



Agenda

Planning Decisions Committee

6.30pm, Wednesday 18 November 2020

MS Teams

The Planning Decisions Committee

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

Participating in the Meeting

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

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

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

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

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

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

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

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

Arrangements to ensure our meetings are accessible to the public

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

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

1. Appointment of Chair

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

2. Statement of recognition of Wurundjeri Woi-wurrung Land

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

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

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

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

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

3. Attendance, apologies and requests for leave of absence

Councillor attendees

- Councillor Stephen Jolly
- Councillor Amanda Stone
- Councillor Edward Crossland

Council officers

- Sarah Griffiths (Senior Co-Ordinator Continuous Improvement Statutory Planning)
- Danielle Connell (Senior Co-Ordinator Statutory Planning)
- Michelle King (Principal Planner)
- Rhys Thomas (Senior Governance Advisor)
- Cindi Johnson (Governance Officer)

4. Declarations of conflict of interest

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

5. Confirmation of Minutes

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

6. Committee business reports

Item		Page	Rec. Page
6.1	PLN19/0441: 3 Hilton Street, Clifton Hill	5	29
6.2	PLN19/0807 - 176 Johnston Street & 300 Napier Street Fitzroy	37	72
6.3	PLN20/0173 - 27 Russell Street, Abbotsford	81	128
6.4	PLN20/0168 - 40-50 Rokeby Street, Collingwood	136	186
6.5	PLN20/0184 - 1027 Drummond Street Carlton North	196	219
6.6	PL05/1061.04 - 538 - 540 Heidelberg Road Alphington	221	251
6.7	PLN17/0448.01 - 484-486 Swan Street, Richmond	254	326

6.1 PLN19/0441: 3 Hilton Street, Clifton Hill

Executive Summary

Purpose

1. This report provides the Planning Decisions Committee with an assessment of a planning application submitted for 3 Hilton Street, Clifton Hill. The report recommends approval of the application subject to a number of conditions.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Land Use (Clauses 11, 17.01, 21.04 and 34.01)
 - (b) Built form (Clauses 15.01, 21.05, 21.07, 22.10, 22.16 and 22.17)
 - (c) Off-site amenity impacts (Clause 15.01 and 22.05)
 - (d) Car parking, bicycle parking (Clause 18, 21.06, 52.06 and 52.34)

Key Issues

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

Submissions Received

4. 23 objections were received to the application, these can be summarised as:
 - (a) Design (height, scale, bulk, overdevelopment of small site, character);
 - (b) The 7 storey proposal is inconsistent with the low-scale area and contrary to provisions including the Commercial 2 Zone and Clauses 21.05 (built form) and 22.05 (Interface Uses Policy) of the Yarra Planning Scheme.
 - (c) Off-site amenity impacts – overshadowing, loss of light, overlooking / loss of privacy (in particular from north facing windows), visual bulk and reducing neighbours' development potential.
 - (d) Scale is an abrupt transition to the residential area.
 - (e) The approval of this height will result in other comparably sized developments.
 - (f) The proposed uses are in conflict with the residential area.
 - (g) The car parking reduction will increase on-street parking demand in the area.
 - (h) Traffic impacts, the proposal will result in increased traffic to the narrow street.
 - (i) Bicycle parking insufficient and inconveniently located with no showers / lockers, which will discourage bicycle use.
 - (j) No bicycle parking for café staff / customers.
 - (k) Site map and applicant report describes scale and zoning of nearby buildings incorrectly.
 - (l) Report indicates kitchen in all offices but not shown on plan.
 - (m) Noise impacts, related to increased traffic as well as concerns about the café and roof terrace.
 - (n) Extent of advertising insufficient.
 - (o) Loss of city views.
 - (p) Loss of property value.

- (q) Impacts during construction including noise, loss of parking, security and damage to adjoining property.
- (r) Damage to vehicles as a result of increased traffic / narrowness of street.

Submission of without prejudice 'sketch plans'

5. On 26 June 2020, the applicant submitted sketch plans (dated 24 June 2020, prepared by Wellard Architects) and a response to objections. The key changes shown in the plans are:
- (a) A reduction in the rooftop elements (allowing for a reduction in overall height);
 - (b) Revised front and rear elevations with increased articulation and, on average increased setbacks;
 - (c) Revised treatment of the northern façade;
 - (d) Revised internal layout, including deletion of ground floor café; and
 - (e) Other incidental design improvements.

These plans will be referenced in the assessment section of this report. It is noted that referral comments provided were in relation to the decision plans.

Conclusion

6. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported subject to the following salient conditions:
- (a) Reduction of the overall building height by two levels.
 - (b) Improvements to the design including through greater articulation and visual interest to the northern and front façades.
 - (c) The roof terrace to be more recessive ensuring it does not present as an additional level.

CONTACT OFFICER: Julian Larkins
TITLE: Coordinator Statutory Planning
TEL: 92055456

6.1 PLN19/0441: 3 Hilton Street, Clifton Hill

Reference	D20/157745
Author	Julian Larkins - Coordinator Statutory Planning
Authoriser	Manager Statutory Planning

Ward:	Nicholls
Proposal:	Construction of a multi-storey commercial building plus roof terrace and a reduction in the statutory car parking requirements associated with office and food and drink premises (no permit required uses)
Existing use:	Warehouse
Applicant:	Hilton Street Holdings Pty Ltd c/o Human Habitats
Zoning / Overlays:	Commercial 2 Zone and Design and Development Overlay Schedule 2
Date of Application:	8 July 2019
Application Number:	PLN19/0441

Planning History

1. Planning Permit PLN11/0882 was issued on 10 September 2012 to use the land for the purpose of an Industry (panel beating), including buildings and works associated with the installation of an inlet and exhaust ducts and a waiver in the car parking requirement.

Background

2. The following are matters of process that are relevant to this application:

Lodgment of sketch plans

3. On 26 June 2020, the applicant submitted sketch plans (dated 24 June 2020, prepared by Wellard Architects) and a response to the objections received by the application. The key changes shown in the plans are:
 - (a) A reduction in the rooftop elements (allowing for a reduction in overall height);
 - (b) Revised front and rear elevations with increased articulation and, on average increased setbacks;
 - (c) Revised treatment of the northern façade;
 - (d) Revised internal layout, including deletion of ground floor café; and
 - (e) Other incidental design improvements.

These plans will be referenced in the assessment section of this report. It is noted that referral comments provided were in relation to the decision plans.



Figure 1 – 3D renders of without prejudice sketch plans (Wellard).

Application process

4. The application was lodged on 8 July 2019, and further information subsequently requested on 22 July 2019. The information was received on 11 December 2019 with supplementary floor plans showing bicycle parking submitted on 17 December 2019. The application was then advertised with 89 letters being sent. A total of 23 objections have been received.
5. Council has sought and received advice from Council internal units including Environmental Sustainable Design (ESD), City Works Unit, Engineering Unit, Urban Design and Strategic Transport. Advice was also sought from an external consultant in respect of Acoustic, Wind and Urban Design. Referral advice is an attachment to this report.
6. The permit applicant was given significant time to respond to the concerns raised by objectors and Council. Following the receipt of the sketch plans the applicant was encouraged to reduce the overall height further but eventually indicated they would not be issuing any further informal or formally amended plans. Wanting to act in good faith with Council given the generous amount of time afforded the applicant to prepare revised plans, the applicant indicated that they would not choose to lodge a failure appeal.

The Proposal

7. The application is for construction of a seven storey commercial building plus roof terrace and a reduction in the statutory car parking requirements associated with office and food and drink premises (no permit required uses).
8. The plans submitted on 11 December 2019 and 17 December 2019 form the decision plans (PL00 to PL05, dated 10/12/2019, PL06 to PL11, dated 17/12/2019 and PL12 to PL40 dated 10/12/2019 prepared by Wellard Architects).
9. Further details of the proposal are as follows:

Use

- (a) 1215sqm of office to the upper levels above the ground level.
- (b) A 17.5sqm food and drinks premises (café) (no permit required).
- (c) A total of 9 car parking spaces provided within a stacker system.
- (d) End of trip facilities including 6 bike parking spaces and shower and change facilities for future tenants / occupants.

Development

- (e) Full demolition of all structures on-site (no planning permit required).

- (f) Construction of a seven storey commercial development with ground floor café fronting Hilton Street.
- (g) The ground floor is built to all boundaries and includes a small entry lobby to the middle of the street frontage with an accessible toilet and stairs and single lift to the northern boundary. On the southern boundary is a driveway utilising a new crossover in lieu of the existing crossover on Hilton Street which provides access to a stacker system and car spaces to the rear of the site. Abutting the northern edge of the driveway are some services and a bin storage area. There is a small food and drinks (café) tenancy to the northern boundary fronting Hilton Street.
- (h) The first floor is predominantly office space with associated outdoor courtyards to the north-west corner and to the street frontage. To the northern boundary are the stairs, lift, toilets and a bicycle space which replicates for all upper levels.
- (i) The second floor is predominantly office space with void spaces to the courtyards below. There is a balcony along the western boundary and a small balcony on the northern boundary.
- (j) The third floor is predominantly office space with a void space above the second floor balcony on the rear / western boundary. A larger 3.785m wide terrace with planter fronts the entire Hilton Street frontage.
- (k) The fourth, fifth and sixth floors are all very similar with predominantly office space and void or balcony spaces to the rear western boundary and voids and a 1.985m front setback to Hilton Street.
- (l) The top level contains a rooftop terrace area set back 1.985m from Hilton Street and 3.5m at the rear (west) as well plant equipment, planter areas and a BBQ.

Elevations

- (m) The front (east) elevation shows a seven storey building plus a roof terrace and lift and stair overrun. The lift and stair overrun will present as eight storeys to the northern boundary. The elevation shows the lower level with perforated garage door, the doorway to the lobby and a glazing above a plinth to the cafe.
- (n) A further east elevation is provided showing front façade with perforated screens. The screens would cover the podium and top three levels of the building as well as enclose the roof terrace meaning the building would present as eight storeys.

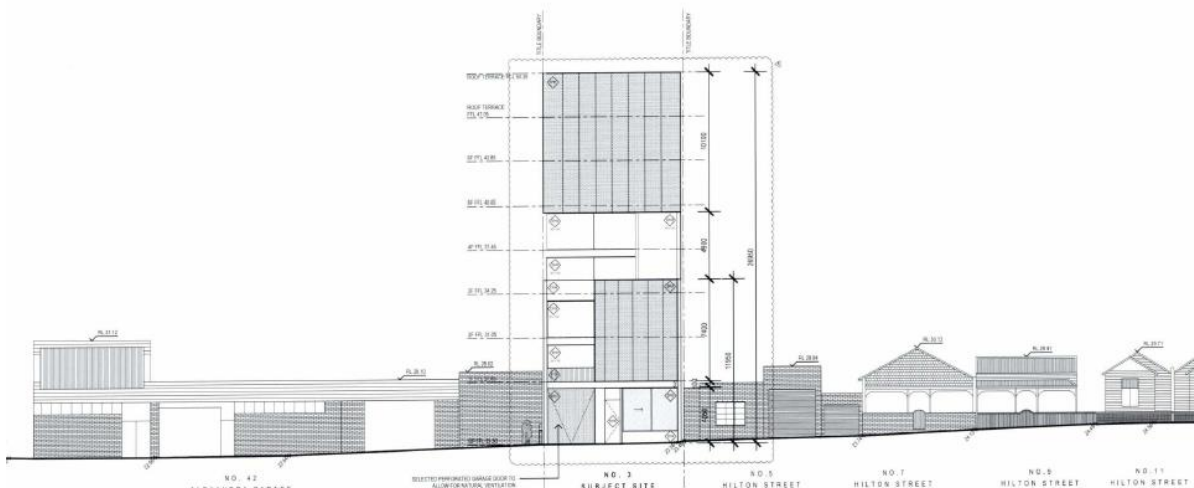


Figure 2 – Street elevation including the perforated screens (Wellard)

- (o) The south elevation presents as a boundary wall with the podium treated in a lighter concrete colour and the upper levels darker. There is 1.985m front setback above podium and 3.5m setback to the rear at the upper levels. The overall height is shown at 26.95m to the top of the lift overrun.

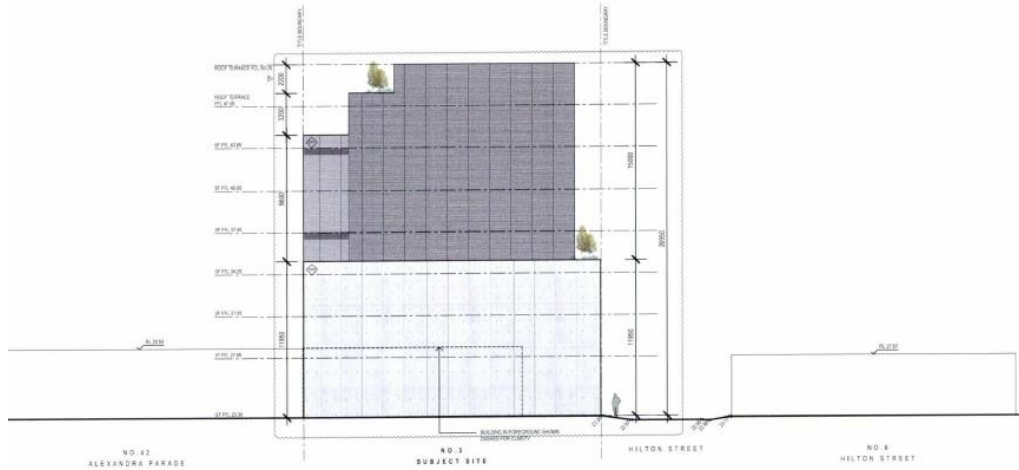


Figure 3 – South elevation (Wellard)

- (p) The west elevation (rear) shows the lighter coloured concrete podium but also includes the void space to the northern boundary from the first floor all the way up the building with windows beyond. The upper levels include the darker shade boundary wall concrete finish which is also carried through to the roof top terrace and lift overrun.

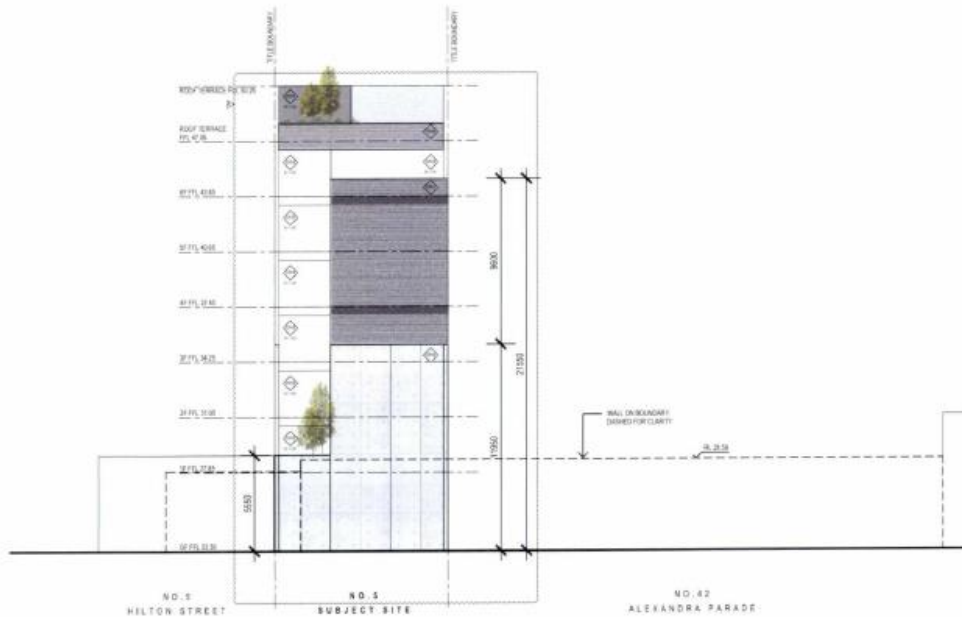


Figure 4 – West elevation (Wellard)

- (q) The north elevation shows the light concrete finish to the podium and darker finish to the boundary wall upper levels. There is a 1.985m front setback above the podium and 3.5m wide balconies and voids to the rear above the ground floor.

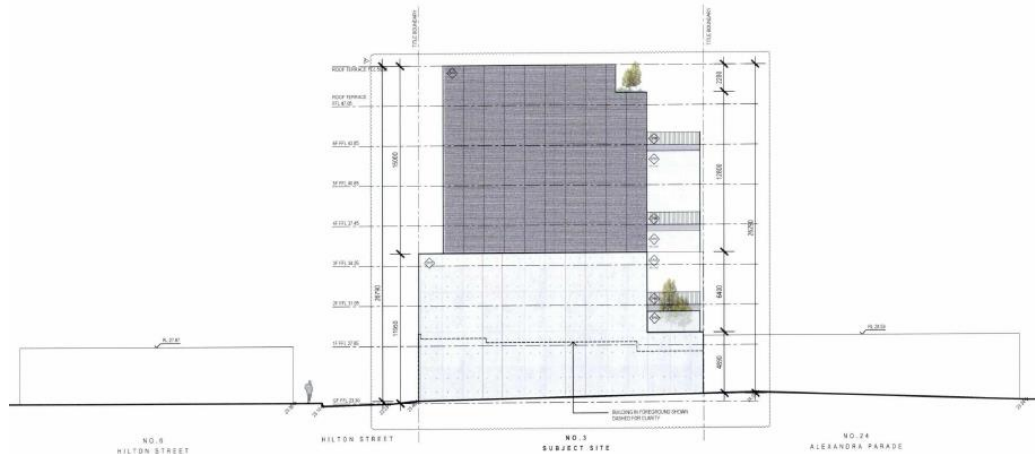


Figure 5 – North elevation (Wellard)

- (r) The sectional drawings show the car parking pit for the stacker system to the rear of the site below ground.

General

- (s) The natural ground level is shown sloping modestly upwards to the north along Hilton Street. The overall height is 26.95m to the top of the lift overrun while the podium height is 11.95m.
- (t) The form of the building is rectilinear with a flat roof form.
- (u) The ground level has a 4.050m floor to ceiling while all the upper levels are 3.2m floor to ceiling.
- (v) The façade design to the Hilton Street frontage consists of a high level of glazing with dark exposed concrete slabs separating the levels. The balconies have lightweight balustrades.

Existing Conditions

Subject Site

10. The subject site is located on the western side of Hilton Street, just over 40 metres north of Alexandra Parade. The site is generally rectangle in shape with a Hilton Street and rear frontage of 10.06 metres and depth of 22.86 metres, yielding an overall area of 232sqm.
11. The subject site contains no restrictive covenants or agreements registered on the titles provided.
12. The site is developed with a double storey warehouse building, built to all boundaries with the exception of the paved area at the south-east corner that is accessed via an existing crossover and allows for two on-site car spaces.
13. The site is located in a commercial pocket just south of an established residential area consisting predominantly of single storey Victorian dwellings.
14. The subject site is in close proximity to a range of key sites / services including the Smith Street Activity centre (225 metres west), various tram services and both Clifton Hill and Victoria Park railway stations.

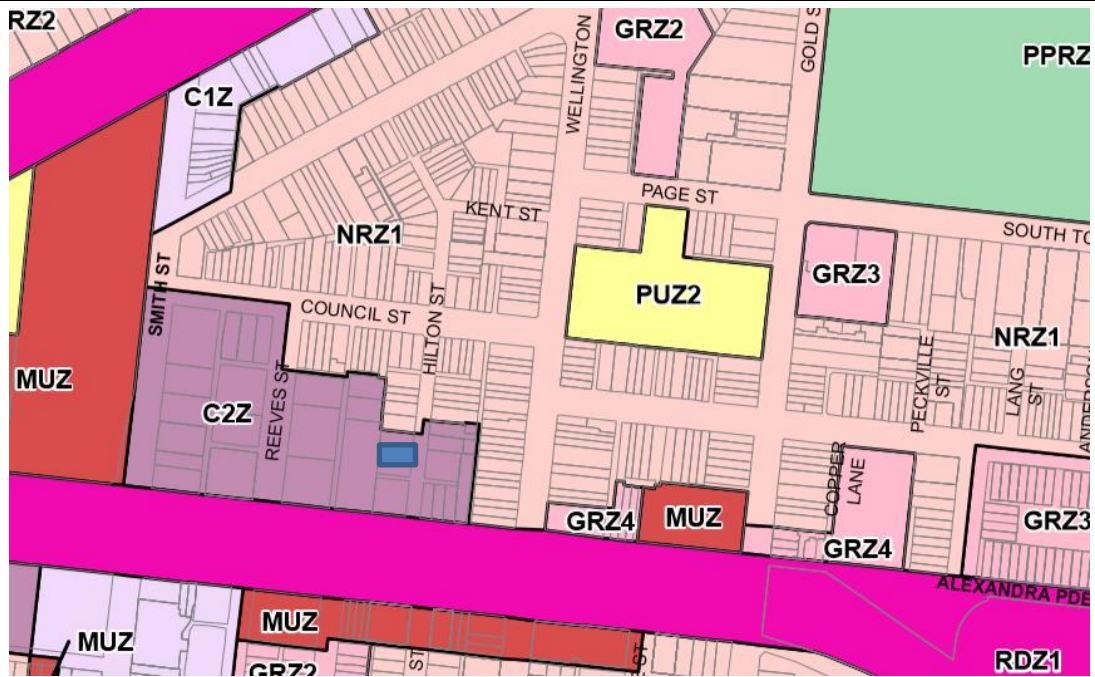


Figure 6 – zoning map (subject site in blue)



Figure 7 – Existing conditions



Figure 8 – Subject site as viewed from Hilton Street

Surrounding Land

15. Adjoining the land to the north is a single-storey warehouse building of brick construction. This site, like the subject site is zoned Commercial 2 Zone and provides car spaces at the south-eastern corner. Further north are single-storey dwellings of brick and weatherboard construction located in a Neighbourhood Residential Zone 1 and Heritage Overlay Schedule 317 Clifton Hill Western Precinct (HO317).
16. To the south and partly to the west, the site is immediately abutted by a large double storey (26 Alexandra Parade), orange brick building setback from Hilton Street with car parking located within the frontage. This site interfaces Alexandra Parade to the south, Hilton Street to the east and a laneway to the west with two storey on boundary walls. The building is currently used as offices.
17. To the west is the continuation of the double storey building discussed above. Further west are more commercial buildings including the Fitzroy North Gasworks Site.
18. To the east is Hilton Street and on the opposite side are further low-scale warehouse and industrial buildings, including offices, zoned Commercial 2 Zone. Further north-east, are dwellings located in a Neighbourhood Residential Zone 1 and within the HO317.

Planning Scheme Provisions

Zoning

Clause 34.01 – Commercial 2 Zone

19. Pursuant to Clause 34.02-1 of the Yarra Planning Scheme (the Scheme), a planning permit is not required to use land for a Food and Drink premises (café) (where the floor area is less than 100sqm) or for an Office.
20. Pursuant to Clause 34.02-4 of the Scheme, a planning permit is required to construct a building or construct or carry out works.

Overlays

Clause 43.02 – Design and Development Overlay Schedule 2

21. Pursuant to Clause 43.02-2 of the Scheme, a planning permit is required to construct a building or construct or carry out works unless a schedule specifically states that a permit is not required. Schedule 2 does not exempt the proposal from requiring a permit and therefore a permit is required under this provision.

Particular Provisions

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

Proposed Use	Area	Statutory Parking Rate	No. of Spaces Required
Office	900.2sqm	3 spaces per 100sqm of LFA	27
Food and Drink Premises	17.5sqm	3.5 spaces per 100sqm of LFA	0
Total Required			27
Allocated			9
Reduction required under Clause 52.06			18

23. Pursuant to Clause 52.06-3, a permit is therefore required to reduce the number of car spaces required under Clause 52.06-5.
24. Pursuant to clause 52.34-1, a new use must not commence until the required bicycle facilities and associated signage has been provided on the land. The following table identifies the bicycle parking requirement under Clause 52.34-3, the provision on site, and the subsequent reduction below the statutory requirement:

Use	Quantity/Size	Statutory Rate	No. required Spaces
Office	900.2sqm	1 to each 300sqm of net floor area for employees 1 to each 1000sqm for visitors	3
Food and Drink premises (convenience restaurant)	17.5sqm	1 to each 25sqm for employees 2 for visitors	2
Total:			5 spaces

25. The proposal provides 6 bicycle spaces, with one on each office level. The application therefore meets the requirements of this provision.

26. The application planning report also indicates there is sufficient shower and change facilities to complement the six bicycle spaces. However, it is unclear what this is referring to as each office level only includes standard toilet. There is an accessible toilet at ground level as well but again it is unclear what shower facilities there are. This can be resolved via condition if a permit were to issue.

General Provisions

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

Planning Policy Framework (PPF)

28. Clause 11 – Settlement
(a) Clause 11.01-1R – Settlement – Metropolitan Melbourne
(b) Clause 11.02-1S – Supply of urban land
29. Clause 13.05 – Noise
(a) Clause 13.05-1S – Noise abatement
30. Clause 13.07 – Amenity and Safety
(a) Clause 13.07-1S – Land Use compatibility
31. Clause 15 – Built Environment and Heritage:
(a) Clause 15.01 – Built Environment
(b) Clause 15.01-1S – Urban Design
(c) Clause 15.01-1R – Urban Design-Metropolitan Melbourne
(d) Clause 15.01-2S – Building Design
(e) Clause 15.01-4S – Healthy Neighbourhoods
(f) Clause 15.01-4R - Healthy Neighbourhoods - Metropolitan Melbourne
(g) Clause 15.01-5S – Neighbourhood Character
(h) Clause 15.02 – Sustainable Development
(i) Clause 15.02-1S – Energy and resource efficiency
32. Clause 17 – Economic development
(a) Clause 17.01-1S – Diversified economy
(b) Clause 17.02-1R – Diversified economy – Metropolitan Melbourne
(c) Clause 17.02 – Commercial
(d) Clause 17.02-1S - Business
33. Clause 18 – Transport
(a) Clause 18.01 – Integrated transport
(b) Clause 18.02-1S – Sustainable personal transport
(c) Clause 18.02-2S – Public Transport
(d) Clause 18.02-2R - Principal Public Transport Network
(e) Clause 18.02-4S – Car Parking

Local Planning Policy Framework (LPPF)

34. Clause 21 – Municipal Strategic Statement (MSS)

35. Clause 21.03 Vision includes Strategic Framework Plan for Yarra, which indicates the subject site is not within a Neighbourhood Activity Centre but is close to the Smith Street Major Activity Centre, with Smith Street about 100 metres west of the subject site. The nearest Neighbourhood Activity Centre is Queens Parade which is approximately 300 metres north of the subject site. This policy states that Yarra will have a distinctive identity as a low-rise urban form, with areas of higher development and highly valued landmarks.
36. Clause 21.04 – Land use
This provision states that '*Due to the historic mixed land use pattern of Yarra the interface of residential land use and commercial and industrial activities must be managed to provide reasonable amenity for residents. It is also important that new development provides high levels of amenity for existing and future residents.*'
37. Clause 21.04-3 – Industry, office and commercial
The objective of this clause is 'to increase the number and diversity of local employment opportunities'.
38. Clause 21.05 – Built form
Implementation of the built form strategies at clause 21.05 includes:
- o Supporting development that maintains and strengthens the preferred character of the relevant Built Form Character type.
- (a) Clause 21.05-2 – Urban design
The relevant objectives and strategies of this clause is:
- (a) *Objective 16 To reinforce the existing urban framework of Yarra.*
 - (b) *Objective 17 To retain Yarra's identity as a low-rise urban form with pockets of higher development.*
 - (c) *Objective 18 To retain, enhance and extend Yarra's fine grain street pattern.*
 - (d) *Objective 20 To ensure that new development contributes positively to Yarra's urban fabric.*
 - (e) *Objective 21 To enhance the built form character of Yarra's activity centres.*
 - (f) *Objective 22 To encourage the provision of universal access in new development.*
- (b) Clause 21.05-3 – Built form character
(c) Clause 21.05-4 – Public environment
39. Clause 21.06 – Transport
(a) Clause 21.06-1 – Walking and cycling
(b) Clause 21.06-2 – Public transport
40. Clause 21.07– Environmental Sustainability
41. Clause 21.08 – Neighbourhoods
(a) *Clause 21.08-4 – Clifton Hill*
Clause 21.08-4 identifies that Clifton Hill is a largely residential neighbourhood with good public open space. It states that there are two neighbourhood activity centres within Clifton Hill in Spensely Street and Queens Parade. In addition this policy recognises that there is a small industrial / business precinct on the north side of Alexandra Parade between Smith and Wellington Street that needs to retain its business focus.

Relevant Local Policies

42. Clause 22.05 – Interface Uses Policy
The relevant objective of this clause is:
- (a) To ensure that residential uses located within or near commercial centres or near industrial uses enjoy a reasonable level of amenity.

Clause 22.05-3 states that it is policy that:

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

43. Clause 22.10 – Built form and design policy
- (a) The policy applies to all new development not included in a heritage overlay and comprises ten design elements that address the following issues: urban form and character; setbacks and building heights; street and public space quality; environmental sustainability; site coverage; on-site amenity; off-site amenity; landscaping and fencing; parking, traffic and access; and service infrastructure.
44. Clause 22.16 – Stormwater Management (Water Sensitive Urban Design)
The relevant objectives of this clause are:
- (a) To achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999 (or as amended). Currently, these water quality performance objectives require:
- (i) Suspended Solids - 80% retention of typical urban annual load
 - (ii) Total Nitrogen - 45% retention of typical urban annual load
 - (iii) Total Phosphorus - 45% retention of typical urban annual load
 - (iv) Litter - 70% reduction of typical urban annual load
- (b) To promote the use of water sensitive urban design, including stormwater re-use.
45. Clause 22.17 – Environmentally Sustainable Development.
- (a) This policy applies to residential development with more than one dwelling. The overarching objective is that development should achieve best practice in environmentally sustainable development from the design stage through to construction and operation.

Advertising

46. The application was advertised on 20 December 2019 in accordance with Section 52 of the Planning and Environment Act (1987) by way of 89 letters sent to the surrounding property owners/occupiers and by six signs on the site. A total of 23 objections have been received at the time of writing this report. The concerns can be summarised as:
- (a) Design (height, scale, bulk, overdevelopment of small site, character);
 - (b) The 7 storey proposal is inconsistent with the low-scale area and contrary to provisions including the Commercial 2 Zone and Clauses 21.05 (built form) and 22.05 (Interface Uses Policy) of the Yarra Planning Scheme.
 - (c) Off-site amenity impacts – overshadowing, loss of light, overlooking / loss of privacy (in particular from north facing windows), visual bulk and reducing neighbours' development potential.
 - (d) Scale is an abrupt transition to the residential area.
 - (e) The approval of this height will result in other comparably sized developments.
 - (f) The proposed uses are in conflict with the residential area.
 - (g) The car parking reduction (27 spaces) will increase on-street parking demand in the area.
 - (h) Traffic impacts, in particular the proposal will result in increased traffic to the narrow street.
 - (i) Bicycle parking insufficient and inconveniently located with no showers / lockers, which will discourage bicycle use.
 - (j) No bicycle parking for café staff / customers.
 - (k) Site map and applicant report describes scale and zoning of nearby buildings incorrectly.
 - (l) Report indicates kitchen in all offices but not shown on plan.
 - (m) Noise impacts, in particular related to increased traffic as well as concerns about the café and roof terrace.

- (n) Extent of advertising insufficient.
 - (o) Loss of city views.
 - (p) Loss of property value.
 - (q) Impacts during construction including noise, loss of parking, security and damage to adjoining property.
 - (r) Damage to vehicles as a result of increased traffic / narrowness of street.
47. The grounds of objections will be considered and addressed where relevant throughout the following assessment.
48. A planning consultation meeting was not held due to the Covid-19 restrictions.

Referrals

External Referrals

49. The application was not required to be referred to any external authority.

Internal Referrals

50. The application was referred to the following units within Council:
- (a) Engineering Services Unit
 - (b) City Works branch
 - (c) ESD Advisor
 - (d) Strategic Transport
 - (e) Council's Urban Designer
 - (f) Urban Design
 - (g) Wind Consultant – MEL Consultants
51. Referral comments have been included as attachments to this report.

OFFICER ASSESSMENT

52. The primary considerations for this application are as follows:
- (a) Strategic justification
 - (b) Built form and design
 - (c) Off-site amenity impacts
 - (d) Sustainable Design
 - (e) Car parking, bicycle facilities and traffic generation
 - (f) Objectors' concerns

Strategic justification

53. The subject site is located in the Commercial 2 Zone which specifically encourages commercial areas for offices, appropriate manufacturing industries, bulky goods retailing, other retail uses, and associated business and commercial services all while seeking to ensure that uses do not affect the safety and amenity of adjacent, more sensitive uses.
54. Contextually, the subject site is located over 100 metres east of the Smith Street Major Activity Centre within the commercial / industrial pocket just north of Alexandra Parade and west of Wellington Street. The subject site is approximately 400 metres south of the Queens Parade Neighbourhood Activity Centre. To the north is an established low-scale residential area with predominantly Victorian heritage dwellings.
55. Although not within an activity centre, the subject site is still located with convenient access to jobs, infrastructure and public transport. The planning scheme recognises that development that meets the community's needs for retail, entertainment, office and other commercial services is sought as outlined within clause 17.02-1 (Business) of State planning policy and notably, Clause 17.01-1S (Diversified economy) seeks to '*Protect and strengthen existing and planned employment areas and plan for new employment areas*' and '*Improve access to jobs closer to where people live*'.

56. The subject site is recognised as being within an existing commercial / industrial precinct on the north side of Alexandra Parade between Smith and Wellington Street that needs to retain its business focus as per Clause 21.08-4.
57. At a local level, there is an expectation stated at Clause 21.04-1 that the majority of new development will be accommodated on strategic redevelopment sites located either in or close to activity centres, with more moderate growth anticipated for sites such as the subject site within the Commercial 2 Zone.
58. Clause 21.04-3 (Industry, office and commercial) highlights the importance of commercial and industrial sections that underpin a sustainable economy. With the decline of manufacturing some of this land is anticipated to become office. Clause 22.05 highlights potential amenity conflicts between residential and other uses that needs to be managed.
59. State and local policies on built form (Clause 15.01 and 21.05) are consistent in their objectives for the delivery of responsive and high quality built form environments. More specifically and relevantly, Objective 17 of Clause 21.05 seeks '*to retain Yarra's identity as a low-rise urban form with pockets of higher development*'. The consistency with built form policies will be discussed in greater detail within the built form assessment.
60. Yarra recognises the importance of environmentally sustainable development within its MSS (Clause 21.07) and through its Environmentally Sustainable Development Policy at clause 22.17 and Stormwater Management (WSUD) Policy at Clause 22.16. The environmental sustainability of the proposed development will be covered in greater detail within this report.
61. Both State and local policy directives seek to promote the use of sustainable personal transport and increased development close to high-quality transport routes (Clauses 18.02-1S, 18.02-1R, 18.02-2S, 18.02-2R, 18.02-3 and 21.06). In regard to car parking, Clause 18.02-4S encourages an adequate supply of car parking to be provided with '*existing and potential modes of access including public transport, the demand for off-street car parking, road capacity and the potential for demand management of car parking.*'
62. At a local level, clause 21.06 acknowledges that whilst parking availability is important for many people, '*unrestricted car use and parking is neither practical nor achievable.*' Matters relating to transport relevant to the proposed development will be covered later within this report.
63. Overall it is considered that the site could accommodate a highly responsive office development with accessibility to jobs, services and public transport. Having regard to the above discussion, a highly responsive development that strikes right balance between providing for new office space while also protecting the amenity of nearby residents has strong strategic support at this location.

Built form and Design

64. The urban design assessment for this proposal is principally guided by clauses 15.01-2 (Urban design principles), 21.05 (Urban design) 22.10 (Design and Built Form); as well as the reference documents *Urban Design Guidelines for Victoria* (UDGV) prepared by the Department of Environment, Land, Water and Planning (DELWP).
65. These provisions and guidelines seek a development outcome that responds to the existing or preferred neighbourhood character and provides a contextual urban design response reflective of the aspirations for the area. Particular regard must be given to the acceptability of the design in terms of height and massing, street setbacks and its relationship to adjoining properties.
66. Policy at Clause 22.10 will provide the structure for the assessment, with reference to other policies, strategies and guidelines, as relevant.

Urban form and character

67. It is considered that the proposal is not consistent with the objectives of this provision for the following reasons:

- (a) Although the overall rectilinear tower/podium form is generally consistent with surrounding development and the built form typology to the south of the subject site, the sheer scale of the development so close to an established low-scale residential area within the heritage overlay is not considered consistent with the objectives of this provision, in particular the following objectives to:
 - (i) *Ensure that new development positively responds to the context of the development and respects the scale and form of surrounding development where this is valued feature of the neighbourhood character.*
 - (ii) *Limit the impact of new development on the amenity of surrounding land, particularly residential land.*

- 68. At a scale of seven storeys, plus a roof terrace which presents as eight storeys, the proposal is too tall and does not respond to its context which includes the single-storey heritage streetscape of residential properties. The subject site being effectively at the end of the commercial precinct is required to balance both the low-scale residential and the more robust commercial land to the south, which can reasonably be expected to intensify.
- 69. This view is reinforced by Council's Urban Design Unit who stated in comments provided on 4 February 2020 that *'The site sits near the edge between the commercial and residential zones therefore it is important for any development to provide suitable transition between the low scale residential buildings, and the commercial properties leading to Alexandra Parade.'*
- 70. At this point it is worth noting again that the Urban Design Unit only commented on the decision plans and not the 'without prejudice' sketch plans submitted in response to, among other things, their comments.
- 71. The proposal shows a street wall of 3-storeys presenting to Hilton Street which provides a reasonable response to existing surrounding building context which tends to be 1 and half storey built form.
- 72. However, the overall scale of the building shows no scaling down of the development to the sensitive residential interface which is separated by only one modest sized commercial property to the north and relies on this property to provide this transition in scale between the commercial buildings and the established residential dwellings. Given this proximity to such a clearly established character the subject site must act as a conduit between the two vastly different characters to the north and south and temper its expectation of supporting the significant scale as currently proposed.
- 73. It is considered that the building scale requires a reduction and refinement to the façade design (as will be discussed to follow) to be generally consistent with objectives at clauses 21.05-2 and 22.10-3.2.

Setbacks & Building Height

- 74. The design guidance at clause 22.10.3-3 for setbacks and building height states that the overall height of new development (including the height between the primary setback and the secondary setback) may exceed the prevailing building height of the area if the site does not cause off-site impacts and is either:
 - (a) Located on a corner site of a main road; or
 - (b) Of substantial land area.
- 75. The proposal is not considered to fulfil the above criteria, being a modest sized site compared to the adjoining commercial allotment to the south. Further it is considered that the proposal at this scale would also result in unreasonable off-site amenity impacts, in particular by way of visual bulk impacts to the nearby residential area.
- 76. Objective 5.1.1 of the Urban Design Guidelines for Victoria seek *'to ensure that the building scale and form supports the context and preferred future character of the activity centre.'*

While there is no specific guidance for this area, general guidance at clause 21.05-2 objective 17 seeks to retain Yarra's identity as a low-rise urban form with pockets of higher development. Development such as the subject application that sits outside of activity centres and not on Strategic Redevelopment Sites is expected to reflect the prevailing low-rise urban form. Equally, it is acknowledged that the subject location is unique in that it is a small industrial / business pocket on the north side of Alexandra Parade as recognised in Clause 21.08-4 (Clifton Hill).

Given this context, it is considered that the maximum height of seven storeys, which is perceived as eight storeys with the screening to the roof terrace, must reduce significantly to provide an acceptable transition of scale between the low rise residential and the larger site to the south. A reduction in height and a light weight and a more recessive rooftop terrace will help to strike an appropriate balance between the two differing contexts to the north and south. In the absence of a specific height control provision on the land it is considered that a reduction of two levels is required in combination with the removal of the perception of the upper level roof terrace as another storey as well as other conditions to break up the bulk of the building to ensure the site appropriately responds to its context.

77. It is considered that the reduction in height could be achieved via a condition if a permit is to issue.
78. In terms of setbacks, the development builds to the side (north and south) boundaries for the entire height of the building, with only limited relief. There is to be a front setback above the street wall to Hilton Street of a uniform 1.985 metres, while the rear of the site contains balconies and void area alternating to the boundary before stepping back for the roof top level. Further analysis of each of setback and interface features of the decision plans is discussed below:
- (a) On the south boundary the only setback is the 3.5m rear setback for the top level of the building as well as the further increased rear setback to the roof terrace. The building presents a blank wall between five and eight storeys for the majority of the south elevation. Given the more robust nature of the commercial land to the south this does not present significant issues.
 - (b) The north façade is different as it faces the sensitive low-scale residential area. The northern façade benefits from a ground level boundary courtyard to the north-western corner of the site with a void that extends the entire height of the building offsetting the rear of the subject site to provide more relief and variable materials as the building presents to the residential properties. The rear balconies to the south of the void provide a lightweight point of difference. Additionally the Urban Design Unit provided the following comments which are required to be addressed:

The proposed development provides no side setbacks, with shear walls on the boundary. This is particularly an issue on the northern side considering that the NRZ land will not develop to a similar scale, and therefore this wall will most likely remain visible from the street and from the north.

It is recommended a setback is provided from the north (particularly for the upper levels above the street wall), combined with increased articulation and treatment of this elevation so that it reads as a visible part of the building and not a blank side wall.

This is considered a valid issue and will be addressed by conditions that enhance the appearance of the northern façade and significantly reduce the scale by two levels. Subject to these measures which are discussed in more detail later in this assessment a setback to the northern boundary is not deemed necessary.

- (c) The eastern (front) façade has some encouraging elements though it is considered that at the proposed scale with only a modest front setback the building will dominate the narrow street. The operability of the façade screening offers potential variation and visual interest but also makes the façade present as eight storeys.
- (d) Lastly, concerns raised by Council’s Urban Design Unit in regard to development potential to the rear are not seen as valid given that the subject site is a commercial floor space. Given the commercial nature of the development the rear balconies and voids provide sufficient light into the subject site ensuring any future development of adjoining land would not unreasonably impact the internal amenity of the office. It is also not considered that the adjoining land to the west or north is unreasonably affected in terms of development potential, but it is noted that at a reduced scale the development as a whole would be more site responsive to each interface.

79. As highlighted earlier in the report the applicant was given opportunity to respond to the above concerns and did so by providing sketch plans and an accompanying response.

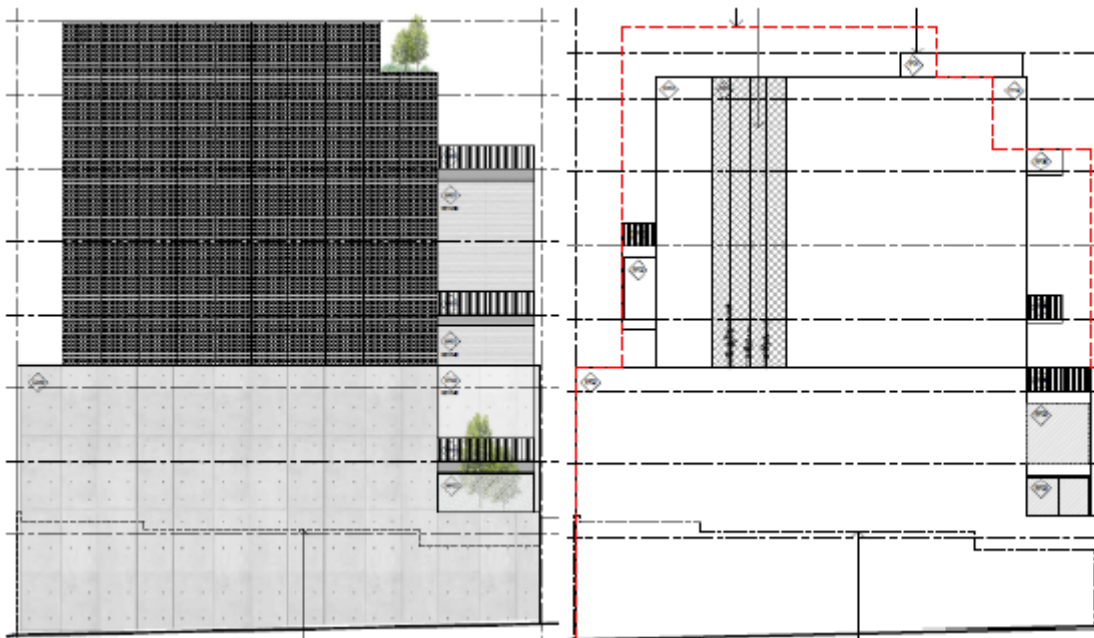


Figure 9 – 3D of the revised northern façade (decision plan on the left and sketch plan on right)

80. Figure 9 and 10 demonstrate the key differences between the decision plans and sketch plans with the overall height of the building reduced as well as the articulation and quality of the design being improved on the sketch plans with the lightweight balconies being introduced in lieu of the sheer walls (screens) shown on the decision plans. The front setback is also increased through removal of the screens (refer to Figure 9) and with the introduction of more void spaces and balcony spaces (Refer to Figures 10 and 11 below) which shows the increased setbacks at the upper levels. Due to these changes the upper levels contain more variance and visual interest. It is acknowledged that the north-western void / setback is reduced by 500mm in width but overall this modest change is offset by the other improvements. Finally, the roof terrace is more recessive with significantly increased setbacks to all sides and the reduction in rooftop screens ensures a lightweight and recessive communal space that removes the perception of an additional storey.



Figure 10 – 3D of the revised front setback and materials including exposure of the balconies.

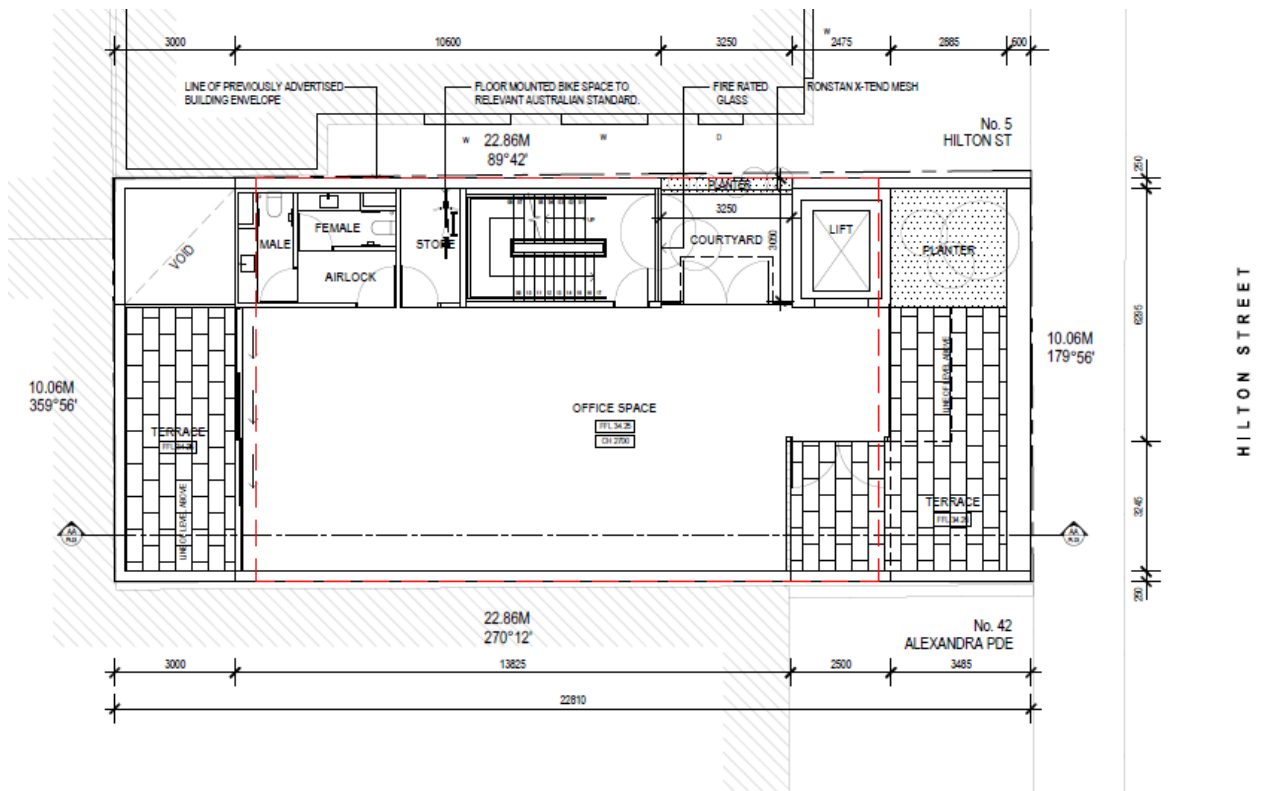


Figure 11 – Example of increased front setback shown to third floor plan of the sketch plans (the previous footprint is shown in red)

81. It is considered that the sketch plans do provide improvements to the design but the changes are considered modest and well short of the reduction in scale necessary to appropriately respond to the sensitive streetscape to the north. Nonetheless, the changes to the materials, northern boundary presentation and roof top terrace can be addressed via condition that references these sketch plans.
82. However, as highlighted above to adequately reduce the substantial visual dominance of the development a two level reduction is required so that the building is a maximum of five storeys plus a recessive roof terrace. If the sketch plans had been able to incorporate further changes highlighted by Council's Urban Design Unit such as moving the core to the southern boundary this may have allowed Council to consider a less significant reduction, but in the absence of this, the removal of two levels to further reduce the bulk and achieve an acceptable transition remains necessary. The removal of two of the upper levels will protect against visual dominance of the development and allow it to appropriately step down in response to the context of the area.
83. As such, despite the sketch plans improving the presentation of the building, including the sensitive northern façade and the presentation to the narrow Hilton Street, the changes shown are not sufficient and do not achieve the reduction in bulk that is required.
84. As has been established above, at the height and bulk shown on both the decision plans and sketch plans the building will create an unreasonable visual impact and will overwhelm the narrow streetscape. But by reducing the height by a further two levels as well incorporating the other changes shown in the sketch plans such as ensuring the roof terrace is more recessive and enhancing the break-up of the northern façade, the proposal will significantly reduce its visual intrusiveness and ensure a transition down to the sensitive single storey heritage streetscape. The removal of two levels in combination with further break-up of the mass of the proposal that is shown on the sketch plans, in particular the front façade and northern boundary façade, ensures the design works hard to articulate these key façades to limit its visual dominance. As stated above, if a permit is to issue, the reduction in height can be addressed via condition as can the other improvements through referencing the sketch plans.
85. Subject to these conditions, in particular the height appropriately scaling down to respect the sensitive residential streetscape, it is considered that the three level podium would be an appropriate response to context that adequately balances the unique context.

Off-site amenity impacts

86. The policy framework for offsite amenity considerations is contained within Clause 22.05 (Interface Uses Policy), with additional guidance within the *Urban Design Guidelines* and the Decision guidelines within the Commercial 2 Zone.

Wind

87. A Wind Effect Assessment prepared by Vipac (dated 3 December 2019) was submitted with the application and has been peer reviewed by MEL Consultants. MEL Consultants accepted that the assessment of wind conditions and the likely environmental wind conditions predicted and description of the development are all acceptable. However, MEL Consultants were concerned that the assessment did not consider the exposure to the prevailing and strong north sector wind directions on the wind conditions along Hilton Street. The wind conditions along Hilton Street, due to this exposure, would be expected to be on the walking criterion around the corner and on the east side of Hilton Street, and increase compared to the existing conditions.

However, the peer review does not recommend any further wind analysis is necessary and it is also noted that with the above recommended built form reductions the wind conditions would only improve and as such the wind conditions are deemed acceptable. As such, if a permit were to issue it is therefore considered reasonable to only require a revised report to ensure it addresses this modest requirement.

Visual bulk

88. As discussed earlier within the report, it is considered that the proposal will not successfully transition between the sensitive residential area to the north and the more robust commercial pocket to the south. It is considered that the proposal does not adequately respond to the most sensitive interface to the north by substantially scaling down. However, subject to various conditions discussed above the development will be appropriate in terms of visual bulk.
89. The design detail shown on the sketch plans includes a good mix of materials, articulation and visual interest that further limits the visual impacts of the development as viewed from the most sensitive vantage points to the north. The balconies and lightweight balustrades in combination with the varied front setback, introduction of some landscaping and fenestration means that subject to conditions the façade has a high degree of visual interest and fine grain expression that successfully creates variable form that limits bulk and break ups the mass. A condition requiring a façade strategy could ensure that the design is the best possible outcome.
90. While the building will still be clearly visible from the residential properties to the north, the substantial reductions in height and enhancements to the design will ensure a highly responsive development that does not unreasonably impact this well-established residential area.
91. Having regard to the significant conditions recommended and the high quality nature of the sketch plan design it is considered that subject to conditions the proposed development would not result in an unreasonable level of visual bulk to the residential properties to the north.

Overshadowing

92. The shadow impacts are not considered a primary issue as they fall to the south of the subject site which is commercial land. Nonetheless, the substantial reductions recommended via condition will further ensure that the overshadow impacts are not unreasonable.

Daylight/solar access to existing windows

93. As demonstrated in the shadow diagrams, the shadow cast by the development generally on to commercial properties or the street. There is therefore no impact on any sensitive windows.

Overlooking

94. The closest dwelling at 7 Hilton Street to the north has secluded private open space that is well outside 9m from the subject site. Furthermore, the proposal does not have any windows that face north as it presents a sheer wall to the northern boundary. The rear balconies do have northern outlook but are set well within the northern boundary and as such will not overlook no.7 Hilton Street. Equally the roof top terrace is set well back from the northern boundary and cannot overlook any residential property. The front balconies will only be able to overlook front yards which are not required to be protected.

Environmentally Sustainable Design

95. Council's local policies at Clause 22.16 and Clause 22.17 call for best practice water quality performance objectives and best practice in environmentally sustainable development from the design stage through to construction and operation.
96. The applicant submitted a Sustainable Management Plan (SMP) prepared by Compliance Energy Rating dated 10 December 2019. The SMP proposes to implement the following key initiatives into the development:
- (a) Heating and Cooling System efficiency to be 85% or greater than equivalent system.
 - (b) Lighting to be 4W/m²
 - (c) Energy efficient LED lighting and/or compact florescent lighting type.
 - (d) Double-glazing to be used to all windows
 - (e) Insulation to be in accordance with minimum requirements for external walls and ceilings.
 - (f) Toilets, urinals, basins, kitchen / bathroom taps to be minimum 5 Star WELS rating
 - (g) Shower flow rate should not exceed 6.0 l/min.
 - (h) 2000L rainwater tank.
97. Council's ESD advisor has reviewed the SMP report, with a number of further amendments / recommendations needed to address the following:
- (a) Provide additional openings on eastern elevation to allow for cross ventilation
 - (b) Recommend improvement of 10% over NCC Section J minimum requirements should be targeted.
 - (c) Provide separate water metering for all tenants and major common areas.
 - (d) Recommend source all timber from sustainability managed sources that hold third party verification.
 - (e) Include bike parking spaces for offices, and bike parking spaces for visitors.
 - (f) Include a requirement for a site-specific Waste Management Plan including a target recycling rate of at least 80% of construction and demolition waste.
 - (g) Provide facilities in tenancies to separate general waste, recyclables and organic waste.
 - (h) Outline organic waste collection facilities on ground floor plan.
 - (i) Provide a tap for irrigation and drainage on balconies and roof terrace.
 - (j) Develop a simple Building Users Guide explaining optimal usage of building services to minimise energy and water consumption.
 - (k) More information required on how car park is ventilated.
 - (l) Collection area to be shown on the roof plan and explanation of how water will be collected and pumped to tank.
 - (m) Provide an assessment of re-used and recycled materials.
 - (n) Provide an assessment of embodied energy of concrete and steel
 - (o) A statement required to demonstrate how material choice has reduced urban heat island effect.
98. Council's ESD advisor also recommends a number of other opportunities for further improvement including using a heat pump or considering a boiler, 3 pipe variable refrigerant flow (VRF), water sensitive landscape design to reduce potable water used for irrigation etc
99. The above matters can be addressed via condition on any permit that issues.

Car & Bicycle parking and Traffic Generation

Car Parking

100. Pursuant to Clause 52.06-2, before a new use commences, the required car parking spaces must be provided on the land. The following table identifies the car parking requirement under Clause 52.06-5.
101. As outlined in the Particular Provisions section earlier in this report, the proposal is seeking a statutory car parking reduction of 18 car spaces. The application was referred to Council's Traffic Engineers who raised no objection to the car parking reduction.
102. In terms of assessing the car parking demand generated by the proposed development, it is important to note that Clause 52.06 is a State wide provision and the rates are not always relevant to inner city locations such as Yarra. In considering a reduction, Clause 52.06 requires that an assessment is undertaken of the actual number of car spaces likely to be generated by the use.
103. It is imperative to consider the site context and whether there are opportunities to encourage sustainable transport alternatives and assist with reducing existing traffic congestion. In respect to the current proposal, reduced car parking provision is considered appropriate, specifically:
- (a) The site is within a Commercial 2 Zone where a concentration of activities and services promotes greater walkability and multi-purpose trips;
 - (b) Parking associated with office type developments is generally long-stay parking for employees and short-stay for customers / clients.
 - (c) The site is well serviced by public transport, including nearby bus services (e.g. The 546 Bus route has a stop at Smith Street), tram services along Smith Street and Queens Parade and Clifton Hill and Victoria Park train stations within 1km of the site.
 - (d) Tenants would be ineligible for on-street parking permits. Whilst at this stage there is limited permit parking restricted areas around the site, these could be introduced if the need arises.
 - (e) The recommended reductions in built form will result in a lesser car parking reduction due to the significant loss of floor space.

Traffic Generation

104. The Traffic Engineering Unit did not raise any issues in relation to the post development traffic operation of Hilton Street. It is also noted that no objections were raised in regard to the potential queuing for the car spaces in the AM peak.
105. Finally, any other recommendations within the Traffic Engineering Unit comments can be included via condition if a permit is to issue.

Bicycle parking

106. As outlined in the planning controls section earlier in this report, pursuant to Clause 52.34-3, the proposed application requires a minimum of 5 bicycle spaces to be provided. The proposal provides 6 bicycle spaces, with a vertical rack shown on each floor. Council's Strategic Transport Unit reviewed the application and deemed the 6 employee bicycle parking inadequate, recommending that at least 9 spaces be provided to meet the best practice rate and that the spaces be provided in a secure bicycle locker or compound. A space within each level requires users to walk bikes through offices and does not provide a secure facility. The lack of any end of trip facilities was also deemed inadequate.
107. It is recommended by the Strategic Transport Unit that:
- (a) 9 employee bicycle spaces are provided within a secure facility at the ground level or basement level. Pursuant to AS2890.3 at least 20% of bicycle storage spaces should be provided s horizontal at ground level spaces.

- (b) A minimum of 2 visitor bicycle spaces provided. The visitor spaces should be provided as a horizontal bicycle rail and must meet clearance and access-way requirements of AS2890.3 or be otherwise to the satisfaction of the responsible authority.
- (c) A minimum of 9 employee bicycle spaces must be provided within a secure storage area. At minimum 20% of employee bicycle spaces must be provided as horizontal bicycle rails.
- (d) Notations indicating the type of bicycle parking devices to be used should be shown on the plans, as well as dimensions of bicycle storage spaces and relevant access ways to demonstrate compliance with Australian Standard AS2890.3 or be otherwise to the satisfaction of the responsible authority.
- (e) End of trip facilities, including a minimum of one shower / change room.

108. It is considered that all of the above recommendations could be addressed via condition if a permit is to issue. However, given the sketch plans removes the café tenancy the need for visitor spaces is extinguished.

Streetscape works

109. There appears to be no proposed streetscape works.

110. Council's Streetscape landscape architect has reviewed the plans and not raised any issue from a streetscape perspective.

111. In addition to standard infrastructure conditions, Council's Engineering services branch has also requested the following works/upgrades be undertaken to Council's satisfaction and at the cost of the permit holder:

- (a) The footpath along the property's Hilton Street road frontage must be stripped and re-sheeted to Council's satisfaction and at the Permit Holder's cost. The footpath must have a cross-fall of 1 in 40 or unless otherwise specified by Council.
- (b) The redundant vehicle crossing on the Hilton Street frontage must be demolished and reinstated with paving, kerb and channel to Council's satisfaction and at the Permit Holder's cost.
- (c) Any damaged roads, footpaths and other road related infrastructure adjacent to the development site as a result of the construction works, including trenching and excavation for utility service connections, must be reconstructed to Council's satisfaction and at the developer's expense.

112. These matters can also be dealt with via permit conditions.

Objector Concerns

113. Most of the objector issues have been addressed in the report.

114. Matters not addressed in the report are summarised as follows:

- (a) Impact during construction

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

- (b) Property value and loss of city views

These are not considered planning issues.

- (c) Issues such as noise impacts and suitability of the café tenancy

The sketch plans show a staff lobby in lieu of the café. This can be assured via condition if a permit is to issue.

Conclusion

115. The proposed development, subject to significant conditions, is considered to demonstrate a high level of compliance with policy objectives contained within the State and Local Planning Policy Framework. Notably, the proposal achieves the objectives to not unreasonably impact established low-scale areas, while also achieving objectives such as retaining the subject site as a commercial pocket.
116. The proposal, subject to conditions outlined in the recommendation below, is an acceptable planning outcome that demonstrates compliance with the relevant Council policies. Based on the above report, the proposal complies with the relevant Planning Scheme provisions and planning policy and is therefore supported.

RECOMMENDATION

That having considered all objections and relevant planning policies, the Committee resolves to recommend a Notice of Decision to Grant a Planning Permit for construction of a five storey commercial building plus roof terrace and a reduction in the statutory car parking requirements associated with office (no permit required use) at 3 Hilton Street, Clifton Hill, generally in accordance with the plans noted previously as the “decision plans” and subject to the following conditions:

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans (PL05, Revision A, dated 10/12/2019, PL06 to PL11, Revision B, dated 17/12/2019, PL12 to PL22, Revision A, dated 10/12/2019 and PL39 to PL40 Revision A, dated 10/12/2019 prepared by Wellard) but modified to show:

Built form

- (a) The changes to the development in accordance with the Sketch Plans (Revision D, dated 24 June 2020, prepared by Wellard) submitted on 26 June 2020, which show:
 - (i) A reduction in rooftop elements allowing for a reduction in overall height.
 - (ii) Revised front and rear elevations with changes to materials and overall increase to setbacks.
 - (iii) Changes to the northern façade including introduction of mesh exposure of a void space.
 - (iv) Revised internal layout, including the deletion of the ground-floor Food and Drink (café) tenancy; and
 - (v) Other supplementary changes such including but not limited to vertical landscaping to the podium.

But further modified to show:

- (b) Deletion of Level Five and Level Six to achieve a maximum overall height of five storeys plus the roof terrace.

Car park and services

- (c) The width of the garage doorway / car park entrance to be dimensioned.
- (d) Notation indicating convex mirrors at the development’s entrance.
- (e) Clearance dimensions along the ramped accessway to be dimensioned.

- (f) The floor to ceiling height above the car stacker system is to be dimensioned on the drawings.
- (g) At least 9 employee bicycle spaces provided within a secure facility at the ground level or basement level. Pursuant to AS2890.3 at least 20% of bicycle storage spaces should be provided horizontal at ground level spaces.
- (h) Notations indicating the type of bicycle parking devices to be used should be shown on the plans, as well as dimensions of bicycle storage spaces and relevant access ways to demonstrate compliance with Australian Standard AS2890.3 or be otherwise to the satisfaction of the responsible authority.
- (i) End of trip facilities, including a minimum of one shower / change room.
- (j) The bin storage area to be increased in size not to form an effective waste system.

Reports and Plans

- (k) Any amendments as required by the Landscaping Plan pursuant to Condition 5.
 - (l) Any amendments as required by the Amended Sustainable Management Plan pursuant to Condition 7, including recommended changes to meet NCC.
 - (m) Any amendments as required by the Amended Waste Management Plan pursuant to Condition 8.
 - (n) Any requirements as required by Amended Wind Assessment Report pursuant to Condition 10.
2. The use and development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

Façade Strategy

3. In conjunction with the submission of development plans under Condition 1, a Façade Strategy and Materials and Finishes Plan to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. When approved, the Façade Strategy and Materials and Finishes Plan will be endorsed and will then form part of this permit. This must detail:
- (a) elevations at a scale of 1:20 illustrating typical podium details, entries and doors, and utilities and typical mid-level and tower facade details;
 - (b) section drawings to demonstrate façade systems, including fixing details and joints between materials or changes in form;
 - (c) information about how the façade will be maintained, including any vegetation; and
 - (d) a sample board and coloured drawings outlining colours, materials and finishes.

Ongoing architect involvement

4. As part of the ongoing consultant team, Wellard or an architectural firm to the satisfaction of the Responsible Authority must be engaged to:
- (a) oversee design and construction of the development; and
 - (b) ensure the design quality and appearance of the development is realised as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.

Landscaping Plan Required

5. Before the development commences, a Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Landscape Plan will be endorsed and will form part of this permit. The Landscape Plan must:
- (a) show the type, location, quantity, height at maturity and botanical names of all proposed plants / vertical greening;
 - (b) provide a specification of works to be undertaken prior to planting,

to the satisfaction of the Responsible Authority.

Ongoing Landscaping Plan Requirement

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

to the satisfaction of the Responsible Authority.

Amended Sustainable Management Plan

7. Before the development commences, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Management Plan will be endorsed and will form part of this permit. The amended Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by Compliance Energy Rating and dated 10 December 2019, but modified to include or show:
- (a) Provide additional openings on eastern elevation to allow for cross ventilation
 - (b) Recommend improvement of 10% over NCC Section J minimum requirements should be targeted.
 - (c) Provide separate water metering for all tenants and major common areas.
 - (d) Recommend source all timber from sustainability managed sources that hold third party verification.
 - (e) Include bike parking spaces for offices, and bike parking spaces for visitors.
 - (f) Include a requirement for a site-specific Waste Management Plan including a target recycling rate of at least 80% of construction and demolition waste.
 - (g) Provide facilities in tenancies to separate general waste, recyclables and organic waste.
 - (h) Outline organic waste collection facilities on ground floor plan.
 - (i) Provide a tap for irrigation and drainage on balconies and roof terrace.
 - (j) Develop a simple Building Users Guide explaining optimal usage of building services to minimise energy and water consumption.
 - (k) More information required on how car park is ventilated.
 - (l) Collection area to be shown on the roof plan and explanation of how water will be collected and pumped to tank.
 - (m) Provide an assessment of re-used and recycled materials.
 - (n) Provide an assessment of embodied energy of concrete and steel
 - (o) A statement required to demonstrate how material choice has reduced urban heat island effect.

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

Waste Management Plan

8. Before the development commences, an amendment Waste Management Plan to the satisfaction of the Responsible Authority must be prepared by a suitably qualified waste engineer and must be submitted to and approved by the Responsible Authority. When approved, the WMP will be endorsed and will form part of this permit. The WMP must be generally in accordance with the WMP prepared by OneMileGrid dated 15 November 2019, but modified to include:
- (a) A bin storage area large enough to form an effective waste system.

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

Wind Tunnel Study

10. Before the development commences, 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 Vipac and dated 3 December 2019, but modified to include (or show):
- (a) The assessment adequately consider the exposure to the prevailing and strong north sector wind directions on the wind conditions along Hilton Street.
11. The provisions, recommendations and requirements of the endorsed Wind Assessment Report must be implemented and complied with to the satisfaction of the Responsible Authority.

Public realm and Infrastructure

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

Timing of works

13. Before the building is occupied, all works required by condition 12 must be fully constructed and completed at the full cost of the owner to the satisfaction of the Responsible Authority.

Car parking

14. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the area set aside on the endorsed plans for the car parking spaces, access lanes, driveways and associated works must be:
- (a) constructed and available for use in accordance with the endorsed plans;
- (b) formed to such levels and drained so that they can be used in accordance with the endorsed plans;
- (c) treated with an all-weather seal or some other durable surface; and
- (d) line-marked or provided with some adequate means of showing the car parking spaces;

to the satisfaction of the Responsible Authority.

15. The loading and unloading of vehicles and the delivery of goods to and from the land must be conducted entirely within the land to the satisfaction of the Responsible Authority.
16. Except with the prior written consent of the Responsible Authority, delivery and collection of goods to and from the land may only occur between 7am and 10pm on any day.
17. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, a notice showing the location of car parking must be placed in a clearly visible position near the entry to the land. The notice must be maintained thereafter to the satisfaction of the Responsible Authority.

Road Infrastructure

18. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.

19. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any new vehicle crossing must be constructed:
 - (a) in accordance with any requirements or conditions imposed by Council;
 - (b) Demonstrating satisfactory access into and out of the site with a vehicle ground clearance check using the B99 design vehicle, and be fully dimensioned with actual reduced levels (to three decimal places) as per Council's Vehicle Crossing Information Sheet;
 - (c) at the permit holder's cost; and
 - (d) to the satisfaction of the Responsible Authority.

20. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any redundant vehicular crossing must be demolished and re-instated as standard footpath and kerb and channel:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.

General

21. The amenity of the area must not be detrimentally affected by the use or development, including through:
 - (a) the transport of materials, goods or commodities to or from land;
 - (b) the appearance of any buildings, works or materials;
 - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
 - (d) the presence of vermin.

to the satisfaction of the Responsible Authority.

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

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

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

25. All pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

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

Construction Management Plan

27. Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:
- (a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
 - (b) works necessary to protect road and other infrastructure;
 - (c) remediation of any damage to road and other infrastructure;
 - (d) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land,
 - (e) facilities for vehicle washing, which must be located on the land;
 - (f) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
 - (g) site security;
 - (h) management of any environmental hazards including, but not limited to, :
 - (i) contaminated soil;
 - (ii) materials and waste;
 - (iii) dust;
 - (iv) stormwater contamination from run-off and wash-waters;
 - (v) sediment from the land on roads;
 - (vi) washing of concrete trucks and other vehicles and machinery; and
 - (vii) spillage from refuelling cranes and other vehicles and machinery;
 - (i) the construction program;
 - (j) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
 - (k) parking facilities for construction workers;
 - (l) measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;
 - (m) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
 - (n) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced;
 - (o) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads.
 - (p) a Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with Noise Control Guideline 12 for Construction (Publication 1254) as issued by the Environment Protection Authority in October 2008. The Noise and Vibration Management Plan must be prepared to the satisfaction of the Responsible Authority. In preparing the Noise and Vibration Management Plan, consideration must be given to:
 - (i) using lower noise work practice and equipment;
 - (ii) the suitability of the land for the use of an electric crane;
 - (iii) silencing all mechanical plant by the best practical means using current technology;
 - (iv) fitting pneumatic tools with an effective silencer;
 - (v) other relevant considerations; and
 - (vi) any site-specific requirements.

During the construction:

- (q) any stormwater discharged into the stormwater drainage system must be in compliance with Environment Protection Authority guidelines;

- (r) stormwater drainage system protection measures must be installed as required to ensure that no solid waste, sediment, sand, soil, clay or stones from the land enters the stormwater drainage system;
 - (s) vehicle borne material must not accumulate on the roads abutting the land;
 - (t) the cleaning of machinery and equipment must take place on the land and not on adjacent footpaths or roads; and
 - (u) all litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly.
28. The provisions, recommendations and requirements of the endorsed Construction Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Time Expiry

29. This permit will expire if:
- (a) the development is not commenced within two years of the date of this permit;
 - (b) the development is not completed within four years of the date of this permit; or
 - (c) the use is not commenced within five years of the date of this permit.

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

Notes:

A building permit maybe required before development is commenced.

Provision must be made for drainage of the site to a legal point of discharge.

The applicant must apply for a Legal Point of Discharge under Regulation 133 – Stormwater Drainage of the *Building Regulations 2018* from Yarra Building Services unit. Any storm water drainage within the property must be provided and be connected to the nearest Council pit of adequate depth and capacity (legal point of discharge), or to Council’s satisfaction under Section 200 of the *Local Government Act 1989* and Regulation 133.

All future employees within the development approved under this permit will not be permitted to obtain employee or visitor parking permits.

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

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

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

Any damaged roads, footpaths and other road related infrastructure adjacent to the development site as a result of the construction works, including trenching and excavation for utility service connections, must be reconstructed to Council’s satisfaction and at the developer’s expense.

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.

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

Only roof runoff, surface water and clean groundwater seepage from above the water table can be discharged into Council drains.

Council will not permit clean groundwater from below the groundwater table to be discharged into Council's drainage system. Basements that extend into the groundwater table must be waterproofed/tanked.

No parking restriction signs or line-marked on-street parking bays are to be removed, adjusted, changed or relocated without approval or authorisation from Council's Parking Management unit and Construction Management branch.

Any on-street parking reinstated as a result of development works must be approved by Council's Parking Management unit.

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

The developer needs to ensure that the building has adequate clearances from overhead power cables, transformers, substations or any other electrical assets where applicable. Energy Safe Victoria has published an information brochure, *Building design near powerlines*, which can be obtained from their website:

<http://www.esv.vic.gov.au/About-ESV/Reports-and-publications/Brochures-stickers-and-DVDs>

Attachments

- 1 PLN19/0441 - 3 Hilton Street Clifton Hill - S52 Advertising Plans Part 1
- 2 PLN19/0441 - 3 Hilton Street Clifton Hill - S52 Advertising Plans Part 2
- 3 PLN19/0441: 3 Hilton Street, Clifton Hill - Sketch plans
- 4 PLN19/0441: 3 Hilton Street, Clifton Hill - Without prejudice submission
- 5 PLN19/0441 - 3 Hilton St, Clifton Hill - Urban Design comments
- 6 PLN19/0441: 3 Hilton Street Clifton Hill - Engineering comments
- 7 PLN19/0441: 3 Hilton Street, Clifton Hill - Waste comments
- 8 PLN19/0441: 3 Hilton Street, Clifton Hill - ESD comments
- 9 PLN19/0441 - 3 Hilton Street, Clifton Hill - Wind referral comments
- 10 PLN19/0441 - 3 Hilton Street, Clifton Hill - Strategic Transport Comments

6.2 PLN19/0807 - 176 Johnston Street & 300 Napier Street Fitzroy

Executive Summary

Purpose

1. This report provides Council with an assessment of planning permit application PLN19/0807 submitted for Nos. 176 Johnston Street & 300 Napier Street Fitzroy VIC 3065. The application seeks approval for the full demolition and construction of a part three and part four-storey building, with a reduction in the car parking requirements associated with the use of the land for retail (shop) and offices (no permit required uses), including the construction and display of internally-illuminated signage. The report recommends approval of the application, subject to conditions.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Built form and heritage (Clauses 22.02 and 43.01);
 - (b) Car and bicycle parking provision (Clauses 52.06 and 52.34); and
 - (c) Signage (Clauses 22.04 and 52.05)

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Strategic and policy support;
 - (b) Built form and Heritage;
 - (c) On and off-site amenity impacts;
 - (d) Car parking, traffic and bicycle provision;
 - (e) Waste management; and
 - (f) Objector concerns.

Submissions Received

4. Eleven (11) objections were received to the application and can be summarised as:
 - (a) Inappropriate design and overdevelopment of the site (height, scale, bulk);
 - (b) Heritage impacts;
 - (c) Off-site amenity (daylight and cross-ventilation to adjacent light-wells, overshadowing, overlooking);
 - (d) Car parking, traffic impacts and pedestrian safety; and
 - (e) Reduced property values.

Conclusion

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

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

6.2 PLN19/0807 - 176 Johnston Street & 300 Napier Street Fitzroy

Reference: D20/153732

Authoriser: Senior Coordinator Statutory Planning

Ward: Nicholls Ward

Proposal: Full demolition and construction of a part four and part three-storey building, with a reduction in the car parking requirements associated with the use of the land for retail (shop) and offices (no permit required uses), including the construction and display of internally-illuminated signage.

Existing use: No. 176 Johnston Street – Shop
No. 300 Napier Street – Warehouse

Applicant: David De Giovanni Town Planning

Zoning / Overlays: Commercial 1 Zone
Road Zone (Category 1)
Design and Development Overlay (Schedule 10)
Environmental Audit Overlay
Heritage Overlay (Schedule 334)

Date of Application: 15 November 2019

Application Number: PLN19/0807

Planning History

1. Council records show the following planning history for No. 176 Johnston Street Fitzroy:
 - (a) Planning Permit No. 2553 was refused by the Administrative Appeals Tribunal of Victoria (Planning Division) on the 16 June 1994 for a restaurant.
 - (b) Planning Permit No. 1376 was issued by Council on the 24 April 1991 for a two lot subdivision; creating No. 176 Napier Street and No. 300 Napier Street.
 - (c) Planning Permit No. 2439 was issued by Council on the 26 August 1993 for the alteration to the building for the purpose of ice-cream manufacturing.
 - (d) Planning Permit PL09/0614 issued by Council on 18 December 2009 to use the site for the purpose of restricted retail (furniture showroom) and the development of the land for the installation of business identification signage.
2. Council records indicate that there is no planning permit history for No. 300 Napier Street Fitzroy.

Background

3. The application was received by Council on 15 November 2019 and additional information was received on 2 July 2020. The application was advertised on 8 July 2020 and eleven (11) objections were received.
4. Whilst the advertising process was occurring, Council sought and received formal referral advice from internal departments within Council, including the Traffic Engineering Unit, Heritage, Urban Design Unit, ESD Advisor, Strategic Transport Unit and City Works Unit.

Section 57A Plans

5. The permit applicant submitted a set of amended plans to Council under Section 57(a) of the *Planning and Environment Act* (1987) (the “Act”) on 8 October 2020. The Section 57(a) plans include the following changes:
 - (a) Depth of the northern-most light-court increased from 2.22m to 2.5m;
 - (b) Eastern setback of the rear pergolas increased by an additional 45mm;
 - (c) Overall office leasable floor area (LFA) reduced from 1,158sqm to 1156sqm;
 - (d) Both light-wells to be finished with Colorbond Surfmist reflective material;
 - (e) Material schedule amended to specify the pedestrian door, garage door and light-court;
 - (f) A total of 14 employee bicycle spaces provided (previously 10), 4 x bicycle hoops along the Napier Street frontage (total of 8 bicycles) and ‘EV ready’ charging points for the two car spaces; and
 - (g) Addition of two street trees along the Napier Street frontage.
6. The amended plans were not advertised, with the application given a discretionary exemption at Council’s internal Development Assessment Panel (DAP) meeting held on 30 October 2020, on the basis that the proposed amendments would not result in any material detriment. However, the S57A plans were circulated to objectors with the invitations to Planning Decisions Committee meeting.
7. The assessment in this report is based on the amended 57A plans submitted to Council on 8 October 2020.

Planning Scheme Amendments

Amendment C270

8. Council has prepared a Built Form Framework for activity centres in Fitzroy and parts of Collingwood and on 17 December 2019, Council requested the Minister for Planning (the Minister) to consider the approval of proposed interim built form controls (interim Design and Development Overlays/DDOs). These interim DDOs would apply while permanent controls are being prepared.
9. The subject site is included in the proposed DDO35, which outlines future built form in areas along the south side of Johnston Street (between Smith and Nicholson Streets). The DDO outlines mandatory and preferred built form requirements which would apply to the subject site.
10. Whilst the Built Form Framework can be considered in this assessment of this application (being an adopted document by Council) the Amendment has not yet been approved by the Minister and does not form part of the Yarra Planning Scheme (the Scheme).

The request for interim controls has not undertaken elements of a formal Planning Scheme Amendment, including exhibition or an independent panel process, with the interim controls providing a ‘placeholder’ whilst the permanent controls are being prepared. As such, these temporary controls carry limited statutory weight until the formal Amendment is approved by the Minister.

The Proposal

11. The application seeks approval for full demolition and construction of a part three, part four-storey building, with a reduction in the car parking requirements associated with the use of the land for retail (shop) and offices (no permit required uses), including the construction and display of internally-illuminated signage. The proposal is summarised as follows:

General:

- (a) Construction of a 3-4 storey building, with a maximum overall height and street-wall height of 14.4m and 11.2m above natural ground level (NGL), respectively;
- (b) The building design would encompass a contemporary, rectilinear form, with arched multi-paned window openings to the Johnston and Napier Street façades. The three-storey base to all title boundaries (with the exception of a rake from the southerly part of the eastern boundary) would transition down to two-storeys along Napier Street at the rear of the site, and a recessed fourth storey limited to No. 176 Johnston Street (see image below);
- (c) The overall development is proposed to be finished in a mix of red brick, 'monument' metal cladding, 'grey' concrete, 'Colorbond Surfmist' reflective materials, metal perforated screening and external 'monument' sun blinds with glazing along the Johnston Street façade, Napier Street façade and the southern (rear) façade;



Proposed Napier Street Façade (Chamberlain Architects October 2020)

Use

- (d) Commercial tenancies (no permit required uses) at all levels consisting of:
 - (i) 120sqm of retail (shop) LFA; and
 - (ii) 1156sqm of office net floor area (NFA). The offices are separated into 3 main 'office tenancies' and 5 'office shell tenancies';
- (e) 2 on-site car parking spaces allocated to two office shell tenancies;
- (f) 22 bicycle spaces, consisting of 14 bicycle spaces spread throughout all tenancies and 8 visitor bicycle spaces along the Napier Street frontage;
- (g) 1 shower / change room provided within each office tenancy fronting Johnston Street between Levels 1 and 3;

Demolition

- (h) Full demolition of all fabric on site;

Ground floor

- (i) Constructed to all title boundaries, the ground level would accommodate a retail tenancy (shop) fronting Johnston Street, and 5 office shell tenancies fronting Napier Street. These two uses are separated by an internal lobby space, fronting Napier Street;
- (j) The lobby provides shared access to the retail and office levels fronting Johnston Street and would consist of a shared waste storage area, service cabinets, lift and an underground 3,000Ltr rainwater tank. The entrance to the lobby will consist of a 1.4m wide x 3.22m high canopy above, and setback 0.98m from Napier Street;
- (k) Main pedestrian access to the shop is via Johnston Street, with a secondary pedestrian entrance via the lobby. The shop would include a kitchenette and bathroom, as well as a bike rack. The main pedestrian entrance to consist of a 1.4m wide x 3.7m high canopy above, and setback 1.26m from Johnston Street;
- (l) Each office shell to be provided with a pedestrian door and tilt-up (inwards) garage door fronting Napier Street. Each office shell tenancy would include a waste storage area, lift, 2 bike racks, and two tenancies with one car space each and EV charging points;
- (m) Provision of 8 internally-illuminated sigs with diameters of 600mm along the Napier Street frontage with clearance heights between 2.63m to 3.95m above the footpath;

Level 1 to Level 2

- (n) Levels 1 and 2 would be built to the majority of all title boundaries with the exception of two central light-courts (2.5m deep and 3.47m deep, respectively), and a raked design from the eastern boundary (for the three southern-most tenancies) increasing from 0.29m at Level 1 to 1.19m at Level 2;
- (o) Level 2 has a similar envelope with regards to boundary walls and setbacks associated with the light-courts. The rake from the eastern boundary would be increased to a maximum of 1.19m. A 1.4m wide, west-facing balcony with a pergola above is proposed within the two southern-most, office shell tenancies;
- (p) Each level fronting Johnston Street would consist of a main office tenancy, with a kitchenette, shower/change room and a bike rack. Each of the five office shell tenancies would consist of a roof terrace, lift, 1,000 litre water tank, and provision for a kitchenette and bathroom services;

Level 3

- (q) Level 3 to be built to the majority of all title boundaries with the exception of the two light-courts from Level 1 and 2 extending to this level. This level would be setback 5.21m and 1.28m from the Johnston and Napier Street frontages, respectively to accommodate 61sqm of roof terrace associated with the main office tenancy at this level. The northern and western perimeters would consist of 1.01m and 1.28m wide planters, respectively;
- (r) The remainder of this level would consist of roof terraces (ranging between 18sqm to 28sqm) with open-sided pergolas above and lifts associated with the 5 x office shell tenancies. The roof terraces would be setback 1.43m from the western boundary, raked away from the eastern boundary to a maximum of 3.1m (with the lift overruns encroaching into this setback) and built along a section of the southern boundary.

Existing Conditions

Subject Site

12. The subject site is located on the south-eastern corner of Johnston Street and Napier Street, approximately 200m east of Brunswick Street and 300m west of Smith Street. The site is generally rectangular in shape, with three frontages; 7.64m to Johnston Street, 52.48m to Napier Street and 9.19m to Chapel Street, totalling approximately 433sqm.
13. No. 176 Johnston Street is occupied by a single-storey, rendered brick building, with a gable roof and built to all title boundaries. Whilst not shown on the title plan, an aerial view of this site shows a corner splay on the north-western corner of the site. The building presents to both Johnston Street and Napier Street with on-boundary, single-storey walls and windows on both facades. The pedestrian door is located within the corner splay. This site has high site coverage and has no car parking. This site is currently used as a shop.



No. 176 Johnston Street Fitzroy (Council Heritage Advisor, August 2020)

14. No. 300 Napier Street is occupied by a single-storey, rendered brick warehouse building with a sawtooth roof and built to all title boundaries. Car parking on-site is accessed via a single vehicle crossover along Napier Street.



No. 300 Napier Street Fitzroy (Google Street View, July 2019)

Title and Plan of Subdivision

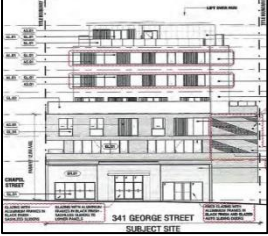

15. There are no restrictive covenants or easements listed against the certificate of titles provided for Nos. 176 Johnston Street and 300 Napier Street.

Surrounding Land

16. The surrounding area is a mixture of commercially zoned land along Johnston Street, and residentially zoned land further south (with land zoned Public Use – Education) directly south across Chapel Street. The built form is varied and contains a mixture of contemporary designs and heritage buildings.

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

Address and Distance to Subject Site	Development	Image
3 Hertford Street, 68m west	4-storey residential building, plus roof terrace (PLN15/0334)	
142 – 144 Johnston Street & 3 Chapel Street, 95m west	6-storey mixed-use building (PLN15/0632)	
178 – 182 Johnston Street, abutting to the east	7-storey mixed-use building (PLN16/0563)	
Nos. 160 – 164 Argyle Street, 60m north	6-storey mixed-use building (PLN11/1094)	
Nos. 377 – 379 George Street, 88m north-east	6-storey mixed-use building (PLN12/0192)	

Nos. 341 – 347 George Street, 39m south-east	6-storey mixed-use building (PLN16/1116)	
No. 239 - 243 Johnston Street, 200m north-east	10-storey mixed-use building (PLN13/0566)	

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

North

18. On the northern side of Johnston Street, opposite the site, is a row of contemporary double-storey commercial buildings with glazed front and side facades and used as retail/showrooms.

South

19. To the south of the subject site, across Chapel Street is the Fitzroy Primary School.

East

20. Abutting the subject site to the east are Nos. 178 – 182 Johnston Street and No. 23 Chapel Street:

- (a) As discussed earlier, Planning Permit PLN16/0563 was issued under the direction of the Victorian Civil and Administrative Tribunal (VCAT) on 8 June 2017 for a 7-storey mixed-use (shop and dwellings) building at Nos. 178 – 182 Johnston Street. The building is currently under construction. The development consists of two levels of basement car parking, the ground floor built to all title boundaries and consisting of two shops fronting Johnston Street, with vehicle access provided via Rochester Street to the east. Levels 1 to 6 are built abutting the majority of the shared boundary with the subject site, with the exception of two, west-facing light-courts (setback 5.3m and 3.6m, respectively) and terraces at various levels. There are no habitable room windows (HRW) directly facing the subject site.
- (b) The remainder of the eastern boundary abuts a single-storey, Victorian-era dwelling facing Chapel Street to the south. This dwelling has approximately 133sqm of private open space area to the west of the dwelling. Vehicle access to this property is provided via a crossover onto Chapel Street. Two, west-facing habitable room windows are setback over 9m from the subject site.

West

21. To the west of the site, across Napier Street is the 'Fitzroy Townhall Hotel', a double-storey, rendered brick building. The building presents to both Johnston and Napier Street with on-boundary, double-storey walls, vertical window fenestrations and pillars along the front façade at first floor. Further south-west along Napier Street are double-storey, red brick commercial buildings.

22. Johnston Street is identified as being a Neighbourhood Activity Centre (NAC) and is located between two designated Activity Centres (AC); Brunswick Street and Smith Street. Therefore, the surrounding area includes a mixture of commercial uses (taverns, restaurants, retail stores, furniture stores, restricted retail, art galleries, offices etc.), light industrial, warehouses and pockets of residential buildings. Johnston Street is covered by the Road Zone, Category 1 and carries two lanes of traffic in each direction. The outside lanes are also provided with parallel parking on both sides of the road, except in front of the site where no stopping restrictions apply. The subject site has good access to public transport, including:

- (a) Johnston Street bus routes immediately north of the subject site;
- (b) Brunswick Street tram lines approximately 200m to the west;
- (c) Smith Street tram lines approximately 300m east; and
- (d) Nicholson Street bus routes approximately 530m to the west.



The subject site and surrounding land (Council GIS, June 2020)

Planning Scheme Provisions

Zoning

23. The subject site is zoned Commercial 1 Zone (C1Z). The following provisions apply:
- (a) Pursuant to *Clause 34.01-1* of the Yarra Planning Scheme (the Scheme) commercial tenancies (shop and office) uses are identified as 'Section 1 - Permit not required' uses. There is no limit on LFA in the schedule to the C1Z, therefore a planning permit is not required for this use.
 - (b) Pursuant to *Clause 34.01-4* of the Scheme, a planning permit is required to construct a building or construct or carry out works.
 - (c) Pursuant to *Clause 34.01-9* of the Scheme, *sign requirements are at Clause 52.05 of the Scheme. This zone is in Category 1.*
24. The subject site is zoned Road Zone (Category 1). The following provisions apply:
- (a) Pursuant to *Clause 36.04-2* of the Scheme, a permit is required to construct a building.

25. *Clause 36.04-3 (Decision guidelines)* of the Scheme considers *the views of the relevant road authority* and therefore notice must be given to Vic Roads.

Overlays

26. The subject site is affected by the Heritage Overlay (Schedule 334 – South Fitzroy Precinct). The following provisions apply:
- (a) Pursuant to *Clause 43.01-1* of the Scheme, a planning permit is required for demolition, to construct a building and carry out works, including for the construction and display of signage.
27. The subject site is affected by the Design and Development Overlay (Schedule 10). The following provisions apply:
- (a) Pursuant to *Clause 43.02-2* of the Scheme, *a permit is required to:*
 - (i) *construct a building or to construct or carry out works. This does not apply if a schedule to this overlay specifically states that a permit is not required.*
 - (b) Schedule 10 does not specifically state that a permit is not required for buildings and works. Therefore, a permit is triggered for the proposed works under this overlay.
28. Pursuant to *Clause 43.02-4* of the Scheme, *sign requirements are at Clause 52.05 unless otherwise specified in a schedule to this overlay.* Schedule 10 does not specifically make reference to signage. Therefore, a permit is triggered for the proposed signage under this overlay.

Particular Provisions

Clause 52.05 – Signs

29. The application (amongst other things) incorporates internally-illuminated signage along the Napier Street frontage. As outlined earlier the site is located in a C1Z, in which advertising signage falls within Category 1 – Commercial areas. Pursuant to *Clause 52.05-11* of the Scheme a permit is required for internally-illuminated signage where the following are not met:
- (a) *The total display area to each premises must not exceed 1.5sqm;*
 - (b) *No part of the sign may be above a verandah or, if no verandah, more than 3.7 m above pavement level; and*
 - (c) *The sign must be more than 30 m from a residential zone or pedestrian or traffic lights.*
30. The following table outlines the proposed signage on-site:

	Type	Location	Total Area
Signs	8 x internally-illuminated signs	Along Napier Street between ground and first floor; each sign is 0.6sqm in diameter, with clearance heights between 2.63m to 3.95m above the footpath	4.8sqm

31. Given the total area and the location of the proposed signage, a planning permit is required for the proposed signage.

Clause 52.06 (Car Parking)

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

Proposed Use	Size	Statutory Parking Rate	No. of Spaces Required	No. of Spaces On-site	Reduction Required
Shop (120sqm)	120sqm	3.5 spaces to each 100sqm of LFA	4	0	4
Office (Combined)	1156sqm	3 spaces to each 100sqm of NFA	34	2	32
Total			38	2	36

34. With 2 car parking spaces provided on-site, the proposal seeks a total reduction of 36 car spaces.

Clause 52.34 – Bicycle facilities

35. Pursuant to *Clause 52.34-3*, the following bicycle provision is required.

Use	Area	Rate	No. required on-site	No. provided on-site
Shop	120sqm	1 employee space to each 600sqm of LFA if the LFA exceeds 1000sqm	0	1
		1 visitor space to each 500sqm of LFA if the LFA exceeds 1000sqm	0	0
Office	1156sqm	1 employee space to each 300sqm of NFA if the NFA exceeds 1000sqm	4	13
		1 visitor space to each 1000sqm of NFA if the NFA exceeds 1000sqm	1	8
Totals			5	22

36. The proposal exceeds the bicycle parking rate for office employees/visitors.

General Provisions

Clause 65 General Provisions

37. The decision guidelines outlined at clause 65 of the Scheme are relevant to all applications. Because a permit can be granted does not imply that a permit should or will be granted. Before deciding on an application, the Responsible Authority must consider, amongst other things, the relevant State Planning Policy Frameworks and Local Planning Policy Framework, as well as the purpose of the Zone, Overlay or any other Provision.

Planning Policy Framework (PPF)

38. Relevant clauses are as follows:

Clause 11.01-1R – Settlement – Metropolitan Melbourne

39. The relevant strategies of this clause is to *“focus investment and growth in places of state significance, including, Metropolitan Activity Centres”*.

Clause 11.02-1S – Supply of Urban Land

40. The relevant objective of this clause is *“to ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses”*.

Clause 11.03-1R – Activity Centres-Metropolitan Melbourne

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

Clause 13.05-1S – Noise abatement

42. The relevant objective of this clause is *“to assist the control of noise effects on sensitive land uses”*.

Clause 13.07-1S – Land use compatibility

43. The relevant objective of this clause is *“to protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts”*.

Clause 15.01-1S – Urban Design

44. The relevant objective of this clause is *“to create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity”*.

Clause 15.01-2S – Building Design

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

Clause 15.01-5S – Neighbourhood Character

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

Clause 15.02 – Sustainable Development

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

Clause 15.03-1S – Heritage conservation

48. The objective of this clause is *“to ensure the conservation of places of heritage significance”*.

49. The relevant strategies of this clause are:
- (a) *Provide for the protection of natural heritage sites and man-made resources.*

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

Clause 17.02-1S – Business

50. The objective of this clause is *“To encourage development that meets the community’s needs for retail, entertainment, office and other commercial services”*.

Clause 18.01-1S – Land use and transport planning

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

Clause 18.02-1S – Sustainable personal transport

52. The objective of this clause is *“to promote the use of sustainable personal transport”*.

Clause 18.02-2R – Principal Public Transport Network

53. Relevant strategies for this clause are:

- (a) *Maximise the use of existing infrastructure and increase the diversity and density of development along the Principal Public Transport Network, particularly at interchanges, activity centres and where principal public transport routes intersect.*

Local Planning Policy Framework (LPPF)

Clause 21.04 – Land Use

Clause 21.04-1 – Accommodation and housing

54. Relevant objective and strategy for this clause is:

- (a) *Objective 3 To reduce potential amenity conflicts between residential and other uses.*
 - (i) *Strategy 3.2 Apply the Interface Uses policy at clause 22.05.*

Clause 21.04-2 – Activity Centres

Clause 21.04-3 Industry, office and commercial

55. The relevant objective for this clause is *“to increase the number and diversity of local employment opportunities”*.

