - (a) *Respect heritage values of the Queens Parade streetscape and deliver an appropriate interface to neighbouring properties that minimises visual bulk and mass.*
  - (b) *Orientate active frontages and provide passive surveillance to the surrounding streets.*
  - (c) *Ensure solar access is provided to Queens Parade and Napier Street Reserve at the equinox from 9am to 3pm.*
40. The preferred character statement relevant to this precinct states that buildings and works should deliver:
  - (a) *A preferred location for housing and employment growth with well designed mid-rise development that complements Queens Parade through a transition in scale to the Gas Works site.*
  - (b) *Development that complements the visual contribution of the double avenue of trees along the south western part of Queens Parade.*
  - (c) *Precinct 2A – Mid-rise infill behind a distinct modern heritage frontage that addresses Queens Parade and its heritage context and responds to the sensitivity of the interface with abutting low scale fine grained residential uses to the north and west.*
41. Specific design requirements for Development in Precinct 2A should:
  - (a) *Provide an interface to neighbouring residential properties that minimises visual bulk and mass and provides building separation along side and rear boundaries abutting existing properties.*
  - (b) *Maintain the prominence and significance of the art deco facade.*
  - (c) *Retain, enhance and incorporate the existing heritage facade into the redevelopment of the site and to create a consistent parapet height along the streetscape.*



- (d) *Recognise the low scale, buildings and fine grain subdivision pattern of existing development to the north and west.*
- (e) *Encourage pedestrian permeability within and through the precinct.*
- (f) *Avoid a repetitive stepped form within the 45 degree angle profile.*
- (g) *Ensure development above the street wall is designed as a series of separate development parts with building separation to enable views to the sky*

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

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

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

		<ul style="list-style-type: none"> <li>8 metre setback from 10 metres to 16 metres</li> <li>10 metre setback from 16 metres</li> </ul> <p>Above new street wall (where no existing heritage facade):</p> <ul style="list-style-type: none"> <li>5 metre setback from 10 metres to 16 metres</li> <li>8 metre setback from 16 metres</li> </ul>
Minimum setback(s) from rear boundaries - north and west adjacent to NRZ and GRZ	None specified	<p>ResCode Standard B17 from rear boundary of adjoining properties to 10 metres</p> <p>Setback within 45 degree angle measured from 10 to 25 metres</p>
Minimum setback(s) from side boundary - east adjacent to NRZ	None specified	<p>0 metre setback to match party wall of existing adjoining development to 10 metres</p> <p>Setback within 45 degree angle measured from 10 to 25 metres</p>
Minimum setback(s) from side boundary - east adjacent to MUZ	None specified	<p>0 metre setback to match party wall of existing adjoining development, or</p> <p>10 metre where no party wall exists</p> <p>9 metre setback from the windows / balconies of adjoining apartments up to 16 metres</p> <p>15 metre setback above 16 metres</p>
Minimum setback(s) from side and rear boundaries west and north-west adjacent to MUZ	None specified	<p>0 metre setback to match party wall of existing adjoining development, or</p> <p>10 metre where no party wall exists</p> <p>Setback within 45 degree angle measured from 10 to 25 metres</p>

*Heritage Overlay (HO327 – North Fitzroy Precinct)*

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

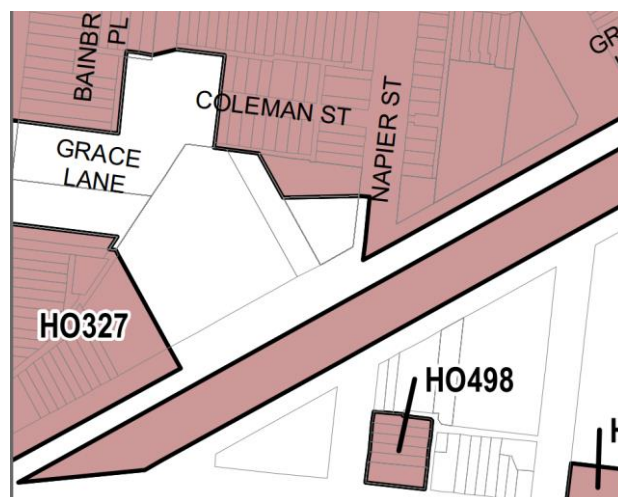


Figure 16 Heritage Overlay

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

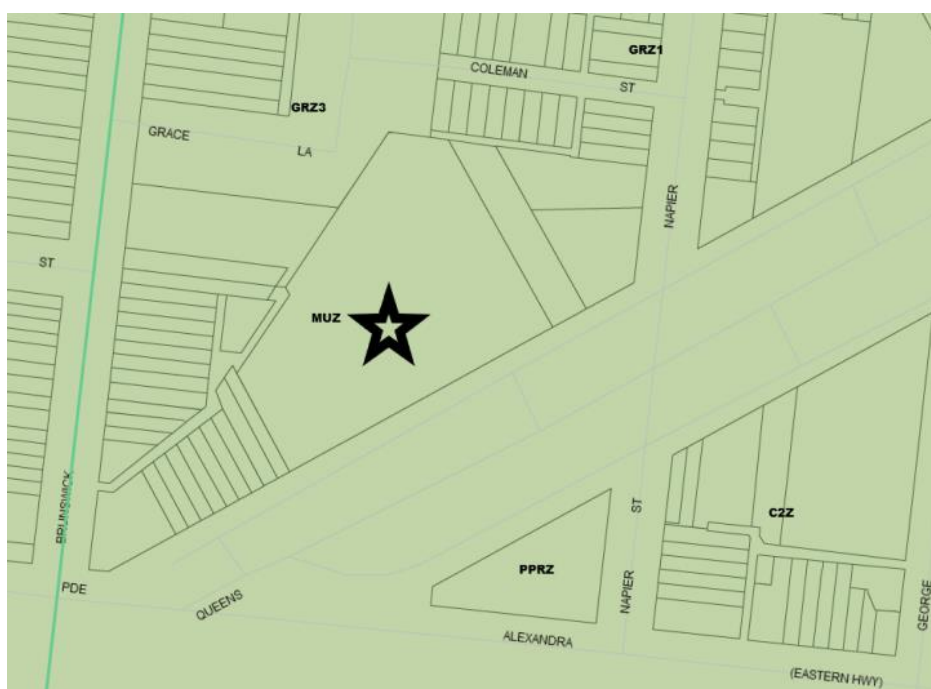
*Environmental Audit Overlay (EAO)*

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

Particular Provisions

*Clause 52.06 – Car Parking*

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



**Figure 17 Principle Public Transport Network**

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

Use	Area/No	Rate	No. required	No. proposed	Reduction sought
Dwellings	55 x studio 154 x one bed 116 x two bed	1 space per dwelling	325		
	16x three or more bed	2 space per dwelling	32		
Office	1354sqm	3 car spaces to each 100sqm of net floor area	40		

Food and drink premises	100sqm	3.5 per 100sqm of leasable floor area	4		
Gym	796sqm	Satisfaction of the Responsible Authority	-		
<b>Total</b>			<b>401</b>	<b>384</b>	<b>17</b>

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

*Clause 52.27 – Licensed Premises*

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

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

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

*Clause 52.34 – Bicycle Facilities*

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

Land Use	Units/Area proposed	Rate for resident/ staff	Rate for visitors	No. required	No. proposed	Reduction sought
Dwellings	313	In developments of 4 or more storeys, 1 resident spaces to	In developments of 4 or more storeys, 1 visitor space to each 10	68 resident 34 visitor		0

		each 5 dwellings	dwellings			
Office	1354sqm	1 to each 300sqm of net floor area if the net floor area exceeds 1000sqm	1 to each 1000sqm of net floor area if the net floor area exceeds 1000sqm	5 staff 1 visitor		0
Food and drink premises	100sqm	1 to each 300sqm of leasable floor area	1 to each 500sqm of leasable floor area	0		
Gym	796sqm	1 staff spaces per 4 employees	1 to each 200sqm of leasable floor area	2 staff 4 visitor		
<b>Total</b>				<b>7 staff 39 visitor 68 resident</b>	<b>410 spaces</b>	<b>0</b>

55. As such, the bicycle parking requirement is exceeded for the development.
56. Clause 52.34-3 also requires shower and change room facilities be provided at a rate of 5 shower/change room for the first 5 employee bicycle spaces, and 1 shower/change room per 10 spaces thereafter.
57. End of trip facilities have been provided on the ground floor adjacent to the ground floor bike parking area.

#### General Provisions

##### *Clause 65 – Decision guidelines*

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

#### Planning Policy Framework (PPF)

59. The original officers report of 14 October 2020 outlined in detailed the relevant clauses, these will not be repeated in this report, however the relevant clauses are listed below:
- (a) Clause 11.01-1S – Settlement
  - (b) Clause 11.02-1S – Supply of urban land
  - (c) Clause 11.03-2S - Growth areas
  - (d) Clause 13.05-1S – Noise abatement
  - (e) Clause 15.01-1S – Urban design
  - (f) Clause 15.01-2S – Building design
  - (g) Clause 15.01-5S –Neighbourhood character
  - (h) Clause 15.02-1S – Energy and resource efficiency

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

#### Local Planning Policy Framework (LPPF)

60. The original officers report of 14 October 2020 outlined in detailed the relevant clauses of the Local Planning Policy Framework, these will not be repeated in this report, however the relevant clauses are listed below:

- (a) Clause 21.04-1 – Accommodation and housing
- (b) Clause 21.04-3 - Industry, office and commercial
- (c) Clause 21.05-1 – Heritage
- (d) Clause 21.05-2 – Urban design
- (e) Clause 21.06 – Transport
- (f) Clause 21.07 – Environmental sustainable design
- (g) Clause 21.08-8 – North Fitzroy

#### Relevant Local Policies

61. The following local policies are relevant (see original officers report for greater detail):

- (a) Clause 22.02 – Development Guidelines for Sites Subject to the Heritage Overlay
- (b) Clause 22.05 – Interface Uses Policy
- (c) Clause 22.07 – Development Abutting Laneways
- (d) Clause 22.16 – Stormwater Management (Water Sensitive Urban Design)
- (e) Clause 22.17 – Environmentally Sustainable Development

#### Other Relevant Documents

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

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

#### **Advertising**

- 63. On 2 December 2020 Council received notice of the applicant's intent to substitute amended plans for the application plans at the hearing scheduled to commence on 15 February 2021.
- 64. Notice was given to all parties to the appeal and all property owners and occupiers of abutting and opposite properties as ordered by VCAT.
- 65. At the time of writing of this report, no submissions or comments have been received.
- 66. The original amendment was advertised and 119 statement of grounds were received by Council, with the following issues raised;
  - (a) Built form (urban design and heritage) and massing
    - a. Scale of development is out of context with the surrounding heritage neighbourhood
    - b. Intensification of site
    - c. Treatment of heritage building
    - d. Reduced spacing between buildings
    - e. Presentation to Queens Parade is not in keeping with the area



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

## Referrals

67. The referral comments are based on the amended (substituted plans)

### External Referrals

68. The application was referred to the following authority/ies:

- (a) Head Transport Victoria

69. The Referral response have been included as attachments to this report, it is noted that these comments are based on the original amendment application plans.

### Internal Referrals

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

- (a) Engineering Services Unit;
- (b) Open Space
- (c) City Works Units;
- (d) ESD Advisor;
- (e) Sustainable Transport
- (f) MGS Architects – Urban Design
- (g) Wind – Mel Consultants
- (h) Acoustics - SLR

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

## OFFICER ASSESSMENT

72. Having regard to Council's position on the original application plans and grounds of refusal, the amendment plans raise the following matters for consideration:

- (a) Does the proposed massing respond to the existing or preferred character of the area and will it dominate the surrounding area?
- (b) Will the proposed massing result in unacceptable off-site amenity impacts?
- (c) Has the proposal addressed issues related to unacceptable on-site amenity impacts, including natural daylight and ventilation?
- (d) Has sufficient information been provided to enable a proper assessment against the relevant provisions of the Yarra Planning Scheme?
  - (i) Use and acoustic considerations
  - (ii) Landscaping
  - (iii) Traffic and parking
  - (iv) Waste Management and
  - (v) Wind

### Does the proposed massing respond to the existing or preferred character of the area and will it dominate the surrounding area?

73. A detailed assessment of the impact of the massing of the proposal was undertaken in the original officer's report at paragraphs 214 – 230 and raised concern primarily with the northern boundary interface.

