



Agenda

Planning Decisions Committee

6.30pm, Wednesday 20 January 2021

TEAMS

The Planning Decisions Committee

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

Participating in the Meeting

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

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

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

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

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

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

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

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

Arrangements to ensure our meetings are accessible to the public

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

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

1. Appointment of Chair

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

2. Statement of recognition of Wurundjeri Woi-wurrung Land

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

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

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

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

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

3. Attendance, apologies and requests for leave of absence

Anticipated attendees:

Councillors

- Cr Anab Mohamud Councillor
- Cr Claudia Nguyen Councillor
- Cr Amanda Stone Councillor

Council officers

- Danielle Connell Senior Coordinator Statutory Planning
- Nish Goonetilleke Senior Statutory Planner
- Rhys Thomas Senior Governance Advisor

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	PLN20/0037 - 25 Balmain Street & 128 - 134 Cubitt Street Cremorne & Laneway TP938653J - Construction of a six-storey building, with a reduction in the car parking requirements associated with the use of the land as a food and drink premises (cafe) and as-of-right office.	5	46

- 6.1 PLN20/0037 - 25 Balmain Street & 128 - 134 Cubitt Street Cremorne & Laneway TP938653J - Construction of a six-storey building, with a reduction in the car parking requirements associated with the use of the land as a food and drink premises (cafe) and as-of-right office.**
-

Executive Summary

Purpose

1. This report provides Council with an assessment of planning permit application PLN20/0037 which is for the construction of a six-storey building, with a reduction in the car parking requirements associated with the use of the land as a food and drink premises (cafe) and as-of-right office at Nos. 25 Balmain Street & 128 - 134 Cubitt Street Cremorne & Laneway TP938653J Cremorne VIC 3121. The report recommends approval of the application, subject to conditions.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Built form and Design Policy (Clause 22.10);
 - (b) Land use (Clause 34.02);
 - (c) Interface Uses Policy (Clause 22.05); and
 - (d) Car and bicycle parking provision (Clauses 52.06 and 52.34).

Key Issues

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

Submissions Received

4. Twenty three (23) objections were received to the application and can be summarised as:
 - (a) Design and overdevelopment (height, scale, bulk) and deviation from the Swan Street Structure Plan;
 - (b) Off-site amenity (visual bulk, overshadowing, overlooking);
 - (c) Car parking, traffic impacts and pedestrian/cyclist safety;
 - (d) Noise impacts from the proposed office use;
 - (e) Issues during construction (noise, traffic);
 - (f) Creation of wind tunnels;
 - (g) Lack of a smoker's area and loading bay on-site;
 - (h) Reduced property values;
 - (i) Impacts to mental, physical health and wellbeing of surrounding residents and local ecosystems;

- (j) Shift in working arrangements due to Covid-19; and
- (k) Selling of laneway to developers.

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

6.1 **PLN20/0037 - 25 Balmain Street & 128 - 134 Cubitt Street
Cremorne & Laneway TP938653J - Construction of a six-storey
building, with a reduction in the car parking requirements
associated with the use of the land as a food and drink premises
(cafe) and as-of-right office.**

Reference D21/97
Author Nish Goonetilleke - Senior Statutory Planner
Authoriser Senior Coordinator Statutory Planning

Ward: Melba
Proposal: Construction of a six-storey building, with a reduction in the car
parking requirements associated with the use of the land as a food
and drink premises (cafe) and as-of-right office
Existing use: Vacant land on all subject sites
Applicant: Graeme Dickson Partners Pty Ltd
Zoning / Overlays: Commercial 2 Zone
Date of Application: 20 January 2020
Application Number: PLN20/0037

Planning History

1. Council records indicate that there is no planning permit history for the subject site and laneway.

Background

2. The application was received by Council on 20 January 2020 and additional information was received on 24 June 2020. The application was advertised on 29 June 2020 and twenty three (23) objections were received.
3. Whilst the advertising process was occurring, Council sought and received formal referral advice from internal departments within Council, including the Traffic Engineering Unit, Urban Design Unit, ESD Advisor, Strategic Transport Unit and City Works Unit. External referral comments were received from Wind Consultants.

Section 57A Plans

4. The permit applicant submitted amended plans to Council under Section 57(a) of the *Planning and Environment Act (1987)* (the "Act") on 05 October 2020. The Section 57(a) plans include the following changes:
 - (a) Reduced bulk to the Balmain/Cubitt Street corner by introducing mesh cladding (previously metal cladding) along the south-eastern corner and reduction in the metal framing over the eastern interface of the terrace at Level 5 (see images below);
 - (b) Diagonally patterned mix of concrete and ribbed concrete expressed on the northern and western facades (previously horizontally applied);
 - (c) Additional glazing to Balmain Street at ground level;
 - (d) Operable windows at all levels;
 - (e) Swept-path added to car park entry;

- (f) Car parking headroom clearance, distance between car parks and columns, visitor bicycle parking spaces dimensioned;
- (g) Existing street signs and poles shown, with the one-way sign reinstated on existing power pole;
- (h) Additional RL levels shown at driveway entry to Balmain Street; and
- (i) Extent of pavers shown to be within the title boundaries of the subject site, with the footpath beyond to consist of asphalt.



Advertised Plans: Balmain and Cubitt Street façades
(Jackson Clements Burrows Architects June 2020)



S57 Plans: Balmain and Cubitt Street façades
(Jackson Clements Burrows Architects October 2020)

5. In addition, the applicant lodged the following amended reports:
- (a) Landscape Plan, dated 08 October 2020, prepared by Paul Bungay Landscape Architects;
 - (b) Traffic Impact Assessment (TIA), dated 13 October 2020, prepared by Ratio Consulting;
 - (c) Green Travel Plan (GTP), dated 14 October 2020, prepared by Ratio Consulting;
 - (d) Waste Management Plan (WMP), dated 13 October 2020, prepared by Ratio Consulting;
 - (e) Sustainable Management Plan (SMP) and Water Sensitive Urban Design Response (WSUD), dated 20 October 2020 and prepared by Art Resources;
 - (f) Daylight Modelling Report, dated 14 October 2020 and prepared by ADP Consulting; and
 - (g) Desktop Environmental Wind Assessment, dated 14 October 2020, prepared by MEL Consults.
6. The amended plans and reports were not advertised, with the application given a discretionary exemption at Council's internal Development Assessment Panel (DAP) meeting held on 08 January 2021, on the basis that the proposed amendments would not result in any material detriment. However, the S57A plans were circulated to objectors with the invitations to the Planning Decisions Committee meeting.
7. The assessment in this report is based on the amended 57A plans submitted to Council on 05 October 2020.

Laneway TP938653J

8. As highlighted in the image below, the subject sites associated with this planning application include No. 25 Balmain Street, Nos. 128 – 134 Cubitt Street and a laneway located between these two main sites.



Laneway outlined in red (Council GIS, June 2020)

9. Council's Valuation Department and Governance Unit confirmed that whilst this laneway was previously owned by Council, the laneway discontinuance process was completed on 27 August 2019 and 4 February 2020. As a result, this laneway is now located with its own title plan '938653J' and forms part of this application.

The Proposal

10. The proposal is for the construction of a six-storey building, with a reduction in the car parking requirements associated with the use of the land as a food and drink premises (cafe) and as-of-right office. The proposal can be described in more detail as follows:

General

11. Construction of a 6 storey building, with a maximum overall height of 24.37m (excluding the lift overrun) above natural ground level (NGL);



S57 Plans: Corner of Balmain and Cubitt Streets (Jackson Clements Burrows Architects October 2020)

12. The building design would encompass a contemporary, part rectilinear and part raked form which increases in height from south to north, providing greater southern setbacks as the development ascends. The development would be built flush to the western boundary, with a six-storey boundary wall to the northern interface and vertical window openings to both Balmain and Cubitt Streets.

13. Whilst a ground floor front setback of 1.38m and 1.52m to Balmain and Cubitt Streets, respectively are provided, Levels 1 and 2 would cantilever over the ground floor and be built flush to the Balmain Street boundary and setback 1.48m from the Cubitt Street boundary with a terrace encroaching into this setback. A staircase and lift area would be located at the northern edge of the floor plate at all levels, including a kitchenette and WC between Levels 1 to 5;
14. The overall development is proposed to be finished in a mix of black metal cladding, concrete, ribbed concrete, black metal vertical fin screens, black window frames and window shading, with glazing along the southern and eastern facades (see image above);

Use

- (a) Commercial tenancies at all levels consisting of:
 - (i) 109sqm of food and drink premises (café) leasable floor area (LFA) at ground floor
 - (ii) a maximum of 35 patrons and 3 staff associated with the café, between Monday to Friday - 7.00am to 6.00pm;
 - (iii) 2,437sqm of office net floor area (NFA) between Levels 1 to 5;
- (b) 8 on-site car parking spaces allocated to the office tenancies;
- (c) Twenty eight (28) employee bicycle spaces for both uses, within two secure locations at ground floor; as well as four (4) visitor bicycle spaces along the Balmain Street frontage;
- (d) Three (3) shower / change rooms provided at ground floor;

Ground Floor

- (e) Demolition of existing vehicle crossovers fronting Balmain and Cubitt Streets (no permit required), reinstated with footpath and existing on-street bays remarked;
- (f) The ground level will be largely constructed to all boundaries, with a street setback of 1.38m and 1.52m along Balmain and Cubitt Streets, respectively;
- (g) The Cubitt Street frontage would be composed of glazing, with this design wrapped around to the majority of the Balmain Street frontage. The remainder of the Balmain Street frontage would consist of metal screen cladding, providing vehicle access into the site via a new 5.6m wide vehicle crossover;
- (h) The ground floor would also consist of the following:
 - (i) The main pedestrian entrance to the offices provided via Cubitt Street. This lobby area would also include a reception, mail room, stairs, and a smoke lobby. A central corridor provides a secondary pedestrian access point to the offices via Balmain Street;
 - (ii) The pedestrian entrances to the café are provided from both Balmain and Cubitt Streets;
 - (iii) End of trip facilities and a secure bicycle parking area abuts the café, with access to these facilities provided via the central corridor;
 - (iv) The western portion at ground floor would provide for 8 at-grade car spaces (one of which is designated as accessible). Further north is a second secure bicycle parking area and bin-room, with services and a substation abutting the western boundary. A water meter and fire-booster area are located further south, with their doors opening outwards with the title boundaries of the subject site; and
 - (v) A 10,000Ltr underground rainwater tank;

Levels 1 & 2

- (i) Both levels would be built to the majority of all title boundaries with the exception of a 1.48m setback from Cubitt Street, with terraces and planter-boxes encroaching into this setback, with operable glazing along the southern and eastern edges of the building;
- (j) Level 1 consists of 601sqm of NLA, including a photo studio and storage room, and Level 2 consists of 643sqm of NLA, with three separate storage areas;

Levels 3, 4 & 5

- (k) All three levels would be built abutting the majority of the title boundaries, with the exception of a 1.48m eastern setback at Levels 3 and 4, and a 7.76m eastern setback at Level 5 to accommodate terraces, and a raked design from the southern boundary. As the development ascends, each floor is provided with a greater southern setback and lesser floor area. Between Levels 3 to 5 the southern setbacks increase from 0m to a maximum of 10.7m, with the NLA decreasing from 568sqm, 456sqm to 165sqm. All levels feature landscaped planter boxes, terraces and operable glazing along their respective southern and eastern extents;
- (l) The western edge of the Level 5 floor plate accommodates an unroofed service area consisting of 14 condenser units;
- (m) A metal frame (similar to a pergola) extends above Level 5, and outlines the eastern frontage between Levels 1 to 5;

Roof Level

- (n) An open plant area with solar panels accessed via a roof hatch, including the stairs and lift overrun are provided at the roof above Level 5, with a minimum front setback of 10.7m from Balmain Street and 7.68m from Cubitt Street; and

Existing Conditions

Subject Site

- 15. The subject site is located on the north-western corner of Balmain Street and Cubitt Street, approximately 320m east of Punt Road and 430m west of Church Street. The site is generally rectangular in shape, with two frontages; 36.7m to Balmain Street and 23.02m to Cubitt Street, totalling approximately 800sqm.
- 16. The site is currently occupied by vacant land. Vehicle access to the site is provided via two single crossovers; one fronting Balmain Street and the other fronting Cubitt Street.