Clause 21.05 – Built Form

Clause 21.05-1 – Heritage

56. Relevant objectives and strategies for this clause are:

- (a) *Objective 14 – To protect and enhance Yarra’s heritage places.*
 - (i) *Strategy 14.2 – Support the restoration of heritage places*
 - (ii) *Strategy 14.3 – Protect the heritage skyline of heritage precincts*
 - (iii) *Strategy 14.6 – Protect buildings, streetscapes and precincts of heritage significance from the visual intrusion of built form both within places and from adjoining areas.*
 - (iv) *Strategy 14.8 – Apply the Development Guidelines for sites subject to a Heritage Overlay policy at clause 22.02*

Clause 21.05-2 – Urban design

57. The relevant objectives and strategy of this clause are;
- (a) *Objective 16 – To reinforce the existing urban framework of Yarra;*
 - (b) *Objective 17 – To retain Yarra’s identity as a low-rise urban form with pockets of higher development.*
 - (i) *Strategy 17.2 Development on strategic redevelopment sites or within activity centres should generally be no more than 5-6 storeys unless it can be demonstrated that the proposal can achieve specific benefits such as:*
 - *Significant upper level setbacks.*
 - *Architectural design excellence.*
 - *Best practice environmental sustainability objectives in design and construction.*
 - *High quality restoration and adaptive re-use of heritage buildings.*
 - *Positive contribution to the enhancement of the public domain.*
 - *Provision of affordable housing.*
 - (c) *Objective 18 – To retain, enhance and extend Yarra’s fine grain street pattern;*
 - (d) *Objective 20 – To ensure that new development contributes positively to Yarra's urban fabric;*
 - (i) *Strategy 20.1 – Ensure development is designed having particular regard to its urban context and specifically designed following a thorough analysis of the site, the neighbouring properties and its environs.*
 - (ii) *Strategy 20.2 – Require development of Strategic Redevelopment Sites to take into account the opportunities for development on adjoining land.*
 - (iii) *Strategy 20.3 – Reflect the fine grain of the subdivision pattern in building design where this is part of the original character of the area.*

Clause 21.05-3 – Built form character

58. The general objective of this clause is:
- (a) *Objective 23 – To maintain and strengthen the identified character of each type of identified built form within Yarra.*

Clause 21.05-4 – Public environment

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

Clause 21.06 – Transport

Clause 21.06-1 Walking and cycling

60. The relevant objective and strategies of this clause are;
- (a) *Objective 30 To provide safe and convenient pedestrian and bicycle environments.*
 - (i) *Strategy 30.1 Improve pedestrian and cycling links in association with new development where possible.*
 - (ii) *Strategy 30.2 Minimise vehicle crossovers on street frontages.*
 - (iii) *Strategy 30.3 Use rear laneway access to reduce vehicle crossovers.*

Clause 21.07 – Environmental Sustainability

Clause 21.07-1 – Environmentally sustainable development

61. The relevant objective of this clause is to “promote environmentally sustainable development”.

Clause 21.08-7 – Fitzroy

62. The area is described as follows:
- (a) *Fitzroy is a mixed commercial and residential neighbourhood notable for the consistency of its Victorian streetscapes. It comprises a dense combination of residential areas, shopping precincts and commercial/ industrial activities.*
 - (b) *The part of Johnston Street between Brunswick Street and Smith Street is undergoing revitalisation as a focal point for furniture manufacture and showrooms. The Business 2 Zone is considered appropriate for this area as it will provide the opportunity to encourage restricted retail uses at ground level with residential or offices uses above.*
63. Figure 18 (Built form character map: Fitzroy) shows the subject site as being within the heritage overlay built form character area where the objective is to ensure that development does not adversely affect the significance of the heritage place.

Relevant Local Policies

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

64. This policy applies to all land within a Heritage Overlay, and aims to provide guidance for the protection and enhancement of the City's identified places of cultural and natural heritage significance.

Clause 22.04 – Advertising signs policy

65. This policy applies to all permit applications for developments which incorporates advertising signs.

Clause 22.05 – Interface Uses Policy

66. This policy applies to applications for use or development within Business (now Commercial) Zones (amongst others). The relevant objective of this clause is "to ensure that residential

Clause 22.16 – Stormwater Management (Water Sensitive Urban Design)

67. This policy applies to applications for new buildings (amongst others). *Clause 22.16-3* requires the use of measures to "improve the quality and reduce the flow of water discharge to waterways", manage the flow of litter from the site in stormwater and encourage green roofs, walls and facades in buildings where practicable.

Clause 22.17 – Environmentally Sustainable Design

68. This policy applies to non-residential development with a gross floor area of more than 1000sqm. The overarching objective is that development should achieve best practice in environmentally sustainable development from the design stage through to construction and operation. The considerations are energy performance, water resources, indoor environment quality, storm water management, transport, waste management and urban ecology.

Incorporated Documents

69. Appendix 8 to the City of Yarra Review of Heritage Areas, 2007 – Nos. 176 Johnston Street and 300 Napier Street are identified as being "Contributory" and "Not-contributory" respectively to the South Fitzroy Precinct (as identified by Schedule 334 to the Heritage Overlay).

Advertising

70. The originally submitted application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 461 letters sent to surrounding owners and occupiers and by three signs displayed on site (one at each street frontage).
71. As discussed earlier, the site adjoins Johnston Street, a Road Zone (Category 1), therefore, notice of the application was given to the relevant road authority, i.e. Vic Roads, pursuant to Section 52 of the *Planning and Environment Act 1987*.
72. Council received 11 objections, the grounds of which are summarised as follows:
 - (a) Inappropriate design and overdevelopment of the site (height, scale, bulk);
 - (b) Heritage impacts;
 - (c) Off-site amenity (daylight and cross-ventilation to adjacent light-wells, overshadowing, overlooking);
 - (d) Car parking, traffic impacts and pedestrian safety; and
 - (e) Reduced property values.
73. On 8 October 2020, the applicant submitted revised plans under Section 57(A) of the Act. Following the submission of amended plans, the application was not re-advertised and was given a discretionary exemption at Council's internal Development Assessment Panel meeting held on 04 November 2020, on the basis that the proposed amendments would not result in material detriment. However, a copy of the plans were circulated to objectors with the invitations to the meeting.

Referrals

External Referral

74. The application was not required to be formally referred to any external authorities under the Scheme. However, as stated earlier, *Clause 36.04-3 (Decision guidelines)* of the Scheme considers *the views of the relevant road authority* and therefore notice under a Section 52 of the *Planning and Environment Act 1987* was given to Vic Roads who had no objection.
75. Comments from Vic Roads have been included as an attachment to this report.

Internal Referrals

76. The originally advertised application was referred to the following areas within Council:
 - (a) Traffic Engineering Unit;
 - (b) Heritage Advisor;
 - (c) Urban Design Unit;
 - (d) ESD Advisor;
 - (e) Strategic Transport Unit;
 - (f) City Works Unit; and
 - (g) Arborist.
77. Referral comments have been included as attachments to this report.
78. The amended (S57A) plans were referred to Council's Traffic Engineering Unit and Strategic Transport Unit as additional dimensions relating to car parking and revised bicycle parking spaces are proposed on and off-site.

OFFICER ASSESSMENT

79. The following key issues and policies will be used to frame the assessment of this planning permit application:
- (a) Strategic and policy support;
 - (b) Built form and heritage;
 - (c) On and off-site amenity impacts;
 - (d) Car parking, traffic and bicycle provision;
 - (e) Signage;
 - (f) Waste management; and
 - (g) Objector concerns.

Strategic and policy support

80. The subject site is located within a C1Z, which has a key purpose to create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses. Consistent with the zone, the use of the land for office and a shop do not require a planning permit and only the buildings and works are triggered by this provision. This indicates strong strategic support for commercial use within the precinct.
81. Additionally, policies (such as Clauses 11.03-1R and 18.01-1S) encourage the concentration of development near activity centres and more intense development on sites well connected to public transport. The site is located within the Johnston Street NAC and within close proximity to the Brunswick Street and Smith Street ACs and the CBD, and is therefore well serviced by public transport and community services. This ensures efficient use of infrastructure and supports Council's preference that established areas experience residual increases in population growth. In addition, the provision of a shop and offices at ground level, addressing both Johnston and Napier Streets, continues to provide an active frontage within the commercial area, consistent with the purpose of the C1Z.
82. Whilst the proposed plans make reference to 'retail' use at ground floor, all accompanying reports make reference to this space as a 'shop'. Therefore, a condition will require the retail space be relabelled as 'shop'.
83. The proposed development of the site for a mid-rise office development is considered to have strong strategic support. However, such strategic direction must be balanced against site constraints, the local built form context, the proposed architectural response and the potential for off-site amenity impacts. These aspects of the development will be discussed in the following sections of this report.

Built form and heritage

84. In considering the design and built form of the proposed development, the most relevant aspects of the Scheme are provided at *Clause 15 (Built Environment and Heritage)*, *Clause 21.05 (Built Form)* and *Clause 22.02 (Development Guidelines for Sites Subject to the Heritage Overlay)*. All of these provisions and guidelines support a development outcome that responds to the existing or preferred neighbourhood character and provides a contextual urban design response reflective of the aspirations for the area. Particular regard must be given to the acceptability of the design in terms of height and massing, street setbacks and relationship to the streetscape and adjoining buildings.

Context

85. As outlined in the 'site and surrounds' section of this report, built form within the area is mixed, with development along Johnston Street, Napier Street and Chapel Street displaying a range of building types, forms and designs. Site coverage in the immediate area is generally high. Strategically the subject site is appropriately located for a higher-density development, being within proximity to two ACs and within a C1Z with excellent access to cycling networks, public transport, services and facilities. Based on these attributes, it is a reasonable expectation that this site will experience intensification in use and development.
86. A number of developments ranging between 4 to 10 storeys have been approved, are under construction, or have been built on sites within proximity of the subject site. Given these approvals it is evident that the area is undergoing significant change and redevelopment. More specifically, the abutting site to the east at Nos. 178 – 182 Johnston Street is currently being developed into a 7 storey, mixed-use development with an overall height of 22.94m to Johnston Street. The approved development incorporates a 3-storey street wall and is setback a minimum 5.21m at the upper levels. Therefore, the proposed development sits comfortably within the existing site context.
87. As noted within the 'Planning Scheme Amendments' section of this report, Council has prepared a Built Form Framework for the southern side of Johnston Street (among other areas), and has also requested approval from the Minister to introduce an interim Design and Development Overlay (DDO) while permanent controls are prepared. The subject site is to be included in the proposed interim DDO35. A relevant built form objective of the proposed DDO35 is *to ensure development responds to the heritage character and varied streetscape by supporting a lower to mid-rise character (ranging from 3 to 6 storeys) behind a low street wall between Johnston and Chapel Streets.*
88. The draft interim DDO35 outlines mandatory maximum height and street wall requirements of 14.4m and 11.2m respectively that would apply to the subject site. While not required to meet these heights (as the DDO has not been approved by the Minister), the proposed development meets both of these requirements.
89. The draft DDO35 also specifies that upper levels above the Johnston Street street-wall must be setback a minimum of 6m. Whilst the proposed development seeks a departure from this upper level setback requirements to Johnston Street and Napier Street, Council's Urban Design Unit have confirmed that *the setbacks are sufficient in ensuring the single storey above the primary three storey form is recessive.*
90. While the Built Form Framework which informed the DDO35 provides some analysis as to the preferred future scale sought within this section of Johnston Street, this does not outweigh the emerging scale of recent development that has already occurred along Johnston Street (in the realm of 6 to 10 storeys). In addition, the proposed street wall height is in keeping with the design guidelines outlined in the current DDO10 which recommends *the street façade height should not exceed three storeys or 12 metres.*
91. Based on the context outlined, a mid-scale development on the subject site is expected and supported. The specific heights and setbacks that are considered appropriate for the site will be discussed in detail below.

Demolition

92. Prior to ascertaining if the proposed development of the land is acceptable, consideration of the extent of demolition is required. These considerations are outlined at *Clause 22.02* and *Clause 43.01* of the Scheme.

93. The building at No. 176 Johnston Street is classified as 'contributory' to the South Fitzroy Heritage Precinct (Fitzroy/Collingwood), with the building at No. 300 Napier Street identified as 'not-contributory' to this precinct.
94. *Clause 22.02-5.1* of the Scheme states: *generally encourage the retention of a building in a heritage place, unless the building is identified as being not contributory.* The proposal incorporates the full demolition of all structures at both No. 176 Johnston Street and No. 300 Napier Street. Therefore, the proposed extent of demolition associated with No. 300 Napier Street is consistent with this direction as this site is identified as a not-contributory building.
95. Whilst the full demolition of the 'contributory' building at No. 176 Johnston Street is contrary to the policy at *Clause 22.02* of the Scheme, both Council's Heritage Advisor and the applicant's heritage consultant Bryce Raworth, have confirmed that the demolition is acceptable for the following reasons:
- (a) In 2004, whilst the building was described as *having an early form with an original or early shopfront*, it was also described as being in a state of poor condition.
 - (b) The existing building was heavily renovated between 2004 and 2005 which involved the introduction of a floor structure (previously earth), a number of large shopfront openings, and rendering of the remaining brick work. As a consequence, much of the existing external building fabric was removed, with only the scale and roof form of the existing building salvaged.
 - (c) Based on its current appearance, the subject building is considered as being barely recognisable as the original heritage building, and therefore its contribution to the heritage character of the street is negligible. In addition the building does not form part of a group of buildings which together create an intact heritage streetscape.
96. As a result, the full demolition of all structures at No. 176 Johnston Street and No. 300 Napier Street are supported and will not adversely impact the heritage significance of the heritage precinct.

Height/Massing

97. The development proposes an overall height of 4 storeys to Johnston Street, with the building extending to a maximum height of 14.4m above NGL. The street-wall to Johnston Street would consist of a height of 11.2m above NGL, with the upper level setback 5.21m from this frontage. The Napier Street frontage would be presented with a part 4 and part 2 storey podium, with an overall height variation of 14.3m towards the northern end and 12.1m towards the southern end of Napier Street. The Chapel Street frontage will consist of a 3 storey podium with a height variation between 11.3m to 12.1m above NGL.



Proposed Johnston and Napier Street Façades (Chamberlain Architects October 2020)

98. Objectives at *Clause 22.02* of the Scheme aim to (amongst others) preserve the scale and pattern of streetscapes in heritage places, ensure that additions and new works to a heritage place respect the significance of the place and for new additions to be visually recessive and not dominate the heritage place.
99. Amongst other things, the narrow width and size of the subject site limits the opportunity for high-density development. The current development incorporates a 3 storey podium fronting Johnston Street, which subsequently reduces in height along Napier Street as well as a recessive top floor.
100. An analysis of the individual attributes of surrounding higher-density development can be found earlier in the report. This review included 7 sites located along both sides of Johnston Street, and between Brunswick Street and Smith Street. As outlined previously, heights proposed are between 4 to 10 storeys, with higher built form continuing to be located within the heritage overlay. The land area of these sites ranged from 233sqm (No. 3 Hertford Street – 4 storeys) to 631sqm (Nos. 178 – 182 Johnston Street – 7 storeys) to 2,118sqm (No. 239 - 243 Johnston Street – 10 storeys). By comparison, the subject site provides an overall site area of 433sqm and therefore, limiting the overall height to 4 storeys is considered appropriate. As will be discussed throughout this report, the current design is considered to be responsive in its design language and has regard to Council policy (both existing and proposed). Furthermore, as demonstrated above the overall proposed height is within the contextual range of heights of nearby development.
101. It is a well-established urban design principle that building height should relate to street width. Johnston, Napier and Chapel Streets with widths of 15m, 14m and 5m, respectively can adequately accommodate the proposed 2-3 storey podiums and an overall height of 4 storeys. Council's Urban Unit confirmed that the *overall massing of the proposal is in keeping with the emerging scale and character of Johnston Street while responding to the Napier Street context immediately south of the subject site*. Therefore, the proposed development is not considered to be excessive or overwhelm any of street frontages.
102. The abutting site to the east at Nos. 178 – 182 Johnston Street is provided with a 3 storey podium (intercepted with arched glazing and terraces); while the Fitzroy Townhall Hotel (across Napier Street) consists of a double-storey wall with zero front setbacks. *Clause 22.02-5.7.1 encourages similar façade heights to the adjoining contributory elements in the street. Where there are differing façade heights, the design should adopt the lesser height.* Council's Heritage Advisor is supportive of the proposed façade heights as *the proposed street wall height of new building will be generally consistent with buildings that occupy other corners of the intersection of Johnston and Napier Street*.

Nonetheless, as demonstrated in numerous images earlier in the report there is precedent for this scale within the immediate and surrounding area.



Proposed Johnston Street Façade adjacent to the Fitzroy Townhall Hotel (Chamberlain Architects October 2020)

103. In addition, as shown below, given the descending nature of the overall massing (from 4 to 3 storeys) and the street walls (3 to 2 storeys), the development will not be visible from longer-range views such as further south of Napier and Chapel Streets where there are residential uses within lower-scale buildings. In addition, Council's Heritage Advisor is also supportive of the decreasing podium heights along Napier Street, as *this will provide a visual transition to the domestic scale of Napier Street*. Similarly, Council's Urban Design Unit have commended this reduction in façade height, stating that the proposed design successfully breaks down the *perceived bulk and scale of the building's presence in the sensitive transitional streetscape context of Napier Street*.



Proposed Napier Street Façade (Chamberlain Architects October 2020)

104. Specific to corner sites, *Clause 22.02-5.7.2* of the Scheme encourages *new building and additions on a site with frontages to two streets, being either a corner site or a site with dual street frontages, to respect the built form and character of the heritage place and adjoining or adjacent contributory elements to the heritage place and new buildings on corner sites to reflect the setbacks of buildings that occupy other corners of the intersection*. Council's Heritage Advisor is supportive of the upper level setbacks and roof terraces as they are *setback equivalent to the upper levels of the adjoining development in a manner that is visually recessive*. The proposed Level 3 setbacks from both Johnston and Napier Streets helps to reinforce the three-storey scale of the street façade, allowing it to be prominent in the Johnston Street and part of the Napier Street streetscapes.
105. In conclusion, given the commercial zoning of the land, it is acknowledged that the area is undergoing change, with new development resulting in the emergence of higher built form within the immediate surrounds. Taking into consideration the relevant policy guidelines, the emerging built form character of the area and for all the reasons outlined above, subject to condition, the proposed development will not overwhelm the existing character along Johnston Street, Napier Street and Chapel Street.

The Public Realm & Pedestrian spaces

106. *Clause 21.05 (Built form)* of the Scheme seeks new development to make a positive contribution to the enhancement of the public domain, whilst the decision guidelines of *Clause 34.01-8 (Commercial 1 Zone)* and the objectives of the DDO10 aims to ensure that new development enhances public safety and the pedestrian experience by creating attractive and active interfaces.

107. The glazed façade and canopies to the ground floor offices addressing both Johnston and Napier Streets will provide an engaging frontage to this interface, creating passive surveillance opportunities. Council's Urban Design Unit supports the ground level interface highlighting the following elements of the proposal as being successful design outcomes which contribute to the streetscape and desired character:
- (a) Canopy provisions along Johnston and Napier Street frontages;
 - (b) Primary 'shop' entrance from Johnston Street;
 - (c) Dedicated commercial entrance lobby and individual entrances to tenancies from Napier Street;
 - (d) Fine grain proportions to frontage design and inclusion of stall risers to retail component;
 - (e) Individual signs enhance the legibility of tenancy entrances along Napier Street; and
 - (f) Minimal car parking dedicated to the Napier Street frontage.
108. The simple and rectilinear façade, arched glazing intercepted with pillars, and metal canopies will clearly help to identify the entrances to the building and provide adequate activation. The zero setbacks to Johnston, Napier and Chapel Streets will create a safe environment, with no undercroft area. However, Council's Traffic Engineering Unit have recommended that the ground floor be reduced in order to reinstate the existing north-western corner splay in asphalt (consistent with the surrounding footpaths), at the ground floor. The engineers have advised that *regardless of whether the splay is in private ownership, it is deemed to be part of a Public Highway by virtue of its previous and existing use by the public (i.e. – pedestrians).*
109. Whilst the applicant disputes this recommendation (stating that the splay offers little practical safety benefit, the existing footpath has a generous width and the splay significantly compromises the architectural integrity of the proposed building), a condition will require the splay to the building by way of condition as it would continue to maintain the existing pedestrian movement along Johnston and Napier Streets. Council's Traffic Engineering Unit have further stated that *the subject splay is a 'road' for the purposes of the Road Management Act 2004 and Local Government Act 1989. Council is the entity responsible for the care and management of such roads, pursuant to section 205 of the Local Government Act 1989. Under the Road Management Act 2004 and the Local Government Act 1989, Council has the powers to remove any encroachments or obstructions on a municipal road, including encroachments from building works from the subject site.* Furthermore, even with the reinstatement of the splay, the overall development will continue to provide a strong three-storey podium along the remainder of Johnston Street and Napier Street. The undercroft area that would be created as a result of accommodating this corner splay at ground floor (with the upper floors maintaining zero setbacks from this corner) is minimal and considered acceptable.
110. Vic Roads has provided further comments regarding the proposed development, including the canopy as follows:
- (a) *The canopy/awning located along the Johnston Street facade at the corner of Napier Street must provide a minimum setback of 0.5m from any part of the traffic signal at this location.*
 - (b) *Prior to the commencement of the development, the owner of the land must enter into an agreement with the Department of Environment, Land, Water and Planning (DELWP) pursuant to Section 138(A) of the Land Act 1958 for the elements of the approved development that project more than 300mm beyond the land's Johnston Street and Napier Street boundary (i.e. the canopies, fixed shading devices, architectural features, awnings, balconies etc), to indemnify the Crown in relation to any claim or liability arising from the projections within the Johnston Street and Napier Street road reserve.*

A copy of the endorsed plan must be submitted and clearly detail the dimensions of all projections including the total area (sqm), length, width and height which extend beyond the title boundary. This condition does not apply where written confirmation is obtained from DELWP that the above agreement is not required or if no projections are proposed into the road reserve airspace.

111. The above would be required by way of condition.
112. Whilst landscaping is proposed within the overall development, a landscape plan has not been provided and as such, a condition will require the provision of a landscape plan. Furthermore, the existing street trees adjacent to the subject site on Napier Street are proposed to be retained. Council's Arborist has confirmed that the amenity value of each tree is \$1844 and therefore, the tree protection bond is \$5,000. In addition, it has been advised that for the protection of both trees, a Tree Management Plan (TMP) is required. This will be required by way of condition.
113. As a result of Council's Urban Design Unit comments, the applicant is proposing two additional street trees to the Napier Street frontage (one on the footpath, and the other on the street). Council's Arborists have stated that *2 years maintenance to be paid for by the developer* for these two new street trees. *These cost will be at Councils current schedule of rates and will be completed by Council contractors.* This too will be required by way of condition.
114. The upper levels will also consist of extensive glazing which would contribute to passive surveillance and activation. This outcome is encouraged within commercial areas, as outlined as a decision guideline of the zone at *Clause 34.01-8.*

Light and Shade

115. Due to the north-south orientation of the site the proposed development would result in a degree of additional overshadowing to the western footpath associated with Napier Street from 9.00am to 10.00am and the southern side of the footpath associated with Chapel Street, between 11.00am to 3.00pm.
116. The subject site is within a location where a degree of overshadowing is inevitable due to the mixed built form character which has been established in this area. Irrespective of this, it is considered that the shadowing from the development would not affect the usability of the public realm, being limited in scale and duration at both interfaces. The design principles outlined under DDO10 recommends that proposed buildings avoid increased overshadowing of street and public space between 10am and 2pm at the equinox (22 September).
117. Shadow diagrams provided by the applicant indicate that a limited section of the western footpath of Napier Street would be in shadow at 9am at the September equinox. These shadows on the western footpath will dissipate by 10am. This outcome is acceptable, ensuring that there would be no further loss of solar access to this footpath throughout the day. The eastern footpath of Napier Street, directly in front of the site, would be in shadow from 9am until 12pm; however given the existing built form on the land and the approved 7 storey development at Nos. 178 – 182 Johnston Street, this is consistent with current conditions.
118. The development would result in overshadowing of different sections of the southern footpath of Chapel Street at all times throughout the day. Whilst the draft interim DDO35 states that new development should not overshadow properties south of Chapel Street, including the primary school, this section of Chapel Street is not a main pedestrian thoroughfare as compared to the remainder of Chapel Street, west of Napier Street. Therefore, the extent of additional shadowing of the southern footpath of Chapel Street is considered acceptable.

Site Coverage

119. The proposal occupies 100% of the site area. This extent of site coverage is considered to be appropriate and consistent with the commercial character of the area, especially along Johnson Street, that accommodates predominantly hard-edged built form with limited open space or landscaping.

Architectural Quality

120. The development is of a contemporary design and incorporates a mix of traditional (brick) and modern materials (cement and metal cladding). The rectilinear design, with arched glazing creates a clearly modern form which will integrate well with existing and emerging contemporary development in the immediate surrounds.
121. The use of red brickwork creates a connection with the prevalence of brickwork and masonry in the area; with the mix of glazing, metal cladding, cement, pillars and planter-boxes to provide a degree of difference to these materials. Whilst not a characteristic found within the immediate South Fitzroy area, Council's Heritage Advisor is supportive of the arched multi-paned window openings stating that the American Romanesque style *appeared in the 1890s and emerged as the dominant commercial style of architecture until about the First World War*. Therefore, this glazing design is reflective of the industrial warehouses that are scattered throughout the South Fitzroy area and as such is supported.
122. In addition, Council's Heritage Advisor has advised that *the minimalist detailing of the top floor level, together with its setbacks, gives it a recessive appearance and allows the three-storey scale of the street wall to dominate the Johnston Street streetscape*. Level 3 and the light-weight pergolas associated with the roof terraces would be finished in metal cladding. On balance, with the red brickwork, the use of a mix of cement is supported, with the metal cladding finish providing a degree of articulation and visual interest to the uppermost level of the development. Therefore, roof terraces along Napier Street are also supported by Council's Heritage Advisor. Council's Urban Design Unit are also supportive of the material pallet proposed.
123. Overall it is considered that the proposed development would achieve a good level of architectural quality. The proposal would significantly contribute to and improve the streetscape through active frontages and use of high-quality materials which the existing building within the subject site currently lacks.

On and off-site amenity impacts

On-Site Amenity

124. The development is considered to achieve a good level of internal amenity through the following:
- (a) Inclusion of kitchens and bathrooms for future users at each office floor;
 - (b) Provision of a suite of ESD features which include excellent daylight access with the majority of office space provided with daylight from the northern and eastern aspects. These spaces would be further protected by external, operable sun blinds;
 - (c) Provision of balconies at Levels 3 and 4; and
 - (d) Bicycle parking and end of trip facilities for employees.
125. With regards to the wider ESD features of the proposed development; the following have been identified by Council's ESD Advisor as part of the applicant's SMP, prepared by Sustainable Development Consultants, dated July 2020:

- (a) A STORM report with a 108% score that relies on runoff from approximately 280sqm of roof connected to 8,000Ltrs of rainwater storage for flushing of all toilets onsite;
 - (b) A 10kWp solar PV array to contribute to onsite electricity consumption;
 - (c) Access to natural ventilation is good provided that the windows to offices on all levels are operable;
 - (d) Energy efficient heating/cooling and lighting;
 - (e) Water efficient fixtures and taps; and
 - (f) Secure bicycle parking spaces for staff, plus visitor spaces.
126. These features (amongst others) achieve a BESS score of 53%, with a score of 50% signifying 'best practice'.
127. Nonetheless, Council's ESD Advisor found that the SMP provided by the applicant did not provide all information. To further increase the development's energy efficiency (and to ensure that the development will achieve the stated BESS score), Council's ESD Advisor recommended the following modifications and additions to the SMP (as outlined in the referral section of the report):
- (a) A commitment to exceed current NCC2019 standards;
 - (b) Energy efficient LED lighting 20% improvement on NCC minimum requirements. Remove any ambiguous terms such as "aim" to meet this standard and commit to a clear performance standard.
 - (c) Including organic/green waste and e-waste systems also.
 - (d) Operable windows included to all offices on each level and operability of windows clearly marked on plans.
 - (e) An 8,000Ltr rainwater tank connected to all toilets for flushing is proposed on the SMP. However, only a 3,000Ltr rainwater tank is identified on plans. This discrepancy is required to be addressed.
128. The applicant has agreed for the above items to be addressed via condition. Further, a condition will require the SMP to be amended to show all revisions on the S57A plans; i.e. changes to the overall building, including and bicycle spaces.

Off-site amenity

129. Clause 15.01-2S of the Scheme aims to provide building design that minimises the detrimental impact of development on neighbouring properties, the public realm and the natural environment, with potential impacts relating to overshadowing of SPOS, loss of daylight to windows, visual bulk and overlooking of sensitive areas. The relevant policy framework for amenity considerations is contained within *Clause 22.05 (Interface uses policy)* of the Scheme. In this instance the site abuts land within the C1Z, with the closest residentially zoned land (NRZ1) located approximately 24m south-west of the subject site. Further, the site is located within a neighbourhood where commercial uses are encouraged.
130. Decision guidelines at *Clause 22.05-6* specify that Council should consider (as appropriate); *The extent to which the proposed buildings or uses may cause overlooking, overshadowing, noise, fumes and air emissions, light spillage, waste management and other operational disturbances that may cause unreasonable detriment to the residential amenity of nearby residential properties.*
131. In this instance, a 7 storey apartment building is currently being constructed at Nos. 178 – 182 Johnston Street, directly abutting the subject site to the east. Abutting the remainder of the eastern boundary of the subject site is No. 23 Chapel Street, a single-storey dwelling. However, both of these sites are located with a C1Z.

The interface between commercial buildings and residential properties in a commercial zone has been discussed in detail in previous VCAT cases, e.g. *RPC Architects v Glen Eira CC [2009] VCAT 108*, where Member Cimino noted that residents living in (or near) commercial zones cannot expect the same level of amenity as residents living in a wholly residential area. Irrespective of this position, an assessment regarding off-site amenity impacts are discussed below.

132. *Clause 22.05-4.1* of the Scheme recommends that non-residential development is to be designed to (relevantly):

- (a) *Minimise the potential for unreasonable overlooking of private open space areas and into habitable room windows of adjoining residential properties, through the use of appropriate siting, setbacks, articulation and possibly screens.*
- (b) *The location, length and height of any wall built to a boundary not adversely impact on the amenity of any adjoining residential properties in terms of unreasonable overshadowing of private open space, visual bulk or loss of day light to habitable room windows.*
- (c) *Where private open space and/or windows to adjoining residential properties are unreasonably affected, appropriate setbacks from boundaries are to be provided to address loss of daylight, overshadowing and visual bulk impacts.*
- (d) *Provide for a high level of acoustic protection to adjoining residential properties*
- (e) *Minimise the opportunity for light spill due to fixed or vehicular lights, outside the perimeter of the site and on to habitable room windows of nearby residential properties.*

Setbacks and visual bulk

133. The proposed development would be visible along Johnston Street, Napier Street and Chapel Street, however the proposed height of three-storeys reducing to two-storeys, with a recessed fourth-storey would not result in an overwhelming or visually dominant building. The introduction of reducing podium heights, various setbacks at the upper levels of the building, light-weight pergolas and balconies combined with the various materials proposed, reduce the overall scale of the building and allow it to sit comfortably in this context. As discussed earlier in report, the four-storey built form would not result in a stark height transition to the double-storey commercial building (Fitzroy Town Hall Hotel) across Napier Street to the west and the 7 storey apartment building to the east. The 2 storey podium, combined with the raked setbacks from the eastern boundary, will provide a level of transition and articulation when viewed from Chapel Street as well.

134. The abutting residential apartment building to the east does not have any HRWs directly facing the subject site; but only two light-courts from Level 1 to Level 6 and balconies at various levels. Therefore, there would be no visual bulk impacts from the subject site to any of the HRWs of this neighbouring development to the east. The proposed development on-site incorporates two light-courts, with depths of 2.5m and 3.47m from the shared boundary with Nos. 178 – 182 Johnston Street, between Levels 1 to 4. The following is an assessment relating to the apartments abutting the subject site and visual bulk impacts:

- (a) The ground floor of the multi-storey development to the east incorporates a small garden area, located between the commercial tenancies. This garden area is already impacted by high boundary walls associated with the development on-site. Therefore the proposal will not further impact this area as it would be expected (given the existing on-boundary wall, and the expectation of higher built form in a Commercial 1 zone). Furthermore, this garden area is not associated with any of the residential uses on this neighbouring site.

- (b) Apartment 107 (Level 1) has two terraces abutting the subject site; one within the light-court. Nonetheless, the terrace within the light-court is associated with a bedroom and not a living-room. This terrace also has access to a light-court within the building and therefore, combined with the 2.5m wide light-court provided on site, this terrace will not appear closed-in. The second terrace is located off the living room which has an alternate outlook to Johnston Street. Therefore, the proposed setback of 2.5m from the common boundary is considered acceptable and will not cause visual bulk impacts to these terraces.
- (c) Apartments 101 (Level 1) and 201 (Level 2) have a terrace each abutting the subject site, located off the living room and fronting the SPOS of No. 23 Chapel Street. Therefore whilst the proposed development on-site would be built along the common boundary with this site, there would be no visual bulk impacts as these terraces have views further south.
- (d) Apartments 301 and 304 (Level 3) have a terrace each abutting the subject site, located off the living room, but fronting Chapel Street and Johnston Street, respectively. Therefore whilst the proposed development on-site would be built abutting the common boundary with these apartments, there would be no visual bulk impacts as these terraces have views further north and south.

135. The SPOS associated with the dwelling at No. 23 Chapel Street abuts the remainder of the eastern boundary of the subject site. Under this application, a raked setback of between 0.26m to 3.04m (with the exception of the lift core) is proposed along this shared boundary. As shown below, the proposed wall will not be visually intrusive when viewed from the SPOS of No. 23 Chapel Street. Furthermore, the use of a number of different materials (brick, concrete and metal cladding) would provide an appropriate level of articulation of the development when viewed from this neighbouring SPOS.



Proposed Chapel Street Façades (Chamberlain Architects October 2020)

Daylight to habitable room windows

136. As outlined earlier in the report, whilst there are no direct HRWs fronting the subject site, the apartment development at Nos. 178 – 182 has two, west-facing light-courts fronting the subject site. These light-courts incorporate north and south-facing HRWs at various levels. The proposed development on-site incorporates two separate east-facing light-courts (2.5m and 3.47m deep) directly adjacent to these neighbouring light-courts. The following apartments have bedroom windows fronting their west-facing light-courts:

- (a) Level 1: Apartments 101 and 107;
- (b) Level 2: Apartments 201 and 206;

137. Apartments 301 and 304 at Level 3 have living room windows fronting their west-facing light-courts. However, these living rooms have alternate daylight access via their south and north-facing windows, respectively.
138. The applicant provided a Daylight Modelling Report prepared by Sustainable Development Consultants, dated May 2020. This report concluded that the daylight access to Levels 1 and 2 bedrooms at Nos. 178 – 182 Johnston Street would be impacted as they solely rely on the approved light-courts on-site. Based on the advertised plans, Council's ESD Advisor found that the *offsite daylight impacts of the proposed development are unacceptable*, in particular for the one bedroom dwellings. The advisor further states that *the loss of daylight would be too significant to be supportable*. It was recommended that a full redesign of the building is undertaken to ensure that Council's best practice standard of daylight to adjoining bedrooms is secured. Council's ESD Advisor further stated that, *enlarging the light-courts is unlikely to be sufficient given the aspect and orientation of the light-courts and bedrooms in the existing building*. It was suggested that the proposed developed be separated into two buildings, *with a large central atrium that is open to the Napier street frontage – to enable existing bedrooms to meet Councils daylight factor standards*.
139. However Council must consider the application before it and a total redesign cannot be conditioned. As illustrated earlier, out of the approved 24 apartments at Nos. 178 – 182 Johnson Street, only 4 apartments with bedrooms fronting this light-court would be directly impacted as a result of the proposed development on the subject site. In addition, that proposal would have been cognisant of the likelihood of taller development to its west (given the C1Z) which has resulted in limited windows and lightcourts to this interface.
140. The Daylight Modelling Report endorsed for Nos. 178 – 182 Johnston Street (prepared by Connor Pincus Ground, dated February 2016), took into account daylight impacts to these bedroom windows in the event a mirrored development with similar light-courts and 7 storeys was approved on the abutting site to the west; i.e. the subject site. However, as the proposed development on-site has been limited to 4 storeys; and it is unreasonable to expect that any development on the subject site (higher than a single-storey) is not acceptable. Essentially, the limited depths of the approved light-courts at Nos. 178 – 182 Johnston Street, adjacent to a narrow neighbouring lot (subject site), has a resulted in an unreasonable outcome whereby these bedrooms are relying on borrowed light from the subject site. In addition, given the location of the existing light-courts at Nos. 178 – 182 Johnston Street, combined with the site constrains (heritage and DDO requirements) it is unreasonable to expect a redesign in which would result in the proposed building being separated into two.
141. Nonetheless, as part of the S57A plans, the applicant increased the width of the northern-most light-court from 2.2m to 2.5m. Furthermore, both light-courts would be provided with reflective material, thereby limiting any further unreasonable loss of daylight to these HRWs. A condition will require the Daylight Modelling Report prepared by Sustainable Development Consultants, dated May 2020 to be amended to show the revisions on the S57A plans.

Overshadowing

142. Shadowing of footpaths were discussed earlier in the report (light and shade section). The immediately impacted SPOS is associated with No. 23 Chapel Street to the east. No. 23 Chapel Street has 133sqm of SPS.
143. The additional overshadowing impacts from the proposed development on-site to No. 23 Chapel Street are limited to the afternoon hours, between 1.00pm to 3.00pm. Given the north-south orientation of the subject site, between 9.00am to 12.00pm, this neighbouring SPOS will not be impacted by additional shadows. Furthermore, even with the additional shadows cast from the subject site and the development at Nos. 178 – 182 Johnston Street, this SPOS will continue to have 59sqm and 19sqm of unshadowed area at 1.00pm and 2.00pm, respectively.

This neighbouring site to the east is mostly impacted at 3.00pm, with the overall SPOS completely shadowed. As discussed earlier in the report, a dwelling in a C1Z cannot expect the same level of amenity as would be afforded within a purely residential zone. Nonetheless, given the limited timeframe (1 hour) during the afternoon in which the greatest impact would occur, the additional shadowing is considered reasonable.

144. The development would result in overshadowing of the primary school between 10am to 3pm. Whilst the draft interim DDO35 states that new development should not overshadow the primary school, the shadows would be limited to existing fences and trees. None of the shadows would reach the playground. Therefore, the extent of additional shadowing of the playground is considered acceptable.
145. Based on the above, it is considered that the proposed development will not adversely affect the use of the western SPOS areas for outdoor recreation and service needs, generally in accordance with *Clause 22.05* of the Scheme. Furthermore, in the context of the subject site in a C1Z where increased densities are encouraged under the purpose of the zone, the above outcome is not considered to be unreasonable.

Overlooking

146. Whilst not strictly applicable to non-residential developments within the C1Z, the overlooking sections (TP4.01: Section DD) clearly demonstrate the 9m overlooking radius as specified in *Clause 55* of the Scheme; with these diagrams confirming that there would be no direct overlooking at ground level provided from the roof terraces of the proposed development into the neighbouring SPOS. There are no windows proposed along the eastern façade, including the east-facing light-court and therefore, there would be no overlooking into the west-facing terraces and HRW of the development at Nos. 178 – 182 Johnston Street.
147. Views from all the north, south and west-facing windows and terraces between Ground Level to Level 3 will fall within the public realm; i.e. Johnston Street, Napier Street and Chapel Street, existing built form or the primary school, and therefore screening is not required to these windows and terraces.

Noise

148. Policy at *Clause 22.05* of the Scheme seeks to ensure new commercial development is adequately managed having regard to its proximity to residential uses. In this instance, the proposed office use does not require a planning permit, however this space would be located adjacent to residential developments, also located within a C1Z. Whilst the lack of planning permission required for this use prevents Council controlling hours of operation and employee numbers, a condition will be added ensuring that the development must comply at all times with the *State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1)*.

Wind

149. A wind assessment was not undertaken as the height of the overall building is limited to a maximum of 4 storeys, and wind impacts are of concern with taller built form.

Equitable development

150. The Scheme aims to facilitate equitable development opportunities for neighbouring properties within the context of the site's location and that of adjoining properties. In this instance the site has direct abuttal with two properties; the first being the 7 storey, mixed-use building to the east (Nos. 178 – 182 Johnston Street) and the second being the single-storey dwelling to the east (No. 23 Chapel Street).

151. The impacts to the approved light-courts at No. 178 – 182 Johnston Street has already been discussed earlier in the report. The direct abuttal of the proposed, single-storey eastern wall (with the upper levels raked and no windows) with the SPOS of the dwelling to the east would allow a degree of built form to be constructed directly along this boundary, without inhibiting the internal amenity of any offices within the proposed development.
152. Johnston, Napier and Chapel Streets provide a good degree of separation from any further higher development to the north, south and west.
153. As a result of the above, it is considered that the proposal does not unduly compromise or prejudice the future development potential of adjoining properties.

Car parking, traffic and bicycle provision

Car parking

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

Proposed Use	Size	Statutory Parking Rate	No. of Spaces Required	No. of Spaces On-site	Reduction Required
Shop (120sqm)	120sqm	3.5 spaces to each 100sqm of LFA	4	0	4
Office (Combined)	1156sqm	3 spaces to each 100sqm of NFA	34	2	32
Total			38	2	36

155. Based on the table above, as only 2 car spaces are provided for two separate office uses, the development results in a parking shortfall of 36 car parking spaces. Before a requirement for car parking is reduced, the applicant must satisfy the Responsible Authority that the provision of car parking is justified having regard to the assessment requirements of *Clause 52.06-6*.

Availability of Car Parking

156. The subject site is located within an area containing predominantly time-restricted car parking, with periods ranging from ¼ hour to 2 hours. A large proportion of parking is restricted to 1 and 2 hours, extending along both sides of Johnston Street and Napier Street, respectively. The northern side of Chapel Street, directly abutting the subject site, is ‘permit zone’ only, with no parking provided along the southern side.
157. There are currently no car parking spaces provided along the Johnston Street frontage of the subject site, however there are parking spaces along the Napier Street frontage. As a result of constructing a second vehicle crossover and relocating an existing crossover, one of these car spaces along Napier Street would be impacted by the development. Council’s Traffic Engineering Unit have not raised concerns with the loss of one on-street car parking spaces along Napier Street.

Parking Demand for Office Use

158. The applicant provided a Traffic Report, dated 28 May 2020 and prepared by OneMileGrid. Parking associated with office type developments is generally long-stay parking for employees and short-term parking.

In practice, since the area has good access to public transport services, the parking demand generated by the office is expected to be lower than the statutory parking rate of 3 spaces per 100sqm of leasable floor space. The site itself will result in a rate of 0.17 spaces per 100sqm. Council's Traffic Engineering Unit highlighted that Council often approves small scale office developments with no on-site car parking or large scale developments with minimal on-site car parking spaces. This is based largely on the inner-city location of these offices and the proximity they have to public transport. The proposed office (0.17 spaces per 100sqm) is lower than most large scale office development (0.85 spaces per 100sqm) approved within Yarra and as such, the provision of two on-site parking for the proposed office use is considered appropriate.

Parking Demand for Shop Use.

159. Council's Engineering Unit have stated that generally a shop use would *generate a staff parking demand of 1 space per 100sqm*. Therefore, the reduction of 4 spaces for the shop component of the proposal would be readily accommodated off-site. Furthermore, given the location of the subject site; i.e. on a NAC and between two ACs with access to public transport, combined with the area's coverage of 1P and 2P restrictions this would provide regular turnover of parking throughout the day.

Appropriateness of Providing Fewer Spaces than the Likely Parking Demand

160. The additional reduction in car parking being sought by the proposal is supported by the following:
- (a) The site is within walking distance from the Brunswick Street and Smith Street ACs, which consists of a number of retail, entertainment and commercial premises. Visitors to the proposed shop use might combine their visit by engaging in other activities or business whilst in the area;
 - (b) Tram services operating along Brunswick Street (200m west) and Smith Street (300m east). The site also has access to bus services operating along Johnston Street and Nicholson Street (530m west);
 - (c) The site has good connectivity to the on-road bicycle network, with a generous amount of on and off-site bicycle parking spaces proposed;
 - (d) The lack of opportunities to park on-street in the surrounding area would be a disincentive for employees of the office to commute to work by car, with the short-term parking restrictions allowing employees to park for limited periods if necessary;
 - (e) The proposed development is considered to be in line with the objectives contained in Council's *Strategic Transport Statement*. The site is ideally located with regard to sustainable transport alternatives and the reduced provision of on-site car parking would potentially discourage private motor vehicle ownership and use; and
 - (f) Flexicar car share pods are located approximately 200m north of the subject site at Napier/ Kerr Streets and Brunswick/ Victoria Streets.
161. The reduction in the car parking requirement associated with the office and shop uses are considered appropriate in the context of the development and the surrounding area.

Car park access and layout

162. The proposed at-grade car parking layout and access shown on the S57A plans was assessed by Council's Traffic Engineering Unit, who confirmed that the width of each garage entrance and the headroom clearances are satisfactory and met all relevant standards and guidelines. The dimensions of the garages and crossovers were also found to be suitable.

163. Swept path diagrams were submitted, which demonstrated that entering and exiting the garages from Napier Street is satisfactory for the B99 design vehicle. However, Council's Traffic Engineers have requested a vehicle crossing ground clearance check to be undertaken by the applicant's designer to confirm that a B99 design vehicle can enter and exit the property without scraping or bottoming out. This will be required by way of condition.

Bicycle parking

164. The proposal generates a demand of 5 statutory spaces (4 employee and 1 visitor). Based on the originally advertised plans, Council's Strategic Transport Unit recommended the following conditions:
- (a) *A minimum of 8 visitor bicycle spaces. All visitor spaces should be provided as horizontal bicycle rail and must meet clearance and access-way requirements of AS2890.3 or be otherwise to the satisfaction of the responsible authority.*
 - (b) *A minimum of 12 employee bicycle spaces, including two spaces within each office tenancy. At minimum 20% of bicycle spaces must be provided as horizontal bicycle rails.*
 - (c) *Notations indicating the dimensions of bicycle storage spaces and relevant access ways to demonstrate compliance with Australian Standard AS2890.3 or be otherwise to the satisfaction of the responsible authority.*
165. As a result, the applicant revised the overall proposal to provide a total of 22 spaces (14 employee and 8 visitor spaces), thereby exceeding the requirement outlined at *Clause 52.34* of the Scheme. A total of 13 employee bicycle parking spaces are proposed for the office use and 1 employee bicycle parking space for the shop use. Council's Strategic Transport Unit have confirmed that provision of at least 1 horizontal bicycle rack per tenancy, satisfies the requirements of *Clause 2.1(e)* of AS2890.3 which requires at least 20% of employee bicycle spaces to be horizontal at-grade bicycle racks.
166. The proposal also incorporate 4 bicycle hoops or a total of 8 bicycle spaces for visitors on the Napier Street frontage. Council's Strategic Transport Unit have provided the following recommendations regarding visitor parking:
- (a) *The layout of hoops is in accordance with Council's urban design standard bicycle hoop. However the dimensions noted on the plans show that the footpath width adjacent to the bike hoops is 1.27m which does not meet the minimum required width of 1.5m;*
 - (b) *A possible option to address this is to relocate 3 of the hoops to be adjacent to the 3 street trees at Napier Street and shift the hoops 0.23m closer to the kerb to achieve an adjacent footpath width of 1.5m. Given the trees are setback from the kerb, there appears to be sufficient clearance for a bicycle to park on each side of a hoop at this position;*
 - (c) *As noted in the original Strategic transport comments, the best practice rate recommends a total of 2 visitor spaces, therefore provision of 3 bike hoops (providing 6 visitor spaces) is considered acceptable given the constrained footpath space;*
 - (d) *It is also noted that there is an existing bicycle corral with 6 bicycle spaces directly opposite the site; and*
 - (e) *If the applicant wishes to maintain provision of 4 bicycle hoops, there appears to be sufficient space at the Johnston street footpath for 1 hoop (noting it would need to be positioned as per the Urban Design standard detail).*
167. Given the site constrains identified by Council's Strategic Transport Unit and also to meet best practice, a condition will require the number of off-site visitor bicycle spaces to be reduced from 4 hoops to 3 hoops and relocated with a maximum setback of 1.5m from the proposed building along Napier Street.

168. In addition, two shower / change rooms are provided within the office areas which exceeds Council's best practice standards.
169. Council's BESS guidelines encourage the use of fuel efficient and electric vehicles (EV). Based on the advertised plans, Council's Strategic Transport Unit have recommended that car parking areas should be electrically wired to be 'EV ready' to allow for easy future provision for electric vehicle charging. As a response, the S57A plans show that the two car parking spaces on-site would be installed with EV charging points.
170. Council's Strategic Transport Unit have also recommended the following changes to the Green Travel Plan (GTP):
- (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*
171. The above will be addressed by way of condition.

Traffic

172. Given the allocation of all on-site car parking spaces to two of the offices, any traffic generated by the site would be restricted to the remaining office and shop uses. With only 4 storeys of office and shop proposed, it is considered unlikely that the traffic associated with the development would have a discernible impact upon traffic levels along Johnston Street, Napier Street and Chapel Street.
173. The primary use of Napier Street is currently to provide a two-way lane for vehicle movement and also to access on-street car parking spaces. There is currently one on-site car space accessed via Napier Street. Increased use of Napier Street by vehicle traffic is therefore considered reasonable, with this outcome supported by Council's Traffic Engineers.

Signage

174. The relevant considerations are advertising signs and heritage (*Clause 52.05 – Advertising Signs* and *Clause 43.01 - Heritage Overlay*). Whilst *Clause 22.02 (Development Guidelines for Sites Subject to the Heritage Overlay)* applies, *Clause 22.04* has specific controls for signs within heritage areas which will be used to assess the heritage implications of the application.

Design

175. The decision guidelines at *Clause 22.04* encourage signage in commercial areas to not form a dominant visual element within the streetscape and cause visual clutter.

176. The proposed illuminated signs are relatively small in scale and are proportionate to the part three and part-two storey façade of the proposed building. In addition, the majority of the proposed signs would be limited to the ground floor. As such, the scale and form of the signs are appropriate for the proposed building on which they are to be constructed and displayed on, and complies with *Clause 22.04-3.1* of the Scheme.
177. Overall, the signs are of an appropriate size for the context of the site and surrounds, and given that the signs are small and are spread out, there would be no 'cluttered' presentation when viewed from all three street frontages; Johnston Street, Napier Street and Chapel Street.

Streetscape

178. The signs will not obscure important views or vistas as they are between ground and first floor. All proposed signs would be located along Napier Street and are over 10m south of the traffic lights found along Johnston Street, and as such will not interfere with traffic signals, directional signs or street signs. Further, the signs form an integrated part of the building rather than requiring future tenancies to provide their own signs (with potentially disorganised /competing signs).

Construction and support

179. Pursuant to *Clause 22.04-3.4* the signs are acceptable given they would be mounted directly to the proposed building. Whilst the majority of the internally-illuminated signs will have a minimum clearance of 2.7m above the footpath, one sign is proposed to be constructed 2.63m above the footpath and therefore does not meet the 2.7m minimum clearance recommended by *Clause 22.04-3.4* of the Scheme. Council's Traffic Engineering Unit have recommended this clearance height to be increased to 2.7m above the footpath as the proposed height will impede the existing pedestrian/vehicular movement. This will be required by way of condition.

Illumination and animation

180. Whilst the signs are internally-illuminated they are over 10m from existing traffic lights on Johnston Street. The proposed signs are not animated, reflective or flashing and as such will avoid any safety hazards or cause a nuisance to vehicular traffic. Vic Roads have also recommended the following conditions:
- (a) *The lighting must be installed and maintained to ensure there is no disability glare and accordingly, the lighting output must be no greater than 0.25 cd/m² throughout the approach from either direction.*
 - (b) *All signs must not be reflective, flashing scrolling or intermittent light.*
 - (c) *All signs are secured in a safe manner to ensure there is no public safety risk.*

181. These will be required by way of condition.

Commercial and industrial areas

182. The proposed signage is generally consistent with the policy for commercial areas, and as previously discussed, the scale and type of all signs are appropriate as it is reflective of other signage found along NACs and ACs.

Heritage areas

183. As the scale, type and location of all signs are proportionate to the size of the proposed building and will not dominate the building or site, or obscure any important heritage features, the proposed signage is acceptable.

Council's Heritage Advisor has also confirmed that the *extent of signage proposed for the building is conservative and allows the architectural character of the new building to dominate.*

184. Overall, it is considered that the proposed signage is generally consistent with policy at *Clause 22.04* and *Clause 22.02* of the Scheme.

Waste management

Waste

185. The Waste Management Plan (WMP) prepared by Leigh Design and dated 3 October 2019 indicates that waste collection would be undertaken by a private contractor from the Napier Street frontage, directly adjacent to the site. Bins would be manually transferred from the ground floor bin areas to the waste collection truck. Council's City Works Unit have reviewed the proposed WMP and have confirmed that this WMP is satisfactory. Council's ESD Advisor has recommended the inclusion of organic/green waste and e-waste and this will be included as a condition, as will the requirement for glass separation as Council has moved to a separate service for this aspect. A condition will also require the amended WMP to consider of how the 4 waste streams will be separated and ensure adequate space for extra bins that will be required (glass separation and food waste).

Loading

186. The Scheme does not provide any requirements for loading bays, rather Council must consider loading and unloading as relevant to the application. Loading bays for each of the two office shell tenancies have been provided internal to the building. A loading bay for the remaining offices and shop use have not been provided, however this is considered to be an acceptable outcome given that the majority of the development is associated with an office use. Whilst there would be a shop proposed at ground floor, this is not a large scale operation and deliveries are likely to be from small vehicles which can utilise the on-street parking along the Napier Street frontage. There is no objection to these loading arrangements for this site.

Objector concerns

187. The objector concerns are outlined and discussed below:

- (a) Inappropriate design and overdevelopment of the site (height, scale, bulk);

Matters relating to height, scale and bulk have been discussed in paragraphs 85 to 91, 97 to 111 and 120 to 123.

- (b) *Heritage impacts.*

Heritage concerns are discussed at paragraphs 92 to 96 and 97 to 105 under the 'Built form and Heritage' section of the report.

- (c) *Off-site amenity (daylight and cross-ventilation to adjacent light-wells, overshadowing, overlooking).*

Matters relating to daylight and cross-ventilation to adjacent light-wells, overshadowing and overlooking are addressed in paragraphs 136 to 141, paragraphs 142 to 145 and paragraphs 146 to 147, respectively.

(d) *Car parking, traffic impacts and pedestrian safety.*

Car parking, traffic impacts and pedestrian safety have been discussed in paragraphs 154 to 163 and 172 to 173.

(e) *Reduced property value.*

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

Conclusion

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

RECOMMENDATION

That having considered all relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant a Planning Permit PLN19/0807 for full demolition and construction of a multi-level building, with a reduction in the car parking requirements associated with the use of the land for retail (shop) and offices (no permit required uses), including the construction and display of internally-illuminated signage at Nos. 176 Johnston Street & 300 Napier Street Fitzroy VIC 3065, subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans prepared by Chamberlain Architects, dated 8 October 2020 (Rev D: TP1.01, TP1.03, TP1.04, TP2.01, TP2.02, TP2.03, TP3.01, TP3.02 and TP4.01, but modified to show the following:
 - (a) Ground floor retail space to be relabelled as 'shop';
 - (b) The ground floor shop amended to reinstate the existing north-western corner splay in asphalt (consistent with the surrounding footpaths);
 - (c) All internally illuminated signs to have a minimum clearance height of 2.7m above the footpath.
 - (d) The number of off-site visitor bicycle spaces reduced from 4 hoops to 3 hoops and relocated with a maximum setback of 1.5m from the proposed building along Napier Street.
 - (e) The canopy located along the Johnston Street facade (at the corner of Napier Street) provided with a minimum setback of 0.5m from any part of the traffic signal at this location;
 - (f) Vehicle crossing ground clearance check confirming that a B99 design vehicle can enter and exit the property without scraping or bottoming out;
 - (g) Design changes to implement recommendations of the Sustainable Management Plan Condition No. 3 of this permit;
 - (h) Design changes to implement recommendations of the Waste Management Plan Condition No. 6 of this permit; and
 - (i) Design changes to implement recommendations of the Green Travel Plan Condition No. 14 of this permit.

2. The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority

Sustainable Management Plan

3. Before the plans are endorsed, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Sustainable Management Plan will be endorsed and will form part of this permit. The Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by Sustainable Development Consultants and dated July 2020, but modified to include the following:
 - (a) All design changes made under the revised S57A plans dated 8.10.2020.
 - (b) All design changes required under Condition 1 of this permit.
 - (c) A commitment to exceed the current NCC2019 standards.
 - (d) Deletion of the ambiguous terms such as “aim” from the energy efficient LED lighting standard and commit to a clear performance standard.
 - (e) The size of the proposed rainwater tank to be correctly identified as 8,000Ltrs on all reports, including the plans.
 - (f) Operable windows included to all offices on each level and operability of windows clearly marked on plans.
4. The provisions, recommendation and requirements of the plans and endorsed Sustainable Development Assessment must be implemented and complied with to the satisfaction of the Responsible Authority.

Daylight Modelling Report

5. Concurrently with the endorsement of condition 1 plans, an amended Daylight Modelling Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Daylight Modelling Report will be endorsed and will form part of this permit. The Daylight Modelling Report must be generally in accordance with the Daylight Modelling Report prepared by Sustainable Development Consultants and dated May 2020, but modified to include the following:
 - (a) All design changes made under the revised S57A plans dated 8.10.2020.

Waste Management Plan

6. Before the development commences, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Waste Management Plan will be endorsed and will form part of this permit. The amended Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by Leigh Design and dated 3 October, but modified to include:
 - (a) Organic/green waste and e-waste;
 - (b) Demonstration of how the 4 waste streams will be separated and ensure adequate space for extra bins that will be required (glass separation and food waste).
7. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with at all times to the satisfaction of the Responsible Authority.

Landscape Plan

8. Before the development commences, a Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Landscape Plan will be endorsed and will form part of this permit. The Landscape Plan must:
- (a) show the type, location, quantity, height at maturity and botanical names of all proposed plants;
 - (b) indicate the location of all areas to be covered by lawn or other surface materials; and
 - (c) provide a specification of works to be undertaken prior to planting,
- to the satisfaction of the Responsible Authority.
9. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:
- (a) implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
 - (b) not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
 - (c) replacing any dead, diseased, dying or damaged plants,
- to the satisfaction of the Responsible Authority.

Tree Management Plan

10. Before the development commences, a Tree Management Plan to the satisfaction of the Responsible Authority must be prepared by a suitably qualified Arborist and must be submitted to and approved by the Responsible Authority. When approved the Tree Management Plan will be endorsed and will form part of this permit. The Tree Management Plan must make recommendations for the protection of two street trees opposite the site on the eastern side of Napier Street, including:
- (a) pre-construction;
 - (b) during construction; and
 - (c) post construction
 - (d) the provision of any barriers;
 - (e) any pruning necessary; and
 - (f) watering and maintenance regimes,
- to the satisfaction of the Responsible Authority.
11. The provisions, recommendations and requirements of the endorsed Tree Management Plan must be complied with and implemented to the satisfaction of the Responsible Authority.
12. Before the development commences, or by such later date as approved in writing by the Responsible Authority, the permit holder must provide a bond to the Responsible Authority for the existing trees on the Napier Street footpath, in proximity of the site. The bond:
- (a) is to be to the total value of the \$5,000 for both trees;
 - (b) must be provided in a manner, and on terms, to the satisfaction of the Responsible Authority;

- (c) may be held by the Responsible Authority until the buildings and works are completed to the satisfaction of the Responsible Authority; and
- (d) may be applied by the Responsible Authority to allow for a large replacement planting(s) and costs associated with establishment and maintenance.

Once the buildings and works are completed to the satisfaction of the Responsible Authority, any portion of the bond which has not been applied by the Responsible Authority will be refunded to the permit holder.

- 13. Before the development starts, or by such later date as approved in writing by the Responsible Authority, the permit holder must provide 2 years maintenance fee for the two additional trees proposed on the Napier Street frontage. This fee:
 - (a) must be provided in a manner, and on terms, to the satisfaction of the Responsible Authority.

Green Travel Plan

- 14. Before the development commences, an amended Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Green Travel Plan will be endorsed and will form part of this permit. The amended Green Travel Plan must be generally in accordance with the Green Travel Plan prepared by Sustainable Development Consultants and dated October 2019, but modified to include or show:
 - (a) All design changes required under Condition 1 of this permit.
 - (b) Description of the location in the context of alternative modes of transport;
 - (c) Employee welcome packs (e.g. provision of Myki/transport ticketing);
 - (d) Sustainable transport goals linked to measurable targets, performance indicators and monitoring timeframes;
 - (e) A designated 'manager' or 'champion' responsible for co-ordination and implementation;
 - (f) Details of bicycle parking and bicycle routes;
 - (g) Details of Green Travel funding and management responsibilities;
 - (h) The types of bicycle storage devices proposed to be used for employee and visitor spaces (i.e. hanging or floor mounted spaces);
 - (i) Security arrangements to access the employee bicycle storage spaces;
 - (j) Signage and wayfinding information for bicycle facilities and pedestrians pursuant to Australian Standard AS2890.3; and
 - (k) Provisions for the GTP to be updated not less than every five years.
- 15. The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
- 16. 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).
- 17. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
- 18. Before the building is occupied, any wall located on a boundary facing public property must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.
- 19. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.

20. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority.
21. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all external lighting capable of illuminating access to the pedestrian entries and car parking area must be provided. Lighting must be:
- (a) located;
 - (b) directed;
 - (c) shielded; and
 - (d) of limited intensity.
- to the satisfaction of the Responsible Authority.
22. The area set aside for the parking of vehicles, together with the associated access lanes as delineated on the endorsed plan must:
- (a) be designed, provided and completed to the satisfaction of the Responsible Authority;
 - (b) thereafter be maintained to the satisfaction of the Responsible Authority;
 - (c) be made available for such use at all times and not used for any other purpose;
 - (d) be properly formed to such levels that it can be used in accordance with the endorsed plan; and
 - (e) be drained and sealed with an all-weather seal coat;
- all to the satisfaction of the Responsible Authority.
23. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the redundant vehicular crossing on Napier Street must be demolished and re-instated as standard footpath and kerb and channel:
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
24. Prior to the completion of the development, subject to the relevant authority's consent, the relocation of any service poles, street line markings, car parking sensors, service structures, fire hydrants or service pits necessary to facilitate the development must be undertaken:
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
25. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated (including the full re-sheeting of the footpath at the front of the property if required by Council):
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.

Signage

26. The location and details of the signs, including the supporting structure, as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

27. The signage component of this permit expires 15 years from the date of the permit.
28. This permit will expire if the signs are not erected within 2 years of the date of this permit. The Responsible Authority may extend the period referred to if a request is made in writing before the permit expires or within six months afterwards for commencement or twelve months afterwards for completion.
29. The signs must not include any flashing or intermittent light.
30. The signs must be constructed, displayed and maintained to the satisfaction of the Responsible Authority.

Vic Roads Conditions (31 to 35)

31. The canopy/awning located along the Johnston Street facade at the corner of Napier Street must provide a minimum setback of 0.5m from any part of the traffic signal at this location.
32. Prior to the commencement of the development, the owner of the land must enter into an agreement with the Department of Environment, Land, Water and Planning (DELWP) pursuant to Section 138(A) of the Land Act 1958 for the elements of the approved development that project more than 300mm beyond the land's Johnston Street and Napier Street boundary (i.e. the canopies, fixed shading devices, architectural features, awnings, balconies etc.), to indemnify the Crown in relation to any claim or liability arising from the projections within the Johnston Street and Napier Street road reserve. A copy of the endorsed plan must be submitted and clearly detail the dimensions of all projections including the total area (sqm), length, width and height which extend beyond the title boundary. This condition does not apply where written confirmation is obtained from DELWP that the above agreement is not required or if no projections are proposed into the road reserve airspace.
33. The lighting must be installed and maintained to ensure there is no disability glare and accordingly, the lighting output must be no greater than 0.25 cd/m² throughout the approach from either direction.
34. All signs must not be reflective, flashing scrolling or intermittent light.
35. All signs are secured in a safe manner to ensure there is no public safety risk.
36. Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:
 - (a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
 - (b) works necessary to protect road and other infrastructure;
 - (c) remediation of any damage to road and other infrastructure;
 - (d) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land,
 - (e) facilities for vehicle washing, which must be located on the land;
 - (f) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
 - (g) site security;
 - (h) management of any environmental hazards including, but not limited to:
 - (i). contaminated soil;
 - (ii). materials and waste;
 - (iii). dust;
 - (iv). stormwater contamination from run-off and wash-waters;

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

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

37. During the construction:

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

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

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

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

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

41. This permit will expire if:

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

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

Notes:

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

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

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

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

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

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

Vic Roads Note: Separate consent may be required from Head, Transport for Victoria (Department of Transport) under the Road Management Act 2004 for buildings and works undertaken outside the title boundary within a Road Zone Category 1. Please contact the Department prior to commencing any works

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

Attachments

- 1 PLN19/0807 - 176 Johnston Street & 300 Napier Street Fitzroy - Site Location Plan
- 2 PLN19/0807 - 176 Johnston & 300 Napier Street Fitzroy - Advertised Plans
- 3 PLN19/0807 - 176 Johnston & 300 Napier Street Fitzroy - Engineering Comments (Advertised Plans)
- 4 PLN19/0807 - 176 Johnston Street & 300 Napier Street Fitzroy - Strategic Transport Comments (Advertised Plans)
- 5 PLN19/0807 - 176 Johnston & 300 Napier Street Fitzroy - ESD Comments (Advertised Plans)
- 6 PLN19/0807 - 176 Johnston Street & 300 Napier Street Fitzroy - Heritage Referral Comments (Advertised Plans)
- 7 PLN19/0807 - 176 Johnston & 300 Napier Street Fitzroy - Urban Design Referral Comments (Advertised Plans)
- 8 PLN19/0807 - 176 Johnston & 300 Napier Street Fitzroy - S57A Plans

- 9** PLN19/0807 - 176 Johnston & 300 Napier Street Fitzroy - Engineering Comments (S57A Plans)
- 10** PLN19/0807 - 176 Johnston Street & 300 Napier Street Fitzroy - Strategic Transport Unit Comments (S57A Plans)
- 11** PLN19/0807 - 176 Johnston Street & 300 Napier Street Fitzroy - Arborist Comments (S57A Plans)
- 12** PLN19/0807 - 176 Johnston Street & 300 Napier Street Fitzroy - VicRoads Comments (S57A Plans)

6.3 PLN20/0173 - 27 Russell Street, Abbotsford

Executive Summary

Purpose

1. This report provides an assessment of the proposed construction of a five-storey (plus basement level) building for office and food and drink premises (no permit required for uses), display of high-wall, floodlit, business identification signage and a reduction in the car parking requirements at 27 Russell Street, Abbotsford.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Built form (Clauses 15, 21.05, 22.10 and 34.02-7);
 - (b) Car Parking and Bicycle Facilities (Clause 52.06 and Clause 52.34); and
 - (c) Signage – clause 52.05

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Policy and Strategic Support;
 - (b) Built form and Urban Design;
 - (c) On-site amenity including Environmentally Sustainable Design;
 - (d) Off-site amenity;
 - (e) Signage;
 - (f) Car parking and traffic;
 - (g) Bicycle facilities and strategic transport;
 - (h) Waste management; and
 - (i) Objector concerns.

Submissions Received

4. Ten objections were received to the application, these can be summarised as:
 - (a) design (height, scale, bulk, character);
 - (b) off-site amenity impacts (visual bulk, overlooking, loss of daylight, construction nuisance); and
 - (c) car parking.

Conclusion

5. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported subject to the following key recommendation:
 - (a) Plans are to be amended to show the metal portal frames and fin infills above the third floor (L.04.01) Russell Street façade deleted.

CONTACT OFFICER: Konrad Bruhn
TITLE: Senior Statutory Planner
TEL: 9205 5124

6.3 PLN20/0173 - 27 Russell Street, Abbotsford

Reference: D20/150937
Authoriser: Senior Coordinator Statutory Planning

Ward: Langridge Ward

Proposal: Construction of a five-storey (plus basement level) building for office and food and drink premises (no permit required for uses), display of high-wall, floodlit, business identification signage and a reduction in the car parking requirements.

Existing use: Vacant/Store (vehicles and miscellaneous storage)

Applicant: Lindsay Holland Pty Ltd

Zoning / Overlays: Commercial 2 Zone; no overlays.

Date of Application: 17 March 2020

Application Number: PLN20/0173

Planning History

1. Planning Permit Application PL03/1019 sought permission for the construction of a three storey office building and a reduction in the car parking requirement. The planning permit was issued on 26 February 2004. However, it appears this planning permit was never acted upon and has subsequently expired.
2. Planning Permit Application PL05/1009 sought permission for the construction of an eleven storey office building, the use of the land for a caretaker's house, gallery and café and a waiver of the car parking and loading bay requirements. This application was refused by Council on 27 June 2006. On appeal, the Victorian Civil and Administrative Tribunal affirmed Council's refusal in *Lindsay Holland PL v Yarra CC [2006] VCAT 2647* on grounds relating to urban form, car parking and traffic concerns.
3. Planning Permit Application PL07/0901 sought permission for the construction of a four storey building, the use of the land as a showroom, office and a caretaker's house, and a waiver of the car parking and loading bay requirements. The planning permit was issued on 30 September 2008. However, it appears this planning permit was never acted upon and has subsequently expired.
4. Planning Permit Application PLN16/0429 sought permission for the construction of a nine storey building plus a basement and a roof top terrace, use of the land as a residential hotel (serviced apartments), a caretaker's house, a food and drink premises (cafe) and office (no permit required for food and drink premises or office use), the display of major promotion signs, a reduction in the car parking requirement and a waiver of the loading bay requirement.
5. On 23 February 2017, Council was informed that the applicant had lodged an appeal at the Victorian Civil and Administrative Tribunal (VCAT) pursuant to Section 79 of the Planning and Environment Act 1987 as a result of Council's failure to determine Planning Application PLN16/0429 within the prescribed time (*Lindsay Holland Pty Ltd Architects v Yarra CC [2018] VCAT 809*). Ten objectors joined as parties to the appeal. The application was considered at Council's Development Approval Panel (DAP) meeting where Officers resolved that if Council were in a position to, it would have issued a Notice of Decision to Refuse to Grant a Planning Permit (PLN16/0429). VCAT affirmed Council's position and determined to refuse Planning Permit Application PLN16/0429 on grounds primarily relating to building height and urban form.

Background

Lodgment of sketch plans

6. 'Sketch plans' dated 08-08-2020 (emailed 12-08-2020) and an amended Waste Management Plan (WMP) dated 14-09-2020 were submitted in response to Council's internal referral comments. However because of their informal status, they will only be referred to where relevant in the assessment but will not substitute the advertised plans as the plans on which Council makes its decision.

The Proposal

7. The application is for the construction of a five-storey (plus basement level) building for office and food and drink premises (no permit required for uses), display of high-wall, floodlit, business identification signage and a reduction in the car parking requirements. Key features of the proposal include:

Use and layout:

8. The building is accessed via the sole frontage to Russell Street. At ground floor level a small tenancy with a glazed entry and shopfront is to be used as a food and drink premises (café). The remainder of the ground floor and all upper floor are proposed to be used as office tenancies.
9. The basement level is occupied for storage, shared waste facilities and bicycle parking (12 parking spaces).

Buildings and works:

Demolition

10. All miscellaneous concrete paving and fences etc. are to be removed from the site (no permit required for demolition).

Basement

11. A single basement level accessed internally via the lift shaft and stairs. The basement is located to the east of the site, with a total floor area of 66.50m² containing shared waste facilities, four storage units and 12 bicycle parking spaces (4 visitor and 8 employee).

Ground floor

12. The ground floor is generally constructed to all title boundaries, save for the western title boundary where the eastern walls of the building at No. 26-30 Henry Street encroach into the subject site and where the building is recessed to provide a light court in the south-western corner of the site (which is maintained throughout all upper floor levels).
13. A small tenancy (28.40m²) with a slightly recessed glazed entry and shopfront is to be used as a food and drink premises. A separate glazed door provides access to the shared stairwell and lift to access upper floors, and a 62.00m² office tenancy to the rear of the ground floor.

First to third floors (second to fourth storeys)

14. The footprint of the first to third floors are generally consistent with the footprint of the ground floor as described above, with each floor containing a 90.00m² office tenancy (accessed via the shared stairwell and lift).
15. East-facing floor to ceiling windows provide the primary daylight source, with west-facing floor to ceiling windows providing a secondary daylight source via the light court.

Fourth floor (fifth storey)

16. The fourth floor has a substantially smaller internal footprint than the lower floors, setback 2.85m from Russell Street, 1.34m from the southern side boundary, 3.05m from the rear (western) side boundary, and 1.50m to 2.48m from the northern side boundary (save for the lift shaft which is constructed to the boundary).

17. The fourth floor contains a 49.20m² office tenancy and the roof of the third floor is utilised as terrace and service deck.
18. East and west-facing floor to ceiling glazed windows provide the office with daylight.
19. Open portal frames consistent with the profile of the east and west-facing windows protrude above the east and west façades of the third floor.

Elevations

20. Pre-cast concrete panels form solid boundary walls to the north and south side boundaries up to the fourth storey. The western boundary wall is also to be precast concrete panels, however an open portal frame with a low, glazed balustrade encapsulates the light court and extends to the fifth storey.
21. The north and south side boundary walls are to be constructed to a height of 14.82m.
22. The height of the eastern façade (to Russell Street) inclusive of the open portal frame is to be 17.00m in height.
23. The western boundary wall is to be constructed to a height of 14.82m, with the open portal frame encapsulating the light court constructed to a height of 17.00m.
24. The overall maximum height of the building is to be 17.30m (solar panels on the roof of the fourth floor protrude above this height marginally).

Materials and finishes

25. The boundary walls are to be pre-cast concrete panels (natural concrete finish with magpie icons patterned on the north and south side walls).
26. The east and west facades are predominantly clear glazed floor to ceiling windows with low glass balustrades features.
27. The fifth storey is to be clad with grey metal cladding.

Signage

28. It is proposed to construct and display a high-wall, floodlit, business identification sign on the western (rear) wall as follows:
 - (a) Vertical lettering specifying the address of the building '27 Russell'.
 - (b) Display area of 2.95m² (4.20m high x 0.70m wide)
 - (c) Timed backlights at 0.40m intervals either side of the lettering.

Decision Plans

29. The decision plans are the plans prepared by Lindsay Holland Pty Ltd sheet 00.00 – 13.00 & R.27 re-issue: 02 (14.05.2020) and shadow diagrams 01.02 & 02.02 issue: 01 (03.03.2020).
30. Whilst the plans contain sufficient information for Council to decide the application (i.e. crucial information such as height dimensions), the level of detail and presentation of information is not considered adequate to be endorsed as part of any planning permit granted. Specifically:
 - (a) The existing ground level and proposed finished floor levels are not indicated on the floor plans or elevations. Accordingly, it is recommended that a condition of any planning permit granted require that plans be amended as follows:
 - (i) Floor plans amended to show:
 - Finished floor levels to Australian Height Datum (AHD) or a Relative Level (RL) with the fixed datum point clearly indicated.
 - Pink grid lines deleted.
 - (ii) Elevation plans to show:
 - Natural ground level

- Finished floor levels and the overall building height to Australian Height Datum (AHD) or a Relative Level (RL) that will not be affected during construction
 - Wall heights dimensioned above natural ground level (wall heights must not exceed heights dimensioned on decision plans).
- (b) Vertical pink lines clutter the elevations and do not have any obvious purposes (i.e. they do not relate to any corresponding sections on the planning drawing set submitted to Council). Elevation plans therefore should be amended to the vertical pink lines deleted.

Existing Conditions

Subject Site

31. The subject site is described as Lot 1 on Title Plan 009307M. The site is located on the western side of Russell Street, approximately 95m south of its intersection with Gipps Street in Abbotsford.
32. The subject site is an irregular shape, although generally forming a rectangle, with a 7.44m wide frontage to Russell Street and a depth of 20.12m. The total area of the site is 144.50m².
33. The land is not developed with any buildings aside from boundary fencing and the eastern walls of the building at No. 26-30 Henry Street which encroach into the western title boundary.
34. The land appears to be used as a store currently, with vehicles and other miscellaneous items stored on the land.
35. The copy of title submitted with the application does not show any covenants, restrictions or easements affecting the land.



Figure 1: The subject site looking west from Russell Street (photo taken by Officer on 8/11/2020).

Surrounding Land

36. The surrounding area contains a mixture of commercial and residential uses with varying architectural styles.
37. Russell Street is a relatively short road reserve, with commercial/industrial buildings located on the western side and the eastern side flanked by the railway embankment servicing the South Morang and Hurstbridge lines. Further east, beyond the railway, is land within the Neighbourhood Residential Zone (Schedule 1) which typically comprises traditional inner suburban low-rise residential development.
38. Parallel car parking is provided on both sides of Russell Street; car parking on the western side of Russell Street is predominantly 2 hour time restricted, while car parking on the eastern side is unrestricted.
39. The Victoria Street activity centre is located approximately 395 metres to the south, while the Johnston Street neighbourhood activity centre is located approximately 670 metres to the north. The Collingwood train station is located 175 metres to the north.
40. The land bordered by Gipps Street to the north, Hoddle Street to the west, the train line to the east and Langridge Street to the south is all located within the Commercial 2 Zone. The built form character of this area is predominantly 1-2 storey industrial style buildings, although there is a four storey building to the south of the precinct (No. 1-15 Russell Street), and examples of three storey buildings.



Figure 2: Four storey buildings at 1-15 Russell Street (photo taken by Officer on 8/11/2020).

41. Specifically to the north, the subject site adjoins No. 29 Russell Street which is developed with a triple storey non-conforming dwelling which is constructed to both the north and south side boundaries at ground and partly first floor level. The second floor comprises a terrace with a canopy roof which is setback from the southern side boundary shared with the subject site. There are no habitable room windows facing the subject site. A ground level secluded private open space (SPOS) area is located to the north-west of the site.



Figure 3: Triple storey dwelling at No. 29 Russell Street (photo taken by Officer on 8/11/2020).

42. Further to the north, No. 31-37 Russell Street is developed with a part one, part two storey office/warehouse occupied by a catering and events management business. Beyond that are two single storey Victorian-era (non-conforming) dwellings at No. 39-41 Russell Street and a single storey warehouse at No. 43 Russell Street. No. 47 Russell Street has recently been developed with a triple storey office building approved under Planning Permit PLN16/0240 (refer to figure 4 below).



Figure 4: Triple storey office at No. 47 Russell Street (photo taken by Officer on 8/11/2020).

43. To the west, the subject site adjoins No. 26-30 Henry Street which is developed with a single storey brick warehouse. It is unclear what business operates from the land currently. The existing building encroaches 0.90m into the western boundary of the subject site, and otherwise covers most of the site with the exception of parking areas at the frontage to Henry Street. To the north-west, No. 32 Henry Street is also developed with a warehouse style building that is used for textile printing. To the north-west, a four storey dwelling has been approved (Planning Permit PLN17/0101) at No. 34 Henry Street (refer figure 5). However, the development is yet to commence.



Figure 5: Approved four storey dwelling at No. 34 Henry Street

44. To the south-west, No. 24 Henry Street is developed with a triple storey non-conforming dwelling. A small area of private open space is provided at the rear of the property (refer to figure 6 below).



Figure 6: Triple storey dwelling at No. 24 Henry Street (photo taken by Officer on 8/11/2020).

45. To the south, the subject site adjoins No. 23-25 Russell Street which is developed with a single storey industrial style building. The building covers most of the site, constructed to the east, west and southern title boundaries, but recessed with a small side setback from the subject site. Planning Permit PLN12/0031 issued 20 July 2012 allows the use of the land for industry (coffee roasting) and a reduction of car parking.
46. Further to the south, No. 19-21 Russell Street is developed with a double storey building which covers the Russell Street frontage of the site. The land is used for a licensed restricted recreation facility (axe throwing) at ground floor level and an office a first floor level.
47. The former Williams Shoe Factory, a four storey red brick Edwardian building, is located on the north-west corner of Langridge Street and Russell Street, approximately 75 metres to the south of the subject site (refer to figure 2 above). This building is currently used as a domestic storage facility, is approximately 18 metres in height and is individually significant with its own heritage overlay listing.

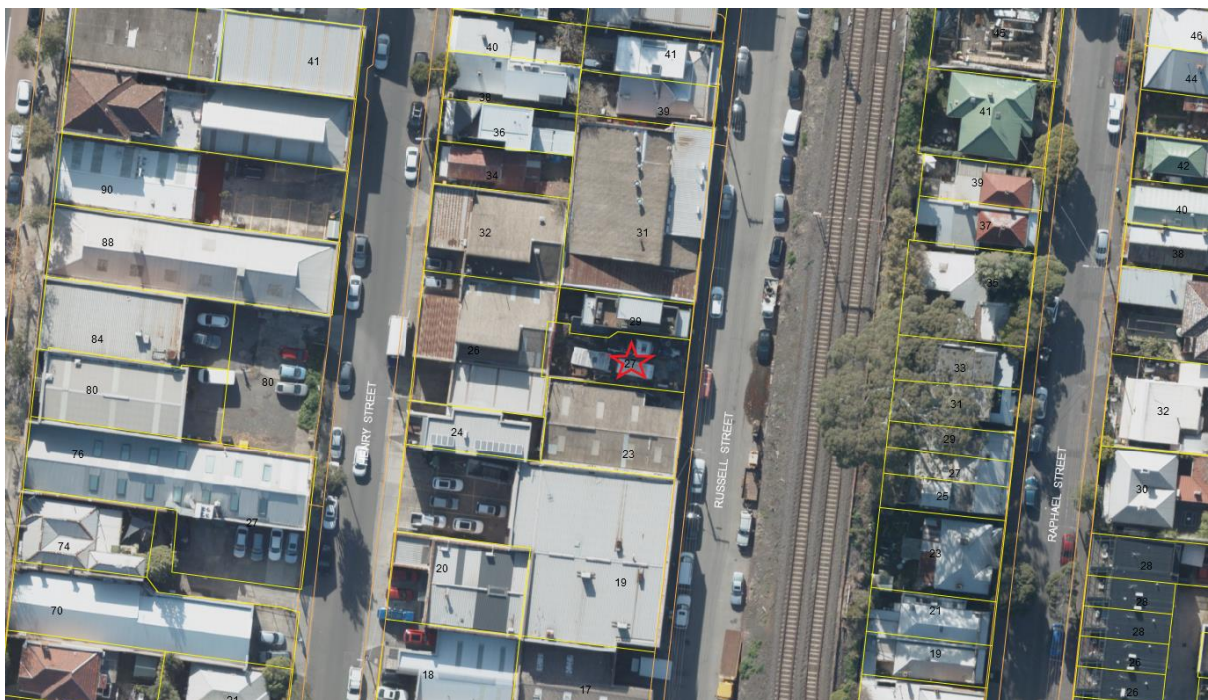


Figure 7: The subject site and surrounding land (Source: Yarra Council GIS, June 2020).

Planning Scheme Provisions

Zoning

48. The site is located within the Commercial 2 Zone (C2Z). The relevant purposes of the C2Z is as follows:
- (a) *To encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services.*
 - (b) *To ensure that uses do not affect the safety and amenity of adjacent, more sensitive uses.*
49. Pursuant to clause 34.02-1, a planning permit is not required to use the land as an office.
50. Pursuant to clause 34.02-1, a planning permit is not required to use the land as a food and drink premises as the total leasable floor area does not exceed 100sqm.
51. Pursuant to clause 34.02-4, a planning permit is required to construct a building or construct or carry out works. The decision guidelines are at Clause 34.02-7.
52. Pursuant to clause 34.02-6, an application to construct a building or construct or carry out works is exempt from the Notice Requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64 (1), (2) and (3) and the review rights of Section 82(1) of the Act.

This exemption does not apply to land within 30 metres of land (not a road) which is in a residential zone, land used for a hospital or an education centre or land in a Public Acquisition Overlay to be acquired for a hospital or an education centre.

As the development is within 30 metres of land which is in a residential zone, the exemption does not apply and the application is subject to the Notice Requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64 (1), (2) and (3) and the review rights of Section 82(1) of the Act

53. Pursuant to Clause 34.02-8, sign requirements are at Clause 52.05. This zone is in Category 1 (minimum limitation).

Overlays

54. No overlays affect the subject site.

Particular Provisions

Clause 52.05 – Signs

55. Pursuant to Clause 34.02-8 of the C2Z, advertising sign requirements are at Clause 52.05. This zone is in Category 1 (Clause 52.05-11).
56. Pursuant to Clause 52.05-11, a planning permit is required to construct and display a flood lit, high wall sign.
57. Pursuant to Clause 52.05-11, no permit is required to display a direction sign (i.e. no permit is required for the 'entry' signs displayed at the ground floor entry).
58. Plans show indicative location of business identification signs below the shopfront glazing of the food and drink premises, however no sign details have been provided. Accordingly, a permit condition should require that the indicative 'signage' locations be removed from the eastern ground floor façade.

Clause 52.06 – Car Parking

59. Clause 52.06-2 requires that before a new use commences, the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay must be provided to the satisfaction of the responsible authority in one or more of the following ways:
- (a) on the land; or
 - (b) in accordance with a permit issued under Clause 52.06-3; or
 - (c) in accordance with a financial contribution requirement specified in a schedule to the Parking Overlay
60. The subject site is located within the Principal Public Transport Network (PPTN), therefore the car parking rate specified at Column B of Table 1 at Clause 52.06-5 applies:

Proposed Use	Car parking measure (specified at Clause 52.06-5)	Proposed floor area of use	No. car parking spaces required	No. car parking spaces provided
Office	3 spaces to each 100m ² of net floor area	529.50m ²	15	0
Food and drink premises	3.5 space to each 100m ² of leasable floor area	24.00m ²	0	0
Total:			15	0

Figure 8: Statutory car parking rate assessment

61. Pursuant to Clause 52.05-5, 15 car parking spaces are required for the proposed use of the land as an office, however no car parking is proposed to be provided on site.
62. Accordingly, a planning permit is required for a reduction of car parking (to zero) pursuant to Clause 52.06-3.

Bicycle Facilities

63. Pursuant to Clause 52.34-1, a new use must not commence until the required bicycle facilities and associated signage has been provided on the land.
64. The required bicycle parking spaces are specified at Clause 52.34-5:

Proposed Use	Bicycle space requirement	Proposed floor area of use	No. bike parking spaces required	No. bike parking spaces provided
Office	1 employee space to each 300m ² of net floor area if the net floor area exceeds 1000m ² .	529.50m ²	0	28
	1 visitor space to each 1000m ² of net floor area if the net floor area exceeds 1000m ²		0	4
Food and drink premises	1 employee space to each 300m ² of leasable floor area	24.00m ²	0	0

	1 visitor space to each 500m ² of leasable floor area		0	0
Total:			0	28

Figure 9: Statutory bicycle rate assessment

65. The required bicycle facilities are also specified at Clause 52.34-5:

Facility	Facility requirement	No. of facilities required	No. facilities provided
Showers	If 5 or more employee bicycle spaces are required, 1 shower for the first 5 employee bicycle spaces, plus 1 to each 10 employee bicycle spaces thereafter	0	4
Change room	1 change room or direct access to a communal change room to each shower. The change room may be a combined shower and change room	0	4

Figure 10: Statutory bicycle facilities assessment

66. The proposal exceeds the bicycle facilities requirements of Clause 52.34-5, therefore no planning permit is required to pursuant to Clause 52.34-2.

Clause 53.18 – Stormwater Management in Urban Development

67. This clause applies to an application under a provision of a zone to construct a building or construct or carry out works. An application to construct a building or to construct or carry out works:

- (a) *Must meet all of the objectives of Clauses 53.18-5 and 53.18-6.*
- (b) *Should meet all of the standards of Clauses 53.18-5 and 53.18-6.*

General Provisions

Clause 65 – Decision Guidelines

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

Planning Policy Framework (PPF)

69. Relevant clauses are as follows:

Clause 11.02 (Managing Growth)

Clause 11.02-1S (Supply of Urban Land)

70. The objective is:
- (a) *To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.*
- Clause 11.03 (Planning for Places)*
Clause 11.03-1S (Activity Centres)
71. The relevant objectives of this clause include:
- (a) *To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community.*
- Clause 11.03-1R (Activity centres – Metropolitan Melbourne)*
72. Relevant strategies are:
- (a) *Support the development and growth of Metropolitan Activity Centres by ensuring they:*
 - (i) *Are able to accommodate significant growth for a broad range of land uses.*
 - (ii) *Are supported with appropriate infrastructure.*
 - (iii) *Are hubs for public transport services.*
 - (iv) *Offer good connectivity for a regional catchment.*
 - (v) *Provide high levels of amenity*
- Clause 13.05-1S (Noise abatement)*
73. The relevant objective of this clause is:
- (a) *To assist the control of noise effects on sensitive land uses.*
74. Noise abatement issues are measured against relevant State Environmental Protection Policy (SEPP) and other Environmental Protection Authority (EPA) regulations.
- Clause 13.07 (Amenity and Safety)*
Clause 13.07-1S (Land use compatibility)
75. The objective of this clause is:
- (a) *To safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects.*
- Clause 15.01 (Built Environment and Heritage)*
Clause 15.01-1S (Urban design)
76. The relevant objective of this clause is:
- (a) *To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.*
- Clause 15.01-1R (Urban design - Metropolitan Melbourne)*
77. The objective is:
- (a) *To create distinctive and liveable city with quality design and amenity.*
- Clause 15.01-2S (Building design)*
78. The relevant objective of this clause is:
- (a) *To achieve building design outcomes that contribute positively to the local context and enhance the public realm.*
79. Relevant strategies of this clause are:
- (a) *Require a comprehensive site analysis as the starting point of the design process.*

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

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

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

Clause 15.01-4S (Healthy neighbourhoods)

81. The objective is:

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

Clause 15.01-4R (Healthy neighbourhoods - Metropolitan Melbourne)

82. The strategy is:

- (a) *Create a city of 20 minute neighbourhoods, that give people the ability to meet most of their everyday needs within a 20 minute walk, cycle or local public transport trip from their home.*

Clause 15.01-5S (Neighbourhood character)

83. The relevant objective of this clause is:

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

84. Relevant strategies are:

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

Clause 15.02 (Sustainable Development)

Clause 15.02-1S (Energy Efficiency)

85. The objective of this clause is:
- (a) *To encourage land use and development that is energy and resource efficient, supports a cooler environment and minimises greenhouse gas emissions.*
- Clause 17.01 – (Employment)
Clause 17.01-1S – (Diversified economy)
86. The objective of this clause is:
- (a) *To strengthen and diversify the economy.*
87. The relevant strategies of this clause are:
- (a) *Protect and strengthen existing and planned employment areas and plan for new employment areas.*
 - (b) *Facilitate growth in a range of employment sectors, including health, education, retail, tourism, knowledge industries and professional and technical services based on the emerging and existing strengths of each region.*
 - (c) *Improve access to jobs closer to where people live.*
- Clause 17.02 – (Commercial)
Clause 17.02-1S – (Business)
88. The relevant objective of this clause is:
- (a) *To encourage development that meets the communities' needs for retail, entertainment, office and other commercial services.*
89. The relevant strategies of this clause is:
- (a) *Plan for an adequate supply of commercial land in appropriate locations.*
 - (b) *Ensure commercial facilities are aggregated and provide net community benefit in relation to their viability, accessibility and efficient use of infrastructure.*
 - (c) *Locate commercial facilities in existing or planned activity centres.*
- Clause 18.01 (Integrated Transport)
Clause 18.01-1S – (Land use and transport planning)
90. The objective of this clause is:
- (a) *To create a safe and sustainable transport system by integrating land use and transport.*
91. Relevant strategies to achieve this objective include:
- (a) *Develop transport networks to support employment corridors that allow circumferential and radial movements.*
 - (b) *Plan urban development to make jobs and community services more accessible by (as relevant):*
 - (i) *Ensuring access is provided to developments in accordance with forecast demand, taking advantage of all available modes of transport and to minimise adverse impacts on existing transport networks and the amenity of surrounding areas.*
 - (ii) *Coordinating improvements to public transport, walking and cycling networks with the ongoing development and redevelopment of urban areas.*
 - (iii) *Requiring integrated transport plans to be prepared for all new major residential, commercial and industrial developments.*
 - (c) *Integrate public transport services and infrastructure into new development.*
- Clause 18.02 (Movement Networks)
-

Clause 18.02-1S – (Sustainable personal transport)

92. The relevant objectives of this clause is:

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

93. Relevant strategies of this policy are:

- (a) *Encourage the use of walking and cycling by creating environments that are safe and attractive.*
- (b) *Develop high quality pedestrian environments that are accessible to footpath-bound vehicles such as wheelchairs, prams and scooters.*
- (c) *Ensure cycling routes and infrastructure are constructed early in new developments.*
- (d) *Provide direct and connected pedestrian and bicycle infrastructure to and between key destinations including activity centres, public transport interchanges, employment areas, urban renewal precincts and major attractions.*
- (e) *Ensure cycling infrastructure (on-road bicycle lanes and off-road bicycle paths) is planned to provide the most direct route practical and to separate cyclists from other road users, particularly motor vehicles.*
- (f) *Require the provision of adequate bicycle parking and related facilities to meet demand at education, recreation, transport, shopping and community facilities and other major attractions when issuing planning approvals.*
- (g) *Provide improved facilities, particularly storage, for cyclists at public transport interchanges, rail stations and major attractions.*
- (h) *Ensure provision of bicycle end-of-trip facilities in commercial buildings*

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

94. Strategies of this policy are:

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

Clause 18.02-2S (Public Transport)

95. The objective of this clause is:

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

Clause 18.02-2R (Principal Public Transport Network)

96. A relevant strategy of this clause is to:

- (a) *Maximise the use of existing infrastructure and increase the diversity and density of development along the Principal Public Transport Network, particularly at interchanges, activity centres and where principal public transport routes intersect.*

Clause 18.02-4S – (Car Parking)

97. The objective of this clause is:

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

98. A relevant strategy is:

- (a) *Protect the amenity of residential precincts from the effects of road congestion created by on-street parking.*

Local Planning Policy Framework (LPPF)

99. The relevant policies in the Municipal Strategic Statement can be described as follows:
Municipal Strategic Statement (MSS)
100. Relevant clauses are as follows:
Clause 21.04-3 (Industry, office and commercial)
101. The objective of this clause is:
(a) *To increase the number and diversity of local employment opportunities.*
Clause 21.05-2 – (Urban design)
102. The relevant objectives of this Clause are:
(a) *Objective 16 - To reinforce the existing urban framework of Yarra;*
(b) *Objective 17 - To retain Yarra's identity as a low-rise urban form with pockets of higher development:*
(i) *Strategy 17.1: Ensure that development outside activity centres and not on Strategic Redevelopment Sites reflects the prevailing low-rise urban form.*
(c) *Objective 18 - To retain, enhance and extend Yarra's fine grain street pattern;*
(d) *Objective 19 To create an inner city environment with landscaped beauty;*
(e) *Objective 20 - To ensure that new development contributes positively to Yarra's urban fabric;*
(i) *Strategy 20.1 Ensure development is designed having particular regard to its urban context and specifically designed following a thorough analysis of the site, the neighbouring properties and its environs.*
(ii) *Strategy 20.4 Apply the Built Form and Design policy at clause 22.10.*
Clause 21.05-3 – (Built form character)
103. The general objective of this clause is:
(a) *To maintain and strengthen the identified character of each type of identified built form within Yarra.*
104. The subject site is located within a non-residential area, where the built form objective is to *"improve the interface of development with the street"*.
105. The strategies to achieve the objective are to:
(a) *Strategy 27.1 - Allow flexibility in built form in areas with a coarse urban grain (larger lots, fewer streets and lanes).*
(b) *Strategy 27.2 - Require new development to integrate with the public street system.*
Clause 21.05-4 (Public environment)
106. The relevant objective and strategies of this clause are:
(a) *Objective 28 - To a provide a public environment that encourages community interaction and activity:*
(b) *Strategy 28.1 - Encourage universal access to all new public spaces and buildings*
(c) *Strategy 28.2 - Ensure that buildings have a human scale at street level.*
(d) *Strategy 28.3 - Require buildings and public spaces to provide a safe and attractive public environment.*
(e) *Strategy 28.8 - Encourage public art in new development.*
Clause 21.06 – (Transport)
-

107. This policy recognises that Yarra needs to reduce car dependence by promoting walking, cycling and public transport use as viable and preferable alternatives. Relevant objectives and strategies of this Clause are as follows:

- (a) *Objective 30 – To provide safe and convenient pedestrian and bicycle environments.*
 - (i) *Strategy 30.2 – Minimise vehicle crossovers on street frontages.*
- (b) *Objective 31 – To facilitate public transport usage.*
- (c) *Objective 32 – To reduce the reliance on the private motor car.*
- (d) *Objective 33 To reduce the impact of traffic.*
 - (i) *Strategy 33.1 Ensure access arrangements maintain the safety and efficiency of the arterial and local road network.*

Clause 21.07-1 – Ecologically sustainable development

108. The relevant objectives and strategies of this clause are:

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

Clause 21.08-1 – Abbotsford

109. This clause outlines the Abbotsford neighbourhood as follows;

Abbotsford is a highly varied neighbourhood with a substantial number of industrial and commercial buildings of various types and eras. The residential precincts are surrounded by industrial development located in the vicinity of Hoddle Street and the Yarra River.