74. The report identified:

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

*No views of the building from these vantage points are provided but it appears that the outlook from the apartment building from 496 Brunswick Street may be improved due to the alignment of the break between Towers 1 and 2. The setback to this interface reduces from 9.6m to 9m however this is an acceptable separation between these two buildings at this point as the building then angles away.*

[illegible]

Architectural elevation drawing of the proposed building facade. The drawing shows a multi-story building with a ground floor featuring arched windows and upper floors with rectangular windows. Annotations include 'EXISTING WINDOW HEIGHT', 'PLANT SCREENING OF 10', 'PLANT SCREENING OF 10', and 'PLANT SCREENING OF 10'. The drawing is labeled 'ELEVATION' and 'SECTION'.

Agenda Page 29



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

75. No viewshed analysis has been submitted with the amended application however the plans have been amended to open up this section of the site by deleting some of the built form at the perimeter and widening the separation of the tower:



**Figure 21 - Proposed Amended North West Elevation**

76. The concern was the view from the Grace Lane apartments and how the expanse of Towers 1 and 2 would be perceived.
77. The floor plans detail a physical break in built form with this area now proposed to be landscaped.



**Figure 22 – Proposed Amendment Level 1 Plan**

78. This separation at the lower levels and the widening of the separation between the two towers has addressed this concern and is an improvement to the massing of the proposal namely when perceived from this northern vantage point.
79. The break in the building will allow for the proposal to be read as two forms and not as a continuous mass expressed across the entire site.
80. This ground of refusal has been satisfied.

Will the proposed massing result in unacceptable off-site amenity impacts?

81. When considering the off-site amenity impacts of the proposal there are three main issues:

- (a) Visual bulk – addressed above;
- (b) Overlooking and
- (c) overshadowing

*Overlooking*

82. The amended proposal provides greater detail of screening and overlooking mitigation as shown on drawings TP352 and TP353.

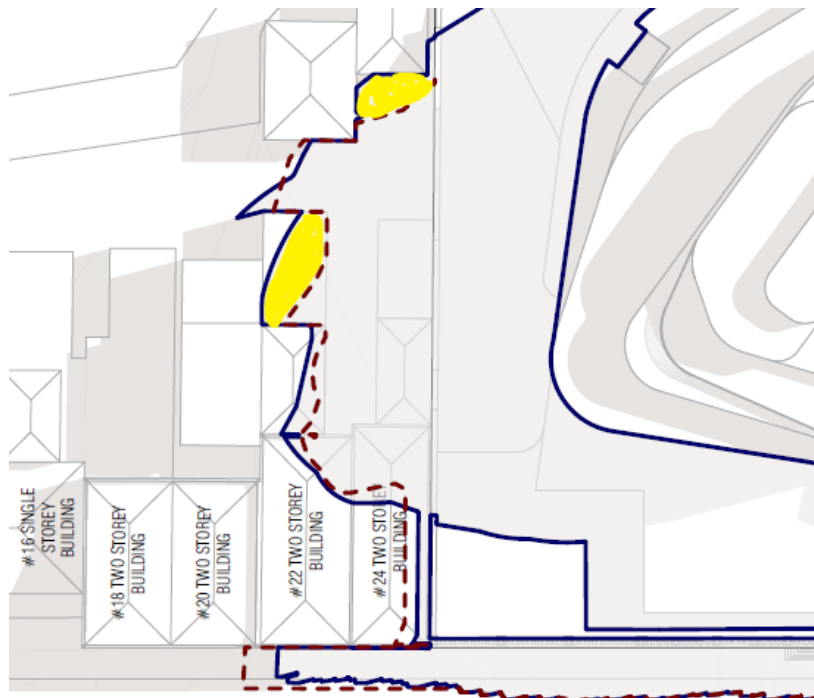
83. The floor plans also include a key referencing the type of screening proposed for each are.

84. Fritted Glass is proposed to be used in a number of locations referenced as G1A – D, all are proposed to be to a height of 1.7m. Sectional information has for the glass has been shown but no elevation view or confirmation of percentage of permeability have been provided, this should form a condition on any permit granted.

85. A general overlooking condition should also be included to address protection of views into adjoining properties habitable window and private open space. While it appears most interfaces have been addressed, a number of the setbacks have dropped off the plans. This can be addressed by way of a condition.

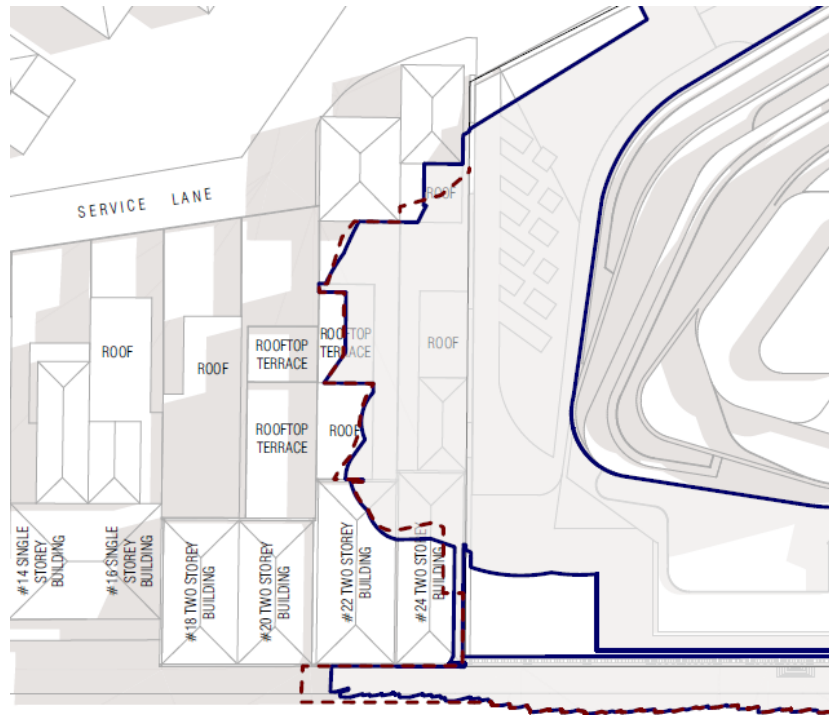
*Overshadowing*

86. The shadowing impact as outlined in the previous officer report was limited to a concern regarding the properties at 22 and 24 Queens Parade at 10:00am. The affected area shown in yellow below.



**Figure 23 Original amendment application - Shadow at 10am**

87. New shadow diagrams have been prepared which now show that shadows are generally consistent with the already approved scenario raising no further concern with shadowing impact.



**Figure 24 Amendment application - Shadow at 10am**

88. Off site amenity impacts have been satisfactorily addressed satisfying this ground of refusal.

Has the proposal addressed issues related to unacceptable on-site amenity impacts, including natural daylight and ventilation?

89. On-site amenity concerns were raised with a number of dwellings within the development.

90. While acknowledging that the application benefits from the transitional provisions under Clause 58 (Apartment Developments), the relevant provisions to assess the application are the Guidelines for Higher Density Residential Development (Department of Sustainability and Environment).

*Dwelling layout*

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

92. The amendment was accompanied by an 'Apartment analysis Report that includes within the typical apartment layouts.

93. Condition 1(n) on the permit requires:

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

94. The plans generally show that all 1, 2 and 3 bedroom dwellings meet or can meet this condition, however the conditions should remain on the permit with the plans to clearly show this.

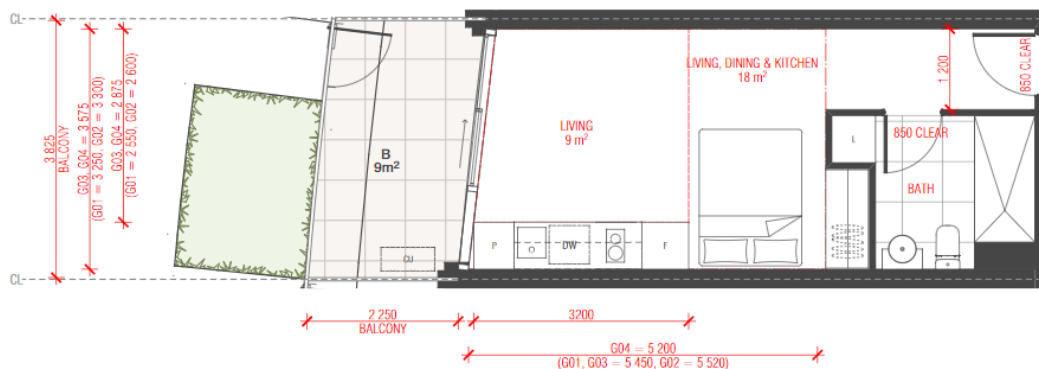
95. The amendment now seeks to increase the provision of studio apartments to 55 equating to 16% of all apartments. Significant concern was raised with the layouts of this apartment type as previously presented.





**Figure 25 Typical Studio apartment layout – Original application**

96. The amendment now seeks to 10 studio apartment layouts.
97. Council consultant urban designer Mr McGauran has maintained a position that these dwellings would offer a poor level amenity. However, an assessment of the studio types is prudent as some provide an acceptable level of amenity and therefore are a relevant typology that adds to the composition of apartment mixes offered by the development.



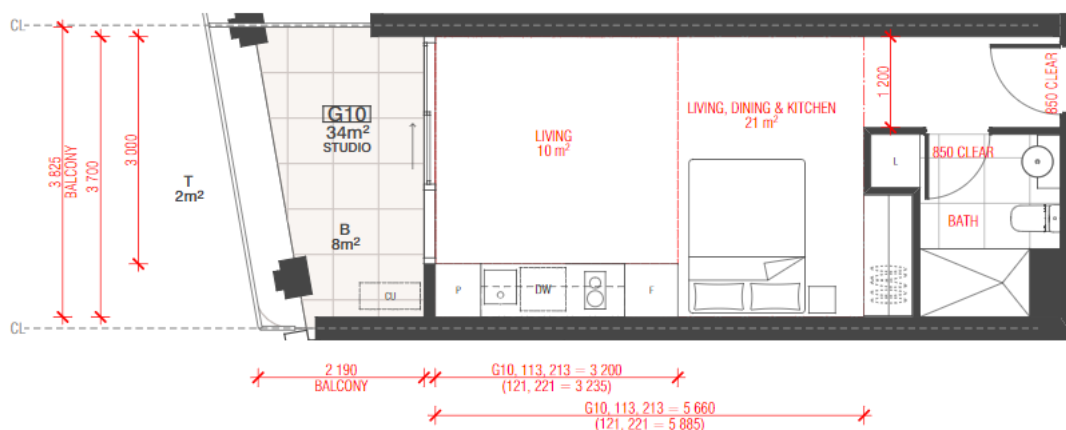
**Figure 26 – Proposed Amendment Studio Type 1**

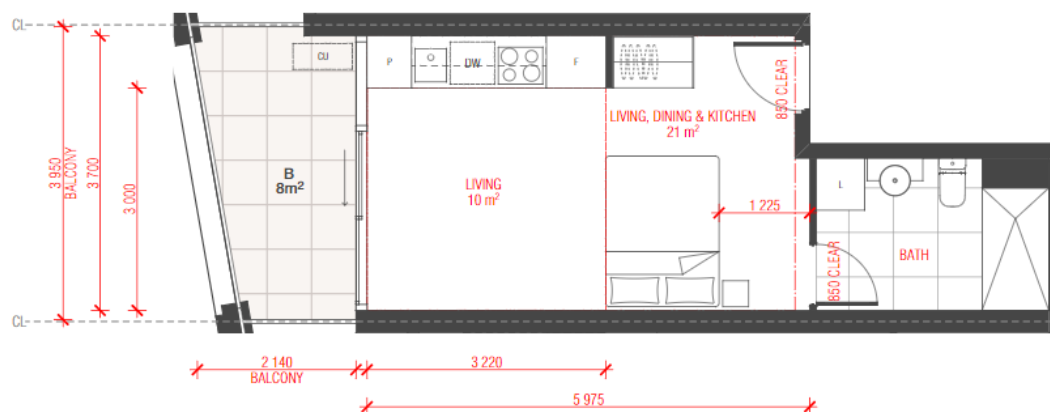
98. There are four Type 1 studio apartments located at ground floor of Tower 2 orientated to the north. This studio appears to be one of the smaller offering and the floors plans show that the 'living area' immediately abuts or overlaps the 'bedroom' area.