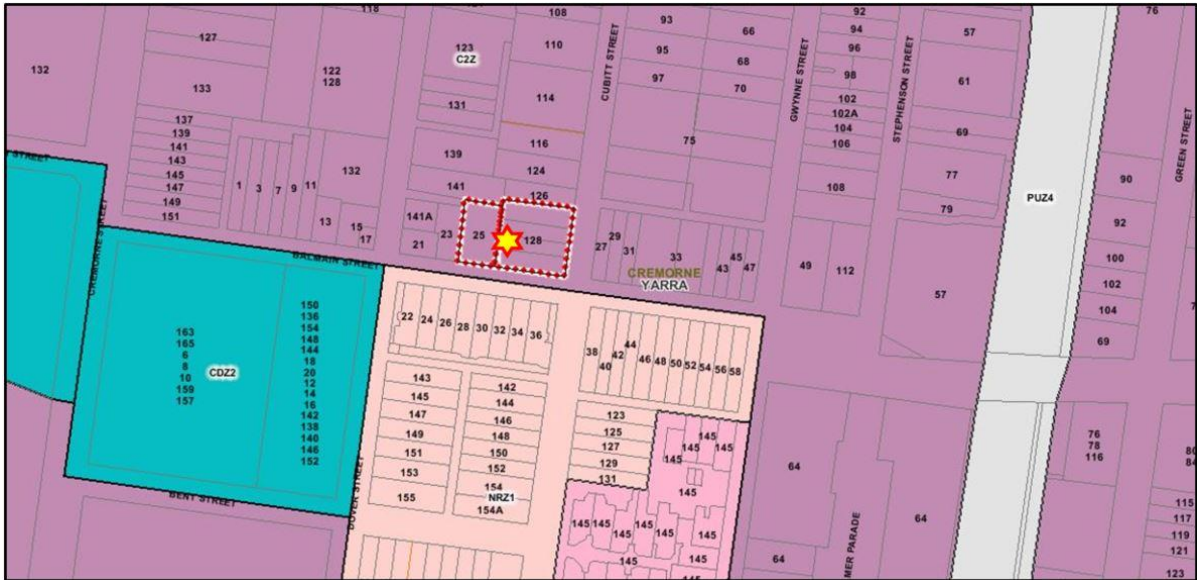
Subject site (Google Street View, June 2019)

Title and Plan of Subdivision

- There are no restrictive covenants or easements listed against the certificate of titles provided for Nos. 25 Balmain Street, the laneway and Nos. 128 – 134 Cubitt Street, aside from the shared party-wall easements between the latter sites.


Surrounding Land


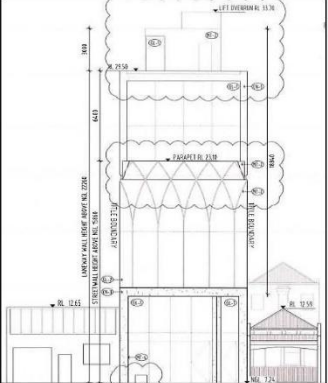




- The surrounding area is a mixture of commercially zoned land (Commercial 2 zone) to the north of Balmain Street, and residentially zoned land (NRZ1) directly to the south of Balmain Street, with land zoned Comprehensive Development Zone (Schedules 2 and 3) directly south-west across Balmain Street (see image below).




Zoning map (Planning Maps Online, January 2021)

- The built form is varied and contains a mixture of contemporary designs and heritage buildings further south-east. The wider area of Cremorne is currently going through a period of transition from lower scale buildings to higher density development. Built form within the NRZ1 further south ranges from single to three-storey dwellings.
- The older building stock within the Commercial 2 Zone 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 Cremorne have been approved, some of which are under construction or already completed:

Address and Distance to Subject Site	Development	Image
Nos. 33 – 41 Balmain Street, 20m east	4-storey office building (Planning Permit PLN15/0309)	 <p>(Armsby Architecture, January 2017)</p>

<p>No. 165 Cremorne Street, 57m south-west</p>	<p>10-storey, mixed-use building (Planning Permit PL02/0511)</p>	 <p>(Google Street View, July 2019)</p>
<p>No. 84 Cubitt Street, 100m north</p>	<p>7-storey office building (Planning Permit PLN18/0756)</p>	 <p>(Pandolfini Architects, February 2020)</p>
<p>No. 50 Gough Street and Nos. 17 – 21 Harcourt Parade, 130m south-west</p>	<p>15-storey, mixed-use building (Planning Permit PLN15/0355) and 9-storey, office building (Planning Permit PL08/0921)</p>	 <p>(Hayball Architects, May 2020)</p>
<p>No. 64 Balmain Street, 70m south-east</p>	<p>6-storey office building, plus roof terrace (Planning Permit PLN17/0389)</p>	 <p>(BG Architecture, July 2019)</p>
<p>No. 57 Balmain Street, 100m east</p>	<p>7-storey, office building (Planning Permit PLN17/0177)</p>	 <p>(Rothelowman Architects, May 2020)</p>
<p>No. 60 – 88 Cremorne Street, 220m north-west</p>	<p>Part 7 and part 8-storey, mixed-use building (Planning Permit PLN17/0626)</p>	 <p>(Hayball, May 2019)</p>

<p>Nos. 1 – 3 Harcourt Parade, 280 south-west</p>	<p>10-storey residential hotel (Planning Permit PLN18/0002)</p>	 <p>(Idle Architecture, September 2020)</p>
---	---	--

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

North

22. Abutting the subject site to the north are Nos. 141 Dover Street and 126 Cubitt Street. Both sites are single-storey, brick, commercial buildings with flat roof forms and built to all title boundaries.
23. Further north are single to three-storey brick buildings, built to all title boundaries and predominantly used for commercial purposes.
24. To the north-east of the subject site, across Cubitt Street is a public car park.

South

25. On the southern side of Balmain Street, opposite the subject site are Nos. 22 – 36 Balmain Street; a row of double-storey, brick dwellings fronting Balmain Street. These dwellings consist of a front setback of 4.5m at ground floor, with the first floor balconies partly cantilevering over the ground floor. Secluded private open space (SPOS) is located further south, with car parking access provided via the rear Right-of-Way (ROW); further south.
26. To the south-east of the subject site, across Cubitt Street is No. 38 Balmain Street; a single-storey, Victorian-era building, built flush to the Balmain Street and Cubitt Street frontages, and used for commercial purposes. Further south-east are Nos. 40 – 58 Balmain Street; a row of single-storey, Victorian-era cottages, setback approximately 2m from the Balmain Street boundary.
27. Further south-west, across Dover Street are part 2 and part 3-storey, contemporary dwellings, with varied setbacks from Balmain and Dover Streets.

West

28. Abutting the subject site to the west is No. 23 Balmain Street; a single-storey brick building built to all title boundaries and used for commercial purposes, as well as a ROW.
29. Further west of the site are Nos. 21 Balmain Street and 141A Dover Street. Planning Permit No. 990244 approved the construction of two, 3-storey, attached office buildings on 12 March 1999. The building has an architectural composition of translucent screening wrapping around the Balmain and Dover Street corner. Pedestrian access is provided for each individual office from their respective streets, whilst vehicle access to both offices are provided via Dover Street.

30. Further west, across Dover Street are a mix of residential and commercial uses, in various built form ranging between single to four-storeys. Approximately 55m to the west of the subject site is No. 9 Balmain Street. Planning Permit PLN16/0809 was issued by Council on 21 February 2017 for the construction of a 4-storey dwelling, plus roof terrace (with existing use rights). Similarly, approximately 40m west of the subject site is No. 13 Balmain Street where Planning Permit PLN15/0990 was issued by Council on 21 April 2017 for the *construction of a four-storey building with roof terrace containing a dwelling (existing use rights)*. The approved works are currently underway.

East

31. To the east of the site, across Cubitt Street are Nos. 27 and 29 Balmain Street; double-storey, Victorian-era dwellings built as a pair. However, the facades of both buildings have been modified. Whilst these dwellings are located within a Commercial 2 Zone where accommodation is a prohibited use, these dwellings have established existing use rights. No. 27 Balmain Street is built hardedge to Balmain and Cubitt Street, with SPOS located further north. Vehicle access to these dwellings are provided from a ROW located further north. Planning Permit PLN14/0113 was issued on 14 January 2015 at the direction of the Victorian Civil and Administrative Tribunal (VCAT) to *develop the site with a four-storey building with roof terrace and basement (ground-floor café – no permit required for use/first-floor offices – no permit required for use/second and third-storey dwellings – Existing-Use-Rights) and a reduction in car parking*. This permit has since expired.
32. Further east is No. 31 Balmain Street, a double-storey, brick dwelling, followed by Nos. 33 – 41 Balmain Street; a 4-storey office building approved under Planning Permit PLN15/0309. This development is built to the majority of the title boundaries, has a three-storey podium, with the uppermost level, including the roof terrace setback 4.48m from Balmain Street. Pedestrian access is provided via Balmain Street whilst car parking access to this building is provided off the rear ROW; further north. The front façade consists largely of glazing, with red brick and concrete.
33. Further east of the subject site is Church Street which 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. Church Street is covered by the Road Zone, Category 1 and carries one lane of traffic in each direction.
34. Cremorne is a suburb generally bound by Swan Street to the north, Church Street to the east, Punt Road to the west and the CityLink and Yarra River to the south. The subject site has good access to public transport and retail, including:
- (a) Swan Street Activity Centre (AC) and tram lines approximately 500m north;
 - (b) Church Street retail and trams lines approximately 430m east;
 - (c) East Richmond and Richmond Railway Stations approximately 850m north-east and 700m north-west, respectively;
 - (d) Punt Road bus routes approximately 300m west; and
 - (e) Main Yarra Trail cycling route approximately 250m south.