110. The subject site is located within a 'non-residential area' where the built form character objective is to improve the interface of development with the street.

111. The implementation of built form strategies in clause 21.05 relevantly includes:

- (a) *Supporting development that maintains and strengthens the preferred character of the relevant Built Form Character type.*
- (b) *Maintaining the visual prominence of the Clock Tower of Collingwood Town Hall and the Skipping Girl Sign.*

Relevant Local Policies

Clause 22.03 – Landmarks and Tall Structures

112. This policy applies to all development. The subject site is located in proximity to Collingwood Town Hall Clocktower. Accordingly, it is policy to

- (a) *Maintain the prominence of Yarra's valued landmark signs.*
- (b) *Protect views to the silhouette and profile of Yarra's valued landmarks to ensure they remain as the principal built form reference.*
- (c) *Ensure the profile and silhouette of new tall structures adds to the interest of Yarra's urban form and skyline.*

Clause 22.04 – Advertising Signs Policy

113. This policy applies to all permit applications for advertising signs or for development which incorporates an advertising sign.

114. The main objectives sought to be achieved through the policy:

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

Clause 22.05 – Interfaces Uses Policy

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

116. It is policy that:

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

117. Decision guidelines at clause 22.05-6 include:

- (a) *Before deciding on an application for non-residential development, Council will consider as appropriate:*
 - (i) *The extent to which the proposed buildings or uses may cause overlooking, overshadowing, noise, fumes and air emissions, light spillage, waste management and other operational disturbances that may cause unreasonable detriment to the residential amenity of nearby residential properties.*
 - (ii) *Whether the buildings or uses are designed or incorporate appropriate measures to minimise the impact of unreasonable overlooking, overshadowing, noise, fumes and air emissions, light spillage, waste management and other operational disturbances on nearby residential properties.*

Clause 22.10 – Built form and design policy

118. This policy applies to all new development not included in a Heritage Overlay. The relevant objectives of this policy are to:

- (a) *Ensure that new development positively responds to the context of the development and respects the scale and form of surrounding development where this is a valued feature of the neighbourhood character.*
- (b) *Ensure that new development makes a positive contribution to the streetscape through high standards in architecture and urban design.*
- (c) *Limit the impact of new development on the amenity of surrounding land, particularly residential land.*
- (d) *Design buildings to increase the safety, convenience, attractiveness, inclusiveness, accessibility and 'walkability' of the City's streets and public spaces.*
- (e) *Create a positive interface between the private domain and public spaces.*
- (f) *Encourage environmentally sustainable development.*

119. The Clause includes various design objectives and guidelines that can be implemented to achieve the above objectives. The design elements relevant to this application relate to:

- (a) *urban form and character;*

- (b) *setbacks and building height;*
- (c) *street and public space quality;*
- (d) *environmental sustainability;*
- (e) *site coverage;*
- (f) *on-site amenity;*
- (g) *off-site amenity;*
- (h) *landscaping and fencing;*
- (i) *parking, traffic and access; and*
- (j) *service infrastructure.*

Clause 22.16 Stormwater Management (Water Sensitive Urban Design)

120. Clause 22.16-3 requires the use of measures to “*improve the quality and reduce the flow of water discharge to waterways*”, manage the flow of litter from the site in stormwater and encourage green roofs, walls and facades in buildings where practicable.

Clause 22.17 – Environmentally Sustainable Design

121. The overarching objective is that development should achieve best practice in environmentally sustainable development from the design stage through to construction and operation. The considerations are energy performance, water resources, indoor environment quality, storm water management, transport, waste management and urban ecology.

Other Policies

Plan Melbourne 2017-2050

122. The plan outlines the vision for Melbourne’s growth to the year 2050 with the objective of defining what kind of city Melbourne will be and identifying the necessary infrastructure, services and major projects which need to be put in place to underpin the city’s growth. It is a blueprint for Melbourne’s future prosperity, liveability and sustainability.
123. In respect of commercial land, the plan identifies the following:
- (a) *Between now and 2031 it is estimated that approximately 11.9 million square metres of commercial floorspace will be required across metropolitan Melbourne to meet projected demand.*

Of this total, 57 per cent would be required for office uses.

124. In respect of the subject site, several precincts within Yarra were identified in the 2014 document as ‘other urban renewal areas’ including Collingwood (Gipps Street), the North Richmond to Victoria Park corridor, East Richmond Station and Cremorne.

Melbourne Industrial and Commercial Land Use Plan (MICLUP)

125. The strategy identifies that planning within the Inner Metro Region (inclusive of Melbourne City Council, Port Phillip Council and Yarra City Council) should *retain and support areas in and around Collingwood, Cremorne and South Melbourne to continue to develop as key locations creative industry uses.*
126. The strategy identifies that there is a need to carefully balance conflicts that can arise from the delivery of intensified commercial and industrial uses within proximity to residential areas, as follows:
- (a) *There is also a need to carefully balance planning for industrial and commercial areas with pressure for ongoing residential development. New residential or mixed-use development adjacent to industrial areas will need careful consideration, so as not to limit the ability of businesses to continue to operate. Consideration should be given to ways in which any potential conflicts can be mitigated or managed.*

- (b) Map 4 within the document shows the industrial land within the inner metro region, identifying the site and those within the C2Z as existing local industrial land.

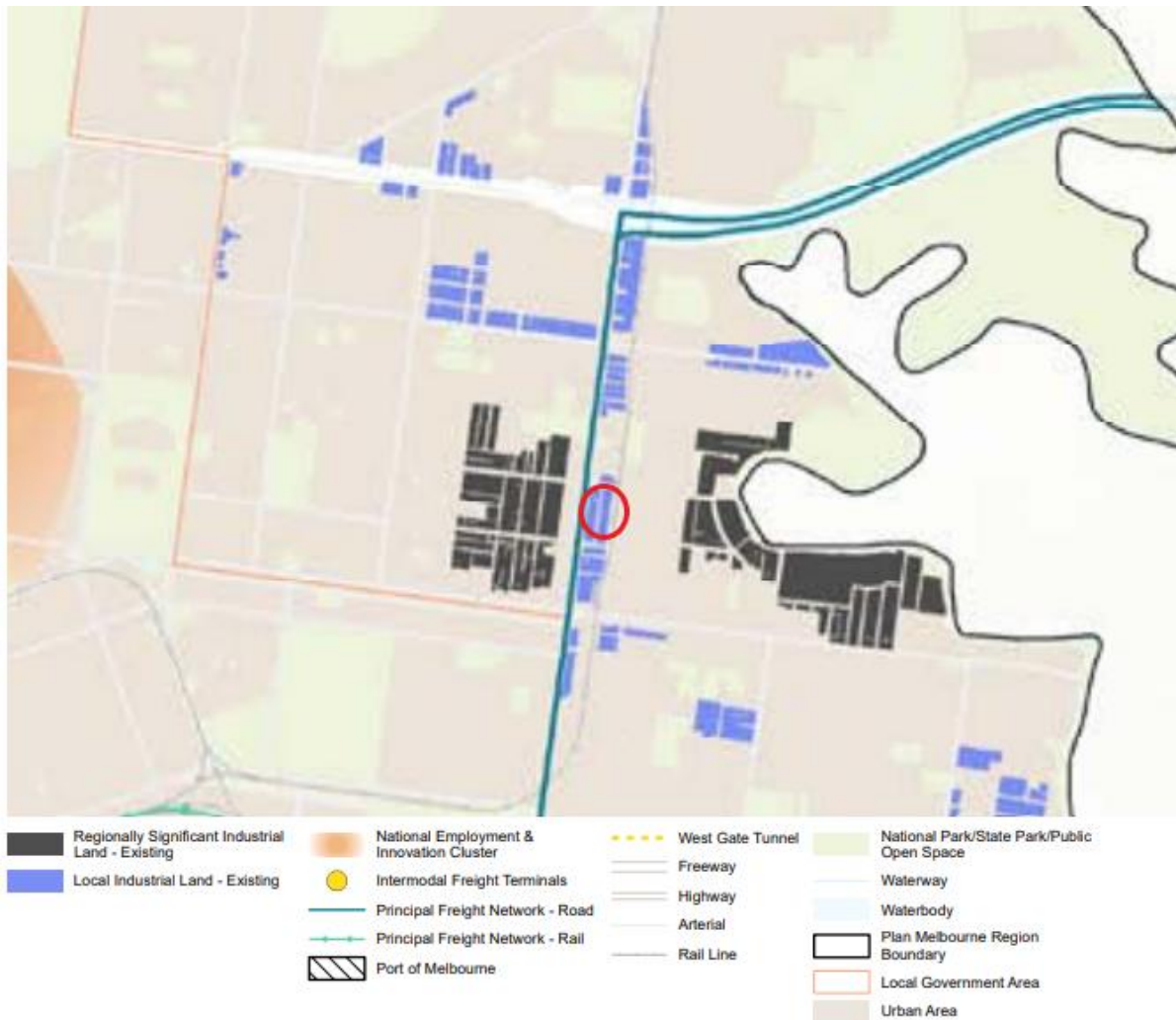


Figure 11: Excerpt from Map 4 of the MICLUP showing the subject site as a red circle.

127. The MICLUP anticipates an additional 4 million square metres of commercial floor space will be required across the Inner Metro Region by 2031. Of this, approximately 3.3 million square metres is anticipated to be required for office uses and the remaining floor space to be allocated for retail. Whilst the City of Melbourne is anticipated to accommodate the majority of the additional floor spaces required, the City of Yarra is expected to provide, in addition to the existing 933,400sqm of commercial floor space identified in 2018, an additional 548,000sqm of commercial floor space by 2031.

Spatial Economic and Employment Strategy

128. The Spatial Economic and Employment Strategy (SEES) was adopted by Council in September 2018 and includes 6 directions which will inform future policy for the Scheme.
129. The strategic direction contained within the SEES supersedes that contained within the Yarra Business and Industrial Land Strategy (BILS), adopted by Council in June 2012.
130. With regard to the site, the Strategy 5 of the SEES aims to retain other Commercial 2 zoned land to support the diversity of business and employment opportunities:
- (a) *Land in the Hoddle Street corridor presents an opportunity to accommodate additional employment and residential development with minimal impact on existing lower scale development to the east of the rail line. For sites immediately adjacent to Hoddle Street the amenity issues associated with traffic volumes and noise will need to be taken into consideration.*

Retail and commercial uses that benefit from the exposure provided by a busy arterial route are likely to be more appropriate than residential uses. (Annual average daily traffic volumes on Hoddle Street were in the order to 35,000 vehicles per day southbound and 40,000 per day northbound in 2015. Under these circumstances commercial uses are more appropriate than residential for street facing frontages. Given the significance of Hoddle Street as a major arterial road and through route, the future of the existing C2 land along the corridor should be considered only once further strategic planning is undertaken to examine future opportunities and zoning options to achieve both employment and potential some housing outcomes.

131. As identified within Figure 16 of the SEES, the subject site is located within a Major Mixed Employment Precinct:

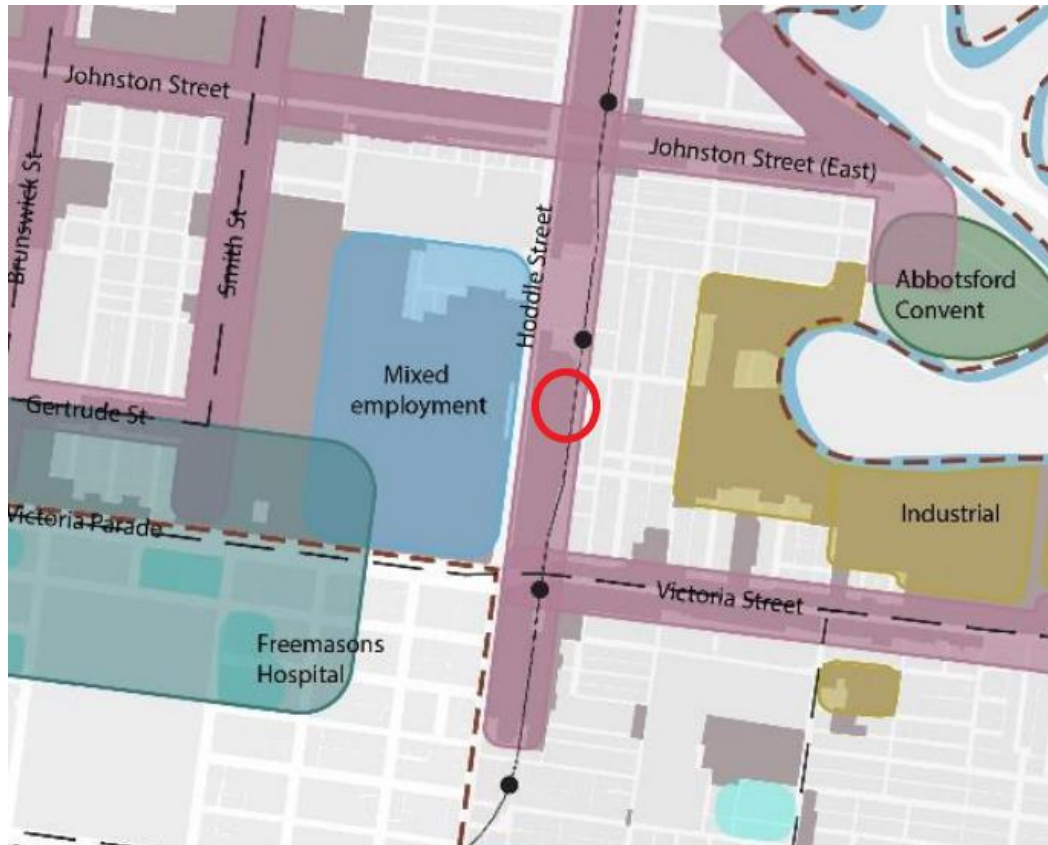


Figure 12: Excerpt from Figure 39 of the SEES, identifying the location of the subject site

Advertising

132. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 2,692 letters sent to surrounding owners and occupiers and by a sign displayed on site. Council received 10 objections, the grounds of which are summarised as follows):

- (a) design (height, scale, bulk, character);
- (b) off-site amenity impacts (visual bulk, overlooking, loss of daylight, construction nuisance); and
- (c) car parking.

Referrals

133. The referral comments are based on the advertised plans prepared by Lindsay Holland Pty Ltd (re-issue 02, 14.05.2020), sheets 01-13 & R.27.

External Referrals

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

Internal Referrals

135. The application was referred to the following units within Council:
- (a) Urban Design Unit;
 - (b) Engineering Unit;
 - (c) City Works Unit;
 - (d) Strategic Transport Unit; and
 - (e) ESD Advisor.
136. Referral comments have been included as attachments to this report.
137. A revised WMP (dated 14-09-2020) was re-referred to the City Works Unit, who provided supplementary advice confirming that the revised WMP was acceptable.

OFFICER ASSESSMENT

138. The primary considerations for this application are as follows:
- (a) Policy and Strategic Support;
 - (b) Built form and Urban Design;
 - (c) On-site amenity including Environmentally Sustainable Design;
 - (d) Off-site amenity;
 - (e) Signage;
 - (f) Car parking and traffic;
 - (g) Bicycle facilities and strategic transport;
 - (h) Waste management; and
 - (i) Objector concerns.

Policy and Strategic Support

139. There is strong strategic support at State and local level for the construction of an office building of this scale at the subject site. The site and adjoining land is located in the C2Z which specifically encourages office, retail uses and associated commercial services. Specifically, the office use does not require a planning permit in the C2Z and due to the limited size of the food and drink premises, this also does not require a planning permit.
140. Council's local policy at Clause 21.04-3 states that the commercial and industrial sectors underpin a sustainable economy and provide employment. Yarra plans to retain and foster a diverse and viable economic base. It acknowledges that there is a continuing demand for industrial and commercial land and that residential uses are not supported as their amenity requirements are a threat to the survival of ongoing industrial activities. In addition, this policy aims to increase the number and diversity of local employment opportunities by maintaining this land for the purpose it was intended for.
141. Clause 21.04-3 also seeks to increase the number and diversity of employment opportunities, specifically identifying service industries as an area where opportunities have been created by declines in traditional manufacturing businesses. The proposal complies with this policy and achieves these objectives.

142. Clauses 11.03-1R (Activity Centres) of the Scheme encourages the concentration of development near activity centres. The subject site is located approximately 365m south of the Victoria Street Activity Centre and is connected via a corridor of Commercial 2 zoned land between Hoddle Street and the railway line. The subject site is also in proximity to Johnston Street (to the north) which is emerging as a mixed use activity centre.
143. Clause 18.02-2S (Public Transport) of the Scheme encourages development and increased densities close to existing public transport infrastructure. The subject site located within the Principal Public Transport Network (PPTN) and benefits from an exceptionally high level of public transport access. The subject site is within convenient walking distance of the Collingwood Railway Street, Hoddle Street buses, and Victoria Street Trams.

Built form and Urban Design:

144. The urban design assessment for this proposal is guided by State and Local policies at Clause 15.01-2S (Building Design), Clause 21.05-2 (Urban Design), Clause 22.05 (Interface uses policy) and Clause 22.10 (Built form and design policy). In the interests of providing a concise assessment and avoiding repetition between State and local design principles, the following assessment will group similar themes where applicable.

Context

145. As identified at Clause 21.08-1, *Abbotsford is a highly varied neighbourhood with a substantial number of industrial and commercial buildings of various types and eras.* A detailed description including photographs and renders of the surrounding built form context is provided in the ‘surrounding land’ section of this report.
146. The built form character of the land bordered by Gipps Street to the north, Hoddle Street to the west, the train line to the east and Langridge Street to the south is predominantly 1-2 storey industrial style buildings, although there is a four storey building to the south of the precinct (No. 1-15 Russell Street) and examples of three storey buildings including the adjoining building to the north of the subject site. There is also four storey dwelling approved at No. 34 Henry Street, approximately 17m north-west of the subject site.
147. Figure 13 below identifies the higher scale developments in window the study area described in the paragraph above. The four storey building (with 18m street wall) at 1-15 Russell Street is highlighted in red, the location of the four storey dwelling at No. 34 Henry Street is highlighted in green, and the location of the three-storey developments are highlighted in pink. Development that is not highlighted is otherwise 1-2 storey in height.

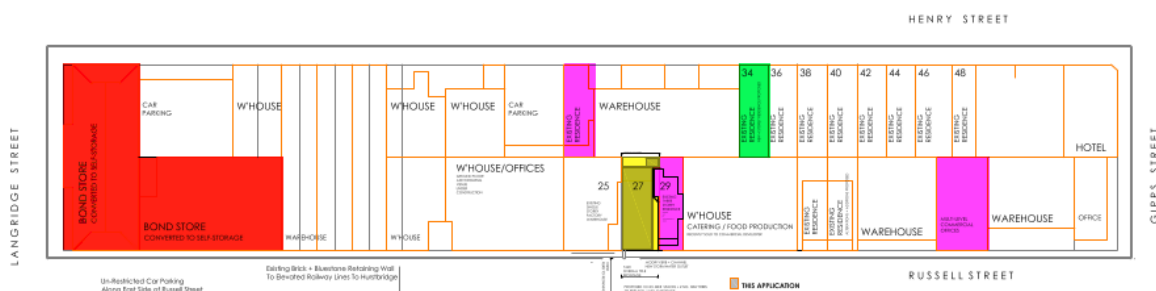


Figure 13: Built form scale in immediately surrounding context.

148. There is a clear distinction between the character of this area and the low scale, single dwelling character of the land to the east of the elevated railway line that runs parallel to the east of Russell Street.

Height and massing

149. The application proposes a five storey building with an overall height of 17.30m. It is proposed to construct a four storey street wall (to Russell Street) and boundary walls to the side and rear title boundaries (it is proposed to abut the existing building to the rear which encroaches into the title boundaries of the subject site in lieu of the actual title boundary).

The street and boundary walls are to be constructed generally to a height of 14.82m. A modest fifth storey is setback 2.85m from the street frontage, 3.05m from the rear boundary, 1.34m from the southern side boundary and 1.5m from the northern side boundary.

150. As detailed earlier in this report, the subject site has an extensive planning permit application and VCAT appeal history. All applications were lodged by the current applicant who is also the architect.
151. Previously Council has granted permits for three and four storey developments respectively, neither of have been acted on.
152. Notably, VCAT upheld Council's refusal of Planning Application PL05/1009 which sought permission for the construction of an eleven storey office building (*Lindsay Holland PL v Yarra CC [2006] VCAT 2647*) and refused PLN16/0429 which sought permission for the construction of a nine storey building (*Lindsay Holland Pty Ltd Architects v Yarra CC [2018] VCAT 809*). Member Liston found that the building [11 storeys] was radically out of place in the Yarra Planning Scheme's policy framework, which he described as:
- [9] *'a low-rise urban form punctuated with pockets of higher development'(that) requires new development to respect surrounding urban character when it is a valued facet of the neighbourhood character.*
153. In *Lindsay Holland Pty Ltd Architects v Yarra CC [2018] VCAT 809*, the applicant submitted that there had been sufficient change in the urban form and context of Abbotsford to warrant approval of a nine storey building, despite VCAT's refusal of a similar eleven storey building in 2006.
154. However, Member Nelthorpe was not persuaded that there had been sufficient change in urban form and there was limited change in planning policy despite the lapse in time:
- [38] *Separately, I am not persuaded that the merits of the proposal before me provide a rationale to grant a permit for a building of a similar height. The question of the building's height relates to what the planning scheme envisages for the urban form of this part of the City of Yarra. I find that it still promotes low-rise development in this part of Abbotsford and that the taller buildings that have emerged since 2006 are largely in pockets where higher built form is clearly justified by the planning scheme.*
155. The proposed five storey building is significantly lower than the most recent nine and eleven storey proposals that were refused at VCAT, however it is higher than the earlier three and four storey approvals. The height of the current proposal should therefore be assessed on its own merits having regard to the current planning scheme provisions and current site context.
156. Relevantly, Clause 21.04-2 includes the following urban design objective and strategy for the subject site:
- (a) *Objective 17 - To retain Yarra's identity as a low-rise urban form with pockets of higher development:*
- (i) *Strategy 17.1: Ensure that development outside activity centres and not on Strategic Redevelopment Sites reflects the prevailing low-rise urban form.*
157. Similarly, Clause 22.10-3.3 includes the following design objective:
- (a) *To ensure that the height of new development is appropriate to the context of the area (as identified in the Site Analysis Plan and Design Response) and respects the prevailing pattern of heights of the area where this is a positive contribution to neighbourhood character.*
158. The urban form of the land bordered by Gipps Street to the north, Hoddle Street to the west, the train line to the east and Langridge Street to the south is predominantly 1-2 storey industrial style buildings. However, there are several examples of 3-4 storey buildings within this precinct defined above.

159. Notably, there is a four storey building to the south of the precinct (No. 1-15 Russell Street) which has an overall height of 20m and an imposing 18m street wall façade. There is also a triple storey dwelling at No. 29 Russell Street (adjoining to the north) which has a maximum height of 9.22m and a triple storey office building further north at No. 47 Russell Street which has a 10.31m maximum height (and street wall).
160. Whilst there are examples of examples of 3-4 storey developments in immediately surrounding area, the built form scale remains predominantly low-rise. Despite this the proposed built form scale would not be radically out of place and considered acceptable on balance as the addition of 529m² of office space is consistent with the purpose of the zone and objectives of state and local policies.
161. Clause 22.10-3.3 provides the following policy guidance with regard to massing:
- (a) *Use massing or articulation or changes of surface treatment, or a combination of these, to relate taller buildings to the scale of their surrounds, and to diminish visual bulk.*
 - (b) *The maximum building height for the portion of the new development between the primary setback and the secondary setback should not exceed the height of the higher of the two adjacent buildings unless:*
 - (i) *The height is specified in any relevant policy or schedule set out under this Scheme.*
 - (ii) *The development is in an area where it is appropriate and practicable to establish a distinctly different new character in order to achieve planning objectives.*
162. The subject site and surrounding area is considered appropriate and practicable to establish a distinctly different and new character given its zoning, absence of extensive heritage controls and buffer to sensitive residential zones provided by the elevated railway embankment.
163. The fifth storey has a modest footprint and is recessed from the four storey boundary walls which significantly reduces its visibility and presentation of visual bulk to the streetscape and immediately surrounding properties. The building would essentially present as four storeys to the properties adjoining to the north and south, and would be an appropriate height response for the site context
164. However, the sensitive massing of the fifth storey is undermined by the presence of the 'metal portal frames' with fin infills atop the eastern façade of the building, which would give the impression of a solid five storey street wall when viewed from Russell Street (refer to figure 14 below). On this basis, Council's Urban Design Unit has recommended that the fin infills be deleted from the front (east) elevation of the proposed development.

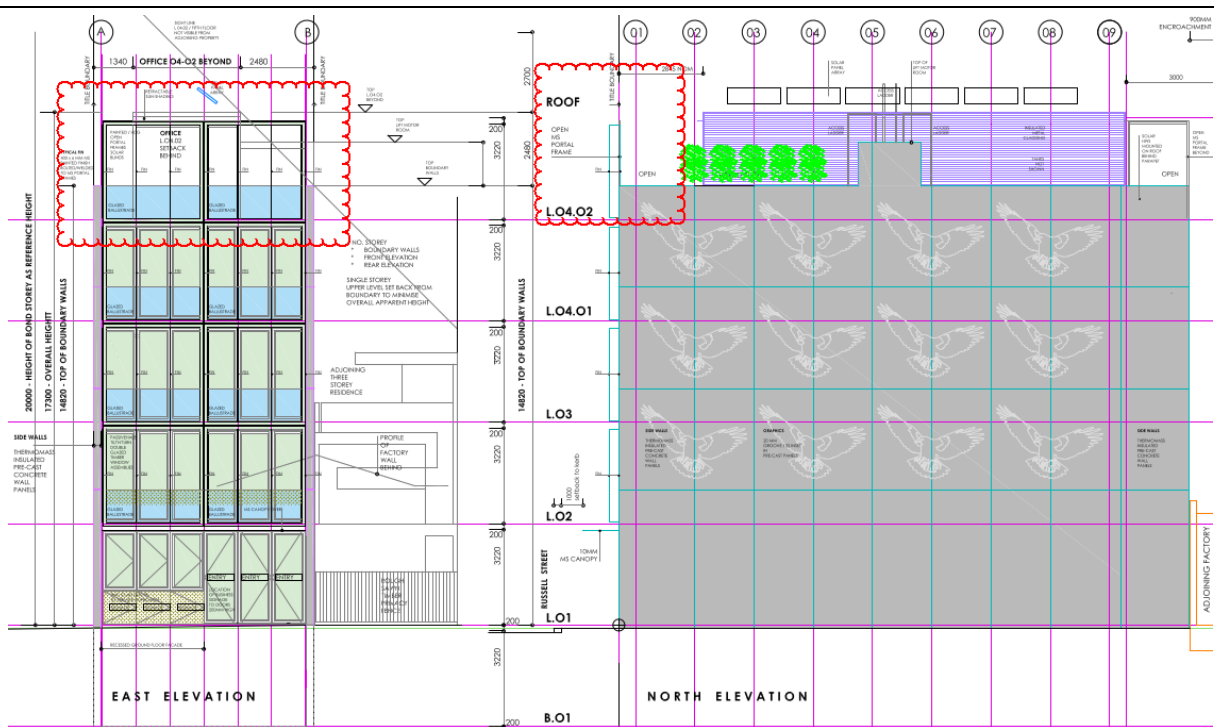


Figure 14: Metal portal frames above the Russell Street façade identified with red cloud.

165. Despite the deletion of the fin infills, the metal portal frame would still contribute to an imposing street wall presentation, starkly juxtaposed with the single storey façade at No. 23-25 Russell Street to the south and a two storey (6.52m high) façade at No. 29 Russell Street.
166. The applicant submits that the metal portal frames are primary structural elements that provide lateral bracing and support to the 'open-ended' plan forms and has provided a statement to this effect from their Structural Engineer (Tim Hall and Associates Pty Ltd). However, Council's Municipal Building Surveyor has advised that alternative engineering designs that do not require protruding metal portal frames would be possible.
167. Given the excessive (and unnecessary) visual bulk the metal portal frames would present to the street, it is therefore recommended that a condition of any planning permit granted require that the metal portal frames above the eastern façade be deleted.
168. To the north and south, the proposal would present extensive blank boundary walls. As a means of providing articulation, magpie graphics have been applied to the walls. Council's Urban Design Unit is supportive of this approach and also envisages that No. 23-25 Russell Street (to the south) will be developed with a larger scale building that will conceal the blank side wall in the future.
169. To the north the subject site abut a triple storey dwelling which would partially conceal the blank wall, however a 7.3m high blank wall would be visible beyond the dwelling resulting in a poor visual transition. As such, Council's Urban Design Unit recommended that the applicant 'consider' reducing the building height from four storeys to the three storeys at the north-east corner, while also acknowledging that such a reduction could be detrimental to the feasibility of the development and may be difficult to successfully integrate into the design.
170. The applicant opposed this suggestion contending that reducing the north-east corner would expose the uppermost floor thereby resulting in a five storey presentation to the streetscape.
171. Given the location of the stairs and lift shaft at the north-east of the building this recommendation would require significant redesign and could not practicably form a permit condition.
172. Considering the relatively narrow width of the building and potential for the fifth storey to be exposed, officers are of the opinion that reducing the height of the building at the north-east corner is unlikely to result in a significant improvement in the visual transition of the building.

Furthermore, the north wall steps in approximately halfway before stepping back out thereby dividing the wall into three components and breaking down its scale. Considering the site context, a four storey building with a recessed fifth level could easily be absorbed into the streetscape; therefore the Urban Design recommendation will not be adopted.

173. It is also proposed to construct metal portal framing within the western lightcourt, extending above the rear (western) facade (refer to figure 15 below).

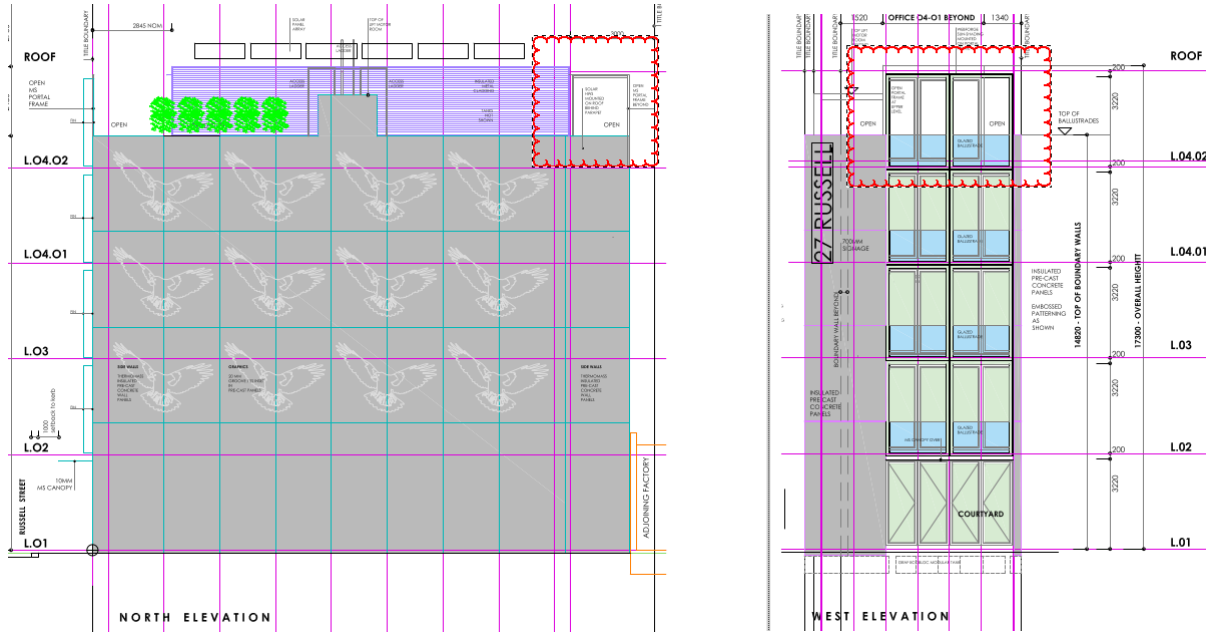


Figure 15: Metal portal frames within the rear (western) light court circled in red.

174. Whilst the metal portal frame would extend above the third floor façade, it is only likely to present as a five storey wall from certain sightlines on Henry Street which would be at such a distance that the presentation of visual bulk would not adversely impact that streetscape.
175. Furthermore, it is envisaged that No. 26-30 Henry Street will be developed with a larger scale building considering that it is also located in the Commercial 2 Zone with no overlay which will largely obscure views of the proposed development from Henry Street.

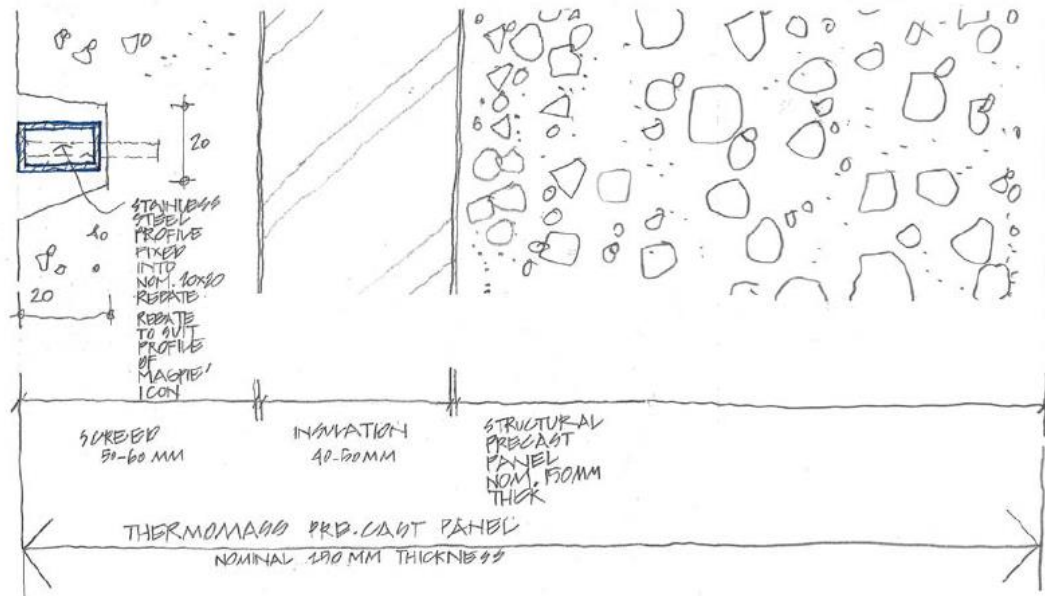
Architectural quality

176. The facades of buildings in the immediately surrounding area are generally brick and are dominated by roller doors. There are limited glazing elements, with security bars fixed to most ground level windows.
177. The predominantly glazed eastern façade of the proposed building would therefore be a significant departure from the prevailing materials, finishes and fenestration of buildings in the immediately surrounding area. However, given that the zoning of the land provides for a transition from industry commercial uses such as offices, the area can expect to undergo significant change.
178. The street interface is well activated, with the glazed entry and café occupying the entire site width and service cupboards limited to a height of about 1.2m. Openable windows and doors extend the full width at ground floor level, further activating the frontage.
179. The applicant has confirmed that it is intended for the upper floor glazed windows within the eastern and western façade to be openable, however this detail has been omitted from elevation. A condition of any permit should therefore require that the upper floor windows be clearly detailed as openable on elevations.
180. Details of shading devices to the east elevation have not been provided. A condition of any planning permit granted should require that adjustable, external shading devices to the windows on the east elevation are to be provided. The shading devices must be a high quality and durable product, which complements the appearance of the façade.

This is discussed in further detail in the 'On-site amenity including Environmentally Sustainable Design' section below.

181. The northern, southern and western boundary walls are to be clad in unpainted, pre-cast concrete panels. The eastern and western facades are otherwise clad with glazed, openable windows. The proposed materials and finishes are durable and acceptable, and will make a positive contribution to the streetscape.
182. The design of the proposed building is considered to be of an acceptable quality, appropriate for the industrial site context and will make a positive contribution to the public realm. As such, the proposal meets the objective of Clause 15.01-2S.
183. Council's Urban Design Unit is supportive of the proposed materials and finishes, however they have sought clarification regarding the colours of window frames, fins and glass balustrades. The applicant has confirmed that the colours of the window frames and fins reflect the samples provided on the materials and finishes schedule with the window frames to be natural timber finish, and the fins are to be *Dulux Ferrador - St Enoch's Grey*, a mid-dark grey with slight metallic finish as per the sample 'steel paintwork'. These details will be confirmed via a permit condition should Council be of mind to support the application.
184. The applicant has confirmed that a 'blue tint' is preferred for the balustrade glazing (despite the materials and finishes schedule including several sample colours, implying a range of tints are to be used). Therefore, a permit condition should require that the materials and finishes schedule be amended to confirm a preferred blue tint selection.
185. Council's Urban Design Unit advised in their written advice that they are supportive of the magpie graphics subject to clarification regarding whether the stainless steel is to be incorporated into the slab and what happens on the panels that step in.
186. The applicant has confirmed that a 20mm rebate will be cast into the precast outer screed (refer to section diagram of precast panel cladding at figure 16 below). When set, the stainless steel profile of the 'magpie icons' will be fixed into position the complete pre-cast panel assembly will then be lifted and fixed into position in the boundary wall. This approach is acceptable by Council's Urban Design Unit and the construction details will be required via a permit condition.

The applicant has also confirmed that the magpie graphic would fold around the wall where it steps in. Urban Design has subsequently confirmed that this is acceptable. It is therefore recommended that a condition of any planning permit granted require that plans be amended include notation confirming that the magpie graphic is to fold around the wall and clearly detail where the wall 'steps in'.



Indicative Detail of Stainless Steel Profile of Swooping Magpie Icon : NTS

A 20mm rebate will be cast into the precast outer screed
 When set, the stainless steel profile of the 'magpie icons' will be fixed into position
 The complete pre-cast panel assembly will then be lifted and fixed into position in the boundary wall.

Figure 16: Section detail of pre-cast panel cladding with magpie graphic detailing

Landscaping

- 187. The proposed building essentially cover 100% of the subject site (save for a small nook where the northern boundary steps in and the western lightcourt to the rear which is covered by portal framing), as such minimal in-ground landscaping is proposed.
- 188. The proposed site coverage exceeds the maximum of 80% suggested by clause 22.10-3.6. However, the prevailing pattern of development in the surrounding area includes particularly high site coverages, with industrial style buildings generally constructed 'boundary to boundary' with the exception of paved car parking areas.
- 189. On page 13 of the Sustainability Management Plan (SMP) it is indicated that a vertical garden will be provided at ground floor level and communal garden will be provided on the terrace.
- 190. The fourth floor plan (sheet 8.00) shows potted trees along the northern and southern perimeters of the terrace and roof plan (sheet 9.00) indicates that provision of a green roof. However, no specific details such as a planting schedule or maintenance procedures are detailed on plans.
- 191. The provision of potted trees may pose a safety risk in high winds and would be difficult to maintain given the narrow width of the terrace.
- 192. It is therefore recommended that a landscape plan be provided as a condition of any planning permit showing the provision of planter boxes, in lieu of the potted plants, that are fixed to the terrace and include automated irrigation features. The landscape plan should also include a planting schedule and provide strategies for the green roof and vertical garden at ground floor level.

Landmarks, Views and Vistas

193. It is policy at clause 15.01-2S of the Scheme that important landmarks, views and vistas be protected or enhanced. The impact on long range views and vistas are only relevant where they form part of an identified character of an area (within planning policy) and typically apply to landscapes or natural features.
194. The subject site is located approximately 240m from the clocktower of the Collingwood Town Hall. As such, Clause 22.03-4 requires that buildings at the subject site should be designed to ensure the clocktower remains the principal built reference.
195. The proposed development would not compete with the clocktower as the principal built reference given its overall height, setback from Hoddle Street and location in respect of the clocktower. The proposal is therefore considered to be an acceptable response to the local policy direction under clause 22.03-4 of the Scheme.

Public Realm

196. Planning policy encourages the design of interfaces between buildings and public spaces to enhance the visual and social experience of the user. In this respect, the proposal represents an improvement in streetscape, public space quality and perceived safety.
197. Clause 22.10-3.4 provides the following policy with respect to pedestrian amenity:
- (a) *The design of the ground level street frontage of new development should provide a high level of pedestrian amenity and visual interest by:*
 - (i) *Providing well-defined entries at ground level on the street frontage.*
 - (ii) *Incorporating commercial/display or retail space (where appropriate).*
 - (iii) *Installing glazed areas allowing permeability into the interior spaces.*
 - (iv) *Matching ground floor level with street level.*
198. Council's internal Urban Design Unit was supportive of the ground floor interface to Russell Street, commenting:
- (a) *The street interface is well activated, with the glazed entry and café occupying the entire site width and service cupboards limited to a height of about 1.2m. Openable windows and doors extend the full width at ground floor level, further activating the frontage.*
199. Furthermore, the ground floor entry would match the street level and the entry to the café is clearly distinguished from the entry to the office as it is recessed slightly in line with the glazed café façade. The proposal would be a significant improvement to the existing condition with the site having been largely vacant for in excess of a decade and the existing high fencing making no positive contribution to the streetscape.

Overshadowing of Public Realm

200. The shadow cast by the proposed development would have limited impact on the public realm as it would not overshadow the footpath on Henry Street between 9am and 3pm, and the overshadowing impact to the footpath on the western side of Russell Street is limited to the afternoon period from 1pm onwards. The extent of overshadowing to the western footpath of Russell Street is inevitable for any scale of development given the lot orientation.
201. There is no footpath located on the eastern side of Russell Street, and the elevated railway line guarantees that the footpath on the eastern side would receive sunlight before 12pm into perpetuity. On balance, this is an acceptable outcome.

On-site amenity including Environmentally Sustainable Design

Facilities

202. Communal facilities are provided at each level for the office tenants, including a kitchenette, bathrooms/end of trip facilities, bicycle lockers and bicycle parking (in addition to bicycle parking in the basement). The lift provides all tenancies with direct access to the terrace at fourth floor level. These features will further enhance the amenity of the development.

Daylight and Ventilation

203. The proposal would provide occupants a high level of indoor environmental quality. This is achieved via the provision of full height east and west facing openable glazed windows that will provide daylight access and cross ventilation. This achievement is acknowledged by Council's ESD Advisor and no concerns have been raised in this regard.

Environmentally Sustainable Design (ESD)

204. Clauses 15.02-1S, 21.07. 22.16 and 22.17 of the Scheme promote environmentally sustainable development and seek to achieve objectives with related to the following:

- (a) Energy performance;
- (b) Water resources;
- (c) Indoor environment quality;
- (d) Stormwater management;
- (e) Transport;
- (f) Waste management; and
- (g) Urban Ecology

205. The applicant has provided a Sustainability Management Plan (SMP) which has been referred to Council's ESD Advisor for review.

206. Council's ESD Advisor has confirmed that the proposal does not meet Council's ESD Standards in its current form, however they have identified deficiencies and outstanding information that can be resolved via conditions of any planning permit granted:

ESD Deficiencies

- (a) *The plans incorrectly state 11 bicycle parking spaces (B01), but show 12 Ned Kelly racks. Include update within any revision.*
- (b) *Vague language around specific initiatives, such as recycling construction waste 'wherever possible'. Revise to identify hard target of >80%, and include within EMP to be implemented by head contractor.*
- (c) *The BESS report indicates a 1x 1,000-L rainwater tank in the courtyard, however the STORM report only includes a 300-L tank. Clarify, and update accordingly.*

Outstanding Information

- (d) *The proposals BESS score of 81% relies on 9% coming from 10 innovation claims, of which: water collection, solar array, solar HWS, construction waste and energy use are either claimed elsewhere within the BESS report or not considered innovative to be awarded points within the tool – innovations which are claimed elsewhere should be removed from this section.*
- (e) *Provide a landscape plan/planting schedule articulating rooftop terrace strategy – and clarify vertical gardens at ground level (SMP, p. 13).*
- (f) *The SMP includes a number of 'opportunities' outside of the building envelope such as an 'exemplar streetscape' in the urban ecology section. Remove these and provide further details on proposal strategies within the title boundary.*

- (g) *Clarify water reuse strategy. SMP indicates servicing WCs may not be economically feasible, however plans indicate a tank is provided for greywater/WC use.*
- (h) *Clarify provision of organic waste management for café use (whether included within 'green waste' bin, or as a component of lease agreement for café owner to organise collection).*
- (i) *Clarify provision and design of 'Energy efficient VRV or HVAC systems' that 'may be implemented as and where required'.*
- (j) *The SMP and BESS report indicate the inclusion of a rooftop solar PV system, however do not specify system size. Clarify and reflect in SMP and plans.*

207. Accordingly, it is recommended that a condition of any planning permit granted require that the SMP be amended to address deficiencies and outstanding information outlined above. Subject to these conditions, the proposal is considered to meet the objectives of Clause 22.17 of the Scheme.

208. Council's standard conditions which require the implementation and on-going compliance with the SMP should be included as condition of any planning permit granted.

209. It is noted that the amended WMP submitted on 14.09.2020 includes a note specifying that the retail [food and drink premises] is to enter into an agreement for the collection of green waste generated from retail activities. As discussed in detail below, the amended WMP is acceptable from the City Works Branch perspective, as such no condition with regard to organic waste (as noted in item H above) is included in the recommendation.

210. The SMP (p. 4) makes the following claim with regard to shading:

- (a) *Sunshading screens to whole of east and west elevations offer controlled direct sunlight and enhanced natural light and ventilation, and privacy to each floor.*

211. The applicant has confirmed that the west-facing windows within the first to third floor are to be shaded by a mixture of vertical and horizontal steel 'webforge' screen (metal grates). Council's ESD Advisor has confirmed that this shading measure is acceptable. However, a condition of any planning permit granted should require that plans be amended to adequately detail and annotate the location of the horizontal webforge screens.

212. The applicant has advised that the notation on sheet 10.00 relating to solar blinds on the east elevation was intended to be removed and that no shading measure are detailed on plans, despite the claim in the SMP. This is not acceptable from an ESD perspective and it is therefore recommended that a condition of any planning permit granted require that the SMP and plans be amended to show adjustable, external shading devices to all exposed east-facing windows and the west-facing fourth floor window. Given the visual prominence of the glazing, particularly the east elevation, the shading devices must be a high quality and durable product, which complements the appearance of the façade.

Off-site Amenity

213. The use of the land for a dwelling is prohibited in the Commercial 2 Zone, however there are existing 'non-conforming' dwellings in the C2Z zoned land bordered by Gipps Street to the north, Henry Street to the west, the train line to the east and Langridge Street to the south (the non-conforming dwellings are highlighted in purple in figure 17 below).

214. The nearest dwellings located in a residential zone are located 28m to the east of the subject site, beyond the elevated railway line that runs parallel to Russell Street (location of the residential zone is highlighted in pink in figure 17 below).

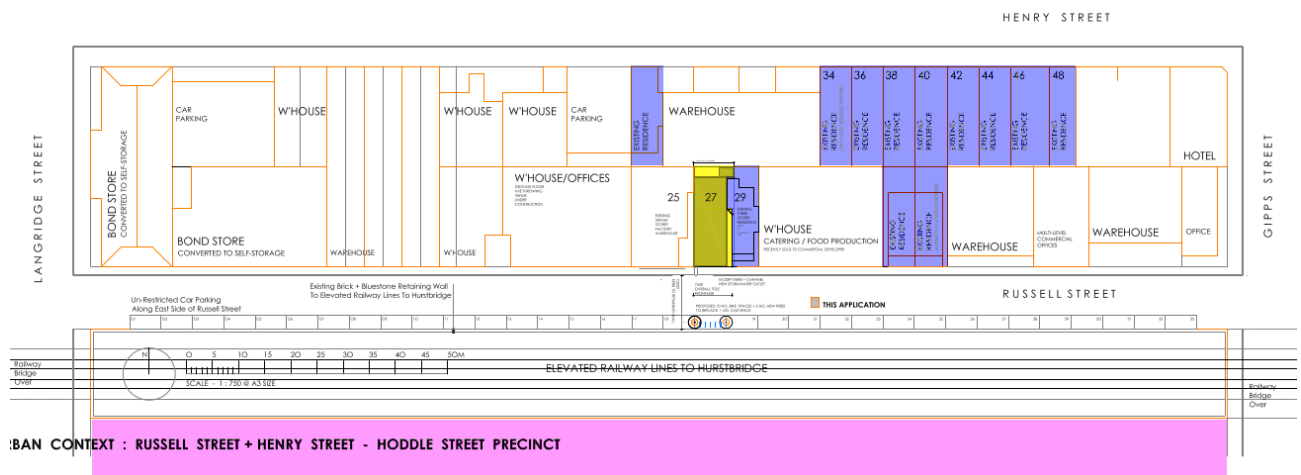


Figure 17: Site context description with non-conforming dwellings highlighted in purple and the adjacent Neighbourhood Residential Zone highlighted in pink.

215. Notably, there is a non-conforming dwelling at No. 29 Russell Street which adjoins the subject site to the north. This dwelling has established existing use rights and was recently developed with a new triple storey dwelling.
216. Also of particular note is a non-conforming dwelling at No. 24 Henry Street, approximately 6m south-west of the subject site. This dwelling has also established existing use rights and was developed with a new triple storey dwelling around 2009.
217. The nearest non-conforming dwellings are otherwise located approximately 17m to the north of the subject site.
218. As noted in the planning scheme provision section of this report, the relevant purpose of the Commercial 2 Zone is:
 - (a) *To encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services.*
 - (b) *To ensure that uses do not affect the safety and amenity of adjacent, more sensitive uses.*
219. Whilst the purpose of the zone seeks to ensure that the safety and amenity of adjacent, more sensitive uses, the use of the land for a dwelling is prohibited and the decision guidelines at Clause 34.02 do not require that consideration be given to impacts to dwellings or residential uses. Rather, the decisions guidelines require that Council take into account the *interface with adjoining zones, especially the relationship with residential areas.*
220. Based on the overarching purpose of the zone and decision guidelines, it is implicit that non-conforming dwelling uses within the Commercial 2 Zone are not afforded the same level of amenity protection as dwellings within a residential area (such as the Neighbourhood Residential zoned land to the east of the elevated railway line).
221. Affording non-conforming dwellings with the same level of protection as residential zoned land benefits from would impose unreasonable limitation on the use and development of land for commercial uses, such an offices, that the Commercial 2 Zone is intended to facilitate.
222. This issue was discussed at length within the Tribunal matter of *Krolikowski & Anor v Yarra CC & Anor [2014] VCAT 350*, which applied to a site within the C2Z in the Cremorne neighbourhood. In this decision, Member Sibonis noted at paragraph 10:

[10] *There is a clear emphasis within the zone provisions on encouraging a range of commercial and industrial land uses. Pursuant to the provisions of this zone, residential land use (with the exception of a caretaker's house) is prohibited.*
223. Expanding further at paragraph 13:

[13] *In order to maintain the viability of industrial and business areas there is a need to ensure that new residents do not have unrealistic expectations of the level of amenity that can be achieved. New dwellings must be constructed to protect residents as much as reasonably possible from the inherent conflicts. There is also a need to ensure that commercial and industrial activities are well managed having regard to their proximity to residential uses.*

224. This issue was also considered in *Arthur Land Pty Ltd v Yarra CC* [2018] VCAT 946, which also applied to a site within the C2Z in Cremorne, with Member Baird noting at paragraph 38:

[38] *Residential properties in the C2Z are different again. The C2Z prohibits new dwellings other than a caretaker's dwelling. A standard of residential amenity commensurate with that experienced in residential areas and zones, including those in interface locations, cannot reasonably be expected and retained. Residential amenity should not be expected to prevail over the purposes and provisions of the zoning, which support and facilitate non-residential uses, specifically offices.*

225. Notwithstanding the above, Council's Interface Uses Policy (Clause 22.05-6) provides a limited scope of off-site amenity considerations for nearby residential properties, irrespective of whether they're non-conforming uses:

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

226. These off-site amenity consideration are discussed in detail below:

Overlooking and Visual Bulk

227. The north and south walls of the proposed development do not contain windows at any level, as such outlook from internal windows is limited to the east and west of the subject site.

228. The fourth floor plan indicates that the entire terrace would be trafficable, however the northern perimeter of the terrace, to the west of the lift shaft, would be occupied by rainwater tanks and services, and therefore would not facilitate detrimental overlooking opportunities.

229. The southern perimeter of the fourth floor terrace is shown as occupied by pot plants and is just 1m wide. Irrespective of whether pot plants are placed at this location, it is unlikely that occupants would spend prolonged periods of time at this location given its narrow width and isolation from the entry to the internal areas, therefore this area would not facilitate detrimental overlooking opportunities. Nonetheless the earlier recommendation for the provision of permanent planter boxes in this area instead will ensure occupants of the building will not be able to easily occupy this area.

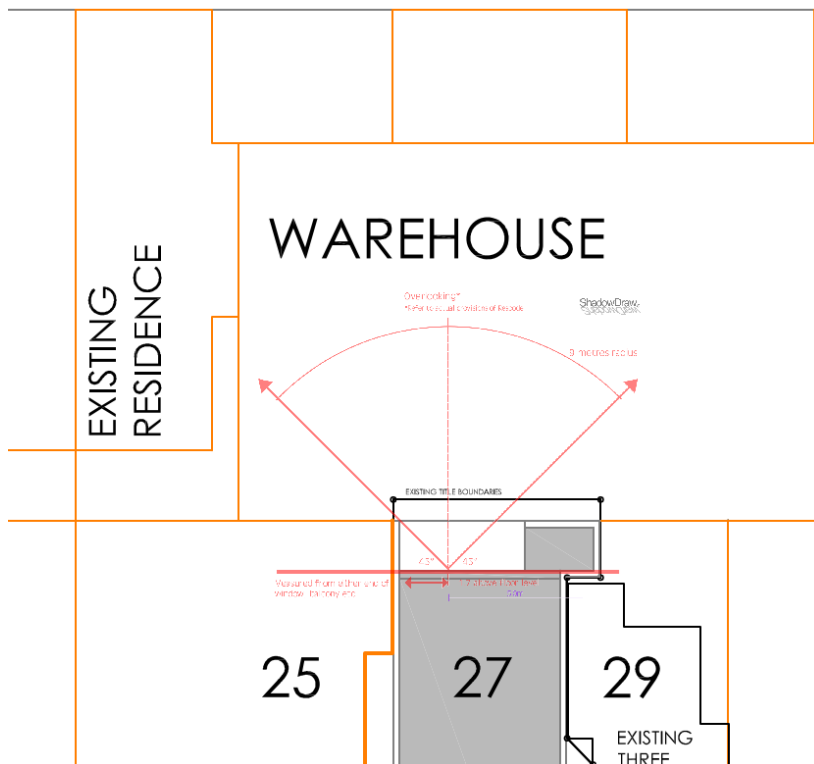
230. It is generally accepted that 'overlooking' occurs between habitable rooms (i.e. bedrooms and living rooms) and secluded private open spaces and vice versa within 9m of each other. Despite the fact the proposal is for an office development and therefore does not contain any habitable room windows or secluded private open space areas (as per the definition of these terms in the Scheme), overlooking within 9m of proposed windows and open space areas will be considered in the assessment below. However it is noted that any views of habitable room windows and secluded private open spaces further than 9m from the proposed development are not considered an unreasonable amenity impact.

Residential properties to the east of the elevated railway:

231. The nearest residential properties to the east are the dwellings located on the opposite side of the elevated railway. These dwellings are not located within 9m, and the elevated railway will largely obscure views into these properties from eastern perimeter of the terrace and the east-facing windows of the proposed development.

No. 24 Henry Street:

- 232. There are no dwellings within 9m directly to the west of the subject site, however, as noted above, there is a dwelling located to the south-west at No. 24 Henry Street. At ground floor level of the dwelling at No. 24 Henry Street, there is a narrow open space area accessed via the 'home study' to the rear (east) of the dwelling. At first floor level there is a narrow east-facing balcony accessed via bedroom. At second floor level, there is a further narrow east-facing balcony accessed via the 'dining area', however there is also a larger west-facing terrace accessed via the 'lounge area' which is considered the primary SPOS area of the dwelling.
- 233. The ground level SPOS area is enclosed by boundary walls to the north, south and east, as such, outlook is limited and the visual bulk presented by the proposed development to the north-east of this area would have limited impact.
- 234. The narrow east-facing balconies at first and second floor level are enclosed by walls to the north and south, effectively limiting outlook directly to the east. Therefore, the proposed development at the subject site to the north-east would have limited visual bulk impacts to the first and second floor balconies.
- 235. The west-facing terrace, which is the primary SPOS area, is located on the western side of the dwelling, therefore there would be limited, if any, visual bulk impacts to this area.
- 236. Regarding overlooking opportunities, views to No. 24 Henry Street from the west-facing ground floor windows of the proposed development would be adequately screened by boundary walls to the west and south of the subject site. Views from the west-facing upper floor windows of the proposed development (within 9m) would be adequately limited by the southern boundary wall which extends beyond the building and to the boundary (refer to figure 18 below).



237.

Figure 18: 9m cone of vision from west-facing upper floor windows.

No. 29 Russell Street:

238. The dwelling at No. 29 Russell Street is constructed to the southern side boundary shared with the subject site for its entire depth, and is also constructed to the southern boundary at first floor level, save for where the boundary steps out at the rear of the site. As such there are no south-facing habitable room windows within the dwelling at No. 29 Russell Street.
239. There is a ground level SPOS area located at the north-west corner of the property which narrows as it wraps around the dwelling to abut the southern side boundary shared with the 'nook' located in at the north-western corner of the subject site (refer to figure 19 below).

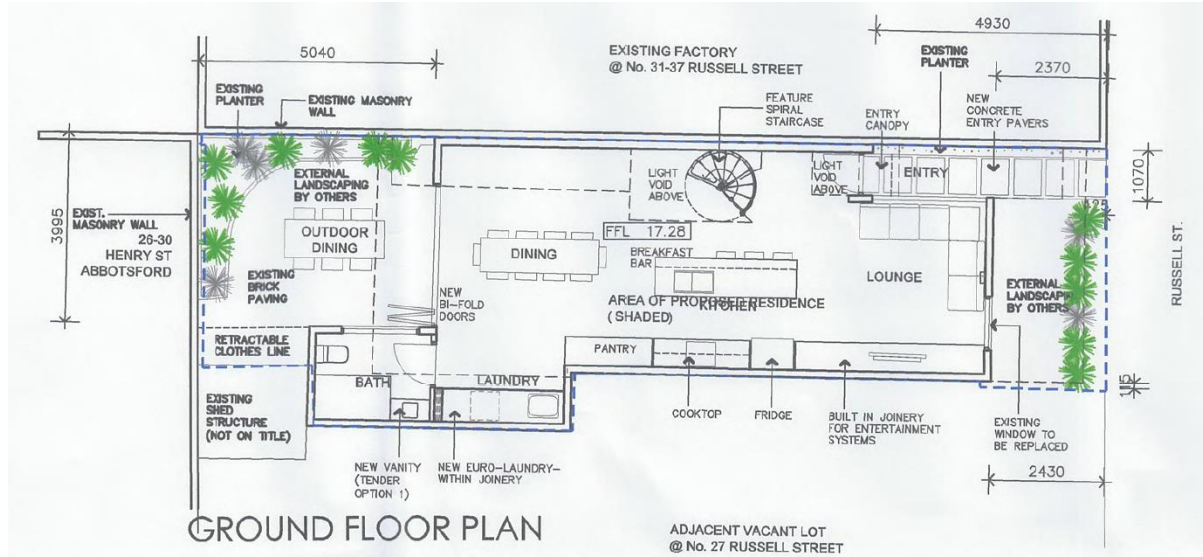


Figure 19: Ground floor plan of No. 29 Russell Street (as per plans endorsed as part of Planning Permit PLN13/0127).

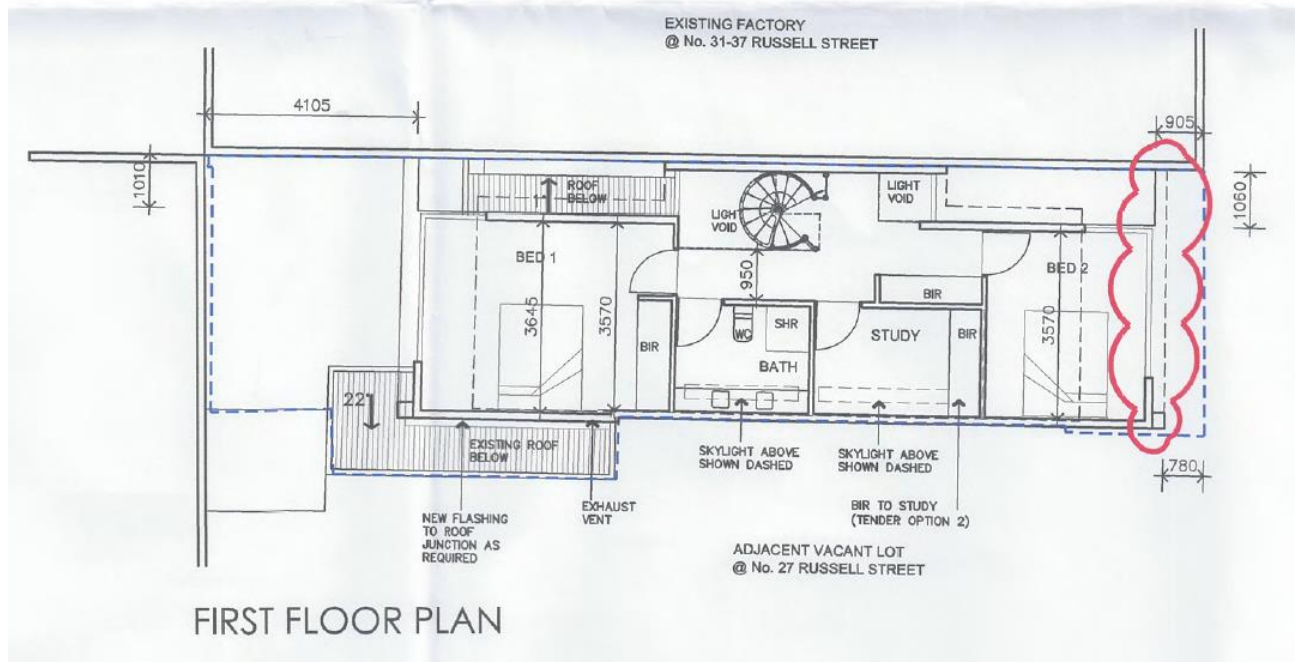


Figure 20: First floor plan of No. 29 Russell Street (as per plans endorsed as part of Planning Permit PLN13/0127).

240. Second floor of the dwelling is essentially a large roof terrace that has a canopy roof partially covering the northern side of the terrace with a boundary wall commensurate to the width of the canopy.

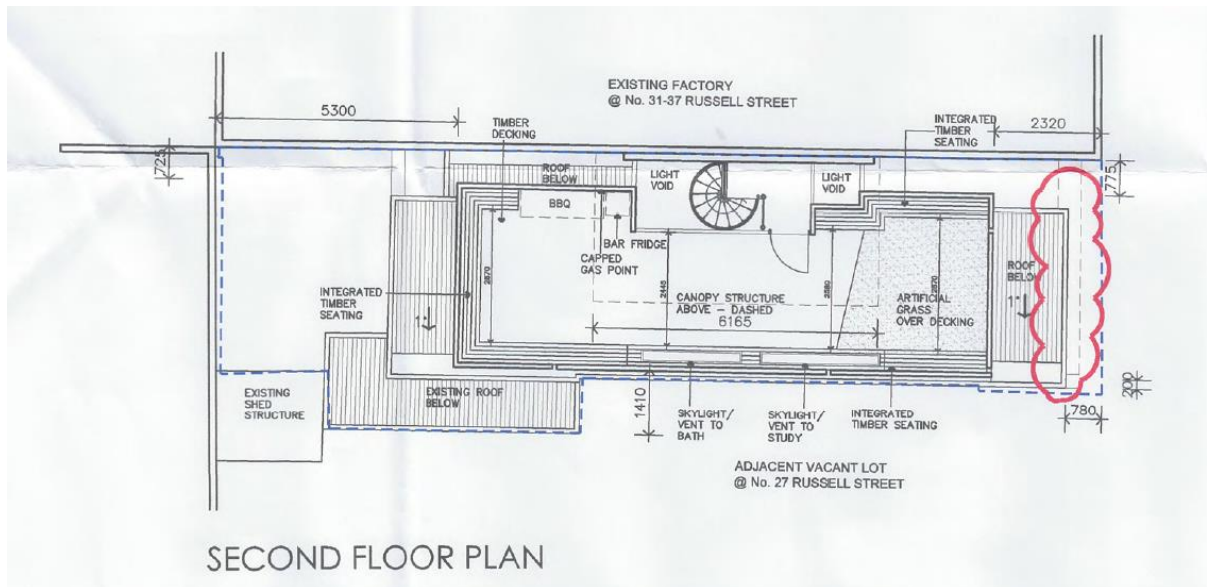


Figure 21: Second floor plan of No. 29 Russell Street (as per plans endorsed as part of Planning Permit PLN13/0127).

241. Relevantly, Clause 22.05-4.2 requires that new non-residential development is to be designed so that:
 - (a) *The location, length and height of any wall built to a boundary not adversely impact on the amenity of any adjoining residential properties in terms of unreasonable overshadowing of private open space, visual bulk or loss of day light to habitable room windows.*
242. As identified there are no south-facing habitable room windows within the dwelling at No. 29 Russell Street, therefore the northern boundary walls of the proposed development would not unreasonably reduce daylight to any existing habitable room windows at No. 29 Russell Street. Furthermore, the proposed development would not cause any unreasonable overshadowing impact given that the subject site is located to the south of No. 29 Russell Street.
243. A key issue is therefore whether the proposed development has been designed so that the visual bulk impacts to No. 29 Russell Street are not unreasonable. As described above, the proposed development would be fully constructed to the northern side boundary, including to the boundaries of the 'nook' at the north-west of the site. The four storey (14.82m high) boundary walls of the 'wet rooms' would therefore wrap around the narrow southern extent of the ground level SPOS area.
244. The ground level SPOS area at No. 29 Russell Street is currently enclosed by high, albeit single storey, boundary walls to the west and north, with plans also indicating that there was a shed occupying the nook at the subject site at the time the site was surveyed in 2015. Therefore it cannot be said that there is a high level of outlook as an existing condition, and it would have been a reasonable assumption when the dwelling was being designed that all adjoining properties may be developed with two or more storey buildings, most likely incorporating boundary walls given the Commercial 2 Zoning of the area.
245. Further, and as noted above, Planning Permit PL07/0901 allowed the construction of a four storey building at the subject site. The applicant lodged a submission in support of Planning Application PLN13/0127 for three-storey dwelling at No. 29 Russell Street, in which they also highlighted that they had previously gained approval for a four storey development (which had lapsed) and that they intended to apply for permission for another building of at least similar height and bulk.

246. The plans endorsed as part of Planning Permit PLN13/0127 indicate that the narrow part of the ground level SPOS area at No. 29 Russell Street was intended to be used as for a retractable clothes line, with the 'outdoor dining area' located further to the north where the SPOS opens into a wider space. In addition to the ground level SPOS area, there is a substantial roof terrace that would maintain an east-facing outlook, irrespective any development at adjoining properties (visual bulk impacts to the second floor terrace are discussed at length below).
247. Given the that the ground level SPOS at No. 29 Russell Street is enclosed by pre-existing built form, outlook is limited, and that protecting this area would result in unreasonable development constraints on the 'as of right use' of the subject site for an office, it is considered that the height, length and location of the 'wet room' boundary walls are acceptable having regard to the visual bulk impact to the ground level SPOS area at No. 29 Russell Street.
248. As noted above, the northern boundary wall of the proposed development would be located adjacent to the second floor terrace at No. 29 Russell Street, as such there would also be visual bulk impacts to this interface.
249. The southern perimeter of the second floor terrace would be setback 200mm from the southern side boundary to the east of where the boundary steps, at which point the setback increases to 1.41m. The finished floor level of the second floor terrace is 6.52m above the natural ground level, therefore the northern boundary wall of the proposed development at the subject site would present 8.3m in height to the second floor terrace.
250. Whilst the proposed development at the subject site would result in the loss of the southern aspect of the second floor terrace, the eastern outlook of the roof terrace would be retained in perpetuity given the road abuttal. The setback of the second floor terrace from the western (rear) title would also provide some outlook to the west and ameliorate visual bulk impacts should No. 26 Henry Street be developed with a multi storey building in the future.
251. Furthermore, the second floor terrace itself is relatively deep and with a total floor area of 42m² which should ameliorate the visual bulk impact of the 8.3m wall height differential. On this basis, the visual bulk impact of the proposed development to the second floor terrace at No. 27 Russel Street is considered acceptable. The following discussion will cover overlooking impacts to No. 29 Russell Street:
252. As noted above, the northern perimeter of the terrace, to the west of the lift shaft, would be occupied by rainwater tanks and services, and therefore would not facilitate detrimental overlooking opportunities.
253. Based on the height differential between eye-level (1.7m) from the fourth floor terrace, views of the ground level SPOS area will be screened by the northern boundary wall and views of the second floor terrace would be restricted to the northern perimeter where it is roofed (refer to figure 22 below). Accordingly there are no direct views to occupants on the adjoining terrace and the proposed development is considered acceptable from an overlooking perspective.

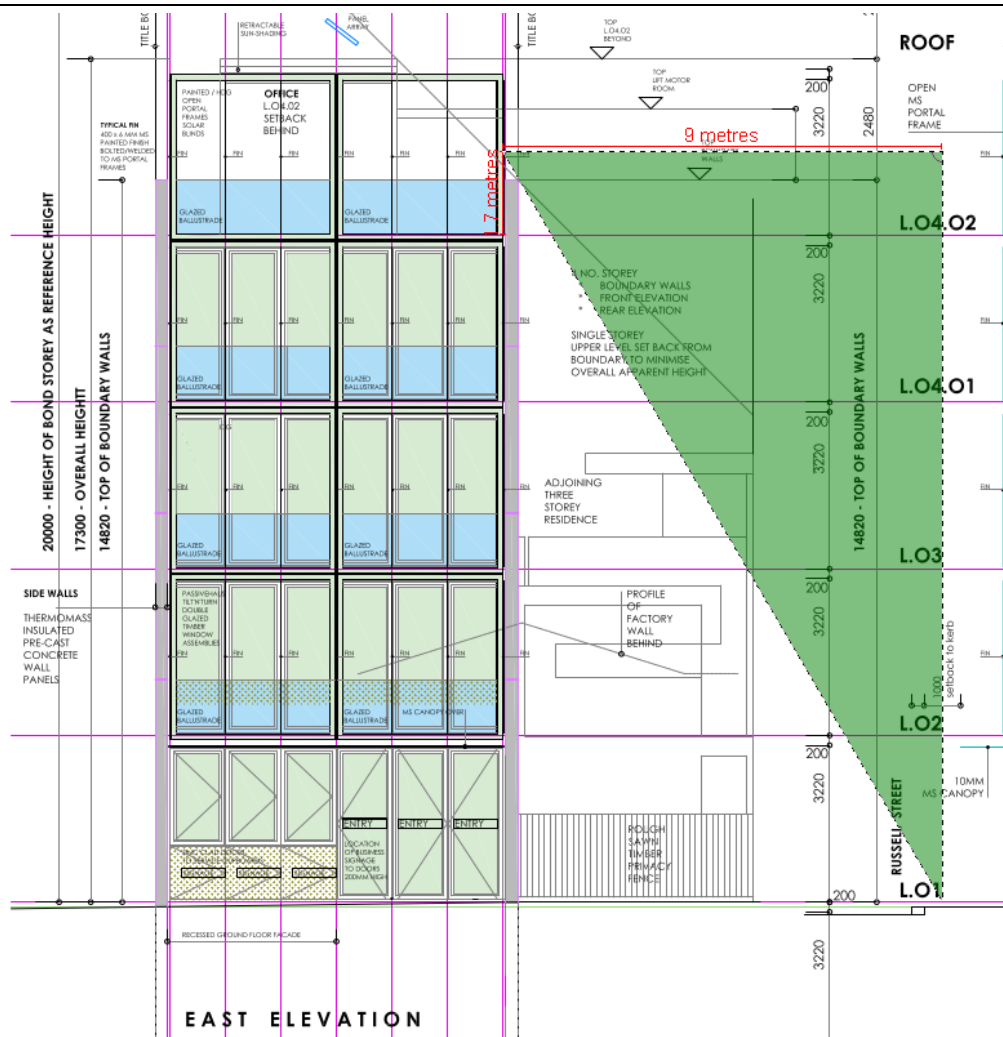


Figure 22: Overlooking within 9m of the northern perimeter of the fourth floor terrace.

Overshadowing

254. With regard to overshadowing, Clause 22.05-4.2 requires that new non-residential development is to be designed so that:

- (a) *Where private open space and/or windows to adjoining residential properties are unreasonably affected, appropriate setbacks from boundaries are to be provided to address loss of daylight, overshadowing and visual bulk impacts.*

255. Whilst not applicable to a non-residential development, Clause 55.04-5 (Overshadowing objective) provides a point of reference for assessing whether overshadowing impact is unreasonable. The objective of Clause 55.04-5 is 'To ensure buildings do not significantly overshadow existing secluded private open space'. To achieve this objective, Clause 55.04-5 Standard B21 seeks to limit the loss of sunlight between 9am and 3pm on 22 September.

256. As identified above, No. 24 Henry Street is the only proximate dwelling to the south of the subject site, albeit a non-conforming use in the C2Z. The applicant has provided shadow diagrams which show the extent of the shadow cast by the proposed development from 9am to 3pm.

257. The diagrams show that the proposed development would overshadow the entire ground level SPOS area at No. 24 Henry Street from 9am to 10am. The extent of overshadowing reduces at 11am, with no further overshadowing impact thereafter.

258. The overshadowing diagrams fail to show the shadows cast by existing boundary walls to the east and north of the ground level SPOS area. The existing boundary walls to the north and east of the SPOS are approximately 4m in height, therefore the shadow cast by the existing walls at 9am and 10am would entirely overshadow the narrow SPOS area as an existing condition. At 11am, the shadow cast by the existing boundary walls would overshadow the majority (if not all) of the SPOS area.

259. Given the extent of existing overshadowing from the boundary walls to the east and north of the ground level SPOS area No. 24 Henry Street, the overshadowing impact of the proposed development would not be unreasonable.

Fumes, air emissions and light spillage

260. The proposed development is to be used for offices and a food and drink premises which are 'as of right' uses in the Commercial 2 Zone. The food and drink premises is a modest tenancy that is located internally at ground floor level, as such is not anticipated that a use of this nature and scale would produce unreasonable noise, fumes and light spillage.

261. Similarly, the office are located internally, save for the terrace on the fourth floor, and the nature of this use is unlikely produce unreasonable fumes, air emissions and light spillage.

Noise

262. With regard to noise impacts, Clause 22.05-4.2 requires that new non-residential development is to be designed to:

- (a) *Minimise noise transmission within the building, including from machinery and ventilation systems, between floors or separate units and to adjoining residential properties.*

263. Given the modest size of the food and drink premises and predominant use of the building for offices, noise generated by the proposed uses would be limited. The concrete slab floors and precast concrete panel walls should adequately attenuate noise impacts between the tenancies and adjoining properties.

264. Although the proposed building is four storeys, the floor area of the proposed building is relatively modest given the narrow lot size, as such noise generated by ventilation and services machinery that is to be located at fourth floor level would not generate unreasonable noise impacts to adjoining properties, particularly considering the substantial height above the adjoining non-conforming dwelling at which they would be located.

265. It is recommended that Council's standard conditions requiring compliance with State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1) and State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2) be included on any planning permit granted.

266. It is anticipated that an office use with a modest food and drink premises (café) would not require a large number of deliveries to the site and a condition can require deliveries and waste collections to be undertaken in accordance with the times prescribed by Council's Local Law. This would assist in minimising noise disruption to the surrounds from these noise sources.

Construction Management

267. The subject site has only one, narrow road frontage and a modest total area. As such the development of the land for a five storey building has the potential to adversely impact the amenity of adjoining properties during construction.

268. Relevantly, Clause 22.04-4.4 provides the following policy:

- (a) *All developments are to ensure that construction times, storage and disposal methods minimise disruption to nearby residential and business uses.*

269. Accordingly, it is recommended that Council's standard condition requiring a construction management plan to manage dust, material, noise/vibration and the like during construction, be included on any planning permit granted.

Equitable development

270. In addition to the matters outlined in Clause 22.05 which have been discussed above, an overarching objective for planning in Victoria contained within the *Planning and Environment Act 1987* is:
- (a) to provide for the fair, orderly, economic and sustainable use, and development of land
271. The pre-cast concrete panel boundary walls to the north, south and west title boundaries will enable the adjoining properties to be developed simultaneously developed to a similar scale.
272. It is noted that a light court is provided at the south-west corner of the site to provide daylight to west-facing windows. Should a boundary wall be constructed at the adjoining property to the west, reductions in daylight access to these windows could be tolerated given that the east-facing windows are the primary light sources at each level. Furthermore, any new building at No. 26 Henry Street would be expected to be constructed a further 0.9m west from the existing building considering it currently encroaches this distance into the title boundaries of the subject site.
273. There are no north or south-facing windows at fourth floor level, and similar to the lower floors, the east-facing full glazed windows are the primary daylight source.

Signage

274. It is proposed to construct and display a high-wall, floodlit, business identification sign on the western (rear) façade of the proposed development. The relevant planning policies and decision guidelines for assessing the proposed signage are contained Clause 22.04 (Advertising Signs Policy) and Clause 52.05 (Signs) of the Scheme.
275. The objectives of Clause 22.04, which overlap/capture the purpose of Clause 52.05, are outlined in the planning scheme provisions section of this report. Clause 22.04-3 provides policies with regard to the design of signs, the streetscape, construction, support and illumination of signs, which seek to achieve the objectives of Clause 22.04. An assessment of the proposed signage against these key policies is provided below:

Design

276. With regard to the design of signs, the following policies at Clause 22.04-3.1 are relevant to Council's consideration of the proposed high-wall, floodlit, business identification sign:
- (a) *When considering an application for a new sign on a building that displays existing signage, the design and or number of signs will be assessed and where appropriate rationalised to prevent visual clutter.*
- (b) *Signs must be designed and located to complement the character of the host building or site and the streetscape.*
- (c) *Signs must be integrated into the design of the host building, and compatible with its composition, form, fenestration, material, finishes and colours.*
277. The provision of one 2.65m² sign would not create visual clutter relative to the built form scale of the proposed development. The black laser cut lettering would complement the natural concrete finish of the pre-cast panels.
278. The sign is appropriate for the identification and wayfinding needs of the building from the major Hoddle Street thoroughfare to the west. On this basis Council's Urban Design Unit is supportive of the proposed sign.

Streetscape

279. With regard to the impact of the sign on the streetscape, the following policies at Clause 22.04-3.2 are relevant to Council's consideration of the proposed high-wall, floodlit, business identification sign:
- (a) *Signs not obscure important views or vistas.*
- (b) *Signs must not interfere with traffic signals, directional signs or street signs*

280. The proposed sign does not protrude above or out from the proposed development, as such the sign would not result in any additional visual obstruction. As noted in the assessment above, the proposed development does not impact any significant views of the proximate Collingwood Town Hall Clocktower.

281. The sign is sufficiently setback from Henry Street to avoid interfering with driver attention and street signs on Henry Street.

Construction and Support

282. With regard to construction and support, the following policies at Clause 22.04-3.4 are relevant to Council's consideration of the proposed high-wall, floodlit, business identification sign:

- (a) *Maintenance access, structural supports, illumination and service cabling and electrical equipment, be concealed or integrated into the overall sign structure.*
- (b) *Signs on a wall or fascia be applied directly to the wall or fascia or on a flush mounted panel.*

283. Whilst the sign is illuminated, the simplistic colour and style of the lettering would ensure that minimal maintenance is required.

284. The sign and lighting would be fixed flush to the pre-cast panel cladding of the proposed development.

Illumination

285. With regard to construction and support, the following policies at Clause 22.04-3.5 are relevant to Council's consideration of the proposed high-wall, floodlit, business identification sign:

- (a) *Signs be designed to prevent light spill onto adjacent properties.*
- (b) *External illumination sources for signs be concealed where possible or otherwise sensitively designed and located to minimise impact on the surrounding area.*
- (c) *Illumination not be a safety hazard or cause a nuisance to vehicular traffic.*

286. The signage is located to the west of the proposed development facing the Commercial 2 Zoned land to the west, and directed away from the residential zoned land to the east. The sign would be located directly above solid roofing of the existing building at No. 26 Henry Street which encroaches into the title boundaries of the subject site, and therefore any modest light spill from the proposed floodlit sign would not impact this property.

287. The light spill generated by the proposed floodlit sign is unlikely to impact the dwelling at No. 24 Henry Street as extent of illumination required for the modest display area of the sign is limited, and there are no north-facing habitable room windows within the dwelling.

288. As noted above, the location of the proposed sign in relation to sightlines of drivers and pedestrians on Henry Street is unlikely to be a safety hazard or cause a nuisance to vehicular traffic.

Commercial and Industrial Areas

289. With regard to high-wall signs, the following policy at Clause 22.04-3.8 is relevant to Council's consideration of the proposed high-wall, floodlit, business identification sign:

- (a) *On main roads and boulevards major promotional signs, pole signs, sky signs, high wall signs, and signs mounted on bridge structures be considered where the general policy requirements are met.*

290. As discussed above, the proposed sign meets the general policy requirements for signs, although it is implicit that high-wall signs are only appropriate on main roads and boulevards. The subject site is not located on a main road or boulevard, however the proposed sign is to be located on the western (rear) façade of the building which interfaces with Hoddle Street (main road) just 70m away.

291. Between the subject site and Hoddle Street there is only Commercial 2 Zoned land, as such the proposed high-wall sign is considered acceptable having regard to the context.

Car Parking and Traffic

292. Pursuant to Clause 52.06-5, the proposed use and development of the land as an office requires 15 car parking spaces, however no car parking is proposed to be provided on site. Accordingly, a planning permit is required for a reduction of car parking (to zero) pursuant to Clause 52.06-3. The food and drink premises does not require any car parking based on the proposed leasable floor area of the use, as such this use will not be assessed in the following section.

Car Parking Demand

293. The applicant has submitted a traffic report with the application, however the traffic report does not offer any assessment of the car parking demand likely to be generated by the proposed use of the land as an office.

294. Council Engineering referral has provided the following comments regarding the car parking demand for office use:

- (a) *Parking associated with office type developments is generally long-stay parking for employees and short-stay parking (say up to two hours' duration) for customers and clients. The actual parking demand generated by the office is expected to be lower than the statutory parking rate of 3 spaces per 100 square metres of floor space, since the area has very good access to public transport services.*

Parking Availability

295. The traffic report submitted with the application includes a summary of car parking restrictions of proximate on-street car parking. The survey area includes Russell Street, Henry Street and Gipps Street.

296. It is noted that there are errors in terms of the parking restrictions documented in the traffic report. Notably, the time restricted on-street car parking located to the east side of Henry Street are 1 hour restricted, rather than 2 hours as stated in the report.

297. Notwithstanding the above, a desktop review of on-street car parking restrictions on Russell Street, Henry Street and Gipps Street (between Henry and Russell Streets) is provided in figure 23 below:

On-street car parking location:	Restrictions:
Russell Street (western side)	<ul style="list-style-type: none"> • Predominantly 2 hour time restricted • Loading zone in front of No. 1-15 Russell Street • Permit zone in front of dwellings at No. 29, 39 & 41 Russell Street
Russell Street (eastern side)	<ul style="list-style-type: none"> • Unrestricted car parking • No vehicle crossover encumbrances • Applicant estimates 35 car spaces
Henry Street (western side)	<ul style="list-style-type: none"> • Predominantly 4 hour time restricted • Permit zone opposite dwelling at No. 24 Henry Street • Heavily encumbered by vehicle crossovers
Henry Street (eastern side)	<ul style="list-style-type: none"> • Predominantly 1 hour time restricted car parking • Permit zone in front of dwellings at No.'s 34-48 Henry Street

<p>Gipps Street (between Henry and Russell Streets)</p>	<ul style="list-style-type: none"> • 4 hour time restricted on the southern side of Gipps Street • Mixture of 1 hour and 4 hour time restriction on the northern side of Gipps Street.
--	--

Figure 23: On-street car parking restrictions proximate to the subject site.

298. Council's Engineering Unit notes that the demand for on-street parking in the area is very high and opportunities to park on-street are limited during business hours, however time restricted parking controls which ensure there is regular parking turnover throughout the day.

Assessment of Reduction of Car Parking

299. As noted by Council's Engineering Unit, office employees typically require long stay car parking spaces. Whilst there is unrestricted car parking along the eastern side of Russell Street, car parking availability is low due to high car parking demand in the area. Prospective tenants and employees would take this into account and commute to and from the site using alternative sustainable transportation such as public transport and bicycles.
300. The subject site is located within the PPTN and has an extremely high level of proximate public transport services that can be accessed on foot:
- (a) Hoddle Street buses – 120 metre walk
 - (b) Collingwood railway station – 170 metre walk
 - (c) Victoria Street trams – 390 metre walk
 - (d) Johnston Street buses – 690 metre walk
301. The subject site is also located in proximity to extensive on and off-road bicycle networks, with the Main Yarra and Capital City bicycle trails accessible via the eastern end of Gipps Street.
302. Furthermore, as noted in the planning schemes provision section of this report, 28 bicycle parking spaces are provided in the basement which exceeds the bicycle parking requirements at Clause 52.34 (Bicycle Facilities).
303. End of trip facilities (i.e. shower and change rooms) are provided within each office tenancy which further encourages the uptake of sustainable transport such as bike riding and walking. The adequacy of bicycle facilities is discussed in greater detail in the section below.
304. The provision of permit zones directly in front of dwellings on both Russell and Henry Streets should mitigate the impact of the increased on-street car parking demand generated by the proposed office on residential properties. Furthermore, employees at the proposed office who drive are likely to vacate unrestricted and time restricted car parking spaces at the conclusion of business hours, making them available for surrounding residents who may be returning home from work in their cars.
305. Given the disincentives for commuting via personal car and high level of access to alternative sustainable transport modes, the proposed reduction of car parking is acceptable having regard to the decision guidelines at Clause 52.06-7 and Council Engineering Unit is supportive of the proposal.

Engineering Conditions

306. As vehicle access to the site is not proposed, Council's Engineering Unit has recommended that the redundant vehicle crossover be demolished with a new kerb and channel reconstructed at cost to the permit holder. This should form a permit condition.
307. Council's Engineering Unit has also recommended standard asset protection conditions that should also form conditions of any planning permit granted.

Bicycle Facilities and Strategic Transport

308. The proposal includes a total of 28 bicycle parking spaces, 12 of which are provided at basement level, with 4 of these allocated to visitors. Each office tenancy is provided with a further 4 bicycle parking spaces plus end of trip facilities (including a shower and change room) and bike lockers at their respective floors. As noted above, no employee or visitor bicycle parking spaces or bicycle facilities are required pursuant to Clause 52.34, as such the proposal significantly exceeds the requirements of the Scheme.
309. Council's Strategic Transport Unit has confirmed the provision of 24 employee bicycle parking spaces also exceeds the 'best practice' bicycle parking of 4 employee spaces for the proposal (Category 6 of the BESS). The best practice rate of visitor car parking spaces for the proposal is 0, therefore the provision of 4 visitor spaces also exceeds this requirement.
310. All employee bicycle spaces are provided as a hanging wall rack. Council's Strategic Transport Unit has noted that at least 20% of employee spaces should be provided as horizontal at-grade spaces in accordance with AS2890.3. This should form a condition of any planning permit granted.
311. It is acknowledged that the basement floor plan details 12 'ned kelly' bike racks, however notation states that 11 bicycle spaces are provided. The applicant has confirmed the notation is incorrect and that 12 bike racks are proposed. It is recommended that a permit condition require that this notation be corrected on plans.
312. The proposed bicycle parking and facilities exceed the requirements of Clause 52.06 of the Scheme and Category 6 of the Built Environment Sustainability Scorecard and are therefore acceptable.

Waste Management

313. The advertised Waste Management Plan (WMP) was referred to Council's City Works Branch. In their referral response, several issues were identified. Of particular note, concerns with kerb side collection were raised:
- (a) *Kerbside collection may not be appropriate at this location, sufficient space (1.5m) must be available for pedestrians at the bin collection location when bins are presented. Internal waste collection should be explored.*
314. Given that vehicle access to the site is not proposed, on-site waste collection would not be possible. As such the applicant was advised to resolve this issue prior to Council deciding the application.
315. In response to Council's concerns with the advertised WMP, the applicant provided a revised WMP (dated 14-09-2020) which details the provision of four 240L waste bins (amongst other revision) and shows that a 1.5m clearance for pedestrians can be maintained during kerbside collection.
316. The revised WMP was forwarded to Council City Works Branch who confirmed that it was acceptable.
317. A condition of any planning permit granted should therefore require the provision of an amended WMP in accordance with the WMP dated 14-09-2020 to be endorsed to form part of the permit. A further condition should require on-going compliance with the provisions, recommendations and requirements of the endorsed WMP.

Objector Concerns

318. The majority of issues have been discussed in detail in assessment section of this report:
- (a) *Design (height, scale, bulk, character):*
These matters are addressed in the built form and urban design discussion at paragraphs 149 to 186.
- (b) *Off-site amenity impacts (visual bulk, overlooking, loss of daylight, construction nuisance):*

These matters are addressed in the off-site amenity discussion at paragraphs 213 to 266.

(c) *Car parking:*

The proposed reduction of car parking is address in the traffic and car parking discussion at paragraphs 292 to 307.

Conclusion

319. The proposed development is consistent with the purpose of the Commercial 2 Zone and the objectives and policies of the Planning Policy Framework and the Local Planning Policy Framework.

320. Accordingly, the proposal is considered to be an acceptable planning outcome, subject to the conditions recommended in this report.

RECOMMENDATION

That having considered all objections and relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant a Planning Permit for the construction of a five-storey (plus basement level) building for office and food and drink premises (no permit required for uses), display of high-wall, floodlit, business identification signage and a reduction in the car parking requirements at 27 Russell Street, Abbotsford, generally in accordance with the plans noted previously as the “decision plans” and subject to the following conditions:

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans prepared by Lindsay Holland Pty Ltd Architects sheet 00.00 – 13.00 & R.27 re-issue: 02 (14.05.2020) and shadow diagrams 01.02 & 02.02 issue: 01 (03.03.2020) but modified to show:
 - (a) The metal portal frames and fin infills above the third floor (L.04.01) Russell Street façade deleted.
 - (b) Floor plans amended to show:
 - (i) Finished floor levels to Australian Height Datum (AHD) or a Relative Level (RL) with the fixed datum point clearly indicated;
 - (ii) Pink grid lines deleted;
 - (iii) The location of horizontal webforge screens within the western lightcourt;
 - (c) Elevation plans to show:
 - (i) Natural ground level;
 - (ii) Finished floor levels and the overall building height to Australian Height Datum (AHD) or a Relative Level (RL) that will not be affected during construction (overall height must not exceed height dimensioned on decision plans);
 - (iii) Wall heights and overall building height dimensioned above natural ground level (heights must not exceed heights dimensioned on decision plans);
 - (iv) Vertical pink lines deleted;
 - (v) Indicative ‘signage’ notation/detail deleted from the eastern ground level façade;
 - (vi) Upper floor windows clearly detailed as openable on the east and west elevations;
 - (vii) A notation indicating where the northern boundary wall ‘steps in’;

- (viii) A notation confirming the 'magpie graphic' is to wrap around the pre-cast panel where the northern wall 'steps in';
- (d) Materials and finishes schedule amended to show:
 - (i) A notation specifying the colour of window frames in accordance with the sample provided;
 - (ii) A notation specifying that the 'steel paintwork is to be Dulux Ferrador - St Enoch's Grey;
 - (iii) Confirmation of the blue tint for the glass balustrade (sample of multiple tints removed);
- (e) Drawings/sections detailing the method of construction and finish of the magpie graphics, including specific details relating to the 'magpie graphic' which is to wrap around the pre-cast panel where the northern wall 'steps in'.
- (f) Notation corrected to specify 4 visitor bike racks at basement level (12 total);
- (g) A minimum 20% of bicycle spaces within the basement must be provided as a horizontal bicycle rail;
- (h) The size of the rooftop solar PV system as per the amended sustainability management plan;
- (i) Provision of planter boxes for vegetation on the roof terrace in lieu of potted plants; and
- (j) Adjustable, external shading devices to all exposed east-facing windows and the west-facing fourth floor window. The shading devices must be:
 - (i) A high quality and durable product; and
 - (ii) Be compatible and complement the architectural features of the building;

Compliance with endorsed plans

2. The uses and development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. The location and details of the sign, including the supporting structure, as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

Landscape Plan

4. Before the development commences, a Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Landscape Plan will be endorsed and will form part of this permit. The Landscape Plan must:
 - (a) show the type, location, quantity, height at maturity and botanical names of all proposed plants;
 - (b) indicate the location of all areas to be covered by lawn or other surface materials;
 - (c) detail the strategy for establishing and maintaining the vertical garden at ground level;
 - (d) details of all planter boxes, above basement planting areas, green walls, rooftop gardens and similar, including:
 - (i) Soil volume sufficient for the proposed vegetation
 - (ii) Soil mix
 - (iii) Drainage design

- (iv) Details of an automatic irrigation system, including maintenance program and responsibility for maintenance; and
 - (e) provide a specification of works to be undertaken prior to planting, to the satisfaction of the Responsible Authority.
5. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:
- (a) implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
 - (b) not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
 - (c) replacing any dead, diseased, dying or damaged plants, to the satisfaction of the Responsible Authority.