**Figure 27 – Proposed Amendment Ground Floor Location of Studio Type 1**

99. The amenity afforded to these four dwellings is not acceptable and they should be deleted. The deletion of these dwellings affords an opportunity to replace this floor area with ground level communal facility which would accord with the advice from MR McGauran who advocates for better connected communal space.
100. Studio type 5 and 6 have similar internal layout issues to those expressed for type 1, there are 10 such apartments and should be deleted with the floor area absorbed into the neighbouring dwellings.





**Figure 28 - Proposed Amendment Studio Type 5 & 6**

101. When assessing the functional layout of the dwellings, borrowing from clause 58, Living area dimensions (excluding dining and kitchen areas) should have a minimum width of 3.3m and a minimum area of 10sqm for a Studio or one bedroom dwelling and minimum width of 3.6m and minimum area of 12sqm of two or more bedrooms. The proposed layouts show the minimum square metres has generally been provided across the units.

102. Subject to the deletion of three studio types (1, 5, and 6), the introduction of studios within the mix of dwellings types is an acceptable addition.

*Daylight and ventilation - Apartments*

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

104. As further guidance to achieve this, Council's best practice under Clause 22.17 (BESS) has a minimum 80% of living rooms achieving a daylight factor greater than 1% to 90% of the floor area and a minimum 80% of bedrooms achieving a daylight factor of 0.5% to 90% of the floor area of each room.

105. The applicant submitted daylight modelling for the site which was reviewed by Councils ESD officer who is satisfied that the revised apartment layouts have addressed previous concerns with access to daylight and indoor environment quality.

106. A condition on any permit granted however requires the submission of a completed report demonstrating best practice daylight standards to be achieved in all habitable rooms.

107. Mr McGauran maintains concern however with some of the dwellings, more specifically:

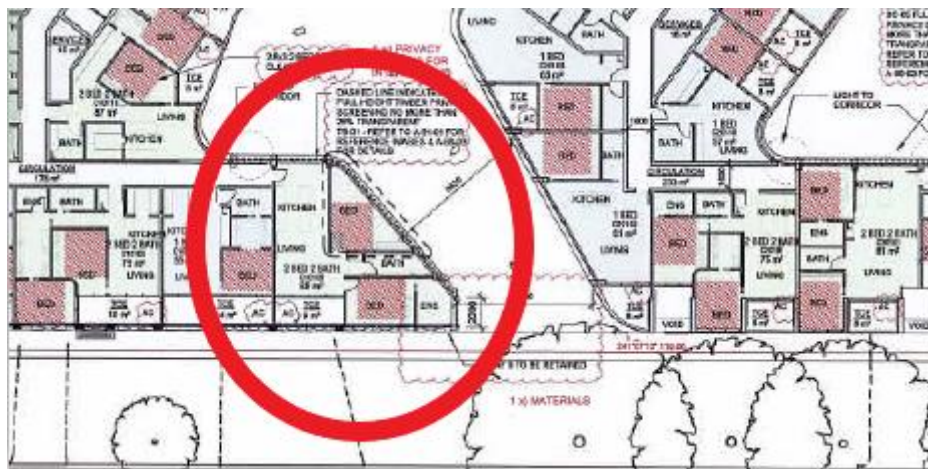
- (a) Interface between office and Tower 2 apartments at levels 1 & 2 (Apartment 112 & 212);
- (b) Interface between office and Tower 1 apartments at levels Ground – Level 2 (Apartments G07, 110 and 210); and
- (c) Interface between apartments (Towers 2 & 3) 109 & 115 and 209 and 215

108. The separation distance between the office and apartments 112 and 212 in Tower 2 is a minimum of 5.8m to the balcony edge.



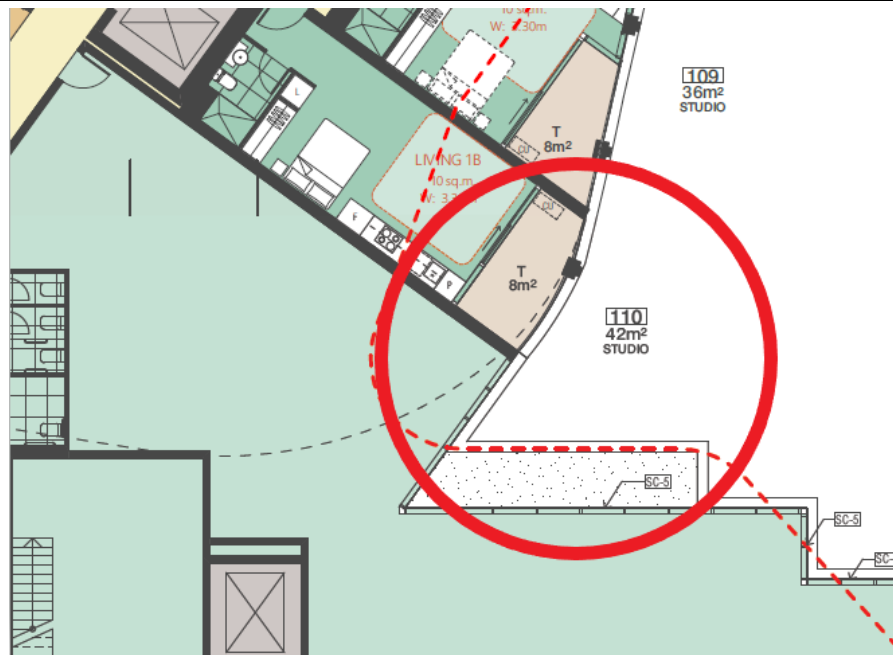
**Figure 29 – Proposed Amendment Studio Type 5 & 6**

109. The proximity of the office building to the balcony is not ideal and will have some impact on the amenity of these two dwellings namely the balcony.
110. A condition on any permit should require the office building to adopt a chamfered edge to the corner generally in line with the previous endorsed plans to create greater separation between the office and dwellings improving outlook and the amenity for these dwellings.



**Figure 30 Existing Endorsed Plan – Level 1**

111. The interface with the rear of the office area and apartments will partly obstruct outlook however the balconies will have views to the south east and are considered to be an acceptable outcome.
112. The rear of the office building will be screened maintaining privacy raising no interlooking issues.



**Figure 31 – Proposed Amendment Level 1**

113. At the elbow where Towers 2 & 3 meet creates a pinch point between apartments (Towers 2 & 3) 109 & 115 and 209 and 215.
114. The plans detail that apartments 115 and 215 will have the northern elevation screened with fritted glass which while providing screening to this interface also allows for daylight into the bedrooms.
115. As outlined previously outlined and subject to the confirmation that all habitable spaces including bedrooms meet best practice for daylight, this outcome is considered to be acceptable.

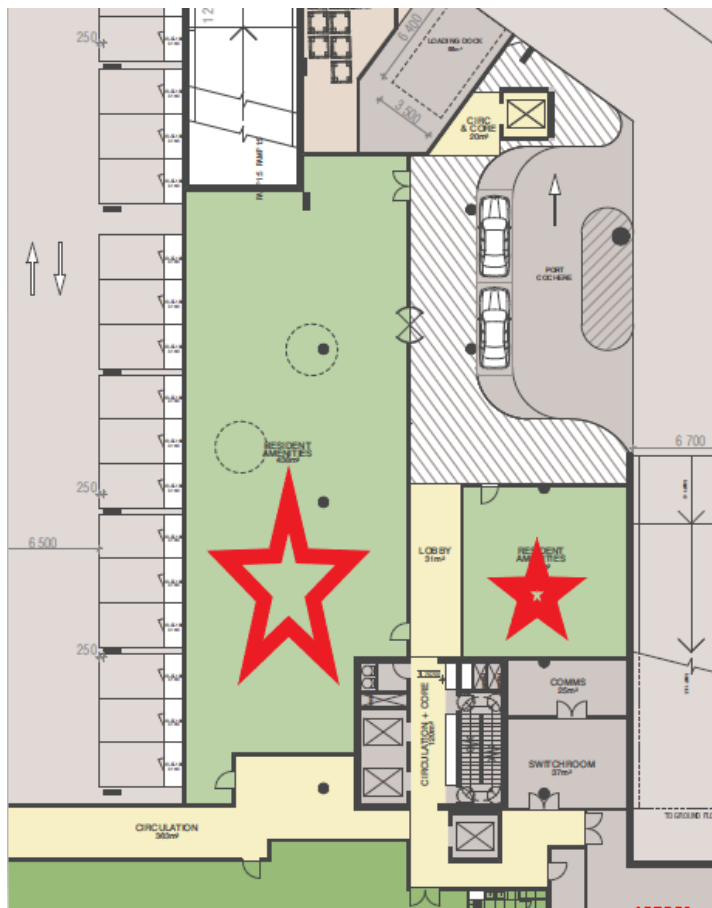




**Figure 32 – Proposed Amendment – Level 1**

*Daylight and ventilation – Amenities*

116. The plans continue to show two areas of resident amenities located in Basement 1. No information regarding how these spaces will be fitted out as has been provided however is anticipated that these spaces would be used as yoga room, library, dining, gaming type spaces as outlined in the submitted acoustic report. These spaces have no access to daylight other than two skylights as shown in the figure below.



**Figure 32 - Proposed Amendment Basement 1 Plan**

117. Concerns regarding the lack of daylight and natural ventilation have not been addressed. A condition as discussed earlier requires the deletion of 4 studio apartments adjacent to the northern pavilion. By providing a second communal amenities area above ground and further supplemented by the amenities and communal outdoor space at level 8 Tower 1 the proposal is considered to be acceptable.

*Daylight and ventilation – Corridors*

118. The plans have been amended to include corridors with access to daylight and natural ventilation.

*Internal overlooking*

119. Objective 2.9 of the DSE Guidelines aims 'To maximise residential amenity through the provision of views and protection of privacy within the subject site and on neighbouring properties'.
120. Protection of neighbouring properties privacy has been addressed in the *Off-site amenity impacts* assessment of this report. In regard to views between apartments within the development, the heights of walls / screens between balconies needs to be annotated on the plans. If an amended permit is to issue, a permit condition can address this.

*Private and communal open space*

121. Objective 6.1 of the DSE Guidelines is *'To ensure access to adequate open space for all residents'*. The guidelines state that *'If a balcony is intended serve as private open space it should be of sufficient size to accommodate outdoor seating, with good connections between these spaces and the building interior.'* Minimum balcony sizes are not specified.
122. Most apartments are provided with a minimum 8sqm balcony with direct access off the living room.
123. With respect to communal open space, a large area at ground floor being the areas between buildings is available however these spaces would be in shadow for a significant part of the day not dissimilar to what has already been approved.
124. Other areas of communal open space are located at Level 3 of Tower 2 and Level 8 of Tower 1 offers excellent amenities for the future residents.

*Site services and circulation*

125. Objective 4.6 of the DSE Guidelines is *'To incorporate provision for site services in the building design to ensure good function and ease of service and maintenance'*.
126. The urban design advice suggests improvements could be made to the mail areas to better facilitate for parcel deliveries. The mail service location and lobby area details can be shown on plan, this could be addressed via a permit condition.
127. Storage
128. Objective 5.5 of the DSE Guidelines is *'To provide adequate storage space for household items'*. The plans show storage provided in the basement levels, no development schedule has been submitted, this could be addressed via a permit condition.
129. Based on the above assessment and the inputs from both Councils ESD officers and Mr McGauran and subject to conditions the concerns raised in the ground of refusal have been addressed.

Has sufficient information been provided to enable a proper assessment against the relevant provisions of the Yarra Planning Scheme?

130. A criticism of the original application was the lack of information which was submitted.
131. The amended plans have included:
- (a) Landscape plans
  - (b) Daylight analysis and SMP
  - (c) Waste Management Plan
  - (d) Acoustic information
  - (e) Traffic and parking memo
  - (f) Wind analysis; and
  - (g) Apartment analysis

All which will be considered as part of this assessment

Use and acoustic considerations

132. The application proposes to introduce two new uses which require planning approval:
- (a) Office;
  - (b) Gym (indoor recreation facility)
- Each use will be discussed in turn
- Office*

133. Pursuant to Clause 32.04-2 of the Scheme, the use of the site as offices premises (greater than 250sqm). The application provides no details regarding hours of operation.

134. The previous officer report outlined that the office use enjoys policy support and practically will maintain activation of the heritage building and street frontage.
135. As no hours of operation have been proposed, a condition on any permit should include restricting the office use to between 7:00am – 7:00pm, seven days per week.