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

Planning Scheme Provisions

Zoning

35. The subject site is zoned Commercial 2 Zone (C2Z). The following provisions apply:
- (a) Pursuant to *Clause 34.02-1* of the Yarra Planning Scheme (the Scheme), a planning permit is not required for the use of the land as:
 - (i) an office;
 - (ii) a food and drink premises (café), provided the leasable floor area is less than 100sqm. The proposed café consists of 109sqm of leasable floor area and therefore requires a planning permit for the use.
 - (b) 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

36. The subject site is not affected by any overlays.

Particular Provisions

Clause 52.06 (Car Parking)

37. 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.
38. 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
Food and drink premises	109sqm	3.5 spaces to each 100sqm of LFA	3	0	3
Office	2,437sqm	3 spaces to each 100sqm of NFA	73	8	65
Total			76	8	68

39. With 8 car parking spaces provided on-site, the proposal seeks a total reduction of 68 car spaces.

Clause 52.34 – Bicycle facilities

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

Use	Area	Rate	No. required on-site	No. provided on-site
Food and drink premise	109sqm	1 employee space to each 600sqm of LFA if the LFA exceeds 1000sqm	0	0
		1 visitor space to each 500sqm of LFA if the LFA exceeds 1000sqm	0	0
Office	2,437sqm	1 employee space to each 300sqm of NFA if the NFA exceeds 1000sqm	8	28
		1 visitor space to each 1000sqm of NFA if the NFA exceeds 1000sqm	2	4
		<i>Showers/ Change Rooms</i> 1 to the first 5 employee spaces and 1 to each additional 10 employee spaces	1	3
Totals			10	32

41. The proposal exceeds the bicycle parking rate and showers/change rooms for office employees/visitors.

[General Provisions](#)

Clause 62 – General exemptions

42. Pursuant to *Clause 62.02-2 (Buildings and works not requiring a permit unless specifically required by the planning scheme)*, of the Scheme:

- (a) *Any requirement in this scheme relating to the construction of a building or the construction or carrying out of works, other than a requirement in the Public Conservation and Resource Zone, does not apply to a:*
- (i) *A rainwater tank with a capacity of not more than 10,000 litres;*
 - (ii) *A solar energy facility attached to a building that primarily services the land on which it is situated;*

43. Therefore, the proposed 10,000Ltr underground rainwater tank and solar panels on the roof do not trigger a planning permit under the C2Z.

Clause 65 General Provisions

44. 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 \(PPF\)](#)

45. Relevant clauses are as follows:

Clause 11.01-1R – Settlement – Metropolitan Melbourne

46. 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

47. 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 13.05-1S – Noise abatement

48. 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

49. 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

50. 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

51. 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

52. 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

53. 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 17.02-1S – Business

54. 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

55. 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

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

Clause 18.02-2R – Principal Public Transport Network

57. 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

58. 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 21.04-3 Industry, office and commercial

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

Clause 21.05 – Built Form

Clause 21.05-2 – Urban design

60. 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

61. 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

62. 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

63. 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

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

Clause 21.08-2 – Burnley, Cremorne and South Richmond

65. The area is described as follows:
- (a) *Cremorne area has a truly mixed use character with Victorian cottages, apartments and warehouse conversions intermingled with commercial and industrial uses. This mix of uses is valued by the local community and must be fostered.*
66. Figure 8 (Built form character map: Burnley, Cremorne, South Richmond) shows the subject site as being within a ‘non-residential area’ where the objective is to *improve the interface of development with the street.*

[Relevant Local Policies](#)

Clause 22.05 – Interface Uses Policy

67. 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 22.07 – Development Abutting Laneways

68. 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 22.10 – Built form and design policy

69. The policy applies to all new development not included in a heritage overlay and comprises ten design elements that address the following issues: urban form and character; setbacks and building heights; street and public space quality; environmental sustainability; site coverage; on-site amenity; off-site amenity; landscaping and fencing; parking, traffic and access; and service infrastructure.

Clause 22.16 – Stormwater Management (Water Sensitive Urban Design)

70. 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

71. 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.

Other relevant documents

72. The Spatial Economic and Employment Strategy (SEES) was adopted by Council on 4 September 2018 and includes 6 directions which will inform future policy for the Scheme. 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.
73. The Cremorne Major Employment Precinct (defined roughly by the C2Z land within Cremorne) is nominated as one of five major employment precincts within Yarra, the other four being Abbotsford, Church Street South, Gipps Street (Collingwood) and Victoria Parade.
74. A Strategy of the SEES relevant to this application is Strategy 2: Retain and grow Yarra’s Major Employment precincts:
- (a) *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.*
75. The strategy includes the following precinct-specific information and projections for the Cremorne precinct:
- (a) *The Cremorne Major Employment precinct has transitioned from a former industrial precinct to become a significant commercial node with small innovative manufacturers to corporate head offices (e.g. CarSales and realestate.com). The precinct is supported by its position relative to key private vehicle and public transport corridors, and is ideally situated to access the educated labour pool of Melbourne’s eastern and southern suburbs. The precinct is also conveniently located in relation to other businesses in the CBD.*
 - (b) *With a unique and diverse employment base and a national reputation as a base for tech and creative sector firms, Cremorne is well placed to attract future employment growth. The precinct is estimated to have a total floor space capacity of around 440,000 square metres of which approximately 180,000 square metres is currently utilised. Demand for floor space will grow to 2031 although there is likely to be capacity for further growth beyond the medium term. This modest demand for additional floor space masks a significant increase in employment, with low density industrial uses giving way to commercial sector employers, who typically occupy floor spaces at much higher densities.*

Advertising

76. The originally submitted application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 568 letters sent to surrounding owners and occupiers and by two signs displayed on site; one at the Balmain Street frontage and the other on the Cubitt Street frontage.
77. Council received 23 objections, the grounds of which are summarised as follows:
- (a) Design and overdevelopment (height, scale, bulk) and deviation from the Swan Street Structure Plan;
 - (b) Off-site amenity (visual bulk, overshadowing, overlooking);
 - (c) Car parking, traffic impacts and pedestrian/cyclist safety;
 - (d) Noise impacts from the proposed office use;
 - (e) Issues during construction (noise, traffic);
 - (f) Creation of wind tunnels;
 - (g) Lack of a smoker's area and loading bay on-site;
 - (h) Reduced property values;
 - (i) Impacts to mental, physical health and wellbeing of surrounding residents and local ecosystems;
 - (j) Shift in working arrangements due to Covid-19; and
 - (k) Selling of laneway to developers.
78. On 05 October 2020, the applicant submitted revised plans under Section 57(A) of the Act. The application was not re-advertised and was given a discretionary exemption at Council's internal Development Assessment Panel meeting held on 08 January 2021, on the basis that the proposed amendments would not result in material detriment as the changes were limited to material and design revisions. However, a copy of the plans were circulated to objectors with the invitations to the meeting.

Referrals

External Referrals

Wind Consultant Peer Review (ViPAC Consultants)

79. The originally advertised application and the S57A plans were also referred to an external wind consultant to peer review the applicant's desktop wind report.
80. Referral comments have been included as attachments to this report.

Internal Referrals

81. The originally advertised application was referred to the following areas within Council:
- (a) Traffic Engineering Unit;
 - (b) Urban Design Unit;
 - (c) ESD Advisor;
 - (d) Strategic Transport Unit;
 - (e) City Works Unit; and
 - (f) Open Space.
82. Referral comments have been included as attachments to this report.
83. The amended (S57A) plans were referred to all of the above Council departments, except to the Urban Design Unit.

OFFICER ASSESSMENT

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

- (a) Policy and strategic support;
- (b) Land use;
- (c) Built form;
- (d) On and off-site amenity impacts;
- (e) Car parking, traffic, and bicycle provisions;
- (f) Waste management; and
- (g) Objector concerns.

Policy and strategic support

85. State and local policies encourage the concentration of development in and around activity centres and intensifying development on sites well connected to public transport, ensuring the efficient use of existing infrastructure. The subject site is located within a C2Z, which has a key purpose *to encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services*. Consistent with the zone, the use of the land for office does not require a planning permit. A planning permit is required to use the land as a food and drink premises if the total LFA exceeds 100sqm and this will be discussed later in the report. Nonetheless, this indicates strong strategic support for commercial use within the precinct.
86. 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 proximity to the Swan Street AC, Church Street 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 food and drink premises at ground level, addressing both Balmain and Cubitt Streets, continues to provide an active frontage within the commercial area, consistent with the purpose of the C2Z.
87. Council's local policy at *Clause 22.10* outlines high level urban design guidance for future built form, which supplements State and local policy that seeks to increase the number and diversity of employment opportunities within and around activity centres. At a local level; i.e. the current Swan Street Structure Plan, supports a four-storey built form, with low scale street wall within the area. As such, the Swan Street Structure Plan would not support the overall height and setbacks of the proposed development. The panel report released after the panel hearing on 15 October 2020, whilst not directly making reference to the subject site, at a local level between Wellington and Cremorne Streets recommend a preferred maximum building height of 28m. These streets are located a minimum of 100m west of the subject site. Similarly, as outlined below, the proposed 6-storey, mixed-use building will continue to enjoy strong strategic support at State level.
88. Whilst located close to the fringe of the C2Z, the site is within an area where a change in the built form is encouraged. The site and abutting land to the north and west are located in the C2Z and form part of the Cremorne Major Employment Precinct, as identified by the SEES. The proposal complies with the strategic direction outlined for this precinct within the SEES by intensifying development associated with commercial use on the land in order to facilitate greater employment opportunities in the area.
89. As outlined earlier in the report, the subject site is within proximity (approximately 500m) to the Swan Street AC, which provides a wide range of retail, services and food and drinks premises with good public transport (tram) services. The site is also within 430m of the Cremorne segment of Church Street, which, whilst not an AC, is an emerging commercial precinct located on a busy tram route with numerous restricted-retail, office and hospitality

offerings. Additionally, the Richmond and East Richmond Railway Stations (700m north-west and 850m north-east, respectively), bus routes operating along Punt Road (300m west), as well as Main Yarra Trail cycling route are located proximate to the subject site. Therefore, as encouraged by *Clauses 18.02 (Movement networks), 21.06-3 (Transport) and 21.07 (Environmental sustainability)*, the site context encourages the use of alternative modes of transport to and from the site rather than encouraging reliance on motor vehicles.

90. 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.