Sustainability Management Plan

6. Before the development commences, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Management Plan will be endorsed and will form part of this permit. The amended Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by Lindsay Holland Pty Ltd and dated 14 May 2020, but modified to include or show:
- (a) Any necessary modifications to ensure the SMP accords with the amended plans required under Condition 1 of this permit;
 - (b) Hard target of greater than 80% for recycling of construction waste to be included in the EMP;
 - (c) Capacity of courtyard rainwater tank confirmed and consistently referenced between the BESS and STORM reports;
 - (d) Delete reference to opportunities outside of title boundaries from the Urban Ecology section;
 - (e) Confirm rainwater tanks to be connect to wash closets for re-use in Water Efficiency section;
 - (f) Confirm design and provision of energy efficient VRV of HVAC system;
 - (g) Confirm the size of the rooftop solar PV system;
 - (h) BESS Report modified to show:
 - (i) Innovations which are claimed elsewhere in the report (i.e. water collection, solar array, solar HWS, construction waste and energy use) removed from the Innovations section.
7. The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
8. Prior to the occupation of the development approved under this permit, a report by a suitably qualified person or company, approved pursuant to this permit must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the sustainable management plan have been implemented in accordance with the approved plan.

Waste Management Plan

9. Before the development commences, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Waste Management Plan will be endorsed and will form part of this permit. The amended Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by Lindsay Holland Pty Ltd Architects and dated 15.04.2020, but modified to include:
 - (a) All changes to accord with the Waste Management Plan prepared by Lindsay Holland Pty Ltd Architects and dated 14.09.2020.
10. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
11. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.

Construction Management Plan

12. Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:
 - (a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
 - (b) works necessary to protect road and other infrastructure;
 - (c) remediation of any damage to road and other infrastructure;
 - (d) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land;
 - (e) facilities for vehicle washing, which must be located on the land;
 - (f) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
 - (g) site security;
 - (h) management of any environmental hazards including, but not limited to, :
 - (i) contaminated soil;
 - (ii) materials and waste;
 - (iii) dust;
 - (iv) stormwater contamination from run-off and wash-waters;
 - (v) sediment from the land on roads;
 - (vi) washing of concrete trucks and other vehicles and machinery; and
 - (vii) spillage from refuelling cranes and other vehicles and machinery;
 - (i) the construction program;
 - (j) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
 - (k) parking facilities for construction workers;
 - (l) measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;

- (m) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
- (n) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced;
- (o) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads;
- (p) a Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with Noise Control Guideline 12 for Construction (Publication 1254) as issued by the Environment Protection Authority in October 2008. The Noise and Vibration Management Plan must be prepared to the satisfaction of the Responsible Authority. In preparing the Noise and Vibration Management Plan, consideration must be given to:
 - (i) using lower noise work practice and equipment;
 - (ii) the suitability of the land for the use of an electric crane;
 - (iii) silencing all mechanical plant by the best practical means using current technology;
 - (iv) fitting pneumatic tools with an effective silencer; and
 - (v) other relevant considerations.

General

- 13. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
- 14. Before the building is occupied, any wall located on a boundary facing public property must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.

Lighting

- 15. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the pedestrian and vehicular entrances and internal laneway must be provided on the subject site. Lighting must be:
 - (a) located;
 - (b) directed;
 - (c) shielded; and
 - (d) of limited intensityto the satisfaction of the Responsible Authority.

Infrastructure

- 16. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the following works must be undertaken to Council's satisfaction and at the Permit Holder's cost:
 - (a) All redundant vehicle crossings associated with the development must be demolished and reinstated with pavement and kerb and channel;
 - (b) The kerb and channel along the property's Russell Street road frontage must be reconstructed;
 - (c) The footpath along the property's Russell Street road frontage must be reconstructed. The footpath must have a cross-fall of 1 in 40 or unless otherwise specified by Council; and

- (d) The half-width road pavement of Russell Street (from the centre line of the road to the west kerb) along the property frontage must be profiled (grounded by 50 mm) and re-sheeted.

17. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:

- (a) at the permit holder's cost; and
- (b) to the satisfaction of the Responsible Authority.

Signs

18. The signs must not include any flashing or intermittent light.

19. External sign lighting must be designed, baffled and located to the satisfaction of the Responsible Authority.

Amenity

20. The amenity of the area must not be detrimentally affected by the use or development, including through:

- (a) the transport of materials, goods or commodities to or from land;
- (b) the appearance of any buildings, works or materials;
- (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
- (d) the presence of vermin.

to the satisfaction of the Responsible Authority.

21. 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).

22. 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).

23. Delivery and collection of goods to and from the land may only occur between 7am and 10pm Monday to Saturday, or after 9am on a Sunday or public holiday except for those allowed under any relevant local law.

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

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

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

26. All pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

Permit Expiry

27. This permit will expire if:

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

28. The signage component of this permit expires 15 years from the date of the permit.

Notes:

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

All future business (whether as owners, lessees/tenants, occupiers) within the development approved under this permit, will not be permitted to obtain business parking permits.

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.

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

Only roof runoff, surface water and clean groundwater seepage from above the water table can be discharged into Council drains.

Council will not permit clean groundwater from below the groundwater table to be discharged into Council's drainage system. Basements that extend into the groundwater table must be waterproofed/tanked.

The developer needs to ensure that the building has adequate clearances from overhead power cables, transformers, substations or any other electrical assets where applicable. Energy Safe Victoria has published an information brochure, Building design near powerlines, which can be obtained from their website: <http://www.esv.vic.gov.au/About-ESV/Reports-and-publications/Brochures-stickers-and-DVDs>.

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

The applicant must apply for a Legal Point of Discharge under Regulation 133 – Stormwater Drainage of the Building Regulations 2018 from Yarra Building Services unit. Any storm water drainage within the property must be provided and be connected to the nearest Council pit of adequate depth and capacity (legal point of discharge), or to Council's satisfaction under Section 200 of the Local Government Act 1989 and Regulation 133.

CONTACT OFFICER: Konrad Bruhn
TITLE: Senior Statutory Planner
TEL: 9205 5124

Attachments

- 1 27 RUSSELL STREET ABBOTSFORD 3067 - Site Locality Map
- 2 PLN20/0173 - 27 Russell Street Abbotsford - Advertising S52 – Plans
- 3 PLN20/0173 - 27 Russell Street Abbotsford - Advertising S52 - Materials Schedule
- 4 PLN20/0173 - 27 Russell Street Abbotsford - REVISED WASTE MANAGEMENT Plan (dated 14-09-2020)
- 5 PLN20/0173 - 27 Russell Street Abbotsford - Advertising S52 - Town Planning Report
- 6 PLN20/0173 - 27 Russell Street Abbotsford - Shadow Diagrams
- 7 PLN20/0173 - 27 Russell Street Abbotsford - Advertising S52 - Signage Details
- 8 PLN20/0173 - 27 Russell Street Abbotsford - Advertising S52 - Traffic Report
- 9 PLN20/0173 - 27 Russell Street Abbotsford - Advertising S52 - Sustainable Management Plan
- 10 PLN20/0173 - 27 Russell Street Abbotsford - ESD Referral Response
- 11 PLN20/0173 - 27 Russell Street Abbotsford - Strategic Transport Referral Response
- 12 PLN20/0173 - 27 Russell Street Abbotsford - Urban Design Referral Response
- 13 PLN20/0173 - 27 Russell Street Abbotsford - Engineering Referral Response

- 14** PLN20/0173 - 27 Russell Street Abbotsford - INITIAL Waste Referral Response
- 15** PLN20/0173 - 27 Russell Street Abbotsford - REVISED Waste Referral Response

6.4 PLN20/0168 - 40-50 Rokeby Street, Collingwood

Executive Summary

Purpose

1. This report provides an assessment of the proposal at property No. 40 and 50 Rokeby Street, in Collingwood for the development of a thirteen (13) storey building and use of the land for shops (permit required use), food and drink premises, an office and a reduction in the associated car parking requirement of the Yarra Planning Scheme.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Use (Clause 34.02-1);
 - (b) Built form (Clauses 15, 21.05, 22.10, 34.02-7 and 43.02);
 - (c) Interface uses policy (Clause 22.05); and
 - (d) Car Parking and Bicycle Provision (Clauses 52.06 and 52.34) of the Yarra Planning Scheme.

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Policy and Strategic Support;
 - (b) Shop Use;
 - (c) Built form and Urban Design;
 - (d) On-site amenity including Environmentally Sustainable Design;
 - (e) Off-site amenity including Waste Management;
 - (f) Car parking and traffic;
 - (g) Bicycle facilities and strategic transport; and
 - (h) Objector concerns.

Submissions Received

4. Twenty three (23) objections were received to the application, these can be summarised as:
 - (a) Built form and design:
 - (i) Height and mass of the development is inconsistent with the neighbourhood character (including heritage) and policy.
 - (ii) The development is an overdevelopment of the site.
 - (iii) Inadequate upper level setbacks to ameliorate visual bulk.
 - (iv) The proposed laneway is of very low quality given that it is not open to the sky and will provide a poor outcome for publicly accessible space.
 - (v) Development is at odds with the lower scale heritage and residential areas to the east.
 - (vi) The podium is too high.
 - (vii) The proposal does not result in an acceptable ESD response.
 - (b) Use and Off-site amenity impacts:

- (i) Unacceptable visual bulk and overshadowing of the public realm and surrounding residences.
 - (ii) Wind impacts.
 - (c) Traffic and Car parking:
 - (i) Reduction in the car parking requirement is excessive.
 - (ii) The on-site car parking provision will cause traffic congestion.
 - (iii) Reliance on traffic through surrounding streets.
 - (iv) Not enough car parks provided on-site, the on-street car parking is already at capacity and cannot cater to overflow from development.
 - (d) Other:
 - (i) Disruption to traffic during construction.
 - (ii) Will block outlooks from the balconies of surrounding dwellings.
 - (iii) Result in an impact on the health and well-being of residents.
 - (iv) The proposal will have a negative impact on the residential 'as of rights' amenity of property No. 35-37 Rupert Street, Collingwood.
5. One (1) letter of support was received to the application, that can be summarised as:
- (i) Reduction in car parking should be supported as a means of encouraging more use of alternative forms of transportation (i.e. bicycles, transport and walking).
 - (ii) Waste collection within the building is commendable.

Conclusion

6. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported subject to the following key recommendations:
- (a) Condition 1(b) that requires the setback of the terraces from the Rokeby Street boundary above the podium to be increased to 3m; and
 - (b) A requirement for the owner to enter into a Section 173 agreement to provide unfettered 24 hour public access to the north-south link at the rear of the property (as per Condition 20).

CONTACT OFFICER: John Theodosakis
TITLE: Principal Planner
TEL: 9205 5307

6.4 PLN20/0168 - 40-50 Rokeby Street, Collingwood

Reference	D20/157126
Author	John Theodosakis - Principal Planner
Authoriser	Senior Coordinator Statutory Planning

Ward:	Langridge
Proposal:	Development of a multi-storey building and use of the land for shops, food and drinks premises, office and a reduction in the associated car parking requirement of the Yarra Planning Scheme.
Existing use:	Former automotive repairs and offices.
Applicant:	Vicky Grillakis – Associate Director Urbis Pty. Ltd.
Zoning / Overlays:	Commercial 2 / Design and Development Overlay (Schedule 11)
Date of Application:	16 March 2020
Application Number:	PLN20/0168

Background

Application process

- The application was lodged on 18th March 2020, and further information subsequently requested on 01st April 2020. The request was satisfied on 24th April 2020 and the application was then advertised with 2,942 letters being sent on 29th April 2020. At the time of writing this report, twenty three (23) objections have been received.
- Whilst this process was occurring, Officers sought and received advice from Council's internal units including Environmental Sustainable Design (ESD), City Works Unit, Engineering Unit, Urban Design and Strategic Transport. Referral advice is an attachment to this report.
- Following advertising and receipt of advice from Council's external Urban Design Consultant, Hansen Partnership Pty. Ltd. (Hansen), including discussions between Council Officers and the permit applicant, the application was formally amended on the 25th August 2020 under Section 57A of the *Planning and Environment Act 1987*.
- The "Amended" plans propose the following primary changes to the originally advertised plans (as illustrated at Figures 1 and 2):
 - The building modified from fifteen (15) to thirteen (13) storeys with two levels deleted from the mid-section, and a consequent height reduction from 65.83m to 59.03m as measured to the highest point of the roof plant screen above the natural ground level (NGL);
 - Consequent deletion of 2023.8sq.m. of office floor area;
 - The terraces from Levels 5 to 10 setback 1.15m from the western (front) boundary and their area subsequently decreased from 51.9sq.m. to 43.8sq.m.
 - Improved visibility of the lobby to Rokeby Street through the removal of the fire booster at the ground floor and new entrance; and
 - Provision of glazing across the bike store wall facing the ground level lobby (internal variation).
- The building will read as a thirteen level building with plant services, in lieu of a fifteen level building with plant services with the building modified from (as per the advertised plans):



Figure 1: Rokeby Street elevation (West Elevation) – Advertised Plans

To:

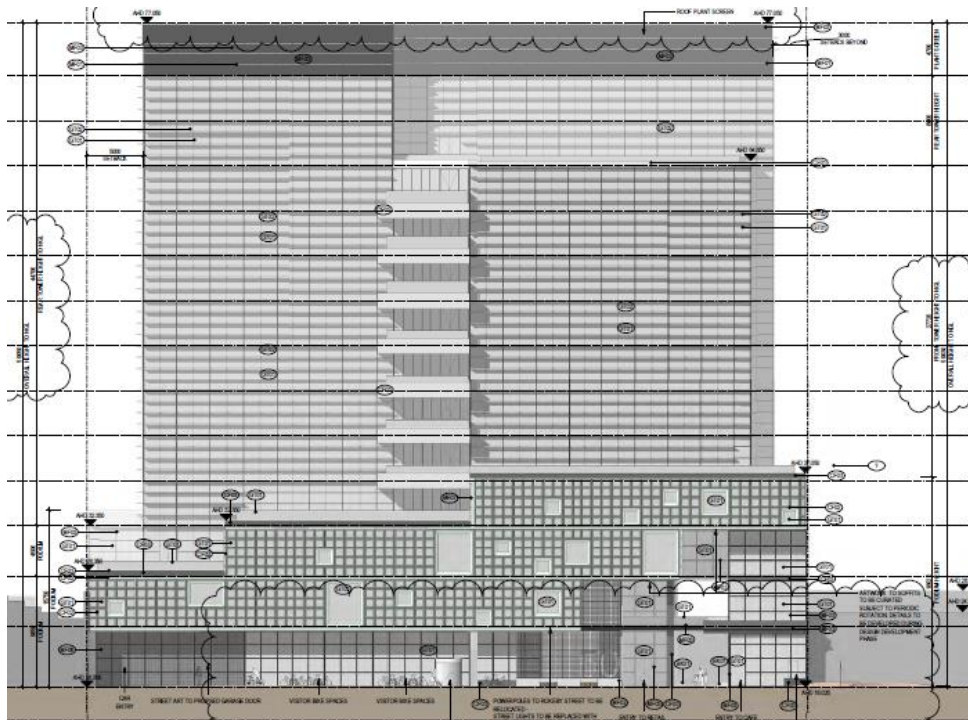


Figure 2: Rokeby Street elevation (West Elevation) – Amended Plans

6. The “Amended” plans have been submitted under Section 57(a) of the Act, formally substituting the advertised plans and will be considered for the purpose of this assessment, forming the “decision” plans. These plans have also been circulated to all objector parties with the invites to the meeting.

The Proposal

7. The application proposes to develop the land at No's. 40 and 50 Rokeby Street, Collingwood with the construction of a thirteen (13) storey building (plus service plant area) and use of the land for a shop food and drink premises, an office and a reduction in the associated car parking requirement of the Yarra Planning Scheme.
8. The key elements of the development can be summarised as follows:

Use(s)

- (a) The following uses and designated areas are proposed:
 - (i) A total of 338.8sq.m. of shop area (permit required use) at the ground floor spread across 4 tenancies with operating hours of 7am to 10pm, Monday to Sunday;
 - (ii) A food and drink premises - cafe (permit not required use) of 66.1sq.m. at the ground floor; and
 - (iii) 12,641sq.m. of office (permit not required use) spread across Level 1 to 12 with an ancillary indoor recreation facility (gym and yoga for staff) at Level 1 of 149.7sq.m.

Development

- (b) Construction of a thirteen (13) storey (plus plant roof area) building with a two level basement.
- (c) The height of the building is proposed at 54.33m to the roof above Level 12 above the natural ground level (NGL) and 59.03m level to the highest point of the roof plant screen above the NGL.
- (d) The building will read with a part two, three and four storey podium to Rokeby Street, with four varied elements (see Figures 3 and 4), being the two towers visually separated by "Sky Laneways" and terraces commencing from Levels 4 to 10 (i.e. 1, 2 and 3) with the walls at Levels 11 and 12, and plant screen above (i.e. element 4) in the southern portion being the more recessive element.

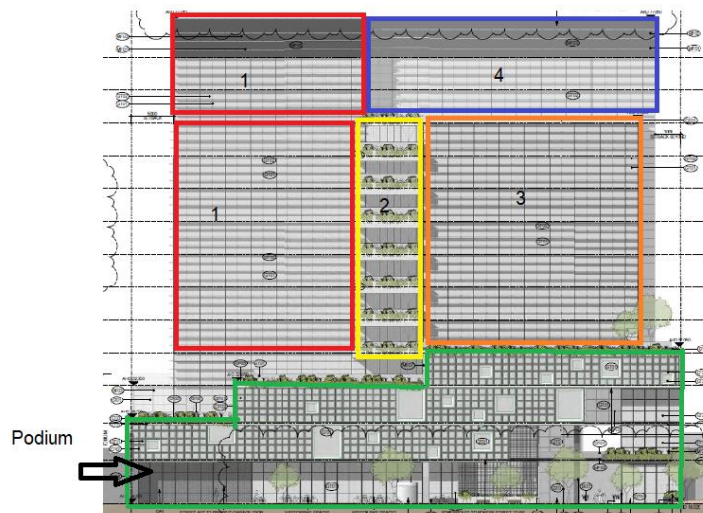


Figure 3: Elements of building as perceived from Rokeby Street to the west.

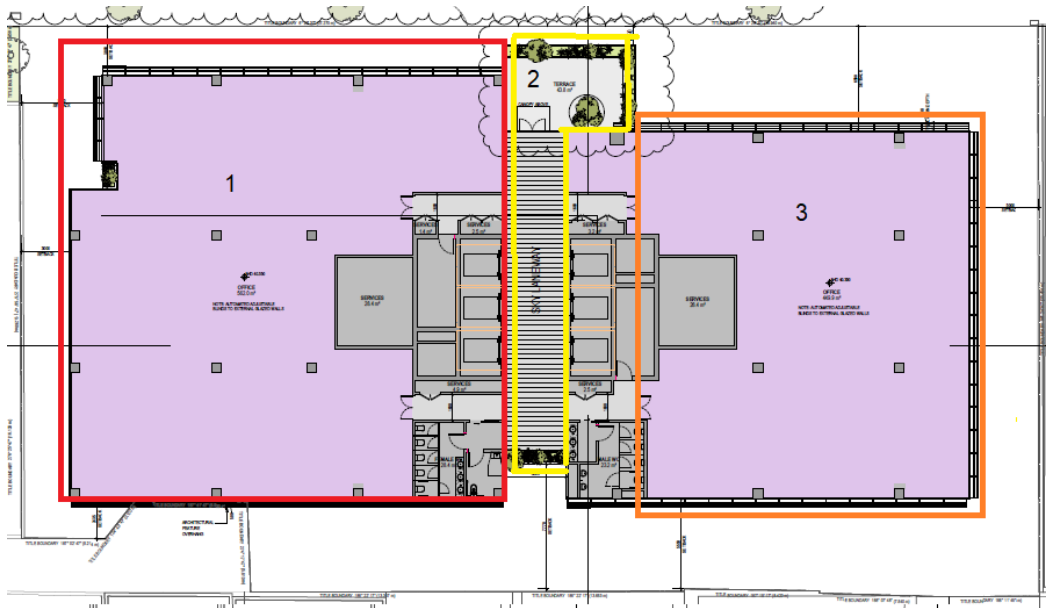


Figure 4: Portions separated by sky laneways and terraces at Levels 4-10.

Building massing and setback to Rokeby Street (West)

- (e) Two basement levels are proposed across the majority of the site.
- (f) The walls associated with the ground floor would be setback a minimum 3m from the front boundary, forming an under-croft with the levels above extending to the boundary and forming the podium to Rokeby Street which transitions from two to four levels as it extends from the north to south as follows:



Figure 5: Transitioning street podium.

- (g) The podium as measured above the natural ground level (NGL) will have a height of 9.85m (two levels i.e. A at Figure 5), transitioning to 15.75m (three levels (i.e. B at Figure 5) and 18.62mm (four levels i.e. C at Figure 5) to Rokeby Street.
- (h) The terraces commencing at Level 4 (i.e. Element No. 2) will give the impression of a physical split in the building through to Level 10 as indicated at Figures 3 and 4.
- (i) At Level 1, the building will extend across the front boundary for a length of 44.12m before setting back consecutively by 10m and 3m in the south-west corner.
- (j) At Level 2, the building to Rokeby Street will be setback 6.5m in the north-west corner before extending across the front boundary for a length of 40.85m and setting back consecutively by 10m and 3m in the south-west corner.
- (k) At Level 3, the northern portion of the building will be setback 6.5m with the exception of a terrace to Rokeby Street, before extending to the boundary for a length of 30m.
- (l) At Levels 4-10 the northern portion of the building will be setback 6.5m to Rokeby Street and the southern portion will be setback 3m with the exception of terraces that will extend into these setbacks.

- (m) The 6.5m setback will be maintained in the northern portion at Levels 11 and 12 (i.e. Element 1 continued as indicated at Figure 3) to Rokeby Street including the roof plant area, with the setback of the southern portion increased to 10.09m (i.e. Element 4 at Figure 3).

Building massing and setbacks to the North

- (n) To the north, the building will extend at the ground floor boundary for its full length with Level 1 also extending to the boundary with the exception of a short length of wall that measures 6.7m in length and setback 5m to accommodate a terrace.
- (o) Level 2 would also extend to the boundary for a length of 11.89m producing an overall boundary wall height of 14.37m above the NGL, before setting back 5m and 12.18m in the north-west corner to allow for a terrace of 113sq.m.
- (p) From Level 3 and above, the building will be setback a minimum 5m with the exception of a terrace that will extend into this setback at Level 3 in the north-east, continuing from the east with an area of 230.5sq.m.

Building massing and setbacks to the South

- (q) To the south, the building will extend at the ground and Levels 1 and 2 for its full length of 28.84m producing an on-boundary wall height of 15.7m above the NGL, with a further length that would cantilever over the ground floor, where the site is bounded by the termination of the laneway at the rear of up to 15.7m above the NGL.
- (r) At Level 3, the building will extend to the boundary for a length of 14.2m before setting back 3m for the remainder of its length to the east.
- (s) From Level 4 to Level 10, the building will be setback 3m and 5m with the exception of a terrace that will extend into this setback at Level 4 at the north-east corner as continued from the west with an area of 137.1sq.m.
- (t) Levels 11, 12 and the roof plant will be setback a minimum 3m.

Building massing and setbacks to the East

- (u) To the east, the building will be primarily setback 2.85m from the ground floor with the exception of the south-east corner that will extend to abut the laneway.
- (v) Levels 1 and 2 that will extend to the shared boundary for a length of 15.8m and height of 15.8m above the NGL where abutting a shared boundary, and lengths of 6.93m and 5.21m of walls that extend to their shared boundary where adjacent to the rear laneway.
- (w) At Levels 3 and above the building would be primarily setback 5.55m and between zero (i.e. short length of wall adjacent to the laneway) and 2.43m in the south-east corner.

Layout

- (x) The food and drink premises (café) in the south-west corner, the lobby associated with the offices and a shop (one of four tenancies) would be directly accessed from the widened footpath (i.e. 3m setback) along the Rokeby Street frontage.
- (y) A connecting pedestrian laneway to the north of the café will provide access to the remainder of the shop tenancies and the public laneway to the east.
- (z) The pedestrian walkway created by the 2.85m setback at the ground floor to the east is intended to connect pedestrian movement with the laneway further north and a future development to the east at No.'s 33 and 35-37 Rupert Street (planning application No. PLN20/0165 - still pending for a decision at the time of writing this report).
- (aa) The ground floor would include all waste services (with separate gym waste, hard waste, retail / café waste and office and general waste), service rooms (i.e. communications room and fire control room and building maintenance office), service amenities and lifts.

- (bb) The ground floor would provide a loading bay with minimum dimensions of 13.29m x 4.79m, 188 regular bicycle spaces and 6 e-bike charging stations and 1 bike repair station in a secure, purpose provided room, 10 visitor bicycle spaces in the setback to Rokeby Street, 8 visitor bicycle space adjacent to and in the rear laneway with a lobby associated with the end-of-trip (EOT) facilities located in the basement.
- (cc) The basement car park will provide up to 82 car spaces, 5 motorbike spaces, 5 electric vehicle charging points, substation, fire tank, pump and switchboard rooms, and EOT facilities with up to 428 lockers and 21 showers for staff use.
- (dd) The office area(s) would be spread across Levels 1 to 12.

Materials and Finishes

- (ee) The podium will include square shaped windows that will be predominantly consistent in their patterning (“terrace” style glazing) but with some variation with the inclusion of larger squares that will cascade from Level 3, from the south to the north. The ground floor will comprise of glazed shop fronts, including an area intended for street art (i.e. the garage door), sitting areas, landscaping opportunities and a highly articulated entrance that will include a pedestrian laneway / arcade.
- (ff) The on-boundary walls will be constructed of precast-concrete with those recessed constructed primarily of metal-framed, industrial glazing with metal horizontal metal louvers intended for articulation and shading of internal office areas.



Figure 6: Street view looking south towards the subject site from the intersection the Northumberland and Rokeby Street intersection.

ESD Features

- (gg) The development would incorporate the following ESD commitments:
 - (i) The development is claiming a BESS score of 71%, suggesting ‘Australian Excellence’;
 - (ii) All major common areas and individual tenancies will be sub-metered to allow for better user control over their own individual needs in terms of energy and water consumption;
 - (iii) A STORM report with a score of 104% demonstrating best practice relying on 290sq.m. of the roof connected to a 6,000lt rainwater tank connected to toilets;
 - (iv) A 20kWp solar PV array to contribute to onsite electricity consumption;
 - (v) An appropriate shading system to maintain thermal performance levels;

- (vi) A total of 206 bicycle spaces with end-of-trip facilities with 6 e-bike charging stations (representing a 200% increase in statutory requirements) and 1 bike repair station in a secure, purpose provided room;
- (vii) Head contractor to re-use / recycle a minimum 80% of construction and demolition waste (by weight) to minimise the volume of waste to landfill.
- (viii) 100% of the building's offsite electricity demand will be from certified GreenPower sources, reducing the building's operational GHG emissions and supporting the renewable energy sector.

Existing Conditions –

Subject Site

9. The subject site is comprised of two lots, namely 40 and 50 Rokey Street, identified as Lots S3 and 2 on Certificate of title Volume No. 12197, and Folio No's. 938 and 937, respectively and both associated with Plan of Subdivision 825872P. The subject site is located on the eastern side of Rokey Street in Collingwood between Langridge Street to the north and Victoria Parade to the south. The aerials below identify the subject site.

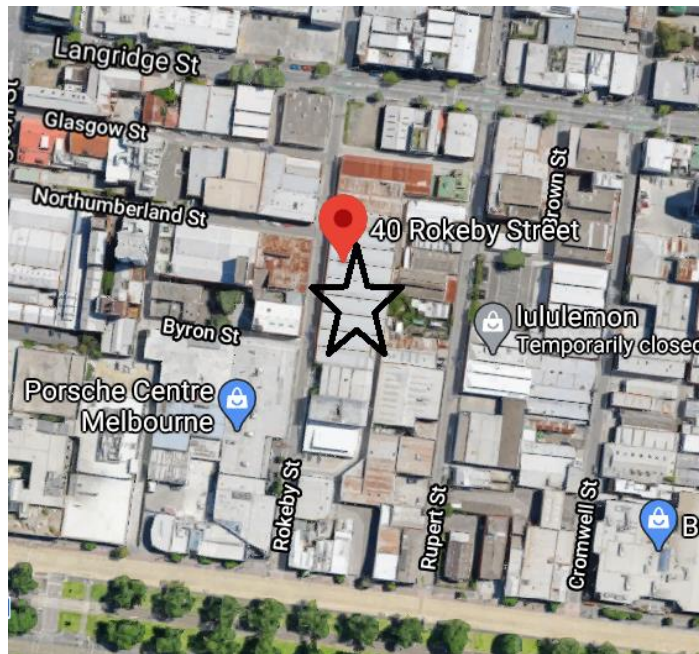


Figure 7: Aerial (sourced from Google – Map data 2020) with subject site identified with a star.



Figure 8: Aerial sourced from Permit Applicant's Town Planning report, on closer range identifying subject site in a blue outline.



Figure 9: Aerial (sourced from Google) with subject site outlined in yellow looking north-east.

10. The subject site has a frontage of 64m with a northern boundary length of approximately 35.5m and a southern boundary length approximately 24m (this length being irregular due to an irregularly shaped laneway to the rear) with an overall site area of 1,193sq.m.



Figure 10: Image (sourced from Google) looking towards the subject site from the north looking south.

11. The site is occupied by factory buildings that extend to their respective boundaries, covering 100% of the site, and used for automotive repairs and offices. The buildings present hard-edged masonry walls with a series of metal-framed windows, large openings for ease of vehicle and pedestrian access into a large open plan for automobile repairs. The saw tooth roof form clearly visible from Rokeby Street also contains glass across the flush, northern side as a means of access to solar.
12. The land gradient is flat and the site is not encumbered by any restrictive covenants save for a short party wall easement extending across the southern boundary for a length of 13.26m according to the plan of subdivision referenced earlier.

Surrounding Land

13. The surrounding area is characterised by a mixture of uses and architectural styles including industrial and commercial buildings of various types and eras as well as older style dwellings and constructed apartment developments (Yorkshire Brewery). The immediate surrounding area is zoned Commercial 2 (dark purple at Figure 11).



Figure 11: Subject site and zoning.

14. The area contains a range of businesses including light industry, manufacturing, warehousing, offices and studios and other commercial uses. Allotment sizes are varied as are building types ranging from industrial to warehouses, office and commercial, all reflecting the historic industrial nature of the area. Construction along Rokeby Street is typically built boundary to boundary, with full site coverage and car parking provided within garages or car parking areas.
15. Some sites in the wider area are underutilised and / or vacant whilst others have been redeveloped for residential (i.e. up to 17 storeys (i.e. property No. 21 Robert Street, Collingwood – the former Yorkshire Brewery site – approximately 180m north-west of the subject site and zoned Mixed Use) and commercial uses i.e. up to 11 storeys with roof top terraces at property No. 51 Langridge Street approximately 150m north-west of the site. Some are currently under construction (i.e. property no. 2-16 Northumberland Street, Collingwood that is up to 13 storeys and zoned Commercial 2 located approximately 90m west of the subject site) whilst other sites, are being cleared (see Figure 13) in preparation for the commencement of works (i.e. property No. 71 – 93 Gipps Street, Collingwood that has a planning permit (planning permit no. PLN16/1150) for the construction of an 11 storey commercial building located approximately 320m north-east of the site).
16. The subject site, combined with the properties mentioned above, forms part of the Gipps Precinct that has been identified as being strategically important for commercial activity and evidently, a transformation of built form within this precinct has commenced with further approved and proposed developments that include:
 - (a) PLN18/0183 – 19 Down Street, Collingwood – Development of an 8 storey commercial building – approved and at the time of writing, information in accordance with conditions of permit still pending. This application was considered by the Internal Development Approvals Committee on 13 May 2020 that adopted the Officer’s recommendation for the issue of a Notice of Decision to Grant a Permit with conditions.

- (b) PLN20/0165 – 33 - 37 Rupert Street, Collingwood – Development of a 10 storey commercial building – At the time of writing, this application was pending for a decision and is further referred to again in a later paragraph; and
- (c) PLN19/0719 – 128 – 144 Wellington Street, Collingwood - Staged development and use of the land for two buildings up to 15 storeys – At the time of writing, this application was pending for a decision.

17. Within the Gipps Street precinct are also a number of purpose-built dwellings including on the southern side of Gipps Street (located further north) and that to the immediate east of the subject site (the latter referred to again in a later paragraph), zoned Commercial 2.



Figure 12: Properties to the south of Gipps Street, between Rokeby and Rupert Streets with the 17-storey, former Yorkshire Brewery in the background.

18. More recently, Council received notification that the Minister for Planning (the Minister) adopted amendment C283 to the Scheme, that includes a new Schedule to Clause 45.12 ‘Specific Controls Overlay’ to facilitate a 13 storey development to land at 81-89 Rupert Street (located approximately 190m to the north-east from the subject site), also known as the ‘Walk Up Village (generally as previous proposed in Yarra planning permit application PLN19/0570).

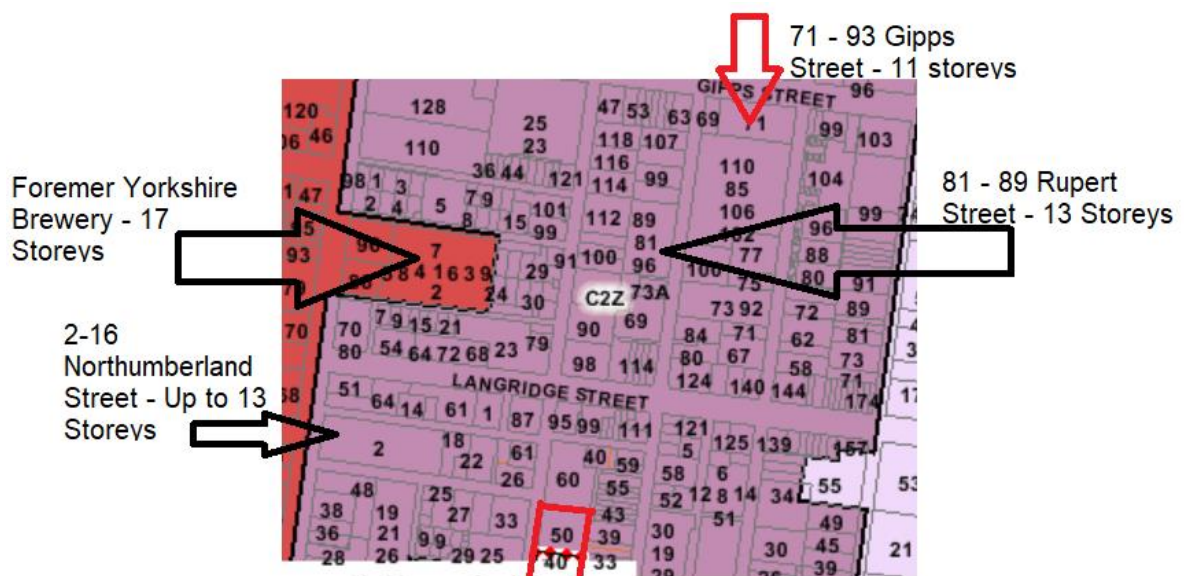


Figure 13: Subject site with locations of some taller buildings identified (proposed, approved and under construction) for context.



Figure 14: South-east corner of Gipps and Rupert Street, with the land at 71-93 Gipps Street, in the background cleared and cited with a crane in preparation of construction.

19. The site's immediate interfaces are as follow:

North



Figure 15: Property to the immediate north.



Figure 16: Vacant property to the north of Montague Street used as an informal car park.

20. To the north is a similar former factory and warehouse building that is of two-storeys and was formerly part of a larger allotment that included the subject site. This building is also used for automotive repairs, but also includes a boxing centre / gym. The building is setback at the ground floor where it provides under-croft car parking with a hard-edged first floor. The building is of masonry construction and contains a roof that is in part, flat and saw tooth. The buildings interface Montague Street to the north, and presents similarly to that described to Rokeby Street. Further north, and on the opposite side of Montague Street is a vacant lot that appears to be used as an informal car park that extending to Langridge Street further north.



Figure 17: Properties addressed to Langridge Street on the northern side between Rokeby and Rupert Streets.

21. To the north, on the opposite side of Langridge Street, are three and four-storey commercial buildings, constructed hard-edged to the street.

West

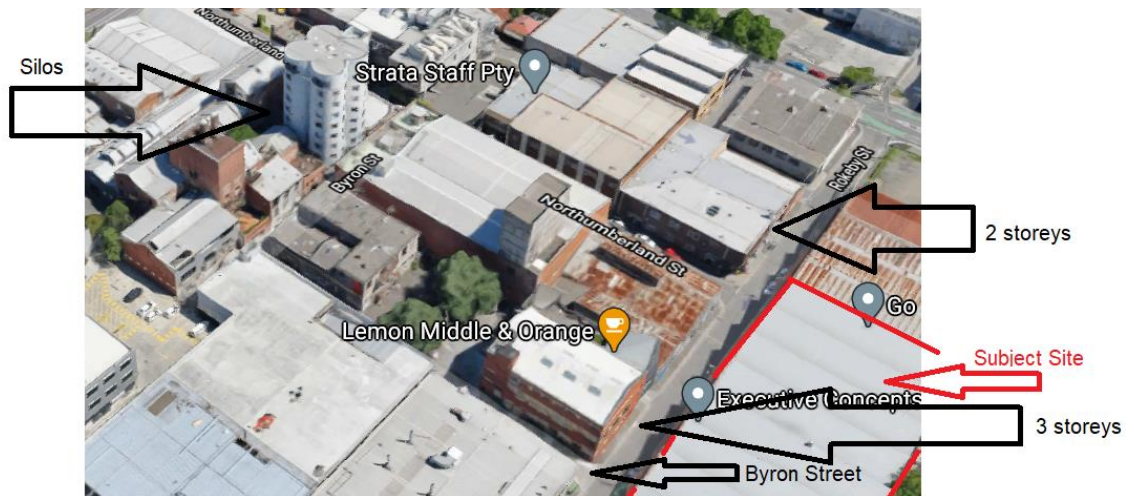


Figure 18: Aerial identifying western context of Rokeby Street and proximity and access to Silos.

22. To the immediate west is Rokeby Street which is a one-way street, with traffic flow heading south, from Langridge Street to the north. Parallel parking is provided on the eastern side of Rokeby Street with 2 and 4 hour parking restrictions. The western side of Rokeby Street contains two and three storey commercial buildings that are also constructed hard-edged to the street. Byron Street also accessed from Rokeby Street, provides access to buildings ranging between 2 and 6 storeys associated with the former silos (now redeveloped to 11 storeys) at No. 21 Northumberland Street and the former distillery at No. 26 Wellington Street.

South



Figure 19: Properties addressed to Rokeby Street to the immediate south.

23. The immediate southern properties are occupied by two single-storey commercial buildings of masonry construction and unlike the vast majority along Rokeby Street, are recessed and provide some landscaping in their front setback. The buildings have driveways with crossovers to Rokeby Street. Further south is a four-storey, hard-edge office building. Beyond that are single and double-storey warehouses, with the site specifically heritage overlay controlled (i.e. graded 'individually significant') "Prince Patrick Hotel" located at the north-east corner of the Victoria Parade and Rokeby Street intersection. On the opposite corner is a contemporary building that houses a vehicle display and showroom for 'Porsche'.
24. Victoria Parade is a tree-lined arterial road located within the Road Zone Category 1 with tram stops located within the tree reserve. Beyond Victoria Parade are a series of buildings varying in height between two, three and four levels that progressively get higher closer to the CBD.

East



Figure 20: Aerial identifying western context of Rupert Street to the east of the Subject site and two laneways.

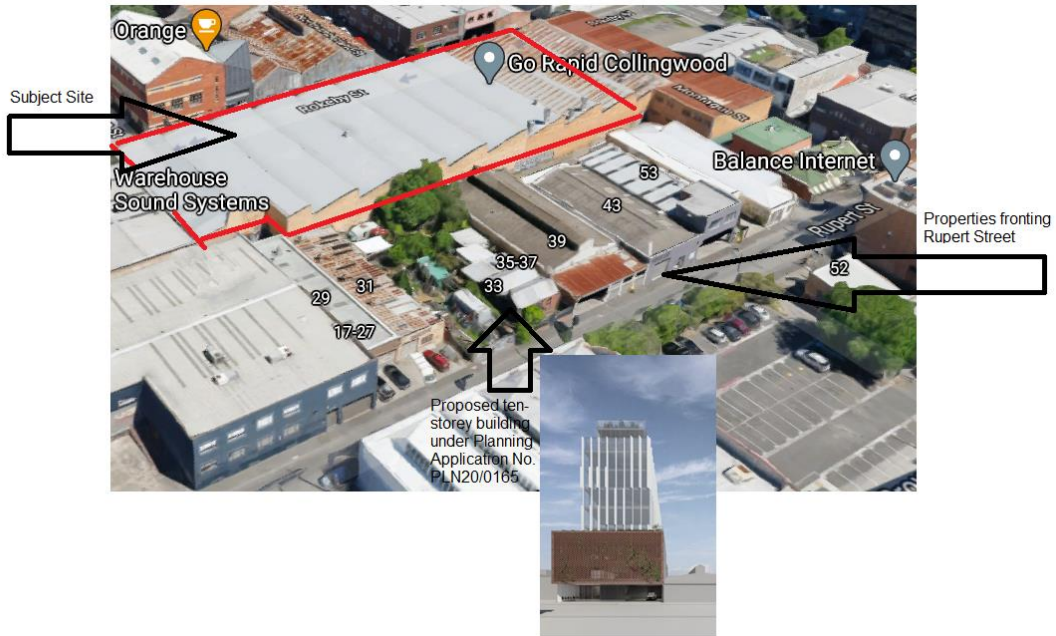


Figure 21: Aerial identifying western context of Rupert Street to the east of the Subject site with Rupert Street render of proposed building at No. 33-37 Rupert Street.

25. The subject site has an abuttal with two laneways to the east, with one extending across the boundary to the north-east and the other terminating at the subject site's secondary southern boundary in the south-east corner. The subject site separates these laneways from forming in a continuous line.
26. Immediately abutting the subject site, are properties fronting onto Rupert Street that are predominantly single-storey, including a dwelling that is anomalous to the context and industrial setting as presented by other surrounding hard-edged commercial buildings. Rupert Street is also a one way street with parallel parking on the eastern side. More broadly along Rupert Street, buildings range between single and double-storey industrial style buildings. These buildings are either vacant or used for commercial purposes and are generally hard-edged to the street. Where lots are undeveloped, land is generally used for car parking
27. At present, there is a planning application (i.e. PLN20/0165) to develop the land at property No. 33-37 Rupert Street (that has an immediate abuttal with the subject site), with a ten-storey office building with a maximum building height of 42.2m as measured above the NGL.



Figure 22: Close up of Rupert Street render of building proposed under planning application No. PLN20/0165.

28. At the time of writing, planning application No PLN20/0165 was pending for a decision.
29. The subject site is also well connected to surrounding services including being located:

- (a) Approximately 120m to the north of Victoria Parade, with various bus routes serving the western and eastern suburbs via the CBD, and tram route 109 Docklands to Box Hill via the CBD;
- (b) Approximately 290m to the west of Hoddle Street, a major arterial road with bus routes servicing Doncaster, the northern suburbs, various railway stations, the CDB, Elsternwick and St Kilda;
- (c) Approximately 500m to the east of Smith Street, a Major Activity Centre, with bars, cafes, restaurants, taverns, nightclubs, retail and community facilities, and tram route 86 serving Docklands and Boroondara via the CBD;
- (d) Approximately 650m from the North Richmond Railway Station located south-east; and
- (e) Approximately 900m to the south of Johnston Street, a Neighbourhood Activity Centre, with bus routes servicing this Centre.

Planning Scheme Provisions

Zoning

Commercial 2 Zone (C2Z)

30. The purposes of this zone are:
- (a) *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
 - (b) *To encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services.*
 - (c) *To ensure that uses do not affect the safety and amenity of adjacent, more sensitive uses.*
31. Pursuant to Clause 34.02-1 of the Yarra Planning Scheme (the “Scheme”) the shop use requires a planning permit as it does not meet the full array of requirements at the Table of uses of Clause 34.02-1 (i.e. is not on the same land as a supermarket) of the Scheme.
32. The food and drink premises and office use **do not** require planning approval because the former is less than 100sq.m. and the latter is a no permit required use at the Table of uses of Clause 34.02-1 of the Scheme.
33. Pursuant to Clause 34.02-4 of the Scheme, a planning permit is required to construct a building or construct or carry out works.

Overlays

Design and Development Overlay (DDO) – Schedule 11 – Gipps Precinct

34. Pursuant to Clause 43.02-2 of the Scheme, a planning permit is required to construct a building.
35. Schedule 11 to the DDO contains requirements in assessing buildings and provides the following decision guidelines at point 7 that must be considered:
- (a) *The impact of traffic generated by the proposal and whether it is likely to require additional traffic management control works in the neighbourhood.*
 - (b) *How the design, height and form of development responds to the preferred built form character of the Precinct.*
 - (c) *How the design, height and visual bulk of building/s on the site address potential negative amenity impacts on surrounding development.*
 - (d) *How the proposal improves the street environment for pedestrians along street frontages.*
 - (e) *The location of, and access to, parking facilities and their effect on the local road network.*

Particular Provisions

Clause 52.06 – Car parking

36. Clause 52.06-1 requires that a new use must not commence or the floor area of an existing use must not be increased until the required car spaces have been provided on the land.
37. Pursuant to Clause 52.06-3 a permit is required to reduce the number of car parking spaces required under this clause.
38. Pursuant to Clause 52.06-5, Column B of Table 1 applies if any part of the land is identifies as being within the Principal Public Transport Network Area as shown on the *Principal Public Transport Network Area Maps* (State Government of Victoria, August 2018). The subject site is shown as being within the Principal Public Transport Network Area and therefore Column B applies.
39. Before a requirement for car parking is reduced, the applicant must satisfy the Responsible Authority that the provision of car parking is justified having regard the decision guidelines at clause 52.06-6 of the Scheme.
40. The following table identifies the car parking requirement under Clause 52.06-5 and the provision on site.

Proposed Use	Quantity/ Size	Statutory Parking Rate*	No. of Spaces Required	No. of Spaces Allocated
Office	12,641sq.m.	3 spaces per 100sq.m. of net floor area	379	77
Shop	338.8sq.m.	3.5 spaces per 100sq.m. of leasable floor area	11	4
Food and drink premises (Café)	66.1sq.m.	3.5 spaces per 100sq.m. of leasable floor area	2	1
Total			392	82

41. A total of 82 car spaces are proposed on site, therefore the application seeks a reduction of 310 car spaces. Under the previous scheme that was advertised, the application sought a reduction of 370 car spaces.

Clause 52.34 – Bicycle Facilities

42. Pursuant to clause 52.34, a new use must not commence until the required bicycle facilities and associated signage has been provided on the land. The purpose of the policy is to encourage cycling as a mode of transport and to provide secure, accessible and convenient bicycle parking spaces
43. Under the provisions of Clause 52.34-3 of the Scheme, the development’s bicycle parking requirements are as follows:

Proposed Use	Quantity/ Size	Statutory Parking Rate	No. of Spaces Required
Office (other than specified in the table)	12,641sq.m.	1 employee space to each 300 sqm of net floor area if the net floor area exceeds 1000 sqm	42 employee spaces

		1 visitor space to each 1000 sqm of net floor area if the net floor area exceeds 1000 sqm	12 visitor spaces.
Shop and Food and drink premise (café) – nested with retail	338.8sq.m. and 66.1sq.m. – combined total of 404.9	1 to each 600 sq m of leasable floor area if the floor area exceeds 1000sq.m.	0
		1 visitor space to each 500 sqm of leasable floor area if the leasable floor area exceeds 1000 sqm	0
Bicycle Parking Spaces Total			42 employee spaces
			12 visitor spaces
Showers / Change rooms	1 to the first 5 employee spaces and 1 to each additional 10 employee spaces		4 showers / change rooms

44. The development proposes 188 regular bicycle spaces for staff / employees and 6 e-bike charging stations and 1 bike repair station in a secure, purpose provided room, 10 visitor bicycle spaces in the setback to Rokeby Street, 8 visitor bicycle space adjacent to and in the rear laneway with a lobby associated with EOT facilities located in the basement with up to 20 showers, all linked to change rooms, including 428 lockers. As such the bicycle requirements are above and beyond the statutory requirements of the Scheme.
45. Clause 52.34-4 provides the design standard for bicycle spaces and signage.

General Provisions

Clause 65 – Decision Guidelines

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

Clause 66.02 – Use and Development Referrals

47. In accordance with Clause 66.02-11 of the Yarra Planning Scheme, an application to construct a building or to construct or carry out works for an office building that provides an area in excess of 10,000sq.m. must be referred to the Head, Transport for Victoria. The Head, Transport for Victoria, is a determining referral authority for this application.

Planning Policy Framework (PPF)

48. Relevant clauses are as follows:

Clause 11.01-1R – Settlement – Metropolitan Melbourne

49. The relevant strategies of this clause are:

- (a) *Develop a network of activity centres linked by transport; consisting of metropolitan activity centres supported by a network of vibrant major and neighbourhood activity centres of varying size, role and function.*

- (b) *Create mixed-use neighbourhoods at varying densities, including through the development of urban-renewal precincts that offer more choice in housing, create jobs and opportunities for local businesses and deliver better access to services and facilities.*

Clause 11.02 - Managing Growth

Clause 11.02-1S - Supply of Urban Land

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

Clause 13.05 - Noise

Clause 13.05-1S - Noise abatement

51. The relevant objective of this clause is *“to assist the control of noise effects on sensitive land uses”*.

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

Clause 13.07 - Amenity and Safety

Clause 13.07-1S - Land use compatibility

53. The objective of this clause is *“to safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects”*.

Clause 15.01 - Built Environment and Heritage

Clause 15.01-1S - Urban design

54. The relevant objective of this clause is *“to create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity”*.

Clause 15.01-1R - Urban design - Metropolitan Melbourne

55. The objective of this clause is *“to create distinctive and liveable city with quality design and amenity”*.

Clause 15.01-2S - Building design

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

57. Relevant strategies of this clause are:

- (a) *Ensure a comprehensive site analysis as the starting point of the design process and provides the basis for the consideration of height, scale and massing of new development.*
- (b) *Ensure development responds and contributes to the strategic and cultural context of its location.*
- (c) *Minimise the detrimental impact of development on neighbouring properties, the public realm and the natural environment.*
- (d) *Ensure the form, scale, and appearance of development enhances the function and amenity of the public realm.*
- (e) *Ensure buildings and their interface with the public realm support personal safety, perceptions of safety and property security.*
- (f) *Ensure development is designed to protect and enhance valued landmarks, views and vistas.*
- (g) *Ensure development provides safe access and egress for pedestrians, cyclists and vehicles.*

(h) *Ensure development provides landscaping that responds to its site context, enhances the built form and creates safe and attractive spaces.*

58. This clause also states that planning must consider (as relevant), the *Urban Design Guidelines for Victoria (Department of Environment, Land, Water and Planning, 2017)*.

Clause 15.01-4S - Healthy neighbourhoods

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

Clause 15.01-4R - Healthy neighbourhoods - Metropolitan Melbourne

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

Clause 15.01-5S - Neighbourhood character

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

Clause 15.02 - Sustainable Development

Clause 15.02-1S - Energy Efficiency

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

Clause 17.01 – Employment

Clause 17.01-1S – Diversified economy

63. The objective of this clause is *“to strengthen and diversify the economy”*.

64. The relevant strategies of this clause are:

(a) *Protect and strengthen existing and planned employment areas and plan for new employment areas.*

(b) *Facilitate growth in a range of employment sectors, including health, education, retail, tourism, knowledge industries and professional and technical services based on the emerging and existing strengths of each region.*

(c) *Improve access to jobs closer to where people live.*

Clause 17.02 – Commercial

Clause 17.02-1S – Business

65. The relevant objective of this clause is *“to encourage development that meets the communities’ needs for retail, entertainment, office and other commercial services”*.

66. The relevant strategies of this clause is:

(a) *Plan for an adequate supply of commercial land in appropriate locations.*

(b) *Ensure commercial facilities are aggregated and provide net community benefit in relation to their viability, accessibility and efficient use of infrastructure.*

(c) *Locate commercial facilities in existing or planned activity centres.*

Clause 18.02 - Movement Networks

Clause 18.02-1S – Sustainable personal transport

67. The relevant objectives of this clause is *“to promote the use of sustainable personal transport”*.

68. Relevant strategies of this policy are:

(a) *Encourage the use of walking and cycling by creating environments that are safe and attractive.*

- (b) *Develop high quality pedestrian environments that are accessible to footpath-bound vehicles such as wheelchairs, prams and scooters.*
- (c) *Ensure cycling routes and infrastructure are constructed early in new developments.*
- (d) *Provide direct and connected pedestrian and bicycle infrastructure to and between key destinations including activity centres, public transport interchanges, employment areas, urban renewal precincts and major attractions.*
- (e) *Ensure cycling infrastructure (on-road bicycle lanes and off-road bicycle paths) is planned to provide the most direct route practical and to separate cyclists from other road users, particularly motor vehicles.*
- (f) *Require the provision of adequate bicycle parking and related facilities to meet demand at education, recreation, transport, shopping and community facilities and other major attractions when issuing planning approvals.*
- (g) *Provide improved facilities, particularly storage, for cyclists at public transport interchanges, rail stations and major attractions.*
- (h) *Ensure provision of bicycle end-of-trip facilities in commercial buildings*

Clause 18.02-1R – Sustainable personal transport- Metropolitan Melbourne

69. Strategies of this policy are:

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

Clause 18.02-2S - Public Transport

70. The objective of this clause is “to facilitate greater use of public transport and promote increased development close to high-quality public transport routes”.

Clause 18.02-2R - Principal Public Transport Network

71. A relevant strategy of this clause is to “maximise the use of existing infrastructure and increase the diversity and density of development along the Principal Public Transport Network, particularly at interchanges, activity centres and where principal public transport routes intersect”.

Clause 18.02-4S – Car Parking

72. The objective of this clause is “to ensure an adequate supply of car parking that is appropriately designed and located”.

73. A relevant strategy is “protect the amenity of residential precincts from the effects of road congestion created by on-street parking”.

Local Planning Policy Framework (LPPF)

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

Municipal Strategic Statement (MSS)

75. Relevant clauses are as follows:

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

Clause 21.03 – Vision

77. The relevant sections of this Clause are:

- (a) *Yarra will have increased opportunities for employment;*
- (b) *The complex land use mix characteristic of the inner city will provide for a range of activities to meet the needs of the community;*

- (c) *Yarra's exciting retail strip shopping centres will provide for the needs of local residents, and attract people from across Melbourne; and*
- (d) *Most people will walk, cycle and use public transport for the journey to work.*

Clause 21.04-3- Industry, office and commercial

78. The objective of this clause is *"to increase the number and diversity of local employment opportunities"*.

Clause 21.05-2 – Urban Design

79. The relevant objectives of this Clause are:

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

Clause 21.05-3 – Built Form Character

80. A relevant objective of this Clause is *"to maintain and strengthen the identified character of each type of identified built form within Yarra"*.

Clause 21.05-4 – Public Environment

81. The relevant objective and strategies of this clause are:

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

Clause 21.06 – Transport

82. This policy recognises that Yarra needs to reduce car dependence by promoting walking, cycling and public transport use as viable and preferable alternatives.

83. Parking availability is important for many people, however in Yarra unrestricted car use and parking is neither practical nor achievable. Car parking will be managed to optimise its use and to encourage sustainable transport options.
84. Relevant objectives and strategies of this clause are as follows:
- (a) *Objective 30 – To provide safe and convenient pedestrian and bicycle environments.*
 - (i) *Strategy 30.2 – Minimise vehicle crossovers on street frontages.*
 - (ii) *Strategy 30.3 – Use rear laneway access to reduce vehicle crossovers.*
 - (b) *Objective 31 – To facilitate public transport usage.*
 - (c) *Objective 32 – To reduce the reliance on the private motor car.*
 - (d) *Objective 33 To reduce the impact of traffic.*
 - (i) *Strategy 33.1 Ensure access arrangements maintain the safety and efficiency of the arterial and local road network.*

Clause 21.07-1 – Ecologically sustainable development

85. The relevant objective is “to promote ecologically sustainable development”.
86. A relevant strategy of this clause is Strategy 34.1 which is to “encourage new development to incorporate environmentally sustainable design measures in the areas of energy and water efficiency, greenhouse gas emissions, passive solar design, natural ventilation, stormwater reduction and management, solar access, orientation and layout of development, building materials and waste minimisation”.

Clause 21.08-5 Neighbourhoods - Collingwood

87. The neighbourhood character statement for this area at Clause 21.08-5 states:
- (a) *The Gipps Street industrial precinct is characterized by traditional manufacturing, service activities and a considerable portion of activity related to the textile, clothing and footwear sector. The precinct provides the opportunity for a wide range of small to medium businesses to operate in a location that is relatively unconstrained by sensitive uses.*
 - (b) *To allow flexibility for large sites which may have difficulty in finding new industrial tenants rezoning to Business 3 will be supported. This will enable the area to retain an industrial character but evolve to provide a wider range of employment opportunities including service business and offices uses. Any change of use should consider opportunities for improvement to the public domain.*
88. Figure 14 shows the subject site is a ‘non-residential area’ where the built form character objective is to improve the interface of development with the street.

Relevant Local Policies

Clause 22.03 – Landmarks and Tall Structures

89. This policy applies to all development. Whilst the site is not within proximity to an identified sign or landmark within the policy, it is important to “ensure the profile and silhouette of new tall structures adds to the interest of Yarra’s urban form and skyline.”

Clause 22.05 – Interfaces Uses Policy

90. This policy applies to all development and land use applications and aims to reduce conflict between commercial, industrial and residential activities. The policy acknowledges that the mix of land uses and development that typifies inner city areas can result in conflict at the interface between uses.
91. It is policy that “new non-residential use and development within Business and Mixed Use and Industrial Zones are designed to minimise noise and visual amenity impacts upon nearby, existing residential properties”.

92. Decision guidelines at clause 22.05-6 include that *“before deciding on an application for non-residential development, Council will consider as appropriate:*
- (a) *The extent to which the proposed buildings or uses may cause overlooking, overshadowing, noise, fumes and air emissions, light spillage, waste management and other operational disturbances that may cause unreasonable detriment to the residential amenity of nearby residential properties.*
 - (b) *Whether the buildings or uses are designed or incorporate appropriate measures to minimise the impact of unreasonable overlooking, overshadowing, noise, fumes and air emissions, light spillage, waste management and other operational disturbances on nearby residential properties”.*

Clause 22.07 – Development Abutting Laneways

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

Clause 22.16 Stormwater Management - Water Sensitive Urban Design

94. Clause 22.16-3 requires the use of measures to *“improve the quality and reduce the flow of water discharge to waterways”*, manage the flow of litter from the site in stormwater and encourage green roofs, walls and facades in buildings where practicable.

Clause 22.10 Built form and design policy

95. This policy applies to all new development not included in a Heritage Overlay. The relevant objectives of this policy are to:
- (a) *Ensure that new development positively responds to the context of the development and respects the scale and form of surrounding development where this is a valued feature of the neighbourhood character.*
 - (b) *Ensure that new development makes a positive contribution to the streetscape through high standards in architecture and urban design.*
 - (c) *Limit the impact of new development on the amenity of surrounding land, particularly residential land.*
 - (d) *Design buildings to increase the safety, convenience, attractiveness, inclusiveness, accessibility and ‘walkability’ of the City’s streets and public spaces.*
 - (e) *Create a positive interface between the private domain and public spaces.*
 - (f) *Encourage environmentally sustainable development.*

Clause 22.16 Stormwater Management - Water Sensitive Urban Design

96. Clause 22.16-3 requires the use of measures to *“improve the quality and reduce the flow of water discharge to waterways”*, manage the flow of litter from the site in stormwater and encourage green roofs, walls and facades in buildings where practicable.

Clause 22.17 – Environmentally Sustainable Design

97. The overarching objective is that development should achieve best practice in environmentally sustainable development from the design stage through to construction and operation. The considerations are energy performance, water resources, indoor environment quality, storm water management, transport, waste management and urban ecology.

Other Documents

Urban Design Guidelines for Victoria (DELWP)

98. These are policy guidelines within the Planning Policy Framework of the Victoria Planning Provisions that where relevant, must be considered when assessing the design and built form of new development. The guidelines use best practice knowledge and advice underpinned by sound evidence.

Gipps Street Local Area Plan

99. The Gipps Street Local Area Plan (GSLAP) was adopted by Council in February 2010. This plan includes objectives, strategies and actions which deal with future land use and form of development, physical improvements and infrastructure investments. It provides the strategic basis for future development and activity mix, preferred future character, a guide for new public works and infrastructure, design guidance and an overall approach to implementation and priorities.
100. This plan pre-dates the rezoning of the subject land from Industrial to Commercial and influenced the implementation of Schedule 11 to the Design and Development Overlay affecting the site.

101. The GSLAP aims to reduce car travel into the precinct, as follows:

- (a) *A broader policy objective to implement Council's Strategic Transport Statement is to reduce the proportion of trips into and out of the precinct by car.*
- (b) *Reduced car travel will depend primarily on broader initiatives beyond the scope of this plan.*
- (c) *Local initiatives should aim to improve walking and cycle access and connections to public transport and slowing car and other vehicle traffic in and around the precinct.*

Plan Melbourne

102. Released in May 2017, Plan Melbourne 2017-2050 (Plan Melbourne) outlines the key strategic directions with regard to the provision of housing and commercial activity within Melbourne's urban areas. The strategic outcomes outlined in the document are required to be considered as part of Council's decision-making process and include (inter-alia):

- (a) Outcome 1: *'Melbourne is a productive city that attracts investment, supports innovation and creates jobs.'*
 - (i) Direction 1.2 of Plan Melbourne is to *'Improve access to jobs across Melbourne and closer to where people live'*.
- (b) The strategy promotes '20-minute neighborhoods' where there is access to local shops, schools, parks, jobs and a range of community services within a 20 minute trip from your front door.

Melbourne Industrial and Commercial Land Use Plan (MICLUP)

103. The Melbourne Industrial and Commercial Land Use Plan builds on the relevant policies and actions of Plan Melbourne 2017-2050 and its associated Plan Melbourne 2017-2050 Five-Year Implementation Plan.
104. The MICLUP identifies the Gipps Street precinct in Collingwood as a key commercial area, stating that *"it is home to creative sectors such as architecture and design, software and interface design and visual arts. Council strategies support commercial office conversions, small office complexes, light industry and office warehouse developments in the area"*.
105. The strategy identifies that planning within the Inner Metro Region (inclusive of Melbourne City Council, Port Phillip Council and Yarra City Council) should *retain and support areas in and around Collingwood, Cremorne and South Melbourne to continue to develop as key locations creative industry uses.*
-

106. The MICLUP anticipates an additional 4 million square metres of commercial floor space will be required across the Inner Metro Region by 2031. Of this, approximately 3.3 million square metres is anticipated to be required for office uses and the remaining floor space to be allocated for retail. Whilst the City of Melbourne is anticipated to accommodate the majority of the additional floor spaces required, the City of Yarra is expected to provide, in addition to the existing 933,400sqm of commercial floor space identified in 2018, an additional 548,000sqm of commercial floor space by 2031.

Spatial Economic and Employment Strategy

107. The Spatial Economic and Employment Strategy (SEES) was adopted by Council in September 2018 and includes 6 directions which will inform future policy for the Scheme.
108. The strategic direction contained within the SEES supersedes that contained within the Yarra Business and Industrial Land Strategy (BILS), adopted by Council in June 2012.
109. The Gipps Street Major Employment Precinct (located between Smith, Johnston and Hoddle Streets and Victoria Parade) is nominated as one of five major employment precincts within Yarra, the other four being Abbotsford, Church Street south, Cremorne and Victoria Parade.
110. A Strategy of the SEES relevant to this application is Strategy 2: Retain and grow Yarra's Major Employment precincts:

To accommodate projected demand for commercial floor space, Yarra's two large consolidated employment precincts at Gipps Street, Collingwood and Cremorne/Church Street South, Richmond should be retained for employment activities. These areas have made a gradual transition from predominantly industrial uses to a wider mix of activities that include professional services, creative industries, medical-related activities and small-scale manufacture. Zoning should continue to exclude residential development to retain the core employment function of these precincts.

111. The strategy includes the following precinct specific directions for the Gipps Street precinct:

Given projected demand for employment floor space, and office floor space in particular, the precinct should retain its employment focus. Recent zoning changes have already provided greater flexibility in the range of permissible employment land uses.

Although there are many retail and hospitality business beyond the immediate Gipps Street precinct, the lack of retail within the precinct could be a barrier to attracting new businesses. The collection of smaller business on Glasshouse Road at the western edge of the precinct might be interpreted as evidence of the attractiveness of the more vibrant quarters of the precinct.

More detailed built form guidance would provide greater clarity about opportunities for additional development and the scale and form envisaged.

This precinct could accommodate future demand for floor space generated by both the Victoria Parade health precinct and the Johnston Street Activity Centre, where capacity for growth is more constrained.

112. The SEES also acknowledges that *employment across the precinct is changing, with the evolution of a more diverse commercial employment base focused around the creative sector, service industries, and hybrid office/industrial businesses.*

Advertising

113. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 2,227 letters sent to surrounding owners and occupiers and by two signs displayed on the Rokeby Street frontage. Twenty three (23) objections were received to the application, these can be summarised as:

- (a) Built form and design:

- (i) Height and mass of the development is inconsistent with the neighbourhood character (including heritage) and policy.
- (ii) The development is an overdevelopment of the site.
- (iii) Inadequate upper level setbacks to ameliorate visual bulk.
- (iv) The proposed laneway is of very low quality given that it is not open to the sky and will provide a poor outcome for publicly accessible space.
- (v) Development is at odds with the lower scale heritage and residential areas to the east.
- (vi) The podium design is too high.
- (vii) The proposal does not result in an acceptable ESD response.
- (b). Use and Off-site amenity impacts:
 - (i) Unacceptable visual bulk and overshadowing of the public realm and surrounding residences.
 - (ii) Wind impacts.
- (c) Traffic and Car parking:
 - (i) Reduction in the car parking requirement is excessive.
 - (ii) The on-site car parking provision will cause traffic congestion
 - (iii) Reliance on traffic through surrounding streets.
 - (iv) Not enough car parks provided on-site, the on-street car parking is already at capacity and cannot cater to overflow from development.
- (d) Other:
 - (i) Disruption to traffic during construction.
 - (ii) Will block outlooks from the balconies of surrounding dwellings.
 - (iii) Result in an impact on the health and well-being of residents.
 - (iv) The proposal will have a negative impact on the residential 'as of rights' amenity of property No's. 35-37 Rupert Street, Collingwood.

114. One (1) letter of support was received to the application, that can be summarised as:

- (a) Reduction in car parking should be supported as a means of encouraging more use of alternative forms of transportation (i.e. bicycles, transport and walking).
- (b) Waste collection within the building is commendable.

115. Due to the volume of objections received and Government restrictions related to COVID-19, a planning consultation was not held. However, the planning officer overseeing the application has been available via phone and email to residents wishing to discuss the matter further.

116. The amended plans were not re-advertised and were exempt from the notice requirements as agreed to by Council's Development Assessment Panel on 27th October 2020, given that these reduce the size of the building. However, the plans have been circulated to the Objectors with their invitation to this meeting.

Referrals

External Referrals

117. The application was referred to the following authority:

- (a) Department of Transport.

118. No objection to the application was received. The response has been included as an attachment to this report.

Internal Referrals

119. The application was referred to the following units within Council:
- (a) Urban Design Unit (public realm only);
 - (b) Engineering Unit;
 - (c) Strategic Transport Unit;
 - (d) City Works Unit; and
 - (e) ESD Advisor.

External Consultants

120. The application was referred to the following external consultants:
- (a) Urban Design (Hansen Partnership Pty. Ltd.); and
 - (b) Wind (Vipac Engineers and Scientists Ltd.).
121. Referral comments have been included as attachments to this report.

OFFICER ASSESSMENT

122. The primary considerations for this application are as follows:
- (a) Policy and Strategic justification;
 - (b) Land Use;
 - (c) Built Form – Urban Design;
 - (d) On-site Amenity (ESD);
 - (e) Off-site Amenity;
 - (f) Traffic, access and car parking;
 - (g) Waste Management/Loading;
 - (h) Other Matters; and
 - (i) Objector's concerns.

Policy and Strategic Justification

123. The proposal has strong strategic support at a State and local level. The C2Z which applies to the site is capable of accommodating greater density and higher built form, subject to individual site constraints.
124. State and local policies (such as clauses 11.02-1S and 21.04-3) encourage the concentration of development near activity centres (with the Smith Street Major Activity Centre located approximately 455m west), diversifying employment opportunities and more intense development on sites well connected to public transport.
125. Pursuant to State policy at clause 17, economic development is to be fostered by *'...providing land, facilitating decisions and resolving land use conflicts, so that each region may built on its strengths and achieve its economic potential'*. At a local level, the Municipal Strategic Statement at Clause 21.04-3 seeks to *'increase the number and diversity of local employment opportunities'*. The proposal will support economic opportunities in a highly accessible, service-rich area. The varied uses proposed will increase employment opportunities. The proposal is complementary to the surrounding area due to the sites location and is not expected to pose interface conflict issues.

126. Council's recent SEES document, identifies the Gipps Street Major Employment precinct as evolving to including '*a more diverse commercial employment base focused around the creative sector, service industries and hybrid office/industrial businesses*'. The proposal is a hybrid of all of these use and will comfortably knit into this emerging culture of uses within the precinct.
127. In regard to the proposed built form, local and state policies encourage the concentration of development in and around activity centres but also intensifying development on sites that are specifically zoned to be tailored to accommodate development that is well connected to public transport and therefore ensuring the efficient use of existing infrastructure, which is also an important facet of Clause 65.
128. Schedule 11 to the DDO also provides further guidance for the preferred direction for development on the subject site and the surrounding land, which reinforces current State and Local policy to increase the number and diversity of employment opportunities within and around activity centres as is proposed and discussed favourably.
129. The application proposes the construction of a twelve-storey building (plus roof plant area) in an area that has potential for an increase in development (as is also evidenced by the number of large developments in the surrounding area that can be seen from multiple streets). The area is undergoing significant development and the proposal is highly consistent with the purpose of the zone and strategic intent for this area (including the requirements within Schedule 11 of the DDO that seek to encourage intensification of commercial uses and provision of diverse employment opportunities.
130. The site's proximity to public transport would encourage the use of alternative modes of transport to and from the site rather than reliance on motor vehicles, complying with clauses 21.03 – Vision; 18.02-2S – Public Transport; and 21.06 –Transport of the Scheme.
131. While there may be strong strategic direction for intensified development and a car parking reduction on the subject site, the built form policy and direction under clauses 22.05 – *Interface uses* and Clause 15 - *Built Environment and Heritage*, Clause 21.05 - *Built Form* and Clause 22.10 - *Built form and design policy* of the Scheme also outline that consideration must be given to the design of the building and its interfaces with the surrounding area. These policies will therefore be considered in associated with the requirements within Schedule 11 of the DDO.
132. The size of the subject site allows for a more robust development to occur in its existing underutilised conditions. However, more intensive growth, whilst strongly supported by policy, must respond to existing conditions and be tempered to respect the existing neighbourhood and the site's relationship with adjoining built form in terms of producing a reasonable scale and ameliorate or reduce off-site amenity impacts. These factors will be discussed in turn.
133. Having regard to applicable policy, the proposed re-development of the site for a commercial use of this scale is considered to have strong strategic planning support.

Land Use

134. The use of the site as a mixed-use building containing shops, office and a food and drink premises (café) is supported by both State and Local policy, as outlined previously within the *Policy and Strategic Justification* section.
135. Additionally, the zoning of the land being C2Z includes the objective of encouraging development of commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services.
136. The office use, and food and drink premises (café) do not require a planning permit in the C2Z. The shop use, requires planning permission as detailed earlier in this report.
137. With regard to permit required aspects of the proposal related to use, it is considered to support the economic growth of the area, without competing with the semi-industrial and warehouse nature of other surrounding land uses.

138. The shops and food and drinks premise (café) within the scheme (both permit and non-permit required) are likely to attract people working and living in the area, and depending on their nature, the shops may attract people from other areas which is a positive outcome for this underutilised site.
139. The shops are located at the ground floor and are split into 4 tenancies with operating hours of 7am to 10pm, 7 days a week. Whilst it is acknowledged that surrounding land is zoned Commercial 2, this is also commensurate with sleep noise disturbance criteria managing some of the impacts pertaining to the dwelling to the immediate east (albeit also zoned Commercial 2) facing Rupert Street of any consequent pedestrian foot traffic into the late night hours. The shop tenancies will also be located to either face Rokeby Street or the public walkway accessed from Rokeby Street, further enhancing the public environment with a pedestrianised focus that will further enhance passive surveillance of the public realm.
140. The mixed use function of the building supports the purpose of the zone, and the objectives and strategies outlined earlier. In considering land use applications within a C2Z also requires consideration of the following matters:
- (a) The effect of existing uses on the proposed use
 - (b) The drainage of the land
 - (c) The availability and connection to services; and
 - (d) The effect of traffic to be generated
141. With respect to drainage and services, there is no evidence that the subject site cannot connect to the existing drainage networks and service. The effect of traffic generation will be discussed later in the report.
142. The impact on existing uses requires further discussion. It is anticipated that as the surrounding uses are primarily commercial in nature that the proposed development can adequately manage offsite impacts. It is acknowledge that there are some existing dwellings within the C2Z proximate to the site which also must be considered.
143. Clause 22.05 (Interface Uses Policy) requires new non-residential use and development within Commercial Zones to be designed to minimise noise and visual amenity impacts upon nearby, existing residential properties as well as requiring building design to ensure that the ongoing viability of surrounding industrial and commercial properties is not impacted through the introduction of more sensitive land uses.
144. Broadly speaking, the shop use (being the only permit required use) supports the intent of both the PPF and LPPFs whilst being complementary to the incorporated uses that do not require a planning permit, and those already existing in the immediate area that is also comprised of offices and car repairs, including gym facilities. It is considered that the proposal will enhance existing uses in the area (particularly commercial) by providing ground level shops and a food and drink premises (café) and an under-croft and publically accessible commercial laneway that will connect to the laneway at the rear of the site and will effectively activate this interface to Rokeby Street.

Built form - Urban Design

145. In considering the design and built form of the proposed development, the most relevant aspects of the Scheme are provided at Clause 15 (Built Environment and Heritage), Clause 21.05 (Built Form), Clause 22.10 (Built form and design policy) and Clause 43.02 (Design and Development Overlay Schedule 11) of the Scheme.
146. Particular regard must be given to the acceptability of the design in terms of height and massing, street setbacks and relationship to nearby buildings. This assessment will also consider the building design response to ESD considerations with applicable policy Clause 22.16 (Stormwater Management), Clause 22.17 (Environmentally Sustainable Development).

Context

147. The direct interfaces to the subject site include single and double-storey buildings to the north, south and east, two laneways that terminate at the subject site. Beyond and more broadly (including built form on the opposite side of Rokeby Street) are hard-edged buildings that are generally robust in their architectural expression that have a former warehouse / industrial appearance or office influenced design with one extending to three-storeys.
148. As outlined within the 'site and surrounds' section of this report, the subject site is located within an area where higher built form and contemporary designs are clearly emerging characteristics of the precinct. A significant number of multi-storey buildings have been approved or constructed within the Gipps Street Precinct with heights broadly ranging from 6 (i.e. property No. 48 – 50 Gipps Street – Planning application No. PLN18/0902) to 17 storeys (i.e. property No. 1-21 Robert Street - Yorkshire Brewery – Planning application No. PLN11/0750).
149. Byron Street located opposite the subject site also provides access to buildings ranging between 2 and 6 storeys associated with the former silos (now redeveloped to 11 storeys) at No. 21 Northumberland Street and the former distillery at No. 26 Wellington Street. There is no dispute that strategically the subject site is appropriately located for a higher-density development given the scale of surrounding built form, being within proximity to the Smith Street Activity Centre, and within a commercial zone with excellent access to cycling networks, public transport, services and facilities. Based on these attributes, it is a reasonable expectation that this site will experience intensification in the future. This change is supported by Council, with Clause 21.08-5 of the Scheme noting the following;
- (a) *The Gipps Street industrial precinct is characterized by traditional manufacturing, service activities and a considerable portion of activity related to the textile, clothing and footwear sector. The precinct provides the opportunity for a wide range of small to medium businesses to operate in a location that is relatively unconstrained by sensitive uses. To allow flexibility for large sites which may have difficulty in finding new industrial tenants, rezoning to Business 3 will be supported. This will enable the area to retain an industrial character but evolve to provide a wider range of employment opportunities including service business and offices uses. Any change of use should consider opportunities for improvement to the public domain [Emphasis added].*
150. To provide further context of the scale and mass around the subject site and more broadly, the map at Figure 23 indicates buildings in excess of between 5-17 storeys within the Collingwood neighbourhood. It is evident that the area is undergoing significant redevelopment as a pocket with taller developments with the vast majority of these approved (with the exception of the developments at properties at 128-144 Wellington and 33-37 Rupert Streets pending for a decision at the time of writing this report with further amendment applications pending at 79-88 Wellington and 23-45 Waterloo Streets).



Figure 23: Comparable size sites (extracted from the Permit Applicant’s Urban Context Report).

151. Whilst an increasing number of robust, multi-level developments are located within the area more broadly, it is noted that the direct interfaces to the subject site, include a dwelling to the east (fronting Rupert Street), and one and two storey buildings to the immediate north and south fronting Rokeby Street. It is a reasonable expectation that these sites may be consolidated and developed to a similar intensity in the future. It is further highlighted, that the site containing the dwelling to the east forms part of a current planning application (PLN20/0165) for a ten-storey office building with a maximum building height of 42.2m as measured above the NGL. Whilst this development has not yet been approved, it highlights that the use of this site as a single dwelling (whilst zoned Commercial 2) does not preclude higher density development from occurring on this site in the future given existing policy support for taller commercial buildings.
152. The area is strategically identified for growth and is currently in transition from low scale industrial uses to now including greater scale and new service and arts industries which are all co-locating. Whilst the proposed 13 storey building (with plant services) would be taller than the buildings immediately interfacing the site, this is consistent with the strategic direction provided by policy in this area and the direction of scale, proportions, built form and mass of approved surrounding developments such as those detailed in earlier sections.
153. The Minister’s recent gazettal of amendment C283 to the Scheme to facilitate a 13 storey development at 81-89 Rupert Street (located approximately 190m to the north-east from the subject site, marked as E in Figure 23 above), also known as the ‘Walk Up Village, including amendment C285 to the Scheme to facilitate a 15-storey development at 36 – 52 Wellington Street, Collingwood of 15 storeys (located approximately 140m west from the subject site, marked as T in Figure 23 above), further benchmark and justify a height that is comparable to these buildings. The building height approved at 81.89 Rupert Street is 56.9m above the NGL to the highest point of the sawtooth roof form and that approved at 36-52 Wellington Street is approximately 61m above the NGL to the highest point of the plant screen.

The current application before Council proposes a building height of 54.33m to the roof above Level 12 and 59.03m to the highest point of the roof plant screen above the NGL, hence mediating between these approved heights by the Minister.

154. In addition to the above, new buildings must achieve the preferred future character as outlined within the DDO control which seeks the following:
- (a) *A built form business and commercial environment which builds on the existing fine grain industrial nature of the area that allows for innovation and interest;*
 - (b) *A vibrant and safe street environment due to an increasing amount of street orientated development particularly on Gipps and Langridge Street;*
 - (c) *A consistent streetscape and well-articulated buildings with street facades built to a height of up to 3 – 4 storeys. Taller built form will set back from property boundaries and spaced to create new interest and variety in building forms.*
- New development*
155. It is important for any assessment of building height and neighbourhood character to balance the range of influencing factors affecting this area, including policy provisions, existing height characteristics of nearby built form and preferred future character for the area.
156. The Scheme provides guidance to assist in determining whether the proposed height is acceptable within the site context. In relation to the PPF, building heights are best derived from specific design objectives; being contextual design, the aspirations for urban consolidation and issues of minimising adverse off-site amenity impacts rather than outlining specific height limits.
157. With regard to policy direction under the Scheme, clause 21.05 – *Urban Design* contains Objective 17: *to retain Yarra’s identity as a low-rise urban form with pockets of higher development.* Strategy 17.2 reads as follows:
- (a) *Development on strategic redevelopment sites or within activity centres should generally be no more than 5-6 storeys unless it can be demonstrated that the proposal can achieve specific benefits such as:*
 - (i) *Significant upper level setbacks;*
 - (ii) *Architectural design excellence;*
 - (iii) *Best practice environmental sustainability objectives in design and construction;*
 - (iv) *High quality restoration and adaptive re-use of heritage buildings;*
 - (v) *Positive contribution to the enhancement of the public domain; and*
 - (vi) *Provision of affordable housing.*
158. Based on the policy above, the proposed development must be able to demonstrate specific benefits to gain policy support for a height greater than 6 storeys. Further policy guidance is provided by Schedule 11 to the DDO where the preferred character for the Gipps Street Precinct is (as relevant to the development):
- (a) *A built form business and commercial environment which builds on the existing fine grain industrial nature of the area that allows for innovation and interest; and*
 - (b) *A consistent streetscape with active street-frontages and well-articulated buildings with street facades built to a height of up to 3-4 storeys. Taller built form will be set back from property boundaries and spaced to create new interest and variety in building forms.*
159. The following requirements are applicable to developments above four storeys:
- (a) *Demonstrate a high standard of architectural design;*
 - (b) *Minimise overshadowing of adjoining streets, public spaces or private properties;*
 - (c) *Be set back from along the northern side of the following streets:*
-

- (i) *Gipps Street; and*
- (ii) *Langridge Street*

160. Development should also be designed to:

- (a) *have active and attractive frontages.*
- (b) *address street activity in its interface design, avoiding recessed car parking at street level.*
- (c) *be well articulated and modulated.*
- (d) *use materials and finishes which complement adjacent development and enhance the appearance of the narrow street network.*

161. In response to the policy framework applicable to the site and the objectives describing the preferred future character of this precinct, the proposal at 13 storeys plus plant area, whilst greater in height than most existing surrounding buildings will be commensurate with other buildings approved by Council in more recent years and even more recently, the Minister, and is therefore responsive to this shift in built form. The area has seen and is continuing to undergo substantial change in terms of taller built forms (both constructed and under construction) and it is considered that the design in its amended form has been better considered in relation to its context and within the C2Z (as compared to the original scheme that was 15 storeys) where more robust built form such as that proposed are becoming more readily visible.

162. Urban design advice was sought externally from Hansen Partnerships (Hansen). Hansen were generally supportive of greater development on the site and acknowledged that current and future built forms in the area dictate higher-density development to occur within this location, and therefore recommended the building to be lowered in height to between 9 to 13 storeys picking up on the emerging 'height datum'. The building height is considered to have been addressed in the current decision plans, and whilst the building will read 11-13 storeys and the roof plant screen will be maintained, the latter is supported as this is a mediated response between the advice and other approved buildings as already established earlier, with the roof plant being a subservient element to the remainder of the building.

163. The podium design provides a transitional response to Rokeby Street as it is expressed across the site from the north to the south, with the ground floor recessed from the footpath by a minimum 3m, referencing the setback of the southern building that provides some landscaping in its setback and improved pedestrian experience. The four-storey podium (i.e. ground through to Level 3) has been supported by Hansen, who provided the following comment in relation to this element:

- (a) *DDO11 seeks to ensure that there is 'a consistent streetscape with active street-frontages and well-articulated buildings with street facades built to a height of up to 3-4 storeys'. Clause 22.10-3.3 further reiterates that new development to conform to existing development scale of adjoining sites. Our review of the existing streetscape identifies a street wall height of 2-3 storeys, with the exception of a more recent development up to 4 storeys at 26-30 Rokeby Street. What can be gleaned from these policy and physical contexts is a 2-4 storey street-wall response that would be appropriate to the narrower street profile and represents a better fit within its existing and emerging streetscape. We support the proposed 4 storey streetwall with a transition to the 2 storeys to the north, particularly to mitigate the short-term effect of new development within a renewal precinct of this kind.*

164. Hansen made some further observations and recommended that the development be further improved through a better established visual link between the rear walkway / laneway and Rokeby Street (see Figure 23), that have also impacted the presentation of the building at street level as per the amended / decision plans before Council.

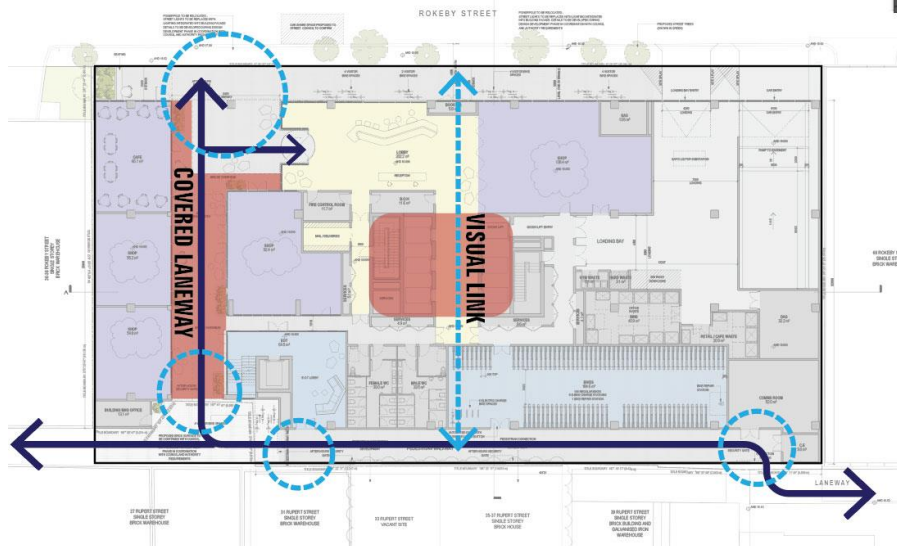


Figure 24: Recommended visual links by Hansen

165. The setback at the ground floor would make way for the provision of a wider footpath across the Rokeby Street interface whilst providing further opportunities for landscaping and visitor bicycle spaces and a prominent entrance to the lobby associated with the office building. The ground floor façade includes large expanses of glazing (further improved in the decision plans before council with the removal of the fire booster and its replacement with an entrance, see Figure 24, in response to Hansen’s recommendation for a visual link at Figure 23), increasing the activation of the building at a human scale. The entrance to the pedestrian walkway will provide a clear line of sight to the rear laneway and in this regard, the development is considered to have responded to the public realm successfully achieving the policy direction under Clause 21.05-4 (Public Environment) of the Scheme which requires developments to provide pedestrian/human scaled designs at street level that enhance street interaction.

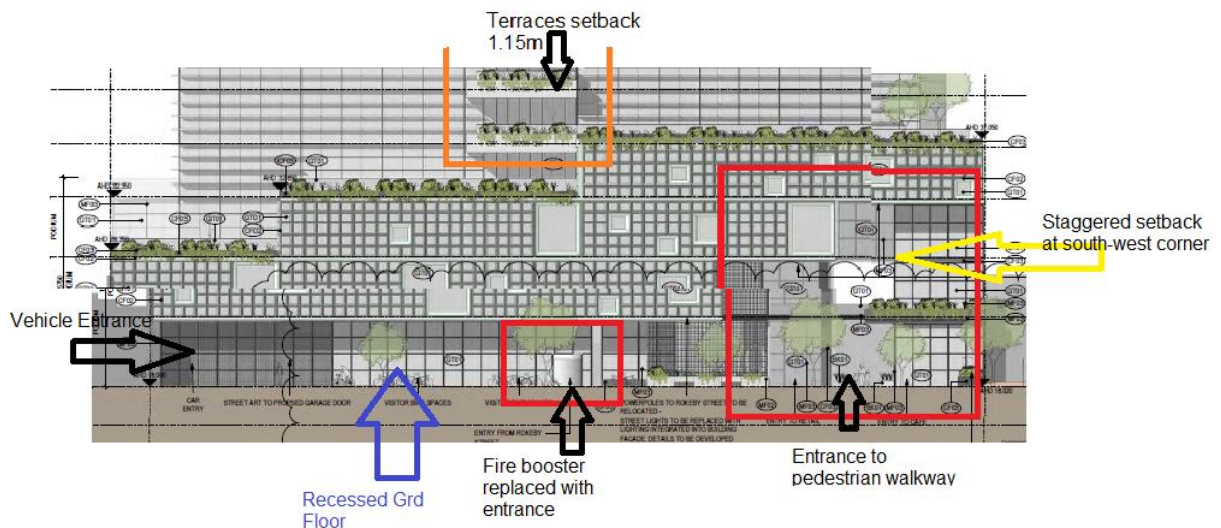


Figure 25: Rokeby Street podium with key changes identified forming part of the amended plans

166. The levels associated with the podium above will cantilever over the ground floor and will extend to the boundary with the exception of those at the south-west corner that will be recessed to 3m and 10m. The interface at ground level incorporates the pedestrian walkway forming the main entry point into the development’s arcade that will provide access to the remainder of the shop tenancies and EOT lobby that don’t interface the street.
167. Whilst the reduced building height is supported, the additional setback of 1.15m adopted to the terraces of the sky laneways at the upper levels doesn’t go far enough to provide an appropriate separation between the terraces and the podium, and consequently presents as an overwhelming structure to Rokeby Street at 11 storeys high.

Hansen has indicated a preference for a setback behind the street wall and to further assist in providing separation, a condition will require the terraces to be set back 3m consistent with the southern portion of the tower facing Rokeby Street. This will address Hansen’s recommendations that relate to the Rokeby Street podium, whilst ensuring the visual break in the tower element is still maintained as it presents to Rokeby Street.

168. The podium will be better demarcated by sitting the terraces behind the title boundary (see Figure 25) to ensure that it becomes the more prominent element of the building when seen at street level, but also in the round with the continuation of the “terrace” style glazing element that will wrap-around and extend into the southern elevation (see Figure 26). The setback of the tower elements from Rokeby Street will provide a clean separation from the podium as perceived to the north that will further emphasise the podium (see Figure 26).

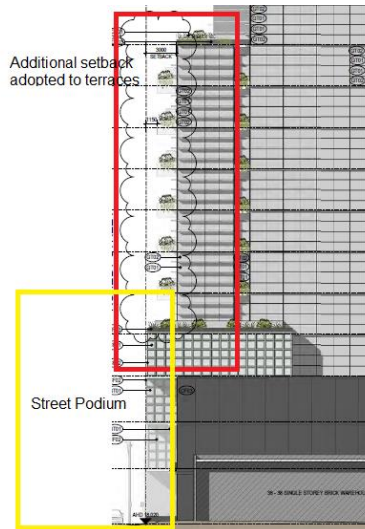


Figure 26: Rokeby Street podium with key changes identified forming part of the amended plans and terrace glazing element.

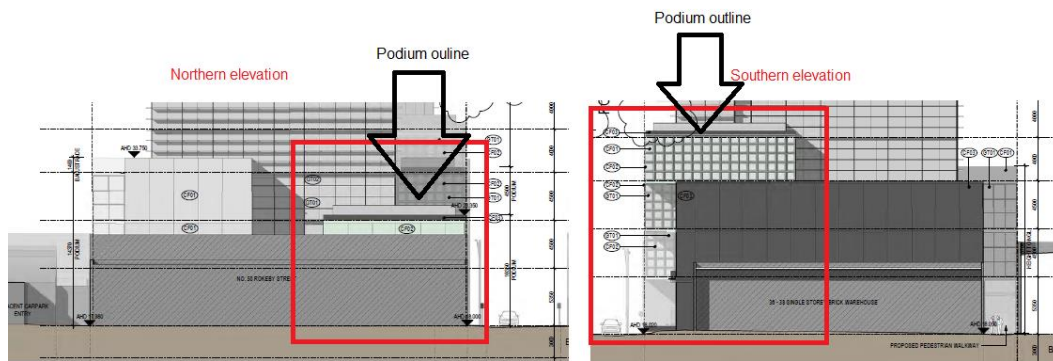


Figure 27: Rokeby Street podium as perceived to the north and south.

169. The on-boundary walls and setbacks of upper levels adopted to the north, south and east have also been supported by Hansen, largely due to the as-built conditions of surrounding buildings, which occupy a significant level of their site areas, but also because these sites have the ability to be developed with reciprocal setback conditions (and hence associated equitable development opportunities discussed further later under its own heading). The following comments were provided as relevant to the support of on-boundary walls and upper level setbacks:

- (a) *We are generally supportive of the proposed party wall arrangements to the side boundaries (north and south) at the lower levels. In this infill context, side elevations are likely be concealed by subsequent future redevelopment of neighbouring sites.*

(b) *The tower form is setback 3-5m from the southern boundary, 5m from the northern boundary and 2.5- 5.5m from the eastern boundary. A reciprocal setback conditions on abutting sites will yield up to 6-10m building separation to the south, 10m to the north and 11m to the east, which are generally positive.*

170. The surrounding non-sensitive interface to the north and south, and the non-conforming context to the east combined with commercial uses and surrounding built forms along Rokeby Street, justify each elevation's relationship with its immediate neighbouring property. Officers also consider that the surrounding physical context can comfortably absorb the height of the building, as well as the setbacks adopted from each boundary, noting Hansen's comments above.
171. Hansen further recommended that the tower's articulation is made more legible when perceived at a greater distance. However, it is considered that when the development is read with the setbacks, the transitioning podium at the street level, solid to void ratio and reduced height, it all stacks up to provide a well-articulated building when viewed as a whole, both from close range angles and long range. Council's Officer's agree with the quote by the Architects (Rothelowman) provided in the permit applicant's response to the referral advice (that accompanied the formal submission of the plans pursuant to Section 57(a) of the Act) of 25th August 2020, that *"in contrast to the podium, the tower design, which is comprised of glazing and metal shading elements, is clean and simple and integrates environmentally sustainable design through the carefully considered shading system"*.
172. The elevations of the towers with the use of many small components of glazing that are assembled or 'stacked' together that allows the building to read as a clear volume from afar increases the visual detail as one sees the building closer or interacts from inside the building and whilst complex by scale and brutalist in parts by design, has simple lines with a varied architectural expression that can be read with a part two, three and four storey podium to Rokeby Street, with four varied elements (see Figures 3 and 4), being the two towers visually separated by "Sky Laneways" and terraces commencing from Levels 4 to 10 with the walls at Levels 11 and 12, and plant screen above the southern portion being the more recessive element.