*Gym*

136. A planning permit is required for the use of part of the site as an indoor recreation facility (Gym). As outlined in the previous report, there is policy support for the proposed use subject to relevant conditions.
137. The applicant has advised the following details:
- (a) Hours
    - (i) 5am – 10pm – Monday to Saturday
    - (ii) 7am – 7pm - Sunday
  - (b) 150 patrons
  - (c) 15 staff at any one time
138. The application was accompanied by an acoustic which outlines a number of recommendations for managing noise from the Gym including:
- (a) Acoustic isolation treatments,
  - (b) Upgrading slab and ceiling systems and
  - (c) Limiting noise to comply with SEPP N-2 noise limits.
139. The acoustic report was referred to Council's consultant acoustic expert SLR who advised:
- (a) *More detailed advice be provided for controlling structure borne noise and vibration from the Ground Level and Basement 1 commercial gym;*
  - (b) *Further guidance regarding allowable music levels within the gym. Indicative allowable octave band music levels within the ground floor of the gym should be provided such that SEPP N-2 limits will be met in apartments above.*
140. These should all form conditions on any permit issued and subject to compliance with these recommendation the proposed Gym is an acceptable use in this location.
141. The plans are not clear if access to the Gym would be available from Queens Parade or only from the basement levels. A condition on any permit granted should require access to the Gym to be provide from the street (Queens Parade) to enhance activation of the street frontage.

*Liquor Licence*

142. The planning permit at existing conditions 17 – 23 manages the sale and consumption of liquor.
- 17 *Except with the prior written consent of the Responsible Authority, no more than 50 patrons are permitted in the westernmost food and drinks premises (café) at any one time.*
  - 18 *Unless with the further consent of the Responsible Authority, the sale and consumption of liquor in association with the westernmost food and drinks premises (café) and the restaurant may only occur between the hours of 12 noon to 11 pm, any day.*
  - 19 *Before the use of the land for the sale and consumption of liquor starts, a Noise and Amenity Action Plan (NAAP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the NAAP will be endorsed and will then form part of this permit. The NAAP must include the details required by clause 22.09-4.3 of the Yarra Planning Scheme.*

- 20     *The sale and consumption of liquor uses must be managed in accordance with the endorsed NAAP.*
- 21     *The sale and consumption of liquor as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.*
- 22     *Before the sale and consumption of liquor starts, a sign at the exit of the licensed premises must be displayed to the satisfaction of the Responsible Authority advising patrons to respect the amenity of adjacent residential areas and to leave in a quiet and orderly manner.*
- 23     *Emptying of bottles and cans into bins may only occur between 7 am and 5 pm on any day.*
143. As the size and location of the premises has been altered, condition 17 is required to be amended. The permit application has advised that the patron numbers for the café are proposed to be increased from 50 to 60 which is considered to be reasonable for the size of the premises.
144. The remaining conditions relating to hours and management should remain.
- Landscaping
145. A landscape plan depicting the overall concept for the site accompanied the application.
146. The original renders detailed a landscape concept for the site (see image below) and the now submitted landscape plans confirm that this will be achieved.



**Figure 33 – Original Application Renders**





Figure 34 – Proposed Amendment Landscape Plan

147. The plans were referred to Council's Open Space Planning and Design Unit who were generally supportive of the submitted landscape plans subject to the following:

- Plant replacement be added to condition 10 of the permit 'Maintenance Delivery and Specification requirements;
- Quantity of plants per m2 be provided for the green roof Level 08 Tower 3, Landscape Plan and sections – this should be planted (low growing succulents) at a density of up to 16 per square metre;
- Details of use of Washingtonia Robusta (Fan Palm) on roof terrace and confirmation if this species requires tree anchors.
- Confirmation that for all roof top planting, load bearing weights for saturated bulk density has been calculated to enable the planting depicted on the landscape plans.

148. Based on this advice and subject to conditions, the landscape concept is an acceptable and positive outcome for the site.

### Car Parking/Traffic/Bikes

#### Car Parking

149. As already established in the earlier officer's report, strong policy and strategic support exists for the reduction in reliance on private motor vehicle.

150. Amendment VC148 also amended car parking rates for commercial uses within the PPTN area, including lowering the car parking rate for office use and food and drinks premises and the deletion of the requirement of visitor parking. The following table shows the car parking reduction sought by the amended application:

Use	Area/No	Rate	No. required	No. proposed	Reduction sought



Dwellings	55 x studio 154 x one bed 116 x two bed	1 space per dwelling	325		
	16x three or more bed	2 space per dwelling	32		
Office	1354sqm	3 car spaces to each 100sqm of net floor area	40		
Food and drink premises	100sqm	3.5 per 100sqm of leasable floor area	4		
Gym	796sqm	Satisfaction of the Responsible Authority	-		
<b>Total</b>			<b>401</b>	<b>384</b>	<b>17</b>

151. The table above shows that the amended proposal pursuant to clause 52.06 for the scheme is seeking a reduction of 17 car parking spaces.
152. Pursuant to Clause 52.06-7 of the Scheme, before deciding on an application to reduce the number of car parking spaces required, the following decision guidelines include (but not limited to):
- (a) *Any relevant local planning policy or incorporated plan.*
  - (b) *The Car Parking Demand Assessment.*
  - (c) *Access to or provision of alternative transport modes to and from the land*
  - (d) *Any adverse economic impact a shortfall of parking may have on the economic viability of any nearby activity centre.*
  - (e) *Local traffic management in the locality of the land.*
  - (f) *The impact of fewer car parking spaces on local amenity, including pedestrian amenity and the amenity of nearby residential areas.*

*Relevant policy*

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

- (a) *State and local planning policies are already acknowledging the change that is required in the way in which people travel with Plan Melbourne 2017-2050 and State policies referring to 20-minute neighbourhoods and greater reliance on walking and cycling....*
- (b) *Our roads are already congested and will be unimaginably so if a 'business-as-usual' approach is accepted through until 2050. The stark reality is that the way people move around Melbourne will have to radically change, particularly in suburbs so well served by different modes of public transport and where cycling and walking are practical alternatives to car based travel.*
- (c) *Oversupplying parking, whether or not to comply with Clause 52.06, has the real potential to undermine the encouragement being given to reduce car based travel in favour of public transport, walking and cycling.*
- (d) *One of the significant benefits of providing less car parking is a lower volume of vehicle movements and hence a reduced increase in traffic movements on the road network.*

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

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

Proposed Use	Endorsed Proposal		Amended Proposal	
	Quantity/ Size	Car Parking Provision	Quantity/ Size	Car Parking Provision
Studio Dwellings			55	325
One-Bedroom Dwellings	103	217	154	
Two-Bedroom Dwellings	114		116	
Three-Bedroom Dwellings	46	92	12	24
Residential Visitors*	263 dwellings	9		
Rear Site (Dwellings)	3	6	3	6
Office			1,354 m <sup>2</sup>	13
Gym			796 m <sup>2</sup>	15
Retail	496 m <sup>2</sup>	7	100 m <sup>2</sup>	1
Unallocated		9		
<b>Total</b>		<b>340 spaces</b>		<b>384 spaces</b>

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

*Traffic impacts*

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

*'According Traffix Group, the amended proposal would result in an increase of 29 trips in each peak hour compared to the endorsed proposal. The resultant peak hour traffic volume for the development would now be 124 trips in each peak hour (an average of one vehicle every 2 minutes 4 seconds).*

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

159. Officers are satisfied that if the amendment was approved the additional 44 cars would have a detrimental impact on the surrounding road network.

*Car park design layout*

160. Council's Engineering Services Unit has reviewed the amended car park design and require the following information to be addressed:

- (a) Widths of internal ramped accessways to be dimensioned;
- (b) Accessible parking space and shared area to be dimensioned;
- (c) Clearances to be dimensioned for all car spaces adjacent to walls;
- (d) Car parking spaces to be numbered;

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

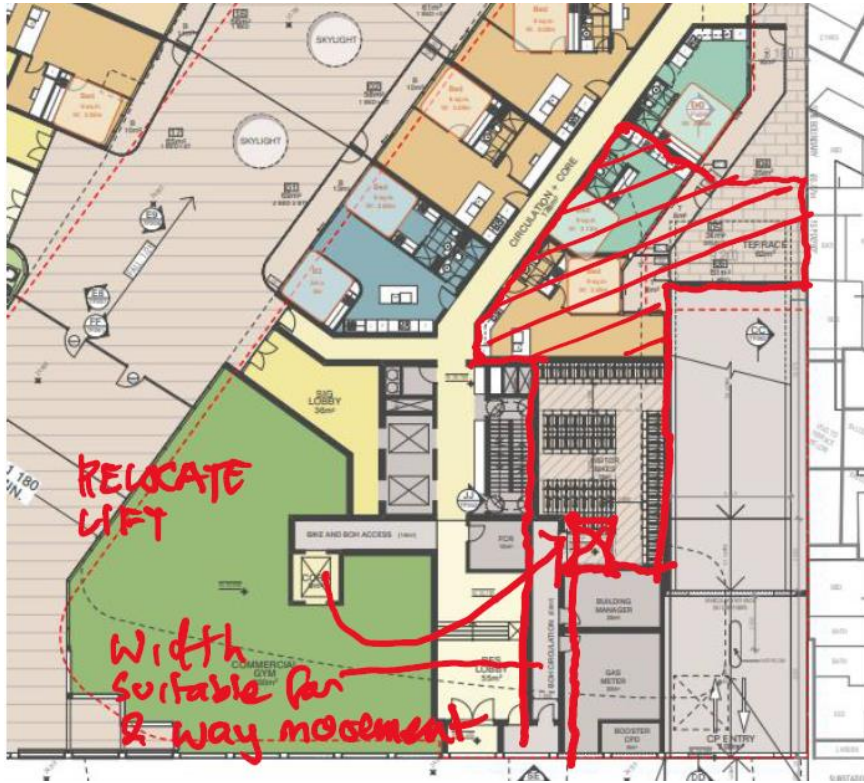
*Bicycle Facilities*

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

Land Use	Units/Area proposed	Rate for resident/staff	Rate for visitors	No. required	No. proposed	Reduction sought
Dwellings	313	In developments of 4 or more storeys, 1 resident spaces to each 5 dwellings	In developments of 4 or more storeys, 1 visitor space to each 10 dwellings	68 resident 34 visitor		0
Office	1354sqm	1 to each 300sqm of net floor area if the net floor area exceeds 1000sqm	1 to each 1000sqm of net floor area if the net floor area exceeds 1000sqm	5 staff 1 visitor		0
Food and drink premises	100sqm	1 to each 300sqm of leasable floor area	1 to each 500sqm of leasable floor area	0		
Gym	796sqm	1 staff spaces per 4 employees	1 to each 200sqm of leasable floor area	2 staff 4 visitor		
<b>Total</b>				<b>7 staff 39 visitor 68 resident</b>	<b>410 spaces</b>	<b>0</b>

163. The proposal provides bicycle parking in excess of this requirement with a total of 410 spaces provided.

164. Pursuant to Clause 52.34-5 also requires shower and change room facilities be provided at a rate of 5 shower/change room for the first 5 employee bicycle spaces, and 1 shower/change room per 10 spaces thereafter. End of trip facilities are shown on the plans at the ground level plan. Five shower/change rooms are provided exceeding best practice
165. Outlined in the previous office report was a concern with the design and location of bike parking on site with the following suggestions outlined:
- (a) *Provide direct access from the street without steps to bicycle storage and lifts (not via a lobby and stairs as currently proposed);*



**Figure 35 – Original Application Mr McGauran Ground Floor Mark Ups**

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



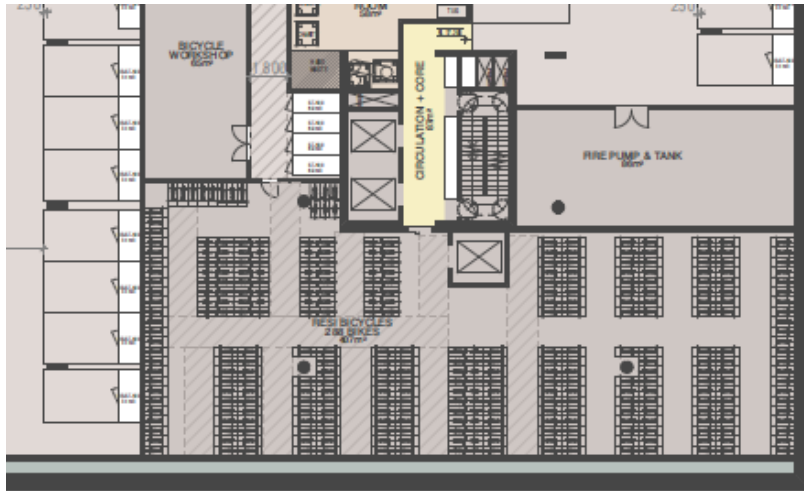
**Figure 36 – Original Application Mr McGauran Basement 1 Mark Ups**



167. The second bike parking area has not been moved to basement 1 as suggested by Council's consultant urban designer, however the layout and design has been improved to better facilitate access.