Land use

91. As stated earlier in the report, a purpose of the C2Z is *to encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services*. Whilst the proposed office use is an as-of-right use in the C2Z, the proposed food and drink premises (café) requires a planning permit for the use as the total LFA exceeds 100sqm; i.e. 109sqm.
92. Local policy at *Clause 21.04-3* highlights that *commercial and industrial sectors underpin a sustainable economy and provide employment* and further states that *Yarra plans to foster a diverse and viable economic base*. The café use proposed will contribute to this diversity of economic output. *Clause 21.04-2* calls for commercial uses to be focused within ACs. Whilst the site does not directly form part of an AC, the site does form part of an established commercial and industrial precinct, making it an appropriate location for the proposed uses. The site is located within an employment cluster 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 ACs, residential areas and public transport. The area supports a growing employment base, and the proposed café use will support this by providing a venue where the local workers and residents can obtain food and drink.
93. A key purpose of the C2Z is *to ensure that uses do not affect the safety and amenity of adjacent, more sensitive uses*. Residentially-zoned land is located south of the subject site, across Balmain Street. To the north of the subject site, commercial uses prevail as exemplified by the zoning context of the surrounding area. It is considered that the proposed café use will offer a compatible buffer to the more sensitive residential land located south and will generally protect this land from more intensive commercial uses encouraged in the zone.
94. The proposed café is limited to 109sqm and a maximum of 35 patrons, will mostly service staff within the building but is also accessible to the public and operate Monday to Friday between 7.00am – 6.00pm. The proposed café use must comply with relevant objectives at *Clause 22.05 (Interface uses policy)* of the Scheme.
95. There is limited guidance in the Scheme as to what appropriate opening hours are in the C2Z. However, these hours generally comply with the more stringent local policy which relates to uses in a residential zone (*Clause 22.01*), which outlines that 8.00am to 8.00pm is preferred. Whilst the proposed hours are one hour outside of this in the morning, the closing time closes two hours earlier. Due to the commercial zoning of the land, other potentially more intensive uses could operate without requiring a planning permit and would therefore not have their hours restricted. The proposed café hours are considered to be typical hours associated with a café and are unlikely to unreasonably impact nearby residential uses, particularly as the use will not operate during weekends or night-time periods. These limited operating hours are therefore considered to be in accordance with local policy at *Clause 22.05* which calls for *commercial and industrial activities to be well managed having regard to their proximity to residential uses*. Accordingly, the café use is not expected to have unreasonable impacts on these dwellings and can be managed with appropriate conditions.

96. Noise impacts are outlined within the *Off-site Amenity* section of this report. Nonetheless, any noise generated from the café and office uses can be managed by the use of a standard condition 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)*.
97. Rubbish would be adequately concealed within the buildings and any emissions would have an adequate dispersal distance from the dwellings. This will be discussed further later in the report.
98. The zoning of the land preferences uses such as offices and food and drink premises. This outcome is further supported by the *SEES*, a strategic document referenced earlier in this report that aims to promote the Cremorne Major Employment Precinct, and in particular land within the C2Z as neighbourhoods where larger office developments are encouraged. The subject site is thus clearly located within an area where higher intensity commercial uses have been directed to be located. Therefore, the use of the land as a café at ground floor is considered appropriate in the context and is supported.

Built form

99. The relevant planning permit trigger for the development is the Commercial 2 Zone (C2Z), and the primary considerations for the proposed development are the decision guidelines at *Clause 34.02-7*. In considering the design and built form of the amended development, the other relevant aspects of the Scheme are found at *Clause 15 (Built environment and heritage)*, *Clause 21.05 (Built form)* and *Clause 22.10 (Built form and design policy)*.
100. The abovementioned policies and guidelines all seek a development outcome that responds to and respects the existing or preferred neighbourhood character and provides a contextual urban design response reflective of the aims for the area. Particular regard must be given to the acceptability of the design in terms of site context, building height, massing, architectural response, the pedestrian experience and the development's interface with sensitive uses.

Site Context

101. As outlined earlier in the report, built form in the immediate area is mixed, with an emergence of contemporary, higher-scale development evident in the surrounding area. These developments are interspersed throughout a streetscape that is defined by robust commercial and industrial buildings, typically provided with modest (if any) street setbacks. As discussed earlier in the report, north of Balmain Street, Cubitt Street and other neighbouring streets such as Cremorne, Dove, Dover Streets and Harcourt Parade are characterised by one to three-storey warehouse buildings (with zero street setbacks and 100% site coverage) as well as medium to high density, contemporary developments, ranging between 4 to 15-storeys.
102. Pockets of low-density, single to three-storey dwellings remain; however these are located largely to the south of Balmain Street and east of Cubitt Street. *Clauses 22.05, 22.10* and the decision guidelines of the zone require that new development respond appropriately to sensitive residential interfaces. The proposal has responded through a three-storey podium to Balmain Street which then rakes towards the north to provide an angled southern façade across the development. This design response acknowledges the subject site as the border between the commercially-zoned land to the north and the residential context to the south. A more detailed assessment of amenity impacts to the residential interfaces will be provided in a latter section of this report.



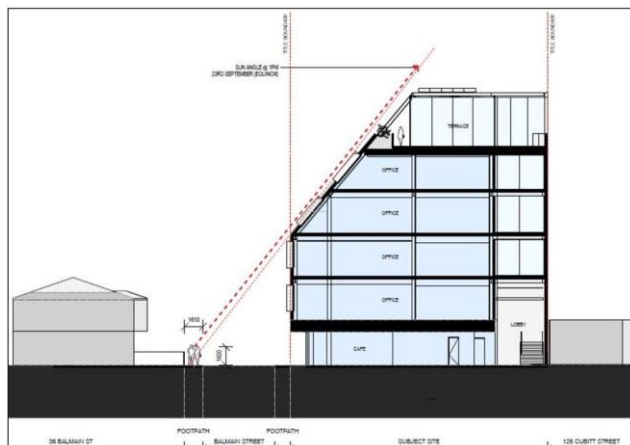
The subject site (marked with a star) and surrounding built form heights (Council GIS, June 2020)

103. Nonetheless, in terms of site context, the row of dwellings immediately to the south of Balmain Street will not be developed higher than two-storeys and a maximum height of 9m (given the Neighbourhood Residential Zone 1). Land across Cubitt Street at No. 27 Balmain Street had planning approval at the direction of VCAT to develop the site with a four-storey building plus roof terrace. Given the C2Z zoning of the land (and no overlays), it is also likely that the abutting sites to the north and west would develop into medium to high-density built form. Within the C2Z and given this context it is clear that higher built form would be expected within the immediate surrounds. This is most clearly demonstrated in the built form context map above. Therefore, the proposed 6-storey building sits comfortably within this context, especially with the higher built form located further away from the residential zone.
104. The proposed ground floor is to be setback 1.38m from Balmain Street and 1.52m from Cubitt Street. The upper levels are to cantilever over these ground floor setbacks, which is similar in design to the residential built form to the south, across Balmain Street, where the first floor partly cantilevers over the existing ground floor. The proposed zero (0m) front setback between Levels 1 and 2 fronting Balmain and Cubitt Streets in this location, is considered to be in keeping with the predominant condition of the local context, particularly established warehouse/commercial buildings, and in alignment with the buildings adjoining the subject site to the north and west, including the hardedge residential built form across Cubitt Street. In addition, given the narrow width of Balmain and Cubitt Streets, a three-storey street wall height is considered acceptable. Further assessment of the acceptability of the height and massing will be discussed next in the report.
105. As outlined previously, there is no dispute that strategically the subject site is well-located for a higher-density development, being located in the C2Z and within proximity to an AC, with excellent access to cycling networks, public transport, services and facilities. Furthermore, the proposed development would not unduly affect the significance of the broader heritage place further east and south-east of the site. Based on these attributes, it is a reasonable expectation that this site will experience intensification in use and development.

Built form

Height

106. The proposal incorporates a development which provides a 3-storey street wall (with the exception of the ground floor setbacks) to Balmain Street and a raked, 6-storey wall to Cubitt Street. Views to the roof plan area/lift overrun will be appropriately limited due to its location further north of the building, closer to the commercial buildings.
107. As demonstrated earlier in the report, the proposed height is within the contextual range of heights of nearby development. To the north and west are commercial buildings which are part of the CZZ and do not form part of an overlay such as an intact heritage streetscape. It is expected that higher built form would be located in this part of Balmain Street given the zoning and proximity to an activity centre. This is clearly different to the residential lower scale to the south and south-east where less development is expected (maximum 9m and 2-storeys), and where built form is more intact. Nonetheless, the proposed development incorporates a raked form from south to north, which further reduces the visual impact when viewed from the low-scale residential form to the south of Balmain Street.
108. As outlined earlier in the report, the Swan Street Structure Plan calls for a consistent three-storey street wall and visually recessive upper levels with an overall building height of four-storeys or 13m to 16m height with a lower scale street wall for the subject site. Strategy 17.2 of *Clause 21.05.2 (Urban design)* recommends *developments on strategic redevelopment sites or within activity centres should generally be no more than 5-6 storeys*. Therefore, the proposed development complies with this in that it is a 6-storey development. However, Council’s Urban Design Unit’s advice was that given the prevailing maximum height in the immediate context is of 4-storeys, *a six storey form on the subject site will overwhelm the street character and hence is not acceptable*. It was recommended that the overall height be reduced by at least one level; i.e. deletion of Level 5 which would *provide an appropriate balance between the existing context and the changing character of Cremorne*. However, the deletion of Level 5 is not supported by Council planning officers, based on the following:
- (a) The proposal incorporates a three-storey podium, with raked upper-levels from Balmain Street, away from the sensitive residential interface. The height of the podium fronting Balmain Street is considered acceptable as immediately surrounding developments have podium heights ranging between three (No. 33 – 41 Balmain Street) to four-storeys (No. 9 Balmain Street). In addition, Council’s Urban Design Unit are supportive of the three-storey podium to Balmain Street. As shown on the image below, given the height of the podium, the upper-levels appear recessive when viewed from Balmain Street and the deletion of level 5 would make no change to this;



View of development from across Balmain Street (Jackson Clements Burrows Architects October 2020)

- (b) The development is reflective of other office developments in the surrounding area, particularly the approved developments at Nos. 16A – 17A Balmain Street (approximately 70m south-east) and No. 57 Balmain Street (approximately 100m east) which provide overall building heights of 6-storeys (approximately 26m) and 7-storeys (approximately 32m), respectively. As shown on the aerial map earlier, there are a number of approved higher developments further south-west of the subject site, ranging between 10 to 15-storeys;
- (c) It is a well-established urban design principle that building height should relate to street width. Balmain Street, with a width of 7.4m is considered to adequately accommodate the proposed three-storey podium (11.6m) and an overall height of 6-storeys (24.37m). The proposed form is not overly prominent or visually dominant in the streetscape. Therefore, the proposed development is not considered to be excessive or overwhelm Balmain Street, nor detrimentally affect the pedestrian experience of the street;
- (d) Development to the north and west of the subject site is anticipated at a similar 5-6 storeys (or higher) which the proposal would be similar to;
- (e) The minimalist detailing associated with the three-storey podium; i.e. glazing and black window frames, combined with the southern raked setback gives the overall podium a visually recessive appearance and allows the 3-4 storey scale of the street wall to be read in the Balmain Street streetscape. Given the lack of heritage fabric on or adjoining the site fronting Balmain Street, along with the mixed character of the existing streetscape, and the way in which the development responds to surrounding built form, the surrounding context allows for higher scale to be supported; and
- (f) In terms of the Cubitt Street frontage, the development presents a 6-storey street wall, with the upper levels consisting of 1.48m deep terraces between Levels 1 to 4. Whilst Council's Urban Design Unit found a 5-storey street wall unacceptable in the Cubitt Street context, they stated *the provision of balconies and landscaping gives more depth to the built form making the street wall height more acceptable*. It was further stated that *the provision of landscaping will provide some relief from the hard edge character and is highly supported*. As shown below, the incorporation of landscaping and terraces between Levels 1 to 4, combined with the ground floor setback would contribute to reducing the dominance of the proposed built form and make it visually interesting. Landscaping on-site and the usability of these terraces will be discussed later in the report.