The Public Realm and Pedestrian Spaces

173. Clause 22.10-3.4 (Street and Public Space Quality) aims to ensure that ground level façade treatments interface positively with the street, by enhancing the pedestrian experience and creating attractive and active interfaces with the public domain. This can be achieved by designing development to provide a high level of pedestrian amenity and visual interest, by incorporating well-defined entries at ground level and installing glazed areas which allow permeability into the interior space.
174. The building provides an attractive and open ground level frontage to Rokeby Street, with a 3m setback that will allow for the broadening of the public realm at ground-floor and pedestrian walkway that will extend through the building to the rear laneway that terminates at the south-east corner, and further extending this through the rear setback and to the laneway at the north-east corner of the site increasing the usability and appeal of the building (see Figures 28 and 29). This outcome is supported by both external and internal urban design advice and provides an inviting space for pedestrians and building occupants, thereby achieving the objective at Clause 22.10-3.4 (Street and Public Space quality) of the Scheme, which is to *'create attractive and active interfaces with the public domain whilst maintaining a sense of public space'*.

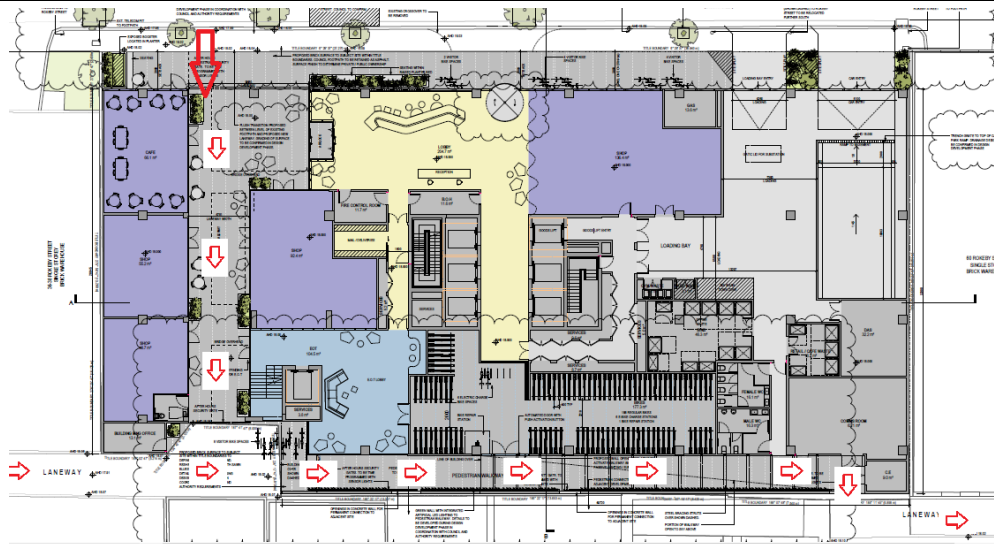


Figure 28: Ground floor plans with publically accessible line of travel delineated.

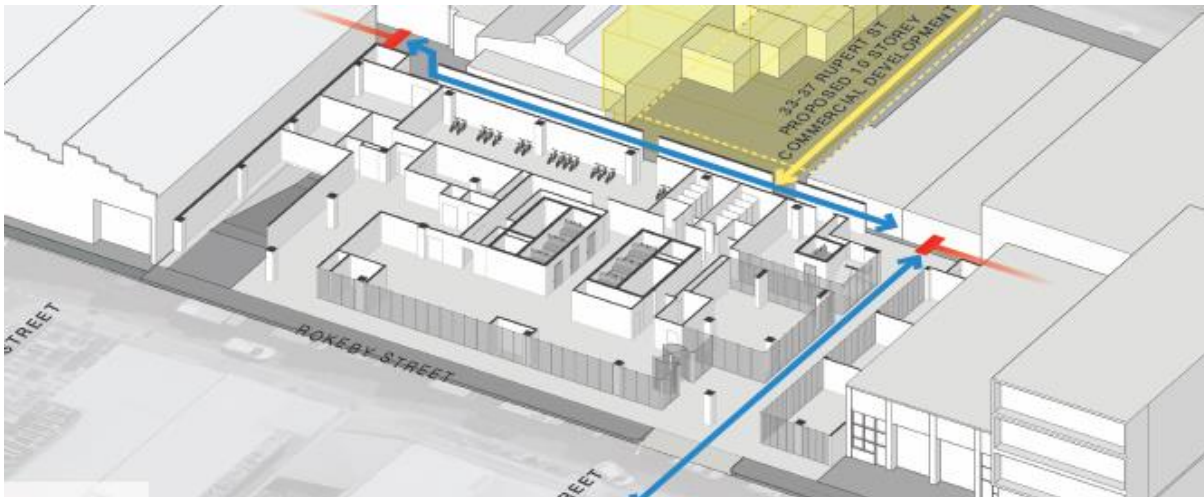


Figure 29: Ground floor plans with publically accessible line of travel delineated in blue, terminating laneway indicated in red and upper levels cut-out with 3d imagery of internal wall.

175. Council's internal Urban Design unit made some further recommendations relating to the delineation of private and public surfaces, provision for additional landscaping in the front and rear setbacks, including provision for additional bike spaces with further clarity sought in relation to the daylight levels along the walkway within the rear setback. These comments were provided in relation to the original scheme. The amended plans, now decision plans, have captured and responded with a brick and stone surface to the walkways within the subject site delineating between the public and private areas, have provided 8 visitor bicycle spaces in lieu of the original 4 in the rear setback, have provided vertical green walls across the eastern boundary wall within the rear walkway with programmed sensor lighting to the gated areas and a notation confirming that the vast majority of the walkway will be open to the sky (see ground floor plan of the attachments).
176. Council's Urban Design Unit highlighted that the City of Yarra standard footpath treatment is asphalt, and that all footpath areas outside of the subject site's title boundary must be consistent with this. This will further provide clear delineation between public and private space, as well as for ease of maintenance of underground services. On this basis, the full extent of the Rokeby Street footpath is to be reinstated as asphalt surface and charcoal coloured concrete kerb and channel, as per Yarra Standard Drawings and at the cost of the permit holder. All pavements within Council land associated with the laneways running parallel and immediately adjacent to the subject site are to be reinstated as sawn bluestone pavers as per *Yarra Standard Drawings*. If a permit is to issue, these can be specified via a condition.

177. The locations of crossovers will provide an outcome consistent with strategies at Clause 15.01-1S (Urban design) and clause 21.06 (Transport), which aim to respectively; '*ensure the interface between the private and public realm protects and enhances personal safety*' and '*minimise vehicle crossovers on street frontages*'. If a permit is issued, a condition can specify that all of the redundant crossovers will be reinstated with Council standard footpaths, kerb and channels.
178. The permit applicant has also confirmed the garage door to the basement will also provide and serve as an area for the installation of works of art in periodical rotation. This element is considered to be of support, particularly as it would add further visual interest to the building. The fact that the proposal is void of details associated with the display of the types of art is irrelevant, particularly when this will be in rotation. More importantly, for Council, is the area and location of its display and not the content. The content is afforded with the flexibility to be modified and manipulated as the artist engaged, sees fit.
179. Overall the proposal's integration with the public realm provides a positive outcome and is supported with regard to its intended use of space and public environment. This is further enhanced by the landscaping opportunities incorporated and discussed under the heading below.

Landscaping

180. A landscape response package prepared by Eckersley Garden Architecture (dated 28 August 2020) was submitted with the amended plans. The package outlines all proposed landscaping / vegetation on the site, including the ground level street trees and upper level terraces. The landscaping opportunities identified in Council's internal Urban Design Unit's advice across the Rokeby Street interface to the west of the primary lobby associated with the offices, in the north-west corner and to the south of the vehicle entrance associated with the basement car park, have been provided in the decision plans before Council (see ground floor plan of both architectural drawings and landscape response in the attachments). Further, public seating within the front setback has also been provided and incorporated into the design of the planter box to the west of the primary lobby.
181. Further to the above, Rokeby Street has been identified to be planted as part of Council's street tree planting program and based on this, Council's internal Urban Design Unit has made a request for the planting of 6 street trees across the Rokeby Street frontage. A monetary contribution can be captured via a condition should Council be of mind to support the application. The decision plans and the landscape response package include and make a commitment to the planting of 6 new trees with the locations and species of the trees shows as per that depicted in the referral advice.
182. The landscaping proposed within the development itself, within the ground floor setback and at the upper levels, will enhance the internal amenity of the building for future occupants. This integrated landscaping will also improve the visual appearance of the building from the public realm. If a permit were to issue, a condition requiring the endorsement of this material can be included.

Landmarks, Views and Vistas

183. It is policy at clause 15.01-2 (Urban design principles) of the Scheme that important landmarks, views and vistas be protected or enhanced, or where appropriate, created by new additions to the built form. The proposed development does not compete with any identified landmarks given its location and is considered to be an acceptable response to the policy direction under clause 22.03-4 (Landmarks and tall structures) of the Scheme. The proposed building would not result in the loss of any significant view lines to heritage buildings and/or landmarks.

Consolidation of Sites and Empty Sites

184. The subject site is somewhat under-utilised and provides a purpose-built commercial building that is open in its floor plate and single level, but comparable to a double-storey building. The existing buildings will be replaced with built form that is encouraged by the policy within the Scheme as discussed in this report and where some hard edged development to the street is a desired outcome with *opportunity for a wide range of small to medium businesses to operate in a location that is relatively unconstrained by sensitive uses* as identified under Clause 21.08-5 (Collingwood) of the Scheme.

Light and Shade

185. The subject site is located in a predominantly commercial and industrial location, where some degree of overshadowing within the public realm is inevitable due to the hard-edged built form character which has been established. The narrow width of Rokeby Street also contributes to overshadowing of this space; given the limited breadth of this street a three and four storey building would overshadow the adjacent footpath at 9am at the September equinox.
186. This is demonstrated in the 9am shadow diagram provided, which indicates that a section of the western Rokeby Street footpath is currently in shadow due to the 4-storey building directly just south of the building setback from Rokeby Street. At 9am, the proposed development would also cast shadows on this footpath, with the remaining shadows falling over the facades and rooftops of buildings on the opposite side.
187. These shadows will dissipate during the morning, with no additional overshadowing affecting the western footpath of Rokeby Street by 11.15am. The reduction in height of the building by 2 levels as per the amended plans is considered to have adequately responded to Hansen's request in avoiding overshadowing of the Rokeby and Byron Street footpath between 11am and 2pm on 22 September (Equinox), and whilst there is a difference, between that achieved and that requested, this is a small difference and a variation, in light of the Permit Applicant's response and attempt to ameliorate this concern, can be supported. The usability of Rokeby Street will not be affected by the additional shadowing impacts.
188. Rupert Street will be impacted by additional shadows between 2pm and 3pm and based on this outcome, it is not considered that the additional shadowing from the development would affect the usability of the public realm.

Site Coverage

189. Design objectives at Clause 22.10-3.6 aim to ensure that the site coverage of new development complements the desired neighbourhood character of the area and responds to the features of the site. The new building will extend to at least 95% (i.e. the basement) of the site. This level of site coverage is consistent with existing built form within the area and is considered to be an appropriate outcome.

Laneway Interface

190. Clause 22.07 (Development Abutting Laneways) of the Scheme aims to maintain the unique character of laneways and ensure that development abutting laneways respect the scale of surrounding built form. The walls to the laneway are punctuated with the display of windows and opening, including the continuation of a walkway. From a design perspective, the level of articulation combined with the podium and upper level setbacks, is considered to address the laneway interfaces to the north and south of the site, complying with the relevant provisions of Clause 22.07 (Development Abutting Laneways) of the Scheme.
191. It is also highlighted that this is considered to have further addressed key objectives within Schedule 11 to the Design and Development Overlay at Clause 43.01, combined with the landscaping opportunities provided and discussed earlier.

Architectural Quality

192. The proposed design provides a well-considered response that integrates with the surrounding older-style warehouse buildings and emerging contemporary designs. The elevations are expressed in a robust manner that is characteristic of surrounding taller buildings but doesn't attempt to replicate a "typical" tower with fenestration. Rather the on-boundary walls will be constructed of precast-concrete with those recessed constructed primarily of metal-framed, industrial glazing with metal horizontal metal louvers intended for articulation and shading of internal office areas. The brutalist display of the shading and railing system can be adequately absorbed by the surrounding commercial and industrial context, including the hard-edged construction of surrounding buildings and at a wider scale, of other comparable tall buildings that when seen in combination will not appear as being prominent as compared to when these are perceived in their isolated manner on plan.
193. The distribution of finishes is supported and is considered to provide articulation worthy of support. It is also considered that overall, the building is adequately animated to each elevation by the adopted solid-to void ratio and with regard to Rokeby Street, the four elements discussed earlier and further with a fine-grained rhythm along the street frontage that will facilitate for a well resolved public environment with excellent levels of interaction and passive surveillance.
194. The architectural response is supported by Hansen, who noted that:
- (a) *The architectural response highlights the distinction between the 'stepped' street wall 'base' and tower forms above. The contemporary design language restrained material palette represented through concrete, glazing and 'metal finish' for modulation and articulation.*
 - (b) *When assessed against its 'fit' within its evolving context, as well as recently completed commercial buildings within the Gipps Street precinct, the proposed architectural response 'speaks' to its commercial use and function.*
 - (c) *We note the street wall 'lattice' façade enables flexibility to vary fenestration configuration and sizing. Its extension onto the fascia, visible when viewed from the public realm and new laneway is also positive to counterbalance the impact of a stepped building profile to the north. The resulting 'solid' and 'void' effect is generally positive in addressing potential visual bulk within the lower levels.*
 - (d) *The tower form is fully glazed with incorporated horizontal shading structure on its north, east and west façade, creating an unbroken presentation when viewed in the round from multiple vantage points within the public realm.*
195. With all of the above in mind, it is considered that the proposed development achieves a high level of architectural quality and provides an appealing aesthetic and visually interesting design response. If a planning permit is to issue, a comprehensive façade strategy can be added as a permit condition, along with the requirement for on-going architect involvement with the project to ensure this high level of quality is maintained. Further reasons for policy support are as follows:
- (a) The proposed building is broken down across the Rokeby Street elevation with a varied elements as outlined in previous paragraphs, including a transitional podium, and ground floor setback that will provide a positive public environment;
 - (b) The development responds to the design objectives at Clause 15.01-2S with a contemporary design that is appropriate and responds well to this emerging part of Collingwood;
 - (c) Council's ESD advisor supports the proposal and confirms it largely meets Council's best practise standards for ESD outcomes (deficiencies will be discussed in detail later in this assessment);

- (d) The design detail and overall choice of materials are supported, given the solid to void ratio and hence degree of transparency and varied juxtaposition of windows and balconies across each elevation, and hence is well articulated and modulated (achieving compliance with the requirements of Schedule 11 of the DDO);
- (e) Landscaping has been incorporated through the levels and within the terraces, with the ground level that will provide an open entrance and public walkway for easy access into the site for patrons, customers and staff; and
- (f) The development avoids car parking at street level through the provision of basement car parking (discussed further in a later heading).

On-site amenity (ESD)

Daylight and ventilation

- 196. The development is considered to provide a good level of amenity and indoor environmental quality. Specifically, this is achieved through good access to daylight for each level through a generous display of fenestration including ventilation opportunities with open corridors, with walkways at the ground floor and sky laneways at the upper levels.
- 197. The permit applicant has also responded stating that the development will include mechanical ventilation and the nature of the commercial building is not suitable for an operable window design. Energy efficiency initiatives have been included at Section 4.3 of the amended Sustainable Management Plan (SMP), within the design to improve the energy impact on mechanical based ventilation. Initiatives include CO2 monitors, energy recovery ventilators and economy cycle function. This is considered to adequately respond to this aspect and it is an agreed to position, that in office developments of size, operable windows are not a key contributor to ventilation.
- 198. The design incorporates large communal roof terraces and balconies, with the building adequately taking advantage of the northern and eastern interfaces through the provision of fenestration. Each floor level would be provided with service amenities and accessible to staff with lifts and a stairwell. The western side of the building has recessive pockets of built form (i.e. at the ground floor, south-west corner and upper level recessed elements) that will assist in creating spaces that combined with the shading devices, will be shaded from the harsh afternoon sun.

Circulation Spaces

- 199. The entrances from Rokeby Street, provide primary access to the building and more specifically to the lobby area associated with the office component that has lifts, stairs servicing the upper levels, and service amenities associated with the building. The main entrances are provided with adequate sightlines from Rokeby Street so people can see both in and out when entering or leaving. The circulation spaces in their configuration, afford an excellent level of amenity to future building occupants that have been further improved with the reconfiguration of the fire booster and its replacement with a pedestrian entrance and as shown on the ground floor plan.
- 200. Council's Urban Design consultant raised a query around the access and security arrangements for the site, and more specifically, in mitigating any risk associated with anti-social behaviour and loitering in the laneway outside the security gates. Plan notations confirming that the security gates are to be time programmed with sensor lights after hours have been provided in the decision plans before Council. It is anticipated that the site will provide access and interconnect the laneways from the north and south offered as a "*significant public realm benefit*" (cited in the permit applicant's town planning report a under the Permeability and Public Spaces heading offered at p.20) and it is therefore appropriate to include a condition imposing the permit holder to enter into a Section 173 agreement with Council to ensure that these remain as unfettered public access.

Facilities

201. Adequate facilities in terms of service amenities are provided at each level for all occupants of the building. Bicycle parking and end-of-trip facilities are also incorporated into the scheme. Outdoor areas as indicated have also been provided and will further enhance the on-site amenity and staff enjoyment of the building.

Environmentally Sustainable Design (ESD)

202. Policy at clauses 15.01-2S, 21.07, 22.16 and 22.17 of the Scheme encourage ecologically sustainable development, with regard to water and energy efficiency, building construction and ongoing management. Council's ESD Advisor confirmed that the proposal will likely meet Council's Best Practice ESD standards, noting that this was provided in response to the original application drawings.
203. Further, the redevelopment of the site located in an existing built-up area makes efficient use of existing infrastructure and services, and the proximity of the subject site to numerous public transport modes reduces reliance on private vehicles.
204. Council's ESD Advisor did not identify any deficiencies with the proposal but rather recommended that further information be provided relating to glazing and insulation specifications and calculations and daylight modelling, energy use of solar PV, PVC content by weight or cost, strategy around organic waste, and a recycling or reuse target of 80+% for demolition and construction waste materials, with further ESD improvement opportunities specified as follows:

Outstanding Information:

- (a) Satisfactory approach to HW. Consider using a heat pump.
 - (b) Consider selecting a % of materials (by weight or cost) that are either recycled or contain recycled content.
 - (c) Satisfactory. Consider calculating the reduction in GHG emissions associated with 'energy reducing' processes, and consider conducting an LCA on other components (such as concrete) to identify methods to reduce embodied carbon further.
 - (d) Consider a small pallet of materials and construction techniques that can assist in disassembly.
 - (e) Consider the provision of additional vegetation, or specification of light (high) SRI materials for example, the roof.
 - (f) Consider a green roof or wall to improve the ecological value of this site.
 - (g) Consider head contractor to be ISO14001 accredited.
205. A revised Sustainable Management Plan (SMP) was submitted with the permit applicant's response to the referral advice. This report was not peer reviewed in light of the fact that this would form a condition of any planning permit based further on any consequent revisions made as a result of the Condition 1 requirements.
206. The items identified can be addressed with a condition requiring an amended SMP to be submitted concurrent with any amended plans requested as a consequence of other conditions detailed in earlier sections of this report.
207. The standard condition which requires an implementation report to confirm all measures specified in the Sustainability Management Plan have been implemented in accordance with the approved plan will also be included.

Wind impacts

208. A Qualitative Wind Assessment was prepared and authored by SLR Consulting Pty. Ltd. dated March 2020 was undertaken as part of the proposal. The report analysed the wind impacts along Rokeby Street, the eastern laneway, the dining areas and terraces. The report concluded that the Rokeby Street footpath may experience wind conditions above the recommended walking criterion, but similar to existing conditions.

It was also concluded that the ground floor walkway is expected to have wind impacts higher than the standing seating criterion. It was considered that the eastern laneway and terraces are within the recommended sitting comfort criteria.

209. The report was peer reviewed by VIPAC Engineers and Scientists Pty. Ltd. consultants who responded with comments in support of the findings and were comfortable with the wind mitigation measures incorporated subject to further analysis (wind tunnel testing) to verify the predictions in the report as was also recommended by SLR Consulting Pty. Ltd.
210. Their advice has been attached to this report and as both are highly reputable firms, Council can be comfortable that the recommendation can be conditioned if a permit were to issue.

Off-site amenity

211. The policy framework for external amenity considerations is contained within Clauses 22.10-3.8 – (Off-site amenity) and 22.05 (Interface uses policy). Clause 22.10-3.8 (Off-Site Amenity) outlines objectives and decision guidelines for considering whether a development has adequate regard to the site's context and surrounding pattern of development. Following is an assessment of the development against the potential off-site amenity impacts.

212. The subject site is zoned Commercial 2, as is the closest residential property to the immediate east of the subject site at property No. 35-37 Rupert Street (acknowledging the existing application for its redevelopment with a ten storey building pending for a decision). The most sensitive interface is associated with this dwelling that has its secluded area of private open space located to its west and hence, within 9m of the subject site. However the appropriateness of amenity impacts (i.e. noise, visual bulk, overlooking and overshadowing) to this space need to be considered within their strategic context, with the site zone Commercial 2. This issue is further discussed within the Tribunal matter of *Calodoukas v Moreland CC* [2012] VCAT 180:

[13] ...owners of residential properties next to a business or industrial zone cannot realistically expect the same level of residential amenity as someone residing in the middle of a purely residential area. Similarly, owners of commercial or industrial sites abutting residential properties cannot expect the same opportunities as owners of sites well removed from residential areas.

213. With the above in mind the following assessment is provided:

Visual bulk and overlooking

214. With the north, south, west and most east interfaces with the subject site being to commercial buildings and to the street and laneways, which are largely built to boundaries, the development would not be subject to unreasonable visual bulk impacts and would not result in unreasonable overlooking. It is also an accepted principle that overlooking only occurs between habitable rooms (i.e. bedrooms and living rooms) and private open space. The proposed development includes offices at its upper levels where there is secluded area of private open space on the opposite side of the laneway and therefore does not require any screening.

215. There is also planning application to develop the land at property No. 33-37 Rupert Street (that has the dwelling with the secluded area of private open space) with a ten-storey office building with a maximum building height of 42.2m as measured above the NGL. At the time of writing, planning application No PLN20/0165 was pending for a decision.

Overshadowing

216. As discussed earlier in the report, the proposed development would increase the shadow impact into the public domain to the west and east. The secluded area of private open space identified will be impacted by the additional shadows cast, but policy tips the balance in favour of the proposed development that encourages the intensification of commercially zoned sites such as this one.
217. The dwelling to the east and opposite side of the laneway is intended to be redeveloped, and this combined with the fact that the use is prohibited by the zoning of the land, further justify any impact on this area. As such, there is an expectation that the future growth of this area will see a reduction in the number of existing dwellings and an intensified commercial presence of built form at a greater scale compared to that existing. Nonetheless, the area impacted has been identified in the shadow diagrams with this receiving adequate solar access between 9am to 1pm.

Noise

218. In respect to amenity impacts, Clause 22.05 (Interface Uses Policy) of the Scheme seeks to ensure that new non-residential uses do not unreasonably impact dwellings including through noise, light spill, emissions and rubbish. The closest purpose-built dwelling is to the immediate east, facing Rupert Street. Whilst zoned Commercial 2, the separation distance and its orientation, with the subject site located west and further separated by the laneway and dwelling's rear setback, would remove any immediate impact in terms of noise.
219. Furthermore, conditioning of the shop component will include reduced hours to 10pm, to stagger egress and reduce consequent pedestrian foot traffic into the late night hours within surrounding streets.
220. Conditions will also require compliance of all mechanical equipment prior to and post development of the land to ensure that all criteria of SEPP N-1 and SEPPN-2 are met.

Fumes and air emissions, light spillage

221. All uses will be conducted indoors (with the exception of the outdoor balconies / terraces). The proposal is not considered to result in unreasonable air emissions, and whilst there will be a degree of light spill, the surrounding land is zoned Commercial 2 and non-sensitive. There would be no fumes associated with the shop use.

Equitable Development

222. To ensure the fair, orderly, economic and sustainable development of land, matters of equitable development should be considered in accordance with the objectives of planning in Victoria as set out in Section 4(1) of the *Planning and Environment Act 1987*. The objectives of Clause 21.05-2 of the Scheme include a requirement for development to take into account the opportunities for development on adjoining land (Strategy 20.2).
223. New development should ensure that areas can develop with an equitable access to outlook and sunlight, while the possible future development of adjoining sites should be considered and allow, as best as possible, for an equitable spread of development potential throughout an area.
224. In this respect, the proposed design utilises Rokeby Street and the laneway interfaces for primary outlooks and connection points through the development, and has included setbacks to the north, south and east at the upper levels that will also provide primary outlooks over adjoining sites and beyond.
225. The proposed development accommodates generous setbacks to the north, south and east (that combined with the laneways would be measure up to a minimum 5.55m) that will ensure that the adjoining sites, are not constrained in their development potential. The development has also incorporated some on-boundary walls, at the lower level and the adjoining sites, will be able to replicate the condition and construct up against these walls at the lower levels and their development potential is not compromised as a consequence.

Traffic, access and car parking

226. The applicant is seeking a statutory parking reduction of 310 car parking spaces, with 82 on-site car parking spaces proposed. To support the reduction in the statutory rate, a Traffic Impact assessment was undertaken by Ratio Consultants Pty. Ltd. and dated 8th April 2020, with parking availability in the neighbourhood also reviewed.

Parking Availability

227. On-street parking occupancy surveys of the surrounding area were undertaken and suggest a generous amount of on-street car parking in the vicinity. Council’s Traffic Engineers also confirmed that the availability of parking in the vicinity is very high during business hours. However, this is blanketed by time based parking restrictions that would be a disincentive for employees or staff to drive. The car parking restrictions would also provide regular turnover throughout the day, thereby allowing visitors to park near the site.

228. The surrounding area has ample transport contextually supporting a development of this scale in the inner city. The availability of alternative transport methods will be discussed in turn.

Parking Demand

229. In support of the reduced car parking on-site, examples of existing uses within the City of Yarra with reduced on-site car parking rates (primarily offices) were provided by Councils Traffic Engineers. Details of these development sites (some of which have also been referenced in the report) are provided as follows:

Development Site	Approved Office Parking Rate
60-88 Cremorne Street PLN17/0626 issued 21 June 2018	0.72 spaces per 100 m ²
2-16 Northumberland Street, Collingwood PLN16/1150 issued 14 June 2017	0.89 spaces per 100 m ²
51 Langridge Street, Collingwood, PLN16/1150 issued 10 April 2018	0.54 spaces per 100 m ²

230. Council’s Traffic Engineers provided the following comments in relation to each use with car parking provision and a permit requirement:

Parking Demand Consideration	Details
<i>Parking Demand for Office Use</i>	<p>The office would be providing on-site car parking at a rate of 0.53 spaces per 100 m² of floor area. Office developments throughout the municipality have been approved by Council with reduced rates. A few examples include:</p> <ul style="list-style-type: none"> ▪ 60-88 Cremorne Street, Cremorne – 0.72 spaces/100 m² ▪ 51 Langridge Street, Collingwood – 0.54 spaces/100m² ▪ 2-16 Northumberland Street, Collingwood – 0.89 spaces/100m² <p>Although lower than the rates listed above, the proposed office parking rate of 0.53 spaces per 100 square metres of floor space is considered appropriate, as the proposal seeks to minimise private car dependency and promote more sustainable forms of transport.</p>
<i>Parking Demand for Retail Use</i>	<p>For the retail use, a staff car parking rate of 1.0 space per 100 m² of floor area could be adopted. For the proposed retail use, this would equate to three to four spaces. The balance of the parking generated by this use would be customers, who would park off-site.</p>

Parking Demand for Food and Drink Use

Similarly with the retail use (above), a staff car parking rate of 1.0 space per 100 m² of floor area could also be adopted for the food and drink use. This would equate to a staff parking demand of one space.

231. Specifically in relation to the particular benefits of the site location with regard to the reduced rate of on-site car parking, Council's Traffic Engineers have indicated that:
- (a) There is ample public transport, with trams located on Smith Street and Victoria Parade, buses on Hoddle Street and the railway station, all within walking distance;
 - (b) Visitors would likely be aware of the car parking constraints in the area or otherwise be made aware by the occupants of the building, thus also encouraging a high turnover of parking on the street and use of alternative modes such as cycling; and
 - (c) It is in line with the objectives of Council's *Strategic Transport Statement* noting that the site is ideally located with regard to sustainable transport alternatives and the reduced provision of on-site parking would discourage private motor vehicle use.

232. Council's Strategic Transport Unit made reference to the SMP (referred to earlier) that mentions the inclusion of a car share scheme within the building, and recommended that this be clearly identified on the plans. A condition will address this. The car share space shown on the ground floor plans is located outside the title boundaries of the subject site and cannot be controlled under the current application. A further condition will require the deletion of this car share space.

Traffic

233. Council's Traffic Engineers have confirmed that the traffic generation is reasonable, and that any increase in the volume of traffic generated by the development could be accommodated within the local road network without adversely impacting on the traffic operation of nearby streets.

Access and layout

234. Clause 52.06-9 (Design standards for car parking) of the Scheme relates to the design of car parking areas and contains 7 standards and requirements relating to access way, car parking spaces, gradients, mechanical parking, urban design, safety and landscaping.
235. These details, along with the proposed ramp designs as per the original application drawings were reviewed by Council's Traffic Engineers who were satisfied with the layout of the car parking area. Council's Traffic Engineers have requested that the plans be revised (also in reference to the original application drawings) to include the following details / dimensions that will be addressed by way of conditions:
- (a) The dimension of the headroom clearance of the ramped access-way;
 - (b) The length of the tandem car space in the lower basement to have a length of 5.4m;
 - (c) All column depths, setbacks and locations clearly annotated and dimensioned and positioned to ensure that they do not encroach into the parking space clearance envelopes;
 - (d) The lengths of the motorcycle spaces are to be dimensioned on the drawings and comply with AS/NZS 2890.1:2004.
 - (e) All ramp grade and transition grade lengths dimensioned with the latter having a minimum length of 2.5m;
 - (f) A ground clearance check in accordance in accordance with Council's Vehicle Crossing Information Sheet that requires a number of spot levels that include the reduced level 2.0 metres inside the property, the property boundary level, the bottom of kerb (invert) level, the edge of the channel level and a few levels on the road pavement – in this case, Rokeby Street.

These levels are to be shown on a cross sectional drawing, with dimensions, together with the B99 design vehicle ground clearance template demonstrating access into and out of the development; and

- (g) The surface material of the setback area adjacent to the laneway different to that of the laneway to clearly demarcate the difference in surface treatment.

236. Several engineering conditions in regards to the vehicle crossing, civil works, road asset protection, and construction management, impacts of assets on the proposed development, reinstatement of redundant vehicle crossings and modification to car parking signage have been recommended.

These conditions are considered standard and should also be included on any permit issued. It will also form a condition of permit that the plans be updated to show the reinstatement of curbs where existing vehicle crossovers are being made redundant and reconfigured.

237. Overall, the proposed design and configuration of access and car parking areas are considered to achieve a satisfactory outcome and will be further improved with the above details requested by Council's Engineering Unit.

Electric vehicles

238. The ESD commitments include provision of at least one EV charging point (i.e. up to 5 EV charging points in the basement) with further opportunity for future upgrades available. Council's ESD advisor expressed full support for this arrangement.

Bicycle parking

239. The application was referred to Council's Strategic Transport Unit, who was supportive of the bicycle parking provision as it exceeds the requirements of the Scheme. In addition to this, the development provides, as quoted from Council's Strategic Transport Unit's advice, EOT facilities that "*are of a very high standard, and appear to exceed all requirements of AS2890.3*".

240. The ground floor would provide 188 regular bicycle spaces and 6 e-bike charging stations and 1 bike repair station in a secure, purpose provided room, 10 visitor bicycle spaces in the setback to Rokeby Street, 8 visitor bicycle space adjacent to and in the rear laneway with a lobby associated with the EOT facilities in the basement (that will include 428 lockers and 21 showers for staff use).

241. Hansen made reference to the visibility of the bike storage area on approach from the lobby via Rokeby Street which has been addressed in the amended plans with the provision of a glass wall between the lobby / corridor associated with the lifts, and portion of the bike store, and the shop and EOT lobby, that will enhance the image of the development portrayed as one that is actively promoting cycling to work. The EOT lobby will further enhance this by providing a relief space before entering the bicycle storage area.

242. Council's Strategic Transport Unit made reference to the surface of the laneway being suitable to bicycle users. The permit applicant has indicated that they intend on resurfacing the laneway with sawn bluestone pavers. This is considered to be good response from a planning perspective, and in the absence of any further controls on the surface treatment of the laneway or the protection of the laneway in the Scheme, it is supported.

Green Travel Plan (GTP)

243. A Green Travel Plan was provided and peer reviewed by Council's Strategic Transport Unit. Their only requirement was for a GTP to be provided as a separate requirement that can be addressed with a condition and as related to the amended plans.

Waste Management and Loading

244. An initial Waste Management Plan (WMP) was submitted by the Applicant in association with the original application plans advertised. This was reviewed by Council's City Works Branch, who indicated that it was satisfactory.

245. However, given the scope of changes to the building as a result of amendments resulting in a reconfigured layout and reduction in floor area, and hence anticipated waste generated, a condition will require the submission of an amended WMP that reflects the modified building, as per the plans requested at Condition 1.
246. It is highlighted that the development will rely on a private waste contractor with waste collection undertaken from within the building at the ground level via the loading bay that has a separate entrance. The loading bay is adequately sized with a width of 4.79m at its narrowest point.

Other Matters

247. The plans submitted under Section 50 have omitted a Level 01 plan and a condition will request this to be submitted with the full package of town planning drawings requested at Condition 1.

Objector concerns.

- (a) Built form and design:
- (i) Height and mass of the development is inconsistent with the neighbourhood character (including heritage) and policy.
 - (ii) The development is an overdevelopment of the site.
 - (iii) Inadequate upper level setbacks to ameliorate visual bulk.
 - (iv) The proposed laneway is of very low quality given that it is not open to the sky and will provide a poor outcome for publicly accessible space.
 - (v) Development is at odds with the lower scale heritage and residential areas to the east.
 - (vi) The podium design is too high.
 - (vii) The proposal does not result in an acceptable ESD response.
248. Built form and massing (including height and design) is discussed within paragraphs 145 to 172. The design subject to conditions detailed within the body of the assessment will achieve, on balance, an acceptable planning outcome on land zoned Commercial 2. The site is not subject to heritage controls and the building is considered to have adopted adequate setbacks, that combined with the design and reduced building height as per the amended plans before Council, will provide an appropriate and reasonable built form outcome. The podium has also been discussed at length at paragraphs 163 to 168 and it is justified in this context. To the contrary, the development provides an excellent ESD response that will be further improved with the conditions detailed earlier. This position is informed by Council's ESD advisors advice.
- (b) Use and Off-site amenity impacts:
- (i) Unacceptable visual bulk and overshadowing of the public realm and surrounding residences.
 - (ii) Wind impacts.
249. Off-site amenity impacts to neighbouring residential properties in terms of overlooking, noise, overshadowing have been addressed at paragraphs 211 to 225. The development will add another building to the skyline of Collingwood but will not impact any view of any identified landmark at Clause 22.03-4 of the Scheme. Equitable development opportunities have been discussed and cannot be applied in the same vein as if the site were residentially zoned. Wind impacts have also been discussed at paragraphs 208 to 210.
- (c) Traffic and Car parking:
- (i) Reduction in the car parking requirement is excessive and will cause traffic congestion.
 - (ii) Reliance on traffic through surrounding streets.

- (iii) Not enough car parks provided on-site, the on-street car parking is already at capacity and cannot cater to overflow from development.

250. Traffic and car parking has been addressed at paragraphs 226 to 238.

(d) Other:

- (i) Disruption to traffic during construction.
- (ii) Will block outlooks from the balconies of surrounding dwellings.
- (iii) Result in an impact on the health and well-being of residents.
- (iv) The proposal will have a negative impact on the residential 'as of rights' amenity of property No. 35-37 Rupert Street, Collingwood.

251. The development is considered to be well sited in terms of its location with readily available resources and services and within proximity to the Melbourne CBD.

252. Conditions will require Construction Management Plan addressing matters of construction and excavation. The site can adequately be serviced by emergency vehicles no differently from other surrounding sites that rely on the same road network, and Councils Engineering Unit has not indicated that the development would overload existing infrastructure services. Furthermore, any outlook from surrounding properties is a privilege and not a given right. The existing use rights associated with the property to the east have been considered and discussed in the assessment with regard to the zone, and intent and anticipated development and potential, future growth of this site.

Conclusion

253. The proposed development is considered to demonstrate a high level of compliance with policy objectives contained within the Planning Policy Framework and Municipal Strategic Statement. Notably, the proposal achieves the State Government's urban consolidation objectives.

254. The proposed development, subject to the conditions recommended, is an acceptable planning outcome that demonstrates clear compliance with the relevant Council policies and should therefore be supported.

RECOMMENDATION

That having considered all objections and relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant a Planning Permit (PLN20/0168) be issued for the construction of a thirteen (13) level building (with roofed plant services) used for shop(s) (permit required use), food and drink premises (café) and office and a reduction in the car parking requirement of the Yarra Planning Scheme at 40 - 50 Rokeby Street, Collingwood generally in accordance with the plans received by Council and noted previously as the "decision plans" and subject to the following conditions:

Amended Plans

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans received by Council 25th August 2020, prepared by Rothelowman Architects and labelled TP00.01, TP00.02, TP01.02, TP01.03, TP01.04, TP01.06, TP01.07, TP01.08, TP01.09, TP01.10, TP01.11, TP01.17, TP02.01, TP02.02, TP02.03, TP02.04, TP02.05, TP02.06, TP02.07, TP02.08, TP03.01, TP03.01 TP03.02 and TP03.01 - all Revision B but modified to show / include:

Plans

- (a) A Level 01 plan.
- (b) The terraces above the podium set back 3m from the Rokeby Street boundary (i.e. to be consistent with the southern portion of the tower facing Rokeby Street).
- (c) A plan notation confirming that the laneways running parallel with the subject site will be reinstated with sawn bluestone pavers as per *Yarra Standard Drawings*.
- (d) The dimension of the headroom clearance of the ramped access-way.
- (e) The length of the tandem car space in the lower basement to have a length of 5.4m.
- (f) All column depths, setbacks and locations clearly annotated and dimensioned and positioned to ensure that they do not encroach into the parking space clearance envelopes.
- (g) The lengths of the motorcycle spaces are to be dimensioned to comply with AS/NZS 2890.1:2004.
- (h) All ramp grade and transition grade lengths dimensioned with the latter having a minimum length of 2.5m.
- (i) Cross-sections with dimensions annotated in accordance with Council's Vehicle Crossing Information Sheet together with the B99 design vehicle ground clearance template demonstrating access into and out of the development that requires a number of spot levels that include:
 - (i) a reduced 2.0 metres level inside the property;
 - (ii) the bottom of kerb (invert) level; and
 - (iii) the edge of the channel level and levels of the road pavement along Rokeby Street.
- (j) The surface material of the setback area adjacent to the laneway different to that of the laneway to clearly demarcate the difference in surface treatment.
- (k) The car share spaces within the building clearly identified on plans, including details of the car share scheme and reference to the car share space on Rokeby Street deleted.

Reports

- (l) Any requirement of the endorsed Façade and Foyer Strategy (condition 2) (where relevant to show on plans).
- (m) Any requirement of the endorsed Landscape Plan (condition 5) (where relevant to show on plans).
- (n) Any requirement of the endorsed Sustainable Management Plan (condition 8) (where relevant to show on plans).
- (o) Any requirement of the endorsed Wind Assessment Report (condition 11) (where relevant to show on plans).
- (p) Any requirement of the endorsed Green Travel Plan (condition 13) (where relevant to show on plans).
- (q) Any requirement of the endorsed Waste Management Plan (condition 14) (where relevant to show on plans).
- (r) Any requirement of the endorsed Public Lighting Plan (condition 17) (where relevant to show on plans).

Façade and Walkways

2. In conjunction with the submission of development plans under Condition 1, a Façade Strategy and Materials and Finishes Plan to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. When approved, the Façade Strategy and Materials and Finishes Plan will be endorsed and will then form part of this permit. This must detail:

- (a) Elevations at a scale of 1:20 illustrating typical podium details for all podium types, entries and doors, utilities (services to Rokeby Street) and tower facade details (in particular glazing types (ensuring limited glare) used within the development).
- (b) Section drawings to demonstrate façade systems, including fixing details and joints between materials or changes in form.
- (c) A sample materials board and coloured renders outlining colours, materials and finishes as these relate to the building, with a graffiti proof finish applied to all walls facing Rokeby Street and the laneways, including the walls accessible to the public at the ground floor.

Use

- 3. Except with the prior written consent of the Responsible Authority, the shop(s) authorised by this permit may only operate between the hours of 7am to 10pm, Monday to Sunday.

Ongoing Architect Involvement

- 4. As part of the ongoing progress and development of the site, Rothelowman Architects or an architectural firm to the satisfaction of the Responsible Authority must be engaged to:
 - (a) oversee design and construction of the development; and
 - (b) ensure the design quality and appearance of the development is realised as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.

Landscape Plan

- 5. Before the development commences, an amended Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Landscape Plan will be endorsed and will form part of this permit. The amended Landscape Plan must be generally in accordance with the Landscape Package of material prepared by Eckersley Garden Architecture and received by Council 25 August 2020, but modified to include (or show):
 - (a) Details of soil volumes for all garden beds provided including those at the ground floor.
 - (b) Consideration to passive irrigation or use of water captured by the subject site.
 - (c) The planting schedule to include the pot sizes and mature heights of all tree and plant species selected.
 - (d) A specification of works to be undertaken prior to planting.
 - (e) Maintenance schedules and notes, including how any plant failure will be managed
 - (f) Details on the proposed methods for irrigation and drainage.
 - (g) All plants proposed confirmed to not be listed within *DELWP Advisory List of Environmental Weeds in Victoria*.
- 6. Before the buildings is occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:
 - (a) implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
 - (b) not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
 - (c) replacing any dead, diseased, dying or damaged plants, to the satisfaction of the Responsible Authority.
- 7. Before the development commences, or by such later date as approved in writing by the Responsible Authority, the permit holder must make a one off contribution of \$4,806 to the Responsible Authority to contribute to the cost of planting six (6) new street trees.

Sustainable Management Plan

8. Before the development commences, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority.

When approved, the amended Sustainable Management Plan will be endorsed and will form part of this permit. The amended Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by LCI Consultants dated 3 December 2018, but modified to include or show:

- (a) Provision of a heat pump for the hot water service;
 - (b) A % of materials (by weight or cost) that are either recycled or contain recycled content;
 - (c) Any further measures identified to further reduced embodied carbon;
 - (d) A small pallet of materials and construction techniques that can assist in disassembly;
 - (e) Further provision of a green roof or wall to improve the ecological value of this site (if possible); and
 - (f) A notation confirming that the head contractor will be ISO14001 accredited.
9. The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
10. Before the development is occupied, a report from the author of the Sustainability Management Plan, approved under this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm all measures specified in the Sustainability Management Plan have been implemented in accordance with the approved plan.

Wind Assessment Report

11. Before the development commences, an amended Qualitative Wind Assessment to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Qualitative Wind Assessment will be endorsed and will form part of this permit. The amended Qualitative Wind Assessment must be generally in accordance with the Qualitative Wind Assessment prepared by SLR Consulting Pty. Ltd, dated March 2020, but modified to include (or show):
- (a) Assess the proposal as amended pursuant to Condition 1.
 - (b) Wind tunnel testing to verify any predictions.
 - (c) Any wind mitigation measures applied within the subject title boundaries.
12. The provisions, recommendations and requirements of the endorsed Wind Assessment Report must be implemented and complied with to the satisfaction of the Responsible Authority.

Green Travel Plan

13. Before the development commences, an amended Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Green Travel Plan will be endorsed and will form part of this permit. The amended Green Travel Plan must be generally in accordance with the Green Travel Plan prepared by Ratio Consultants Pty. Ltd. and dated 08 April 2020, but modified to make reference to the plans as endorsed at Condition 1.
14. The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Waste Management Plan

15. Before the development commences, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Waste Management Plan will be endorsed and will form part of this permit. The amended Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by Ratio Consultants Pty. Ltd. and dated 09 April 2020 but modified to make reference to the plans as endorsed at Condition 1.
16. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
17. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.

Public Lighting Plan

18. Before the development commences, a Public Lighting Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Public Lighting Plan must address lighting along the Rokeby Street and laneway interfaces but also in the walkways and entrances to the approved building. When approved, the Public Lighting Plan will be endorsed and will form part of this permit. The Public Lighting Plan must provide for:
 - (a) A maintenance regime for the lighting scheme within the curtilage of the property.
 - (b) The use of energy efficient luminaries and/or solar lighting technologies to reduce carbon emission if possible.
19. The provisions, recommendations and requirements of the endorsed Public Lighting Plan must be implemented and complied with at no cost to Council and to the satisfaction of the Responsible Authority.

Section 173 Agreement (Laneway / Pedestrian Walkway Access)

20. Within six months of the commencement of works 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*, which provides for the following:
 - (a) The Owner must provide unfettered 24 hour public access over that part of the land to be used for the new north-south link (laneway to laneway access); and
 - (b) The owner is responsible for maintaining at all times the areas that are private land open to the public described in condition 19(a) at the cost of the owners of the site and to the satisfaction of the Responsible Authority.
21. The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the reasonable costs borne by the Responsible Authority.

Loading and Unloading

22. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the area set aside on the endorsed plans for loading 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 it 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 loading bay area.to the satisfaction of the Responsible Authority.
23. The loading and unloading of vehicles and the delivery of goods to and from the land must be conducted entirely within the land to the satisfaction of the Responsible Authority.

24. Except with the prior written consent of the Responsible Authority, delivery and collection of goods to and from the land may only occur between 7am and 10pm Monday to Saturday, or after 9am on a Sunday or public holiday except for those allowed under any relevant local law.

Road Infrastructure

25. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the vehicle crossing on Rokeby Street must be constructed:
- (a) in accordance with any requirements or conditions imposed by Council;
 - (b) Demonstrating satisfactory access into and out of the site with a vehicle ground clearance check using the B99 design vehicle, and be fully dimensioned with actual reduced levels (to three decimal places) as per Council's Vehicle Crossing Information Sheet;
 - (c) at the permit holder's cost; and
 - (d) to the satisfaction of the Responsible Authority.
 - (e) The Permit Holder must obtain the consent of the relevant power authority for the relocation of any power poles. All costs associated with the relocation will be at the Permit Holder's cost.
 - (f) The vehicle crossing shall be constructed in accordance with Department of Infrastructure's and City of Yarra's requirements and specifications.
26. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all building works and connections for underground utility services, the footpaths along the property's Rokeby Street and laneway frontages must be reconstructed (including kerb and channel):
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
27. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the full width road pavement of the Rokeby Street reserve outside the property's frontage must be profiled and re-sheeted:
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
28. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority the relocation of any service poles, structures or pits necessary to facilitate the development must be undertaken:
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
29. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any redundant vehicular crossing must be demolished and re-instated as standard footpath and kerb and channel:
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
30. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the removal of any kerbside parking sensors and any reinstatement of parking sensors will require the Permit Holder to pay Council the cost of each parking sensor taken out from the kerb/footpath/roadway. Any costs associated with the reinstatement of road infrastructure due to the removal of the parking sensors must also be borne by the Permit Holder.

Lighting

31. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, a public lighting design scheme along the development's road frontages demonstrating adequate lighting levels for pedestrians as per Australian Standard requirements must be submitted to and approved by the Responsible Authority. Notations must confirm that the lighting scheme has been approved by CitiPower and all lighting infrastructure and hardware will be funded by the Permit Holder.
32. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the pedestrian and vehicular entrances must be provided on the subject site. Lighting must be:
 - (a) located;
 - (b) directed;
 - (c) shielded; and
 - (d) of limited intensityto the satisfaction of the Responsible Authority.

General

33. The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
34. The amenity of the area must not be detrimentally affected by the use or development, including through:
 - (a) the transport of materials, goods or commodities to or from land;
 - (b) the appearance of any buildings, works or materials;
 - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
 - (d) the presence of vermin.to the satisfaction of the Responsible Authority.
35. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
36. Before the building is occupied, any wall located on a boundary facing public property must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.
37. The development must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
38. The use(s) must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).
39. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
40. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
41. All pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

Construction Management Plan

42. Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:

- (a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
- (b) works necessary to protect road and other infrastructure;
- (c) remediation of any damage to road and other infrastructure;
- (d) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land,
- (e) facilities for vehicle washing, which must be located on the land;
- (f) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
- (g) site security;
- (h) management of any environmental hazards including, but not limited to,:
 - (i) contaminated soil;
 - (ii) materials and waste;
 - (iii) dust;
 - (iv) stormwater contamination from run-off and wash-waters;
 - (v) sediment from the land on roads;
 - (vi) washing of concrete trucks and other vehicles and machinery; and
 - (vii) spillage from refuelling cranes and other vehicles and machinery;
- (i) the construction program;
- (j) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
- (k) parking facilities for construction workers;
- (l) measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;
- (m) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
- (n) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced;
- (o) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads;
- (p) a Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with Noise Control Guideline 12 for Construction (Publication 1254) as issued by the Environment Protection Authority in October 2008. The Noise and Vibration Management Plan must be prepared to the satisfaction of the Responsible Authority.

In preparing the Noise and Vibration Management Plan, consideration must be given to:

 - (i) using lower noise work practice and equipment;
 - (ii) the suitability of the land for the use of an electric crane;
 - (iii) silencing all mechanical plant by the best practical means using current technology;
 - (iv) fitting pneumatic tools with an effective silencer;
 - (v) other relevant considerations; and
- (q) any site-specific requirements.

During the construction:

- (r) any stormwater discharged into the stormwater drainage system must be in compliance with Environment Protection Authority guidelines;
 - (s) 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;
 - (t) vehicle borne material must not accumulate on the roads abutting the land;
 - (u) the cleaning of machinery and equipment must take place on the land and not on adjacent footpaths or roads; and
 - (v) all litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly.
43. If required, the Construction Management Plan may be approved in stages. Construction of each stage must not commence until a Construction Management Plan has been endorsed for that stage, to the satisfaction of the Responsible Authority.
44. The provisions, recommendations and requirements of the endorsed Construction Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
45. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
- (a) Monday-Friday (excluding public holidays) before 7 am or after 6 pm;
 - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm; or
 - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

Time expiry

46. This permit will expire if:
- (a) the development is not commenced within two years of the date of this permit;
 - (b) the development is not completed within four years of the date of this permit; and
 - (c) The shop use is not commenced within five years of the date of this permit.

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

Notes:

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

A vehicle crossing permit is required for the construction of the vehicle crossing(s). Please contact Council's Construction Management Branch on 9205 5555 for further information.

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

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

All future business (whether as owners, lessees/tenants, occupiers / staff) within the development approved under this permit, will not be permitted to obtain, business parking permits.

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

The applicant must apply for a Legal Point of Discharge under Regulation 133 – Stormwater Drainage of the *Building Regulations* 2018 from Yarra Building Services unit.

Any storm water drainage within the property must be provided and be connected to the nearest Council pit of adequate depth and capacity (legal point of discharge), or to Council's satisfaction under Section 200 of the *Local Government Act* 1989 and Regulation 133.

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

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

Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.

No parking restriction signs or line-marked on-street parking bays are to be removed, adjusted, changed or relocated without approval or authorisation from Council's Parking Management unit and Construction Management branch. Any on-street parking reinstated (signs and line markings) as a result of development works must be approved by Council's Parking Management unit.

Only roof runoff, surface water and clean groundwater seepage from above the water table can be discharged into Council drains.

Council will not permit clean groundwater from below the groundwater table to be discharged into Council's drainage system. Basements that extend into the groundwater table must be waterproofed/tanked.

The developer needs to ensure that the building has adequate clearances from overhead power cables, transformers, substations or any other electrical assets where applicable. Energy Safe Victoria has published an information brochure, Building design near powerlines, which can be obtained from their website: <http://www.esv.vic.gov.au/About-ESV/Reports-and-publications/Brochures-stickers-and-DVDs>

Attachments

- 1 Site location and zone map.
- 2 Section 57(a) amendment request and associated documents in response to referrals.
- 3 S57(a) amended plans.
- 4 Internal and external referral advice collated.

6.5 PLN20/0184 - 1027 Drummond Street Carlton North

Executive Summary

Purpose

1. This report provides Council with an assessment of planning permit application PLN20/0184 submitted for 1027 Drummond Street Carlton North. The application seeks approval for the full demolition of existing built form on-site and construction of a double-storey dwelling. The report recommends approval of the application, subject to conditions.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Clause 15.3-1 – Heritage conservation;
 - (b) Clause 22.02 – Development guidelines for sites subject to the heritage overlay;
 - (c) Clause 43.01 – Heritage overlay; and
 - (d) Clause 54 – Single dwelling on a lot.

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Clause 54 – Single dwellings on a lot;
 - (b) Heritage; and
 - (c) Objector concerns.

Submissions Received

4. Eight (8) objections were received to the application and can be summarised as:
 - (a) Out of keeping with neighbourhood character / Heritage;
 - (b) Inappropriate design and overdevelopment (height, scale, bulk);
 - (c) Off-site amenity (daylight/solar access to habitable room windows, overshadowing, overlooking); and
 - (d) Discrepancies on plans (location of habitable room windows and light-courts).

Conclusion

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

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

6.5 PLN20/0184 - 1027 Drummond Street Carlton North

Reference	D20/157190
Author	Nish Goonetilleke - Senior Statutory Planner
Authoriser	Senior Coordinator Statutory Planning

Ward:	Nicholls Ward
Proposal:	Full demolition of existing built form on-site and construction of a double-storey dwelling
Existing use:	Dwelling
Applicant:	Human Habitats Pty Ltd
Zoning / Overlays:	Neighbourhood Residential Zone (Schedule 1) Heritage Overlay (Schedule 326) Special Building Overlay
Date of Application:	26 March 2020
Application Number:	PLN20/0184

Planning History

1. Council records indicate that there is no planning permit history for the subject site.

Background

2. The application was received by Council on 26 March 2020 and additional information was received on 10 June 2020. The application was advertised on 16 June 2020 with eight (8) objections received.

Section 57A Plans

3. The permit applicant submitted a set of amended plans to Council under Section 57(a) of the *Planning and Environment Act (1987)* (the "Act") on 25 September 2020 in response to concerns raised by Council's Planning Officer, Heritage Advisor, Engineering Unit, Melbourne Water and objectors. The Section 57(a) plans included the following changes:
 - (a) Increased southern setback of the rear, first floor studio/bedroom from zero to a minimum 1.56m;
 - (b) RL levels to the front and rear of the site revised from RL35.85 to RL36.18 and RL36.20 to RL36.23 respectively, but with the overall height maintained at 7.18m above natural ground level (NGL); and the height of previously proposed built form along the southern boundary decreased between 0.4m – 0.52m at ground floor and 0.07m – 0.4m at first floor;
 - (c) Size of the ground floor window on the front façade increased;
 - (d) Ground clearance check for the proposed garage; and
 - (e) Identifying the location of north-facing windows of No. 1025 Drummond Street.
4. The amended plans were not advertised, with the application given a discretionary exemption at Council's internal Development Assessment Panel (DAP) meeting held on 9 October 2020, on the basis that the proposed amendments were a reduction in built form and would not result in material detriment. However, a copy of the S57A plans were circulated with the Planning Decision Committee invitations to all objectors.

5. The assessment in this report is based on the amended S57A plans submitted to Council on 25 September 2020.

The Proposal

6. The application seeks approval for full demolition of existing built form on-site and construction of a double-storey dwelling. The proposal is summarised as follows:

Demolition

- (a) Full demolition of all structures on-site including fences;

Development

7. The proposed dwelling will be two-storeys, with a flat roof form and have a maximum height of 7.18m above NGL. Details of the proposed dwelling are as follows:
- (a) The ground floor consists of a front yard, two bedrooms, laundry, bathroom, an open plan living/dining/kitchen area providing access to secluded private open space (SPOS), followed by a powder-room and single car garage;
 - (b) The ground floor is setback 3.42m from the eastern (front) boundary, built along the full length of the western (rear) boundary, as well as the majority of the northern and southern boundaries, with the exception of a 3.43m northern setback and two southern light-courts; 2.54m and 3.53m deep;
 - (c) The first floor will consist of a master bedroom with an ensuite, followed by a corridor and retreat. The perimeter of the east-facing, first floor window will also consist of a 1m high steel balustrade;
 - (d) The first floor would be built flush to the ground floor to the east, built along the northern boundary for a length of 21.89m and built along the southern boundary for a length of 10.4m (with a 3.53m deep light-court) before being setback a minimum 1.34m from this boundary. A studio/bedroom is proposed above the garage; built along the full length of the rear boundary, along the northern boundary for a length of 7.48m and setback a minimum 1.56m from the southern boundary;
 - (e) Proposed northern and southern boundary wall heights range between 2.41m to 6.6m and 2.26m to 6.48m above NGL, respectively;
 - (f) A rain-garden within the ground floor courtyard and non-trafficable green roof areas are proposed above the ground floor bathroom and living room, including a front fence with a maximum height of 1.4m constructed of steel blades and a rendered base;
 - (g) The materials proposed will be combination of rendered brick (mid-grey tones), steel blades (black), timber battens and glazing.

Existing Conditions

Subject Site

8. The subject site is located on the western side of Drummond Street, between Park Street to the north and Mary Street to the south; with Rathdowne Street approximately 130m to the east and Lygon Street approximately 60m to the west, in Carlton North. The site has a frontage of 4.89m to Drummond Street and a depth of 48.62m, constituting an overall area of approximately 238sqm. The western boundary abuts a 3.68m wide ROW. The land slopes from north to south and west to east.

9. The site is occupied by a single-storey, rendered brick dwelling, with a hipped roof form. The dwelling is setback a minimum 1.95m from the eastern (front) boundary which accommodates a maximum 1.2m high, part brick, part wrought-iron front fence and garden. At ground floor, the dwelling is built along the northern and southern boundaries for lengths of 30.44m and 22.73m, respectively, with the exception of a 1m wide southern light-court.

A single-car garage is built along the northern and southern boundaries for lengths of 6.77m and 6.13m, respectively and setback 0.7m for the majority of the rear boundary. SPOS is located between the dwelling and the garage. The ground floor consists of three bedrooms, a bathroom, living room, laundry and an open plan dining/kitchen area providing access to the central SPOS. The existing front boundary fence is located outside of the subject site's title boundary, and encroaches on to the footpath fronting Drummond Street.



The subject site when viewed from Drummond Street (Google Maps, July 2019)

Title

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

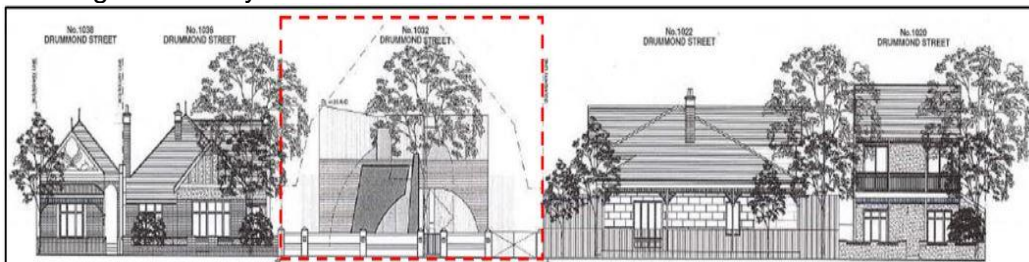
Surrounding Land



The subject site and surrounding land (Council GIS, September 2020)

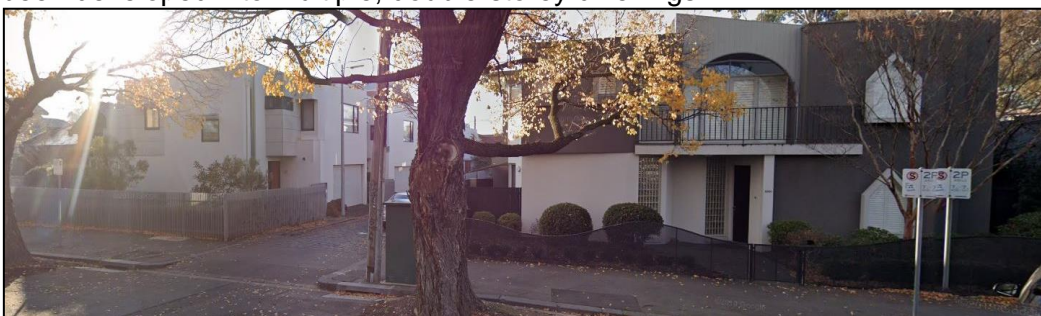
11. The surrounding neighbourhood is largely residential, with a mixture of single and double-storey dwellings and an increasing number of first floor additions or contemporary developments. While building types vary within Drummond Street, high site coverage and the construction of walls on boundary are common elements, with the majority of buildings being constructed on at least one (if not both) side boundaries. A number of dwellings are setback between 1.95m to over 6m from the front title boundaries to accommodate either front gardens or open car parking, accessed from Drummond Street. Areas of SPOS are predominantly located at ground level, between the dwelling and rear garage/shed/outbuilding.

12. Abutting the subject site to the north is No. 1029 Drummond Street; a double-storey, Victorian-era, brick terrace, with a ground floor extension. A garage with a studio above is located at the rear of the site. The dwelling is setback a minimum 1.95m from the front boundary, built along the majority of the southern boundary, aside from a 1m wide central light-court and setback a minimum 20m from the rear boundary. SPOS is located between the dwelling and the garages at the rear. This dwelling has been graded as being “contributory” to the heritage precinct.
13. Abutting the subject site to the south is No. 1025 Drummond Street; a single-storey brick dwelling with a first floor addition approved under Planning Permit No. 990098, on 11 March 1999. At ground floor this dwelling has a front setback of 3.42m, and is then built abutting the subject site for a length of approximately 28m; with the exception of two, north-facing light-courts, and setback approximately 17m from the rear boundary to accommodate SPOS. The first floor addition is setback 13.51m from the front boundary, and is built to the boundary with two northern setbacks to accommodate light-courts. The first floor addition cantilevers over the second light-court at ground floor (associated with the ground floor dining area) by 0.86m and provides a first floor terrace area. The first floor addition is setback over 20m from the rear boundary. This dwelling is graded as being “contributory” to the heritage precinct.
14. Immediately to the east of the subject site, across Drummond Street are a mix of single and double-storey dwellings, some with heritage significance. More recent developments can be found at No. 1032 Drummond Street; north-east of the subject site, where Planning Permit PLN17/1067 was approved on 12 October 2018 for the *full demolition of the existing dwelling and construction of a double-storey dwelling with basement (Clause 54 not applicable)*. This dwelling is currently under construction.



The approved dwelling at No. 1032 Drummond Street (Endorsed Plans: Time Architects, March 2020)

15. As shown below, further south-east of the subject site is No. 1008 Drummond Street where Planning Permit PL03/0265 allowed for *alterations to the existing dwelling and the development of three additional double-storey dwellings*. No. 1002 Drummond Street has also been developed into multiple, double-storey dwellings.



No. 1008 Drummond Street on the left and No. 1002 Drummond Street to the right (Google Maps, July 2019)

16. To the west of the subject site, across the ROW are the rear boundaries of developments fronting Lygon Street. Occupying the rear of these properties are a mix of open spaces and single to double-storey outbuildings constructed to the rear boundary. Immediately to the west of the subject site is a triple-storey apartment building fronting Lygon Street. The first floor terraces of these apartments face the subject site.
17. Drummond Street consists of a variety of front fence designs, ranging from cast-iron to timber-pickets to brick fences, in different heights.

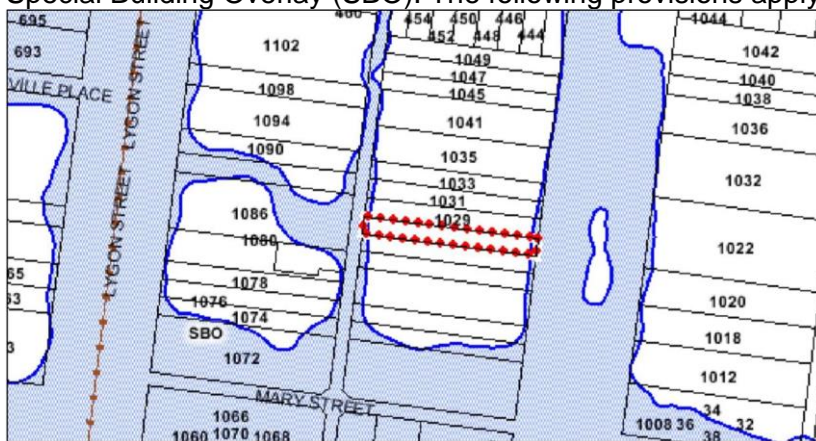
Planning Scheme Provisions

Zoning

18. The subject site is zoned Neighbourhood Residential Zone (Schedule 1). The following provisions apply:
- (a) Pursuant to *Clause 32.09-4* of the Yarra Planning Scheme (the Scheme), the mandatory minimum garden area requirement applies to lots over 400sqm. The overall subject site is only 238sqm in area and therefore the minimum garden area requirement does not apply.
 - (b) Pursuant to *Clause 32.09-5* of the Scheme a planning permit is required to:
 - (i) construct one dwelling on lot less than 500sq.m. *Clause 54* (one dwelling on a lot) applies.
 - (ii) construct or extend a front fence within 3 metres of a street if, *the fence is associated with one dwellings on a lot and the fence exceeds the maximum height specified in Clause 54.06-2*.
19. Under the zone, a planning permit is required for the proposed dwelling. The proposed front fence along the eastern boundary will have a maximum height of 1.2m, which meets the 1.5m height recommended by the standard. As such, a permit is not required for this fence under the zone.
- (c) Pursuant to *Clause 32.09-10* of the Scheme, a maximum building height of 9m and two-storeys apply. The proposed dwelling is two-storeys and has an overall height of 7.18m, and therefore satisfies this requirement.

Overlays

20. The subject site is affected by the Heritage Overlay (Schedule 326 – North Carlton Precinct). The following provisions apply:
- (a) Pursuant to *Clause 43.01-1* of the Scheme, a planning permit is required to:
 - (i) *Demolish or remove a building, and;*
 - (ii) *Construct and carry out works, including, a fence, if the fence is visible from a street (other than a laneway) or public park.*
21. A planning permit is triggered under the overlay for the demolition and proposed works, including the proposed front fence as it is visible from Drummond Street.
22. As shown in blue below, the front and rear sections of the subject site are affected by the Special Building Overlay (SBO). The following provisions apply:



Location of the SBO affecting the subject site (Planning Maps Online, November 2020)

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

Particular Provisions

Clause 52.06 Car Parking

23. This clause is relevant given that a new dwelling is proposed. The number of car parking spaces required under *Clause 52.06-5* of the Scheme or in a schedule to the Parking Overlay must be provided to the satisfaction of the responsible authority before:
- (a) *a new use commences; or*
 - (b) *the floor area or site area of an existing use is increased; or*
 - (c) *an existing use is increased by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use.*
24. Pursuant to *Clause 52.06-5* of the Scheme, two (2) car spaces are required to each three or more bedroom dwellings.
25. The current dwelling consists of 3 bedrooms and provides one car space, with the new dwelling consisting of 4 bedrooms with one car space provided on-site. Given that the car parking rate under the existing conditions and the proposed conditions are the same, with no reduction to the number of car parking spaces provided on-site, a reduction in the car parking requirements does not apply to this application.

Clause 54 – One dwelling on a lot

26. Pursuant to *Clause 54* of the Scheme, the provisions apply for a new dwelling on a lot under 500sqm.

General Provisions

Clause 65 - Decision Guidelines

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

Planning Policy Framework (PPF)

28. Relevant clauses are as follows:

Clause 15.01-1S – Urban design

29. The relevant objective of this clause is *to create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity*.

Clause 15.01-5S – Neighbourhood character

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

Clause 15.02-1S Energy and resource efficiency

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

Clause 15.03 – Heritage

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

Local Planning Policy Framework (LPPF)

Clause 21.05-1 – Heritage

33. The relevant objective of this clause is:
(a) *Objective 14 – To protect and enhance Yarra’s heritage places.*

Clause 21.05-2 – Urban design

34. The relevant objectives of this clause are:
(a) *Objective 16 – To reinforce the existing urban framework of Yarra.*
(b) *Objective 18 – To retain, enhance and extend Yarra’s fine grain street pattern.*
(c) *Objective 20 – To ensure that new development contributes positively to Yarra’s urban fabric.*

Clause 21.07 Environmental Sustainability

35. The relative objective of this clause is:
(a) *Objective 34 – To promote ecologically sustainable development.*

Clause 21.08-3 North Carlton – Princes Hill

36. This clause describes the neighbourhood as being a residential neighbourhood *noted for the consistency of its spacious brick or render late Victorian and Edwardian streetscapes and for its consistent residential character.*
37. The built form character map at Figure 10 identifies the subject site as being within a Heritage Overlay and the specific development guideline is *to ensure that development does not adversely affect the significance of the heritage place.*

Relevant Local Policies

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

38. *Clause 22.02* of the Scheme applies to all development where a planning permit is required under the Heritage Overlay. The objectives of the policy include:
(a) *to conserve Yarra’s natural and cultural heritage;*
(b) *to conserve the historic fabric and maintain the integrity of places of cultural heritage significance;*
(c) *to retain significant view lines to, and vistas of, heritage places;*
(d) *to preserve the scale and pattern of streetscapes in heritage places;*
(e) *to ensure that additions and new works to a heritage place respect the significance of the place;*
(f) *to encourage the retention of ‘individually significant’ and ‘contributory’ heritage places.*
39. *Clause 22.02-5.1* generally encourages the retention of a building in a heritage place, unless the building is identified as being “not-contributory”.

Clause 22.02-5.7 New Development, Alterations or Additions

40. The relevant policies of *Clause 22.02-5.7.1*, in relation to the development subject of this application, encourages the design of new development and alterations and additions to a heritage place to:
- (a) *Respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape.*
 - (b) *Be articulated and massed to correspond with the prevailing building form of the heritage place or contributory elements to the heritage place.*
 - (c) *Be visually recessive and not dominate the heritage place.*
 - (d) *Be distinguishable from the original historic fabric.*
 - (e) *Not remove, cover, damage or change original historic fabric.*
 - (f) *Not obscure views of principle façades.*
 - (g) *Consider the architectural integrity and context of the heritage place or contributory element.*

Clause 22.07 – Development Abutting Laneways

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

Clause 22.16 – Stormwater management (Water Sensitive Urban Design)

42. This policy applies to applications for new buildings (amongst others). Under this clause it is policy to:
- (a) *To achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999 (or as amended).*
 - (b) *To promote the use of water sensitive urban design, including stormwater re-use.*
 - (c) *To mitigate the detrimental effect of development on downstream waterways, by the application of best practice stormwater management through water sensitive urban design for new development.*
 - (d) *To minimise peak stormwater flows and stormwater pollutants to improve the health of water bodies, including creeks, rivers and bays.*
 - (e) *To reintegrate urban water into the landscape to facilitate a range of benefits including microclimate cooling, local habitat and provision of attractive spaces for community use and well-being.*

Incorporated Documents

43. Appendix 8 to the City of Yarra Review of Heritage Areas, 2007 – The site is identified as being “not-contributory” to the North Carlton Precinct (as identified by Schedule 326 to the Heritage Overlay).

Advertising

44. The originally submitted application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 35 letters sent to surrounding owners and occupiers and by one sign displayed on site; at the Drummond Street frontage.
45. Council received 8 objections, the grounds of which are summarised as follows:
- (a) Out of keeping with neighbourhood character / Heritage;

- (b) Inappropriate design and overdevelopment (height, scale, bulk);
 - (c) Off-site amenity (daylight/solar access to habitable room windows, overshadowing, overlooking); and
 - (d) Discrepancies on plans (location of habitable room windows and light-courts).
46. On 25 September 2020, the applicant submitted revised plans under Section 57(A) of the Act. Following the submission of amended plans, the application was not advertised and was given a discretionary exemption at Council’s internal Development Assessment Panel meeting held on 9 October 2020, as the proposed amendments were a reduction in built form. However, a copy of the plans were circulated to objectors with the PDC invitations.

Referrals

External Referrals

47. Pursuant to *Clause 44.05-6* of the Scheme, the application was referred to Melbourne Water who responded that there was no objection to the proposal, subject to conditions. The referral comments have been included as an attachments to this report.
48. The amended (S57A) plans were also formally referred to Melbourne Water who were supportive of the amended proposal, with the previous conditions now removed. These comments have also been included as an attachment to this report.

Internal Referrals

49. The originally advertised application was formally referred to Council’s Heritage Advisor and Engineering Unit. The referral comments have been included as an attachments to this report.
50. The amended (S57A) plans were informally referred to Council’s Heritage Advisor and Engineering Unit and these comments have also been included as an attachment to this report.

OFFICER ASSESSMENT

51. The following key issues and policies will be used to frame the assessment of this planning permit application:
- (a) Clause 54 – One dwelling on lot;
 - (b) Heritage;
 - (c) Special building overlay;
 - (d) Development abutting laneways;
 - (e) Objector concerns; and
 - (f) Other matters.

Clause 54 – One dwelling on lot

52. The following is an assessment of the proposal against the relevant provisions of ResCode (*Clause 54*). This particular provision comprises of 19 design objectives and standards to guide the assessment of new residential development. Given the site’s location within a built up inner city residential area, strict application of the standard is not always appropriate, whether the proposal meets the objective is the relevant test.

A1 – Neighbourhood character objective

53. The immediate streetscape character contains a variety of dwelling designs, varying in height and setbacks. Aside from the single and double-storey Victorian/Edwardian-era dwellings found along both sides of Drummond Street, there are examples of existing and emerging contemporary double-storey buildings along both sides of Drummond Street (Nos. 999, 1011, 1002, 1008 and 1032 Drummond Street), as well as three-storey apartment buildings along Lygon Street to the rear.
54. Considering the context of the site with a mixture of heritage and non-traditional housing stock, the design response is respectful of the existing neighbourhood character. The proposed dwelling responds appropriately to the height of the dwellings on either side of the subject site, with front setbacks at both levels providing a degree of transition from north to south. This design responds effectively to the context of each site.
55. As stated earlier in the report, construction of walls along site boundaries is a common feature of the neighbourhood, especially to the north and south of the subject site. Furthermore, the proposed site coverage too is generally consistent with the character of the street which is typically high given the minimal setbacks and variety of lot sizes which are evident. The location of the proposed SPOS, between the main dwelling and garage to the rear (albeit connected by a gallery), is similar to that of other dwellings along Drummond Street.
56. The contemporary design with a flat roof form reflects the parapet forms of the dwellings particularly on the western side of the street, while the materials used (rendered brick, glazing, steel blades and timber battens) and the inclusion of vertical window proportions to the front façade at both levels presents visual interest to the streetscape. As such, the proposed dwelling compliments the mixture of building styles and materials found within the surrounding and the emerging housing stock and therefore, will not appear out of context.
57. Overall, the proposal is a site and neighbourhood responsive design response, meeting the objective.

A2 – Integration with the street objective

58. Standard A2 recommends that *developments should be oriented to front existing and proposed streets*.
59. The proposed dwelling will continue to be orientated to Drummond Street, with a 1.2m high, steel front fence and will positively integrate with the street and promote passive surveillance. The proposed vertical habitable room windows at both levels will provide for passive surveillance opportunities between the public and private realm, including a good degree of interaction with the streets. Similar to the existing dwelling on-site and other dwellings along Drummond Street, landscaping is proposed within the front setback.
60. The development will integrate appropriately with Drummond Street, as encouraged by the objective and standard.

A3 – Street setback objective

61. The proposed front setback of 3.42m is similar to the front setbacks of other developments along Drummond Street, and most notably the abutting dwellings to the north (which sits further forward at 1.95m to 3.42m) and the southern dwelling (3.42m to 3.69m). Therefore, the proposed ground floor setback complies with Standard A3 – Street Setback of the Scheme.

A4 – Building height objective

62. The maximum building height of the proposed dwelling extension will be 7.18m above NGL. This is below the maximum 9m prescribed by this standard and is respectful of the neighbourhood character and essentially lower than the height of the abutting site to the north.

A5 – Site coverage objective

63. This Standard states that the site area covered by buildings should not exceed 60%. The proposed increase in site coverage from approximately 70% to 74% continues to exceed the requirement of the Standard.

64. However, this is similar to the properties to the immediate north and south. The additional site coverage of 4% is reasonable in the context of the site in an inner urban environment on a lot that is 238sqm, and where the established neighbourhood character is of high site coverage.

A6 – Permeability objectives

65. The existing permeable surfaces are located within the front and central SPOS of the subject site, equating to 12sqm or 5% of the overall site. A minimum of 20% site permeability is recommended by this Standard.

66. The proposal incorporates 47sqm or 20% of permeable surfaces consisting of garden area and crushed rock within the front and side setbacks at ground floor, which meets the standard. This is an improvement from the existing conditions and would continue to assist in reducing storm water run-off on-site.

67. In order to improve the STORM rating of a site, *Clause 22.16* of the Scheme requires appropriate treatments to be provided for an extension over 50sqm. The STORM report prepared by Wellard Architects shows a 100mm deep x 1.50sqm raingarden and a STORM rating of 105%; which would assist to reduce water-runoff. The plans confirm that this raingarden located within the southern courtyard will be in accordance with the WSUD Report and STORM Report.

A7 – Energy efficiency protection objectives

68. It is considered that the proposed development will have a good level of energy efficiency given:

- (a) The proposal incorporates an area of private open space at the rear of the dwelling which will gain access to direct northern sunlight, and is located directly off the main living room, thereby achieving good solar access and reducing the reliance on artificial lighting;
- (b) East and west-facing windows will provide adequate natural lighting to the ground floor living room. Similarly, east, west and south-facing operable windows will provide natural lighting and ventilation to the first floor bedroom and retreat area; and
- (c) The majority of the built form of the proposed dwelling would be adjacent existing on-boundary built form, thereby not unreasonably impacting daylight or solar access to neighbouring dwellings. This will be discussed later in the report.

A8 – Significant trees objective

69. There are no trees proposed to be removed on-site.

A10 – Side and rear setbacks objective

70. This standard stipulates the following:

- (a) *“A new building not on or within 200mm of a boundary should be set back from side or rear boundaries:*
 - (i) *At least the distance specified in a schedule to the zone, or*
 - (ii) *If no distance is specified in a schedule to the zone, 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres”.*

71. The following table compares the proposed building setbacks with those prescribed by the standard.

Wall Description	Proposed height	Required setback	Proposed setback	Compliance/Variation
Northern Wall Ground floor	2.41m	1m	3.43m	Complies

<u>Southern Wall</u>				
Ground floor	2.26m	1m	2.54m - 3.53m	Complies
First floor	5.8m - 6.63m	1.66m – 1.91m	1.34m - 3.53m	Variation Required
Rear Studio/Bedroom Wall	5.39m – 5.59m	1.53m – 1.59m	1.56m – 1.61m	Complies

72. As demonstrated above, whilst the northern and ground floor southern walls associated with the dwelling complies with the setbacks prescribed by the standard, the first floor southern dwelling wall does not.

Southern Wall

73. Whilst the proposed 5.8m high wall associated with the first floor gallery/stairs meets the required southern setback by the standard at 2.54m, the 5.8m high first floor retreat does not.
74. The majority of the overall dwelling wall will be adjacent to existing built form of No. 1025 Drummond Street. A length of 0.9m of this overall wall (the retreat), will be adjacent to a 1.34m wide light-court and a first floor terrace of No. 1025 Drummond Street. The proposed variation to this standard is acceptable as the first floor terrace is not POS as it is not accessed from a living area. The main SPOS is located further to the rear of No. 1025 Drummond Street and is not impacted by the retreat wall.

A11 – Walls on boundaries objective

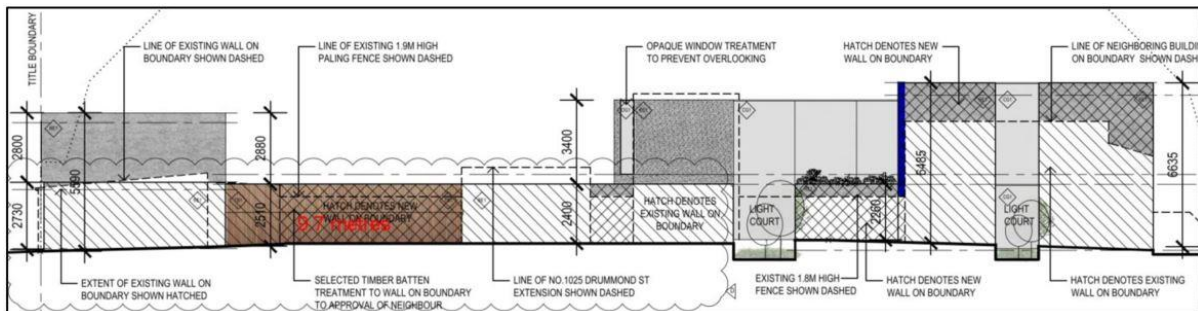
75. This standard stipulates the following:
- (a) The total length of walls along the northern and southern boundaries should not exceed 19.65m, *unless abutting an existing or simultaneously constructed wall*; and
 - (b) *The maximum height of all boundary walls should not exceed an average 3.2m height, with no part higher than 3.6m unless abutting a higher existing or simultaneously constructed wall on an adjoining lot.*

Northern boundary

76. Currently there is a 30.44m long dwelling wall and 6.77m long garage wall along the northern boundary with staggered heights, reaching to a total height of 5m above NGL. As such, the existing wall along this boundary exceeds the length and height set by the standard.
77. At ground floor, the majority of the proposed northern boundary walls are to be constructed abutting existing built form at No. 1029 Drummond Street. However, a section of the proposed ground floor wall will also be adjacent to a 1.4m deep south-facing light-court and the SPOS of No. 1029 Drummond Street. The light-court will be discussed later in the report. Whilst there is some 7m of ground floor wall that would be adjacent the SPOS of No. 1029 Drummond Street, the proposed wall will have a maximum height of 2.4m above NGL and would act much like a boundary fence. This height is also well below the 3.2m permitted on the boundary and is considered to be an appropriate response to the south side of SPOS. Therefore, the length variation to this standard is acceptable as it does not cause visual bulk when viewed from the SPOS of No. 1029 Drummond Street.
78. At first floor, the proposal incorporates two walls; one at a length of 21.89m and the other at a length of 7.48m (bedroom/studio). All new first floor northern boundary walls will abut existing built form of the abutting site to the north, with the exception of the south-facing light-court. However, as a result of the existing conditions, the south-facing light-court of No. 1029 Drummond Street is already visually impacted by the 5m high boundary wall on the subject site. Furthermore, the principal SPOS of this neighbouring dwelling to the north is located further west and therefore, the variation to this standard is considered acceptable.

Southern boundary

79. Currently there are two sections of ground floor wall on the boundary (10.73m long, followed by a 12m long wall), at a maximum height of 5m above NGL. The rear garage wall is constructed for a length of 6.13m at a height of 3m above NGL. Therefore, the existing wall along the southern boundary exceeds the allowable wall length and height set by the Standard. The abutting dwelling to the south at No. 1025 Drummond Street has two, ground floor, north-facing habitable room windows (study and dining room) as well as their SPOS facing the subject site.
80. At ground floor, the majority of the proposed southern boundary walls are to be constructed abutting existing built form at No. 1025 Drummond Street. However, these proposed ground floor walls are also intercepted by courtyards on-site. Nonetheless, the following outlines the separate ground floor wall sections which are not adjacent to existing built form of the neighbouring dwelling to the south:
- (a) A section of southern boundary wall runs for a length of 8.15m. Whilst this section of wall will be adjacent to the neighbouring north-facing study window, it is considered acceptable as the overall height of this wall is limited to 2.26m above NGL (meeting the average height of 3.2m set by the standard). As a result of the existing 1.8m high timber paling fence on the neighbouring site to the south, only a height of 0.46m will be visible from this north-facing study window. Therefore, the length variation is considered acceptable.
 - (b) The remainder of the southern boundary will consist of a 28.01m long wall at varied heights between 2.4m to 2.73m above NGL. However, the majority of this wall will abut existing built form with only a length of 9.7m of this wall built abutting the SPOS of No. 1025 Drummond Street. Currently, this neighbouring southern SPOS is already visually affected by the existing on-site dwelling wall and garage wall (to the rear). However, in order to break up the visual bulk of the overall proposed wall length, the proposal utilises both rendered brick and timber battens. This is shown on the image below. Furthermore, whilst a section of the 2.4 high wall will be adjacent to the northern-facing dining room window of No. 1025 Drummond Street, this window is already visually impacted by the existing first floor on-site as it cantilevers for a depth of 0.86m over the ground floor. In addition, this habitable room has alternate outlooks to the east and west. Therefore, the variation to the standard is acceptable.



Proposed south elevation (Wellard Architects September 2020)

81. The first floor incorporates a 4.65m long wall x 6.63m high wall associated with the master bedroom. Whilst this varies from the height required by the standard, this wall will abut existing built form and therefore is considered acceptable.
82. The remaining first floor southern boundary wall will be built for a length of 5.75m at an overall height of 6.46m above NGL. The majority of this wall will abut existing built form of the southern property, with the exception of a length of 0.3m. As highlighted in blue on the image above, only a small section of this boundary wall will be visible from the ground floor light-court and north-facing study window of No. 1025 Drummond Street.

The new boundary construction marginally exceeds the length of the existing boundary construction (0.3m) at No. 1025 Drummond Street. Keeping in mind that the north-facing light-court of No. 1025 Drummond Street is not SPOS, this marginal increase in wall length is considered acceptable; particularly as the window would does not directly face the area of wall. Therefore this proposed wall at first floor will not cause visual bulk impacts when viewed from this neighbouring HRW to the south.

Western boundary

83. The western boundary will be built to the full length at a maximum height of 5.59m above NGL. The proposed western boundary walls will be adjacent to the 3.68m wide ROW. On the opposite side of the ROW are a ground floor garage and first floor terrace associated with an apartment building fronting Lygon Street (further west).

In consideration of the objective, the proposed boundary walls will not appear out of character in context of the current boundary construction that exists within the subject site and the adjacent dwellings to the west. The direct interface of the wall with a ROW provides a 3.68m wide buffer, also ensuring there will be no unreasonable visual bulk or amenity impacts when viewed from the neighbouring first floor terrace. The use of a variety of materials along this boundary; i.e. rendered brick and timber battens, in combination with window fenestrations will provide further articulation to the proposed western boundary construction and will not appear as a continuous wall. Therefore a variation to this standard is acceptable as the objective is considered met.

84. Based on the above the location, lengths, heights of proposed walls will meet the objectives of the standard.

A12 – Daylight to existing windows objective

85. As stated earlier in the report, the dwelling at No. 1025 Drummond has two, north-facing, HRWs at ground floor adjacent to the subject site. At a wall height of 2.26m, 2.4m and 5.8m above NGL, setbacks of 1.13m, 1.2 and 2.9m, respectively are required to be provided for this window.

86. The proposed ground floor wall will be constructed to the boundary, with the neighbouring study window only setback 0.77m from this wall. Whilst this does not meet the required setback of 1.13m, this variation is considered acceptable given the limited width of both the subject site and the neighbouring site. Furthermore, this window is associated with a study and not a living area or bedroom. Impacts to solar access associated with this window which is a more onerous standard will be discussed later in the report. Nonetheless, the applicant proposes to use a light coloured material such as mid-grey which would will further assist in providing reflective light to this study.

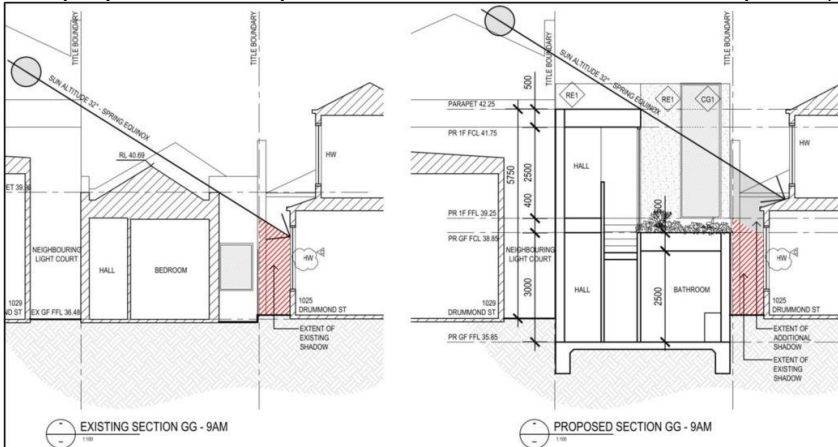
87. The first floor addition will be setback 2.54m from the southern boundary, with a total setback of 3.31m from this neighbouring study window. This setback exceeds the required setback of 2.9m set by the standard.

88. The proposed 2.4m high ground floor wall will be constructed to the southern boundary adjacent the north-facing dining room window. However, given that this window is setback 2.2m from the shared boundary, this meets the required setback of 1.2m set by the standard. The proposed first floor addition will be setback a total of 3.54m from this dining room window, thereby meeting the setback of 2.9m set by the standard.

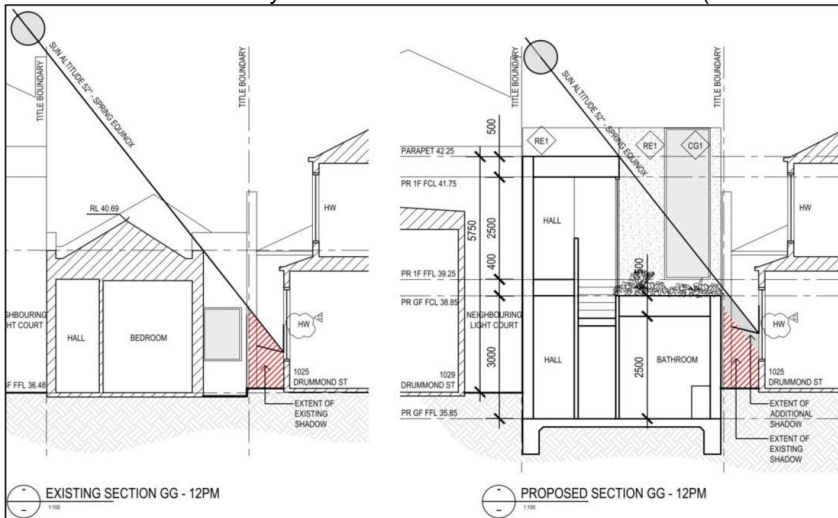
A13 – North-facing windows objective

89. Standard A13 requires a wall within 3m of a north-facing habitable room window to be setback 1m from the boundary, plus 600mm for every metre of height over 3.6m. As stated previously, No. 1025 Drummond Street has two north-facing HRWs at ground floor; one associated with a study and the other a dining room.

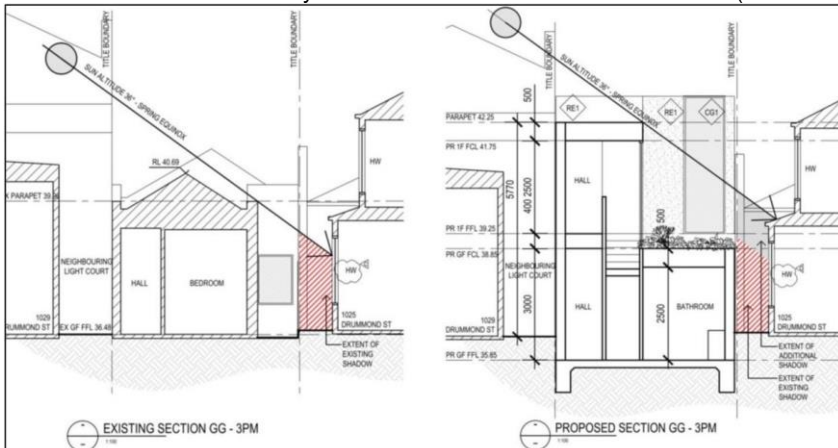
90. A wall height of 2.26m and 5.8m requires a setback of 1m and 2.32m from this north-facing study window of the abutting property to the south. The 2.26m high wall will be built to the southern boundary, with the 5.8m high wall setback 2.54m from the southern boundary. Therefore, whilst the first floor meets the required setback under the standard, the ground floor does not.
91. The applicant provided cross-sectional diagrams showing solar access to this window under both existing and proposed conditions. As illustrated below, between 9am, 12noon and 3pm, this window is already heavily impacted under existing conditions (depicted in red hatching). The proposed development causes minimal additional impacts (depicted in light grey).