**Figure 39 – Proposed Amended Basement 2 Plan**

168. The plans were referred to Councils Strategic Transport team who were generally satisfied with the design of the bike parking areas however offered a number of recommendations:
- (a) A minimum of 70 visitor bicycle spaces provided in a location easily accessible to visitors of the site. Visitor spaces must meet clearance and access-way requirements of AS2890.3 or be otherwise to the satisfaction of the responsible authority.
  - (b) Wayfinding signage for the visitor, employee and resident bicycle parking areas.
  - (c) At minimum 20% of resident / employee bicycle spaces within each secure facility must be provided as a horizontal at-grade bicycle rail.
  - (d) Electrical infrastructure to ensure car parking areas are 'electric vehicle ready', including:
    - (i) One or more distribution boards within each car parking basement level, with capacity to supply 1 x 7kW (32amps) electric vehicle charger for each parking space.
    - (ii) A scalable load management system to ensure that electric vehicles are only charged when the building electrical load is below the nominated peak demand. Building electrical peak demand calculations can therefore be undertaken using the assessment methodology (AS/NZS3000:2018, clause 2.2.2.b.i), thus not increasing building electrical peak demand requirements beyond business as usual.
    - (iii) Wiring from the main switchboard to the distribution boards, and cable tray to hold future individual outgoing circuits to electric vehicle chargers.
169. It is suggested that these could form conditions on any permit granted.
170. Council's contract Urban Designer has also reviewed the plans and while these have not addressed all the recommendations outlined within his report, they are acknowledged as improvements. On balance and subject to the conditions above, the bicycle parking arrangements are acceptable

#### *Access and Safety*

171. Access and safety concerns were raised in submissions received regarding the original application. It is noted that the accessway has not been altered from what was already approved.
172. Councils Strategic transport team found no access or safety issues.

#### *Green Travel Plan*

173. Councils Strategic transport team recommended a condition requiring the submission of a Green Travel Plan (GTP). Condition 56 of the existing permit requires the provision of a GTP however due to the increase in numbers of dwellings it is considered reasonable to delete the existing condition and update that this with the following requirements:
- (a) Description of the location in the context of alternative modes of transport;
  - (b) Employee welcome packs (e.g. provision of Myki/transport ticketing);
  - (c) Sustainable transport goals linked to measurable targets, performance indicators and monitoring timeframes;
  - (d) A designated 'manager' or 'champion' responsible for co-ordination and implementation;
  - (e) Details of bicycle parking and bicycle routes;
  - (f) Details of Green Travel funding and management responsibilities;
  - (g) The types of bicycle storage devices proposed to be used for employee and visitor spaces (i.e. hanging or floor mounted spaces);
  - (h) Security arrangements to access the employee bicycle storage spaces;
  - (i) Signage and wayfinding information for bicycle facilities and pedestrians pursuant to Australian Standard AS2890.3; and
  - (j) Provisions for the GTP to be updated not less than every five years.

Waste Management

174. Condition 37 on the Permit requires a Waste Management Plan (WMP) be submitted. An amended WMP has been submitted and Council's Contract Management Unit has advised that it is not satisfactory.
175. An amended WMP is be required to show the following:
- (a) All diagrams pertaining to the management of waste must be attached to the WMP including all swept path diagrams.
176. This should form a condition on any permit granted.

Wind

177. A wind report was submitted with the amended application which was peer reviewed for Council by Mel Consultants.
178. The review was generally favourable subject to additional information including:
- (a) Confirmation that the ground level entries to commercial buildings and lobby areas to Towers 1, 2 and 3 meet the respective criteria;
  - (b) Confirmation and details of wind mitigation proposed for Level 2 and Level 8 communal terraces.
  - (c) Confirmation and details of wind mitigation proposed for Level 3 communal terraces.
  - (d) Wind mitigation measures for private terraces;
179. These will form conditions on any permit granted.

**Conclusion**

180. The amended proposal demonstrate a good level of compliance with policy objectives contained within the Planning Policy Framework and Municipal Strategic Statement.
181. The proposal, subject to the conditions recommended, is an acceptable planning outcome that demonstrates compliance with the relevant Council policies and is considered to continue to make a substantial contribution to the improvement of the surrounding streetscape.

### Reading the Recommendation

182. The recommendation outlined below shows:

- (a) New conditions in **bold**; and
- ~~(b) Redundant conditions have been deleted.~~

### **RECOMMENDATION**

1. That having considered all relevant matters, the Committee resolves to advise VCAT that were Council in a position to determine the application it would have issued an amended permit subject to the following changes:.

With the following preamble

- Construction of two or more dwellings on a lot in a 10-storey building plus two basements in the *Mixed Use Zone* under clause 32.04-6
- Use of part of the land for **office, indoor recreation facility (Gym) and** the sale and consumption of liquor (on-premises) under clause 52.27
- Partial demolition or removal of a building in a *Heritage Overlay* under clause 43.01-1
- Construction of a building or construction or carrying out of works in a *Heritage Overlay* under clause 43.01-2
- Reduction of the car parking requirements under clause 52.06-2
- Alteration of access to a road in Road Zone Category 1 under clause 52.29

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 plans substituted by the Victorian Civil and Administrative Tribunal by its order dated 26 October 2017 in Proceeding P2709/2016 but modified in accordance with the plans prepared by~~ **Fender Katsilidis drawing nos. TP001 – TP003, TP010, TP020, TP030 – 31, TP097 – TP110, TP200 – TP208, TP250 – TP252, TP261 – TP262, TP270 – TP274, TP300 – TP303, TP350 – TP357 and TP500 – TP506 dated 23 November 2020** ~~Ex Architecture drawings nos. A-21-08 rev 2, A-21-09 rev 2, A-21-10 rev 8, A-21-11 rev 8, A-21-12 rev 8, A-21-13 rev 3, A-21-14 rev 2, A-21-15 rev 2, A-21-16 rev 2, A-21-17 rev 2, A-21-18 rev 2, A-21-19 rev 2, A-21-20 rev 2, A-30-01 rev 2, A-30-02 rev 2, A-30-03 rev 2, A-30-04 rev 2, A-30-05 rev 2, A-30-06 rev 2, A-30-07 rev 2, A-30-08 rev 2, A-30-09 rev 2, A-40-10 rev 2, A-40-11 rev 2, A-61-29 rev 1, A-61-31 rev 1, A-61-32 rev 1, A-61-40 rev 1, all dated 21 February 2018 and drawing nos. A-SK-08 rev 2 dated 24 May 2018, A-SK-11 rev 1 dated 30 May 2018, A-SK-07 rev 2 dated 24 May 2018, A-SK-09 rev 2 dated 30 May 2018 & A-SK-10 rev 1 dated 30 May 2018 but further modified to show:~~

#### *Demolition*

~~Demolition plans and elevations.~~

*General*

- (a) The tower behind the decorative heritage façade notated as ‘tower 1’, the tower above the restaurant notated as ‘tower 2’, and the tower above the basement entry notated as ‘tower 3’.
- (b) Location of water tanks in accordance with the recommendations of the SMP;**
- (c) Development schedule including allocation of storage;**

**Building Design**

- (d) Redesign of the eastern portion of the office building at levels ground – level2 deleting stepped profile behind retained portion of the façade to a chamfered edge to increase separation between the office and dwellings in Tower 2.**

~~Notation of bays in heritage façade~~

~~Each of the bays in the decorative heritage façade notated as ‘Bay 1’ (at the south-west end of the facade) to ‘Bay 9’ (at the north-east end of the facade).~~

~~Survey information regarding heights~~

- (e) Survey information included on all elevations to confirm that the following:
  - (i) overall building height does not exceed 31m; and
  - (ii) the new façade height to Queens Parade (podium element) does not exceed 10m.

~~Services details~~

~~Details of the vehicular entrance door, fire booster cupboards and services.~~

~~Heritage façade — Bay 9 and its pilasters~~

~~Retention of the entire Bay 9 façade, including the upper level window and the two narrow, full-height pilasters on either side of the Bay (four in total), but excluding the part for the new lower level window opening.~~

~~Heritage façade fenestration~~

~~If required to be openable, the windows must use traditional steel framed systems including only hopper, awning, or pivot sash arrangements.~~

~~The elevation in drawing no. A-61-29 rev 1 to match section D as shown in drawing no. A-61-32 rev 1.~~

~~The new lower level opening in Bay 9 matching in height and widthy the other new ground floor openings.~~

~~Air conditioning units~~

- (f) The location of air conditioner units on balconies (where applicable), along with balustrade details to confirm they will be reasonably screened (ie not clear glass).

~~Pedestrian link~~

~~The pedestrian link to the laneway behind Coleman Street with a minimum width of 4 metres and relocated to between townhouses 8 & 10.~~

~~Undercrofts~~

~~The ground floor undercrofts beneath tower 1 and between towers 2 & 3 with unobstructed floor to ceiling heights of no less than 3.8 metres, and any consequential changes to ground floor, including external paths, ramps and stairs, and overall building height.~~

~~Consistency with landscape plan~~

~~Any changes to ensure consistency with the approved landscape plans.~~

~~Internal amenity~~

- (g) Each bedroom with either minimum dimensions of 3 metres by 3 metres or a minimum area of 9 square metres provided one side of a rectangle that fits in the bedroom is no less than 2.8 metres. Each change to the dimensions or area of a bedroom must be absorbed within the building envelope.
- (h) **Deletion of dwellings G01- G04 (Tower 2) and use of this space as a communal amenities facility.**
- (i) **Deletion of Studio types 5 & 6 from the plans;**

~~Restaurant seating~~

- (j) Details of how the seating area south of the restaurant will be illuminated and secured when the restaurant is not open.

**Gym entrance**

- (k) Details of a ground floor entry into the Gym from ground floor Queens Parade.**

~~Planter at deli/shop entrance~~

~~Deletion of the planter south of the deli/shop entrance.~~

~~Bicycle park~~

~~Details of the bicycle park west of the deli/shop, confirming the path would not be unreasonably impeded when in use.~~

~~Gated entries~~

- (l) The gates at the secure entries off Queens Parade with a maximum height of 2.1 metres. The gates to the lane off Coleman Street and to the lane off Brunswick Street must match the height of adjoining fences and must be at least 75% visually transparent.

~~Bicycle storage door~~

~~A door to the bicycle storage area at the ground floor of building.~~

~~Boundary dimensions~~

- (m) Boundary dimensions consistent with the dimensions in the certificate(s) of titles.



~~Apartment C10201~~

~~The deletion of apartment C10201 and consequential changes to the adjoining passage and consequential optional provision of additional terrace for one or both of adjoining apartments C10205 & C10202 provided the terrace is at least 3 metres from 24 Queens Parade and consequential optional deletion of the terrace on the south side of two of the apartment C10205 bedrooms and consequential internal re-arrangement of that apartment.~~

~~Café~~

~~The café as a 'food and drinks premises (café)'.~~

~~Screening~~

- (n) ~~Screening to habitable room windows, balcony or terrace to address internal and external overlooking within a 9 m radius and 45 degree arc of an adjacent habitable room windows or private open space area to the satisfaction of the Responsible Authority, including the proposed townhouses at rear of 26-56 Queens Parade. Screens must be designed and/or of a material to minimise views and still permit reasonable daylight to enter the treated dwellings and must also provide a variety of heights and treatments to create visual interest.~~
- (o) **Details of the proposed fritted glass including elevation view and percentage of permeability;**

~~Materials~~

~~A schedule of external colours and materials, including samples (where appropriate). The schedule must show:~~

- ~~(i) — A durable finish to timber.~~
- ~~(ii) — Minimisation of the visibility of the upstand behind the heritage façade glazing and the paint colour chosen accordingly.~~
- ~~(iii) — Construction of the eastern return wall of bay 9 to match the heritage façade in either brickwork or, if investigation of the original façade brickwork results in the retention of a painted render finish to the façade, a painted render finish or similar to match the main façade.~~
- ~~(iv) — Details of the plant level screens, to be integrated with the overall design of the building.~~
- ~~(v) — Exterior glazing to the building to achieve a VLT of at least 70%.~~

~~Coloured elevations~~

~~\Coloured elevations and perspectives.~~

~~Internal amenity~~

~~Extension of the living room in apartment C30207 to the balcony edge to increase daylight to the apartment.~~

~~Lighting~~

- (p) A lighting plan addressing all entries and public spaces within the development.