Cubitt Street façade (Jackson Clements Burrows Architects October 2020)

109. While the immediate street block in which the subject site is located (between Kelso and Balmain Streets) does not currently contain higher scale development, it is reasonable to expect that other sites will be subject to redevelopment over time. Furthermore, as demonstrated earlier in the report, there is an emerging increase in scale within the immediate and surrounding area. Whilst the proposed development will be visible from longer-range views such as Gwynne Street and Dover Street, the visibility of higher building forms above lower-scale buildings is a part of the existing and emerging site context in this area.
110. Furthermore, the Tribunal (*Rowcliffe Pty Ltd v Stonnington CC* [2004] VCAT 46 (29 January 2004)) has previously stated:
- [54] If mere visibility becomes the test across metropolitan Melbourne, then it will be virtually impossible to construct buildings above the prevailing scale. This, in turn, would render it impossible to achieve the clearly stated urban consolidation objectives expressed in the Planning Scheme, objectives which Clause 11 requires us "to give effect to". The Tribunal rejects the notion that, because some of the buildings would be visible above the existing built form, they are therefore unacceptable. Rather, the test is whether the proposal is complementary to the surrounding area, and of a scale that can be assimilated without unreasonably disturbing the surrounding built environment.*
111. Whilst greater in height than the abutting or adjacent buildings, the broader area is seeing substantial change in terms of taller built forms. It is considered that the design has been well considered in relation to its context and integrates well with surrounding built form. Based on these considerations, the proposed building height is supportable, subject to further consideration of off-site amenity impacts.

Massing

112. The development would provide a three-storey street-wall along the Balmain Street interface, with the inclusion of a mix of glazing and cladding at ground floor, with the upper levels consisting of extensive glazing and black window frames. The graduating height of the development from south to north would provide a sense of visual relief, both for the dwellings to the south and for pedestrians along Balmain and Cubitt Streets. The Cubitt Street frontage would consist of a 6-storey podium with front setbacks within all levels to accommodate terraces and landscaping, providing a good degree of articulation to the massing of this facade. As stated earlier, Council's Urban Design Unit is supportive of this approach. Both heights of the street-walls are commensurate with the emerging built form character in the surrounding area (e.g. 3, 4 or 6-storeys), combined with the ground floor setbacks provide a human scale to the development, especially by focussing pedestrian sightlines to the lower levels fronting Balmain Street. This outcome is supported.
113. As stated earlier, Council's Urban Design Unit recommended Level 5 of the development to be deleted. However, the subject site being a relatively large site and located on a corner (where traditionally more hard edged and taller built form is located) allows for a more robust presentation to the street. Similarly, the proposed raked setback from the Balmain Street and the 6-storey street wall on Cubitt Street, combined with the steel pergola structure, with limited battens above outlining the Cubitt Street façade would help to anchor this corner setting. The subject site thus has a different context to other recent developments (which are located mid-block) and as such, should not be required to match their respective height or upper level setbacks.
114. Furthermore, the proposed uppermost level setback from Balmain and Cubitt Streets (over 7m and 10m, respectively), combined with the pergola structure is supported and provides for a visually lighter and more open expression at the top of the building. In addition, the consistent upper level rake from the southern boundary allows for the development to avoid a 'wedding cake' typology as it presents to Balmain and Cubitt Streets and other surrounding Streets. Based on the above considerations, the proposed building massing is supportable in this commercial precinct.

Public realm and pedestrian spaces

115. *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. *Clause 21.05* seeks new development to make a positive contribution to the enhancement of the public domain.



S57 Plans: Corner of Balmain and Cubitt Streets (Jackson Clements Burrows Architects October 2020)

116. The existing footpath in front of the subject site is limited to a width between 1m to 1.5m wide. Therefore, the provision of a 1.38 and 1.52m setback along the Balmain Street and Cubitt Street frontages respectively, was supported by Council's Urban Design Unit. Furthermore, the provision of a café frontage and lobby entrance area, with 4m floor to ceiling along Cubitt Street is also supported. However, based on the advertised plans, the proposed pavers within the Council land along both footpaths were not supported by Council's Urban Design Unit. It was recommended that *all pavements along Balmain Street and Cubitt Street are to be reinstated as asphalt footpaths with concrete kerbs and channels for the full length of the site as per City of Yarra's Infrastructure – Road Materials Policy*. In addition, it was also recommended that:
- (a) *All redundant vehicle crossovers are to be demolished;*
 - (b) *Proposed kerbs and channels and vehicle crossovers to be shown on drawings and reinstated as per Yarra Standard Drawings;*
 - (c) *All proposed paving in the pedestrian walkways must be compliant with Australian Standards for slip resistance and DDA;*
 - (d) *A clear delineation be provided between public and private land;*
 - (e) *All existing infrastructure on footpath like electricity pole, parking signs, street name sign to be shown. If any of this infrastructure is proposed to be relocated show the proposed new locations;*
 - (f) *Provide additional spot levels on the plan to clarify the height differences between the footpath and paving in order to ensure a seamless transition between the footpath and paving, with any height differences resolved through grading of the paving to ensure no steps will be required.*
117. As part of the S57A submission, the applicant provided all of the above requirements. The plans now show the extent of pavers to be located within the title boundaries of the subject site, with the footpath beyond to consist of asphalt.

118. Based on the advertised plans, Council’s Urban Design Unit found the ratio between blank wall/services area and glazing at ground floor unacceptable. Therefore, in order to provide a more active street frontage, the applicant revised the ground floor treatment as part of the S57A submission; with the extent of glazing along Balmain Street increased compared to the advertised plans (see image below showing the comparison highlighted in pink and blue).



Advertised Plans: Balmain Street Frontage (Jackson Clements Burrows Architects June 2020)



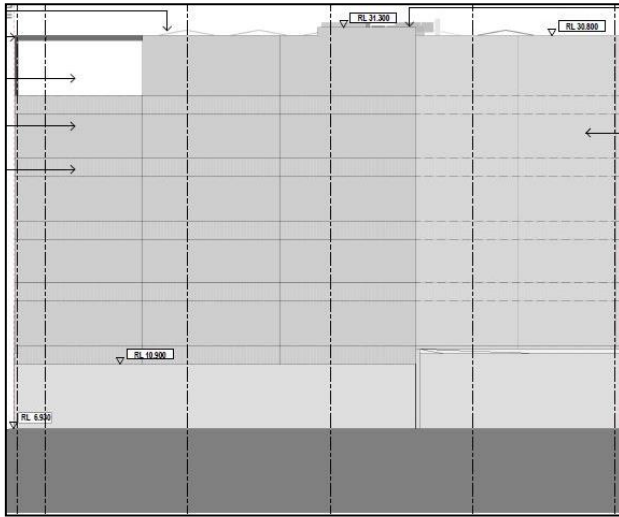
S57 Plans: Balmain Street Frontage (Jackson Clements Burrows Architects October 2020)

119. The proposed development has enhanced the pedestrian experience along Balmain and Cubitt Streets by providing a high degree of glazing, allowing views between the uses on-site and the street. The proposed glazed frontages, combined with the reduced services area/metal cladding at ground floor is considered an appropriate and site responsive design, activating the public realm by providing direct visual interaction and passive surveillance opportunities. The entrance to the lobby associated with the office is proposed to be setback 1.52m from the Cubitt Street boundary, with a double-height entrance. Given the narrow width of the footpath, the undercroft affords a space for pedestrians to transition to the public realm. In addition, the undercroft also provides a sheltered space before entering the building.
120. As shown in the earlier images, the upper levels will also consist of extensive glazing, including terraces, which would contribute to passive surveillance and activation when viewed from this street. This outcome is encouraged within commercial areas, as outlined as a decision guideline of the zone at *Clause 34.02-7* and policy direction under *Clause 22.10-3.4* of the Scheme.
121. *Clause 22.10-3.10* which encourages *access to car parking areas and loading area not adversely affect pedestrian amenity*. Vehicle access has been provided to the south-western periphery of the development within Balmain Street (away from the corner of Balmain and Cubitt Streets). In addition, all back-of-house services would be located within this south-western corner of the building. Whilst vehicle access is provided adjacent to the sensitive residential uses, this layout is supported as these back-of-house services are consolidated into one area of the development, further south-west of the site. This ensures that vehicles do not unduly interrupt the pedestrian experience along Balmain and Cubitt Streets. Furthermore, there is currently a vehicle crossover on Balmain Street providing vehicle access into the site. Therefore, the surrounding sites would already be accustomed to vehicles entering the subject site via Balmain Street. Nonetheless, to further increase pedestrian safety and improve the integration between the development and the street, a condition will require wall-mounted lighting to be provided to the Balmain and Cubitt Street pedestrian entrances. Standard conditions will be imposed to ensure the lights are appropriately baffled and shielded to prevent light spill.

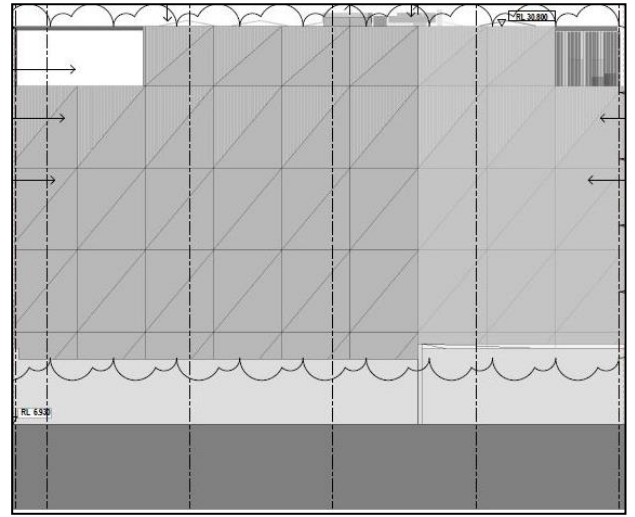
122. In light of the above considerations, the presentation of the overall development to the public realm is well designed and will provide a positive interface with Cremorne Street, consistent with the C2Z and *Clause 22.10* of the Scheme.