9am solar access to study window of No. 1025 Drummond Street (Wellard Architects September 2020)

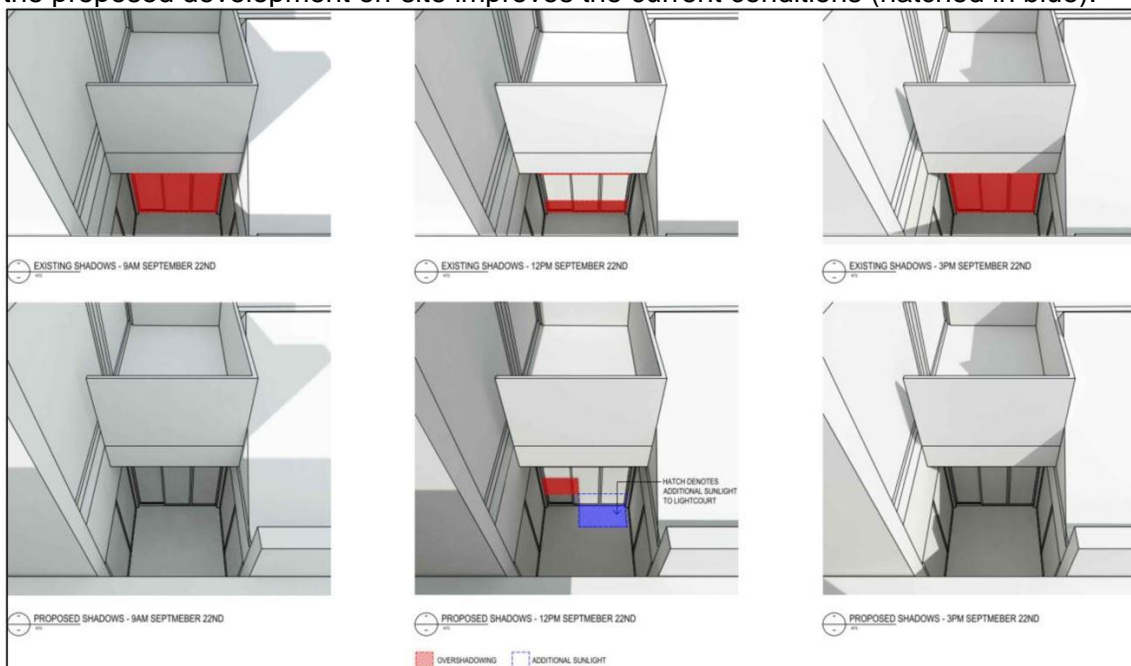


12noon solar access to study window of No. 1025 Drummond Street (Wellard Architects September 2020)



3pm solar access to study window of No. 1025 Drummond Street (Wellard Architects September 2020)

92. As shown above whilst solar access to this window will be impacted under the proposed conditions, this window is already heavily impacted under the existing conditions. The study window will continue to receive adequate solar access at 12pm. Therefore, given that the study is already a compromised space and on balance, this variation is considered acceptable.
93. A wall height of 2.4m and 5.8m requires a setback of 1m and 2.32m from the north-facing dining room window of the abutting property to the south. The 2.4m high wall will be built to the southern boundary, with the 5.8m high wall setback 1.34m from the southern boundary. Therefore, neither the ground floor nor first floor addition meets the required setback under the standard. Nonetheless, only a length of 0.8m of the first floor will be adjacent to this north-facing, dining room window.
94. The following 3D images show existing (hatched in red) and proposed impacts (grey shadows) to the north-facing dining room. Solar access into the existing dining room window at 9am and 3pm are already compromised by the existing first floor cantilevering over the ground floor. Whilst this neighbouring window receives solar access at 12pm to the majority of this window, the proposed development on-site improves the current conditions (hatched in blue).



9am, 12noon, 3pm solar access to north-facing dining room window of No. 1025 Drummond Street (Wellard Architects September 2020)

95. Whilst solar access to this dining room window is not altered at 9am and 3pm, at 12 noon more than 50% of this window will receive adequate solar access as a result of the proposed setback design from the southern boundary. Therefore, the variation is considered acceptable.

A14 – Overshadowing open space objective

96. The standard states, *where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September. If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.*
97. Given the east-west orientation of the site and based on the September Equinox, the proposed development will result in additional overshadowing to the SPOS of No. 1025 Drummond Street between 9.00am to 3.00pm. This abutting site to the south consists of 84sqm of SPOS within the rear setback. The following table prepared by the Planning Officer is a comparison between existing unshadowed SPOS, proposed unshadowed SPOS and the increase in overall shadows:

Time	Unshadowed Area (Existing) SPOS	Unshadowed Area (Proposed) SPOS	Increase in Overall Shadows
9.00am	26sqm	27sqm	No increase
10.00am	33sqm	32sqm	1sqm
11.00am	41sqm	36sqm	5sqm
12.00pm	49sqm	40sqm	9sqm
1.00pm	49sqm	41sqm	8sqm
2.00pm	48sqm	40sqm	8sqm
3.00pm	44sqm	38sqm	6sqm

98. The SPOS of this dwelling is already shadowed by existing built form and fencing. As outlined above, the marginal increases in shadows (maximum of 9sqm at 12 noon) are considered acceptable as they will not significantly alter the use of the neighbouring SPOS area which is already affected by shadows cast under the existing conditions. Whilst this dwelling will be most impacted at 12noon, this is limited to a one hour time frame, with the extent of additional shadows reducing for the rest of the afternoon. The SPOS of the No. 1025 Drummond Street will continue to be suitable for recreational needs of residents.
99. Given the narrow lot sizes, high built form in the area and the site's east-west orientation it is common to see some level of overshadowing. The impact of the additional overshadowing on the SPOS of the adjacent dwelling to the south is reasonable and will continue to allow solar access, generally in accordance with the objective.

A15 – Overlooking objective

100. This standard stipulates that a habitable room window, balcony, terrace, deck should be located and designed to avoid direct views into the SPOS of an existing dwelling (or a habitable room window) within a horizontal distance of 9 metres (measured at ground level) of the window. Views should be measured within a 45 degree angle from the plane of the window and from a height of 1.7m above floor level.
101. The above standard does not apply to a new habitable room window, deck or patio which faces a property boundary where there is a visual barrier at least 1.8m high and the floor level of the habitable room window, deck or patio is less than 800mm above ground level at the boundary.
102. Most overlooking opportunities at ground level would be suitably limited by proposed boundary fences that are up to/above 2.4m in height (and given that floor levels are less than 800mm above natural ground). However, as a result of removing the existing 1.8m high boundary fence (as per the demolition plan) between the subject site and No. 1025 Drummond Street (adjacent to the central light-court), there would be potential for overlooking from this courtyard and into the HRW of No. 1025 Drummond Street.
103. Similarly, the height of the proposed northern boundary fence is not clearly shown on the proposed floor plans. Therefore a condition will require fence along the northern and southern boundaries clearly shown demonstrating compliance with Standard A15 (Overlooking objective) at Clause 54 of the Yarra Planning Scheme. In addition to this, a condition will require the proposed southern elevation amended to delete references to existing fences along the southern boundary (adjacent to the central courtyard) as this fence is proposed to be removed (as notated on demolition plan) and show new fencing.
104. Views from the east-facing, first floor master bedroom window will fall within the public realm (Drummond Street) and therefore does not require screening. Views from the south-facing, master bedroom window (adjacent to the courtyard on-site) will fall within existing built form and therefore, does not require screening.

105. The first floor, south-facing window associated with the gallery and stairs do not require screening as this is a non-habitable area. However, the east-facing retreat window appears while using obscure glazing seems to show the window as openable, and as such there is a possibility of overlooking into the ground floor HRW of No. 1025 Drummond Street. Therefore, a condition will require the first floor east-facing retreat window to demonstrate compliance with the objective of Standard A15 (Overlooking objective) of Clause 54 of the Scheme.
106. The south-facing retreat window at first floor is to consist of opaque glazing to the full length of the window. However, the plans do not confirm that the opaque glazing will be fixed, therefore resulting in possible overlooking impacts to the ground floor HRW and first floor terrace of No. 1025 Drummond Street. Therefore, a condition will require the first floor south-facing retreat window to demonstrate compliance with the objective of Standard A15 (Overlooking objective) of Clause 54 of the Scheme.
107. In relation to the studio/bedroom at first floor to the rear, this standard requires consideration to be given to any direct line of site at ground floor within the 9m arc. The three-storey apartment building to the west has garages at ground floor and first floor terraces. The proposal incorporates a first floor, west-facing bedroom/study window to the rear which will consist of clear glazing and partly operable. Therefore, there are no sensitive interfaces within the 9m overlooking arc, with the majority of the ground floor on neighbouring sites to the west consisting of garages and car parks. Therefore, no screening is required to the west-facing windows.

A16 – Daylight to new windows objective

108. All of the proposed windows will face an area with a minimum 3sqm and minimum dimension of 1m clear to the sky, thereby complying with the standard.

A17 – Private open space objective

109. The standard states that a dwelling should have POS of an area consisting of 80sqm or 20% of the area of the lot, whichever is the lesser, but not less than 40sqm. Furthermore, at least one part of the POS should consist of SPOS with a minimum area of 25sqm and a minimum dimension of 3m at the side or rear of the dwelling with convenient access from a living room.
110. Whilst the proposed site plan (PL02) states that the dwelling would provide approximately 38sqm or 16% of POS, this appears to be a clerical error. The site provides 47sqm or 20% of POS within the front and side setbacks at ground floor. Of this area, 25sqm of SPOS is provided at ground floor within the northern setback. This complies with the minimum area of 25sqm required by the standard, with this area continuing to provide for the reasonable enjoyment of the occupiers and is easily accessible from the main living area.

A18 – Solar access to open space objective

111. The open space at ground floor is orientated to the north and will receive full northerly solar access; meeting this objective.

A19 – Design detail objective

112. The design of the addition is supported given:
- (a) The presentation, siting and proportions of the dwelling is considered to achieve a design response which respects the existing heritage character of the area;
 - (b) The materials are generally respectful of the existing neighbourhood character; rendered brick, timber battens, steel blades, glazing, as well as steel and timber boundary fences that can be found within the subject building and neighbouring sites, ensuring that the proposed materials are generally sympathetic to the surrounding area;
 - (c) The use of both traditional materials (rendered brick) and contemporary materials (timber battens) would appropriately distinguish the new addition from original heritage fabric on either side of the site; and

- (d) The proportions of the new dwelling complement the neighbourhood setting and will provide no visual intrusion when viewed from Drummond Street.

A20 – Front fences objective

113. Does not apply as the proposed fence is under 1.5m; i.e. 1.2m above NGL.
114. Overall, subject to conditions as discussed above, the proposal is considered to generally respond to the features of the site and the surrounding area, contributing to the emerging and preferred neighbourhood character.

Heritage

115. The relevant purpose of the Heritage Overlay is to ensure that development does not adversely affect the significance of heritage places. The subject site is included in HO326, and is identified as a 'not-contributory' building within this site. *Clause 22.02* articulates Council's local planning policy in relation to development guidelines for sites subject to the heritage overlay.

Demolition

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

Proposed development

117. *Clause 22.02-5.7* provides direction as to the appropriate design and location of a new development. The proposed two-storey dwelling is appropriate for a number of reasons.
118. The proposed front setback at both floors will be 3.42m, which is similar to the adjoining buildings to the north (1.95m to 3.42m) and south (3.42m to 3.69), and meets the heritage policy which *encourages setbacks from the principal street frontage to be similar to those of adjoining contributory buildings*. Council's Heritage Advisor is supportive of the proposed front setback.
119. Council's Heritage Advisor is also supportive of the majority of the ground and first floor walls along the northern and southern boundaries having zero setbacks. This is also consistent with the current and emerging pattern of development in the street.
120. Council's Heritage Advisor is supportive of the proposed façade height of 7.18m and the overall scale of the proposed building as it is *an acceptable transition between the differing heights of the buildings on either side*. The façade heights of contributory buildings within the overall heritage precinct generally vary from 6m for single-storey buildings to 9m for double-storey buildings, and therefore, the proposed double-storey dwelling height is acceptable.
121. The proposed roof form is a flat roof which is contemporary in style. Whilst the surrounding contributory dwellings along Drummond and Lygon Streets consist of a mix of hipped or gabled roof forms, the newer developments to the north-east (1032 Drummond Street) and to the south-east (Nos. 1002 and 1008 Drummond Street) consist of flat roof forms, and as such the proposed flat roof form is supported; especially as many of the pitched roofs are located behind parapets and are therefore not visible.

122. Council's Heritage Advisor is supportive of the overall contemporary design, including the mid-grey tones combined with the *contrast created by the window spandrel and door*. Whilst Council's Heritage Advisor did not raise concerns with the east-facing operable windows at first floor, it was stated that *the lack of reference to the traditional fenestration of houses in the street at ground floor is a concern*.
123. The comments further stated that *the proposal to create a green wall on the ground floor façade is not considered a suitable design response to the lack of fenestration to the street frontage at ground level*. As a result, Council's Heritage Advisor recommended that *the door and window openings in the ground floor façade should be of traditional proportions and make up about 40% of the ground floor façade*.
- In response, the applicant lodged amended plans under S57A of the Act, showing an increase in the size of the ground floor window, resulting in 45% of the front façade consisting of door and window openings. Council's Heritage Advisor has confirmed that *the proportion of the window at ground level currently appears to satisfy the condition in regard to proportion*. As shown below, the first floor, operable, front façade windows are also considered acceptable from a heritage perspective as it picks up on contributory elements from the abutting double-storey dwelling to the north, which has a first floor balcony.
124. The proposed steel blade front fence is 1.2m in height and will respect the pattern, rhythm, materials and heritage character of the surrounding dwellings. Whilst it is not a traditional fence, the use of a simple steel fence of an appropriate height is considered acceptable for a new contemporary style building. Therefore, the proposed style, height, and material used for the front fence are considered to be appropriate and will not adversely affect the appearance or significance of the heritage place. The appearance of the proposed front fence is also supported by Council's Heritage Advisor.
125. Overall, the proposal appropriately responds to the particular requirements contained within *Clause 22.02* and *Clause 43.01* of the Scheme, and therefore, is considered acceptable in relation to the heritage context of the street and would not unreasonably impact the heritage significance of the North Carlton Heritage Precinct.

Special Building Overlay

126. The site is included in the SBO. In instances where development applications are included in the SBO area, Council relies on advice of the relevant floodplain management authority (Melbourne Water) with regard to flooding.
127. Melbourne Water did not object to the advertised plans, subject to the following conditions:
- (a) *Prior to the endorsement of plans, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Plans must be submitted with surface and floor levels to Australian Height Datum (AHD) and must be modified to show:*
 - (i) *Finished floor levels of the dwelling set no lower than 36.18 metres to AHD.*
 - (ii) *Finished floor levels of the garage set no lower than 36.23 metres to AHD.*
 - (b) *The dwelling must be constructed with finished floor levels set no lower than 36.18 metres to Australian Height Datum, which is 300mm above the applicable flood level at location of development at 36.18m to AHD.*
 - (c) *The garage must be constructed with finished floor levels set no lower than the applicable flood level at location of development at 36.23m to AHD.*
128. In response, the applicant lodged amended plans under S57A of the Act, revising the floor levels. Melbourne Water reviewed the amended plans and confirmed that the plans are in compliance with the minimum finished floor level requirements, with no additional conditions recommended.

Development abutting laneways

129. As noted earlier, the rear ROW is flanked with rear boundary fences, SPOS, garages and outbuildings of dwellings fronting Lygon Street. Policy at *Clause 22.07* requires development to respect the scale of surrounding built form along the ROW. There is currently one on-site car parking space for the subject site. The proposal will continue this one car space on-site within the new single garage. In response to the decision guidelines above, the following is provided:

- (a) The main pedestrian access to the property will continue to be from Drummond Street. This policy requires pedestrian entries to *be separate from vehicle entries*. Therefore, the vehicle entrance and pedestrian entrance will be separated and there will be no conflict between vehicles and pedestrians.
- (b) Council's Engineering Unit support the dimensions (3.5m wide x 6m deep) of the proposed car space, including the garage entrance of 4.28m and headroom clearance of 2.4m and consider the car parking arrangements to be satisfactory. However, it was recommended that in order to *demonstrate the provision of the 40mm lip from the edge of the laneway to the finished floor level of the front edge of the slab at ground level, the applicant must prepare a 1 in 20 scale cross sectional drawing showing the reduced level of the west and east edge of the laneway, the centreline of the laneway and the finished floor level of the slab.*

Whilst the applicant provided a 1:20 scaled cross-sectional drawing, Council's Engineering Unit have advised that *According to the submitted cross-sectional drawing, the level along the eastern edge of the laneway is 36.19. The provision of the 40 millimetre lip and 1 in 8 ramp (20 millimetres) would not result in a level of 36.23. Therefore, a condition will require the applicant to demonstrate the provision of the 40mm lip from the edge of the laneway to the finished floor level of the front edge of the slab at ground level, by providing a 1 in 20 scale cross sectional drawing showing the reduced level of the west and east edge of the laneway, the centreline of the laneway and the finished floor level of the slab;*

130. All proposed works, including the rear studio are within the title boundaries of the subject site and therefore will not obstruct access to the other properties in the ROW, including all doors will be wholly contained (and inward opening) within the title boundaries of the subject site.

131. Subject to condition, the proposed development complies with the requirements of *Clause 22.07* of the Scheme.

Objector concerns

132. Objector concerns are outlined and discussed below:

- (a) *Out of keeping with neighbourhood character / heritage*
Neighbourhood character is discussed in paragraphs 53 to 60. Heritage has been discussed in paragraphs 115 to 125.
- (b) *Inappropriate design and overdevelopment (height, scale, bulk)*
Design and overdevelopment are discussed in paragraphs 62 to 67.
- (c) *Off-site amenity (daylight/solar access to habitable room windows, overshadowing, overlooking)*
Daylight/Solar access to existing HRW is discussed in paragraphs 85 to 95. Overshadowing and overlooking are discussed in paragraphs 96 to 99 and 100 to 107, respectively.
- (d) *Discrepancies on plans (location of habitable room windows and light-courts)*

The applicant lodged S57A plans correctly identifying the location of the habitable room windows of No. 1025 Drummond Street. The advertised plans already identified the location of the existing light-courts of this neighbouring dwelling to the south.

Other matters

133. Currently the proposed northern and southern elevations reference existing on-boundary walls of adjacent sites to the north and south. A condition will require the northern and southern elevations amended to show proposed on-boundary walls (not adjacent walls). Similarly, as discussed earlier in the report, a condition will require the proposed southern elevation to show new timber fencing and not existing timber fencing (which is proposed to be removed on the demolition plan).

Conclusion

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

RECOMMENDATION

That having considered all relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant a Planning Permit PLN20/0184 for full demolition of existing built form on-site and construction of a double-storey dwelling at 1027 Drummond Street Carlton North VIC 3054, subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans prepared by Wellard Architects, dated 22.09.2020 (Rev E: PL03, PL04, PL05, PL06, PL07, PL08 and PL16), but modified to show the following:
 - (a) Fences along the northern and southern boundaries clearly shown demonstrating compliance with Standard A15 (Overlooking objective) at Clause 54 of the Yarra Planning Scheme;
 - (b) First floor, east and south-facing retreat windows screened to comply with the objective of Standard A15 (Overlooking objective) at Clause 54 of the Yarra Planning Scheme;
 - (c) North and south elevations to show proposed on-boundary walls (not adjacent walls);
 - (d) Southern elevation to show new timber fence (not existing); and
 - (e) The provision of the 40mm lip from the edge of the laneway to the finished floor level of the front edge of the slab at ground level, by providing a 1 in 20 scale cross-sectional drawing showing the reduced level of the west and east edge of the laneway, the centreline of the laneway and the finished floor level of the slab.
2. The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority
3. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
4. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority.
5. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
6. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
 - (a) Monday-Friday (excluding public holidays) before 7 am or after 6 pm;
 - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm;
 - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.
7. This permit will expire if:
 - (a) the development is not commenced within two years of the date of this permit;

(b) the development is not completed within four years of the date of this permit.

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

Notes:

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

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

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

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

Attachments

- 1 PLN20/0184 - 1027 Drummond Street Carlton North - Site Location Plan
- 2 PLN20/0184 - 1027 Drummond Street Carlton North - Advertised Plans
- 3 PLN20/0184 - 1027 Drummond Street Carlton North - Heritage Comments (Advertised Plans)
- 4 PLN20/0184 - 1027 Drummond Street Carlton North - Melbourne Water Comments (Advertised Plans)
- 5 PLN20/0184 - 1027 Drummond Street Carlton North - Engineering Referral Comments (Advertised Plans)
- 6 PLN20/0184 - 1027 Drummond Street Carlton North - S57A Plans
- 7 PLN20/0184 - 1027 Drummond Street Carlton North - Melbourne Water Comments (S57A Plans)
- 8 PLN20/0184 - 1027 Drummond Street Carlton North - Heritage Comments (S57A Plans)
- 9 PLN20/0184 - 1027 Drummond Street Carlton North - Engineering Referral Comments (S57A Plans)

6.6 PL05/1061.04 - 538 - 540 Heidelberg Road Alphington

Executive Summary

Purpose

1. This report provides Council with an assessment of an application at No. 538-540 Heidelberg Road, Alphington to amend the permit to allow for the change of the food and drink premises from a café to a restaurant and an associated reduction of car parking; an extension to the hours of operation; introduction of the sale and consumption of liquor on-site (restaurant and café licence); and additional buildings and works (construction of an acoustic fence).

Key Planning Considerations

2. Key planning considerations include:
 - (a) Land Use (Clauses 32.09 & 22.01);
 - (b) Liquor Service and Off-site amenity impacts (Clauses 22.09 & 52.27);
 - (c) Car Parking (Clause 52.06); and
 - (d) Special Building Overlay (Clause 44.05)

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Strategic context;
 - (b) Land use (including extended hours of operation);
 - (c) Sale and Consumption of Liquor;
 - (d) Car Parking and traffic;
 - (e) Buildings and works;
 - (f) Objector Concerns; and
 - (g) Other Matters

Submissions Received

4. Six (6) objections were received to the application, the grounds of objection can be summarised as follows:
 - (a) Traffic congestion (from cars, waste and delivery vehicles) and associated safety risks to pedestrians, cyclists and drivers.
 - (b) Car parking reduction (loss of on-street car parking and exacerbation of illegal parking)
 - (c) Loss of residential amenity.
 - (d) Noise (in particular from extension of trading hours; consumption of alcohol; smashing of bottles; and waste/delivery trucks).
 - (e) Waste (pests and odour).
 - (f) Adverse impact on neighbourhood character.
 - (g) Social impacts (children exposed to public alcohol consumption).
 - (h) Ongoing stress to residents associated with repeated planning applications for an extension to hours and/or patron capacity.

Conclusion

5. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported subject to the following key recommendations:
- (a) Plans amended to increase the height of the new acoustic fence along the western boundary to 2.4m, where adjacent the outdoor seated area.
 - (b) No more than 75 patrons to be permitted on the land at any one time, including a maximum of 32 patrons within the outdoor dining area (courtyard).
 - (c) Deliveries, waste collection and emptying of bottles into bins to be further restricted to no earlier than 9am on Sundays and Public Holidays.

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

6.6 PL05/1061.04 - 538 - 540 Heidelberg Road Alphington

Reference: D20/152856
Authoriser: Coordinator Statutory Planning

Ward: Langridge

Proposal: To amend the permit to allow for the change of the food and drink premises from a café to a restaurant and an associated reduction of car parking; an extension to the hours of operation; introduction of the sale and consumption of liquor on-site (restaurant and café licence); and additional buildings and works (construction of an acoustic fence).

Existing use: Food and drink premises (café)

Applicant: Norma Steeneveld & Associates

Zoning / Overlays: Neighbourhood Residential Zone (Schedule 2)
Special Building Overlay

Date of Application: 2/5/2019

Application Number: PL05/1061.04

Planning History

1. Planning Permit PL02/1263 was refused by Council on 17 April 2003. The application was for a mixed use development comprising two new dwellings and a caretaker residence.
2. Planning Permit PL03/0570 was issued by Council on 16 June 2004 for *Buildings and works for the construction of two (2), double storey dwellings and one (1) single storey dwelling with associated car parking and landscaping*. This permit has been subject to a number of amendments, however the permit has since expired on 16 June 2009. The built form associated with this permit was to be constructed in the location of the car park associated with the existing café.
3. Planning application PL04/0891 was lodged with Council on 10 September 2004 for the use of the site as a plant nursery. The application was subsequently withdrawn on 22 December 2004.
4. Planning Permit PL05/1061 was issued by Council on 31 January 2006 for the *Use of the site as a food and drink premises (café) and construction of a fence*.
5. On 26 September 2008, Planning Permit PL05/1061 was amended by Council to allow for the construction of a carport and vehicle crossover, relocation of bicycle spaces and a new gate.
6. On 22 August 2011, Planning Permit PL05/1061 was amended, at the direction of the Victorian Civil and Administrative Tribunal (VCAT) to allow for further changes to the permit. The changes included:
 - (a) The extension of the use to include the courtyard / outdoor area to the west;
 - (b) An increase to the patron numbers (i.e. seats provided) from 48 to 75;
 - (c) An increase to the staff numbers from 4 to 12;
 - (d) Deletion of the previously approved carport and the preamble amended to reflect this;
 - (e) The provision of 14 car spaces at the rear (previously none provided on-site); and
 - (f) The closing time on Sunday amended from 3.00pm to 3.30pm.

7. On 11 December 2014, Planning Permit PL05/1061 was amended, by Council, to modify Condition 3 of the permit to refer to hours of "operation" (rather than hours of "trade") and extend hours of operation as follows (underline denotes changes):
 - (a) 7.00am to 6.00pm Monday to Friday (except the courtyard / outdoor area that must only operate from 8.00am); (previously commenced at 8:00am for all areas)
 - (b) 8.00am to 4.00pm Saturday; (previously operated until 5:00pm) and
 - (c) 8.00am to 4.00pm Sunday (previously operated until 3:30pm).
8. On 30 December 2015 Planning Permit PLN15/0954 was issued by Council *to construct and display advertising signs*.
9. On 29 April 2016 Planning Permit PLN15/0954 was amended by Council (associated endorsed plans only) to allow for the display of awning fascia signs.

Background

10. The amendment application was received by Council on 2 May 2019.
11. Following receipt of requested further information, the application was advertised in March 2020 and six (6) objections were received.
12. Due to COVID-19 (Coronavirus) restrictions, no planning consultation meeting occurred.
13. The application was concurrently referred to Melbourne Water (external referral authority) and various internal Council departments. It was also referred to Council's external Acoustic Consultant (SLR Consulting) who provided a review of the acoustic report prepared by Cogent Acoustics (revision dated 28 November 2019) (the "Advertised Acoustic Report") which was provided as a supporting document with the application.

Lodgment of revised acoustic report

14. Following the advertising period, in response to clarifications sought by Council's Acoustic Consultant in their referral response, the applicant submitted a revised acoustic report prepared by Cogent Acoustics (revision dated 10 August 2020) (the "Revised Acoustic Report") which provided additional information; some changes to methodology; and adoption of more conservative noise limit targets (as a result of revised background noise level calculations).
15. Of particular note, the Revised Acoustic Report recommendations were modified as follows:
 - (a) The acoustic fence recommended to be constructed along the western boundary increased in height to 2.4m, where adjacent the outdoor seating area, with the remaining section at 2.1m (the original report recommended a height of 2.1m for the full length of the fence).
16. The Revised Acoustic Report was referred to Council's Acoustic Consultant who found this version of the report to be acceptable.
17. The application has not been formally amended to make any changes to the proposal since the advertising was undertaken. Hence, the buildings and works shown on the advertised plans (construction of a 2.1m high acoustic fence along the length of the western boundary) is still sought and thus is inconsistent with the revised recommendations of the Revised Acoustic Report. This will be further discussed in the assessment.

Planning Scheme Amendments

18. Since the original planning permit was issued there have been a number of changes to the Yarra Planning Scheme, including
 - (a) the introduction of new residential zones (and associated re-zoning of the site from Residential 1 Zone to General Residential Zone and subsequently, Neighbourhood Residential Zone (Schedule 2));

- (b) changes to the structure and content of the Planning Policy Framework (formerly the State Planning Policy Framework) and Local Planning Policy Framework; and
 - (c) changes to Clause 52.06 (Car Parking) of the Yarra Planning Scheme which include changes to the car parking rate for various uses and introduction of a car parking rate for a food and drink premises;
19. Despite the number of changes to the Scheme over the intervening years, similar policies and considerations still apply and it is considered that the food and drink premises (café) currently approved under planning permit PL05/1061 would still enjoy support under current planning policies.

The Proposal

20. The application seeks to amend planning permit PL05/1061 to allow for the change of the food and drink premises from a café to a restaurant and an associated reduction of car parking; an extension to the hours of operation; introduction of the sale and consumption of liquor on-site (restaurant and café licence); and additional buildings and works (construction of an acoustic fence). Details are as follows:

Land Use

21. The land use is proposed to be amended from a café to a restaurant (both types of food and drinks premises). No change is proposed to the layout of the use shown on the plans; the number of seats provided on-site (75); or the maximum number of staff permitted on-site (12).
22. The hours of operation are proposed to be extended from:
- (a) 7.00am to 6.00pm Monday to Friday (except the courtyard / outdoor area that must only operate from 8.00am);
 - (b) 8.00am to 4.00pm Saturday; and
 - (c) 8.00am to 4.00pm Sunday.
- To:
- (d) 7.00am to 8.00pm Monday to Friday (except the courtyard/outdoor area which can only operate from 8am);
 - (e) 8.00am to 8.00pm Saturday and Sunday; and
 - (f) 8.00am to 8.00pm Good Friday and Anzac Day

Sale and consumption of liquor

23. The sale and consumption of liquor on the premises (restaurant and café licence) is proposed for a maximum of 75 patrons.
24. The proposed hours for sale and consumption of liquor are:
- (a) 9.00am to 8.00pm Monday to Saturday;
 - (b) 10.00am to 8.00pm Sunday; and
 - (c) 12.00 noon to 8.00pm Good Friday and Anzac Day.
25. The plans have been amended to show the proposed licensed area ('red line' area) which includes all internal areas of the main building and the existing outdoor dining area (courtyard) to the west of the building.

Car and Bicycle Parking

26. The proposed restaurant retains the existing 14 car parking spaces in the open car park at the rear of the site, accessed from Yarraford Avenue.
27. The proposed restaurant retains the existing 8 bicycle spaces provided on-site.

Buildings and Works

28. A new 2.1m high acoustic fence/screen of timber construction is proposed along the length of the western boundary of the site (to replace the existing 1.63m to 1.8m high timber paling fence).
29. The plans have been amended to show the location and height of the fence and a separate elevation submitted showing indicative details of the fence.

Existing Conditions

Subject Site

30. The subject site is located on the western corner of Heidelberg Road and Yarraford Avenue. The site is predominantly rectangular and comprises two adjoining lots, with an overall frontage to Heidelberg Road of 16.8m; a maximum depth of 45.89m; and an overall site area of approximately 636sqm.
31. The site is currently used as a food and drink premises (café), operating under Planning Permit PL05/1061. The premises was previously occupied by “Apte Café” and the current café is called “Kissaten” and has operated (according to the applicant’s submission) since 2018.
32. The site is occupied by a single-storey building which is located at the north-eastern corner of the site. On the western side of the building is a courtyard area which contains outdoor seating and a deck with umbrellas over. The southern part of the site is utilised as an open car parking area for the café accommodating a maximum of 14 vehicles. Vehicle access to the car park is from Yarraford Avenue, via an existing vehicle crossover. There is a small outbuilding (shed) located at the south-west corner of the site, adjacent the car parking area. Figures 1 and 2 are photographs of the site taken from Heidelberg Road and Yarraford Avenue, respectively.



Figure 1 – View of subject site from Heidelberg Road (March 2020)



Figure 2 – View of subject site from Yarraford Ave (Google Streetview January 2019)

Surrounding Land

33. The surrounding area is residential in nature, reflecting the land zoning, with the closest commercial premises (also fronting Heidelberg Road) located approximately 125m to the west and 200m to the east of the subject site, respectively. The zoning (and overlay) map is shown in figure 3.
34. In the immediate context to the subject site (see aerial photo in figure 4) are the following features:
 - (a) To the north of the subject site is Heidelberg Road which is a main (arterial) road of Melbourne and zoned Road Zone (Category 1) and approximately 20m wide. Beyond are dwellings located within the City of Darebin (located within General Residential and Neighbourhood Residential zoned land). Heidelberg Road delineates the boundary between City of Yarra and City of Darebin municipalities.
 - (b) Parking along this section of Heidelberg Road is unrestricted, other than during peak hours (am westbound and pm eastbound) on weekdays, when there is a clearway in place.
 - (c) Parking in the nearest side streets surrounding the subject site, including Yarraford Avenue, is generally unrestricted. However, there are two permit only parking spaces on the eastern side of Yarraford Avenue directly opposite the subject site.
 - (d) To the south of the subject site is a part single and part double-storey dwelling which fronts Yarraford Avenue (No. 51 Yarraford Ave). The dwelling has a vehicle crossover to Yarraford Avenue and a garage abutting the shared boundary with the subject site. The main building associated with the dwelling is located to the rear of the garage and has a small setback from the subject site. The dwelling has two north-facing habitable room windows but neither window is located directly opposite the subject site.
 - (e) To the east of the subject site is Yarraford Avenue. Yarraford Avenue is approximately 12m wide, with parking on both sides. The southern-most end is a “no through road” with only pedestrian and bicycle access through to the Yarra River environs.
 - (f) On the opposite side of Yarraford Avenue to the subject site is a single-storey dwelling fronting Heidelberg Road (No. 548 Heidelberg Road) a double-storey dwelling fronting Yarraford Avenue (No. 50 Yarraford Avenue) and a single-storey dwelling fronting Yarraford Avenue (No. 48 Yarraford Avenue). Each dwelling has a vehicle crossover from Yarraford Avenue.

- (g) To the west of the subject site is a single storey dwelling fronting Heidelberg Road and an associated rear bungalow/outbuilding. The dwelling is set back from the shared boundary with the subject site by approximately 1.2m. Secluded private open space is provided at the rear of the dwelling and a garden at the front. One habitable room window and one non-habitable room window face the subject site.

A timber paling fence extends along the shared boundary between this dwelling and the subject site, however, the fence is not clearly visible from Heidelberg Road due to the presence of vegetation.

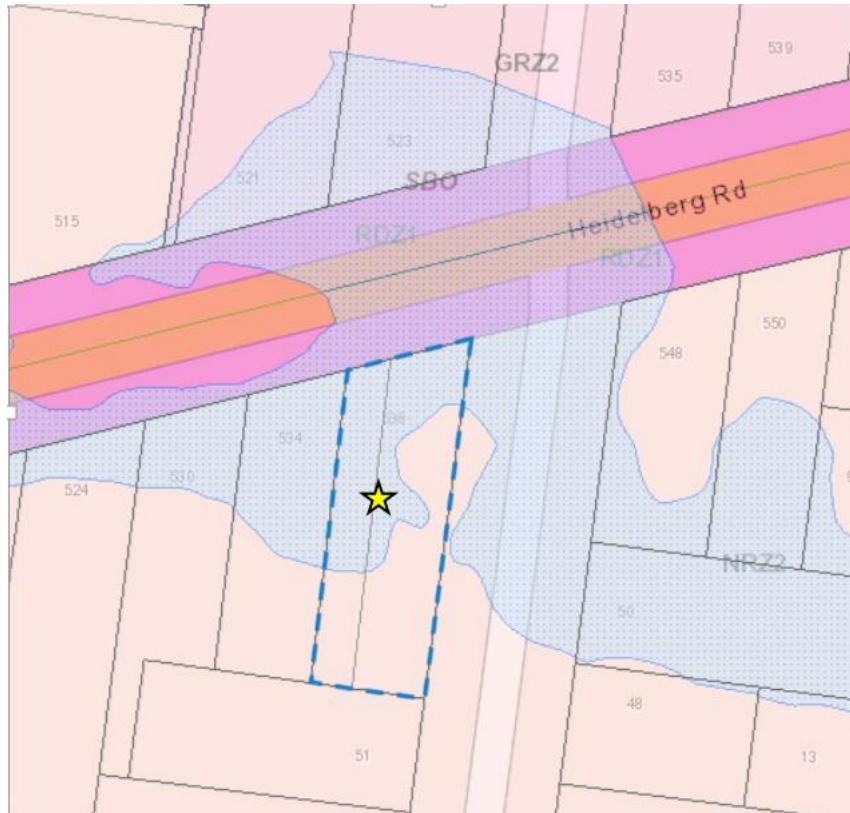


Figure 3 – Subject site and surrounds showing zones and extent of Special Building Overlay



Figure 4 – Subject site and surrounds aerial photography (Council GIS June 2020)

Legislation Provision

35. The amendment has been requested pursuant to Section 72 of the *Planning and Environment Act 1987* (the Act).
36. Section 72 of the Act states:
- (a) *A person who is entitled to use or develop land in accordance with a permit may apply to the responsible authority for an amendment to the permit.*
 - (b) *This section does not apply to-*
 - (i) *a permit or a part of a permit issued at the direction of the Tribunal, if the Tribunal has directed under section 85 that the responsible authority must not amend that permit or that part of the permit (as the case requires); or*
 - (ii) *a permit issued under Division 6.*
37. The planning permit was issued on 31 January 2006 and subsequently amended by Council on two occasions and at the direction of VCAT on one occasion since this time. The Tribunal has not directed that the responsible authority must not amend the permit, nor was the permit issued under Division 6 of the Act.
38. Section 73 of the Act states that Sections 47 to 62 of the Act apply to the amendment application. This allows the Responsible Authority to apply the abovementioned sections of the Act to the amendment application as if it was an application for a permit.

Planning Scheme Provisions

Zoning

Clause 32.09 – Neighbourhood Residential Zone (Schedule 2)

39. The site is located within the Neighbourhood Residential Zone (Schedule 2) (“NRZ2”). The relevant purposes of the Neighbourhood Residential Zone are as follows:

- (a) *To recognise areas of predominantly single and double storey residential development.*
- (b) *To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.*
- (c) *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

40. Pursuant to clause 32.09-2 a planning permit is required to use the land as a restaurant.

Overlays

Clause 44.05 – Special Building Overlay

41. The site is partly affected by the Special Building Overlay (“SBO”). The most relevant purposes of the SBO are:

- (a) *To identify land in urban areas liable to inundation by overland flows from the urban drainage system as determined by, or in consultation with, the floodplain management authority.*
- (b) *To ensure that development maintains the free passage and temporary storage of flood waters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.*
- (c) *To protect water quality in accordance with the provisions of relevant State Environment Protection Policies , particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy(Waters of Victoria).*

42. Pursuant to Clause 44.05-1, a planning permit is required to construct a building or to construct or carry out works, including a fence.

43. An application must also be referred under Section 55 of the Act to Melbourne Water.

Particular Provisions

44. Pursuant to Clause 52.06-1, the clause applies to a new use; thus, the clause applies to the proposed use of the site as a restaurant.

45. Pursuant to Clause 52.06-2, before a new use commences or the floor area of an existing use is increased, the number of car spaces required under the Clause 52.06-5 must be provided to the satisfaction of the responsible authority.

46. Pursuant to Clause 52.06-3, a permit is required to reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5.

47. As the site is not located within the Principal Public Transport Network (PPTN) Area, the parking rat in Column A of table 1 of the Clause 52.06-5 applies to the proposal.

48. A permit is not required to reduce the number of car parking spaces required for a new use of land if the following requirements are met:

- (a) *The number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay for the new use is less than or equal to the number of car parking spaces required under Clause 52.06-5 ... for the existing use of the land.*
- (b) *The number of car parking spaces currently provided in connection with the existing use is not reduced after the new use commences*

49. The following table compares the existing car parking arrangements for the approved café (food and drink premises) use to the proposed restaurant use under Clause 52.06 confirming that the number of car spaces required for the restaurant exceeds the number required for the café and there is a shortfall of on-site car parking.

Use	Quantity/ Size	Statutory Parking Rate	No. of Spaces Required by the Scheme	No. of Spaces Allocated	Reduction Required
-----	-------------------	---------------------------	--	-------------------------------	-----------------------

Existing Food and drink premises (Café)	194.3 m ² of leasable floor area	4 spaces to each 100sqm of leasable floor area	8	14	N/A
Restaurant	75 patrons	0.4 spaces to each patron permitted	30	14	16
Car Park reduction required for the amendment					16

50. Pursuant to Clause 52.06-3, a permit is required to reduce (including reduce to zero) the number of car spaces required under Clause 52.06-5.

Clause 52.34 Bicycle Facilities

51. Pursuant to Clause 52.34-1, a new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities has been provided on the land.
52. Table 1 of Clause 52.34-5 specifies the following rates:
- (a) One (1) bicycle space for employees to each 100sqm of floor area available to the public (approximately 132sqm excluding staff only areas) associated with a restaurant (**resulting in 1**);
 - (b) Two (2), plus one (1), bicycle space for visitors to each 200sqm of floor area available to the public, if the floor area associated with a restaurant exceeds 400sqm (**resulting in 0**);

53. The current permit requires (at condition 14) that 8 bike spaces are provided on-site which is reflected on the endorsed plans. There is no change proposed to the on-site bicycle parking provision (8 spaces are maintained on the plans). The bicycle parking exceeds the required one bicycle space pursuant to Clause 52.34-5 of the Scheme and therefore no permit is required under this clause.

Clause 52.27 Licensed Premises

54. Pursuant to Clause 52.27 of the Scheme, a planning permit is required to use the land to sell or consume liquor if a license is required under the *Liquor Control Reform Act 1998*. The requirement to obtain a planning permit is therefore triggered under Clause 52.27 of the Scheme.
55. Before deciding on an application, the Responsible Authority must consider as appropriate:
- (a) *The Municipal Planning Strategy of the Planning Policy Framework;*
 - (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; and*
 - (e) *The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.*

General Provisions

Clause 65 – Decision Guidelines

56. The decision guidelines outlined at Clause 65.01 of the Scheme are relevant to this application. Because a permit can be granted does not imply that a permit should or will be granted. Before deciding on an application, the Responsible Authority must consider a number of matters.

Amongst other things, the Responsible Authority must consider the relevant State and Local Planning Policy Frameworks, as well as the purpose of the zone, overlay or any other provision.

Planning Policy Framework (PPF)

57. The following clauses of the PPF are most relevant:

Clause 13.03-1S Floodplain Management

58. The relevant objective of this clause is:

- (a) *To assist the protection of: Life, property and community infrastructure from flood hazard*

Clause 13.05-1S Noise Abatement

59. The relevant objective of this clause is:

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

Clause 13.07-1S Land Use Compatibility

60. The relevant objective of this clause is:

- (a) *To protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts*

Clause 15.01-1S (Urban design)

61. The relevant objective of this clause is:

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

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

62. The objective is:

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

Clause 15.01-5S (Neighbourhood character)

63. The relevant objective of this clause is

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

Clause 15.01-2S (Building design)

64. The relevant objective of this clause is:

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

Clause 17.01-1S Diversified economy

65. The objective of this clause is *to strengthen and diversify the economy*. A relevant strategy to achieve this is to:

- (a) *Improve access to jobs closer to where people live.*

Clause 17.02-1S Business

66. The relevant objective of this clause is:

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

Clause 18.02-1S Sustainable Personal Transport

67. The relevant objective of this clause is to:

- (a) *Ensure provision of bicycle end-of-trip facilities in commercial buildings.*

Clause 18.02-4S

68. The relevant objective of this clause is to:

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

Local Planning Policy Framework (LPPF)

Clause 21.04-1 Accommodation and housing

69. The relevant objective of this clause is :

- (a) *To reduce potential amenity conflicts between residential and other uses.*

70. The relevant strategies are:

- (a) *Discourage late night and 24 hour trading activities located near residential zones to minimize impacts on residential amenity.*

- (b) *Apply the Licensed Premises policy at clause 22.09.*

- (c) *Apply the Discretionary Uses in the Residential 1 Zone policy at clause 22.01.*

Clause 21.04-3 Industry, office and commercial

71. The objective of the clause is:

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

Clause 21.05-2 (Urban design)

72. The relevant objectives of this Clause are:

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

Clause 21.05-3 (Built form character)

73. The general objective of this clause is:

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

74. The subject site is located within a *Garden Suburban Residential* area where the built form character type is described as *spacious garden settings and generous setbacks and spaces between buildings.*

Clause 21.06 - Transport

75. This clause recognises that Yarra needs to reduce car dependence by promoting walking, cycling and public transport use as viable and preferable alternatives.

Clause 21.06-1 (Walking and cycling)

76. The objective of this clause is:

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

Clause 21.06-2 (Public transport)

77. The objective of this clause is:

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

Clause 21.06-3 (The road system and parking)

78. The objectives of this clause are:

- (a) *To reduce the reliance on the private motor car.*

- (b) *To reduce the impact of traffic.*

Clause 21.08-6 Neighbourhoods – Fairfield - Alphington

79. Relevant to this application, Clause 21.08-6 notes that *to the east of Yarra Bend Park is a green, leafy, residential area, comprising late Victorian, Edwardian and interwar dwellings*. A Neighbourhood Activity Centre is identified within the neighbourhood along Heidelberg Road (both sides) approximately 700m to the east of the subject site.
80. Figure 16 - Built Form Character Map: Fairfield-Alphington of Clause 21.08-6 identifies the subject site as being in a Garden Residential Suburban Area, the objectives of which are: *maintain the existing pattern of front setbacks; reinforce the garden character of the streetscape; accommodate second storey extensions, or second storeys of new buildings, within an envelope that maintains the low, horizontal form of existing dwellings*.

Relevant Local Policies

Clause 22.01 – Discretionary Uses in the Residential 1 Zone

81. This policy applies to land that was formerly in the Residential 1 Zone (now zoned as Neighbourhood Residential and General Residential).

82. The objective of this clause is:

(a) *To ensure that residential amenity is not adversely affected by non-residential uses.*

Clause 22.09 Licensed Premises

83. The policy applies to an application under Clause 52.27 (Licensed Premises)

84. The objectives of this clause are:

(a) *To protect the amenity of nearby properties and areas by effectively managing the location, size, operation and hours of licensed premises.*

(b) *To encourage best practice venue design and venue operation for licensed premises.*

(c) *To protect residential and other commercial uses from excess noise, traffic and car parking issues.*

(d) *To provide for daytime trade and active street frontages in retail strips, while providing the reasonable commercial opportunities for the trading of licensed premises.*

Clause 22.10 (Built form and design policy)

85. This policy applies to all new development not included in a Heritage Overlay. The relevant objective of this policy is to:

(a) *Ensure that new development positively responds to the context of the development and respects the scale and form of surrounding development where this is a valued feature of the neighbourhood character.*

Advertising

86. Clause 44.05-5 states that an application under this overlay is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act. The proposed acoustic fence thus is exempt from notice and review.

87. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 130 letters sent to surrounding owners and occupiers (including within the City of Darebin) and by two signs displayed on site. Council received 6 objections, the grounds of which are summarised as follows:

(a) Traffic congestion (from cars, waste and delivery vehicles) and associated safety risks to pedestrians, cyclists and drivers.

(b) Car parking reduction (loss of on-street car parking and exacerbation of illegal parking)

(c) Loss of residential amenity.

(d) Noise (in particular from extension of trading hours; consumption of alcohol; smashing of bottles; and waste/delivery trucks).

- (e) Waste (pests and odour).
- (f) Adverse impact on neighbourhood character.
- (g) Social impacts (children exposed to public alcohol consumption).
- (h) Ongoing stress to residents associated with repeated planning applications for an extension to hours and/or patron capacity.

Referrals

88. The referral comments are based on the decision plans and relevant advertised documents (unless otherwise specified).

External Referrals

89. The application was referred to the following authorities:
- (a) Melbourne Water
90. Melbourne Water offered no objection to the application and did not require any conditions.
91. Melbourne Water's Referral response has been included as an attachment to this report.

Internal Referrals

92. The application was referred to the following internal departments and external consultants:
- (a) Internal Departments:
 - (i) Engineering Services Unit
 - (ii) Civic Compliance Unit
 - (b) External Consultants:
 - (i) SLR Consulting (Acoustic Consultants) – referral of both the Advertised Acoustic Report and, subsequently, the Revised Acoustic Report occurred.
93. All internal referral comments have been included as attachments to this report.

OFFICER ASSESSMENT

94. The primary considerations for this application are as follows:
- (a) Strategic context;
 - (b) Land use (including extended hours of operation);
 - (c) Sale and Consumption of Liquor;
 - (d) Car Parking and traffic;
 - (e) Buildings and works;
 - (f) Objector Concerns; and
 - (g) Other Matters

Strategic Context

95. The proposal has a number of positive features which are consistent with broader objectives of the PPF and LPPF such as:
- (a) Encouraging sustainable forms of transport such as cycling and walking and reducing reliance on motor vehicles (Clause 18.02-1S & 21.06);
 - (b) Provision of a conveniently accessible service to the local area; (Clause 17.02-1S); and
 - (c) Enhancing economic activity and improving access to jobs (Clause 17.01-1S, Clause 21.04-3).

96. There are also a number of objectives within the PPF and LPPF which focus on protecting residential amenity and minimising land use conflicts, such as those at Clause 13.05-1S; Clause 13.07-1S and 21.04-1 of the Scheme.
97. A more detailed analysis of the proposal against the relevant local policies and particular provisions is undertaken in the following sections of the assessment and finds that subject to a number of conditions, the proposal strikes an appropriate balance between protecting residential amenity, including in relation to traffic and car parking impacts, and allowing a commercial activity that services the local and wider area.

Land Use (including extended hours of operation)

98. The amendment proposes to change the type of food and drink premises from a café to a restaurant; and to extend the hours of operation to 8pm on all days (compared to the current closing time of 4pm on weekends and 6pm on weekdays).
99. The assessment of the appropriateness of the proposed restaurant use, including the proposed extension to operating hours, will be guided by the purpose and decision guidelines of the Neighbourhood Residential Zone (“NRZ”) at Clause 32.09-13 of the Scheme and the policies at Clause 22.01 of the Scheme (Discretionary Uses in the Residential 1 Zone).
100. The Neighbourhood Residential Zone includes the following purpose: *to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*
101. Accordingly, the zone allows for the provision of certain non-residential uses to serve local community needs, including food and drink premises.
102. Relevant decision guidelines of Clause 32.09-13 pertinent to the proposed use are as follows:
- (a) *Whether the use or development is compatible with residential use.*
 - (b) *Whether the use generally serves local community needs.*
 - (c) *The scale and intensity of the use and development.*
 - (d) *The provision of car and bicycle parking and associated accessways.*
 - (e) *Any proposed loading and refuse collection facilities.*
 - (f) *The safety, efficiency and amenity effects of traffic to be generated by the proposal.*
103. Pursuant to clause 22.01-3, it is policy that:
- (a) *Existing buildings constructed for non-residential purposes are the preferred location for non-residential uses.*
 - (b) *Food and drink premises, places of assembly, places of worship and plant nurseries should have access to and adjoin a road in a Road Zone.*
 - (c) *Except on land adjoining and gaining direct access from a road in a Road Zone:*
 - (i) *all required car parking should be on-site.*
 - (ii) *the scale of the proposed use should be compatible with providing service to the local residential community.*
 - (d) *Hours of operation should be limited to 8am to 8pm except for convenience shop.*
 - (e) *New buildings and works should be consistent with the scale, bulk and character of the area.*
 - (f) *Noise emissions should be compatible with a residential environment.*

104. The granting of the permit for a food and drink premises (café) and subsequent amendments (including those issued at the direction of VCAT) established that the subject site is generally appropriate for a food and drink premises, subject to certain limitations in order to ensure the protection of residential amenity.
105. In relation to the restaurant use, there are only subtle differences between a café and restaurant in terms of operation. Both are food and drink premises that involve the preparation and service of food to patrons on-site and result in similar types of activities and impacts. Therefore, the crux of the assessment is whether the proposed intensification of the use, in particular, the expansion of hours is appropriate.
106. The sale and consumption of liquor is a separate permit trigger and will be addressed in a separate section of the assessment.
107. As is the case for the existing café, consistent with Clause 22.01 of the Scheme the site is a suitable location for a food and drink premises as:
- (a) The building is purpose-built for non-residential purposes;
 - (b) The site is located on a main (arterial) road which is zoned “Road Zone Category 1”. Pedestrian access is gained directly from the Heidelberg Road frontage although it is acknowledged that *vehicular* access is via Yarraford Avenue.
 - (c) While it would be anticipated that some patronage would be from the wider area, the modest scale of the premises (which is essentially unchanged as a result of the proposed amendments) accommodating 75 patrons, remains commensurate with providing a service to the local community.
108. In addition, in terms of the proposed changes to the permitted use and development sought, generally consistent with policies at Clause 22.01:
- (a) The application proposes only minor buildings and works (a new acoustic fence) the purpose of which is to reduce noise emissions to surrounding residences and no expansion of the areas accommodating patrons is sought. The buildings and works component will be assessed in a separate section in relation to other relevant policies and objectives.
 - (b) While there is a shortfall of on-site car parking resulting from the statutory parking requirements of the new use, the subject site is adjacent and has (pedestrian) access to Heidelberg Road (within Road Zone Category 1). Although vehicular access is via Yarraford Avenue, this has been previously found to be an acceptable arrangement.
- It is also noted that the proposal does not seek to alter the overall number of patrons or provision of existing car parking on-site (14 spaces). A detailed assessment of car parking and associated impacts is undertaken later in the report and finds that the proposal would not cause unreasonable detriment to the residential amenity of the area.
109. The extension to the hours of operation until 8pm on all days is within the preferred hours of operation of policy at Clause 22.01. Although weekday commencement of operation of the restaurant would occur from 7am, this is already permitted for the café under condition 3 of the permit and the proposed restaurant use would not be anticipated to result in any additional off-site amenity impacts. It is also noted that the use of the courtyard is already limited by existing condition 3 of the permit to be utilised no earlier than 8am and this is not sought to be changed as part of the amendment.
110. Policy at Clause 22.01 stipulates that noise emissions should be compatible with the residential area.
111. There are a number of conditions on the permit which already control noise emissions from the site and which are not proposed to be altered. These will be referred to in the course of the assessment. In addition, as the scale of the premises is also not proposed to be altered, the noise emissions from the site are likely to be little changed during the hours of operation that have already been approved for the site.

112. Although Clause 22.01 does not stipulate that an acoustic report be provided in support of an application for a non-residential use, as detailed in the “background” section of this report, in support of the application an Acoustic Report, prepared by Cogent Acoustics (dated 28 November 2019) was submitted and formed part of the advertised material (the Advertised Acoustic Report). A revised version (prepared by Cogent Acoustics and dated 10 August 2020) - the Revised Acoustic Report included a key change to the original recommendations of the Advertised Acoustic Report.
113. Both the Advertised and Revised Acoustic Report recommended noise attenuation measures to address patron noise emissions from the premises and vehicle noise emissions from the rear car park, in summary:
- (a) No more than 32 patrons to be contained within the outdoor dining area (courtyard);
 - (b) Construction of an acoustic fence (to certain specifications) along the length of the western boundary of the subject site.
114. The key difference between the recommendations of the Advertised Acoustic Report and Revised Acoustic Report relates to the height of the acoustic fence. Specifically, instead of a 2.1m high acoustic fence along the western boundary as recommended in the Advertised Acoustic Report, it was recommended that the part of the fence adjacent the outdoor courtyard be increased in height to 2.4m (i.e. 0.3m higher). Other specifications of the fence such as suitable materials and density of material are unchanged from the original recommendation.
115. As the Revised Acoustic Report addressed queries related to the Advertised Acoustic Report raised by Council’s Acoustic Consultant and was subsequently found to be acceptable by Council’s Acoustic Consultant (see attached comments), this will form the basis of the assessment as to potential noise impacts of the proposal. However, it is acknowledged that the applicant has not formally amended the proposal to reflect the revised recommendations (increased acoustic fence height) recommended by the Revised Acoustic Report.
116. Key noise sources associated the premises and addressed in this assessment are (corresponding to the sections of the Advertised and Revised Acoustic Report):
- (a) Mechanical equipment noise;
 - (b) Music noise;
 - (c) Patron Noise;
 - (d) Vehicle noise from car park; and
 - (e) Noise from waste disposal and collection.
117. It is noted that the nearest “Noise Sensitive Areas” identified and assessed in the Revised Acoustic Report are:
- (a) No. 534 Heidelberg Road (adjoining dwelling to the west);
 - (b) No. 51 Yarraford Avenue (adjoining dwelling to the south);
 - (c) No. 548 Heidelberg Road (dwelling on the opposite corner of Heidelberg Rd / Yarraford Ave).
 - (d) No. 50 Yarraford Avenue (dwelling on the opposite side of and fronting Yarraford Ave)
- Mechanical equipment noise*
118. There is no new mechanical equipment proposed in association with the restaurant, however, existing mechanical equipment (rooftop flue and airconditioning unit on the eastern side of the roof) would operate for the longer hours proposed in association with the use (i.e. until 8pm instead of 4pm or 6pm).
119. Mechanical equipment noise from commercial premises in Victoria to residences is subject to mandatory EPA regulations, specifically the *State Environmental Protection Planning Policy N-1* (SEPP N-1).

120. The Revised Acoustic Report finds that mechanical noise associated with this existing equipment would comply with SEPPN-1 noise limits during all proposed hours of operation of the premises.
121. It is also noted that even though the SEPPN-1 regulations must be met regardless of any planning requirements, the existing condition 9 of the permit requires that: *The operator shall ensure that the level of noise emitted from the premises shall not exceed the relevant State Environment Protection Policy or other relevant noise policy.*
122. This condition would be retained on any amended permit and would ensure that the operator is aware of their ongoing compliance obligations.
123. Hence, it is considered that mechanical noise associated with the premises would be compatible with the residential area.

Music Noise

124. Under existing conditions, background music only is played within the main building and this is not proposed to change. This is controlled by the following conditions (which would be retained if an amended permit was to be issued):
 - (a) Condition 6 of the permit which states: *Music on the site must be limited to background music only. No live music or entertainment.*
 - (b) Condition 7 of the permit which states: *No music must be played outside the premises. No speakers must be sited outside the premises.*
125. However, due to the extended operations, the background music played internally to the building would continue until 8pm on all days (rather than 4pm or 6pm) and hence requires consideration.
126. Music noise from commercial premises in Victoria to residences is subject to mandatory EPA regulations, specifically the *State Environmental Protection Planning Policy N-2* (SEPP N-2).
127. The Revised Acoustic Report provides an assessment of music noise emissions to the nearest residences and finds that background music played inside the building would not breach SEPP N-2 limits at any time of the proposed operation, including to the closest residence to the east (No. 534 Heidelberg Road) which would be most affected by music noise due to its proximity to the building.
128. It is noted that the assessment does not take into account the replacement of the existing paling fence along the western boundary with the proposed acoustic fence which would result in a further reduction to any music noise emissions to the west-adjointing dwelling.
129. Hence, it is considered that the music noise emissions from the operation of the restaurant over the proposed hours would be compatible with the residential area.
130. As previously mentioned in the assessment of mechanical noise, condition 9 of the permit would also serve as a reminder to the permit holder in relation to their obligations regarding noise emissions.

Patron Noise

131. Although overall patron numbers, as indicated by existing and proposed seating arrangements and related condition no. 5 on the permit, are not proposed to be changed, the extended hours of operation would result in patrons frequenting the premises later in the evening – up until 8pm.
132. There are no EPA regulations that govern noise levels associated with patrons. It is common however to use SEPP N-1 noise limit targets (mechanical equipment noise) to guide assessment of patron noise and this is the assessment that has been undertaken in the Revised Acoustic Report, with agreement of Council's Acoustic Consultant.

133. The Revised Acoustic Report has assessed patron noise from the venue by modelling based on 43 patrons internal to the building and 32 patrons in the outdoor courtyard (consistent with existing and proposed seating arrangements and a maximum of 75 patrons). The assessment finds that without further acoustic treatments, the noise targets would not be achieved for the west-adjointing residence at No. 534 Heidelberg Road.
134. However, the Revised Acoustic Report calculates that provision of an acoustic fence along the western boundary of the site at a height of 2.4m where adjacent the outdoor courtyard and at a height of 2.1m for the remainder of the boundary, would result in a reduction in patron noise levels to No. 534 Heidelberg Road that would meet the specified noise targets.
135. Council's Acoustic Consultant has agreed with this finding and recommendation in the Revised Acoustic Report. They have also noted that it is important that the maximum patron number within the courtyard be limited to no more than 32 patrons (as also recommended in the Revised Acoustic Report).
136. The application has not been formally amended to reflect the modified recommendations of the Revised Acoustic Report in relation to the proposed acoustic fence, specifically, a 2.1m high acoustic fence is proposed along the entire length of the western boundary instead of having a higher (2.4m high) section where adjacent the outdoor courtyard. It is noted that otherwise the recommendations regarding the acoustic fence in relation to its specifications are identical between the Advertised Acoustic Report and the Revised Acoustic Report are the same – as is the fence elevation detail provided in Appendix E of the report.
137. Given that Council's Acoustic Consultant was not satisfied with the level of information provided in the Advertised Acoustic Report and has agreed with the more conservative targets in the Revised Acoustic Report, it is considered that the following conditions are necessary to protect the residential amenity of the area (specifically the west-adjointing dwelling at No. 534 Heidelberg Road) from excessive patron noise:
- (a) The maximum number of patrons on-site at any time limited to 75, including a maximum of 32 patrons in the outdoor courtyard at any one time.
 - (b) Plans amended to show the proposed acoustic fence along the western boundary increased in height to 2.4m, where adjacent the outdoor dining area, as per the Revised Acoustic Report prepared by Cogent Acoustics and dated 10 August 2020.
138. It is also pertinent to include a standalone condition to ensure that the acoustic fence is constructed before the amended use (including the sale and consumption of liquor) commences. This condition would require that before the commencement of the restaurant use and sale and consumption of liquor authorised by the amended permit, or by such later date as approved in writing by the Responsible Authority, the acoustic fence along the western boundary, as shown on the endorsed plans, must be constructed to the satisfaction of the Responsible Authority.
139. Subject to these conditions, the patron noise level would be compatible with the residential environment.
- Vehicle noise from car park*
140. In relation to the car park noise, as per patron noise emissions, there are no applicable regulatory controls through the EPA. The applicant's Revised Acoustic Report has again used SEPP-N1 as a proxy for appropriate noise limit targets.
141. As per patron noise, the most significantly impacted residence in relation to noise from vehicles is the west-adjointing dwelling at No. 534 Heidelberg Road. However, the Revised Acoustic Report finds that installation of a 2.1m high acoustic fence along the western boundary would be sufficient to reduce noise levels to the identified closest noise sensitive areas in line with the specified targets.

142. Council’s Acoustic Consultant did not provide specific comment on this section of the Revised Acoustic Report but found the report overall to be satisfactory. It is noted that in Council’s Acoustic Consultants review of the Advertised Acoustic Report it was found that that proposed 2.1m high fence was acceptable and it was noted that: *Noise from vehicles in the carpark is not a high risk issue on this project given that operations are not proposed for the night period. We agree that SEPPN-1 limits do not formally apply. Given the above, we are satisfied that noise from use of the carpark will be adequately addressed by the proposed 2.1 m high acoustic fence*
143. Given the above it is considered that, given the inclusion of the acoustic fence as part of the proposal, noise from vehicles using the car park, including during the extended hours of operation, would not cause disturbance to the adjacent residences.
144. Given the existing fence is regarded to have little acoustic attenuation properties, the new acoustic fence would also likely improve the vehicle noise emissions compared to current conditions.
- Noise from waste/delivery vehicles*
145. Noise from waste and delivery vehicles would not be anticipated to change significantly as a result of the increase to operating hours, although it is acknowledged that the extension of the hours of operation would generate additional rubbish.
146. The existing permit includes the following conditions controlling the time of collection of waste and delivery of goods:
- (a) Condition 15 states: *Garbage collection by private contractor must be restricted between 7.00am and 10.00 pm on any day.*
 - (b) Condition 16 states: *Deliveries to the site are only permitted between 7:00am and 6:00pm on any day. All deliveries must occur on site to the satisfaction of the Responsible Authority.*
147. The Revised Acoustic Report finds that due to the existing levels of background noise and road traffic noise there would not be any adverse impact from deliveries or waste collection to the adjacent residences provided that EPA guidelines are followed.
148. The EPA guidelines (provided in the table below from the Revised Acoustic Report) are in part more restrictive and in part less restrictive than the current permit conditions.

Activity Type	Permitted Times
Waste Collections	<ul style="list-style-type: none"> ▪ 7 am to 8 pm Monday to Saturday ▪ 9 am to 8 pm Sunday and Public Holidays
Deliveries	<ul style="list-style-type: none"> ▪ 7 am to 10 pm Monday to Saturday ▪ 9 am to 10 pm Sundays and Public Holidays

149. It should be noted that the EPA guidelines for deliveries and waste collection are not mandatory regulations but rather guidelines.
150. It is also pertinent to consider Council’s current General Local Law (2016) pertaining to delivery to and collection from commercial premises which allows for deliveries/collections up until 10pm on any day; from 7am Monday to Saturday; and from 9am on Sunday or a Public Holiday.
151. The business is required to comply with Council’s Local Laws regardless of the permit condition, however, to ensure the operator is aware of the current obligations and to ensure the residential amenity is protected adequately from any increased deliveries and waste collection, the existing conditions 15 and 16 of the permit must be updated to ensure waste collection and deliveries do not occur before 9am on a Sunday and a Public Holiday (rather than 7am as per the current conditions).

152. Although the EPA guidelines suggest that waste collection should not occur beyond 8pm on any day, these are not mandatory provisions but guidelines. It is considered that the existing 10pm limit under condition 15 is acceptable as it is still in alignment with Council's local law. Furthermore, the applicant has advised that collection would only occur once per week and thus given the limited frequency of collections this would not represent an unreasonable disturbance if undertaken after hours of operation.
153. It is noted that this will also bring the delivery and waste collection times into alignment with policies at Clause 22.09. Disposal of bottles into bins (currently restricted under condition 11 of the permit) will also be addressed under that policy later in the report.
154. Subject to the changes described to the commencement for deliveries, it is considered that there would not be any unreasonable disturbance from garbage collection or deliveries to the surrounding residential area.

Loading and Refuse Collection Facilities

155. The existing shed at the south-west corner of the site will continue (as per the current endorsed plans) to be utilised for waste storage. This has previously been found to be acceptable.
156. The applicant has stated that the existing bin storage and collection arrangements - 1X1100L recycle bin and 1X 1100L co-mingle bins, collected once per week - will be sufficient for the proposed restaurant operations.
157. Given the similarity of the operations and the similar nature of the use and limited changes to hours of operation, it is considered acceptable to continue the existing arrangements.
158. There are no specified loading facilities designated on the plans (either endorsed or proposed). However condition 16 of the existing permit which restricts hours for delivery also stipulates that all deliveries must occur on-site to the satisfaction of the Responsible Authority. There is no change to the layout of the car park that would preclude this arrangement from continuing and this requirement will be maintained as part of permit conditions.
159. In summary, the above assessment finds that, subject to the conditions outlined, the operation of the proposed restaurant over the extended hours would not adversely impact the residential amenity of the surrounding area. The following sections of the assessment will address the licensing and car parking/traffic arrangements.

Sale and consumption of liquor

160. The decision guidelines of Clause 52.27 Licensed Premises and policies at Clause 22.09 (Licensed premises policy) are most relevant to the considerations of the licensing of the premises.
161. The application proposes the sale and consumption of liquor on-site, in association with the restaurant use (restaurant and café licence) for a maximum of 75 patrons during the following hours:
- (a) 9.00am to 8.00pm Monday to Saturday;
 - (b) 10.00am to 8.00pm Sunday; and
 - (c) 12.00 noon to 8.00pm Good Friday and Anzac Day.
162. The below assessment is structured around the relevant sections and policies of Clause 22.09 as it draws from the decision guidelines and objectives of Clause 52.27 and provides more specific guidance to assess the proposal.

Location and Access

163. It is policy at Clause 22.09-3 of the Scheme that: *licensed premises should be located where:*
- (a) *The land is not zoned Residential (excluding the Mixed Use Zone).*

- (b) *Potential amenity impacts from (but not limited to) patron noise, ingress and egress of patrons, queuing of patrons, smoking areas for patrons, and dispersal of patrons from the site can be appropriately managed or buffered.*
- (c) *There is opportunity for a high level of public safety and surveillance of patrons as they enter and leave the premises.*
- (d) *The premises would not result in an unreasonable cumulative impact on the amenity of the surrounding area.*

164. Although policy discourages licensed premises from being located on residentially zoned land, this is not a mandatory requirement. The sale and consumption of liquor is considered to be acceptable in this location due to the following factors:

- (a) It is proposed in association with a food and drink premises (restaurant) and the type of license sought (restaurant and café licence) reflects this. This is a lower risk category of liquor licence which is for premises where the predominant activity on site is the service of meals, with liquor service being ancillary to this activity.
- (b) The site fronts Heidelberg Road (an arterial road) and Yarraford Avenue is a “no-through-road” and hence both pedestrian and vehicular access to the site would largely be via Heidelberg Road (albeit with vehicles having to access the site via the northern part of Yarraford Road and with some patrons likely to park in Yarraford Avenue).
- (c) The proposed hours for sale/consumption of liquor are in alignment with policy for residential areas (see later discussion) and are consistent with the service of alcohol in an ancillary capacity to food and the provision of a service mainly to local clientele from surrounding residences and other businesses.
- (d) The previous section of the report assessing noise finds that noise associated with the site would be compatible with the residential environment, subject to a number of conditions.
- (e) The existing building is designed so that the windows to internal patron areas face Heidelberg Road, again directing noise and internal patron activity away from the more sensitive Yarraford Avenue frontage.
- (f) Council’s Civic Amenity Unit support the proposed licensing of the venue and have also advised that no amenity complaints have been received in regards to the current café operation.

165. In terms of potential amenity impacts:

- (a) Noise emissions have already been assessed in relation to the proposed restaurant use. Given the nature of the premises (restaurant) and the limited hours of operation (not past 8pm) the licensing of the premises would be unlikely, in and of itself, to lead to significantly higher noise levels to be generated from the premises. However, noise from disposal of bottles is discussed later in the assessment and will be addressed by condition.
- (b) A smoking area has been designated within the car park at the rear of the building. Given the nature of the premises (a restaurant) with a predominant food focus and the relatively limited amount of time patrons are likely to spend at the site, it is unlikely that there would be a significant demand for smoking on-site. However, the provision of a smoking area would help to encourage any patron who does wish to smoke to do so on the premises rather than in the surrounding streets.
- (c) Queuing is not anticipated to be problematic given the nature of the venue, however, is discussed further under the following “venue design” section of the assessment.
- (d) Patrons dispersing from the site would largely disperse towards and along Heidelberg Road given that Yarraford Avenue is a ‘no through road’. Patrons who park within surrounding side streets, including Yarraford Avenue, would need to walk to their cars but given the relatively early closing time (8pm) any foot traffic along side streets would not be anticipated to cause unreasonable disturbance.

166. A cumulative impact assessment is not required to be submitted under Clause 22.09 for a restaurant and café licence where the preferred hours of the policy are met. Furthermore, the premises would be deemed a low risk venue for cumulative impact according to Practice Note 61 as it does not open after 11pm and is not located in an area with a “cluster” of licensed premises (the nearest permanently licenced premises is the Grand Hotel located approximately 400m to the west of the subject site on the northern side of Heidelberg Road).
167. Given all of the above, no further assessment of cumulative impact is required.

Venue Design

168. Clause 22.09-3 includes the following policy :
- (a) *The layout and design of new licensed premises incorporate safe design principles as detailed in the Design Guidelines for Licensed Venues (Victorian Commission of Gambling and Liquor Regulation 2017).*
 - (b) *The entry and exits points of a licensed premise and the areas for queuing of patrons are located away from sensitive land uses.*
 - (c) *Waste management and storage is provided on-site, and noise enclosures are provided where bottle crushers are to be used.*
169. The proposal is considered to meet the venue design policies given that:
- (a) The venue is a purpose-built commercial building and the main pedestrian entry/exit is to an arterial road (Heidelberg Road) – the least sensitive interface. Whilst it is unlikely that patrons would be queueing, given the nature of the premises, if this was to be the case, patrons would do so along the Heidelberg Road frontage. It is noted that the nearest dwelling to the front of the site (No. 534 Heidelberg Road) is set well back from Heidelberg Road and thus any patrons at the street frontage would not cause undue disturbance to the dwelling.
 - (b) The pedestrian entry/exit to the premises (to Heidelberg Road) is well-defined and adequately illuminated from internal lighting and street lighting for evening trade.
 - (c) The adjacent front façade glazing to the entry/exit would enable good supervision of patrons leaving and entering the establishment to ensure safety. Given the limited hours of operation (no later than 8pm) the nature of the proposal is not considered one where there would be a high level of risk to patrons leaving the venue.
 - (d) Waste from the licensed premises will be stored in the shed at the south-west corner of the site adjacent the car park, as per existing conditions. No bottle crushers are proposed. Noise associated with waste has already been discussed, however, further discussion of noise from disposal of bottles will be address in the noise section of the policy below.
170. However, a minor error on the proposed floor plan, which shows the licensed area has been identified on the plans. The red line depicting the licensed area is shown to continue along the length of the western boundary, including the car parking area. This appears to be an error, however, to ensure there is no confusion, a condition of any amended permit would require that the red line adjacent the car parking area is deleted.

Hours of Operation

171. Policy at Clause 22.09-3 as relevant to this application is that:
- (a) *Licensed premises in a Residential zone (other than a Mixed Use Zone) should not provide for the sale and consumption of liquor beyond 8pm, unless the responsible authority is satisfied that it will not adversely affect the amenity of the area;*
 - (b) *For outdoor areas, including smoking areas, rooftops and open courtyards, the sale and consumption of liquor should not occur after 10pm, unless the responsible authority is satisfied that it will not adversely affect the amenity of the area.*
 - (c) *Licensed premises (including packaged liquor outlets) should not commence the sale and consumption of liquor before 9am.*

- (d) *Deliveries to and waste collection from a licensed premises should not occur after 10pm on any day, before 7am Monday to Saturday, or before 9am on a Sunday or public holiday except for those allowed under any relevant local law.*
 - (e) *Emptying bottles into bins in outdoor areas should not occur after 10pm on any day, before 7am Monday to Saturday, or before 9am on a Sunday or public holiday*
172. The application proposes the sale and consumption of liquor on-site, in association with the restaurant use (restaurant and café licence) for a maximum of 75 patrons during the following hours (more restrictive than overall hours of operation):
- (a) 9.00am to 8.00pm Monday to Saturday;
 - (b) 10.00am to 8.00pm Sunday; and
 - (c) 12.00 noon to 8.00pm Good Friday and Anzac Day.
173. The proposed hours for sale/consumption of liquor meet the preferred hours in the policy for residential zoned areas in terms of cessation (no later than 8pm) and the preferred hours for all areas in terms of commencement (no earlier than 9am). It is noted that even though the restaurant proposes to continue to operate earlier than 9am, it is not proposed to sell liquor before this time.
174. In relation to the preferred hours for deliveries, waste collection and bottle emptying, as detailed in the “Land Use” section of the assessment, Condition 15 and 16 would be amended, as a condition of support for the proposal, to be consistent with policy in relation to the earliest times for collection/delivery on Sundays and Public Holidays (i.e. no earlier than 9am). The latest hours for delivery of goods would continue to be more stringent than policy suggests.
175. Condition 11 of the permit stipulates that: *Any empty bottles associated with the use must be taken in bags and no emptying of bottles into garbage bins is permitted after 9.00 pm on any night or before 7.00 am on any day.*
176. Given the licensing of the premises may result in additional bottle waste being produced, it is considered prudent to modify condition 11 to also align with current policy requirements, i.e. to also preclude disposal of bottles into garbage bins before 9am on Sundays and Public Holidays. The latest hours for disposal of bottles would continue to be more stringent than policy suggests.
- Patron numbers*
177. It is policy at Clause 22.09-3 that:
- (a) *The number of patrons should not exceed the safe and amenable operating capacity of the premises. An assessment of the maximum number of patrons that can be physically accommodated within a venue should be based on the VCGLR Liquor Licensing Fact Sheet – Maximum Patron Capacity (2016).*
 - (b) *The number of patrons reflects the strategic and physical context of the site and will not adversely affect the amenity of nearby properties and the surrounding area, including by any unreasonable cumulative impact.*
178. A maximum of 75 patrons are proposed to be accommodated within the licensed restaurant. This is consistent with the existing approved maximum 75 seats permitted under the current permit for the (unlicensed) café, which has previously been deemed to be acceptable.
179. Although the site is located in a residential area and is otherwise surrounded by residential uses, as previously highlighted, it has its main frontage to an arterial road (20m wide) which provides a buffer from residences opposite and in this context, the activity associated with the premises (noise, pedestrian and vehicular movement etc) would be less apparent than for more secluded portions of residential streets.
180. The number of patrons for a total area of 223.7sqm provided for patrons equates to 1 patron per 2.98sqm, this is well under the maximum density of 1 patron per 0.75sqm stipulated in the *VCGLR Liquor Licensing Fact Sheet – Maximum Patron Capacity (2016)*.

181. As detailed in the noise assessment undertaken in the land use section of the assessment, subject to the increase in height for the section of the acoustic fence adjacent the courtyard and the a condition restricting the number of patrons within the courtyard to 32 (to ensure patron noise is kept to acceptable limits in relation to the dwelling at No. 534 Heidelberg Road) the proposed noise from patrons would not adversely impact the amenity of the surrounding area.

Noise

182. Clause 22.09 does not require a Noise and Amenity Action Plan to be submitted for applications for restaurant and café liquor licences, this recognises the low risk nature of these types of licences.

183. Further in relation to noise, it is policy at Clause 22.09-3 that:

- (a) *Noise from the operation of the licensed premises should not have an unreasonable impact on the amenity of the area.*
- (b) *Noise emissions from licensed premises should comply with the standards specified in the State Environmental Protection Policy or any other relevant requirement such as accepted sleep disturbance criteria or relevant Australian Standards.*
- (c) *On-site noise attenuation measures should be applied for licensed premises where unreasonable amenity impacts on the surrounding area may result from the proposed activities.*
- (d) *Where required, a licensed premise must be designed and managed in accordance with an acoustic report approved by the responsible authority.*

184. In relation to noise emissions, a detailed noise assessment has already been undertaken in the “land use” section of the assessment in addition to the earlier discussion regarding appropriate hours for emptying of bottles into bins. Subject to several conditions already outlined – which include modified noise attenuation measures (increase to the height of the acoustic fence) - the licensed restaurant would not adversely impact the amenity of the area through noise and would meet relevant State Environment Protection Policies (SEPP N-1 and SEPP N-2) pertaining to mechanical noise and music noise.

185. In addition to the conditions already outlined to control noise from the premises, as the licensed restaurant is to be located in a residential area, any amended permit issued should also include a standard condition requiring a sign to be displayed at the patron exit to the building requiring that patrons leave quietly to respect the amenity of adjacent residential areas and to leave in a quiet and orderly manner.

186. It is noted that policy at Clause 22.09 does not require an acoustic report to be provided for a liquor licence associated with a restaurant where the preferred hours are met and hence the applicant has gone beyond the stated application requirements under Clause 22.09 of the Scheme for this proposal.

This gives a high level of assurance that the proposed operation of the licensed premises will not result in detriment to the surrounding area in relation to noise emissions. There is no need to endorse an acoustic report as part of approval of any amendments to the permit as all recommendations can be translated into simple permit conditions.

Car Parking and Traffic

187. Collectively, the provisions of the Scheme noted above seek to produce balanced transport and parking outcomes by requiring uses and developments to provide adequate amounts of vehicle parking on-site but also encouraging sustainable forms of transport so that the municipality can reduce automobile reliance Relevant considerations are addressed below.

188. Clause 52.06 (Car parking) of the Scheme will be used to frame this car parking assessment.

189. Although there is no change to the number of car parking spaces provided on-site (14), due to the change of type of food and drink premises from a café to a restaurant a different car parking rate applies and thus there is a shortfall of 16 car parking spaces under Clause 52.06.
190. The applicant has submitted a traffic report (prepared by M L Traffic Engineers) which includes a survey of the surrounding street network in relation to car parking availability.
191. The relevant decision guidelines of Clause 52.06 will be considered in turn below.
The car parking demand assessment
192. The submitted traffic report notes that, of the various factors to be considered in assessing car parking demand, the site has good access to public transport, cycling paths and good pedestrian access (detailed further below).
193. An empirical demand or alternative rate of car parking demand is not provided in the submitted traffic report, as the car parking rate stipulated in the Scheme was deemed to be appropriate.
The availability of alternative car parking in the locality of the land.
194. The surrounding area has on-street car parking along Heidelberg Road and side streets, including Yarraford Avenue, most of which is unrestricted.
195. There is a clearway during the am peak hours on the southern side of Heidelberg Road and during the pm peak hours on the northern side of Heidelberg Road.
196. The traffic report finds that there is sufficient on-street car parking to meet the 16 space shortfall in the surrounding street network. The report includes a car parking survey of sections of Yarraford Avenue, Heidelberg Road and Hanslope Avenue closest to the subject site.
197. Council's Engineering Services Unit have reviewed the proposal including the accompanying traffic report and found that the reduction of car parking (sixteen spaces) could be accommodated in the surrounding street network and would not adversely affect on-street parking conditions.
On street parking in residential zones in the locality of the land that is intended to be for residential use.
198. On the eastern side of Yarraford Avenue, directly opposite the subject site, are two permit parking spaces which could be utilised by residents that have resident or visitor parking permits.
199. The reservation of these two space for residents/visitors would help to reduce competition for on-street car parking spaces for residents at the northern end of Yarraford Avenue.
The practicality of providing car parking on the site, particularly for lots of less than 300 square metres.
200. Although the site is well over 300sqm, it is still limited in its ability to provide any additional car parking spaces given the existing buildings on the site. Under existing conditions over half of the site is already dedicated to car parking and it is impractical to provide any additional car parking on the site.
Local traffic management in the locality of the land.
201. Council's Engineering Services Unit have advised that the proposed change of use would not be anticipated to generate additional traffic in the surrounding area in comparison to the existing use and would not be unduly high.
202. The access, layout and number of car parking spaces provided on-site are not proposed to be altered. Furthermore, no concerns have been raised by Council's Engineers in relation to traffic safety or conflicts with pedestrians, cyclists or the wider street network from traffic associated with the proposed restaurant use and expanded hours of operation.

203. Given the modest scale of the premises, deliveries and waste collection are unlikely to contribute substantially to traffic within the street. Furthermore, in terms of deliveries, as previously noted, condition 16 of the existing permit (to be retained) requires that deliveries occur on-site (to Council's satisfaction) which would facilitate deliveries in a manner that would not obstruct traffic flow in Yarraford Avenue.
- The impact of fewer car parking spaces on local amenity, including pedestrian amenity and the amenity of nearby residential areas.*
204. Whilst there is a shortfall of car parking on-site as calculated by the rate in clause 52.06, effectively there would be little difference in amenity impacts from the demand for car parking comparison to the existing premises.
205. In approving the expansion of the premises to a 75 seat capacity in the 2011 amendment to the permit, VCAT found that at this scale the premises would result in an acceptable impact on traffic and car parking in the surrounding area and the maximum 75 patrons associated with the restaurant is an equivalent scale of operation.
206. The previous sections of the car parking assessment have ascertained that there is sufficient car parking available on the street to accommodate any overflow and that peak traffic impacts would be similar to the existing café use.
207. Thus it is considered that the existing conditions of the permit would provide adequate protection in relation to the amenity of the surrounding area, including residential streets (and in particular Yarraford Avenue) to accommodate the expanded hours of operation in association with the restaurant use.
208. *Access to or provision of alternative transport modes to and from the land.*
209. The site is accessible by public transport, with the closest access via bus services along Heidelberg Road (route 546) and the Chandler Highway (route 350 & 609). The Alphington and Fairfield railway stations are further afield but within walking distance (an approximately 10 minute walk to Fairfield Station).
210. In addition, Heidelberg Road has formal on-road bicycle lanes in each direction and the subject site is not far from the Main Yarra Trail (along the Yarra River) which also provides a formal off-road bicycle route.
211. The ongoing provision of eight (8) bicycle spaces on-site, as required by existing condition 14 of the permit, would continue to encourage both staff and patrons to access the site by bicycle and is well in excess of the minimum (1 space) prescribed under Clause 52.34 of the Scheme.
212. Furthermore, it is likely a proportion of trade would be from the immediately surrounding residential area (walk-up trade).
213. Hence, it would be anticipated that a proportion of staff and patrons would use alternative transportation options (walking, cycling or public transport) and not rely on car parking on-site or within the street network surrounding the site, reducing demand for car parking.
214. Overall, given the above considerations, the proposed reduction of car parking can be supported having regard to the impact existing on-street car parking and traffic conditions.

Buildings and works

215. The proposed buildings and works are limited to the construction of the proposed acoustic fence along the western boundary of the site (2.1m high and of timber construction). As detailed earlier in the report, part of the fence will be required, by condition, to be increased in height to 2.4m to provide better acoustic attenuation.

216. As detailed in the Planning Scheme Provisions section of the report, the only permit trigger for the fence is the Special Building Overlay (“SBO). Hence the main consideration of the acceptability of the proposed fence is whether it meets the objectives of the SBO, the most relevant being: *To ensure that development maintains the free passage and temporary storage of flood waters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.*
217. The application was referred to Melbourne Water (the relevant Floodplain Authority), as required under the provisions of the SBO. Melbourne Water raised no objection to the proposed fence and did not require any conditions. Hence it is considered that the proposed fence is consistent with the objectives of the Special Building Overlay and would not pose a hazard or obstruct the flow of floodwaters.
218. The Planning Officer has also sought and obtained verbal confirmation from Melbourne Water that increasing the height of the fence in part, by 0.3m (as per the stipulated conditions) would not alter their assessment of the proposal.
219. Given the permit trigger for the fence is only the SBO, very little weight can be given to other policies that would normally be applicable to consideration of buildings and works in association with the use, such as those at Clause 22.10 (Build form and design policy) or 22.01 (Discretionary Uses in the Residential 1 Zone) of the Scheme.
220. Nonetheless, the proposed fence (inclusive of the increased height to be required by condition) would be generally consistent with policies at Clause 22.10 of the Scheme as it would not detract from the public realm or the garden character of the area and the proposed material (timber) is typical of side boundary fencing in the area.

Objector Concerns

221. The majority of the issues raised by objectors have been addressed throughout the assessment section of this report. For ease of reference, the concerns raised and corresponding report sections and/or paragraph numbers are outlined below, as relevant:
- Traffic congestion (from cars, waste and delivery vehicles) and associated safety risks to pedestrians, cyclists and drivers.*
222. This concern has been discussed at paragraphs 212-207 of this report.
- Car parking reduction (loss of on-street car parking and exacerbation of illegal parking)*
223. This concern has been discussed, in part, at paragraphs 192-199 of this report in relation to loss of on-street car parking. In terms of illegal car parking, any breach or road rules, such as parking across driveways or the like, can be dealt with appropriately through enforcement by Council’s Parking Services. However, given the availability of on-site and on-street car parking and the existing use it is considered unlikely that this would be significantly exacerbated by the proposal.
- Loss of residential amenity.*
224. This concern has been discussed throughout the report, including at paragraphs 98-214.
- Noise (in particular from extension of trading hours; consumption of alcohol; smashing of bottles; and waste/delivery trucks).*
225. This concern has been discussed at paragraphs 116-154 and 183-186 of this report. Smashing of bottles is addressed in the report in relation to the noise from disposal of bottles into bins. Beyond this, it is considered highly unlikely that the licensing of the premises would lead to the “smashing of bottles” more generally given the low risk nature of the licence sought. By its very nature a restaurant with such modest operating hours will be a highly controlled environment.

Waste (pests and odour).

226. As discussed at paragraphs 155-159, the existing waste management arrangements will continue in association with the proposed restaurant use. Support for the proposal is subject to a number of changes to existing conditions regarding waste management to ensure the intensification would not adversely impact the surrounding residences. Although pests and odour from waste is not specifically discussed, both these items would be addressed by the general amenity condition (condition 10) of the permit and in the unlikely event that any nuisance was caused due to pests or odours associated with waste, enforcement action could be taken to rectify such issues.

Adverse impact on neighbourhood character.

227. As discussed at paragraph 220, the proposed buildings and works (new acoustic fence) would not detract from the built form character of the surrounding area. It is noted that as the only permit trigger for the new fence is under the Special Building Overlay, this aspect of the proposal is exempt from notice and review.

Social impacts (children exposed to public alcohol consumption).

228. Given the nature of the licensed premises (a restaurant) the licensing of the premises would present a low risk in terms of anti-social behaviour within the public realm. The licensing of any area within the public realm (e.g. area to Heidelberg Road frontage) would be determined under Council's Local Law provisions and is not the subject of this assessment.

Ongoing stress to residents associated with repeated planning applications for an extension to hours and/or patron capacity.

229. There are no provisions within the Act or the Planning Scheme that prevents multiple applications being made for a site. Any application for a planning permit (including an amendment to an existing permit) must be assessed on its merits and based on the relevant planning policies of the Scheme. Considerations of the social impact of multiple applications goes beyond the scope of the planning assessment.

Other matters

230. If an amended permit were to issue, in addition to the changes recommended in the assessment section, the following additional changes to the permit would be required:

- (a) The permit preamble would be amended to read:
- (i) Use of the site as a restaurant; an associated reduction of car parking; sale and consumption of liquor on-site (restaurant and café licence); and construction of buildings and works including the construction of a fence and deck.
- (b) The following changes would be made to existing conditions:
- (i) Existing condition 1 (a-e) deleted, as these conditions were previously met with the last set of endorsed plans, and replaced with a new condition 1 which references the decision (advertised) plans and requires further changes, as per the recommendations of the assessment section of the report;
 - (ii) Existing condition 2 amended to refer to the sale and consumption of liquor;
 - (iii) Existing condition 22 (expiry) updated to reflect amended permit triggers and associated permit expiry dates; and
 - (iv) Re-numbering of existing retained and amended conditions to accommodate new conditions.

Conclusion

231. The proposal, subject to conditions outlined in the recommendation below, the proposal is considered to generally comply with the relevant policies of the Yarra Planning Scheme and is recommended for approval.

RECOMMENDATION

That having considered all relevant planning policies, the Committee resolves to Issue a Notice of Decision to Amend a Planning Permit PL05/1061.04 to allow for a change of use from a café to a restaurant; an associated reduction of car parking; an extension to the hours of operation; introduce the sale and consumption of liquor on-site (restaurant and café licence); and include additional buildings and works (construction of an acoustic fence) at 538-540 Heidelberg Road, Alphington, in accordance with the decision plans and subject to the following changes to the permit pre-amble and conditions:

Permit preamble modified to read:

Use of the site as a restaurant; an associated reduction of car parking; sale and consumption of liquor on-site (restaurant and café licence); and construction of buildings and works including the construction of a fence and deck.

Conditions modified as follows (new or amended conditions in bold):

1. **Before the use (including the sale and consumption of liquor) or development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans, drawing nos. A1, A2, A3 & A4 (prepared by Mimar Designs and dated Oct'19 with notations dated 18/3/2020); and drawing no. SD Bar 01 (prepared by Cogent Acoustics and dated 28/11/2019), but modified to show:**
 - (a) **The proposed acoustic fence along the western boundary to be increased in height to 2.4m, where adjacent the outdoor dining area (courtyard), as per the Revised Acoustic Report prepared by Cogent Acoustics and dated 10 August 2020.**
 - (b) **Deletion of the red line depicted on the proposed site/licensed area plan adjacent the car parking area.**
2. The layout of the uses **(including the sale and consumption of liquor)** and development as shown on the endorsed plans must not be altered without the further consent of the Responsible Authority.
3. **Before the commencement of the restaurant use and sale and consumption of liquor authorised by the amended permit, or by such later date as approved in writing by the Responsible Authority, the acoustic fence along the western boundary, as shown on the endorsed plans, must be constructed to the satisfaction of the Responsible Authority.**
4. **The restaurant** use must only operate between the following hours:
 - (a) **7.00am to 8.00pm Monday to Friday (except the courtyard / outdoor area that must only operate from 8.00am) other than on Good Friday and Anzac Day;**
 - (b) **8.00am to 8.00pm Saturday & Sunday; and**
 - (c) **8.00am to 8.00pm Good Friday and Anzac Day.**
5. **Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor may only occur between the following hours:**
 - (a) **9.00am to 8.00pm Monday to Saturday (other than on Good Friday and Anzac Day);**
 - (b) **10.00am to 8.00pm Sunday (other than on Anzac Day); and**
 - (c) **12.00 noon to 8.00pm Good Friday and Anzac Day.**

6. The number of staff, proprietors, and person related to the proprietors working on the site or any other persons working on the site, whether paid or unpaid, must not exceed twelve (12) on the site at any one time.
7. No more than 75 seats may be available to the public on the site at any one time.
8. **No more than 75 patrons are permitted on the land at any one time, including a maximum of 32 patrons within the outdoor dining area (courtyard).**
9. Music on the site must be limited to background music only. No live music or entertainment will be permitted.
10. No music must be played outside the premises. No speakers must be sited outside the premises.
11. The operator shall not cause or permit undue detriment to the amenity of the area to arise out of or in connection with the use of the premises to which this permit relates during or immediately after the trading hours authorised under this permit.
12. The operator shall ensure that the level of noise emitted from the premises shall not exceed the relevant State Environment Protection Policy or other relevant noise policy.
13. The use permitted must not adversely affect the amenity of the locality by the appearance of any buildings, works or materials, the transporting of goods to and from the premises, emissions from the site or in any other way.
14. **Before the commencement of the sale and consumption of liquor, the applicant must, to the satisfaction of the Responsible Authority, display a sign at the exit of the licensed premises advising patrons to respect the amenity of adjacent residential areas and to leave in a quiet and orderly manner.**
15. Any empty bottles associated with the use must be taken in bags and no emptying of bottles into garbage bins is permitted **after 9.00pm or before 9.00am on Sunday and Public Holidays; and after 9.00pm or before 7.00am on any other day.**
16. No fewer than fourteen (14) car spaces must be provided on the land for the use. The car park must be clearly line-marked with 14 spaces.
17. Car parking spaces must be maintained at all times to the satisfaction of the Responsible Authority and must not be used for any other purpose, except with the written consent of the Responsible Authority.
18. There are to be no less than eight (8) bicycle spaces available on the site at all times, unless with the further written consent of the Responsible Authority.
19. Garbage collection by private contractor must be restricted between **9.00am and 10.00pm on Sunday and Public Holidays; and between 7.00 am and 10.00 pm on any other day.**
20. Deliveries to the site are only permitted **between 9:00am and 6:00pm on Sunday and Public Holidays; and between 7:00am and 6:00pm on any day.** All deliveries must occur on site to the satisfaction of the Responsible Authority.

Melbourne Water conditions (21-24)

21. All No polluted and / or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or watercourses.
 22. The carport must be constructed with finished surface levels no lower than 350mm below the applicable flood level.
 23. The decking is to be constructed with unenclosed foundations to allow for the passage of overland flows.
 24. Unless otherwise agreed to in writing by Melbourne Water, any proposed vehicle parking areas must have finished surface levels no lower than 350mm below the applicable flood level.
-

25. The line marking of the car park and construction of the new fence along the eastern boundary must occur within three months of the issue of this amended permit.
26. **This permit will expire if:**
- (a) **the development is not completed within two years of the date of this amended permit;**
 - (b) **the restaurant use (including the sale and consumption of liquor) is not commenced within two years from the date of this amended permit; or**
 - (c) **the restaurant use (including the sale and consumption of liquor) is discontinued for a period of two years.**

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

Note:

These premises are required to comply with the *Food Act* 1984. No fit-out is to commence until plans have been approved by Council's Public Health Unit. Please contact the Public Health Unit on (03) 9205 5777.

Note:

These premises will be required to comply with the *Health Act* 1958. No Fit-out is to commence until plans have been approved by Council's Public Health Unit. Please contact the Public Health Unit on (03) 9205 5777.

Note:

A building permit must be obtained before development is commenced.

Note (Melbourne Water):

If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on telephone 9235 2517, quoting Melbourne Water's reference 85967.

The applicable flood level for the property is 27.16 metres to Australian Height Datum (AHD).