~~Footpath edging~~

- (q) Sections detailing the edging detail between the footpath and the front setbacks to the site.

*Communal areas access*

- (r) A notation confirming all residents will have access ~~all to both the level 8 tower 4 communal area and the ground level tower 2 communal areas.~~

*Landscape plan*

- (s) A modified landscape plan generally in accordance with the landscape plan prepared by Jack Merlo design and landscape and dated ~~31 January 2018~~ **23 November 2020** but modified to show:

~~—The use of a Crepe Myrtle along apartment terraces.~~

- (i) Soil volumes for planters that demonstrate the capability to achieve intended canopy volumes to the satisfaction of the responsible authority.
- (ii) Planters carrying shrubs must be no less than 600 mm deep.
- (iii) Crepe Myrtle on the private terraces on level 3 planted in masonry planters with planter depths increased from 500 mm up to 800 mm.
- (iv) For a tree with a 3 metres canopy spread where shrubs and groundcovers are also proposed in the planter the provision of a planter with minimum soil volume of 5.5 cubic metres or 4.5 cubic metres for the tree alone. Where larger trees are proposed; a tree with a 4 metres canopy would require 10 and 7.5 cubic metres of soil in similar situations.

~~—Level 8 planters increased in volume (minimum depth of 600 mm) and constructed of masonry.~~

- (v) Any details required by the Irrigation Management Plan approved under condition 40.
- (vi) Any specified growing medium in planters must have a high sand component (rather than an organic mix).
- (vii) Any planters external to terrace screens must include safety devices and must be maintained by the Owners Corporation.

~~—Deletion of the planter in front of the deli/shop entrance.~~

- (viii) Type, location, quantity, pot size, height at maturity and botanical names of all proposed plants. Species within the landscape buffer must be shade tolerant and must provide clear visual links with the pedestrian link (low level shrubs/plants).
- (ix) Cross sections showing the depth of planter boxes and planting, including growing media, irrigation, drainage, water proofing and tree anchors.
- (x) Location of all areas to be covered by lawn, paving or other surface materials.
- (xi) Specification of works to be undertaken prior to planting. This must include detailed soil mix specifications for different components of the overall landscaping works.
- (xii) Watering and maintenance.

- (xiii) Garden bed dimensions.
- (xiv) Areas of paving and proposed materials.
- (xv) Location of proposed tree planting – distances from buildings and other infrastructure, planting proposed over the basement levels or under the overhanging built form.
- (xvi) Clear definition of terraced spaces, retaining walls, seating elements and other structures independent of paving treatments.
- (xvii) Water sensitive urban design [WSUD] features.
- (xviii) Removal of street tree 8 (*Ulmus*). A notation must confirm that the Permit Holder will pay the Responsible Authority \$8,960 to undertake these works, including the reinstatement of 2 trees after development plus 2 years tree establishment maintenance by City of Yarra contractors.
- (xix) A detailed section of a green roof/non-accessible planter bed, confirming or detailing the vegetation layer; the growing substrate and depth (plants should not be supplied as 100 mm pots, but grown in the media to be used on the roof/planter bed); load bearing weights for saturated bulk density that have been supported by suitably qualified engineers; irrigation; filter sheet; drainage layer (the Elmhich product, or similar must be specified); protection mat; root barrier; and waterproofing.
- (xx) Deletion of the pavers used in the communal lawn area.
- (xxi) Ground level tree selection should not just be limited to species that grown in a columnar shape.
- (xxii) A safe maintenance program for all planters **including plant replacement**.
- (xxiii) A tree management plan showing TPZs for trees in the nature strip and outer separator.
- (xxiv) Three additional street trees (*Ulmus procera* 'English Elm') where the existing crossovers are to be removed. A notation must confirm that the Permit Holder will pay the Responsible Authority \$2,798 to undertake these works, including the reinstatement of 2 trees after development plus 2 years tree establishment maintenance by City of Yarra contractors.
- (xxv) Details of plantings associated with the pedestrian access to the laneway off Coleman Street.
- (xxvi) **Quantity of plants per m2 be provided for the green roof Level 08 Tower 3, Landscape Plan and sections – this should be planted (low growing succulents) at a density of up to 16 per square metre;**
- (xxvii) **Details of use of Washingtonia Robusta (Fan Palm) on roof terrace and confirmation if this species requires tree anchors.**
- (xxviii) **All changes as required by the Wind report.**

*Use*

- (t) Red line plans showing the sale and consumption of liquor limited to the internal area of the westernmost food and drinks premises (café), and the restaurant.

- (u) The 'café' and 'restaurant' shown as a 'food and drinks premise (café)'.

*Maximum floor areas*

~~The shop (deli) with a maximum leasable floor area of 201m<sup>2</sup>.~~

~~The food and drinks premises (café and restaurant) with a maximum leasable floor area of 295m<sup>2</sup> in total.~~

*Driveway convex mirror*

- (v) Installation of a convex mirror to service vehicles exiting the driveway (no audible devices are to be installed).

*Vehicle entrance*

~~1 in 20 scale cross sectional drawings of the development's vehicular entrances, showing the actual reduced levels (not interpolated levels from the application drawings) of the road profile, the lip of the channel, the invert of the channel, the top of kerb and the existing building line. The existing road profiles of the Queens Parade service lane (from the kerb line to the centre line of the road) and the access ways inside the property must be accurately drawn. The cross section must demonstrate that vehicles can traverse the new vehicle crossing and ramp without scraping or bottoming out, using a B99 design vehicle.~~

*Bicycles*

- (w) A minimum of 70 visitor bicycle spaces provided in a location easily accessible to visitors of the site. Visitor spaces must meet clearance and access-way requirements of AS2890.3 or be otherwise to the satisfaction of the responsible authority.**
- (x) Wayfinding signage for the visitor, employee and resident bicycle parking areas.**
- (y) At minimum 20% of resident / employee bicycle spaces within each secure facility must be provided as a horizontal at-grade bicycle rail.**

~~Bicycle signage in accordance with clause 52.34-5 of the Yarra Planning Scheme.~~

~~Details of bicycle storage/parking systems, demonstrating they can provide space for a bicycle of minimum dimensions of 1.7 metres in length, 1.2 metres in height and 0.7 metres in width at the handlebars or as per AS2890.3-2015.~~

~~Accessways to bicycle parking spaces a minimum width of 1.5 metres.~~

~~Details of the visitor 'bicycle park' at the ground floor.~~

~~Bicycle parking positioned adjacent to the pedestrian gate in the north-west corner of the site or adjacent to allocated car spaces for the three townhouses on land known as the rear 26-56 Queens Parade (being lot 1 on Title Plan 806921X).~~

*Basement*

- (z) Ramp width dimensions (from kerb to kerb).
- (aa) Minimum headroom clearances throughout the basement dimensioned.
- (bb) Car park columns setback 750mm from the aisles.

- (cc) Loading bay dimensioned on the drawings, including minimum overhead clearance. The plan must also include a note confirming details of the vehicles permitted to use this space, along with swept path diagrams provided for ingress and egress;
- (dd) Widths of internal ramped accessways to be dimensioned;**
- (ee) Accessible parking space and shared area to be dimensioned;**
- (ff) Clearances to be dimensioned for all car spaces adjacent to walls;**
- (gg) Car parking spaces to be numbered;**
- (hh) Electrical infrastructure to ensure car parking areas are ‘electric vehicle ready’, including:**
  - (i) One or more distribution boards within each car parking basement level, with capacity to supply 1 x 7kW (32amps) electric vehicle charger for each parking space.**
  - (ii) A scalable load management system to ensure that electric vehicles are only charged when the building electrical load is below the nominated peak demand. Building electrical peak demand calculations can therefore be undertaken using the assessment methodology (AS/NZS3000:2018, clause 2.2.2.b.i), thus not increasing building electrical peak demand requirements beyond business as usual.**
  - (iii) Wiring from the main switchboard to the distribution boards, and cable tray to hold future individual outgoing circuits to electric vehicle chargers.**

*Vehicle entry*

- (ii) The east edge of the crossover must be perpendicular to the Queens Parade service road.
- (jj) The headroom clearance of the vehicular doorway a minimum headroom of 3.6 metres provided along the access ramp and 3 metres within the loading and waste collection bays.
- (kk) Visitor intercoms to the pedestrian and vehicular entries to the development.
- (ll) A note confirming the design and construction of the new vehicle crossing must satisfy Yarra City Council’s Infrastructure Road Materials Policy, Yarra City Council’s Standard Drawings and engineering requirements.

*Redundant crossings*

- (mm) Demolition and reinstatement of all redundant vehicle crossings to Yarra City Council’s satisfaction.

*Loading bay*

- (nn) Dimensions of the loading bay and waste pick up bay.

*Reports*

- (oo) Changes (as may be necessary) for consistency with the **Façade Strategy**, Structural Report, Wind Assessment Report, Acoustic Report, Sustainable Management Plan Report and Waste Management Plan Report.



**Endorsed plans not altered**

- 2 The development and uses as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

**Façade Strategy and Materials and Finishes Plan**

- 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 or 1:50 illustrating typical podium and tower details, lobby entrances and the like for all uses;
  - (b) Elevations at a scale of 1:20 or 1:50 detailing all reconstruction works including all restoration works and 'make good works' associated with works to the entries to be prepared by suitably qualified heritage architect including the construction of the eastern return wall of bay 9 to match the heritage façade in either brickwork or, if investigation of the original façade brickwork results in the retention of a painted render finish to the façade, a painted render finish or similar to match the main façade.
  - (c) the paint on the decorative Heritage façade removed (except for the purposes of investigation), a decorative facade treatment scheme must be submitted to and approved by the Responsible Authority. The treatment scheme must be informed by and include the results of an investigation of the existing and original decorative treatments to the façade and an assessment of non-destructive paint removal techniques. The treatment scheme must include an investigation of the possibility of restoring the façade to its original condition based on the best available evidence. The treatment scheme must also include the Bay 9 return wall and colour proposed for the level 2 upstand behind the façade glazing.
  - (d) Section drawings to demonstrate façade systems, including fixing details and joints between materials or changes in form;
  - (e) A materials schedule and coloured drawings and renders outlining colours, materials and finishes and graffiti proofing of walls,
  - (f) Details of the plant level screens, to be integrated with the overall design of the building.

**Architectural services**

- 4 As part of the ongoing consultant team, **Fender Katsilidis** ~~Cox Architecture~~ or an architectural firm(s) to the satisfaction of the Responsible Authority must be engaged to oversee design and construction of the development, and to 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.

**Finished floor levels**

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

### **Screening**

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

### **Wall cleaning**

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

### **Maintenance**

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

### **Concealing pipes etc**

- 10 All pipes (excluding downpipes), 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.

### **Graffiti**

- 11 Before the buildings are occupied, any wall located on a boundary facing public property must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.

### **External lighting**

- 12 Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the basement car park, pedestrian walkway, laneway and dwelling entrances must be provided. Lighting must be located, directed, shielded, and of limited intensity, all to the satisfaction of the Responsible Authority

### **Noise**

- 13 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).
- 14 The use and development must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).

### **Heritage facade**

~~Before either the development starts or the paint on the decorative facade is removed (except for the purposes of investigation), a decorative facade treatment scheme must be submitted to and approved by the Responsible Authority. The treatment scheme must be informed by and include the results of an investigation of the existing and original decorative treatments to the facade and an assessment of non-destructive paint removal techniques. The treatment scheme must include an investigation of the possibility of restoring the facade to its original condition based on the best available evidence. The treatment scheme must also include the Bay 9 return wall and colour proposed for the level 2 upstand behind the facade glazing. When approved, the decorative facade treatment scheme will be endorsed and will then form part of this permit.~~

~~The approved decorative facade treatment scheme must be carried out by or under the supervision of a suitably qualified consultant to the satisfaction of the Responsible Authority.~~

**Amenity**

- 15 The amenity of the area must not be detrimentally affected by the development and uses including through:
- (g) the transport of materials, goods or commodities to or from land;
  - (h) the appearance of any buildings, works or materials;
  - (i) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; or
  - (j) the presence of vermin;
- to the satisfaction of the Responsible Authority.