Architectural quality

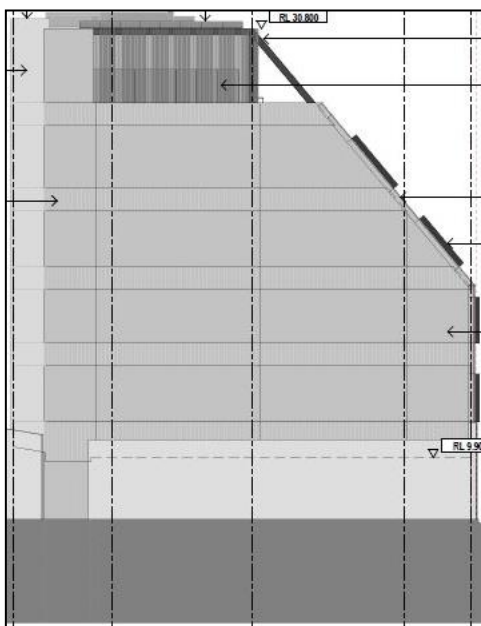
123. Policy at *Clause 15.01-2S* encourages high standards in architecture and urban design, whilst *Clause 22.10* encourages the design of new development to respect the pattern, spatial characteristics, fenestration, roof form and materials if the surrounding area. As demonstrated earlier in the report, an increasing degree of contemporary, higher built form is now forming part of Cremorne. These developments provide robust, rectilinear designs, high proportions of glazing across facades, and roof forms that are either flat or pitched in a contemporary fashion.
124. The proposed materials for the overall development are predominantly metal cladding, concrete and glazing. Council's Urban Design Unit found the overall architecture of the form not responding to the streetscape character, particularly the fine grain character of Balmain Street. The lack of articulation along Balmain Street to break the length of the façade was found to be unacceptable. As a result, the applicant submitted S57A plans reducing the bulk to the Balmain/Cubitt Street corner by introducing mesh cladding (previously metal cladding) along the south-eastern corner and reducing the metal framing over the eastern interface of the terrace at Level 5 (see comparison images earlier).
125. The addition of a transparent material such as mesh cladding at the south-eastern corner of the overall development has further softened the proposed building and gives the upper levels a recessive appearance, ensuring that they do not overwhelm the public realm along Balmain and Cubitt Streets. Given the transparency of the proposed material, the public realm would have views to each street. The proposed glazing and metal window framing which increase in visual permeability as the development rises ensure that the upper levels would appear recessive to the street wall and allow for a more visually 'lightweight' finish.
126. The material schedule makes reference to the use of 'Black metal flat-lock cladding' (EM-01) and the southern elevation seems to show this material. However, the southern elevation incorrectly identifies the proposed material as 'Black metal window shading' (MF-01) and not EM-01 which the applicant has confirmed as a clerical error. The inter-connecting material is 'brick like' in its segmentation, and serves to 'ground' the building within the surrounding masonry streetscape. A condition will require the southern elevation to correctly show extent of EM-01 (black metal flat-lock cladding).
127. Council's Urban Design Unit found *the large expanses of blank wall along north and west facades will make the form appear more bulky from street views*. Whilst such material treatment has been proposed in order to ensure equitable development opportunities of adjacent sites, Council's Urban Design Unit recommended that *till those sites are developed these walls will be very visible from the surrounding areas and therefore, to provide some level of articulation or design or texture on these blank walls so the development does not detract from the fine grain character of the streetscape when viewed from oblique views*.
128. As a result, under the S57A submission, the applicant altered the previously proposed horizontally applied patterned and ribbed concrete to a diagonally patterned mix of concrete and ribbed concrete to the northern and western facades (see images below). This is an important feature of the design as it will reduce visual bulk impacts to nearby properties but also because it will ensure that the side boundary walls (which will be highly visible from the public realm) are aesthetically integrated with the development's overall architectural composition.



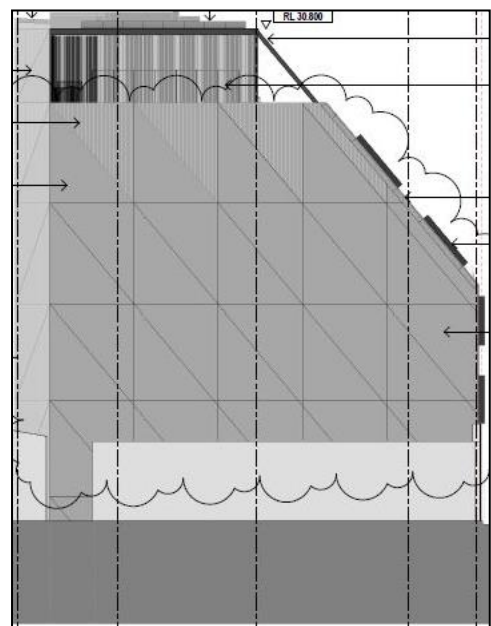
Advertised Plans: Northern Façade (Jackson Clements Burrows Architects June 2020)



S57 Plans: Northern Façade (Jackson Clements Burrows Architects October 2020)



Advertised Plans: Western Façade (Jackson Clements Burrows Architects June 2020)



S57 Plans: Western Façade (Jackson Clements Burrows Architects October 2020)

129. As discussed earlier in the report, the extent of glazing across the development's street walls is generally supported as it allows for an active street frontage and passive surveillance opportunities; especially at ground floor. This will draw pedestrian sightlines to the ground floor, enabling the office lobby and food and drink premises to engage with the public realm.
130. Furthermore, Council's Urban Design Unit have advised that Balmain Street and Cubitt Street have been identified to be planted as part of Council's street tree planting program. Therefore, it has been recommended *to plant a roadside tree on Balmain Street in the no stopping area near the intersection of Balmain and Cubitt Streets*. It has been requested that the applicant contribute to the cost of planting one (1) new street tree, which would cover tree sourcing, planting and 2 years of maintenance with a total cost for the tree being \$1,037. This will be required by way of condition.
131. In light of the above considerations, the proposed development provides high standards in architecture and urban design.

Landscaping

132. The development provides landscaping in the form of landscaping planters along the edges of terraces provided between Levels 1 to Level 5. Given the site context, the extent of landscaping is considered an appropriate response. Based on the advertised plans, Council's Urban Design Unit were doubtful of the usability and accessibility of the terraces fronting Cubitt Street as a result of the minimal 1.48m depth of the terraces. Nonetheless, planning officers do not believe this is a concern as the windows along the eastern side of the proposed development are operable. Therefore, this provides an adequate level of circulation space and usability of the terraces.
133. The advertised plans and landscape plan prepared by Paul Bangay Landscape Architects (dated 02 March 2020) was referred to Council's Open Space Unit who were generally supportive of the landscape plan, but required the following to be clarified:
- (a) *The details indicate the soil media depth is to be 600mm. It appears that the planter width will be a minimum of 300mm. Could this be confirmed and included on the drawings to ensure the plants have minimal growing conditions specified;*
 - (b) *A plant maintenance schedule should also be included to maximise the success of the planting following construction and into the future;*
 - (c) *Load bearing weights for the building need to be checked and confirmed by suitably qualified structural engineers against the saturated bulk density of soil media, planter box and plant mass proposed.*
134. As a result, the applicant provided a revised landscape plan, prepared by Paul Bungay Landscape Architects (dated 08 October 2020). The revised landscape plan was reviewed by Council's Open Space Unit who confirmed that *in general terms the revised landscape drawings respond to queries raised previously.*

Site coverage

135. The entirety of the land will be covered in built form. Whilst the development does not achieve the recommended maximum site coverage of 80% in accordance with *Clause 22.10* of the Scheme, this is acceptable as the proposed site coverage (100%) reflects that of commercial buildings in proximity to the land, with intensive development a characteristic of the surrounding area. The extent of site coverage is considered acceptable based on the context of the land and is not considered to result in an imposing building or in any unreasonable visual bulk impacts. Furthermore, the provision of landscaping across the upper level terraces, together with the ground floor setbacks help to provide a sense of spaciousness when viewed from Balmain and Cubitt Streets unlike other development in the area.

Light and shade

136. The proposed development would result in new shadowing to the southern footpath of Balmain Street, with shadows cast consistently between 9.00am to 3.00pm on the September equinox. Given the narrowness of Balmain Street, more than half of the southern footpath of Balmain Street will be covered as a result of the proposed development between these hours. However, none of the additional shadows would reach the front gardens or front fencing associated with the dwellings to the south, across Balmain Street. Furthermore, the additional shadowing is as a result of the proposed 3-storey podium and not as a result of the upper levels; i.e. as a result of the sloping form from south to north, the upper levels do not cast additional shadows on the southern footpath of Balmain Street.
137. Whilst pedestrians using the southern footpath would be partly in shadow, given that Balmain Street is very narrow, it is impractical for new development to avoid overshadowing the public realm. To achieve zero shadow impacts to Balmain Street would require a significantly smaller development at the subject site, contrary to the overall strategic direction of the Scheme for the subject site. In light of this, it is considered that the additional shadowing cast to Balmain Street would not unreasonably impact the use of this public space.

138. Between 2.00pm to 3.00pm, all additional shadows will fall on the section of Cubitt Street associated with the Commercial 2 Zone, as well as the residential section located further south-east. There will be no additional shadows cast on Cubitt Street during the morning hours. The subject site is located in a commercial precinct and some degree of overshadowing is inevitable due to the hard-edge built form character which has been established. Given that the eastern side of the Cubitt Street footpath is only shadowed for one hour, combined with the site context and the purpose of the C2Z, it is considered that the increased shadowing from the development would not unreasonably affect the usability of the public realm.

Landmarks, Views and Vistas

139. It is policy at *Clause 15.01-2* of the Scheme that important landmarks, views and vistas be protected or enhanced, or where appropriate, created by new additions to the built form. Within the Cremorne area, the Nylex Sign (Harcourt Parade) and the Slade Knitwear Sign (Dover Street) are identified as significant landmark signs to which views should be protected.
140. The proposed development at 6-storeys does not compete with these identified landmark signs, with the Nylex Sign and the Slade Knitwear Sign located approximately 270m west and 100m north, respectively of the subject site and is considered to be an acceptable response to the policy direction under *Clause 22.03-4* of the Scheme.

Laneway Abuttal

141. *Clause 22.07* of the Scheme aims to maintain the unique character of laneways, ensure that development abutting laneways respects the scale of surrounding built form and that vehicle access via laneways will not detrimentally impact other users of the laneway.
142. Part of the western boundary associated with the subject site abuts a ROW, which, is a narrow laneway providing a 'back of house' context with no residential abuttal. The laneway has a dead-end and therefore does not act as a thoroughfare for pedestrians and is characterised by single to double-storey industrial walls and rear fences. There is no vehicle or pedestrian access proposed from this ROW, rather a 6-storey boundary wall. All proposed works abutting this laneway would be located wholly within the title boundaries of the subject site. Therefore, the objectives of *Clause 22.07* will be met.