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

Attachments

- 1 PL05/1061.04 - 538 - 540 Heidelberg Road Alphington - Subject Land
- 2 PL05/1061.04 - 538 - 540 Heidelberg Road Alphington - Decision (Advertised) Plans
- 3 PL05/1061.04 - 538 - 540 Heidelberg Road Alphington - Advertised Traffic Report
- 4 PL05/1061.04 - 538 - 540 Heidelberg Road Alphington - Advertised Acoustic Report
- 5 PL05/1061.04 - 538 - 540 Heidelberg Road Alphington - Revised Acoustic Report
- 6 PL05/1061.04 - 538 - 540 Heidelberg Road Alphington - Current Planning Permit
- 7 PL05/1061.04 - 538 - 540 Heidelberg Road Alphington - Current Endorsed Plans
- 8 PL05/1061.01 - 538 - 540 Heidelberg Road Alphington - Council Engineering Services Referral Response
- 9 PL05/1061.04 - 538 - 540 Heidelberg Road Alphington - Council Civic Compliance Referral Response
- 10 PL05/1061.04 - 538 - 540 Heidelberg Road Alphington - Council Acoustic Consultant - Referral Response to Advertised Acoustic Report
- 11 PL05/1061.04 - 538 - 540 Heidelberg Road Alphington - Council Acoustic Consultant - Referral Response to Revised Acoustic Report
- 12 PL05/1061.04 - 538 - 540 Heidelberg Road Alphington - Melbourne Water Referral Response

6.7 PLN17/0448.01 - 484-486 Swan Street, Richmond

Executive Summary

Purpose

1. This report provides the Planning Decision Committee (PDC) with an assessment of the planning permit amendment application seeking changes to the permit preamble, deletion/amendment of conditions, reconfiguration of building uses (including increased hours and patron numbers for cafe and restaurant - permit required uses), internal reconfigurations, changes to the car parking provision/allocation, built form changes (including a reduction in setbacks, an increase in overall height, addition of a storey to a total of 14 storeys plus rooftop plant and changes to the design) and alteration of access to a road zone, category 1.
2. This item is required to be decided by the PDC as the proposed amendment exceeds the preferred 40 metre height referenced within the Design and Development Overlay (DDO17-4) by more than one storey.

Key Planning Considerations

3. Key planning considerations include:
 - (a) Use (Clauses 34.02-1);
 - (b) Interfaces uses policy (Clause 22.05);
 - (c) Built form (Clauses 15, 21.05, 22.10, 34.02-7, 36.04, 43.02 and 52.29); and
 - (d) Car parking and bicycle provision (Clauses 52.06, 52.29 and 52.34).

Key Issues

4. The key issues for Council in considering the proposal relate to:
 - (a) Policy and physical context;
 - (b) Condition 1 Assessment;
 - (c) Use;
 - (d) Built form;
 - (e) Environmentally Sustainable Development (ESD);
 - (f) Off-site amenity impacts;
 - (g) Car parking, traffic, access and bicycle provision;
 - (h) Waste management;
 - (i) Other matters; and
 - (j) Objector concerns.

Submissions Received

5. Five objections were received to the application, these can be summarised as:
 - (a) Neighbourhood character;
 - (b) Height/Massing;
 - (c) Visual bulk/Overshadowing;
 - (d) Impact on existing infrastructure;
 - (e) Car parking/traffic implications; and
 - (f) Impacts to VicTrack land.
6. One letter of support was also submitted.

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) A 7m building setback to the western elevation, for a length of 20m from the Swan Street interface for a landscaped terrace at level 11 and at levels 12 and 13;
 - (b) A 7m building setback to the eastern elevation, for length of 20m from the Swan Street interface for a landscaped terrace at level 11 and at levels 12 and 13;
 - (c) An additional setback of 2.4 metres from the southern boundary at Level 8; and
 - (d) The south-facing indented facade in the south-west corner of Levels 11-13 to include vertical blades at the mullions (as per the southern half of the western façade at these levels).

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

6.7 PLN17/0448.01 - 484-486 Swan Street, Richmond

Reference: D20/144758
Authoriser: Senior Coordinator Statutory Planning

Ward: Melba
Proposal: Section 72 amendment to allow for changes to the permit preamble, deletion/amendment of conditions, reconfiguration of building uses (including increased hours and patron numbers for cafe and restaurant - permit required uses), internal reconfigurations, changes to the car parking provision/allocation, built form changes (including a reduction in setbacks, an increase in overall height, addition of a storey to a total of 14 storeys plus rooftop plant and changes to the design) and alteration of access to a road zone, category 1
Existing use: Office
Applicant: Urbis Pty Ltd
Zoning / Overlays: Commercial 2 Zone / Road Zone
Design and Development Overlay (Schedule 2)
Design and Development Overlay (Schedule 5)
Design and Development Overlay (Schedule 17-4)
Date of Application: 4 July 2019
Application Number: PLN17/0448.01

Planning History

1. Planning Permit No. PLN17/0448 was issued on 2 May 2018 by Council, allowing *the use and development of the land for the construction of a mixed use building (permit required for food and drinks premises (café)), reduction in car parking requirements, and alteration of access and buildings and works to a Road Zone, Category 1 Road.*
2. A subsequent appeal was lodged with the Victorian Civil and Administrative Tribunal (VCAT) and on 3 September 2018, the planning permit was amended in accordance with the order of VCAT (reference P1018/2018) via consent.
3. There are several conditions of the permit that are required to be satisfied prior to the commencement of the development, as follows:
 - (a) Amended plans (Condition 1);
 - (b) Amended Sustainable Management Plan (Condition 6);
 - (c) A Landscape Plan (Condition 13);
 - (d) Payment of a security bond (Condition 15);
 - (e) Payment of a tree amenity value (Condition 16);
 - (f) A Tree Management Plan (Condition 17);
 - (g) Amended Wind Report (Condition 19);
 - (h) Design detail drawings (Condition 21, 24 and 26);
 - (i) Amended plans for the Head, Transport for Victoria (Condition 29 and 30);
 - (j) Changes to road infrastructure (Condition 43);
 - (k) A Green Travel Plan (Condition 56); and
 - (l) Construction Management Plan (Condition 66).
4. Through the amendment that is the subject of this application and report, the application is seeking to satisfy a number of the outstanding requirements outlined above. These will be outlined within the Proposal section of the report.

5. An extension of time to the planning permit was granted on 23 June 2020. As a result, the development must now commence no later than 2 May 2021, be completed no later than 2 May 2023 and the approved uses must commence by 2 May 2024.

Background

Planning Decisions Committee (PDC)

6. This item is required to be decided by the PDC as the proposed amendment exceeds the preferred 40 metre height referenced within the Design and Development Overlay (DDO17-4) by more than one storey (40 metre height for this application equates to approx. 10 storeys).

Planning Scheme Amendments

Amendment C236 (gazetted 22 November 2018)

7. This amendment introduced Schedule 17 to the Design and Development Overlay (DDO17). The Overlay was implemented to provide built form guidance to the Swan Street Activity Centre and is temporary. When incorporated DDO17 expired on 30 December 2019, however, the expiry date has been extended to 15 October 2021.
8. The proposal is now subject to an assessment against the provisions of the DDO17.

Amendment C191 – Swan Street Major Activity Centre (In progress)

9. Amendment C191 proposes to implement the built form recommendations of the Swan Street Activity Centre Built Form Framework, through the introduction of Schedule 28 to the Design and Development Overlay (DDO28) on a permanent basis. Schedule 28 would result in the existing Schedule 17 being divided into four separate schedules, with Schedule 28 applying to 'Precinct 4 – Burnley Station' of the existing Schedule 17.
10. The amendment has been exhibited by Council and the Planning Panels Victoria Panel hearing commenced on 27 July 2020 and concluded on 2 September 2020. The Panel Report is to be publically released on Thursday 12 November 2020.
11. Once Council adopts a final position on the amendment, the proposed DDO will be considered 'seriously entertained'. Therefore at this stage, little statutory weight can be given to Amendment C191.
12. Some of the mandatory and preferred built form outcomes included in the current interim DDO17 have altered in the amended version of the DDO27 before Panel. No modifications are proposed to the preferred height or rear interface provisions. The preferred Swan Street street wall height has been modified to 14 metres (maximum) as opposed to 14.5 metres (maximum) and the upper level setback to Swan Street is also proposed to be increased from a 5 metre minimum to a 6 metre minimum.

Lodgment of S50 Amendment (27 November 2019)

13. On 27 November 2019, the application was amended pursuant to Section 50 of the *Planning and Environment Act 1987* (the Act), to modify the ground floor tenancies.
14. Additional information was also provided within this amendment to respond to comments received from Council's internal Engineering Unit, City Works Unit, Open Space Unit and Streetscapes and Natural Values Unit.

Lodgment of Additional Documents (19 March 2020)

15. On 19 March 2020 the applicant submitted updated development plans to respond to the Urban Design (internal), Strategic Transport and ESD comments.
16. This information was not formally substituted and therefore could not be relied upon within the assessment of the proposal. The information contained within this submission later formed the basis for the below Section 57A Amendment.

Lodgment of S57A Amendment (15 June 2020)

17. Following advertising, and in response to concerns raised by Council's planning officers, internal units and objectors, amended plans were submitted under Section 57A of the Act.

18. The key changes are as follows:

Proposed Basement 3 Floor Plan

Proposed Basement 2 Floor Plan

- (a) Length of 1:8 vehicle ramp reduced by 100mm.

Proposed Basement 1 Floor Plan

- (b) Annotations regarding bicycle rack types included in bike room.
- (c) RP-2 rainwater tank reduced from 50kl to 20kl.

Proposed Ground Floor Plan

- (d) Angle of bicycle racks modified where adjacent to VicTrack land.
- (e) Each retail tenancy updated to include area for BOH/toilets.
- (f) Either side of vehicle access ramp, the walls of the retail tenancies have been modified to glazing.
- (g) Bicycle hoops and street furniture modified along Swan Street.

Proposed Level 1 Floor Plan

- (h) General note added indicating the drawings are in accordance with the SMP, WMP, Acoustic report, landscape plan and wind report. This is replicated on all floor plans.

Proposed Level 9 Floor Plan

Proposed Level 10 Floor Plan

Proposed Level 11 Floor Plan

Proposed Level 12 Floor Plan

- (i) Within the north-eastern corner, the 29sqm square terrace (4.99 metres x 5.7 metres) has been modified to a rectangular terrace of 29sqm (2.85 metres x 10.12 metres).

Proposed Services Floor Plan

- (j) PV Panels shown on the 62sqm roof space.

Proposed Roof Plan

- (k) PV Panels shown on the roof space.

Proposed North Elevation

Proposed East Elevation

- (l) Updated to show change to Level 9-12 Planter.
- (m) Updated to indicate change from wall to glazing either side of accessway.
- (n) Materiality of soffits shown.

Proposed West Elevation

- (o) Western on-boundary wall material updated to include textured concrete.

All elevations

- (p) The outline of the previous endorsed envelope (shown as red dashed line) has increased in height by 1 metre. However this is incorrect and is shown higher than the actual endorsed envelope. This would be required to be deleted via condition.

Proposed Swan Street Details

Swan & Rail Footpaths

- (q) Materials utilised in the resurfacing of footpaths and private property modified, as well as the location of street furniture.
19. Accompanying the amendment, the applicant provided a response to the referral comments received and provided an updated Town Planning Report and an updated Wind Assessment Memo prepared by Vipac Engineers.
20. The Section 57A amended plans make minor amendments to the proposal and have not been re-referred nor re-advertised as they would not cause increased material detriment to any person. The plans however, have been sent to the objectors with the invitations to this PDC meeting for their reference.

The Proposal

21. The proposal is described in more detail below:

Changes to the permit preamble

22. Due to the proposed changes, described below, the applicant proposes to change the permit preamble to the following: (Additional words shown as **bold & underlined** and deleted words shown in ~~striketrough~~).

*Use and development of the land for the construction of a mixed use building (permit required for food and drinks premises (café **and restaurant**)), reduction in car parking requirements, and alteration of access and building and works to a Road Zone Category 1.*

Changes to existing conditions

23. The applicant also seeks the following in respect of the existing permit conditions: (Additional words shown as **bold & underlined** and deleted words shown in ~~striketrough~~).

Condition 1	Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the decision plans by Techne Architects received by Council on 23 August 2017 21 June 2019 but modified to show:
Condition 1 (d)	The five food and drinks premises to be labelled as Food and Drinks Premises (café) and to be numbered Tenancy 1 to 5 with Tenancy 1 fronting Swan Street, Tenancy 2 and 3 being the central tenancies, Tenancy 4 being the southern most and Tenancy 5 is the first floor premises;

Condition 1 (e)	The ground floor crossover dimensions annotated as per the sketch plan provided on 8 March 2018;
Condition 1 (f)	The deletion of level 13 of the development and The setback of level 12 13 from the Swan Street title boundary a minimum distance of 20m. The overall building height (excluding plant) is not to exceed RL 53.5 70.21 including any parapet. Any plant above level 12 13 must be setback a minimum distance of 40m 30m from the Swan Street title boundary and be no higher than 4.8m above roof level. All generally in accordance with the sketch plan hand dated VCAT 31.08.18.

24. In respect of Condition 1(f) this condition was incorporated with regard to the sketch plan hand dated VCAT 31.08.18, as shown in the figure below.

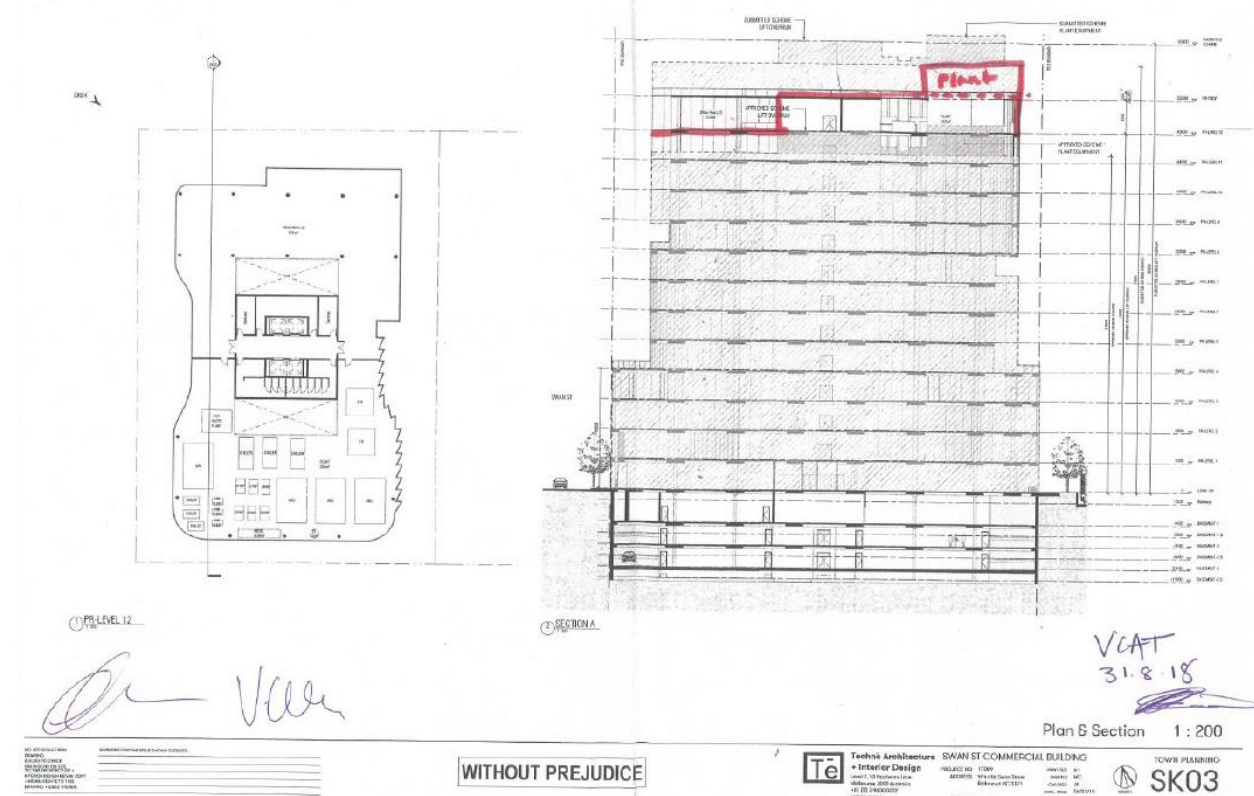


Image: Plan referred to in Condition 1 (f)
Source: Council records/Applicant submission

25. This sketch plan was not based on Relative Levels (RL's) as the condition suggests, but based on overall height.
26. As such, the resultant permit allowed the overall building height to not exceed 53.5 metres in height including parapet, with the topmost level (height above 48 metres) to be setback 20 metres from the Swan Street title boundary. Plant equipment above the topmost level was allowed, and as per the condition was to be setback a minimum 40 metres from the Swan Street frontage and be no higher than 4.8 metres above the roof level. As the roof level (overall height without parapet) is 52.5 metres, the plant would therefore be allowed to a height of 57.3 metres.
27. The applicant proposes to amend this condition to allow for a different built form outcome, as identified above.

Condition 1 (g)	A materials sample board of A materials schedule that includes external materials and finishes including thumb nail sketches of key elements of the facade system at the ground, middle and upper levels including details of the proposed metal cladding;
Condition 1 (h)	Details of the canopy to Swan Street (coordinated with the location of street trees);
Condition 1 (i)	Details regarding the treatment of the services to the east of the vehicular entry pedestrian link ;
Condition 1 (r)	improved bicycle access from the lift area to the bicycle stores on basement floor plans 2 and 3;
Condition 1 (t)	Confirmation that the end of trip facilities are located within the 'services lobby' Basement 1 Floor Plan on the ground floor and that at least 24 showers and lockers (at a rate of one locker per bike space) will be provided;
Condition 1 (ee)	Access from level 42 13 to the plant to the satisfaction of the responsible authority; and
Condition 4	Except with the prior written consent of the Responsible Authority, the café, restaurant and restricted retail premises uses are authorised by this permit may only operate between the hours of 7am and 11pm 1am , seven days per week.
Condition 5	Except with the prior written consent of the Responsible Authority, no more than the following maximum number patrons are permitted on the land at any one time: <ul style="list-style-type: none"> (a) Tenancy 1 – 110 (b) Tenancy 2 – 30 180 (c) Tenancy 3 – 50 100 (d) Tenancy 4 – 70 (e) Tenancy 5 – 900
Condition 6	Before the development commences, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Management Plan will be endorsed and will form part of this permit. The amended Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by Arcadis (prepared on 2 June 2017) WSP (prepared on 18 June 2019) , but modified to include or show:
Condition 6 (a)	tinted glass to have a minimum average VLT of 40% to balance daylight and thermal loading;
Condition 6 (h)	an on-site energy storage system.
Condition 13 (b)	show the extent of planters and where the Ronstan X-tend mesh panels are proposed;

Condition 13 (g)	provide a specification of works to be undertaken prior to planting;
Condition 13 (i)	detail plant/planting maintenance schedules and requirements.
Condition 28	Before the building is occupied, the owner must enter into an agreement with the Responsible Authority under section 173 of the Planning and Environment Act 1987 and apply to the Registrar of Titles to have the agreement registered on each of the titles to the land under Section 181 of the Act. Under the agreement, the owner must covenant with the Responsible Authority that provision will be made for six two car share vehicles on-site by way of arrangement with a car share operator and/or the future Owners Corporation for a minimum period of 40 2 years (or for another agreed to period of time, to the satisfaction of the Responsible Authority). The agreement will reflect that any costs associated with ensuring ongoing availability of at least six car share vehicles on site will be borne by the owner. All costs of preparation, execution and registration of the agreement must be borne by the owner of the land, or the future Owners Corporation, including those costs incurred by the Responsible Authority.

Use

- (a) Previously the proposal contained five food and drinks premises (all cafes with a total 2,170sqm in net floor area) across the ground and first floor.
- (b) The amendment proposes two food and drinks premises, one restaurant (Tenancy 2) fronting Swan Street with an area of 281sqm and a café (Tenancy 3) of 64sqm provided within Tenancy 4, a ground floor office, interfacing with the building lobby and eastern pedestrian link.
- (c) The amendment seeks the operating hours to be extended from ceasing at 11pm, seven days per week, to ceasing at 1am, seven days a week. The commencement time of 7am is not proposed to be modified. The amendment also seeks maximum patron numbers of 180 for the restaurant and 100 for the café.
- (d) Two ground floor Restricted Retail Premises are now proposed (previously one). One is proposed to front Swan Street with a floor area of 170sqm, the other faces the rear Burnley Station pedestrian pathway with a floor area of 477sqm (no planning permit required for the use).
- (e) The office space is now proposed from ground floor and above, with a net floor area of 16,688sqm proposed (no planning permit required for the use). A condition should require the notation 'co-working' on the Level 1 Floor plan to reference 'office' to ensure the space is used as office, in accordance with the balance of the documentation.

Demolition

- (f) No changes proposed, all structures on site and existing crossovers continue to be proposed for demolition (no planning permit required).

Construction

Basements

- (g) Three basement levels continue to be proposed. The basements extend along the northern, eastern and western boundaries with a 4.5 metre rear setback now included. The basement layout has been completely modified, with the following included on each level:
- (i) Basement Level 1: An end-of-trip facility (EOT) is now proposed incorporating 176 bicycles, a male changing facility (11 showers, 100 lockers) and female changing facility (7 showers, 84 lockers) with a separate DDA shower proposed. Two EOT lounges are also proposed. This level incorporates a large amount of services including the substation, MSB room, Comms room, rainwater tanks (50kl and 20kl) and a fan room. The loading bay is incorporated on this level, next to the 80sqm bin room. Five car parking spaces are included at the end of the loading bay. An additional six spaces (all Electric Vehicle spaces) are proposed along the western boundary, with two of these reserved as car share spaces.
 - (ii) Basement Level 2: 25 car spaces are accommodated within the western half and 22 car spaces within the eastern half (including 3 DDA spaces). Some services are accommodated on this level.
 - (iii) Basement Level 3: 27 car spaces are accommodated within the western half and 25 car spaces within the eastern half.
- (h) The lift lobby (four lifts) and both stair wells provide access to and from each basement level. In total, 110 car parking spaces are proposed. The previous approval proposed 154 car parking spaces.

Ground Floor

- (i) The irregular ground floor eastern setback has been modified to be generally setback 7 metres from the boundary, with additional setbacks proposed at the northern and southern entries to Tenancy 2 (restaurant) and Tenancy 5 (restricted retail premises). The large lobby space continues to be located centrally along this side pedestrian access.
- (j) The front setback has been modified, from between 1m and 2.175m to be a minimum 2.5 metres from the northern boundary. Columns for the podium above are located along the boundary line. The crossover and vehicle entrance has been relocated further east and is separated from the western boundary by Tenancy 1 (Restricted Retail Premises).
- (k) To the rear, the development maintains the minimum 3 metre setback. Columns for the podium above are now located along the boundary line. Along the western boundary the wing wall has been deleted and the development now allows free movement to the property to the west from the extended footpath area. The development is maintained to the western boundary.

First and Second Floors

- (l) The first and second floors are constructed wholly or partially along all title boundaries except for the irregularly shaped void areas (setback up to 7m) above the ground floor side pedestrian access. Raking columns and the concrete structures associated with the podiums are located within the setback. At second floor, a 7.29m x 4.26 metre lightcourt is introduced along the western boundary behind the proposed on-boundary wall. This also provides light to the level below, through skylights

Third Floor

- (m) The third floor is comparable in construction, albeit has a larger terrace within the north-eastern and south-eastern corners. A setback of 9 metres is now proposed from the eastern boundary to the building (previously on the boundary and setback 5m).

Fourth to Sixth Floors

- (n) The fourth to sixth floors are constructed alike, with several variations in built form due to differing terraces. The building is now setback 4.2 metres from the western boundary (previously between 5m and 7.29m), 5m from Swan Street, 4.5m from the eastern boundary (previously 5m and 8.45m) and 3 metres from the southern boundary (previously 3m and 5m).
- (o) The fourth floor has two terraces (instead of one) along its western side which wraps around to face Swan Street and the southern boundary. The sixth floor has a terrace located within the north-eastern corner of the building.

Seventh Floor

- (p) The seventh floor is like the floors below, albeit for additional setbacks within the north-eastern corner above the sixth floor terrace identified above.

Eighth Floor

- (q) At the eighth floor, the proposal increases its setback from the northern boundary to 7.76 metres and deletes the northern terrace (previously 7.4m to the building and 5m to the terrace). A 6.9 metre setback is provided to the east, with a terrace located along the eastern façade towards the southern end of the allotment.

Ninth and Tenth Floor

- (r) At the ninth and tenth floor, the proposal provides a split setback from the northern boundary of between 5.8 metres and 7.76 metres (previously 5m and 7.46m). The setback to the east is also modified. Centrally above the main entrance, a setback of 6.9 metres is provided (previously 8.09m), north of this a setback of 5 metres is provided (unchanged), whilst south of the lobby entrance a setback of 4.39 metres is provided (previously staggered setbacks). A terrace is located within the north-eastern corner.

Eleventh Floor

- (s) The eleventh floor is like the floors below, albeit for the inclusion of two terraces within the north-western and south-western corners.

Twelfth Floor

- (t) The twelfth floor is like the floor below, albeit for the inclusion of setbacks within the north-western and south-western corners above the above mentioned terraces.

Thirteenth Floor

- (u) The thirteenth floor, the proposal provides an increased setback to the north of 20 metres (previously 5-7.46m) with terraces located within this setback.

Roof Plant Level

- (v) The roof plant level is proposed to be setback 19.95 metres from the northern boundary to the lift core.

Elevations

- (w) The materials and design expression of the building are proposed to be substantially modified, as shown in the below renders for the previous and current schemes.



*Image: Approved development (left) and proposed development (right)
Source: Applicant documentation*

- (x) The proposal will be constructed using concrete look finish for the podium framing, with clear glazing behind. Accents in black paint finish to metal and the angled dark metal grey cladding columns are also proposed. For the upper levels, a mixture of blue tinted glazing, fritted glazing and grey tinted glazing is proposed. Accents (fins/architectural projections/columns/planters) in black anodised metal, natural anodised metal, black paint finish to metal and framing in natural concrete are proposed.
- (y) The glazing on levels four and above are articulated through the provision of architectural projections, ranging between 150mm to 600mm in length.
- (z) The proposal has a building height of 52.5 metres (excluding plant) and a height of 58.4 metres including lift core and services.

Reports and Plans

- (aa) The amendment concurrently seeks endorsement of the following documents:
- (i) Condition 1 (Architectural Plans);
 - (ii) Condition 6 (Sustainable Management Plan);
 - (ii) Condition 13 (Landscape Plan);
 - (iv) Condition 17 (Tree Management Plan);
 - (v) Condition 19 (Wind);
 - (vi) Condition 21 (Detailed Design Plan – Through link between Swan Street and land to the south); and
 - (vi) Condition 56 (Green Travel Plan).

Existing Conditions

Subject Site

28. The subject site is located on the south side of Swan Street, between Burnley Street (west) and Stawell Street (east) in Richmond. The site has a frontage to Swan Street of 40.3m, a depth of approximately 57.91m and a total area of 2,333sqm (shown below).



Image: Subject site

Source: NearMaps 7 September 2020

29. The subject site is currently occupied by two, double storey office buildings, both partly constructed along their side boundaries and also setback from the front boundary. Car parking is located within the front setback as well as to the rear of the sites. They both have side access areas along their side boundaries.

Title

30. No restrictive covenants apply to the land according to the certificate of titles submitted with the application.

Surrounding Land

31. A description of the surrounds was provided within the officer report for the original application, as follows:

The site is located within a predominantly mixed commercial and light industrial area with residences further to the north and south. The area is quite varied in terms zoning, with the subject site being located within Commercial 2, land to the west and north being within Commercial 1, and land in General and Neighbourhood Residential further to the north and south with various parks being within the Public Park and Recreation Zone. This has also resulted in diverse built form evident as shown below:



The site derives much of its context from its location on the Swan Street Major Activity Centre (MAC) and its abuttal to the Burnley Railway Station immediately to the south. The Burnley Street overpass is further to the west which travels over the railway line. The Burnley Street Neighbourhood Activity Centre (NAC) which is to the north-west of the subject site.

In the wider area to the north, east and west are recently constructed apartment buildings, dwellings as well as showrooms, warehouses and offices generally constructed to title boundary with high site coverage. The residential pockets (both in built form typology and also zoning) are occupied by dwellings generally on narrow lots, built to their side boundaries and with small private open spaces and front yards (if any).

The character of built form and development along Swan Street reflects the uses within the area with a mixture of larger commercial/industrial buildings predominantly along the southern side of Swan Street with finer grain development along the northern side. There are only a handful of buildings in the area with heritage value with the closest two being directly to the north at Nos. 413-415 Swan Street.

This part of Richmond area is currently going through a period of transition (and has been for some time) from lower scale buildings to higher density development. Whilst the tallest buildings close to the site are up to eight storeys, there have been a number of recent approvals along this eastern part of Swan Street for larger scale developments. Recent approved developments which are currently under construction or have progressed beyond the planning permit stage and are within proximity to the site are as follows:

- (a) No. 429-437 Swan and 16-26 Farmer Streets Richmond (six storeys - residential)*
- (b) No. 370 – 374 Swan Street (11 storeys - office)*
- (c) No. 345 Swan Street (six storeys - office)*
- (d) No. 462-482 Swan Street (12 storeys - residential)*
- (e) No. 314-320 Swan Street and 236 Coppin Street (two, eight storey buildings – one office, one residential)*
- (f) No. 395 Swan Street (six storeys – residential)*

In addition to the above, Burnley Street has had a number of developments approved (and constructed) within the last 10 years. The area has experienced a considerable degree of change.

The above developments show there is an increasing trend in this part of Richmond for larger scale built form than what currently exists.

Burnley and Swan Streets are also major arterial roads (as illustrated by their Category 1 Road Zone classification) which provide a connection to the Monash Freeway further to the south of the site.

The Swan Street MAC and Burnley Street NAC provide a wide range of services including local convenience retailing, bulkier item stores, car showrooms and food and drinks premises.

The subject site has excellent access to public transport, in the form of tram routes operating along Swan Street, linking the eastern suburbs and the CBD. Burnley Station is directly to the south of the site with four train lines access Burnley Station, Lilydale, Glen Waverley, Alamein and Belgrave.

In terms of public open space, there is access to public parks and recreation areas in the locality including the Yarra River, Richmond Netball Courts, Burnley Oval and the Burnley Golf Course.

32. *The direct abutments of the subject site are as follows:*

- (a) *To the east are two similarly large commercial buildings, also with car parking areas within their front setbacks along Swan Street. Beyond these are finer grain commercial buildings with the café 'Friends of Mine' located at the intersection of Swan and Stawell Street. On the eastern side of the intersection are the Richmond Netball Courts.*
- (b) *To the west of the subject site is the land known as No. 462-482 Swan Street and is occupied by five, brick single storey attached dwellings and a large, single storey timber yard. This land has a current permit (PLN15/0057) for a mixed use development up to 12 storeys. This land is currently zoned Commercial 1 and has a site specific Design and Development Overlay which was facilitated by Amendment C185 as part of a combined re-zoning and development application. Further to the west, (across the Burnley Street rail overpass) are a number of double storey offices, car showrooms, furniture stores and industrial buildings.*
- (c) *Directly to the south of the site is a pedestrian path owned by VicTrack which provides access from Stawell Street to the railway underpass. The railway line associated with Burnley Station is located to the south. Further south, beyond the station and Madden Grove is the residential area of Burnley.*
- (d) *The northern side of Swan Street is located within the Commercial 1 Zone, and the built form reflects a fine grain pattern of development, with a row of single and double storey Victorian-era shop buildings. Planning approvals include a planning permit granted on 11 March 2016 for a six storey building (with a five storey street wall) at No. 429-437 Swan and Nos. 16-26 Farmer Streets Richmond.*

33. *Since the previous report, the following notable changes are of relevance:*

- (a) *The development at No. 429-437 Swan and 16-26 Farmer Streets Richmond, approved pursuant to PLN14/1205, has been constructed. The development has an approved height of seven storeys (including mezzanine) where fronting Swan Street.*

- (b) Planning Permit PLN18/0403 has been approved at No. 439 – 443 Swan Street, Richmond (opposite the subject site) allowing the construction of an eight storey office building, a reduction in the car parking requirements and alteration of access to a Road Zone, Category 1. Works have yet to commence.
- (c) Planning Permit Application PLN20/0006, concerning No. 462 – 482 Swan Street, Richmond, was lodged on 6 January 2020 seeking approval for the construction of a thirteen storey building (including one level of plant, plus two basement levels), reduction in the car parking requirement associated with the retail/food and drinks premises and office uses (no permit required for uses) and alteration of access to a Road Zone, Category 1.

On 29 June 2020, Council received notification that the Minister for Planning (the Minister) exercised his call in powers for this application pursuant to section 97B (1) (a) of the Act.

On 15 October 2020, the Minister advised Council that he exercised his power under section 20(4) of the Act to prepare, adopt and approve Amendment C282 to the Scheme. The effect of the amendment is to apply a Specific Controls Overlay to the land at 462-482 Swan Street, Richmond, to facilitate the use and development of a 13-storey office building with ground floor retail and car parking across two basement levels as generally proposed within Planning Permit Application PLN20/0006.

The development as proposed, is shown in the figures below:



Image: Renders of the proposed development from the north-western corner of Swan and Burnley Streets (left) and from the Burnley Street overpass (right)
Source: Planning Permit Application PLN20/0006

Legislation Provisions

- 34. The amendment has been requested pursuant to Section 72 of the *Planning and Environment Act 1987* (the Act).
- 35. Section 72 of the Act states:
 - (1) *A person who is entitled to use or develop land in accordance with a permit may apply to the responsible authority for an amendment to the permit.*
 - (2) *This section does not apply to—*
 - (a) *a permit or a part of a permit issued at the direction of the Tribunal, if the Tribunal has directed under section 85 that the responsible authority must not amend that permit or that part of the permit (as the case requires); or*
 - (b) *a permit issued under Division 6.*

36. The planning permit was issued on 2 May 2018 by Council. The Tribunal has not directed that the responsible authority must not amend the permit, nor was the permit issued under Division 6 of the Act.
37. Section 73 of the Act states that Sections 47 to 62 of the Act apply to the amendment application. This allows the Responsible Authority to apply the abovementioned sections of the Act to the amendment application as if it was an application for a permit.

Planning Scheme Provisions

Zoning

Commercial 2 Zone

38. Pursuant to clause 34.02-1 of the Yarra Planning Scheme, use of the land as an office and restricted retail premises does not require a planning permit.
39. A 'Food and Drinks Premises' is a Section 1 – no permit required use unless the leasable floor area exceeds 100sqm. The proposed tenancies have a total floor area of 345sqm and therefore trigger a permit under the zone.
40. As outlined above, the application proposes one café (64sqm) and one restaurant (281sqm). The amendment application also seeks to extend the closing hours from 11pm to 1am. These food and drinks premises would therefore operate from 7am to 1am, seven days a week, under the amended proposal.
41. Pursuant to clause 34.02-4 of the Scheme, a planning permit is required to construct a building or construct or carry out works.

Road Zone

42. The proposal includes works to relocate the existing crossover on Swan Street. Swan Street is categorised as a Road Zone, Category 1. Pursuant to Clause 36.04-2, a planning permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 36.04-1.
43. The proposed uses are not listed in Section 1 or 3 and are therefore a Section 2 use (permit required).
44. The views of the relevant road authority are part of the decision guidelines for this zone.

Overlays

Clause 43.02 – Design and Development Overlay (Schedule 2 – Main Roads and Boulevards) (DDO2)

45. The site is located within the DDO2. Pursuant to Clause 43.02-2 of the Scheme, a planning permit is required to construct a building or construct or carry out works within this overlay.
46. Schedule 2 to the DDO specifically relates to Main Roads and Boulevards. Specific design objectives are:
 - (a) *To recognise the importance of main roads to the image of the City.*
 - (b) *To retain existing streetscapes and places of cultural heritage significance and encourage retention of historic buildings and features which contribute to their identity.*
 - (c) *To reinforce and enhance the distinctive heritage qualities of main roads and boulevards.*

- (d) *To recognise and reinforce the pattern of development and the character of the street, including traditional lot width, in building design.*
- (e) *To encourage high quality contemporary architecture.*
- (f) *To encourage urban design that provides for a high level of community safety and comfort.*
- (g) *To limit visual clutter.*
- (h) *To maintain and where needed, create, a high level of amenity to adjacent residential uses through the design, height and form of proposed development.*

Clause 43.02 – Design and Development Overlay (Schedule 5 – City Link Exhaust Stack Environs) (DDO5)

47. The site is located within the DDO5. Pursuant to Clause 43.02-2 of the Scheme, a planning permit is required to construct a building or construct or carry out works within this overlay. This does not apply:
- (a) *If a schedule to this overlay specifically states that a permit is not required.*

48. Section 2.0 of Schedule 5 specifically states that a permit is not required for buildings and works
49. Section 4.0 of Schedule 5 states that where a permit is required to use land or for the construction of a building or the construction or carrying out of works under another provision in this scheme, notice must be given under section 52(1)(c) of the Act to the person or body specified as a person or body to be notified in Clause 66.06 or a schedule to that clause.
50. Clause 66.06 of the Scheme identifies that the Environment Protection Authority (EPA), Transurban City Link Limited and the Roads Corporation (Transport for Victoria).

Clause 43.02 – Design and Development Overlay (Schedule 17 – 4)

51. The site is located within the DDO17-4. Pursuant to Clause 43.02-2 of the Scheme, a planning permit is required to construct a building or construct or carry out works within this overlay.
52. This Schedule relates to the Swan Street Activity Centre, with the subject site located within Precinct 4 – Burnley Station. The general design objectives of this Schedule are as follows:
- (a) *To recognise and respond to the distinct character and varying development opportunities defined by the four precincts along Swan Street.*
 - (b) *To support a new mid-rise scale built form character with lower built form at the interfaces with streets and the adjoining low rise residential areas that maintains an active, high quality and pedestrian friendly environment.*
 - (c) *To ensure development maintains the prominence of the heritage street wall and respects the architectural form and qualities of heritage buildings and the heritage streetscapes.*
 - (d) *To minimise the amenity impacts on residential properties adjoining the Swan Street Activity Centre including overlooking, overshadowing and visual bulk impacts.*
 - (e) *To ensure that vehicular access to development does not adversely impact the level of service, efficiency and safety of the arterial and tram network.*
53. This Schedule contains mandatory and preferred parameters to guide future built form outcomes within each precinct of Swan Street. An excerpt of the Height and Interface Plan of Precinct 4 is provided below, with the subject site identified.

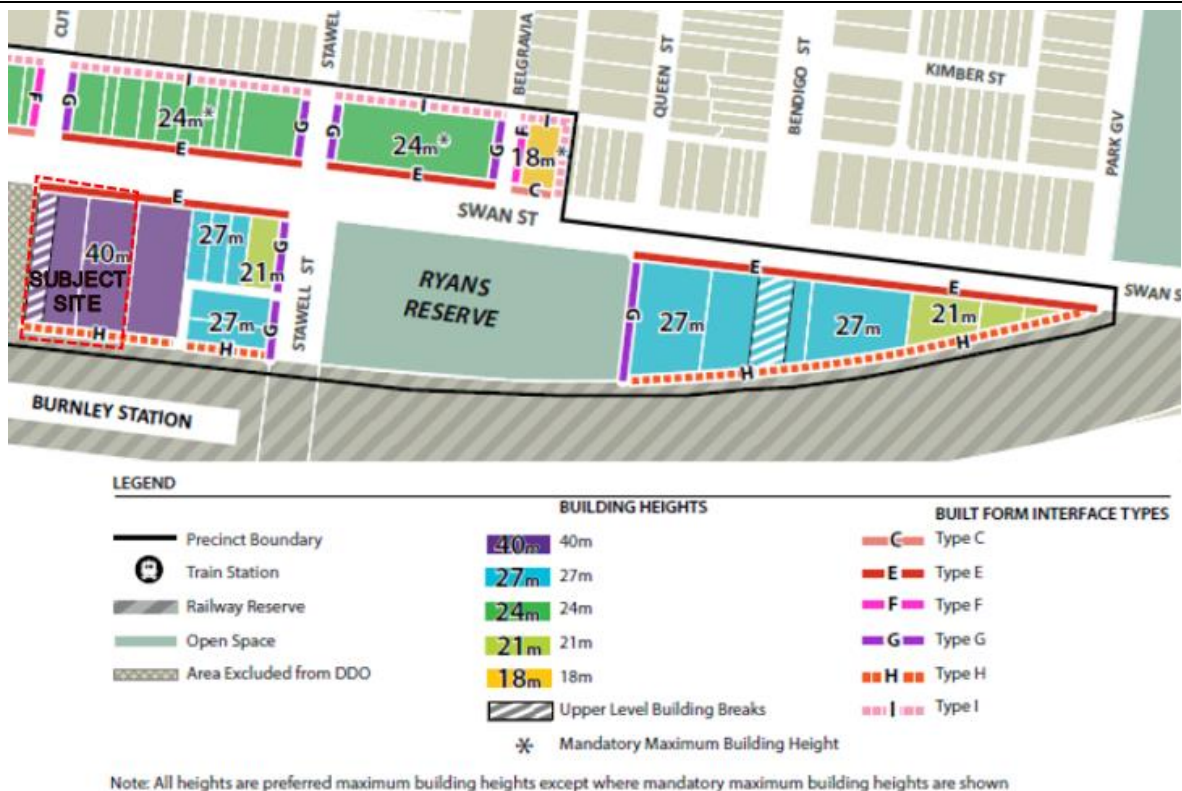


Image: Excerpt from Map 7 of DDO17-4, highlighting the subject site

54. The particular built form parameters that apply to the subject site are outlined below:
- Overall building height (preferred):
 - 40m (definition excludes some non- structural elements such as lift overruns).
 - Street wall height to Swan Street (preferred):
 - 14.5m maximum.
 - Street wall setback to Swan Street (preferred):
 - 0m.
 - Upper Level setbacks to Swan Street (preferred):
 - Minimum 5m.
 - Street wall height to the south (preferred):
 - None provided;
 - Street wall setback to the south (preferred):
 - 0m.
 - Upper Level setbacks to the south (preferred):
 - 0m.
55. The DDO17-4 also identifies that ‘Upper Level Building Breaks’ apply along the western boundary of the site. The Precinct Design Requirements identify that properties with this designation must incorporate side setbacks greater than the standards in Clause 2 to enable clear views to the sky between buildings along Swan Street when viewed from the opposite side of Swan Street, and along Cutter and Bendigo Streets.
56. Relevant to this application for a commercial development, Clause 2 requires side setbacks of 3 metres from the common boundary where a commercial or non-habitable room window is proposed.

57. The precinct Design Requirements for Precinct 4 are provided in full below:
- (a) *Development must respect the scale, rhythm, and architectural detail of the streetscape and the heritage buildings in the Burnley Street Heritage Precinct.*
 - (b) *Development along Swan Street must achieve a prominent street wall and provide an appropriate transition in the street wall height to the Burnley Street and Bendigo Street heritage precincts.*
 - (c) *Development must maintain the amenity of Ryan’s Reserve.*
 - (d) *Development of properties in the locations shown as “Upper Level Building Breaks” on Plan 7 must incorporate side setbacks greater than the standards in Clause 2 to enable clear views to the sky between buildings along Swan Street when viewed from the opposite side of Swan Street, and along Cutter Street and Bendigo Street.*
 - (e) *Development must not overshadow the opposite footpath of Stawell Street (measured as 2.0m from the road boundary between 10am and 2pm at 22nd September).*
 - (f) *Development must maintain solar access to Ryan’s Reserve as follows:*
 - (i) *Beyond 16m of the eastern boundary of the reserve from 10am onwards on 22 September*
 - (ii) *At the western boundary of the reserve until 2pm on 22 September.*
58. In respect of the preferred height, Clause 2.2 of the DDO17-4 identifies that a permit may be granted to construct a building or construct or carry out works which exceed the preferred building height where all of the following requirements are met to the satisfaction of the responsible authority:
- (a) *the built form outcome as a result of the proposed variation satisfies the general design objectives in Clause 1.0 of this schedule, the relevant precinct design requirements specified in this schedule;*
 - (b) *the proposed building height achieves the preferred future mid-rise character for Swan Street of generally 5 to 12 storeys; and*
 - (c) *the proposal will achieve each of the following:*
 - (i) *greater building separation than the minimum requirement in this schedule*
 - (ii) *housing for diverse households types, including people with disability, older persons, and families, through the inclusion of varying dwelling sizes and configurations*
 - (iii) *universal access, and communal and / or private open space provision that exceeds the minimum standards in Clauses 55.07 and 58*
 - (iv) *excellence for environmental sustainable design measured as a minimum BESS project score of 70%*
 - (v) *no additional amenity impacts to residentially zoned properties, beyond that which would be generated by a proposal that complies with the preferred building height.*

Particular Provisions

Clause 52.06 – Car parking

59. The proposed amendment to the uses and floor area change the car parking requirements from:

Proposed Use	Size	Statutory Parking Rate	No. of Spaces Required	No. of Spaces Allocated
Office	15,963 sqm	3.5 spaces to each 100m2 of net floor area	558	122 (excluding car share)

Food and Drink	2,170 sqm	4 spaces per 100 m2 of leasable floor area	86	24
Restricted Retail Premises	226sqm	3.5 per 100sqm of leasable floor area	7	2
Total			651	148 (not including car share spaces) 154 (including 6 car share spaces)

60. To the following: (revised car parking requirements for areas noted within the Principal Public Transport Network (PPTN) Area as per Amendment VC148 (gazetted 31 July 2018).

Proposed Use	Size	Statutory Parking Rate	No. of Spaces Required	No. of Spaces Allocated
Office	16,706 sqm	3 spaces to each 100m2 of net floor area	501	98 (excluding car share)
Food and Drink	347 sqm	3.5 spaces per 100 m2 of leasable floor area	12	4
Restricted Retail Premises	647sqm	2.5 per 100sqm of leasable floor area	16	6
Total			529	108 (not including car share spaces) 110 (including 2 car share spaces)

61. In the assessment provided by Council’s Engineering Unit it incorrectly identified the Restricted Retail Premises as Retail Premises. These are two different uses with different car parking requirements, the correct car parking requirement is identified above.
62. The previous approval sought a reduction of 503 car spaces (not including of the car share spaces) and 497 spaces (including the 6 car share spaces). The amended proposal seeks a reduction of 421 spaces (not including the car share spaces) and 423 spaces (including the 2 car share spaces).
63. Before a requirement for car parking is reduced, the applicant must satisfy the Responsible Authority that the provision of car parking is justified having regard the decision guidelines at clause 52.06-6 of the Scheme.

Clause 52.34 – Bicycle Facilities

64. The proposed amendment to the uses and floor area change the bicycle facilities requirements from:

Proposed Use	Quantity/ Size	Statutory Parking Rate	No. of Spaces Required	No. of Spaces Allocated
Office (other than specified in the table)	15,963 sqm	1 employee space to each 300 sqm of net floor area if the net floor area exceeds 1000 sqm	53 employee spaces	

		1 visitor space to each 1000 sqm of net floor area if the net floor area exceeds 1000 sqm	16 visitor spaces.	
Retail premises (other than specified in this table)	2,396 sqm	1 employee space to each 300 sqm of leasable floor area	8 employee spaces	
		1 visitor space to each 500 sqm of leasable floor area	5 visitor spaces	
Bicycle Parking Spaces Total			61 employee spaces	194 employee spaces
			21 visitor spaces	46 visitor spaces
Showers / Change rooms	1 to the first 5 employee spaces and 1 to each additional 10 employee spaces		7 showers / change rooms	24 showers / change rooms

65. To the following:

Proposed Use	Quantity/ Size	Statutory Parking Rate	No. of Spaces Required	No. of Spaces Allocated
Office (other than specified in the table)	16,706 sqm	1 employee space to each 300 sqm of net floor area if the net floor area exceeds 1000 sqm	56 employee spaces	
		1 visitor space to each 1000 sqm of net floor area if the net floor area exceeds 1000 sqm	17 visitor spaces.	
Retail premises (other than specified in this table)	345 sqm	1 employee space to each 300 sqm of leasable floor area	1 employee spaces	
		1 visitor space to each 500 sqm of leasable floor area	1 visitor space	
Shop	647sqm	1 employee space to each 600 sqm of leasable floor area if the leasable floor area exceeds 1000 sqm	0 employee spaces	
		1 visitor space to each 500 sqm of leasable floor area if the leasable floor area exceeds 1000 sqm	0 visitor spaces	
Bicycle Parking Spaces Total			57 employee spaces	176 employee spaces
			18 visitor spaces	28 visitor spaces
Showers / Change rooms	1 to the first 5 employee spaces and 1 to each additional 10 employee spaces		6 showers / change rooms	18 showers / change rooms

66. In addition to the 28 on-site visitor bicycle spaces, a further 8 spaces are provided along the Swan Street frontage within the public realm.

67. The development maintains compliance with the requirements of this clause. Clause 52.34-4 provides design standard for bicycle spaces and signage.

Clause 52.29 – Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road

68. Pursuant to clause 52.29-2, a permit is required to create or alter access to a road in a Road Zone, Category 1. The purpose of the clause is to ensure appropriate access to identified roads.
69. Pursuant to clause 52.29-4, an application to create or alter access to a road declared as a freeway or arterial road under the *Road Management Act 2004*, in accordance with clause 52.29 must be referred to the Roads Corporation (Transport for Victoria) under section 55 of the Act.
70. The decision guidelines require the following to be considered:
- (a) *The Municipal Planning Strategy and the Planning Policy Framework.*
 - (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 53.18 – Stormwater Management in Urban Development

71. In accordance with the transitional provisions listed at Clause 53.18-1 of this provision, Clause 53.18 does not apply to an application for an amendment of a permit under section 72 of the Act, if the original permit application was lodged before the approval date of Amendment VC154.
72. The original permit application was lodged on 8 June 2017. Amendment VC154 was gazetted into the Scheme on 26 October 2018 and therefore the provisions of Clause 53.18 are not applicable to this amendment.

General Provisions

Clause 65 – Decision Guidelines

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

Clause 66.02 – Use and Development Referrals

74. In accordance with clause 66.02-11 of the Scheme, an application to construct a building or to construct or carry out works for an office development comprising 10,000sqm or more of leasable floor area must be referred to the Head, Transport for Victoria (Department of Transport). The Head, Transport for Victoria, is a determining referral authority for this application.

Clause 66.03 – Referral of Permit Applications Under Other State Standard Provisions

75. In accordance with clause 66.03-11 of the Scheme, an application to create or alter access to a road declared as a freeway or an arterial road under the *Road Management Act 2004*, in accordance with clause 52.29 must be referred to the Roads Corporation (Transport for Victoria). The Roads Corporation (Transport for Victoria) is a determining referral authority for this application.

Clause 66.06 – Notice of Permit Applications Under Local Provisions

76. In accordance with Section 1.0 of clause 66.06 of the Scheme, notice must be provided to the Environment Protection Authority (EPA), Transurban City Link Limited and the Roads Corporation (Transport for Victoria) where the application is within the DDO5 and triggered under another provision of the Scheme.

Planning Policy Framework (PPF)

77. Relevant clauses are as follows:

Clause 11.02 (Managing Growth)
Clause 11.02-1S (Supply of Urban Land)

78. The objective is:

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

Clause 11.03 (Planning for Places)
Clause 11.03-1S (Activity Centres)

79. The relevant objectives of this clause include:

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

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

80. Relevant strategies are:

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

Clause 13.05-1S (Noise abatement)

81. The relevant objective of this clause is:

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

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

Clause 13.07 (Amenity and Safety)
Clause 13.07-1S (Land use compatibility)

83. The objective of this clause is:

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

Clause 15.01 (Built Environment and Heritage)
Clause 15.01-1S (Urban design)

84. The relevant objective of this clause is:

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

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

85. The objective is:

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

Clause 15.01-2S (Building design)

86. The relevant objective of this clause is:

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

87. Relevant strategies of this clause are:

- (a) *Require a comprehensive site analysis as the starting point of the design process.*
- (b) *Ensure the site analysis provides the basis for the consideration of height, scale and massing of new development.*
- (c) *Ensure development responds and contributes to the strategic and cultural context of its location.*
- (d) *Minimise the detrimental impact of development on neighbouring properties, the public realm and the natural environment.*
- (e) *Ensure the form, scale, and appearance of development enhances the function and amenity of the public realm.*
- (f) *Ensure buildings and their interface with the public realm support personal safety, perceptions of safety and property security.*
- (g) *Ensure development is designed to protect and enhance valued landmarks, views and vistas.*
- (h) *Ensure development provides safe access and egress for pedestrians, cyclists and vehicles.*
- (i) *Ensure development provides landscaping that responds to its site context, enhances the built form and creates safe and attractive spaces.*
- (j) *Encourage development to retain existing vegetation.*

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

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

Clause 15.01-4S (Healthy neighbourhoods)

89. The objective is:

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

Clause 15.01-4R (Healthy neighbourhoods - Metropolitan Melbourne)

90. The strategy is:

- (a) *Create a city of 20 minute neighbourhoods, that give people the ability to meet most of their everyday needs within a 20 minute walk, cycle or local public transport trip from their home.*

Clause 15.01-5S (Neighbourhood character)

91. The relevant objective of this clause is:

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

92. Relevant strategies are:

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

Clause 15.02 (Sustainable Development)

Clause 15.02-1S (Energy Efficiency)

93. The objective of this clause is:

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

Clause 17.01 (Employment)

Clause 17.01-1S (Diversified economy)

94. The objective of this clause is:

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

95. The relevant strategies of this clause are:

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

Clause 17.02 (Commercial)

Clause 17.02-1S (Business)

96. The relevant objective of this clause is:

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

97. The relevant strategies of this clause is:

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

Clause 18.01 (Integrated Transport)

Clause 18.01-1S (Land use and transport planning)

98. The objective of this clause is:

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

99. Relevant strategies to achieve this objective include:

- (a) *Develop transport networks to support employment corridors that allow circumferential and radial movements.*
- (b) *Plan urban development to make jobs and community services more accessible by (as relevant):*
 - (i) *Ensuring access is provided to developments in accordance with forecast demand, taking advantage of all available modes of transport and to minimise adverse impacts on existing transport networks and the amenity of surrounding areas.*
 - (ii) *Coordinating improvements to public transport, walking and cycling networks with the ongoing development and redevelopment of urban areas.*
 - (iii) *Requiring integrated transport plans to be prepared for all new major residential, commercial and industrial developments.*
- (c) *Integrate public transport services and infrastructure into new development.*

Clause 18.02 (Movement Networks)

Clause 18.02-1S (Sustainable personal transport)

100. The relevant objectives of this clause is:

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

101. Relevant strategies of this policy are:

- (a) *Encourage the use of walking and cycling by creating environments that are safe and attractive.*
- (b) *Develop high quality pedestrian environments that are accessible to footpath-bound vehicles such as wheelchairs, prams and scooters.*
- (c) *Ensure cycling routes and infrastructure are constructed early in new developments.*
- (d) *Provide direct and connected pedestrian and bicycle infrastructure to and between key destinations including activity centres, public transport interchanges, employment areas, urban renewal precincts and major attractions.*
- (e) *Ensure cycling infrastructure (on-road bicycle lanes and off-road bicycle paths) is planned to provide the most direct route practical and to separate cyclists from other road users, particularly motor vehicles.*

- (f) *Require the provision of adequate bicycle parking and related facilities to meet demand at education, recreation, transport, shopping and community facilities and other major attractions when issuing planning approvals.*
- (g) *Provide improved facilities, particularly storage, for cyclists at public transport interchanges, rail stations and major attractions.*
- (h) *Ensure provision of bicycle end-of-trip facilities in commercial buildings*

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

102. Strategies of this policy are:

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

Clause 18.02-2S (Public Transport)

103. The objective of this clause is:

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

Clause 18.02-2R (Principal Public Transport Network)

104. A relevant strategy of this clause is to:

- (a) *Maximise the use of existing infrastructure and increase the diversity and density of development along the Principal Public Transport Network, particularly at interchanges, activity centres and where principal public transport routes intersect.*

Clause 18.02-4S (Car Parking)

105. The objective of this clause is:

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

106. A relevant strategy is:

- (a) *Protect the amenity of residential precincts from the effects of road congestion created by on-street parking.*

Municipal Strategic Statement

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

Municipal Strategic Statement (MSS)

108. Relevant clauses are as follows:

Clause 21.04-2 (Activity Centres)

109. The relevant objectives of this clause are:

- (a) *To maintain the long term viability of activity centres.*

110. Relevant strategies to achieve this objective include:

- (a) *Strategy 5.2 - Support land use change and development that contributes to the adaptation, redevelopment and economic growth of existing activity centres.*
- (b) *Strategy 5.3 - Discourage uses at street level in activity centres which create dead frontages during the day.*

Clause 21.04-3 (Industry, office and commercial)

111. The objective of this clause is:

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

Clause 21.05-2 (Urban design)

112. The relevant objectives of this clause are:

- (a) *Objective 16 - To reinforce the existing urban framework of Yarra;*
- (b) *Objective 17 - To retain Yarra's identity as a low-rise urban form with pockets of higher development:*
 - (i) *Strategy 17.2 Development on strategic redevelopment sites or within activity centres should generally be no more than 5-6 storeys unless it can be demonstrated that the proposal can achieve specific benefits such as:*
 - (i) *Significant upper level setbacks*
 - (ii) *Architectural design excellence*
 - (iii) *Best practice environmental sustainability objectives in design and construction*
 - (iv) *High quality restoration and adaptive re-use of heritage buildings*
 - (v) *Positive contribution to the enhancement of the public domain*
 - (vi) *Provision of affordable housing*
- (c) *Objective 18 - To retain, enhance and extend Yarra's fine grain street pattern;*
- (d) *Objective 19 To create an inner city environment with landscaped beauty;*
- (e) *Objective 20 - To ensure that new development contributes positively to Yarra's urban fabric;*
 - (i) *Strategy 20.1 Ensure development is designed having particular regard to its urban context and specifically designed following a thorough analysis of the site, the neighbouring properties and its environs.*
 - (ii) *Strategy 20.2 Require development of Strategic Redevelopment Sites to take into account the opportunities for development on adjoining land.*
 - (iii) *Strategy 20.3 Reflect the fine grain of the subdivision pattern in building design where this is part of the original character of the area.*
 - (iv) *Strategy 20.4 Apply the Built Form and Design policy at clause 22.10.*
- (f) *Objective 21 - To enhance the built form character of Yarra's activity centres;*
 - (i) *Strategy 21.1 Require development within Yarra's activity centres to respect and not dominate existing built form; and*
 - (ii) *Strategy 21.3 Support new development that contributes to the consolidation and viability of existing activity centres.*

Clause 21.05-3 (Built form character)

113. The general objective of this clause is:

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

114. The subject site is located within a non-residential area, where the built form objective is to *“improve the interface of development with the street”*.

115. The strategies to achieve the objective are to:

- (a) *Strategy 27.1 - Allow flexibility in built form in areas with a coarse urban grain (larger lots, fewer streets and lanes).*
- (b) *Strategy 27.2 - Require new development to integrate with the public street system.*

Clause 21.05-4 (Public environment)

116. The relevant objective and strategies of this clause are:

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

Clause 21.06 (Transport)

117. This policy recognises that Yarra needs to reduce car dependence by promoting walking, cycling and public transport use as viable and preferable alternatives. Relevant objectives and strategies of this Clause are as follows:

- (a) *Objective 30 – To provide safe and convenient pedestrian and bicycle environments.*
 - (i) *Strategy 30.2 – Minimise vehicle crossovers on street frontages.*
 - (ii) *Strategy 30.3 – Use rear laneway access to reduce vehicle crossovers.*
- (b) *Objective 31 – To facilitate public transport usage.*
- (c) *Objective 32 – To reduce the reliance on the private motor car.*
- (d) *Objective 33 – To reduce the impact of traffic.*
 - (i) *Strategy 33.1 Ensure access arrangements maintain the safety and efficiency of the arterial and local road network.*

Clause 21.06-1 (Walking and cycling)

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

- (a) *Objective 30 - To provide safe and convenient bicycle environments:*
 - (i) *Strategy 30.2 Minimise vehicle crossovers on street frontages.*
- (b) *Objective 32 - To reduce the reliance on the private motor car.*
- (c) *Objective 33 - To reduce the impact of traffic.*
 - (i) *Strategy 33.1 Ensure access arrangements maintain the safety and efficiency of the arterial and local road network.*

Clause 21.07-1 (Ecologically sustainable development)

119. The relevant objectives and strategies of this clause are:

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

Clause 21.08-2 (Burnley, Cremorne, South Richmond)

120. Relevant land use strategies are as follows:

- (a) *Improve access and perceived safety around Burnley Station and East Richmond Station.*
- (b) *Maintain the hard edge of the strip.*

121. 'Figure 7 Neighbourhood Map' of this clause shows the site to be located within the Swan Street Major Activity Centre.

Relevant Local Policies

Clause 22.03 (Landmarks and Tall Structures)

122. This policy applies to all development. Whilst the site is not within proximity to an identified sign or landmark within the policy, the following is relevant: *Ensure the profile and silhouette of new tall structures adds to the interest of Yarra's urban form and skyline.*

Clause 22.05 (Interface Uses Policy)

123. This policy applies to applications for use or development within Commercial 2 Zones (amongst others). The relevant objective of this clause is *'to enable the development of new residential uses within and close to activity centres, near industrial areas and in mixed use areas while not impeding the growth and operation of these areas as service, economic and employment nodes'*.

124. It is policy that:

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

125. Decision guidelines at clause 22.05-6 include:

- (a) *Before deciding on an application for non-residential development, Council will consider as appropriate:*
 - (i) *The extent to which the proposed buildings or uses may cause overlooking, overshadowing, noise, fumes and air emissions, light spillage, waste management and other operational disturbances that may cause unreasonable detriment to the residential amenity of nearby residential properties.*
 - (ii) *Whether the buildings or uses are designed or incorporate appropriate measures to minimise the impact of unreasonable overlooking, overshadowing, noise, fumes and air emissions, light spillage, waste management and other operational disturbances on nearby residential properties.*

Clause 22.10 (Built form and design policy)

126. This policy applies to all new development not included in a Heritage Overlay. The relevant objectives of this policy are to:
- (a) *Ensure that new development positively responds to the context of the development and respects the scale and form of surrounding development where this is a valued feature of the neighbourhood character.*
 - (b) *Ensure that new development makes a positive contribution to the streetscape through high standards in architecture and urban design.*
 - (c) *Limit the impact of new development on the amenity of surrounding land, particularly residential land.*
 - (d) *Design buildings to increase the safety, convenience, attractiveness, inclusiveness, accessibility and ‘walkability’ of the City’s streets and public spaces.*
 - (e) *Create a positive interface between the private domain and public spaces.*
 - (f) *Encourage environmentally sustainable development.*
127. The Clause includes various design objectives and guidelines that can be implemented to achieve the above objectives. The design elements relevant to this application relate to:
- (a) *urban form and character;*
 - (b) *setbacks and building height;*
 - (c) *street and public space quality;*
 - (d) *environmental sustainability;*
 - (e) *site coverage;*
 - (f) *on-site amenity;*
 - (g) *off-site amenity;*
 - (h) *landscaping and fencing;*
 - (i) *parking, traffic and access; and*
 - (j) *service infrastructure.*

Clause 22.16 (Stormwater Management [Water Sensitive Urban Design])

128. Clause 22.16-3 requires the use of measures to “*improve the quality and reduce the flow of water discharge to waterways*”, manage the flow of litter from the site in stormwater and encourage green roofs, walls and facades in buildings where practicable.

Clause 22.17 (Environmentally Sustainable Design)

129. The overarching objective is that development should achieve best practice in environmentally sustainable development from the design stage through to construction and operation. The considerations are energy performance, water resources, indoor environment quality, storm water management, transport, waste management and urban ecology.

Other Documents

Plan Melbourne

130. The plan outlines the vision for Melbourne’s growth to the year 2050. It seeks to define what kind of city Melbourne will be and identifies the infrastructure, services and major projects which need to be put in place to underpin the city’s growth. It is a blueprint for Melbourne’s future prosperity, liveability and sustainability.

131. The Richmond - Swan Street area is identified as a Major Activity Centre. Furthermore, the document identifies that increased diversity and density of development is encouraged within areas covered by the Principal Public Transport Network particularly at interchanges, activity centres and where principal public transport routes intersect.

Melbourne Industrial and Commercial Land Use Plan (MICLUP)

132. The Melbourne Industrial and Commercial Land Use Plan builds on the relevant policies and actions of Plan Melbourne 2017-2050. It provides an overview of current and future needs for industrial and commercial land across metropolitan Melbourne and puts in place a planning framework to support state and local government to more effectively plan for future employment and industry needs, and better inform future strategic directions.
133. Map 4 within the document shows the industrial land within the inner metro region, identifying the subject site as existing industrial land. This would be due to the zoning of the land, as C2Z, where dwelling uses are prohibited.
134. The MICLUP anticipates an additional 4 million square metres of commercial floor space will be required across the Inner Metro Region by 2031. Of this, approximately 3.3 million square metres is anticipated to be required for office uses and the remaining floor space to be allocated for retail. Whilst the City of Melbourne is anticipated to accommodate the majority of the additional floor spaces required, the City of Yarra is expected to provide, in addition to the existing 933,400sqm of commercial floor space identified in 2018, an additional 548,000sqm of commercial floor space by 2031.

Yarra Spatial Economic and Employment Strategy

135. The Spatial Economic and Employment Strategy (SEES) was adopted by Council in September 2018 and includes 6 directions which will inform future policy for the Scheme.
136. The strategic direction contained within the SEES supersedes that contained within the Yarra Business and Industrial Land Strategy (BILS), adopted by Council in June 2012.
137. In regards to the strategic context of the site, the SEES provides the following:
- (a) *A number of major railway stations serve the north and south of the municipality. Stations at Richmond, East Richmond and Burnley are located in established retail strips and present opportunities for consolidation and densification of commercial, retail and residential land uses. Stations at Victoria Park, Collingwood and North Richmond all serve the Hoddle Street precinct. At a metropolitan scale Yarra is highly accessible from the north, east and south (as evidenced in the journey to work data) and a convenient location for a diverse workforce to access employment opportunities in the CBD. Locally, there is also a high level of accessibility to employment, retail and services via public transport, walking and cycling, and private vehicles.*
 - (b) *...The Swan Street Structure Plan proposes zone changes and intensification of development around Burnley Station, potentially leading to further growth in capacity at the street's eastern end.*

Swan Street Structure Plan

138. The Swan Street Structure Plan (SSSP) was adopted by Council at its meeting on 17 December 2013 and is relevant to the site. The SSSP aims to manage this growth within the Swan Street activity centre and the surrounding area.

139. The site is located within the 'Burnley Station Village' Precinct of the Plan's study area. The Structure Plan prepared for the Swan Street Major Activity Centre [MAC] was in response to the State Government sustainable growth policy, *Melbourne 2030*; a plan for the growth and development of the Melbourne metropolitan area. One of the principal aims of the policy was to provide a network of activity centres throughout Melbourne, with these centres providing a focus for development and urban expansion in areas well serviced by public transport, existing infrastructure and community services. The Swan Street Structure Plan aims to manage this growth within the Swan Street MAC and the surrounding area.
140. Of relevance to this application are proposed revisions to the built form guidelines that will provide guidance on future built form and how that would be in keeping with the longer term vision for Swan Street and surrounds, along with guidance on urban intensification within the precinct. The plan provides guidance on maximum building heights within each precinct, with 7-10 storeys (30m) being the suggested height for this section of the southern part of Swan Street. The site directly to the west was envisaged as being a maximum of 36m. The northern side of Swan Street is noted as being a maximum of between four storeys (13m) directly opposite the subject site, whilst the land at the intersection of Burnley and Swan Streets is five to six storeys (19m).
141. The SSSP states that the station has potential to provide the precinct with excellent access to public transport and offers a major opportunity for redevelopment and improvement to the station and surrounding environs. It also states that the timber yard and adjoining sites located on the South east corner of Swan and Burnley Street are underutilised and offer potential for significant redevelopment and change in the precinct. It also acknowledges that large lot sizes on south side of Swan Street have good separation from existing residential uses to the north and less potential for adverse amenity impacts.
142. Whilst adopted, the SSSP has yet to progress to the formal amendment stage and has limited statutory weight.

Advertising

143. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 551 letters sent to surrounding owners and occupiers and by a sign displayed on the Swan Street frontage and rear interface. Council received 1 letter of support and 5 objections, the grounds of which are summarised as follows:
- (a) Out of keeping with neighbourhood character;
 - (b) Excessive height/massing;
 - (c) Visual bulk/overshadowing;
 - (d) Impact on existing infrastructure;
 - (e) Car parking/traffic implications; and
 - (f) Impacts to VicTrack land.
144. The Section 57A amended plans made minor amendments to the proposal and have not been re-advertised as they would not cause increased material detriment to any person. The plans however, have been sent to the objectors with the invitations to this PDC meeting for their reference.

Clause 43.02 – Design and Development Overlay (Schedule 5)

145. In accordance with the requirements of Clause 66.06, this application was advertised to the EPA, Transurban City Link Limited and the Roads Corporation (Transport for Victoria).
146. The Roads Corporation (Transport for Victoria) responded in conjunction with the Transurban City Link, combined in a response to the Section 55 Referral made pursuant to clause 52.29-4. The comments are included as an attachment to this report.

147. The EPA responded on 2 February 2020, advising the following:

- (a) *EPA has reviewed the referral and documents accompanying the application. EPA advises that we do not have concerns with the proposal with respect to the City Link Exhaust Stack Environs. As such, EPA has no concerns with Council issuing this planning permit according to the information that has been provided.*

148. Given the inconsequential amendments made within the S57A amendment the application was not re-advertised to the EPA, Transurban City Link Limited and the Roads Corporation (Transport for Victoria).

VicTrack

149. In accordance with Section 52 of the Act, VicTrack (owner of the rail reserve) was advertised to. On 18 February 2020 VicTrack advised that they did not object to the proposed amendment, subject to conditions. As VicTrack is not a referral authority, they have been registered as an objector against the application.

150. VicTrack have requested that existing Condition 30 be updated as follows: (Additional words shown as **bold & underlined** and deleted words shown in ~~strikethrough~~).

Prior to the commencement of the development, detailed construction / engineering plans and computations for the works along the boundary with the railway reserve as shown on the endorsed plans must be submitted and approved by VicTrack and Public Transport Victoria. The Plans must detail all works proposed within the rail environment, including excavation of the site adjacent to the railway corridor and any impact on the rail reserve.

*The plans must ensure compliance regarding building clearances to aerial power lines as per the applicable Victorian Electrical Safety Victoria Regulations **and compliance with AS5100.2017 Collision load from rail traffic** to the satisfaction of VicTrack and Public Transport Victoria.*

151. VicTrack also raised concern with the proposed construction on the southern boundary and the ongoing maintenance associated with the upgraded path to the south, commenting that they were concerned the costs associated with maintaining more expensive landscaping treatments was not acceptable by the Rail Operator.

152. The following additional condition was also requested to be implemented:

The boundary wall must be treated with a graffiti proof finish and any graffiti that appears on the wall must be removed as soon as practicable to the satisfaction of VicTrack and the Rail Operator. Removal of graffiti must be undertaken at no cost to VicTrack or the Rail Operator.

Referrals

153. All referral comments are based on the advertised plans, unless otherwise indicated.

External Referrals

154. The application was referred to the following authorities:

- (a) Head, Transport for Victoria (Department of Transport)
(b) Head, Transport for Victoria (Roads Corporation)

Internal Referrals

- (c) Open Space Unit;
- (d) Urban Design Unit (public realm only)
- (e) Streetscapes and Natural Values Unit;
- (f) City Works Unit;
- (g) Engineering Unit;

Comments were received on plans submitted to satisfy the further information request on 29/08/2019. The advertised plans, which incorporated changes with respect to engineering, were re-referred to the Engineering Unit. Both sets of comments are attached.

- (h) Strategic Transport Unit; and

Comments were received on plans submitted to satisfy the further information request on 8/10/2019 and the Green Travel Plan (GTP) dated 25 June 2019. Whilst it is noted the advertised GTP is dated 21 November 2019, the more recent GTP contains the same information as the GTP reviewed by Strategic Transport. Furthermore, the advertised plans made no changes that would alter the assessment of the strategic transport provisions.

- (i) ESD Advisor.

Comments were received on plans submitted to satisfy the further information request on 29/08/2019 and the Sustainable Management Plan (SMP) submitted with the initial application. The SMP has not been modified throughout the process.

External Consultants

- (j) Urban Design (Rob McGauran, MGS Architects);
- (k) Acoustics (SLR Consulting); and
- (l) Wind (MEL Consultants).

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

OFFICER ASSESSMENT

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

- (a) Policy and Strategic Support;
- (b) Use;
- (c) Condition 1 Assessment;
- (d) Built form;
- (e) Environmentally Sustainable Development (ESD);
- (f) Off-site amenity including City Link Exhaust Stacks;
- (g) Car parking, traffic, access and bicycle provision;
- (h) Waste Management;
- (i) Other Matters; and
- (j) Objector concerns

Policy and Strategic Support

157. As identified within the original Officer Report, the development is considered to achieve the various land use and development objectives contained within State and local planning policy. The C2Z zoning of the subject site and commercial zoning of adjoining land facilitates the provision of greater density and higher built form, subject to individual site constraints, given the purpose of the zone.

158. Clauses 11.03-1R and 18.01-1S of the Scheme encourage the concentration of development near activity centres and more intense development on sites well connected to public transport. The subject site is located within the Swan Street Major Activity Centre (MAC) and strengthens key pedestrian links to Burnley Station to the south.
159. The proposal maintains the substantial contribution to the surrounding street network through the provision of a pedestrian through-link from Swan Street to the VicTrack owned pedestrian path to the south, along the sites own eastern boundary.
160. Council's local policy at Clause 21.04-3 states that the commercial and industrial sectors underpin a sustainable economy and provide employment. Yarra plans to retain and foster a diverse and viable economic base. It acknowledges that there is a continuing demand for industrial and commercial land and that residential uses are not supported as their amenity requirements are a threat to the survival of ongoing industrial activities. In addition, this policy aims to increase the number and diversity of local employment opportunities by maintaining this land for the purpose it was intended for.
161. Having regard to the above and the form, scale and massing of the approved development this application seeks to amend, it is considered that the proposed re-development of the site for a mixed use building of this scale has strategic planning support. Regard however, must be had to the appropriate design, scale and massing of the proposal, based on the individual context and constraints of the land.

Use

162. As identified within the original Officer Report, it is considered that there is support for the proposed food and drinks premises where it can be demonstrated that the scale of operation would not result in unreasonable impacts to the surrounding area or erosion of the primary purpose of the Commercial 2 Zone.
163. This consideration is relevant in terms of the objective of the Commercial 2 Zone: *to encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services.*
164. The amendment seeks to reduce the number of food and drinks premises within the building, from five spread across the ground and first floors (total approved area: 2,170sqm) to two on the ground floor (total proposed area: 345sqm). The nature of the food and drinks premises is also proposed to change. Previously all food and drinks premises were approved as cafes, the amendment seeks to modify the use of the larger tenancy to a restaurant.
165. The site is located within a MAC which is of importance not only to the municipality, but also to the broader metropolitan region given its capacity for change and connections to other Activity Centres, residential areas and transport. The area supports a growing employment base, and the proposed food and drinks premises, inclusive of the café and restaurant, will support this by providing venues where the local workers can obtain food and drinks as well as local residents (whose numbers are also increasing).
166. The food and drinks premises will continue to contribute to the mixed use nature of the location which includes other commercial entities. On weekends, there is an expectation that buildings within commercial areas are active and provide for visitors and local residents alike. This is particularly relevant to the proposed restaurant use. This tenancy has a large frontage to Swan Street and will activate the street throughout the day, and evening.
167. The food and drinks premises use will play a legitimate role in meeting the needs of the area in this respect and continues to provide seven days a week activation of the area whereas offices are generally closed and can lead to inactivity of an area. This will also assist in ensuring the ground floor through-link feels safe as both tenancies have a direct abuttal to it.

168. In terms of patron numbers, the applicant seeks to amend existing Condition 5 to reference the reduction in tenancies from 5 to 2, and also seeks 180 patrons within the restaurant and 100 patrons within the café.
169. With regard to the total floor area of the restaurant (280sqm total or 212sqm excluding the back of house area), it is considered that there is adequate room to cater to the proposed 180 patrons and is therefore acceptable.
170. With regard to the total floor area of the café (64sqm excluding back of house areas), the proposed number of patrons appears to be unreasonably high. The approved layout had three smaller café tenancies with areas of 57sqm, 102sqm and 145sqm and patron numbers of 30, 50 and 70 respectively. The applicant provided the following justification for the 100 patrons sought within the 64sqm café:
- The 64sqm café sits with-in a larger tenancy forming part of the co-working entry which is another 158sqm. Hence the total space combined is approximately 222sqm + outdoor seating, hence the higher patron number.*
171. This justification is not satisfactory. The application documentation specifically applies for a café of 64sqm, and not 222sqm as referenced above. As a result, the request for 100 patrons is misconceived. With regard to the approved café tenancies referenced above, patron numbers were approved at an approximate rate of one patron per 2sqm of area. With respect to this, it is considered the patron numbers for the 64sqm café should be capped at 32 patrons and this shall form part of Condition 4.
172. In regards to the layout of the modified tenancies, Tenancy 2 (restaurant) is clearly outlined with the back of house areas shown to the south-west corner. Tenancy 3 is outlined through a minor colour variation as shown on the floor plan. To ensure the 64sqm tenancy is easily identifiable, a condition will require the outline of the 64sqm café tenancy to be shown clearly. Whilst the back of house areas are shown to the west of the café tenancy outside of the 64sqm, this is considered satisfactory as it is acknowledged that toilets and the like may be shared with another tenancy.
173. In respect of the operating hours, the applicant seeks to modify existing Condition 4 to allow both food and drinks premises to operate until 1am, seven days a week, in lieu of 11pm.
174. There is limited guidance in the Scheme as to what appropriate opening hours are in the Commercial 2 Zone. These are typical food and drinks premises hours and similar to others located on Swan Street.
175. The closest residentially zoned land is further to the north and south beyond either Swan Street or the train line respectively and are separated by the proposed food and drink tenancies by at least 54m. There is an apartment building to the north-east on Swan Street, within commercially zoned land. This building also has commercial uses on the ground floor, including a 73sqm café that has unrestricted operating hours due to the C1Z zoning of the land.
176. The residential development approval concerning the site directly to the west will have dwellings abutting the subject site. However, the proposed food and drinks premises will be at the ground floor facing north and east, away from the residences located in the upper levels.
177. Whilst a more recent commercial development approval has been issued for the site to the west, and the site to the west may not be developed for dwellings at all, a conservative approach has been taken and it is considered that the food and drinks premises use would not have an unreasonable impact on the dwellings within the residential scheme.

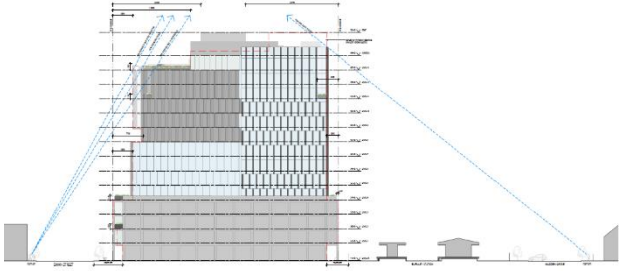
178. It is acknowledged that seating is shown within the eastern pedestrian walkway adjoining the café tenancy. As discussed above, the 64sqm café does not include the outdoor area. Building management may choose to locate tables and chairs within the accessway to activate the space, and provide areas for occupants of the office use to utilise. Given the location, placed away from the most sensitive interfaces, this is considered acceptable.
179. In regards to noise, as the submitted acoustic report identifies that music associated with the food and drinks tenancies should be limited to background music only. This recommendation has merit, and it is considered a new condition be included as this aspect further supports the extended hours until 1am. The new condition will be as follows:
- No amplified music may be played, with the exception of background music, to the satisfaction of the Responsible Authority.**
180. Council's external Acoustic Consultant reviewed the submitted acoustic report and identified the submitted report recommended further acoustic testing of the patron and music noise associated with the retail and food and beverage tenancies be undertaken. Council's Acoustic Consultant commented that this should be provided if the tenancies play music above background levels, are open during the evening/and or night periods or have loudspeakers outdoors or have patrons outdoors during the late evening or night periods.
181. As discussed, a condition will be included requiring background music only. A further condition can require that no speakers be located external to the building. Whilst the food and drinks premises will operate during the evening/night periods, it is considered subject to these conditions and due to the enclosed nature of the use further acoustic testing is not necessary.
182. Condition such as these will remove any ambiguity from the type and level of music allowed to be played for the two food and drinks premises and provide greater certainty for surrounding residents.
183. It is also noted that existing Condition 60 of the planning permit requires the following:
- The amenity of the area must not be detrimentally affected by the use, including through:*
- (a) *the transport of materials, goods or commodities to or from land;*
 - (b) *the appearance of any buildings, works or materials;*
 - (c) *the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or*
 - (d) *the presence of vermin.*
184. This condition is a mechanism to ensure the ongoing amenity of the surrounding area is protected. If verified amenity issues around noise occur then corrective works can be required by the responsible authority to ensure they are resolved and amenity restored. The condition would continue to apply to the use of the two food and drinks premises.
185. Existing Condition 61 requires compliance with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1). It is noted that the planning permit does not require the uses to comply with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2). This can be inserted as an additional condition with regard to the increased hours, provision of background music identified within the acoustic report and proximity to residences within the C1Z.

186. With regard to the nature of the proposed food and drinks premises, as a café and restaurant, where the primary focus is to provide food and drink to seated customers in a controlled environment, given there are no outdoor areas associated with the tenancies and the conditions recommended above the amendment to allow these uses to operate until 1am is considered satisfactory. The applicant’s request to modify Condition 4 is therefore supported, and the condition should be updated to reflect the closing time of 1am.
187. In respect of the applicant’s request for the permit preamble and existing Condition 4 to include reference to the restaurant use this is also considered satisfactory and acceptable.
188. With regard to the applicant’s request to include reference to the restricted retail premises within existing Condition 4 it is unclear why this has been sought. The restricted retail premises does not require a planning permit pursuant to the zone requirements and as such it is not considered appropriate to include operating hours for this use.
189. Rubbish would be adequately concealed within the building and any emissions would have an adequate dispersal distance from the dwellings.

Condition 1 Assessment

190. The condition 1 requirements of the planning permit have not been satisfied, as such, an assessment of these has been provided in the following table. Where the applicant has requested amendment or deletion of conditions, this is identified.

(a) an updated basement 3 floor plan	<p>This condition was implemented as there were inconsistencies in the previous floor plans, where one set did not include Basement 03 whilst the other set included Basement 02 and 03 on one plan. All three basement levels are now shown within the current set of plans on separate plans.</p> <p>This condition has been satisfied.</p>
(b) numbering of plans	<p>The previous set of plans did not include plan page numbers (e.g. Drawing No. or TP number). This has been updated, with the drawings provided with a TP number.</p> <p>This condition has been satisfied.</p>
(c) a roof plan showing all plant and equipment with screening provided ensuring views from Swan Street and Burnley Station are obscured;	<p>The roof plan has been updated to show the roof plant and equipment, however, there is a note on the west elevation indicating that ‘<i>roof plant arrangement and heights tbc.</i>’</p> <p>The roof plant is screened by the parapet of the building. As identified in the below diagram, the roof plant is adequately screened ensuring views from Burnley Station and Swan Street are obscured.</p>

	 <p>With regard to the note included on the west elevation, this condition has not been satisfied, as the roof plant arrangement and heights must be confirmed.</p> <p>The condition should therefore remain and be updated to specify the deletion of this annotation.</p>
<p>(d) the five food and drinks premises to be labelled as Food and Drinks Premises (café) and to be numbered Tenancy 1 to 5 with Tenancy 1 fronting Swan Street, Tenancy 2 and 3 being the central tenancies, Tenancy 4 being the southern-most and Tenancy 5 is the first floor premises;</p>	<p>The applicant seeks to delete this condition.</p> <p>Due to the changes to the use on the ground and first floor, this is considered satisfactory.</p> <p>All amended tenancies are clearly labelled and easily identified.</p>
<p>(e) the ground floor crossover dimensions annotated as per the sketch plan provided on 8 March 2018;</p>	<p>The applicant seeks to delete this condition.</p> <p>Due to the modified location of the crossover, this is considered satisfactory.</p>
<p>(f) the deletion of level 13 of the development and the setback of level 12 from the Swan Street title boundary a minimum distance of 20m. The overall building height (excluding plant) is not to exceed RL53.5 including any parapet. Any plant above level 12 must be setback a minimum distance of 40m from the Swan Street title boundary and be no higher than 4.8m above roof level. All generally in accordance with the sketch plan hand dated VCAT 31.08.18.</p>	<p>The applicant seeks to modify this condition as identified within the Proposal section.</p> <p>This will be discussed further under Built Form.</p>

<p>(g) a materials sample board of external materials and finishes including thumb nail sketches of key elements of the facade system at the ground, middle and upper levels including details of the proposed metal cladding;</p>	<p>The applicant seeks to modify this condition, to the following:</p> <p><i>A materials schedule that includes external materials and finishes including thumb nail sketches of key elements of the facade system at the ground, middle and upper levels including details of the proposed metal cladding</i></p> <p>The above modification seeks to remove the requirement for a materials sample board. This is considered appropriate, as the materials schedule would include details of all of the built form materials and details.</p> <p>Whilst a Materials Schedule has been provided with the documentation, no thumb nail sketches of key elements of the facade system at the ground, middle and upper levels have been included. This aspect will be discussed further, later under architectural quality.</p> <p>The condition is to be retained, with the above modification, as it has not been satisfied.</p>
<p>(h) details of the canopy to Swan Street (coordinated with the location of street trees);</p>	<p>The applicant seeks to delete this condition, as the canopy has been deleted from the design.</p> <p>Whilst Council's external Urban Design consultant raised issue with the deletion of the canopy, commenting that it is likely it would be required to be retained to ensure wind impacts at the street level are addressed, this would be captured within existing Condition 1 (bb).</p> <p>Due to the deletion of the canopy, this is considered satisfactory.</p>
<p>(i) details regarding the treatment of the services to the east of the vehicular entry;</p>	<p>The applicant seeks to amend this condition, to reference the modified location of services that have been relocated to the east of the pedestrian link. This is considered satisfactory.</p> <p>In respect of the treatment of the services that are now relocated east of the pedestrian link, no details have been provided of the treatment and materials.</p> <p>The condition should therefore be updated to reference the revised location and remain.</p>
<p>(j) details of the vehicular entry door;</p>	<p>The applicant identifies the details of the vehicular entry door are provided on TP13 and TP41.</p> <p>TP13 identifies that the door will be a perforated roller door in monument powdercoat. This is also shown on TP35, with the material identified as 'PC-01'.</p> <p>A review of the materials schedule identifies that 'PC-01' is monument black powdercoat.</p>

	<p>It is considered that insufficient details have been provided, as the materials schedule is inconsistent with the annotations as shown on the plans.</p> <p>For this condition to be satisfied, the materials schedule must show the details of the vehicular entrance door including details of the proposed perforations.</p> <p>The condition should therefore remain.</p>
(k) details of the ground floor setback area facing Swan Street and confirmation that it is compliant with the <i>Disability Discrimination Act 1992</i> (DDA).	<p>The applicant identifies these details are shown on TP13, TP35 and TP36. A review of these plans confirm they show details of the ground floor setback area.</p> <p>The plans, however, do not provide confirmation that the setback area is compliant with the <i>Disability Discrimination Act 1992</i> (DDA).</p> <p>The condition should therefore remain.</p>
(l) clear delineation of the site's title boundaries along Swan Street through the use of brass discs or a similar type method;	<p>Brass discs are shown to be utilised to delineate the site title boundary along Swan Street, as shown on TP35 and TP41. The different paving between Council land and the subject site would further ensure the title boundary is clearly delineated.</p> <p>This condition has been satisfied.</p>
(m) dimensions of the headroom clearance at the entrance and accessways (these should be a minimum of 2.1m and above accessible parking spaces, a minimum of 2.5m headroom clearance is to be provided);	<p>Council's Engineering Unit reviewed the proposed development against this condition, advising that this item has been satisfied.</p>
(n) numbering of car parking spaces for easy identification;	<p>Council's Engineering Unit reviewed the proposed development against this condition, advising that this item has been satisfied.</p>
(o) dimensions of the accessible parking spaces. The shared areas can be 2.4 metres in width and are to be provided with bollards as per the Australian/New Zealand Standard AS/NZS 2890.6:2009;	<p>Council's Engineering Unit reviewed the proposed development against this condition, advising that this item has been satisfied.</p>
(p) dimensions of the column depths and setbacks, lengths of each ramp grade section and truck spaces;	<p>Council's Engineering Unit reviewed the proposed development against this condition, advising that this item is partially satisfied, with the following outstanding:</p> <p><i>The column depths and setbacks from the aisles have been dimensioned; however the positions of</i></p>

	<p><i>nearly all of the columns still encroach into the clearance envelopes of the car parking spaces.</i></p> <p>Due to the amendment of the basement layout, this is considered to be a key item that requires further resolution. It is therefore recommended that the condition be modified to reference the above specifically, as follows:</p> <p><i>Dimensions of the column depths and setbacks, demonstrating the columns do not encroach into the clearance envelopes of the car parking spaces;</i></p>
<p>(q) clearances to walls provided for spaces abutting them with a minimum 300mm shown. Alternatively, spaces adjacent to walls could be widened to comply with minimum requirements of AS/NZS 2890.1:2004;</p>	<p>Council's Engineering Unit reviewed the proposed development against this condition, advising that this item has been satisfied.</p>
<p>(r) improved bicycle access from the lift area to the bicycle stores on basement floor plans 2 and 3;</p>	<p>The applicant seeks to delete this condition due to the modifications made to the location of the bicycle parking and end-of-trip facilities.</p> <p>Council's Strategic Transport Unit reviewed the modified location and access raising no issues.</p> <p>As a result, this is considered satisfactory.</p>
<p>(s) improved access for cyclists to the services lobby on the ground floor (where the end of trip facilities are located) from the lobby;</p>	<p>The location of the end-of-trip facilities has been modified to the basement 1 plan. Convenient access is provided to the end-of-trip facilities through the provision of a bicycle ramp from Swan Street. Alternatively, employees could utilise the lifts that also access this level.</p> <p>This condition has been satisfied.</p>
<p>(t) confirmation that the end of trip facilities are located within the 'services lobby' on the ground floor and that at least 24 showers and lockers (at a rate of one locker per bike space) will be provided;</p>	<p>The applicant seeks to amend this condition, to reference the modified location of the end of trip facilities from within the services lobby to basement 1.</p> <p>This amendment to the condition is considered to be acceptable.</p> <p>The applicant also seeks to amend the requirement to provide 24 showers. Nineteen showers have been provided, this has been reviewed by Council's Strategic Transport Unit and deemed acceptable and therefore it is considered acceptable for this requirement to be deleted.</p> <p>In respect of providing lockers at a rate of one locker per bike space the development provides 184</p>

	<p>lockers, in excess of the 176 employee bicycle spaces provided.</p> <p>With regard to the proposed amendments to the condition, and the plans submitted, it is considered that this condition has been satisfied.</p>
(u) dimensions of bicycle storage spaces, spacing, and accessways;	<p>The dimensions of the bicycle storage spaces, spacing and accessways has been included on the plans.</p> <p>This condition has been satisfied.</p>
(v) confirmation whether bicycle spaces are horizontal or hanging spaces (with at least 20 percent of employee and all visitor bicycle spaces being horizontal ground level spaces).	<p>As discussed later in the report, notations are included to indicate whether bicycle spaces are horizontal or hanging.</p> <p>All visitor bicycle spaces are horizontal at-grade.</p> <p>Twenty-five of the employee bicycle racks are provided horizontal at-grade. With 176 employee bicycle spaces provided this would not satisfy the requirements of AS23890.3, where at least 20% of the employee spaces are to be provided horizontal at-grade.</p> <p>The condition has not been satisfied and the condition should therefore remain</p>
(w) the location of the additional signal lantern facing the proposed site egress;	<p>The applicant has stated that the condition has been met through the implementation of the following annotation on the ground floor plan:</p> <p><i>“Location of traffic signal to be resolved in conjunction with 482 Swan Street as part of 482 Swan Street Access / Cutter Street / Swan Street Traffic Signal Plan”.</i></p> <p>This is not in accordance with the requirements of the permit condition and not an aspect the applicant has sought to modify.</p> <p>The condition should therefore remain</p>
(x) any requirement of the endorsed Sustainable Management Plan (condition 6) (where relevant to show on plans);	<p>As discussed further, later in the report, the SMP is not satisfactory and therefore this condition should remain to capture any amendments or updates that are required.</p> <p>This condition should be updated to reference the new Condition number as a result of any new permit conditions added.</p>
(y) any requirement of the endorsed Waste Management Plan (condition 8) (where relevant to show on plans);	<p>Whilst the Waste Management Plan has been deemed to be satisfactory, the bin room layout as shown within the WMP is not shown on the plans. This is a key element of the WMP and is required to be shown.</p> <p>This condition is therefore not satisfied and should remain. This condition should be updated to</p>

	reference the new Condition number as a result of any new permit conditions added.
(z) any requirement of the endorsed Acoustic Report (condition 10) (where relevant to show on plans);	<p>As discussed further, later in the report, the Acoustic Report is not satisfactory and therefore this condition should remain to capture any amendments or updates that are required.</p> <p>This condition should be updated to reference the new Condition number as a result of any new permit conditions added.</p>
(aa) any requirement of the endorsed Landscape Plan report (condition 13) (where relevant to show on plans);	<p>As discussed later in the report, the Landscape Plan is not satisfactory and therefore this condition should remain to capture any amendments or updates that are required.</p> <p>This condition should be updated to reference the new Condition number as a result of any new permit conditions added.</p>
(bb) any requirement of the endorsed Wind Report (condition 19) (where relevant to show on plans);	<p>As discussed further, later in the report, the Wind Report is not satisfactory and therefore this condition should remain to capture any amendments or updates that are required.</p> <p>This condition should be updated to reference the new Condition number as a result of any new permit conditions added.</p>
(cc) any requirement of the endorsed Detailed Design Plan (Through-link between Swan Street and land to the south) (condition 21) (where relevant to show on plans);	<p>As discussed further, later in the report, the Detailed Design Plan for the through-link is not satisfactory and therefore this condition should remain to capture any amendments or updates that are required.</p> <p>This condition should be updated to reference the new Condition number as a result of any new permit conditions added.</p>
(dd) Provision of a 5m wide footpath along Swan Street, with 2.5m of this being outside of the title boundaries of the subject site;	<p>The development provides for a minimum 5 metre wide footpath along Swan Street, with 2.5 metres of this accommodated outside of the title boundary on the subject site.</p> <p>The condition has been satisfied.</p>
(ee) Access from level 12 to the plant to the satisfaction of the responsible authority; and	<p>The applicant seeks to modify this condition to the following:</p> <p><i>Access from level 13 to the plant to the satisfaction of the responsible authority</i></p> <p>Due to the reconfiguration of the floor-to-ceiling heights and overall height and massing, this modification is satisfactory.</p> <p>As level 13 is accessed from the internal stair core it is considered that access to the plant has satisfactorily been provided and this condition has been satisfied.</p>

(ff) Plant to be screened and minimised to the satisfaction of the responsible authority.	This condition replicates the requirements of Condition 1 (c). As Condition 1 (c) is required to be retained and provides greater guidance on the design and siting of the roof plant, it is recommended that this condition be deleted.
---	--

191. As discussed throughout the report, additional amendments to the plans are required, and as such, it is considered that the Condition 1 items that have been satisfied above should be deleted to provide greater clarity. The items that have not been satisfied should remain, with the additional items that have been discussed throughout the report also included.
192. Lastly, it is considered that Condition 1 should be updated to reference the received date of the decision plans for the current amendment as the existing Condition 1 references the received date of the previous application plans.