**Sale and consumption of liquor**

- 16 Except with the prior written consent of the Responsible Authority, no more than ~~50~~ **60** patrons are permitted in the westernmost food and drinks premises (café) at any one time.
- 17 Unless with the further consent of the Responsible Authority, the sale and consumption of liquor in association with the westernmost food and drinks premises (café) and the restaurant may only occur between the hours of 12 noon to 11 pm, any day.
- 18 Before the use of the land for the sale and consumption of liquor starts, a Noise and Amenity Action Plan (NAAP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the NAAP will be endorsed and will then form part of this permit. The NAAP must include the details required by clause 22.09-4.3 of the *Yarra Planning Scheme*.
- 19 The sale and consumption of liquor uses must be managed in accordance with the endorsed NAAP.
- 20 The sale and consumption of liquor as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
- 21 Before the sale and consumption of liquor starts, a sign at the exit of the licensed premises must be displayed to the satisfaction of the Responsible Authority advising patrons to respect the amenity of adjacent residential areas and to leave in a quiet and orderly manner.
- 22 Emptying of bottles and cans into bins may only occur between 7 am and 5 pm on any day.

**Gym**

- 23 **Except with the prior written consent of the Responsible Authority, the Gym authorised by this permit may only operate between the following hours:**
- a) **Monday to Saturday: 5.00am – 10:00pm**
  - b) **Sunday: 7:00am – 7:00pm**
- 24 **Except with the prior written consent of the Responsible Authority, the Gym use authorised by this Permit only operate with the following:**
- a. **150 patron numbers;**
  - b. **15 staff**

**Office**

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

**b) Monday to Sunday:**

**7:00am – 7:00pm**

**Structural report**

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

**Public Art Management Plan**

- 28 By no later than 6 months after the development starts, a Public Art Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Public Art Management Plan will be endorsed and will then form part of this permit. The Public Art Management Plan must include, but not be limited to:
- (k) Details of the commissioned artist(s).
  - (l) A description of art work, including materials, colours, dimensions, content, special features (eg lighting), details of the installation process, and details of an art work maintenance schedule.
- 29 Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, the public art in the endorsed Public Art Management Plan must be completed. Once completed, the public art must be maintained in accordance with the endorsed Public Art Management Plan to the satisfaction of the Responsible Authority.

**Car spaces etc and access for nearby residents**

- 30 Before the development starts, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under section 173 of the *Planning and Environment Act 1987* providing for:
- (a) The ongoing provision of 6 car parking spaces, 3 bicycle parking spaces, 3 stores and a bin area for the residents of the three townhouses on land known as the rear 26-56 Queens Parade, being lot 1 on Title Plan 806921X.
  - (b) The ongoing pedestrian access and egress through the land for the residents of and visitors to the three townhouses on land known as the rear 26-56 Queens Parade, being lot 1 on Title Plan 806921X.
  - (c) The obligations under the agreement only applying to that part of land that is or will become common property under the relevant plan of subdivision and to the owners corporation in which the common property has vested or will vest on registration of the plan of subdivision.

The agreement must be registered on title. The owner, or other person in anticipation of becoming the owner, must meet all of the reasonable expenses of preparing, reviewing, registering and recording the agreement, including the Responsible Authority's costs and expenses (including legal expenses) incidental to preparing, reviewing, registering and recording the agreement.

### **Wind**

- 31 Before the plans under condition 1 are endorsed, an amended Wind Assessment Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Wind Assessment Report will be endorsed and will form part of this permit. The amended Wind Assessment Report must be generally in accordance with the Wind Assessment Report prepared by Windtech and dated 30 June 2016, but modified to:
- (a) reflect the decision plans; and
  - (b) demonstrate acceptable wind levels will result from the development (on and off the land);
  - (c) **Confirmation that the ground level entries to commercial buildings and lobby areas to Towers 1, 2 and 3 meet the respective criteria;**
  - (d) **Confirmation and details of wind mitigation proposed for Level 2 and Level 8 communal terraces.**
  - (e) **Confirmation and details of wind mitigation proposed for Level 3 communal terraces; and**
  - (f) **Wind mitigation measures for private terraces;**  
~~identify which balustrades could be reduced to 1 metre or 1.7 metres (dependent on overlooking requirements) and continue to achieve the relevant wind criteria.~~
- 32 The provisions, recommendations and requirements of the endorsed Wind Assessment Report must be implemented and complied with to the satisfaction of the Responsible Authority.

### **Acoustic report**

- 33 Before the plans under condition 1 are endorsed, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority.
- When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Wood and Grieve Engineers, dated 29 June 2016 and include an assessment of how the requirements of the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade, No. N-1) (SEPP N-1), the State Environment Protection Policy (Control of Music Noise from Public Premises No. N-2) (SEPP N-2) and relevant Australian Standards will be met. The report must:
- (g) Address the decision plans and any relevant condition 1 requirements.
  - (h) Detail the location and time of road traffic noise measurements.
  - (i) Include adoption of appropriate indoor noise levels with regard to road traffic noise.
  - (j) Target internal noise levels with regard to the impact of voice noise from the communal outdoor areas and food and drink premises.
  - (k) Include maximum music noise levels in the food and drinks premises (cafés) and shop, to comply with SEPP N-2.
  - (l) Include the installation of a music noise monitor.



- (m) An assessment of voice noise from patrons within the food and drinks premises (cafés) and shop to the proposed dwellings.
  - (n) **More detailed advice be provided for controlling structure borne noise and vibration from the Ground Level and Basement 1 commercial gym;**
  - (o) **Further guidance regarding allowable music levels within the gym. Indicative allowable octave band music levels within the ground floor of the gym should be provided such that SEPP N-2 limits will be met in apartments above.**
- 34 The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
- 35 Within 3 months of the development or any part of it being occupied, an updated acoustic report prepared by a suitably qualified acoustic consultant to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The report must demonstrate the required level of noise attenuation has been achieved. The report must also:
- (p) Confirm compliance with relevant conditions of the permit.
  - (q) Provide measurement data taken from inside the dwellings of the development demonstrating compliance with SEPP N-1, SEPP N-2 or any other relevant requirement.
- 36 The recommendations and any works contained in the approved acoustic report must be implemented and completed and where there are recommendations of an ongoing nature must be maintained all to the satisfaction of the Responsible Authority.

#### **Sustainable Management Plan**

- 37 Before the development starts, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Management Plan will be endorsed and will form part of this permit. The amended Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by ~~Wood and Grieve Engineers dated 17/08/2017~~ **ADP Consulting dated 24/11/2020**, but modified to show/reflect/demonstrate:
- (a) The incorporation of any combination of the following:
    - (iv) extraction fans to all kitchen range hoods and bathrooms;
    - (v) ceiling fans;
    - (vi) trickle vents;
    - (vii) energy efficient mechanically assisted natural ventilation with flow rates 50% in excess of AS 1668 levels.
  - (b) Confirm glazing details (a VLT of at least 70%).
  - (c) A different stormwater management treatment (not the SPEL treatment proposed), demonstrating compliance with clause 22.17 of the *Yarra Planning Scheme*.
  - (d) The **50,000L** (minimum) rainwater tank used for toilet flushing and landscape irrigation, if possible.

- (e) Clear, unambiguous wording, with clear commitments and no disclaimers.
- (f) A commitment to achieve a minimum NatHERS ~~6.5~~ **7** star average rating (not 'targeted to achieve').
- (g) That no dwellings exceed the 30MJ/m2 cooling loads threshold, using the NatHERS thermal energy rating software.
- (h) **Day light report prepared by Ark Resources demonstrating best practice daylight standards for all habitable rooms.**

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

#### **Waste Management Plan**

39 Before the development starts, 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 ~~9 August 2017~~ **24**

**November 2020**, but modified to include/reflect:

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

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

#### **Irrigation**

41 Before the plans under condition 1 are endorsed an Irrigation Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Irrigation Management Plan will be endorsed and will form part of this permit. The Irrigation Management Plan must include recommendations for:

- (a) Differential demands of the vegetation within the site complying with the provisions, recommendations and requirements of the endorsed Landscape Plan.
- (b) Programmed maintenance for the irrigation system including flushing, checking systems integrity, monitoring sensors and calibration settings.

**Landscaping**

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

**Street trees**

- 44 Before the development starts, 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 include recommendations to the satisfaction of the Responsible Authority for:
- (a) The protection of the nature strip trees adjacent to the site along the Queens Parade frontage before construction starts, during construction and after construction is complete.
  - (b) The provision of any barriers.
  - (c) Any necessary pruning.
  - (d) Watering and maintenance regimes.
- 45 The provisions, recommendations and requirements of the endorsed Tree Management Plan must be complied with and implemented to the satisfaction of the Responsible Authority.
- 46 Before the development starts, a security bond must be given to the Responsible Authority to secure the 8 street trees adjacent to the site along Queens Parade. The security bond must cover the amenity value of each tree and:
- (a) must be an amount to be agreed with the Responsible Authority;
  - (b) must be provided in a manner, and on terms, to the satisfaction of the Responsible Authority; and
  - (c) may be held by the Responsible Authority until the construction works are completed to the satisfaction of the Responsible Authority.

When the construction works are completed to the satisfaction of the Responsible Authority, the Responsible Authority must inspect the trees and provided they are found to be in good condition, the security bond must be refunded.

- 47 Before the buildings or any part of them are occupied, or by such later date as approved in writing by the Responsible Authority, any damaged street trees must be replaced:
- (a) in accordance with any requirements or conditions imposed by Yarra City Council;

- (b) at no cost to Yarra City Council; and
- (c) to the satisfaction of the Responsible Authority.

**Car parking**

- 48 Before the development starts, a Car Park Management Plan prepared to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Car Park Management Plan will be endorsed and will then form part of this permit. The Car Park Management Plan must include, but not be limited to, the following:
- (a) The allocation of 6 car parking spaces to the residents of the three dwellings at the rear of 26-56 Queens Parade, Fitzroy North (planning permit PLN16/0732).
  - (b) The allocation of ~~7~~ **29** car parking spaces for the commercial tenancies, including:
    - i. 1 space to the food and drinks premises;**
    - ii. 13 space to the office including 1 DDA space;**
    - iii. 15 space to the gym;**
  - (c) Management details for residential loading/unloading when moving.
  - (d) The management of the 9 visitor car parking spaces and security arrangements for occupants of the development, including details on how residential visitors are to access car parking.
  - (e) Details of way-finding, cleaning and security of end of trip bicycle facilities.
  - (f) Any policing arrangements and formal agreements.
  - (g) A schedule of all proposed signage including directional arrows and signage, informative signs indicating location of disabled bays and bicycle parking, exits, restrictions, pay parking system etc.
  - (h) The collection of waste and garbage including the separate collection of organic waste and recyclables, which must be in accordance with the endorsed Waste Management Plan required.
  - (i) Details regarding the management of loading and unloading of goods and materials.
  - (j) Confirmation that delivery vehicles entering the land will be restricted to a height no greater than 3.5 metres.
  - (k) Details of the loading bay use, including hours and potentially using a lighting system to improve the safety of this area.
- 49 The provisions, recommendations and requirements of the endorsed Car Park Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
- 50 Before the building or any part of it is occupied, the area set aside on the endorsed plans for the car parking spaces, access lanes, driveways and associated works must be:
- (a) constructed and available for use in accordance with the endorsed plans;
  - (b) formed to such levels and drained so that they can be used in accordance with the endorsed plans;
  - (c) treated with an all-weather seal or some other durable surface; and

- (d) line-marked or provided with some adequate means of showing the car parking spaces, all to the satisfaction of the Responsible Authority.

**Traffic, roads and footpaths**

- 51 All redundant vehicle crossings along the land's road frontages must be demolished and reinstated with paving, kerb and channel to Yarra City Council's satisfaction and at no cost to the Council.
- 52 Any damaged roads, footpaths and other road related infrastructure adjacent to the land as a result of the construction works, including trenching and excavation for utility service connections, must be reconstructed to Yarra City Council's satisfaction and at no cost to the Council. The cross-fall of reconstructed footpaths must be no steeper than 1 in 40.
- 53 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.