[On and off-site amenity impacts](#)

On-Site Amenity

143. The development is considered to achieve a good level of internal amenity through the following:
- (a) provision of a suite of ESD features which include natural ventilation to all floors, excellent daylight access to all office spaces provided from the southern and eastern aspects;
 - (b) all floors between Levels 1 to 5 provided with terraces and planter-boxes along the eastern perimeters; and
 - (c) bicycle parking for both employees and visitors and end of trip facilities for employees.
144. With regards to the wider ESD features of the development; the following have been identified as part of the applicant's SMP (prepared by Ark Resources, dated 22 May 2020):
- (a) 14.5kWp rooftop PV system;
 - (b) Electronic vehicle (EV) charging infrastructure for all car parking spaces;
 - (c) STORM rating of a 116% as a result of the proposed 10,000Ltr rainwater tank used for sanitary purposes;
 - (d) Equivalent 4-star Green Star Design & As-Built rating;
 - (e) 5-Star NABERS energy rating;

- (f) Selection of low VOC products; and
 - (g) Water-efficient fixtures.
145. To further increase the development's energy efficiency, Council's ESD Advisor recommended a number of modifications and additions to the design as well as the Sustainability Management Plan (SMP). These include the following:
- (a) *The application has heavy reliance on innovation points to reach a 4 star Green Star rating. Recommend increasing contingency to 4 to 5 points above the threshold to ensure that the Green Star rating can be reached;*
 - (b) *Include a target >80% of all demolition and construction waste (by weight) to be reused or recycled into site-specific Environmental Management Plan;*
 - (c) *Include allocations for waste streams including organics in WMP and within basement;*
 - (d) *Plans suggest a large portion of black metal cladding which poses a concern for UHI mitigation (although acknowledge that this is not included in the 75%);*
 - (e) *2 innovation credits rely on 3 credits being claimed for 'Access by Public Transport', however the site is approximately 430m from Church Street (tram) and 750m to the Richmond train station – and as such is not considered 'innovative' in that regard;*
 - (f) *Clarify provision of outdoor air to office spaces on all levels;*
 - (g) *Clarify project-wide specification for hazardous materials (adhesives, sealants, carpets, and timer);*
 - (h) *Confirm, and provide calculations (Section J Analysis) to support improvement on 2019 NCC reference;*
 - (i) *Include details on façade design and performance to support calculations;*
 - (j) *Clarify HWS and consider using a heat pump;*
 - (k) *Clarify HVAC provision and consider 3 pipe VRF;*
 - (l) *Confirm car park ventilation strategy (whether garage door vented or open to facilitate ventilation);*
 - (m) *Clarify improvement in lighting density over NCC requirements;*
 - (n) *Confirm WELS ratings of dishwashers;*
 - (o) *Confirm strategy for water metering;*
 - (p) *Clarify treatment of stormwater prior to reuse;*
 - (q) *Clarify use of recycled or reused materials;*
 - (r) *Clarify certification (FSC or similar), and/or recycled timber to be used within project;*
 - (s) *Confirm extent of strategy for reduced PVC (by weight or cost);*
 - (t) *Confirm, and consider the addition of a shower in the DDA compliant bathroom to allow all users access to EOT facilities;*
 - (u) *Include car share information within Green Travel Plan;*
 - (v) *Provide a Green Travel Plan with performance targets and monitoring and reporting components included;*
 - (w) *Provide an operational Waste Management Plan detailing the sites waste generation and management strategy, including strategy for organic waste;*
 - (x) *Provide Landscape Management Plan and/or planting schedule to confirm native planting strategy;*
 - (y) *Provide documentation to support 75% target for UHI materials and green infrastructure claim;*

- (z) *Clarify innovative technology includes site-wide leak detection system, and Dematerialisation of PV array and support racking by 20% through use of bifacial modules with high-efficiency cells;*
- (aa) *Confirm extent of building commissioning and tuning strategy; and*
- (bb) *Clarify provision of a BUG to support the uptake of sustainable practices by building users.*

146. As a result of the abovementioned comments, the applicant submitted a revised SMP, prepared by Ark Resources, dated 20 October 2020. The revised SMP was reviewed by Council's ESD Officer who advised that the following remain *outstanding which require clarification, with a number of others which will need to be conditioned into the permit for the proposal to meet the ESD standard expected by the City of Yarra.*

- (a) *The application has heavy reliance on innovation points to reach a 4 star Green Star rating. Recommend increasing contingency to 4 to 5 points above the threshold to ensure that the Green Star rating can be reached;*
- (b) *2 innovation credits rely on 3 credits being claimed for 'Access by Public Transport', however the site is approximately 430m from Church Street (tram) and 750m to the Richmond train station – and as such is not considered 'innovative' in that regard;*
- (c) *Clarify project-wide specification for hazardous materials (adhesives, sealants, carpets, and timer);*
- (d) *Confirm, and provide calculations (Section J Analysis) to support improvement on 2019 NCC reference;*
- (e) *Include details on façade design and performance to support calculations;*
- (f) *Clarify HWS and consider using a heat pump;*
- (g) *Clarify HVAC provision and consider 3 pipe VRF;*
- (h) *Confirm car park ventilation strategy (whether garage door vented or open to facilitate ventilation);*
- (i) *Clarify improvement in lighting density over NCC requirements;*
- (j) *Confirm WELS ratings of dishwashers;*
- (k) *Clarify treatment of stormwater prior to reuse;*
- (l) *Clarify use of recycled or reused materials;*
- (m) *Clarify certification (FSC or similar), and/or recycled timber to be used within project;*
- (n) *Confirm, and consider the addition of a shower in the DDA compliant bathroom to allow all users access to EOT facilities;*
- (o) *Provide documentation to support 75% target for UHI materials and green infrastructure claim;*
- (p) *Clarify innovative technology includes site-wide leak detection system, and Dematerialisation of PV array and support racking by 20% through use of bifacial modules with high-efficiency cells;*
- (q) *Confirm extent of building commissioning and tuning strategy; and*
- (r) *Clarify provision of a BUG to support the uptake of sustainable practices by building users.*

147. These improvements and updates can be included as conditions for an updated SMP. Further, a condition can be added to condition 1 to ensure that all details associated with the endorsed SMP be included on the development plans.

Off-site amenity

148. *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 C2Z, with the closest residentially zoned land (NRZ1) located approximately 7.4m south of the subject site. Further, the site is located within a neighbourhood where commercial uses are encouraged.
149. 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.*
150. Aside from the dwellings across Balmain Street (within the NRZ1), the proposed development would be proximate to a dwelling on the eastern side of Cubitt Street. However, this dwelling is located with a C2Z, with existing use rights. 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.
151. *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 daylight 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

152. The proposed development would be visible along Balmain Street and Cubitt Street, however the proposed podium height of 3-storeys, with gradual increases to the top-most storey from south to north would not result in an overwhelming or visually dominant building when viewed from the more sensitive interface, which is south of Balmain Street. The introduction of a raked height, extensive glazing at all levels, terraces between Levels 1 to 5 and light-weight pergola structure with limited battens at Level 5, 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, 3-storey podium would not result in a stark height transition to the double-storey residential dwellings across Balmain Street as a result of the proposed raked setback from south to north, reducing the overall massing of the development as the height increases. The raked setback would provide a level of transition and articulation when viewed from Balmain Street.

153. Furthermore, to require the proposed building to be curtailed to protect the amenity of the non-conforming residential uses across Cubitt Street (No. 27 Balmain Street) would erode the purpose of the C2Z, which is to encourage commercial areas for offices. Nonetheless, the 6-storey street wall to Cubitt Street is provided with glazing, terraces and planter-boxes which would further reduce the visual impact of the overall height when viewed from the dwelling to the east, across Cubitt Street. In addition, the 6.3m distance between the subject site and the dwelling to the east provides an appropriate buffer to reduce the visual prominence of the new built form.

Daylight to habitable room windows

154. There are no habitable room windows (HRW) located within 3m of the subject site. Therefore, there will be no unreasonable daylight and solar access impacts to north-facing HRW of the residential dwellings to the south.

Overshadowing

155. Shadowing of footpaths were discussed earlier in the report (light and shade section).

156. The SPOS associated with the dwellings across Balmain Street are located further south, away from the subject site and therefore, there will be no additional overshadowing to these areas. Whilst not considered as SPOS, the front gardens of these dwellings will also not be impacted as a result of the proposed development during the September equinox.

157. Similarly, the additional shadows between 2.00pm to 3.00pm on Cubitt Street do not reach the SPOS of the dwelling at No. 27 Balmain Street (across Cubitt Street). Nonetheless, as discussed earlier in the report, a dwelling in a C2Z cannot expect the same level of amenity as would be afforded within a purely residential zone.

Overlooking

158. Standard B22 of *Clause 55.04-6* (ResCode) of the Scheme includes requirements for managing overlooking, and requires that:

- (a) *A habitable room window, balcony, terrace, deck or patio should be located and designed to avoid direct views into the secluded private open space of an existing dwelling within a horizontal distance of 9 metres (measured at ground level) of the window, balcony, terrace, deck or patio. Views should be measured within a 45 degree angle from the plane of the window or perimeter of the balcony, terrace, deck or patio, and from a height of 1.7 metres above floor level.*

159. The strict application of the Standard is not required in this instance as the proposal is for an office and café development and is therefore not required to satisfy the objectives contained within *Clause 55* (ResCode). Whilst not strictly applicable Standard B22 is a useful tool to establish unreasonable overlooking within the 9m radius and 45 degree arc of habitable room windows and terrace.

160. The closest HRW and balconies within proximity to the subject site (and located within the NRZ1) are associated with the dwellings located across Balmain Street, (Nos. 22 to 36 Balmain Street), all of which are located at least 12m from the subject site (outside of the 9m arc). Therefore, screening of the proposed south-facing windows at all levels and southern terrace at Level 5 are not required.

161. Similarly, as shown in the image above, the distance between the proposed eastern windows and terraces from the HRWs of No. 27 Balmain Street (across Cubitt Street) are over 9m. Therefore, screening to the proposed eastern windows and terraces are not required.

Noise

162. 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 between Levels 1 to 5 does not require a planning permit and therefore restrictions cannot be included. One of the concerns raised in the objections to this application was noise, and in particular the noise that may be generated from the terrace at Level 5. Whilst not specifically stated in the application material, it does note that this terrace is to provide amenity to staff within the office development only and not patrons from the café or visitors. Whilst the lack of planning permission required for this office 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)*.
163. Possible noise impacts from the permit required café use has already been discussed under the 'land use' section of this report.
164. General conditions would also be included in order to ensure the amenity of the area is not unreasonably compromised due to the proposed uses. These would include restrictions on noise, waste disposal, deliveries and emissions, including light spill. Subject to the above conditions, the use of the land as an office and café can be supported.

Wind

165. Wind impacts relate to the public realm, with a particular focus on potential impacts to pedestrians using the public realm. A desktop wind assessment was undertaken by the applicant (prepared by MEL Consultants, dated 16 March 2020), which found that due to the development's proposed height and the height and proximity of the surrounding buildings, that there would be direct shielding for the majority of the development's height for all wind directions. The report concluded that the wind levels are expected to meet the recommended walking comfort criterion in the pedestrian pathways and stationary comfort criterion in the entrances and therefore, *it would not be expected that any wind tunnel testing would be required for this development*.
166. Council engaged ViPAC, an independent wind consultant to peer-review this assessment, who largely agreed with the assessment but recommended that a commentary be provided in relation to the expected wind conditions at the communal terraces proposed at all levels within the development.
167. As a result, the applicant submitted a revised desktop wind assessment prepared by MEL Consults, dated 14 October 2020 which was peer reviewed by ViPAC. The revised assessment found that *the terraces on Levels 1 to 4 were expected to generally achieve the stationary activities criterion, except near the building corners which would achieve the recommended walking comfort criterion. The communal terrace of Level 5 would be expected to meet the walking comfort criterion, except at the far northern end of the terrace.* ViPAC agreed with the assessment which recommended incorporating higher balustrading, screening or dense landscaping along the northern edge of the terrace at Level 5. This higher balustrading or screening will be required by way of condition, as it is unreasonable to rely on vegetation which may or may not be maintained.