Built form

193. The primary considerations for the proposed development are the decision guidelines at clause 34.01-8 of the Scheme as well as the provisions of Schedule 2 and Schedule 17-4 of the DDO. The urban design assessment is further guided by planning policy at clauses 15.01-1S (Urban design), 15.01-2S (Building design) and 22.10 (Built form and design policy).
194. These provisions and guidelines seek a development that responds to the existing or preferred neighbourhood character and provides a contextual urban design response reflective of the aspirations of the area. Particular regard must be given to the height and massing, street setbacks and the proposal's relationship to adjoining buildings and the public realm. These considerations will be addressed separately below.

Character

195. As already outlined in the *Surrounding Land* description of this report, the surrounding neighbourhood character is mixed. The northern side of Swan Street is a mixture of finer grain commercial buildings with some larger apartment/office buildings emerging amongst existing office and warehouses whilst along the southern side there are much 'bulkier' and taller office buildings emerging with older warehouses.
196. The existing neighbourhood character along the southern side of Swan Street is not one which Council prefers. This part of Swan and Burnley Streets (Burnley Village) is earmarked to be "vastly transformed" within Council's adopted document, the SSSP. The SSSP also includes a built form objective "to establish a new built form character that is complementary to existing context".
197. The existing context along the northern and southern side of this part of Swan Street will significantly change in the future as envisioned by Council's own adopted documents. The relevant strategies of the SSSP are:
- (a) *Provide active frontages to the street.*
 - (b) *Rebuild/reinforce the street wall height along Swan Street and Burnley Street to create a consistent 3 storey built form scale with visually recessive upper levels.*
 - (c) *Ensure that the prevailing fine-grain pattern is preserved on larger sites or where sites are consolidated.*
 - (d) *Encourage taller buildings on the south side of Swan Street between Burnley Street and Stawell Street.*

198. Further to this, the DDO17-4 outlines a preferred height requirement of 40 metres for the site and the site adjoining to the east. The DDO14 which applies to the site directly to the west anticipates a building height of 42 metres, however, the recent gazettal of Amendment C282 as identified in the site surrounds section has resulted in the approval of a 13-storey commercial building with an overall height of 53.65 metres.
199. The scale of development anticipated in the immediate area, along the southern side of Swan Street, will influence the context of the surrounding precinct and allow higher built form to sit comfortably along both sides of the street.

Height and Massing

Height

200. The existing planning permit allows the overall building height (excluding plant) to not exceed 53.5 metres (13 storeys) in height including parapet, with the topmost level (height above 48 metres) to be setback 20 metres from the Swan Street title boundary. Plant equipment above the roof height of the topmost storey was allowed, and as per condition was to be setback a minimum 40 metres from the Swan Street frontage and be no higher than 4.8 metres above the roof height (57.3 metres overall height including plant).
201. The amendment seeks a 14 storey building with an overall building height (excluding plant) to not exceed 54.5 metres including parapet. The additional storey has been accommodated through the reduction in floor-to-floor heights, where previously 4 metre floor-to-floor heights were proposed the amendment seeks to reduce this to 3.7 metres.
202. The topmost level (previously level 12, now level 13) is proposed to be setback 19.95 metres from Swan Street, just shy of the 20 metres required by existing Condition 1(f). The condition required the built form above 48 metres to be setback 20 metres from Swan Street, and therefore the uppermost 0.8 metres of Level 12 would be encroaching into the area that as per the condition should be setback to 20 metres.
203. The plant equipment extends 3.9 metres above the overall height, resulting in an overall height including plant of 58.4 metres. This would exceed the requirement of the condition, which allowed for an overall height including plant of 57.3 metres.
204. As previously identified, the outline of the previous approval as shown on the elevation and sections was modified within the Section 57A amendment and is incorrect. The below annotated diagram indicates the building envelope as required by existing Condition 1(f):

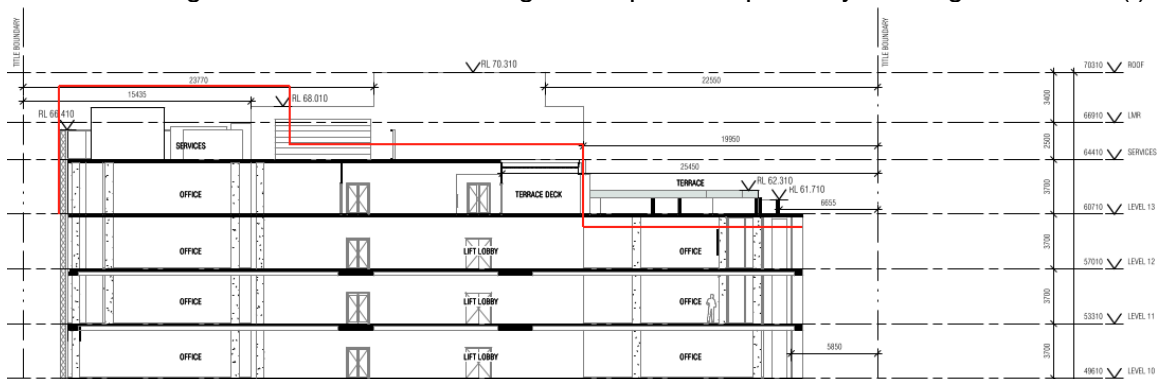


Image: Section B-B annotated to show the approved upper level envelope pursuant to existing Condition 1 (f)

205. As such, it must be determined whether the overall height including plant exceeding the current approval by 1 metre as well as the reduced setback to the Swan Street is acceptable. The exceedance in height above 48 metres concerning Level 12 and 13 must also be considered.

206. As the amendment seeks additional height in excess of the preferred 40 metre height limit as required by the DDO17-4, it must be determined whether the development meets the following requirements:
- (a) *the built form outcome as a result of the proposed variation satisfies the general design objectives in Clause 1.0 of this schedule, the relevant precinct design requirements specified in this schedule;*
 - (b) *the proposed building height achieves the preferred future mid-rise character for Swan Street of generally 5 to 12 storeys; and*
 - (c) *the proposal will achieve each of the following:*
 - (i) *greater building separation than the minimum requirement in this schedule*
 - (ii) *housing for diverse households types, including people with disability, older persons, and*
 - (iii) *families, through the inclusion of varying dwelling sizes and configurations*
 - (iv) *universal access, and communal and / or private open space provision that exceeds the minimum standards in Clauses 55.07 and 58*
 - (d) *excellence for environmental sustainable design measured as a minimum BESS project score of 70%*
 - (e) *no additional amenity impacts to residentially zoned properties, beyond that which would be generated by a proposal that complies with the preferred building height.*
207. The development achieves a high level of compliance with the general design objectives outlined in Clause 1.0 and the relevant precinct design requirements, as follows:
- (a) The development acknowledges its position within the Burnley Station precinct of the DDO17, where taller forms and more robust massing is preferred;
 - (b) As discussed under Off-Site Amenity, the development minimises amenity impacts on residential properties adjoining the Swan Street MAC, largely due to the sites separation distance from residential zones;
 - (c) As discussed under Car Parking, the vehicular access to the development would not adversely impact the level of service, efficiency and safety of the road network;
 - (d) A prominent street wall is provided that is consistent with the emerging character in the area; and
 - (e) The development does not cause any amenity concerns or overshadowing of the eastern footpath Stawell Street or Ryans Reserve between 10am and 2pm.
208. The development would generally achieve the preferred future mid-rise character for Swan Street, whilst exceeding 12 storeys it is considered the overall height is akin to a 5 to 12 storey character, with particular regard to the upper level setback of 19.95 metres to the thirteenth storey.
209. Greater building separation than the 3 metre minimum for commercial and non-habitable room windows is provided to both the east and west. The points referenced above under (ii), (iii) and (iv) are not relevant to this proposal, as no dwellings are proposed. In regards to ESD, the applicant is committed to a Green Star 5 Star rating for the building, which is equivalent to Australian Excellence. As discussed within the Off-Site Amenity section, the proposal would not increase off-site amenity impacts with regard to the existing approval.

210. The height proposed within the amendment is not considered to be a significant departure from the height approved pursuant to existing Condition 1(f). It is clear that the development meets the requirements of the DDO17-4 to be met when a preferred height is exceeded. The increase in height of 0.8 metres concerned with Level 12 is nominal, and will have minimal impact on the surrounds. The overall height of the plant whilst exceeding the approved design by 1 metre is also considered to be acceptable.
211. Further to the above, whilst the height in isolation is considered satisfactory, the amendment proposes significant changes to the design and overall massing of the building. Council's external Urban Design consultant identified that the combined consistently reduced setbacks to the west in combination with the proposed treatments amplify the bulk of the building itself.
212. It must therefore be determined whether the massing appropriately responds to the differing interfaces.

Massing

213. Council's external Urban Design Consultant raised significant concern with the building bulk of the upper levels of the amended design, recommending the following:
- (a) *Provide a 2.5m additional setback (7m) to the western elevation to a setback of 20m from the Swan Street interface for a landscaped terrace at level 11 and at levels 12 and 13.*
 - (b) *Provide a 7m setback for 20m to the east elevation to a setback of 20m from the Swan Street interface for a landscaped terrace at level 11 and at levels 12 and 13.*
214. In response, the applicant amended plans via Section 57A to modify the north-western corner of the development to modify the 29sqm square terrace (4.99 metres x 5.7 metres) to a rectangular terrace of 29sqm (2.85 metres x 10.12 metres).
215. This change is not considered adequate and does not address the concerns raised, with the overall massing and presentation to Swan Street. As such, the above recommendations provided by Council's external Urban Design consultant should be included via condition to address these concerns. This will ensure that the upper levels when viewed from Swan Street, and also on oblique angles from the eastern and western approaches, would be softened to an acceptable level.
216. In respect of the proposed changes to site the roof plant 30 metres from Swan Street, in lieu of 40 metres, it is considered that the diagram provided to satisfy existing Condition 1(c) adequately demonstrates that the roof plant closer to the street would not have adverse impacts with regards to massing. Similarly, the encroachment of the topmost 0.8 metres of Level 12 would be negligible. As the current design response is considered appropriate, it is recommended that existing Condition 1(f) be deleted.
217. The proposed western and eastern elevations incorporate a number of design detailing and materials to assist in breaking down the massing. Council's external Urban Design Consultant identified that whilst the eastern elevation has lost some articulation and design detailing, the finer expressed vertical blades incorporated are acceptable with regard to the overall building design.
218. In respect of the western elevation, Council's external Urban Design consultant was critical of the materials shown on the on-boundary western wall. This has been updated within the Section 57A plans to accord with the previously approved plans and as such this concern has been alleviated.

219. In regards to the interface to the south, Council's external Urban Design Consultant identified that articulation and detailing has been lost from this elevation. The approved design utilised different materials and setbacks to break down the massing whilst the amended design provides what appears to be a sheer wall to the south.
220. Whilst the erosion of the south-west corner at Level 11 and above is welcome to provide some variation within this elevation, it is considered further modifications are necessary. Council's Urban Design Consultant recommended that an additional setback of 2.4 metres be accommodated at Level 8, similar to the indentation provided to the east at this level. This is considered appropriate, and will form a condition.
221. This design modification will assist in breaking down the building mass as it presents to the south and would also assist in providing greater connectivity in design language between the southern and eastern façades.
222. Furthermore, Council's external Urban Design Consultant recommended that the south-facing indented facades in the south-west corner at Levels 11 to 13 include vertical blades at the mullions similar to the southern half of the western façade at this level. This recommendation is also considered necessary to break down the mass of the building bulk and will assist in providing greater connectivity in design language between the southern and western façades. A condition will require this.
223. Transport for Victoria has required the following condition which was not previously included on the existing permit in respect of the interface to the south:
- Unless otherwise agreed in writing with TfV and VicTrack, windows, doors and balconies must not be placed on the title boundary with Railway Land and no windows or doors are permitted to open beyond the Railway Land title boundary to the satisfaction of TfV and VicTrack.*
224. This condition will be included, pursuant with the requirements of the Act, and will require the applicant to seek separate approval from Transport for Victoria and VicTrack for the current design, which proposes windows and balconies flush to the southern boundary on Levels 1 - 4. This would address the concern raised by VicTrack on this aspect.
225. It is acknowledged that if the current arrangement is not supported by VicTrack and Transport for Victoria the applicant would be required to submit an amendment to the application to modify the design and interface to the south.
226. With respect to the condition requested by VicTrack in regards to graffiti, this was also a condition required by Transport for Victoria and would be included as per the requirements of the Act. This item is therefore also considered to be satisfied.
227. With respect to the additional wording VicTrack requested to be implemented into existing Condition 30, this cannot be facilitated. This is a Transport for Victoria condition. Furthermore, Transport for Victoria require their current conditions to be deleted and replaced with a suite of new conditions that cannot be modified by Council.
- The development would be required to accord with 'AS5100.2017 Collision load from rail traffic' and it is considered this would be addressed separate to the planning process.
228. The final concern raised by VicTrack in regards to the maintenance of the upgraded path along the southern boundary will be discussed further under public realm below.
229. In respect of upper level setbacks, the minimum 5 metres to Swan Street is maintained and accords with the requirements of the DDO17-4. Whilst architectural projections encroach into this setback, considering they are architectural features and not built form this is acceptable and will provide variation and architectural interest to the façade.

It is acknowledged that the setbacks would not accord with the 6 metre setback sought within the proposed DDO28, it is acknowledged that the development was approved with 5 metre setbacks and therefore is appropriate.

230. In regards to the setbacks to the south, above the podium the minimum 3 metre setback is maintained. The DDO17 and proposed DDO28 indicate a 0m upper level setback is preferred in this location and therefore the arrangement is considered satisfactory, subject to the built form recommendations made above.
231. Lastly, in respect to the podium the height of the framing is proposed to reduce from 16 metres approved to 15.5 metres. Planter boxes above the podium result in overall height of 16.62 metres. Whilst the DDO17-4 seeks a 14.5 metre high podium and the proposed DDO28 seek a 14 metre high podium it is considered that a 16 metre high podium has already been deemed acceptable for the site.
232. The 15.5 metre podium will continue to provide an appropriate response to the streetscape and as the planter boxes are setback a minimum 0.5 metres from the framing element they will appear recessive against the main podium form. The podium will also provide a transition to the higher podium associated with the development to the west as approved pursuant to Amendment C282yara, which proposes a four storey podium of 17.85 metres at this interface.
233. The podium form steps down to three storeys and then two storeys at the eastern boundary. This is considered satisfactory, and uses design to highlight the entrance to the pedestrian access. Council's external Urban Design Consultant raised no concern with the podium.
234. In relation to the podium interfacing with the southern boundary, the above assessments made are applicable. The overall height proposed at 15.4 metres with 1.1 metre high planter boxes above at the western boundary is commensurate with the approved design. The podium form also steps down to three storeys and then two storeys at the eastern boundary to provide an appropriate transition from taller forms accommodated to the west to the east where less intense development is expected.

Architectural quality

235. The development is considered to be of high architectural quality and in that regard responds to the design objectives of clause 15.01-2S of the Scheme. The contemporary design is appropriate and responds well to this part of Richmond with the design offering a modern built form that revitalises the street frontage through generously sized openings, upper level communal areas.
236. Council's external Urban Design consultant was generally supportive of the amended design, commenting that the amendments presented a more convincing architectural language and resolution. In respect of the proposed materials and finishes, the following was provided:
- (a) *Whilst the renderings and details indicate a design intent, the application of these ideas into a coordinated set of plans that lock in with clarity the materials and finishes in each location is as yet unclear.*
 - (b) *Logically these perspective images could be properly notated with materials and finishes to invest the plans with the quality and clarity of design resolution into building execution required by Clause 1(g) of the permit. For example the soffit of the tower will be a critical aspect of the development and its resolution when seen from the street and walks and surrounding areas.*

237. It was recommended that details of the materials and finishes of the ground level podium, tower forms and roof level soffits as sought by existing Condition 1 (g) be provided. Given existing Condition 1 (g) has previously been determined to be unsatisfied, and given the substantial changes to the design and materials proposed, it is recommended that the condition be modified to the following to ensure all required information as a result of the amended materials is provided:

a materials schedule of external materials and finishes including:

- (i) **thumb nail sketches of key elements of the facade system at the ground, middle and upper levels including details of the proposed metal cladding; and**
- (ii) **details of the materials and finishes of the podium, tower and roof level soffits.**

238. This above condition will ensure that the materials to be utilised for the development are reviewed prior to construction to ensure they are of a high architectural quality, with detailed thumb nail sketches identifying the façade systems and architectural fins and projections proposed throughout. The condition will also ensure the details of the soffits, as identified as particularly important by Council's external Urban Design consultant, be provided.

Public Realm

239. This principle requires the design of interfaces between buildings and public spaces to enhance the visual and social experience of the user. In this respect, the proposal represents a significant improvement in streetscape, public space quality and perceived safety.

240. Council is supportive of the construction of the proposed building with large glazed ground floor lobbies, active tenancies and improved outdoor spaces. Through the activation of the ground floor, the building will provide interaction at street level where there currently is minimal. This satisfies public realm, pedestrian spaces and street and public space quality policies at Clauses 15.01-2S and 22.10-3.4.

241. Council's internal Urban Design Unit commented that the proposed open interface / atrium creating a continuous interface and flow between the private and public domain is supported.

242. Council's external Urban Design consultant was critical of the lack of activation with entries to the restricted retail premises and corner premises, commenting that multiple entrances were previously proposed. This concern is shared, and it is considered an additional entrance should be provided to the restricted retail premises interfacing with the southern boundary.

243. With respect to the tenancies interfacing with Swan Street this is of less concern, as the entrance to the restaurant from the east is within an open atrium area and would be highly visible from the street.

244. Council's external Urban Design Consultant recommended return glazing to the east wall of Tenancy 1 and west wall of the bicycle ramp to be incorporated to enhance the useability and safety of the streetscape outcome. This has been incorporated into the design through the Section 57A amendment.

245. Council's external Urban Design Consultant requested the plans be updated to provide details of the areas set aside for waste management, toilets and services (e.g. back of house areas) within the tenancies to ensure that the facades along the public interfaces are maintained as open. The plans were updated within the Section 57A Amendment to show the areas for the back of house facilities. These are internal to the building and as such are considered satisfactory.

246. With the amendment submission, the applicant seeks to satisfy Condition 21 which requires a Detailed Design Plan for the through link between Swan Street and the land to the South. As identified by Council's internal Urban Design Unit, spacing of fixtures, levels and drainage requires further resolution.
247. A review of the plan submitted to satisfy this requirement identifies that it does not provide the level of detail required to satisfy the condition. Adequate details of materials, landscaping, lighting and safety measures have not been provided. Council's internal Urban Design Unit commented that further details are required in relation to the atrium pavement and the interface to the footpath asphalt surfacing. Whilst additional details on this aspect were provided within the Section 57A amendment a number of notations on the plans indicate that a number of finer details have not been finalised.
248. This condition should therefore remain and is required to be satisfied prior to the commencement of the development.
249. Council's internal Urban Design Unit and Strategic Transport Unit raised concern with the location of the bicycle spaces proposed along Swan Street and infrastructure proposed outside of No. 506 Swan Street. The Section 57A plans address these concerns, now proposing four bicycle rails and one park bench to be provided along the Swan Street frontage.
250. Existing Condition 26 requires the provision of a detailed design plan for the Swan Street streetscape improvements. As identified within the applicant's submission, this is not sought to be endorsed as part of this amendment. Indicative information has been provided on TP36 and it is anticipated that a more detailed design plan, including finalised details of the levels and falls, street furniture, street trees, lighting and associated infrastructure will be provided at a later date. This information is currently not provided. The condition is required to be satisfied prior to the commencement of the development.
251. In respect of the interface to the south, Council's external Urban Design Consultant commented the following:
- (a) *The undercroft of the interface with the adjoining Burley Station walk. The rearranged area now provides a small undercroft with poor surveillance in the southwest corner I would recommend the tenancy is pushed out for the western most bay to the outer column line and treated with clear glazing with to the south façade and the east facing window to avoid areas of concealment consistent with CPTED.*
 - (b) *The modified podium along Swan Street and the rear interface has introduced a number of columns along the title boundaries. I think that a widening without columns to the eastern two thirds of the railway walk would be desirable to create an expanded interface character.*
252. In respect of the first comment, the south-west corner has been modified in anticipation of the extended footpath area being mirrored by the adjoining development approved pursuant to Amendment C282. This is therefore considered satisfactory.
253. In respect of the second comment, this is considered to have merit to allow for ease of access between the development and the pedestrian path and will form a condition. Given the low visibility of this part of the design due to its location, this is not considered to have an impact on the design of the podium.
254. Council's external Urban Design Consultant also recommended the top floor incorporate a kitchenette to service the terrace in conjunction with a BBQ, microwave or similar facility. It is considered that this can be incorporated into the internal area during the detailed design and fit-out stage and is not required to be shown for the planning stage.

255. VicTrack raised concerns with the upgrades to the pedestrian path along the southern boundary of the site to the east terminating at Stawell Street, commenting that the paving materials, landscaping works and street furniture as shown in the advertised plans would result in increased maintenance costs that are not supported.
256. Council's internal Urban Design Unit also raised concern with the advertised plans, providing the following comments:
- (a) *The footpath that runs between the development and Burnley Station is owned by VicTrack. Any works to this land will require VicTrack consent and a maintenance agreement between the applicant and VicTrack.*
 - (b) *All street furniture proposed along the VicTrack footpath to be deleted, or relocated to within the title boundaries.*
 - (c) *Proposed unit paving requires VicTrack consent, refer recommendation below.*
 - (d) *Proposed planter box along rail track interface must be deleted. A planter with creepers climbing up the fence is deemed not appropriate for this location and is not supported.*
 - (e) *Light bollards and wall lights are not deemed appropriate along the rail path. Pole lights is deemed the most appropriate from a CPTED perspective (to light up persons face), any lighting will require VicTrack consent and a maintenance agreement.*
257. Council's Strategic Transport Unit supported the above comments, commenting that the number of bins and seats along the rail path would reduce capacity on the already narrow path.
258. The internal Urban Design Unit recommended options be explored to upgrade the fence along the rail track, that drainage should be reviewed and that asphalt pavement be provided along the full length of the rail path, acknowledging that VicTrack consent is required between the applicant and VicTrack.
259. The Section 57A amendment removed all landscaping works and street furniture from this path, with the changes proposed now limited to re-sheeting the entire path, from the subject site to the east terminating in Stawell Street, in asphalt. No information to satisfy the comments in regards to lighting were provided, however, the amendments are considered to largely address the concerns raised by VicTrack and Council's internal Urban Design Unit.
260. Transport for Victoria have requested existing Condition 22 be updated to include VicTrack as a party to the Section 173 Agreement as it relates to the pedestrian path. Existing Condition 24 and 25 are also requested to be deleted and replaced with a new Condition 24 as follows:

Before the Development commences, unless otherwise agreed in writing with the Head Transport for Victoria, the permit holder must submit detailed plans (inclusive of materials and landscaping) to the satisfaction of the Head, Transport for Victoria (TfV), Vic Track and the Rail Operator (RO) showing the development interface improvements for the footpath to the south (directly abutting the subject site's boundaries and extending to the east terminating at Stawell Street) being 'public realm works' on railway land. The plans must:

- (i) Show lighting, landscaping, footpaths, bicycle parking, street furniture and associated infrastructure;**
- (ii) meet Rail Operator specifications and standards; and**
- (iii) demonstrate that the works are compliant with the Disability Standard for Accessible Public Transport 2002.**

a) A construction control agreement must be in place between the Permit Holder and RO prior to commencement of the Public Realm Works on Rail Land.

b) The Public Realm Works outlined in the plans must be completed by the permit holder at their full cost and to the satisfaction of TfV, VicTrack & the RO.

261. The above condition would require detailed plans to be submitted to the relevant authorities (Transport for Victoria, VicTrack and the Rail Operator) for approval and is considered to adequately address the concerns by VicTrack. The above condition however, removes the requirement for the detailed plans to be submitted to the Responsible Authority for review as per existing Condition 24 and 25. These existing conditions are Council's conditions, and were never conditions required by Transport for Victoria.
262. It is therefore considered that the modified existing Condition 22 be incorporated, the existing Condition 24 and 25 to remain with the addition of the above condition also. This will ensure the comments of Council's internal Urban Design Unit are also addressed, as well as all conditions required by Transport for Victoria.
263. In addition to the above, Transport for Victoria requested existing Conditions 29 to 42 to be replaced entirely with the conditions outlined within their response. These conditions are to be included, pursuant with the requirements of the Act.
264. In respect of existing Condition 24, which requires detailed plans to be submitted to the Responsible Authority and VicTrack, it is considered the current plans before Council are unsatisfactory and require further resolution. In particular, further details are required on the proposed lighting which should incorporate a CPTED review. This condition should therefore remain.
265. In terms of light and shade to the public realm, due to the orientation of the site, the proposal will result in shadows to the south over Burnley Station however they do not reach Madden Grove. The shadowing over Burnley Station generally accords with the development as approved and therefore is considered acceptable. Consistent with the requirements of the DDO17 and proposed DDO28, the development would not result in overshadowing to the opposing side of Stawell Street or Ryan's Reserve between 10am and 2pm.

Wind impacts

266. Objective 5.1.4 of the UDGV requires new buildings within activity centres to minimise adverse wind effects. Furthermore, a key decision guideline of the DDO17 and proposed DDO28 is the wind effects created by the development.
267. The applicant has submitted a Wind Tunnel Test to assess the amended development and also to satisfy the requirements of existing Condition 19, which requires the following:

Before the development commences, 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 Aurecon and received by Council on 18 August 2017, but modified to include (or show):

- (a) *Wind tunnel model measurements undertaken to verify the findings of the desktop study, and amended to include (the use of CFD is not supported in this instance):*
- (i) *Wind conditions outside building entries to satisfy the criterion for short period standing/sitting.*
 - (ii) *Wind conditions in outdoor café/retail seating areas to satisfy the criterion for long period standing/sitting. Details of wind mitigation strategies must be provided and be to the satisfaction of the responsible authority.*

- (iii) *Wind conditions at the Burnley Station entrances and Bicycle parking and on the station platforms to satisfy the short period standing/sitting criterion.*
- (iv) *Wind conditions in all other areas of the surrounding streetscapes to satisfy the walking criterion.*
- (v) *Wind conditions on the private terraces to satisfy the walking criterion.*
- (vi) *Wind conditions in the surrounding streetscapes and private terraces to satisfy the Safety criterion of a gust wind speed 23 ms^{-1} as defined by Melbourne (1978).*
- (vii) *The Existing wind conditions (prior to the demolition of the existing buildings) provided to allow the wind impacts of the proposed development to be assessed.*

268. In respect of the above items, the submitted report does not provide any assessment of Condition 19 (a) (iii), Condition 19 (a) (vi) or Condition 19 (a) (vii). With particular regard to Condition 19 (a) (vii), Council's external Wind Consultant specifically identified that the Existing Configuration wind conditions were not presented and an assessment of the wind impacts of the proposed development on the existing streetscapes therefore could not be made.
269. As a result of the above findings, Condition 19 (a) (iv) and Condition 19 (a) (vi) (as it relates to the surrounding streetscapes) have also not been satisfied. The information to substantiate the claims made has not been provided.
270. Furthermore, the submitted report relies heavily on the development of the neighbouring property to the west to achieve walking criterion for the surrounding streetscapes. This is unacceptable. This land is privately owned land and whilst two approvals have been granted for this site neither approval has yet to seek the endorsement of plans. The applicants wind report also relies on the first approval for the land, and not the more recent one which may impact the wind conditions.
271. There is not sufficient justification to indicate that the development of the neighbouring land will proceed and as such the subject site must demonstrate it can achieve walking criterion under existing conditions.
272. As identified by Council's external Wind Consultant, when assessing the proposal without relying on the neighbouring development to the west there are significant concerns with the development achieving walking criterion for the footpaths and standing criterion for building entrances. In particular, the entrance to the Swan Street facing restricted retail premises would not meet this requirement.
273. The applicant's wind report made recommendations for the entrances to the ground floor restaurant, south facing restricted retail premises and the location of outdoor seating placed within the eastern pedestrian access. These recommendations have been incorporated into the plans and as such, these entrances are considered to satisfy standing criterion.
274. As discussed above, compliance with Condition 19 (a) (i) has not been achieved, as it has not been satisfactorily demonstrated that wind conditions outside all of the building entrances can achieve standing criterion.
275. In respect of compliance with Condition 19 (a) (v) only the rooftop terrace has been assessed and none of the other private terraces. The Section 57A plans also modify the location and design of terraces that would require further analysis. The report submitted by the applicant identified that without landscaping, the rooftop terrace would exceed walking criterion. This is not acceptable. It is clear this condition has also not been met.
276. Furthermore, in respect to wind conditions, Council's external Urban Design consultant recommended the following:
- (a) *Amend plans to achieve the planning condition Cl 19(a) (ii).*

- (b) *Amend plans to achieve the criteria for Full Standing for the interfaces with the bicycle entry.*
- (c) *Provide a plan to achieve a level for standing/sitting for short periods to the external terrace at level 13.*

277. The applicant provided additional information from their wind consultant to address the above concerns raised by Council's external Urban Design Consultant. The following assessment is provided:

- (a) In respect of compliance with Condition 19(a) (ii) the applicant has demonstrated that the location of outdoor seating adjoining the café tenancy in the eastern pedestrian access would satisfy sitting criterion. The applicant's additional wind assessment however, identifies that further wind mitigation measures may be required if outdoor seating is provided adjoining the restaurant. Condition 19(a) (ii) therefore has not been satisfactorily addressed, as the applicants own submission indicates that there may be future issues.
- (b) In respect of achieving standing criterion at the bicycle entrance, the applicants wind consultant relies on the development of the adjoining land to the west to achieve compliance. As discussed, this is not acceptable and this concern remains outstanding with Condition 19 (a) (iii) unsatisfied.
- (c) In respect of achieving standing/sitting criterion for the roof terrace, Condition 19 (a) (v) only requires walking criterion to be achieved, as such whilst standing/sitting criterion would be preferable it is considered walking criterion has already been determined to be acceptable. This condition, however, as previously discussed has not been satisfied.

278. To ensure that the above matters are adequately addressed, with regard to the more recent wind tunnel modelling submitted, and due to the recommended built form modifications, it is recommended that existing Condition 19 be modified to the following:

*Before the development commences, an amended Wind Tunnel Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Wind Tunnel Report will be endorsed and will form part of this permit. The amended Wind Tunnel Report must be generally in accordance with the Wind Assessment Report prepared by **Vipac Engineers and Scientists, dated 23 July 2019**, but modified to include (or show):*

- a. Assess the proposal as referenced and amended pursuant to Condition 1.**
- b. Wind conditions outside building entries to satisfy the criterion for short period standing/sitting.*
- c. Wind conditions in outdoor café/retail seating areas to satisfy the criterion for long period standing/sitting. Details of wind mitigation strategies must be provided and be to the satisfaction of the responsible authority.*
- d. Wind conditions at the Burnley Station entrances and Bicycle parking and on the station platforms to satisfy the short period standing/sitting criterion.*
- e. Wind conditions in all other areas of the surrounding streetscapes to satisfy the walking criterion.*
- f. Wind conditions on the private terraces to satisfy the walking criterion.*
- g. Wind conditions in the surrounding streetscapes and private terraces to satisfy the Safety criterion of a gust wind speed 23 ms⁻¹ as defined by Melbourne (1978).*
- h. The Existing wind conditions (prior to the demolition of the existing buildings) provided to allow the wind impacts of the proposed development to be assessed.*

279. Subject to the retention and modification of existing Condition 19, it is considered that the development can satisfactorily address wind.

Landmarks, Views and Vistas

280. It is policy at clause 15.01-2S of the Scheme that important landmarks, views and vistas be protected or enhanced. The impact on long range views and vistas are only relevant where they form part of an identified character of an area (within planning policy) and typically apply to landscapes or natural features.

281. The proposed development does not compete with any identified landmarks given its location and is considered to be an acceptable response to the local policy direction under clause 22.03-4 of the Scheme.

Site Coverage

282. This aspect has not been modified within the amendment, the site coverage at 100 per cent is maintained and deemed appropriate as the existing level of site coverage in the surrounding (and immediate) area is similar and with regard to the high site coverage of commercial buildings in this precinct.

Landscape Architecture

283. In respect of landscaping, a landscaping plan was submitted by the applicant to satisfy the requirements of existing Condition 13. The applicant also seeks to delete the conditional requirements of existing Condition 13 (b), (g) and (i).

284. An assessment against the requirements of existing Condition 13, and the proposed deleted conditions, is provided below:

<p>(a) show the type, location, quantity, height at maturity and botanical names of all proposed plants. Shade tolerant species are recommended for the ground floor;</p>	<p>A plant species list has been provided, providing the height at maturity and botanical names of all proposed plants.</p> <p>The type and location of proposed plants has been shown.</p> <p>The quantity of plants to be utilised has not been included.</p> <p>This condition has not been satisfied.</p>
<p>(b) show the extent of planters and where the Ronstan X-tend mesh panels are proposed;</p>	<p>The applicant has requested this condition be deleted.</p> <p>Condition 13 (b) makes reference to 'Ronstan X-tend mesh panels' that are no longer proposed and as such this is considered acceptable to be deleted.</p>
<p>(c) further details of the proposed planters – height, materials, depth and type of planting media, irrigation and drainage. NB, the plan notes indicate that trees will be planted in 1500mm depth soil however the planters shown are 600mm depth;</p>	<p>Council's Open Space Unit reviewed the submitted landscaping plan and commented that a detail of the planters themselves should be provided confirming material, filter media, irrigation method, drainage system and water proofing layer.</p> <p>This condition has not been satisfied.</p>
<p>(d) confirm any green façade elements;</p>	<p>The SMP refers to low planter boxes with climbers on vertical tensile wires, climbers to grow to outside cladding, planters on ground floor, level 2 and level 5 and reference to a stainless steel mesh incorporated into the design for maximum success of the vertical garden.</p>

	<p>These elements are not shown within the landscaping plans.</p> <p>This condition has not been satisfied.</p>
(e) show the materiality of the proposed spaces;	<p>The submitted landscaping plan does not reference the materiality of any of the proposed spaces.</p> <p>The condition has not been satisfied.</p>
(f) detail the design (including the provision of sections) and layout of the common area, planters and ground level planting areas;	<p>The layout of the common areas and specific details of planters and ground level planting areas (including sections) has not been provided.</p> <p>This condition has not been satisfied.</p>
(g) provide a specification of works to be undertaken prior to planting;	<p>The applicant has requested this condition be deleted. The applicant has requested this as they believe providing this level of detail at this stage of the application process is not required.</p> <p>The landscaping plan is required prior to the commencement of development. This is considered typical and also necessary to ensure that the proposed landscaping is viable.</p> <p>It is considered that this condition should remain and would be required to be satisfied.</p>
(h) further detail on any sustainable treatments and water harvesting methods ;and	<p>No detail on any sustainable treatments and water harvesting methods have been included.</p> <p>This condition has not been satisfied.</p>
(i) detail plant/planting maintenance schedules and requirements.	<p>The applicant has requested this condition be deleted. The applicant has requested this as they believe providing this level of detail at this stage of the application process is not required.</p> <p>The landscaping plan is required prior to the commencement of development. This is considered typical and also necessary to ensure that the proposed landscaping is viable.</p> <p>Council's Open Space Unit commented that Information on the ongoing maintenance of the raised beds is required.</p> <p>It is considered that this condition should remain and would be required to be satisfied.</p>

285. As a result of the above assessment, it is considered that existing Condition 13 should be replaced with the following Condition:

*Before the development commences, a Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Landscape Plan will be endorsed and will form part of this permit. **The amended Landscape Plan must be generally in accordance with the Landscape Plans prepared by Tract and dated 4.11.2019, but modified to include (or show):***

(a) *show the type, location, quantity, height at maturity and botanical names of all proposed plants. Shade tolerant species are recommended for the ground floor;*

(b) Deleted.

(c) *further details of the proposed planters – height, materials, depth and type of planting media, irrigation and drainage. NB, the plan notes indicate that trees will be planted in 1500mm depth soil however the planters shown are 600mm depth;*

(d) *confirm any green façade elements;*

(e) *show the materiality of the proposed spaces;*

(f) *detail the design (including the provision of sections) and layout of the common area, planters and ground level planting areas;*

(g) *provide a specification of works to be undertaken prior to planting;*

(h) *further detail on any sustainable treatments and water harvesting methods ;and*

(i) *detail plant/planting maintenance schedules and requirements.*

to the satisfaction of the Responsible Authority.

286. Subject to conditions, it is considered the proposed landscaping would be satisfactory.

287. In respect of street trees, a Tree Management Plan (TMP) was submitted by the applicant to satisfy the requirements of Condition 17. Council's Streetscapes and Natural Values Unit reviewed the submitted TMP and provided the following comments:

The report states that further investigation is required to ensure the proposal does not affect the tree.

If the investigation identifies structural roots that must be retained the proposal will need to be amended to reduce the below ground impact on the tree, ensuring its viability post development.

The applicant needs to produce further evidence to show that the current proposal will not affect the tree or we need to condition that the works cannot start until this evidence has been documented by a suitably qualified arborist. On receipt of the documentation, we will be able to either approve the existing proposal or request amendments be made to protect the neighbouring tree.

288. The applicant has reviewed the above information and agreed that in light of this information, the matter will be addressed at a later date.

289. With regard to the above, existing Condition 17 has not been satisfied and a revised TMP is required to address the above points. Existing Condition 17 should therefore remain on any amended planning permit.

Environmentally Sustainable Development (ESD)

290. In respect of ESD, an updated Sustainable Management Plan (SMP) was submitted by the applicant to satisfy the requirements of existing Condition 6. The applicant also seeks to modify the conditional requirements of existing Condition 6 and 6 (a) and delete existing Condition 6 (h).

291. In respect of the modifications requested to existing Condition 6, this is considered acceptable as a new SMP by a different company has been submitted to accompany the amended design.

The condition should therefore be updated to reference the most recent report, prepared by WSP and dated 18 June 2019.

292. Council's ESD Advisor reviewed the amended development and SMP against the conditional requirements of existing Condition 6, providing the following assessment:

(a) Tinted glass to have a minimum VLT of 40% to balance daylight and thermal loading

This condition has been addressed in the updated SMP and the plans also note the minimum threshold.

(b) Re-worded to avoid ambiguous language such as "preference" and "aiming to include"

This condition has been addressed in the updated SMP.

(c) The type of hot water system which will be used and its standard of energy efficiency

No reference to the type of hot water system in the SMP. Please update to include the type of system (i.e. heat pump) as well as corresponding energy efficiency standard.

(d) Confirm the solar photovoltaic system size and location on all roof plans and include some system overview in the SMP with the solar photovoltaic array to contribute to onsite electricity consumption

Size of system mentioned in SMP. Town planning documentation needs to be updated to include the system size.

(e) The approximate location and size of rainwater tank

There is inconsistency between the SMP and the town planning drawings in terms of overall provision of rainwater tanks – the town planning drawings note 2 x 50KL tank.

(f) Green façade elements confirmed

Green façade elements not incorporated in the design, however only arch plans have been reviewed.

(g) Water efficient landscaping provided by rainwater

Landscaping to be irrigated by the 20KL rainwater tank. No specification of drought tolerant species.

(h) An on-site energy storage system

No on-site energy storage system specified. Further information required.

293. In respect of existing Condition 6(a), the development meets the conditional requirement as specified within the permit as determined by Council's ESD Advisor and therefore it is considered that this condition is satisfied and no modification to the condition as requested is necessary.

294. Existing Condition 6 (b) has been satisfied. In respect of existing Condition 6 (c), this condition has not been satisfied and should remain, whilst the applicant provided additional information stating that the hot water plant is a 'demand duo solar pre-heat,' this level of information is not provided within the document and is required to be included.

295. In respect of existing Condition 6 (d), the applicant advised that the plans submitted via Section 57A were updated to include the size of the solar photovoltaic array, however, a review of the plans shows the location is shown with a note indicating 'PV Panels to Service Engineers DWG'. This does not satisfy the requirement which would require the plans to be updated to include the size as being a 40kW array.

296. As such, it is considered that existing Condition 6 (d) itself is satisfied, however the requirements of existing Condition 1 (x), which requires the requirements of the endorsed SMP to be shown on the plans, are not. Existing Condition 1 (x) should therefore be retained on any amended permit issued to ensure this detail is shown on the plans.
297. In assessing existing Condition 6(e), Council's ESD Advisor identified that there was an inconsistency between the SMP and the town planning drawings in terms of the overall provision of rainwater tanks. The applicant advised that the plans submitted via Section 57A were updated to accord with the SMP. A review of the plans confirms this, the SMP refers to two water tanks, one 50kL rainwater tank and a second 20kL rainwater tank.
298. The Basement 1 plan shows these two tanks, however the SMP only shows the location of the 50kL tank and not the second smaller tank. As per existing Condition 1(e) the location of the rainwater tanks are to be shown within the SMP and therefore this condition should remain, with the SMP updated to show the location of the 20kL tank.
299. In respect of existing Condition 6(f), the SMP refers to low planter boxes with climbers on vertical tensile wires, climbers to grow to outside cladding, planters on ground floor, level 2 and level 5 and reference to a stainless steel mesh incorporated into the design for maximum success of the vertical garden. Reference is also made to significant planters on 'break-out terraces' to support trees.
300. The landscaping plan makes no reference to climbers on vertical tensile wires and climbers on outside cladding. Whilst planters are provided on the ground floor and Level 2, there is no landscaping plan provided for Level 5 as indicated within the SMP. There is also no reference within the landscaping plans to stainless steel mesh to support a vertical garden. This condition is clearly not satisfied, with the SMP required to be updated to correlate with the landscaping plan. Furthermore, the SMP should identify drought tolerant species are to be utilised to satisfy existing Condition 6(g).
301. In respect of existing Condition 6(h) this has not been included by the applicant within the revised SMP as they seek to delete this requirement. This is sought for deletion as the applicant understands given the proposed 40kW photovoltaic array and energy requirements of the building, there would be limited excess generation to warrant an on-site energy storage system. This requirement was identified as an ESD improvement opportunity within the original assessment, and not a requirement. As such, it is considered that the proposed ESD response achieving a green star rating of 5 stars, without the provision of an on-site storage system, is acceptable, and the condition should be deleted.
302. As a result of the above assessment, it is considered that existing Condition 6 should be replaced with the following Condition:

*Before the development commences, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Management Plan will be endorsed and will form part of this permit. The amended Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by **WSP (prepared on 18 June 2019)**, but modified to include or show:*

- (a) The type of hot water system which will be used and its standard of energy efficiency*
- (b) Confirm the solar photovoltaic system size and location on all roof plans and include some system overview in the SMP with the solar photovoltaic array to contribute to onsite electricity consumption*
- (c) The approximate location and size of rainwater tank*
- (d) Green façade elements confirmed*
- (e) Water efficient landscaping provided by rainwater*

303. It is considered that the proposal will achieve a high level of environmentally sustainable design and greater internal amenity for future occupants. This satisfies a number of clauses including 15.02-1, 18.02-1, 21.06 and 21.07.

Off-site amenity including City Link Exhaust Stacks

304. The decision guidelines at Clause 22.05-6 specify that Council should consider (as appropriate);
- (a) *The extent to which the proposed buildings or uses may cause overlooking, overshadowing, noise, fumes and air emissions, light spillage, waste management and other operational disturbances that may cause unreasonable detriment to the residential amenity of nearby residential properties.*
305. Furthermore, a key objective of the DDO17 is to *minimise the amenity impacts on residential properties adjoining the Swan Street Activity Centre including overlooking, overshadowing and visual bulk impacts.*
306. The appropriateness of amenity impacts need to be considered within their strategic context, with the site located on land zoned C2Z. As the site surrounds description identifies, the closest residential properties are located 20 metres to the north-west across Swan Street (429-437 Swan Street), where dwellings are located within a C1Z. Further north of this, dwellings are located within the General Residential Zone in excess of 50 metres from the site.
307. To the south dwellings are located within the General and Neighbourhood residential Zones, across the railway line and along Madden Grove. These properties are 65 metres from the subject site.
308. The properties to the east are zoned C2Z in which residential use is prohibited. To the west, the site is zoned C1Z with two existing approvals, one for a mixed-use scheme containing dwellings (PLN15/0057), with the other scheme containing commercial uses only (Amendment C282 yara).

Equitable Development

309. To ensure the 'fair, orderly, economic and sustainable development of land' in accordance with the objective of the Act, matters of equitable development should be considered.
310. The amendment proposes to reduce setbacks to both the east and west. In this instance, only the eastern and western interfaces are considered relevant as there are no directly adjoining properties to the north and south.
311. To the west, the proposal maintains a four storey wall built to the boundary. Whilst the amendment incorporates a lightcourt along this boundary from Level 2 and above, it is concealed behind a boundary wall and would therefore not rely on the adjoining property for daylight. Above the on-boundary wall, a minimum setback of 4.5 metres is provided to the western boundary.
312. To the east, the minimum separation distance of 4.5 metres provided at the upper levels to the east is considered to provide an adequate separation distance.
313. The proposed minimum upper level setbacks of 4.5 metres are in excess of the requirements of the current DDO17 and proposed DDO28 (sought pursuant to Amendment C191) that apply to the site and the broader Swan Street MAC. The provision seeks a minimum 3.0 metre setback from common boundaries where a commercial or non-habitable room window is proposed.

314. Furthermore, the current DDO17 and proposed DDO28 seeks development of properties in the locations shown as “Upper Level Building Breaks” on Plan 7 must incorporate side setbacks greater than the standards in Clause 2 to enable clear views to the sky between buildings along Swan Street when viewed from the opposite side of Swan Street, and along Cutter Street and Bendigo Street.
315. The site is encumbered by an “Upper Level Building Break” location along the western boundary. Exceeding the minimum 3 metre setback requirement as identified above, and within Clause 2 of the DDO17, by 1.5 metres is considered to meet this requirement.

Noise

316. Given the separation between the subject site and sensitive land uses are 20 metres at a minimum from the site, the proposal is unlikely to result in unacceptable noise emissions given that the building would be used for offices with a ground floor retail and food and drinks premises.
317. The applicant submitted an acoustic report to address noise impacts to and from the development. The acoustic report provided by the application was peer reviewed by Council’s Acoustic Consultant who identified the report generally addresses the acoustic issues related to the proposal.
318. Council’s Acoustic Consultant identified that the report recommended further acoustic reviews of noise from the mechanical plant, the loading dock activity and patron and music noise associated with the retail and food and drinks premises.
319. Existing Condition 11 requires a post-occupational acoustic report to be submitted to confirm that the recommendations of the endorsed report are implemented and to assess the mechanical plant noise to SEPP N-1. It is recommended this condition be updated to ensure noise from the loading dock is also assessed at this time. This will ensure the post-occupational report is consistent with the recommendations of the acoustic report submitted with the amendment.
320. The comments made in regards to the proposed food and drinks premises have previously been discussed within this report.
321. Whilst concern was raised with potential for voice noise from the Level 4 terrace and potential impact on the proposed residential scheme to the west, the office use does not require a planning permit and therefore the hours of operation for the terraces cannot be controlled. Existing condition 61 requires the use and development to comply at all times with SEPP N-1 and this is considered to adequately cover noise from the office terraces.
322. Lastly, Council’s external Acoustic Consultant identified the following:
- The report includes indoor targets for patron noise. SLR would prefer these to be removed from the report because they are not relevant to the application and are 5 dB higher than we have accepted on projects where they do apply in bedrooms at night. However, the indoor targets have not actually been used in the assessment, so their removal is more about avoiding setting precedence rather than about this application in particular.*
323. As a result of the above recommendation, it is considered that a new condition should be implemented requiring the acoustic report to be updated, as follows:

Before the development commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Clarity Acoustics and dated 26 June 2019, but modified to include (or show, or address):

(a) **Deletion of the indoor targets for patron noise.**

324. Furthermore, existing Condition 11 should be updated to reference this updated report as it currently references the previous report submitted with the initial application. The references to conditions within the condition also will be required to be updated, due to the subsequent renumbering of conditions as a result of the additional conditions implemented as discussed.

Visual bulk and overlooking

325. In relation to overlooking, it is an accepted principle that overlooking only occurs between habitable rooms (i.e. bedrooms and living rooms) and private open spaces within a 9 metre radius. The proposed building will not be within 9 metres of any existing residences.
326. The proposed development is for an office with additional commercial uses on the ground floor and therefore is not subject to the same requirements as would be afforded to other built form typologies, such as an apartment building.
327. Regardless, when assessed against the neighbouring development approval for dwellings to the west (PLN15/0057) the combined separation distance of 9 metres between the upper levels of the developments is considered to address any overlooking concerns. Whilst it is acknowledged that at Level 03 of the development to the west terraces are incorporated within the setback area to the boundary, it is considered that the amendments proposed would not drastically alter the approved outcome in terms of overlooking.
328. In respect of visual bulk impacts, it is considered that the separation provided by Swan Street to the north and the train lines to the south would adequately mitigate visual bulk impacts to the more sensitive residential interfaces. There are no sensitive interfaces to the east, in respect of the proposed residential development to the west, the following assessment from the original Officer Report continues to be applicable:

The proposal includes a terrace at this floor which directly abuts these areas. These terraces all have a 1.2m high planter which combined with the terrace widths provides a visual buffer both in terms of height and width. This results in future occupants of those terraces not being able to stand right up to the podium edge and are setback at least 1.6m from the shared boundary. Additionally, this would not be drastically different for those future occupants to what is already occurring within their own development where several terraces are located adjacent to each other along this eastern side.

Fumes and air emissions, light spillage

329. The majority of the office, restricted retail and food and drinks premises uses are enclosed with the uses conducted indoors (with the exception of the outdoor terraces for office and the adjoining ground floor pedestrian access path). The uses proposed, albeit modified on the ground and first floors, are largely consistent with the previous approval.
330. The proposed uses are not considered to result in unreasonable air emissions, with light spill from the upper level offices limited due to the nature of the use that is anticipated to operate primarily during the day. There would be no fumes associated with the proposed uses. The following from the original Officer Report is considered to continue to apply:

Light spill will also be limited due to the use primarily operating during the day. Again, this is another area where residents must temper their expectations when they face a zone where these types of uses are encouraged. Whilst the proposed food and drinks premises will also operate at night, these are separated from the residential areas by built form, significant distances, and for those to the south –by the train line.

Overshadowing

331. As previously determined, no existing private open spaces in the surrounds will experience increased overshadowing as a result of the proposal. The shadowing to the terraces proposed to the west would not increase as a result of the proposal and therefore continues to be acceptable.

City Link Exhaust Stacks

332. The Design and Development Overlay Schedule 5, City Link Exhaust Stack Environs (DDO5) requires that notice of a development be given to the EPA, Transurban City Link Limited and the Roads Corporation (Transport for Victoria). The design objectives of DDO5 are as follows:
- (a) *To ensure that the development of land around the City Link exhaust stack is not adversely affected by the operation of the stack.*
 - (b) *To ensure that development of land around the City Link exhaust stack does not adversely affect the operation of the stack.*
 - (c) *To ensure that the relevant authorities are informed of development within close proximity of the City Link exhaust stack and to facilitate comment by those authorities on any specific requirements relating to the design and built form of new development in the area which might be desirable having regard to the proximity of the stack.*
333. The EPA reviewed the proposal and advised that they had no issue with the proposed development. The advice of the EPA is considered adequate to consider that the City Link Exhaust Stacks will not adversely impact the proposed development, meeting the relevant purpose of the DDO5.
334. Transurban City Link and the Road Corporation (Transport for Victoria) were notified of the proposal, neither of which raised concern about impacts of the proposed development on the exhaust stacks with Transurban City Link deferring to the advice of the EPA. Accordingly, the objectives of the DDO5 are considered to be met.

Car parking, traffic, loading, access and bicycle provision

Parking Demand and Parking Availability

335. The amendment, not including the car share spaces and taking into consideration the revised car parking requirements for areas noted within the Principal Public Transport Network (PPTN) Area in accordance with Amendment VC148 (gazetted 31 July 2018), has resulted in a total car parking reduction of 423 spaces. The current permit approved a total car parking space reduction of 503 spaces (not including the car share).
336. Whilst the amendment represents an increased reduction associated with the restricted retail premises specifically, of 8 spaces, it is considered that this shortfall would be absorbed into the surrounding area. The amended design results in a total car parking reduction 80 spaces less than the current approval. The current approval considered the impact of this additional 80 space car parking reduction on the surrounding area, concluding there would be no adverse impact.
337. Council's Engineering Unit reviewed the revised proposal, car parking reductions and allocations raising no issues.

Traffic and Alteration of Access to a Road Zone, Category 1

338. The following traffic generation for the site was adopted by the Applicant’s Traffic Engineers and reviewed by Council Engineers.

Proposed Use	Adopted Traffic Generation Rate	Peak Hour	
		AM	PM
Commercial (Office, Retail, Food and Drinks)	0.5 trips per parking space per peak hour (108 on-site staff spaces)	54	54

Access and layout

339. The proposal would have the following traffic directional split:

- (a) AM Peak – 10% outbound (5 trips), 90% inbound (49 trips); and
- (b) PM Peak – 90% outbound (49 trips), 10% inbound (5 trips).

340. Council’s Engineering Unit commented that the amended proposal retains the left-in left-out access arrangement as per the current approval and that the peak hour generation volumes are lower than what was originally contemplated for the approved design. As such, Council’s Engineering Unit raised no objection with the expected traffic volume generated by the amended proposal.

341. Transport for Victoria (Roads Corporation) are a referral authority due to the alteration of access from a Road Zone, Category 1 (Clause 52.29). The location of the crossover is proposed to be amended within the proposal.

342. The Roads Corporation reviewed the proposal, advising that they did not object to the proposed subject to existing Condition 43 updated to the following:

Before the development commences (excluding demolition), or other time agreed to in writing with Head, Transport for Victoria, amended plans are to be submitted to the Head, Transport for Victoria (TfV) and once approved, can be endorsed by the Responsible Authority, upon which the plans will form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. These plans must be generally in accordance with the plans submitted to TfV with the application but are to be modified to show:

- (a) **the installation of signs, line marking, splitter island and associated road works permitting only “left turn in” and “left turn out” vehicular access from Swan Street.**
- (b) **Modification as required and/or removal of any existing car parking spaces, street tree/s and associated road works on the south side of Swan Street to accommodate the new vehicular access arrangement.**

343. The existing VicRoads note was also requested to be updated to the following:

Separate consent may be required from Head, Transport for Victoria (the Department of Transport) under the Road Management Act 2004 for buildings and works (i.e. canopies and architectural features/ projections) undertaken outside the title boundary within a Road Zone Category 1 (i.e. Swan Street). Please contact VicRoads prior to commencing any works.

344. The abovementioned condition and note are to be included on the permit, pursuant with the requirements of the Act.

Access and layout

345. Clause 52.06-9 (Design standards for car parking) of the Scheme relates to the design of car parking areas and contains 7 standards and requirements relating to access way, car parking spaces, gradients, mechanical parking, urban design, safety and landscaping.
346. These details, along with the amended proposed ramp designs have been reviewed by Council's Engineering Unit who is satisfied with the layout of the car parking area, with the exception of the response provided in relation to existing Condition 1 (p). As previously discussed, this item is outstanding.
347. Overall, the proposed design and configuration of access and car parking areas as amended are considered to achieve a satisfactory outcome, subject to the above mentioned condition.

Car share

348. The applicant seeks to amend existing Condition 28 to provide 2 car share spaces, in lieu of 6, and to modify the timeframe for the maintenance of the car share spaces on-site to 2 years, in lieu of 10.
349. In respect of the modification to reduce the number of cars available for the car share to 2, this is considered satisfactory given the location of the site in proximity to an abundance of public transport options as well as the significant sustainable transport offer provided on site.
350. In respect of modifying the timeframe for the maintenance of the car share spaces to 2 years, the applicant advised that the 10 year agreement is excessive and a letter provided by Flexicar identified that a 2 year agreement is a standard commercial agreement. The relevant advice provided by Flexicar is provided below:

A standard commercial agreement of this scope would involve an Initial Term of 24 months with ongoing 12-month extensions until either party provides written notice to terminate the agreement. The length of these terms can of course be amended to the specific requirements of the project.

351. With regard to the above, it is considered that insufficient justification to reduce the timeframe for the maintenance of the car share spaces has been provided. It is clear that the car share can be maintained for longer than 2 years. Furthermore, the wording of the relevant condition does not require the applicant to enter into a ten year agreement, but rather requires the applicant to have an arrangement with a car share operator/and or the future Owners Corporation for a minimum period of 10 years.
352. So long as an agreement with any car share operator over the 10 year period is maintained, the applicant would meet the requirements. This is not considered onerous, with particular regard to the SMP that includes the provision of 2 share cars as a sustainable transport commitment.
353. It is therefore considered that existing Condition 28 be updated to reference the reduction of car share vehicles, to 2. Furthermore, existing Condition 51 (e) would also be required to be updated to reference the reduction in car share spaces from 6 to 2. Whilst this was not applied for by the applicant, given the balance of the documentation submitted for assessment, this is considered a logical amendment to ensure consistency.

Loading and unloading

354. Council's Engineering Unit reviewed the revised loading/unloading arrangements, commenting that the loading dock has a width of 7.51 metres and a depth of 9 metres and is considered satisfactory.
355. Existing condition 55 requires that the loading and unloading of vehicles and the delivery of goods to and from the land must be conducted entirely within the land to the satisfaction of the Responsible Authority. This will ensure that all loading activities

Bicycle parking and facilities

356. The amended proposal significantly modifies the location and provision of bicycle parking and end of trip facilities.
357. The amended proposal provides a total of 176 bicycle parking spaces on-site for employees, with end-of-trip facilities provided at the basement 1 level. The number of bicycle spaces for employees exceeds the statutory rate outlined in Clause 52.34 (which requires 57 employee spaces) and exceeds the rate outlined in Category 6 of the Built Environment Sustainability Scorecard (BESS).
358. The Strategic Transport Unit commended the design and location of the employee spaces and facilities. Concern was raised with the brand-specific designation of the proposed storage devices with a recommendation made for the notations to be updated to specifically reference the devices chosen or for the Green Travel Plan to be amended to indicate the devices chosen.
359. The plans amended via Section 57A update the notations to specifically reference the devices chosen and this concern therefore is considered to be satisfied, however, the following notation is included on the basement 1 plan '*refer traffic report for bike rack details.*' As the traffic report will not form part of the endorsed documents, it is considered that the Green Travel Plan should be updated to include the bike rack details.
360. Twenty-five of the bicycle racks are provided horizontal at-grade. This would not satisfy the requirements of AS23890.3, where at least 20% of the employee spaces are to be provided horizontal at-grade. As previously identified, existing Condition 1 (v) has not been satisfied as a result and will remain, the plans will be required to be amended to comply.
361. In respect of visitor parking, Council's Strategic Transport Unit reviewed the advertised plans commenting that a number of the 40 visitor spaces provided (28 on-site, 12 off-site) were not acceptable in their current form.
362. Specifically, the three on-street bicycle hoops located in front of No. 506 Swan Street were not supported. These has subsequently been removed via the Section 57A amendment, and the proposal now provides 28 spaces on-site and 8 spaces off-site, along the site's own Swan Street frontage. Council's Strategic Transport Unit anticipated a reduction of bicycle parking as a result of the issue identified above, commented that a minimum 36 spaces should be provided to meet the rate outlined in Category 6 of the BESS. The minimum 36 spaces is maintained within the proposal.
363. Due to the inclusion of four bicycle hoops on the Swan Street frontage that were not previously proposed, an additional condition should be included requiring the bicycle racks to be installed on Swan Street at the permit holders cost and in a location and manner to the satisfaction of the responsible authority.
364. In respect of the bicycle parking layout, Council's Strategic Transport Unit made the following comments:

- (a) *All bike spaces on the Swan Street footpath must be provided parallel to the kerb and laid out as per the attached Bike Hoop Placement Details document. As far as possible hoops must also be located at least 1.5m from other objects on the footpath to allow efficient street-cleaning.*
- (b) *It is recommended that half the bike hoops adjacent the southern title boundary (shown below) are rotated 90 degrees to facilitate easier access from Burnley Station and the pedestrian link. The remaining half will remain easily accessible to people coming from the east.*



- 365. In respect of the first item, the Section 57A plans amended the on-street bicycle hoops so that they are now located parallel to the curb. A notation has been included indicating that the hoops will be provided to City of Yarra Standard Details and Public Domain manual. This is therefore considered to be satisfactory.
- 366. In respect of the second item, the Section 57A plans amended the preferred hoop angles to accord with the requirements outlined above.
- 367. The proposed layout of the visitor bicycle spaces is therefore considered satisfactory as shown on the decision plans for the amendment.

Electric vehicles

- 368. The amended design seeks to reduce the provision of electric vehicle charging stations from 12 to 6, with two of these being associated with the car share vehicles.
- 369. Council's Strategic Transport Unit raised concern with the ability for the car share provider to provide electric vehicles, however, the applicant has confirmed with Flexicar (the car share provider) that this is achievable. This concern is therefore considered to be addressed.
- 370. Council's Strategic Transport Unit also recommended car parking areas to be electrically wired to be 'EV ready.' Due to the reduction in EV charging stations from 12 to 6 this is considered reasonable and should form a condition.

Green Travel Plan

- 371. The applicant also supplied a Green Travel Plan (GTP) to satisfy the requirements of existing Condition 56. The GTP is generally adequate but as identified above, the GTP will be required to be updated to include the bike rack details.
- 372. Section 4.1 and Appendix A will also be required to be updated, as further horizontal at-grade employee spaces will be required to satisfy existing Condition 1 (p).
- 373. As a result of the above assessment, it is considered that existing Condition 56 should be replaced with the following Condition:

*Before the development commences, 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 be generally in accordance with the Green Travel Plan prepared by Ratio Consultants (dated 21 November 2019) but modified to include or show:***

- (a) **The bike rack details;**
- (b) **Section 4.1 and Appendix A updated to accord with the development as amended pursuant to Condition 1**

Waste Management

- 374. Following a review of the WMP (authored by Ratio Consultants and dated 25 Nov 2019), Council's City Works Unit advised that the document was satisfactory. As such, it is considered that should a permit issue, this WMP be endorsed and form the endorsed WMP in accordance with Condition 8 of the existing planning permit.
- 375. The proposal provides for an 80sqm waste storage room for all uses within Basement 1, adjoining the loading bay area. The collection of waste will be by private collection and from within the title boundaries (the private contractor will undertake waste collection within Basement 1) will assist in ensuring all commercial activities are contained within the boundaries of the site to ensure that unreasonable impacts to the residential properties in the surrounds is limited.
- 376. Condition 9 of the existing planning permit will ensure that the collection of waste be by private collection, unless without the prior written consent of the Responsible Authority.

Other Matters

- 377. The current planning permit includes errors within the permit condition numbering due to a formatting error. The amendment will also seek to correct this error, to ensure the logical numbering of permit conditions.
- 378. Due to the inclusion of several new conditions, the renumbering of permit conditions will be required to be altered accordingly. Where references to conditions have been made in this report, they are referencing the existing conditions of the existing planning permit. A copy of the existing planning permit is included for reference.

Objector concerns

- 379. The majority of the issues which have been raised by the objectors have been addressed within this report.
 - (a) *Neighbourhood character*

This is discussed within paragraphs 157 to 161 and paragraphs 195 to 199.
 - (b) *Height/Massing;*

This is discussed within paragraphs 200 to 234.
 - (c) *Visual bulk/Overshadowing;*

This is discussed within paragraphs 325 to 328 and paragraph 331.
 - (d) *Impact on existing infrastructure;*

It is not considered that the proposed amendments would increase the demand on the existing infrastructure.

- (e) *Car parking/traffic implications; and*

This is discussed within paragraphs 335 to 347.

- (f) *Impacts to VicTrack land.*

This is discussed within paragraphs 223 to 228 and paragraphs 255 to 260.

Conclusion

380. The amended proposal, subject to the conditions recommended, is an acceptable planning outcome that demonstrates compliance with the relevant Council policies.

RECOMMENDATION

That a Notice of Decision to Grant an Amended Planning Permit for amendment to Planning Permit PLN17/0448 be issued to allow for changes to the permit preamble, deletion/amendment of conditions, reconfiguration of building uses (including increased hours and patron numbers for cafe and restaurant - permit required uses), internal reconfigurations, changes to the car parking provision/allocation, built form changes (including a reduction in setbacks, an increase in overall height, addition of a storey to a total of 14 storeys plus rooftop plant and changes to the design) and alteration of access to a road zone, category 1 at 484 – 486 Swan Street, Richmond, generally in accordance with the plans and reports noted previously as the “decision plans”, subject to the following change to the permit preamble and permit conditions (amended/new conditions shown in **bold**).

Preamble (amended)

*Use and development of the land for the construction of a mixed use building (permit required for food and drinks premises (café **and restaurant**)), reduction in car parking requirements, and alteration of access and building and works to a Road Zone Category 1.*

Conditions (amended or new conditions in bold)

1. **Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the decision plans by Techne Architects received by Council on 15 June 2020 but modified to show:**
 - (a) **The outline of the previous endorsed envelope deleted from elevations/sections.**
 - (b) **The notation ‘co-working’ included on the Level 1 Floor Plan modified to ‘office.’**
 - (c) **The outline of the 64sqm Tenancy 3 (café) clearly shown on the ground floor plan.**
 - (d) **A roof plan showing all plant and equipment with screening provided ensuring views from Swan Street and Burnley Station are obscured with the notation ‘roof plant arrangement and heights tbc’ deleted from the west elevation;**
 - (e) **Details regarding the treatment of the services to the east of the pedestrian link;**

- (f) details of the vehicular entry door;**
- (g) details of the ground floor setback area facing Swan Street and confirmation that it is compliant with the *Disability Discrimination Act 1992 (DDA)*;**
- (h) Dimensions of the column depths and setbacks, demonstrating the columns do not encroach into the clearance envelopes of the car parking spaces;**
- (i) Confirmation whether bicycle spaces are horizontal or hanging spaces (with at least 20 percent of employee and all visitor bicycle spaces being horizontal ground level spaces);**
- (j) the location of the additional signal lantern facing the proposed site egress;**
- (k) A 7m building setback to the western elevation, for a length of 20m from the Swan Street interface for a landscaped terrace at level 11 and at levels 12 and 13;**
- (l) A 7m building setback to the eastern elevation, for length of 20m from the Swan Street interface for a landscaped terrace at level 11 and at levels 12 and 13;**
- (m) An additional setback of 2.4 metres from the southern boundary at Level 8;**
- (n) The south-facing indented facade in the south-west corner of Levels 11-13 to include vertical blades at the mullions (as per the southern half of the western façade at these levels);**
- (o) A materials schedule of external materials and finishes including:**
 - (i) thumb nail sketches of key elements of the facade system at the ground, middle and upper levels including details of the proposed metal cladding; and**
 - (ii) details of the materials and finishes of the podium, tower and roof level soffits.**
- (p) An additional entrance provided to Tenancy 5 from the southern extended pedestrian footpath;**
- (q) The columns located along the southern boundary at the ground floor removed within the eastern two thirds;**
- (a) A notation indicating that the car parking area will be electrically wired to be 'EV ready.'**
- (r) any requirement of the endorsed Sustainable Management Plan (condition 8) (where relevant to show on plans);**
- (s) any requirement of the endorsed Waste Management Plan (condition 10) (where relevant to show on plans);**
- (t) any requirement of the endorsed Acoustic Report (condition 12) (where relevant to show on plans);**
- (u) any requirement of the endorsed Landscape Plan report (condition 16) (where relevant to show on plans);**
- (v) any requirement of the endorsed Wind Report (condition 22) (where relevant to show on plans); and**

(w) any requirement of the endorsed Detailed Design Plan (Through-link between Swan Street and land to the south) (condition 24) (where relevant to show on plans).

2. The use and development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies a permit is not required) without the prior written consent of the Responsible Authority.
3. As part of the ongoing consultant team, Techne Architecture or an architectural firm to the satisfaction of the Responsible Authority must be engaged to:
 - (a) oversee the design and construction of the development; and
 - (b) ensure the design quality and appearance of the development is realised as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.

Food and Drinks Premises (café and restaurant)

4. **Except with the prior written consent of the Responsible Authority, the café and restaurant uses authorised by this permit may only operate between the hours of 7am and 1am, seven days per week.**
5. **No amplified music may be played, with the exception of background music, to the satisfaction of the Responsible Authority.**
6. **Speakers external to the building must not be erected or used.**
7. **Except with the prior written consent of the Responsible Authority, no more than the following maximum number of patrons are permitted on the land at any one time:**
 - (a) **Tenancy 2 – 180**
 - (b) **Tenancy 3 – 32**

Sustainable Management Plan

8. **Before the development commences, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Management Plan will be endorsed and will form part of this permit. The amended Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by WSP (prepared on 18 June 2019), but modified to include or show:**
 - (a) **The type of hot water system which will be used and its standard of energy efficiency**
 - (b) **Confirm the solar photovoltaic system size and location on all roof plans and include some system overview in the SMP with the solar photovoltaic array to contribute to onsite electricity consumption**
 - (c) **The approximate location and size of rainwater tank**
 - (d) **Green façade elements confirmed**
 - (e) **Water efficient landscaping provided by rainwater**

9. 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

10. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
11. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.

Acoustic report

12. **Before the development commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Clarity Acoustics and dated 26 June 2019, but modified to include (or show, or address):**
- (a) **Deletion of the indoor targets for patron noise.**
13. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
14. **Within 3 months of the occupation of the building, updated post-occupation Acoustic Report to the satisfaction of the Responsible Authority must be prepared by a suitably qualified acoustic engineer and must be generally in accordance with the Clarity Acoustics Report dated 26 June 2019. The report must be submitted to and approved by the Responsible Authority. When approved, the updated post-commencement Acoustic Report will be endorsed and will form part of this permit. The Acoustic Report must (assess) address the following:**
- (a) **Confirm that the recommendations of the endorsed acoustic report required as part of Condition 12 have been implemented;**
- (b) **Assess mechanical plant noise and loading dock activity to SEPP N-1; and**
- (c) **If non-compliance with Condition 14b is measured, additional acoustic measures as recommended by the amended post-occupation acoustic report are to be implemented within one month of the date of the amended acoustic report.**
15. The provisions, recommendations and requirements of the endorsed post-occupation Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.

Landscape Plan

16. **Before the development commences, a Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Landscape Plan will be endorsed and will form part of this permit.**

The amended Landscape Plan must be generally in accordance with the Landscape Plans prepared by Tract and dated 4.11.2019, but modified to include (or show):

- (a) show the type, location, quantity, height at maturity and botanical names of all proposed plants. Shade tolerant species are recommended for the ground floor;**
 - (b) -Deleted-**
 - (c) further details of the proposed planters – height, materials, depth and type of planting media, irrigation and drainage. NB, the plan notes indicate that trees will be planted in 1500mm depth soil however the planters shown are 600mm depth;**
 - (d) confirm any green façade elements;**
 - (e) show the materiality of the proposed spaces;**
 - (f) detail the design (including the provision of sections) and layout of the common area, planters and ground level planting areas;**
 - (g) provide a specification of works to be undertaken prior to planting;**
 - (h) further detail on any sustainable treatments and water harvesting methods ;and**
 - (i) detail plant/planting maintenance schedules and requirements.**
- to the satisfaction of the Responsible Authority.**

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

Street Tree

18. Before the development commences, the permit holder must provide a security bond of \$20,000 for each of the two street trees (total of \$40,000) to the Responsible Authority. The security bond:
- (a) must be provided in a manner, and on terms, to the satisfaction of the Responsible Authority;
 - (b) may be held by the Responsible Authority until the works are completed to the satisfaction of the Responsible Authority; and
 - (c) in accordance with the requirements of this permit; or
 - (d) otherwise to the satisfaction of the Responsible Authority.

Significant Tree

19. Before the development commences, the permit holder must make a one off 'loss of amenity' contribution \$26,349.00 (calculated using the City of Melbourne amenity value calculator for trees) to the Responsible Authority to be used for the replacement and maintenance of trees within the immediate locale to Council's discretion. All tree planting and maintenance work will be undertaken by City of Yarra Contractors.

Tree Management Plan

20. Before the development commences, a Tree Management Plan to the satisfaction of the Responsible Authority must be prepared by a suitably qualified Arborist and must be submitted to and approved by the Responsible Authority. When approved the Tree Management Plan will be endorsed and will form part of this permit. The Tree Management Plan must make recommendations for the protection of the maturing Lemon Scented Gum is located on the adjacent property at No. 490 Swan Street:
- (a) pre-construction;
 - (b) during construction; and
 - (c) post construction
 - (d) the provision of any barriers;
 - (e) any pruning necessary; and
 - (f) watering and maintenance regimes,
- to the satisfaction of the Responsible Authority.
21. The provisions, recommendations and requirements of the endorsed Tree Management Plan must be complied with and implemented to the satisfaction of the Responsible Authority

Wind

22. **Before the development commences, an amended Wind Tunnel Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Wind Tunnel Report will be endorsed and will form part of this permit. The amended Wind Tunnel Report must be generally in accordance with the Wind Assessment Report prepared by Vipac Engineers and Scientists, dated 23 July 2019, but modified to include (or show):**
- (a) Assess the proposal as referenced and amended pursuant to Condition 1.**
 - (b) Wind conditions outside building entries to satisfy the criterion for short period standing/sitting.**
 - (c) Wind conditions in outdoor café/retail seating areas to satisfy the criterion for long period standing/sitting. Details of wind mitigation strategies must be provided and be to the satisfaction of the responsible authority.**
 - (d) Wind conditions at the Burnley Station entrances and Bicycle parking and on the station platforms to satisfy the short period standing/sitting criterion.**
 - (e) Wind conditions in all other areas of the surrounding streetscapes to satisfy the walking criterion.**
 - (f) Wind conditions on the private terraces to satisfy the walking criterion.**

- (g) **Wind conditions in the surrounding streetscapes and private terraces to satisfy the Safety criterion of a gust wind speed 23 ms⁻¹ as defined by Melbourne (1978).**
- (h) **The Existing wind conditions (prior to the demolition of the existing buildings) provided to allow the wind impacts of the proposed development to be assessed.**

23. The provisions, recommendations and requirements of the endorsed Wind Assessment Report must be implemented and complied with to the satisfaction of the Responsible Authority.

Detailed Design Plan (Through-link between Swan Street and land to the south)

24. Before the development commences, or by such later date as approved in writing by the Responsible Authority, a detailed design plan for the through-link, between Swan Street and the land to the south (inclusive of the full extent of the pedestrian walk to the south and to the kerb line to the north) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the detailed design plan will be endorsed and will form part of this permit and must then be maintained to the satisfaction of the Responsible Authority. The detailed design plan must include details of the proposed materials, landscaping, lighting and safety measures to provide unfettered 24 hour public access for the through-link, between Swan Street and the land to the south (inclusive of the full extent of the pedestrian walk to the south and to the kerb line to the north).

Section 173 Agreement (Through-link between Swan Street and land to the south) and the widened pedestrian footpath along Swan Street

25. **Within six months of the commencement of works, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority and VicTrack under section 173 of the *Planning and Environment Act 1987*, providing for the following:**

- (a) **The Owner must provide unfettered 24 hour public access over (and inclusive of the provision of lighting) over that part of the land to be used for the ground floor, north-south through-link from Swan Street to the pedestrian path to the south and the widened pedestrian footpath along Swan Street (as shown on the Design Detail Plan Condition 29);**
- (b) **The owner is responsible for maintaining at all times the areas that are private land open to the public described in condition 25(a) at the cost of the owners of the site and to the satisfaction of the Yarra City Council;**
- (c) **The owner(s) must obtain and maintain public liability insurance, to the satisfaction of Yarra City Council, for the public liability and indemnify Yarra City Council against all any claims resulting from any damage, loss, death or injury in connection with the public accessing the land described in condition 25(a), except to the extent that the damage, loss, death or injury is caused or contributed to by any conduct, negligent act or omission of the Yarra City Council or any of its employees, agents or contractors.**

26. The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the reasonable costs borne by the Responsible Authority.

VicTrack Pedestrian Path

27. Before the development commences, the permit holder must submit detailed plans (inclusive of materials and landscaping) to the satisfaction of and approved by the Responsible Authority and VicTrack, showing interface improvements for the footpath to the south (directly abutting the subject site's boundaries and extending to the east terminating at Stawell Street).
28. Before the building is occupied, all works associated with the VicTrack pedestrian path detailed design plan as shown on the endorsed plans must be completed by the permit holder at their full cost to the satisfaction of the Responsible Authority and VicTrack.

Design Detail Plan (Swan Street streetscape improvements)

29. Before the development commences, the owner of the site must submit detailed engineering and landscaping documentation showing Swan Street streetscape improvements (for the land directly to the north of the subject site and extending to the east up to Stawell Street) to the satisfaction of and approved by the Responsible Authority and VicRoads and approved by the Responsible Authority and VicRoads and at the full cost of the owner showing the following:
 - (a) provision of a 5m wide footpath along Swan Street, with 2.5m of this being outside of the title boundaries of the subject site.
 - (b) new surface treatment to the footpath outside the development and extending to the east up to its termination at Stawell Street;
 - (c) furniture including but not limited to seats, bins, drinking fountain, bike hoops; and
 - (d) appropriate new trees and plantings
30. Before the building is occupied, all works associated with the Swan Street streetscape detailed design plan as shown on the endorsed plans must be completed by the permit holder at their full cost to the satisfaction of the Responsible Authority and VicRoads.

Section 173 Agreement (Car Share Agreement)

31. **Before the building is occupied, the owner must enter into an agreement with the Responsible Authority under section 173 of the Planning and Environment Act 1987 and apply to the Registrar of Titles to have the agreement registered on each of the titles to the land under Section 181 of the Act. Under the agreement, the owner must covenant with the Responsible Authority that provision will be made for two car share vehicles on-site by way of arrangement with a car share operator and/or the future Owners Corporation for a minimum period of 10 years (or for another agreed to period of time, to the satisfaction of the Responsible Authority). The agreement will reflect that any costs associated with ensuring ongoing availability of at least two car share vehicles on site will be borne by the owner. All costs of preparation, execution and registration of the agreement must be borne by the owner of the land, or the future Owners Corporation, including those costs incurred by the Responsible Authority.**

Transport for Victoria Conditions (32 to 48)

32. Before the development commences, unless otherwise agreed in writing with the Head Transport for Victoria, the permit holder must submit detailed plans (inclusive of materials and landscaping) to the satisfaction of the Head, Transport for Victoria (TfV), Vic Track and the Rail Operator (RO) showing the development interface improvements for the footpath to the south (directly abutting the subject site's boundaries and extending to the east terminating at Stawell Street) being 'public realm works' on railway land. The plans must:
- (i) Show lighting, landscaping, footpaths, bicycle parking, street furniture and associated infrastructure;
 - (ii) meet Rail Operator specifications and standards; and
 - (iii) demonstrate that the works are compliant with the Disability Standard for Accessible Public Transport 2002.
- (a) A construction control agreement must be in place between the Permit Holder and RO prior to commencement of the Public Realm Works on Rail Land.
- (b) The Public Realm Works outlined in the plans must be completed by the permit holder at their full cost and to the satisfaction of TfV, VicTrack & the RO.
33. Before the development commences (excluding demolition), or other time agreed to in writing with Head, Transport for Victoria, amended plans to the satisfaction of the Head, Transport for Victoria (TfV) must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. These plans must be generally in accordance with the plans submitted to TfV with the application but are to be modified to show:
- (a) self enforcing left in left out only from Swan Street with associated line marking and signs;
 - (b) no parking shown across the frontage of the site with associated signs; and
- to the satisfaction of the TfV.
34. Prior to the commencement of work on site (excluding demolition) detailed construction / engineering plans and computations for construction works abutting railway land, railway operations, and railway infrastructure assets must be submitted and approved by VicTrack, TfV and the Rail Operator (RO). The Plans must detail all excavation design and controls of the site adjacent to the railway corridor. The Design Plans must ensure compliance regarding:
- (a) building clearances to aerial power lines as per the applicable Victorian Electrical Safety (Installations) Regulations;
 - (b) design loadings for the building include for:
 - compliance with AS5100 Parts 1 and 2 for collision protection and impact loads from derailed trains,
 - compliance with AS1170 Part 4 - Earthquake Actions in Australia,
 - (c) working adjacent to overhead power to the satisfaction of the RO;
 - (d) demonstrate compliance with air, light and fire requirements without reliance on railway land; and

(e) demonstrate a design plan, and a maintenance and operations strategy for balconies and windows that will eliminate any risk of debris falling or being thrown onto railway land.

35. Unless otherwise agreed in writing with TfV, before the commencement of works (including demolition), a Construction Management Plan must be submitted to TfV and Vic Track for approval. The Construction Management Plan must designate operating hours and include details of (but not be limited to) management proposals and actions to protect Vic Track assets, rail infrastructure and the operation of the public transport network during construction and must set out objectives, performance and monitoring requirements to the satisfaction of Vic Track & TfV.

36. Unless otherwise agreed in writing with the TfV, before the commencement of works (including demolition), a Traffic Management Plan must be submitted to TfV which outlines how traffic will be managed throughout the construction of the development and mitigate impacts to public transport, including trains and trams.

The Traffic Management Plan must be prepared and implemented to the satisfaction of TfV. All traffic management and mitigation costs will be at the full cost of the permit holder.

37. Unless otherwise agreed in writing with TfV, prior to construction commencing including demolition, a construction control and indemnity agreement as required by TfV must be in place to the satisfaction of TfV at the full cost to the permit holder. Any costs required to review documents for the construction control and indemnity agreement must be met by the permit holder.

38. Unless otherwise agreed in writing with TfV, prior to the commencement of works (excluding demolition), the permit holder must prepare a report, to the satisfaction of TfV & the RO, by a suitable qualified consultant, which demonstrates that all building materials (including glass / window treatments) visible from the rail corridor are non-reflective such that it will not adversely impact on rail operations and driver safety. The development must avoid using red, green or yellow colour schemes that may interfere with driver operations.

39. Unless otherwise agreed in writing with TfV and VicTrack, windows, doors and balconies must not be placed on the title boundary with Railway Land and no windows or doors are permitted to open beyond the Railway Land title boundary to the satisfaction of TfV and VicTrack.

40. Prior to the occupation of the development, all works outlined on the endorsed plans for the left in left out access must be completed with associated signs, to the satisfaction of TfV at the full cost to the permit holder.

41. The boundary wall must be treated with a graffiti proof finish and any graffiti that appears on the wall must be removed as soon as practicable to the satisfaction of VicTrack and the Rail Operator. Removal of graffiti must be undertaken at no cost to VicTrack or the Rail Operator.

42. Unless otherwise agreed in writing, permanent or temporary soil anchors must not be installed on railway land.
43. Prior to commencement of works, the Rail Operator must be contacted through the email address metrositeaccess@metrotrains.com.au to obtain the Rail Operator's conditions and safety requirements for works on, over or adjacent to railway land.
44. Any Rail Operator costs required to review documents or construction plan works within the rail environment must be met by the permit holder.
45. Any damage to public transport infrastructure as a consequence of the construction works must be rectified to the satisfaction of TfV, at the full cost of the permit holder.
46. The permit holder must take all reasonable steps to ensure that disruptions to train and tram operation are kept to a minimum during the construction of the development, and in compliance with the Rail and Tram Safety and Environmental requirements.
47. No lighting is to be erected that throws light onto the railway tracks or which interferes with the visibility of signals and the rail lines by train drivers, to the satisfaction of the Rail Operator.
48. No drainage, effluent, waste, soil or other materials must enter or be directed to railway land or stored or deposited on railway land.

Transport for Victoria (Roads Corporation) (Condition No 49)

49. Before the development commences (excluding demolition), or other time agreed to in writing with Head, Transport for Victoria, amended plans are to be submitted to the Head, Transport for Victoria (TfV) and once approved, can be endorsed by the Responsible Authority, upon which the plans will form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. These plans must be generally in accordance with the plans submitted to TfV with the application but are to be modified to show:
 - (a) the installation of signs, line marking, splitter island and associated road works permitting only "left turn in" and "left turn out" vehicular access from Swan Street.
 - (b) Modification as required and/or removal of any existing car parking spaces, street tree/s and associated road works on the south side of Swan Street to accommodate the new vehicular access arrangement.

Road Infrastructure

50. Before the development commences, or by such later date as approved in writing by the Responsible Authority, the applicant must prepare and submit a 1 in 20 scale cross sectional drawing of the development's vehicular entrance, showing the actual reduced levels to three decimal places (not interpolated levels from the application drawings) of the Swan Street road profile (from the centre line to the property line). The required levels include the building line level, top of kerb level, invert level, lip level and road pavement levels. The existing road profile of Swan Street and the accessway inside the property must be accurately drawn.

The applicant must demonstrate by way of a ground clearance check using the B99 design vehicle that vehicles can traverse the new vehicle crossing and ramp without scraping or bottoming out. The 1 in 20 scale cross sectional drawing must be submitted to Council's Construction Management branch for assessment and approval.

51. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the existing side entry pit must be converted to a grated pit and must be constructed with a pipe extension to one side of the new vehicle crossing:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority

52. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any new vehicle crossing must be constructed:
 - (a) to VicRoads geometric requirements and in accordance with any requirements or conditions imposed by Council;
 - (b) to accommodate the ground clearance of the B99 design vehicle;
 - (c) at the permit holder's cost; and
 - (d) to the satisfaction of the Responsible Authority.

53. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any redundant vehicular crossing must be demolished and re-instated as standard footpath and kerb and channel:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.

54. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damaged roads, footpaths and other road related infrastructure adjacent to the development site as a result of the construction works, including trenching and excavation for utility service connections, must be reconstructed:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.

55. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, footpath along the property's Swan Street frontage must be reconstructed:
 - (a) with a cross-fall of 1 in 40 or unless otherwise specified by Council;
 - (b) at the permit holder's cost; and
 - (c) to the satisfaction of the Responsible Authority.

56. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, kerb and channel along the property's Swan Street frontage must be reconstructed:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.

57. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the half-width road pavement (from the central tram reservation to the south kerb) of Swan Street immediately along the property street frontage must be profiled and re-sheeted:
- (a) with all road pavement reinstatements consolidated as single full-width areas of reinstatement to reduce further construction joints in the pavement;
 - (b) at the permit holder's cost; and
 - (c) to the satisfaction of the Responsible Authority.
58. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
59. **Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, four bicycle racks (eight spaces) must be installed on Swan Street:**
- (a) **at the permit holder's cost; and**
 - (b) **in a location and manner,**
- to the satisfaction of the Responsible Authority.**

Car parking

60. **Before the building is occupied, a Car Park Management Plan 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 form part of this permit. The Car Park Management Plan must address, but not be limited to, the following:**
- (a) **the number of car parking spaces allocated to each tenancy and that each space is allocated;**
 - (b) **the location of the additional signal lantern facing the proposed site egress;**
 - (c) **details of way-finding, cleaning and security of end of trip bicycle facilities;**
 - (d) **policing arrangements and formal agreements;**
 - (e) **details of the management of the two car share scheme spaces;**
 - (f) **details of the electric car charging points;**
 - (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 Waste Management Plan required by Condition 10; and**
 - (i) **details regarding the management of loading and unloading of goods and materials.**
61. 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.

62. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the area set aside on the endorsed plans for the car parking spaces, access lanes, driveways and associated works must be:
- (a) constructed and available for use in accordance with the endorsed plans;
 - (b) formed to such levels and drained so that they can be used in accordance with the endorsed plans;
 - (c) treated with an all-weather seal or some other durable surface; and
 - (d) line-marked or provided with some adequate means of showing the car parking spaces;
- to the satisfaction of the Responsible Authority.
63. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, a notice showing the location of car parking must be placed in a clearly visible position near the entry to the land. The notice must be maintained thereafter to the satisfaction of the Responsible Authority.
64. The loading and unloading of vehicles and the delivery of goods to and from the land must be conducted entirely within the land to the satisfaction of the Responsible Authority.

Green Travel Plan

65. **Before the development commences, 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 be generally in accordance with the Green Travel Plan prepared by Ratio Consultants (dated 21 November 2019) but modified to include or show:**
- (a) The bike rack details; and**
 - (b) Section 4.1 and Appendix A updated to accord with the development as amended pursuant to Condition 1.**
66. The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Lighting

67. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the pedestrian and vehicular entrances and through-link laneway must be provided on the subject site. Lighting must be. Lighting must be:
- (a) located;
 - (b) directed;
 - (c) shielded; and
 - (d) of limited intensity,
- to the satisfaction of the Responsible Authority.

General

68. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
69. The amenity of the area must not be detrimentally affected by the use, including through:
- (a) the transport of materials, goods or commodities to or from land;
 - (b) the appearance of any buildings, works or materials;
 - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
 - (d) the presence of vermin.
- to the satisfaction of the Responsible Authority.
70. 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).
- 71. The uses must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).**
72. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
73. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
74. All pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
75. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
- (a) Monday-Friday (excluding public holidays) before 7 am or after 6 pm;
 - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm; or
 - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

Construction Management

76. Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:
- (a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
 - (b) works necessary to protect road and other infrastructure;
 - (c) remediation of any damage to road and other infrastructure;
 - (d) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land,
 - (e) facilities for vehicle washing, which must be located on the land;
 - (f) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;

- (g) site security;
 - (h) management of any environmental hazards including, but not limited to,:
 - (i) contaminated soil;
 - (ii) materials and waste;
 - (iii) dust;
 - (iv) stormwater contamination from run-off and wash-waters;
 - (v) sediment from the land on roads;
 - (vi) washing of concrete trucks and other vehicles and machinery; and
 - (vii) spillage from refuelling cranes and other vehicles and machinery;
 - (i) the construction program;
 - (j) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
 - (k) parking facilities for construction workers;
 - (l) measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;
 - (m) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
 - (n) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced;
 - (o) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads;
 - (p) a Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with Noise Control Guideline 12 for Construction (Publication 1254) as issued by the Environment Protection Authority in October 2008. The Noise and Vibration Management Plan must be prepared to the satisfaction of the Responsible Authority. In preparing the Noise and Vibration Management Plan, consideration must be given to:
 - (i) using lower noise work practice and equipment;
 - (ii) the suitability of the land for the use of an electric crane;
 - (iii) silencing all mechanical plant by the best practical means using current technology;
 - (iv) fitting pneumatic tools with an effective silencer;
 - (v) other relevant considerations; and
 - (q) any site-specific requirements.
- During the construction:
- (r) any stormwater discharged into the stormwater drainage system must be in compliance with Environment Protection Authority guidelines;
 - (s) 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;
 - (t) vehicle borne material must not accumulate on the roads abutting the land;
 - (u) the cleaning of machinery and equipment must take place on the land and not on adjacent footpaths or roads; and
 - (v) all litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly.

Time expiry

77. This permit will expire if:

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

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

Notes:

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

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

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

Measures must be taken to ensure that rainfall run-off from Hutchins Street does not enter the development's car park entrance and truck turning area

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

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

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

The Permit Holder/developer is responsible for the management and protection of their building from groundwater.

The developer needs to ensure that the basement car park and any portions of the development at or below natural surface level have a level of protection to minimise the seepage of subterranean water (groundwater) or any rainfall run-off from penetrating the walls or floors of the site.

In the event that any contaminated groundwater seeps through the walls of the basement, this water must not be discharged into Council's stormwater drainage system under any circumstances. Any contaminated groundwater that is present within the site must be treated and disposed of in accordance with a Trade Waste Agreement and as per EPA guidelines and Melbourne Water/City West Water guidelines.

It is also the Permit Holder's onus and responsibility to ensure that rainfall run-off does not enter the property in the event of a heavy storm. Adequate measures should be in place to prevent backwash from entering the property.

No parking restriction signs or line-marked on-street parking bays are to be removed, adjusted, changed or relocated without approval or authorisation from Council's Parking Management unit and Construction Management branch.

Any on-street parking reinstated as a result of development works must be approved by Council's Parking Management unit.

The removal of any kerbside parking sensors and any reinstatement of parking sensors will require the Permit Holder to pay Council the cost of each parking sensor taken out from the kerb/footpath.

Only roof runoff, surface water and clean groundwater seepage from above the water table can be discharged into Council drains.

Contaminated ground water seepage into basements from above the water table must be discharged to the sewer system through a trade waste agreement with the relevant authority or in accordance with EPA guidelines.

Contaminated groundwater from below the water table must be discharged to the sewer system through a trade waste agreement from the relevant sewer authority.

Council will not permit clean groundwater from below the groundwater table to be discharged into Council's drainage system. Basements that extend into the groundwater table must be waterproofed/tanked.

Transport for Victoria notes

Works undertaken within railway land must consider all standards and work practices for work within the railway corridor and conform to all relevant Australian standards including Victorian Rail Industry Operator Group (VRIOG) standards for any interface works and installation of underground utility services to the satisfaction of the Rail Operator and Public Transport Victoria.

Entry onto railway land is at the discretion of the Rail Operator and is subject to the Rail Operators Site Access Procedures and conditions.

Transport for Victoria (Roads Corporation) Notes

Separate consent may be required from Head, Transport for Victoria (the Department of Transport) under the Road Management Act 2004 for buildings and works (i.e. canopies and architectural features/ projections) undertaken outside the title boundary within a Road Zone Category 1 (i.e. Swan Street). Please contact VicRoads prior to commencing any works.

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

Attachments

- 1 PLN17/0448 - 484 - 486 Swan St Richmond - Planning Permit (Amended)
- 2 PLN17/0448.01 - 484 - 486 Swan St Richmond - Decision Plans
- 3 PLN17/0448.01 - 484 - 486 Swan St Richmond - Transport for Victoria (PT)
- 4 PLN17/0448.01 - 484 - 486 Swan St Richmond - Transport for Victoria (Roads Corp)
- 5 PLN17/0448.01 - 484 - 486 Swan St Richmond - Open Space Unit Referral
- 6 PLN17/0448.01 - 484 - 486 Swan St Richmond - Urban Design Referral (internal)
- 7 PLN17/0448.01 - 484 - 486 Swan St Richmond - Streetscapes and Natural Values Referral
- 8 PLN17/0448.01 - 484 - 486 Swan St Richmond - City Works Unit Referral
- 9 PLN17/0448.01 - 484 - 486 Swan St Richmond - Engineering Referral 1 of 2
- 10 PLN17/0448.01 - 484 - 486 Swan St Richmond - Engineering Referral 2 of 2
- 11 PLN17/0448.01 - 484 - 486 Swan St Richmond - Strategic Transport Referral
- 12 PLN17/0448.01 - 484 - 486 Swan St Richmond - ESD Referral
- 13 PLN17/0448.01 - 484 - 486 Swan St Richmond - Urban Design Referral (MGS)
- 14 PLN17/0448.01 - 484 - 486 Swan St Richmond - Acoustic Referral (SLR)
- 15 PLN17/0448.01 - 484 - 486 Swan St Richmond - Wind Referral (MEL)
- 16 PLN17/0448.01 - 484 - 486 Swan St Richmond - EPA S52 Response

Attachment 16 - PLN17/0448.01 - 484 - 486 Swan St Richmond - EPA S52 Response