**Engineering documentation**

- 54 Within three months of the date the development starts, Detailed Engineering Documentation to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Detailed Engineering Documentation will be endorsed and will then form part of this permit. The Detailed Engineering Documentation must be drawn to scale with dimensions, and three copies must be provided. The Detailed Engineering Documentation must include:
  - (e) The reconstruction of that part of the laneway off Brunswick Street that abuts the rear of the land in pitched bluestone.
  - (f) Subject to the approval of VicRoads, the reinstatement of the footpath outside the Queens Parade frontage of the land, once all building works and underground utility services have been completed/installed. All pedestrian access must be constructed to a level no steeper than 1 in 40 from the building line.
  - (g) The nature strips directly outside the land's Queens Parade service road frontage must be cultivated, top dressed and be provided with instant turf.
  - (h) If material damage to the Queens Parade service road is caused as a result of the carrying out of the development including the provision of ancillary utility services, the service road must be reinstated to the satisfaction of the Responsible Authority.
  - (i) The capping of all redundant property drains.
- 55 Unless with the prior written consent of the Responsible Authority, all development referenced in condition 52 must be completed to the satisfaction of the Responsible Authority before the building or any part of the building is occupied.
- 56 The details and requirements of the endorsed Detailed Engineering Documentation must be implemented and complied with to the satisfaction of the Responsible Authority.
- 57 Before the development starts, a one-off contribution of \$8,960 must be paid to the Responsible Authority to be used for new street tree plantings that are required as a result of the development (reinstatement of 2 trees after development plus 2 years tree establishment maintenance).



### **Green Travel Plan**

- 58 Before the occupation of the development or any part of the development, a Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Green Travel plan will be endorsed and will form part of this permit. The Green Travel Plan must include, but not be limited to, the following:
- (a) Description of the location in the context of alternative modes of transport;**
  - (b) Employee welcome packs (e.g. provision of Myki/transport ticketing);**
  - (c) Sustainable transport goals linked to measurable targets, performance indicators and monitoring timeframes;**
  - (d) A designated 'manager' or 'champion' responsible for co-ordination and implementation;**
  - (e) Details of bicycle parking and bicycle routes;**
  - (f) Details of Green Travel funding and management responsibilities;**
  - (g) The types of bicycle storage devices proposed to be used for employee and visitor spaces (i.e. hanging or floor mounted spaces);**
  - (h) Security arrangements to access the employee bicycle storage spaces;**
  - (i) Signage and wayfinding information for bicycle facilities and pedestrians pursuant to Australian Standard AS2890.3; and**
  - (j) Provisions for the GTP to be updated not less than every five years.**
  - ~~(k) A description of the location in the context of alternative modes of transport.~~
  - ~~(l) Employee and resident welcome packs (eg provision of Met cards/Myki cards).~~
  - ~~(m) Appointment of a person as 'manager' or 'champion' responsible for co-ordination and implementation.~~
  - ~~(n) Details of bicycle parking and bicycle routes.~~
  - ~~(o) Details of GTP funding and management responsibilities.~~
  - ~~(p) An obligation to update the Plan not less than every 5 years.~~
- 59 The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

### **Construction**

- 60 Before the development starts, 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 include:
- (q) A street tree management plan (including TPZs).**
  - (r) A pre-conditions survey (dilapidation report) of the land and all adjacent Yarra City Council roads frontages and nearby road infrastructure.**
  - (s) Works necessary to protect road and other infrastructure.**

- (t) Remediation of any damage to road and other infrastructure.
- (u) 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.
- (v) Facilities for vehicle washing, which should be located on the land.
- (w) 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.
- (x) Site security.
- (y) A lighting plan, which must include:
  - (viii) If any existing public lighting assets require temporary disconnection, details of alternative lighting to maintain adequate lighting levels. A temporary lighting scheme must be approved by Yarra City Council and the relevant power authority.
  - (ix) Confirmation that existing public lighting would only be disconnected once temporary alternative lighting scheme becomes operational.
  - (x) Confirmation that the temporary lighting scheme will remain operational until a permanent lighting scheme is reinstated.
- (z) Management of any environmental hazards including, but not limited to:
  - (xi) contaminated soil;
  - (xii) materials and waste;
  - (xiii) dust;
  - (xiv) stormwater contamination from run-off and wash-waters;
  - (xv) sediment from the land on roads;
  - (xvi) washing of concrete trucks and other vehicles and machinery; and
  - (xvii) spillage from refuelling cranes and other vehicles and machinery.
- (aa) The construction program.
- (bb) Delivery and unloading points and expected duration and frequency.
- (cc) Parking facilities for construction workers.
- (dd) Measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan.
- (ee) An outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services.
- (ff) 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.
- (gg) 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.

(hh) 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:

(xviii) using lower noise work practice and equipment;

(xix) the suitability of the land for the use of an electric crane;

(xx) silencing all mechanical plant by the best practical means using current technology;

(xxi) fitting pneumatic tools with an effective silencer; and

(xxii) other relevant considerations.

- 61 During construction, any stormwater discharged into the stormwater drainage system must be in compliance with Environment Protection Authority guidelines.
- 62 During construction, 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.
- 63 During construction, vehicle borne material must not accumulate on the roads abutting the land.
- 64 During construction, the cleaning of machinery and equipment must take place on the land and not on adjacent footpaths or roads.
- 65 During construction, all litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly.
- 66 Before the buildings or any part of them are occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Yarra City Council infrastructure resulting from the development must be reinstated to the satisfaction of the Responsible Authority.
- 67 Any service poles, structures or pits that interfere with the proposal must be adjusted or removed with approval from the relevant authorities and to the satisfaction of the Responsible Authority.
- 68 Before the buildings or any part of the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, any new vehicle crossings must be constructed in accordance with any requirements or conditions imposed by Yarra City Council to the satisfaction of the Responsible Authority.
- 69 Except with the prior written consent of the Responsible Authority, Yarra City Council assets must not be altered in any way.
- 70 Pit lids and levels are to be readjusted to match the surface of the footpath, to the satisfaction of the Responsible Authority.
- 71 No parking restriction signs must be removed, adjusted, changed or relocated without approval or authorisation from the Responsible Authority.

- 72 Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
- (a) before 7 am or after 6 pm, Monday-Friday (excluding public holidays);
  - (b) before 9 am or after 3 pm, Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday); or
  - (c) at any time on Sundays, ANZAC Day, Christmas Day and Good Friday.

**Public lighting plan**

- 73 Before the development starts, a public lighting plan must be submitted to and approved by the Responsible Authority. When approved, the public lighting plan will be endorsed and will form part of this permit. The public lighting plan must include:
- (a) Lighting at the entrance to and within the northern laneway linking to Coleman Street and within the reconstructed part of the laneway abutting the land off Brunswick Road.
  - (b) Confirmation that all primary pedestrian access to a residential/multipurpose development will be lit by public lighting installations at least to lighting level P4 as specified in the Australian Standard AS 1125.3.1:2005 Lighting for roads and public spaces - Pedestrian area (Category P) lighting - Performance and design requirements.
  - (c) Confirmation that any new poles and luminaires required for the development will be sourced from CitiPower/Jemena standard energy efficient luminaires list and comply with relevant CitiPower/Jemena technical requirements.
  - (d) Confirmation that light spillage into the windows of any existing and proposed residences will be avoided or minimised and must comply with the requirements of Australian Standard AS 4282 – 1997 Control of the obtrusive effects of outdoor lighting.
  - (e) Confirmation that the locations of any new light poles will not obstruct vehicular access into private property.
  - (f) Include a commitment that the Permit Holder will ensure (by contacting relevant power authority) that the existing or proposed power supply conforms to “No Go Zone” requirements from the relevant power authority;
  - (g) Confirmation that the owner will fund the supply and installation of any additional or upgraded lighting, electrical hardware and poles.
- 74 The provisions, recommendations and requirements of the endorsed public lighting plan must be implemented and complied with to the satisfaction of the Responsible Authority.

**Flood impact mitigation**

- 75 The entry/exit to the basement carpark must incorporate either a flood proof apex and associated bunding or a self-closing automatic flood barrier constructed no lower than 24.43 metres to Australian Height Datum (AHD), which is 300 mm above the applicable flood level or 24.13 metres to AHD. These entry/exit requirements must be shown on the plans endorsed under condition 1.
- 76 Any external openings to the basement including windows and vents must be constructed no lower than 24.43 metres to AHD. The plans endorsed under condition 1 must be consistent with this requirement.

- 77 Before an Occupancy Permit is issued, a certified survey plan, showing finished levels (as constructed) reduced to AHD, must be submitted to and approved by Melbourne Water to demonstrate that the levels have been constructed in accordance with Melbourne Water's requirements.

**Land contamination**

- 78 Before the construction of the development authorised by this permit starts, an assessment of the land to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The assessment must be prepared by an environmental professional with suitable qualifications to the satisfaction of the Responsible Authority and must include:
- (a) A description of previous land uses and activities on the land.
  - (b) An assessment of the level, nature and distribution of any contamination within, or in close proximity to, the land.
  - (c) Details of any provisions, recommendations and requirements (including but not limited to, clean up, construction, ongoing maintenance or monitoring) required to effectively address and manage any contamination within the land.
  - (d) Recommendations as to whether the land is suitable for the use for which the land is proposed to be developed and whether an Environmental Auditor should be appointed under section 53S of the *Environment Protection Act 1970* (**EP Act**) to undertake an Environmental Audit in accordance with the provisions of the EP Act.
- 79 If the assessment required by condition 76 does not result in a recommendation that an Environmental Auditor be appointed under section 53S of the EP Act to undertake an Environmental Audit in accordance with the provisions of the EP Act, all provisions, recommendations and requirements of the assessment must be implemented and complied with to the satisfaction of the Responsible Authority.
- 80 If the assessment required by condition 76 results in a recommendation that an Environmental Auditor be appointed under section 53S of the EP Act to undertake an Environmental Audit in accordance with the provisions of the EP Act, before the construction of the development authorised by this permit commences, the Environmental Auditor appointed under section 53S of the EP Act must undertake an Environmental Audit in accordance with the provisions of the EP Act and issue:
- (a) a Certificate of Environmental Audit for the land in accordance with section 53Y of the EP Act (a **Certificate**); or
  - (b) Statement of Environmental Audit for the land in accordance with section 53Z of the EP Act (a **Statement**),
  - (c) and the Certificate or Statement must be provided to the Responsible Authority.
- 81 If, pursuant to condition 78, a Statement is issued:
- (a) The development authorised by this permit must not be undertaken unless the Statement clearly states that the land is suitable for the sensitive use for which the land is being developed.
  - (b) The development authorised by this permit must not be undertaken until compliance is achieved with the terms and conditions that the Statement states must be complied with before the development commences (pre-commencement conditions).



- (c) Before the construction of the development authorised by this permit commences, a letter prepared by the Environmental Auditor appointed under section 53S of the EP Act which states that the pre-commencement conditions have been complied with must be submitted to the responsible authority.
- (d) If any term or condition of the Statement requires any ongoing maintenance or monitoring, the owner of the land (or another person in anticipation of becoming the owner of the land) must enter into an agreement with the Responsible Authority pursuant to section 173 of the *Planning and Environment Act 1987* (Agreement). The Agreement must:
  - (i) provide for the undertaking of the ongoing maintenance and monitoring as required by the Statement; and
  - (ii) be executed before the sensitive use for which the land is being developed commences.
- (e) The owner of the land, or other person in anticipation of becoming the owner, must pay all costs and expenses (including legal expenses) of, and incidental to, the Agreement (including those reasonably incurred by the Responsible Authority).

**Expiry**

82 This permit will expire if any of the following circumstances apply:

- (a) The development is not started within 4 years of the issued date of this permit.
- (b) The development is not completed within 6 years of the issued date of this permit.
- (c) All the uses do not start within 6 years of the issued date of this permit.

In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

**NOTES:**

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

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

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

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

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

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.

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

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

A local law permit may be required for tree removal. Please contact Council's Compliance Branch on 9205 5166.

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

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

## Attachments

- 1 PLN16/0434 - 26 - 56 Queens Parade, Fitzroy North - VCAT Amended Plans Part 1
- 2 PLN16/0434 - 26 - 56 Queens Parade, Fitzroy North - VCAT Amended Plans Part 2
- 3 PLN16/0434 - 26 - 56 Queens Parade, Fitzroy North - VCAT Amended Plans Part 3
- 4 PLN16/0434 - 26 - 56 Queens Parade, Fitzroy North - Amended VCAT Proposal referrals