Equitable development

168. To ensure the 'fair, orderly, economic and sustainable development of land' in accordance with the objective of the Act, matters of equitable development must be considered. The Scheme aims to facilitate equitable development opportunities for neighbouring properties within the context of the site's location and that of adjoining properties. In this instance the site has direct abuttal with three properties; No. 126 Cubitt Street to the north, No. 141 Dover Street to the north-west and No. 23 Balmain Street to the west. All three sites are zoned C2Z and constructed flush to the subject site. The proposed development has responded appropriately to these abutting sites by providing boundary walls with no windows across the

northern and western façades; therefore will not pose any unreasonable equitable development issues for these abutting lots.

169. Balmain Street provides a good degree of separation from any further higher development to the south and east. Nonetheless, given the NRZ1 zoning of the dwellings to the south, any development beyond two-storeys will not occur in the future. Similarly, Cubitt Street provides an appropriate buffer between the subject site and the dwelling to the east, which is located within a C2Z. Additionally, given the alternate southerly outlook afforded to all office tenancies at all levels; future developments to the east can occur without impeding the internal amenity of the offices within the proposed development. Therefore, the equitable development opportunities of the southern and eastern sites are not impeded by the design of this development.
170. 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 provisions](#)

Car parking

171. Under the *Clause 52.06-5* of 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
Food and drink premises	109sqm	3.5 spaces to each 100sqm of LFA	3	0	3
Office	2,437sqm	3 spaces to each 100sqm of NFA	73	8	65
Total			76	8	68

172. Based on the table above, as only 8 car spaces are provided on-site, the development results in a parking shortfall of 68 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

173. 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 kerb-side parallel parking is restricted to 2 hours or permit zone only, extending along the northern side of Balmain Street (directly abutting the subject site) and the eastern side of Cubitt Street. The southern side of Balmain Street (across the subject site) and western side of Cubitt Street (directly abutting the subject site), is ‘no-stopping’, with no parking spaces provided.
174. There are currently four car parking spaces provided along the Balmain Street frontage of the subject site. As a result of constructing a new crossover on the Balmain Street frontage, two of these car spaces along Balmain Street would be impacted by the development. To off-set the loss of car spaces, the applicant has proposed to create one new space to the west of the existing on-street car spaces. As a result, Council’s Traffic Engineering Unit have not raised concerns with the loss of one on-street car parking spaces along Balmain Street.

Parking Demand for Office Use

175. The applicant provided a Traffic Report, dated 19 May 2020 and prepared by Ratio Consulting, 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 0.29 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 (0.29 spaces per 100sqm) is lower than most large scale office development (0.85 spaces per 100sqm) approved within the immediate area in Yarra; i.e. Nos. 60 – 88 Cremorne Street, 9 – 11 Cremorne Street and 2 – 16 Northumberland Street, and as such, the provision of 8 on-site parking for the proposed office use is considered appropriate.

Parking Demand for Café Use.

176. Council's Engineering Unit have stated that generally a café use would *generate a staff parking demand of 1 space per 100sqm*. Therefore, the reduction of 3 spaces for the café component of the proposal would be readily accommodated off-site. Furthermore, given the location of the subject site; i.e. near an AC with access to public transport, combined with the area's coverage of 2P restrictions would provide regular turnover of parking throughout the day. Additionally, the applicant has advised that the café would mostly cater to the employees of the office use on-site.

Appropriateness of Providing Fewer Spaces than the Likely Parking Demand

177. The additional reduction in car parking being sought by the proposal is supported by the following:
- (a) Given the nature of the area, with a mix of industrial/retail/warehouse/office uses to the north; this area attracts workers and visitors. The 2 hour spaces are unlikely to be affected by the proposed office use as they are not convenient for employees working during business hours. The permit-restricted spaces would continue to protect car parking availability for existing, permit-holding residents. Council's Engineering Services Unit confirmed that the occupancy of on-street car parking within the Cremorne area is very high, making it undesirable for employees to arrive to work via vehicle. This would further encourage staff to commute to the site by using alternative transportation modes;
 - (b) Tram services operating along Swan Street (500m north) and Church Street (430m east). The site also has access to bus services operating along Punt Road (300m west) and train services at East Richmond and Richmond Railway Stations (850m north-east and 700m north-west, respectively);
 - (c) The site has good connectivity to the on-road bicycle network, including the Main Yarra Trail cycling route (250m south), with a generous amount of on and off-site bicycle parking spaces proposed;
 - (d) The site is within proximity to the Swan Street AC and Church Street, which consists of a number of retail, entertainment and commercial premises. Visitors to the proposed café use may combine their visit by engaging in other activities or business whilst in the area;
 - (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 and GoGet car share pods are located between 180m (Cremorne/Gough Streets) to 900m (Swan/Church Streets) from the subject site.

178. The reduction in the car parking requirement associated with the office and café uses are considered appropriate in the context of the development and the surrounding area.

Car park access and layout

179. The proposed at-grade car parking layout and access shown on the S57A plans, including the revised traffic report prepared by Ratio Consulting, dated 13 October 2020, was assessed by Council's Traffic Engineering Unit, who confirmed that the width of the garage entrance (6.4m) and the headroom clearances are satisfactory and met all relevant standards and guidelines. The dimensions of the garage, crossover (5.6m), car spaces, aisle and column widths were also found to be suitable. However, a condition will require both the garage entrance and vehicle crossover to be clearly annotated on the proposed ground floor plan.
180. Revised swept path diagrams were submitted as part of the S57A plans, which demonstrated that entering and exiting the garage from Balmain Street is satisfactory for the B99 design vehicle. Council's Traffic Engineers have also confirmed that the vehicle crossing ground clearance check is also satisfactory and that B99 design vehicle can enter and exit the property without scraping or bottoming out.
181. Council's Traffic Engineering Unit have recommended that *any service cabinet door opening onto a Public Highway must swing 180-degrees and be latched to the building when opened*. This will be required by way of condition.
182. Additionally, Council's Traffic Engineering Unit have recommended the following relating to the laneway TP938653J identified as Laneway No. 1087; i.e. *Council controlled road*:
- (a) *For the occupation of the Public Road (Laneway No.1087) or Road TP938653J as part of the development, the applicant is to confirm that an application to Council has been submitted for the discontinuance of the road;*
 - (b) *The applicant is to discuss the proposed occupation of the road with Council's Property Services unit to have the Road discontinued and sold;*
 - (c) *No works are to be undertaken on the Road until the discontinuance has been confirmed or finalised;*
 - (d) *The discontinuance of a Road is a formal process under LGA Act 1989; and*
 - (e) *Should the discontinuance be approved, the Road would be sold by Council at market value.*
183. However, as outlined within the 'background' section of the report, Council's Valuation Department and Governance Unit have confirmed that whilst this laneway was previously owned by Council, the laneway discontinuance process was completed at the start of 2020. As a result, this laneway is now located with its own title plan '938653J' and forms part of this application.

Bicycle parking

184. The proposal generates a demand of 10 statutory spaces (8 employee and 2 visitor). Whilst generally supportive of the overall proposed bicycle parking numbers and arrangements for employees, based on the originally advertised plans, Council's Strategic Transport Unit recommended the following condition:
- (a) *Employee bicycle parking is provided in two secure locations at the ground floor, including 20 spaces adjacent to the end of trip facilities and 8 spaces within the car park area. It is recommended that all employee bicycle parking is consolidated into one secure area to improve access and from a 'user experience' perspective.*
185. However, this will not be required by way of condition as the location of the two secure bicycle parking areas is considered acceptable with the larger area located centrally and easily accessible via the corridor (circulation space).

186. The proposal also incorporate 2 bicycle hoops or a total of 4 bicycle spaces for visitors on the Balmain Street frontage. Council's Strategic Transport Unit have provided the following comments regarding visitor parking:
- (a) The four visitor bicycle spaces proposed meet Council's best-practice rate recommendation;
 - (b) The visitor spaces are located within the property boundary and in a location visible and accessible for visitors to the site; and
 - (c) All visitor spaces are provided as a horizontal at-grade space and appear to meet clearance and accessway requirements of AS2890.3.
187. In addition, three shower / change rooms (EOT facilities) are provided within the ground floor which exceeds Council's best practice standards.
188. 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. However, the SMP prepared by Ark Resources state that all car parking spaces on-site will be provided with EV charging infrastructure. Similarly, a notation on the ground floor plan confirm the *provision for electric charge points to all car spaces to enable future installation of EV charging*. Therefore, this will not be required by way of condition.
189. Council's Strategic Transport Unit also recommended the following changes to the Green Travel Plan (GTP), prepared by Ratio Consulting, dated 19 May 2020:
- (a) *Measurable targets and performance indicators;*
 - (b) *Signage and wayfinding information for bicycle facilities and pedestrians pursuant to Australian Standard AS2890.3; and*
 - (c) *Provisions for the GTP to be updated not less than every five years.*
190. As a result of the above recommendations, the applicant submitted a revised GTP, prepared by Ratio Consulting, dated 14 October 2020, responding to the above recommendations. Council's Strategic Transport Unit found *the Green Travel Plan includes all the required information and can be endorsed*.

Traffic

191. Given the allocation of all on-site car parking spaces to the office use, any traffic generated by the site would be restricted to the remaining office tenancies and café uses. Local planning policy at *Clauses 18.02, 21.03, 21.06-3 and 21.07* encourages reduced rates of car parking provision for development sites within close proximity to public transport routes and activity centres. Traffic is a key issue affecting the road network in the Cremorne neighbourhood. By providing a lower rate of on-site car spaces, it will ensure that the development does not generate any unreasonable increase in traffic levels for the surrounding road network.
192. The Traffic Report prepared by Ratio Consulting states that the adopted traffic generation for the site is 0.5 trips per space during each peak hour period. Council's Traffic Engineering Unit have confirmed that the traffic generated from the proposed uses are not unduly high and would not pose adverse impacts on the surrounding road network.

Waste management

Waste

193. The Waste Management Plan (WMP) prepared by Leigh Design and dated 18 May 2020 indicates that waste collection would be undertaken by a private contractor with the *waste collection vehicle accessing the ground level car park from Balmain Street, conduct waste collection within the car park aisle, and exit the site onto Balmain Street in a forward direction*. The collection of waste internal to the building would also minimise conflict between pedestrians, cyclists and motorists using Balmain Street. Council's City Works Unit

have reviewed the advertised WMP and confirmed that this WMP is satisfactory. Council's ESD Advisor recommended the inclusion of organic/green waste and e-waste. However, these have been included within the WMP, including glass separation and food waste.

194. Nonetheless, the applicant submitted a revised WMP, prepared by Ratio Consulting, dated 13 October 2020 to reflect the changes made under the S57A plans. Council's City Works Unit have reviewed the revised WMP and confirmed that this WMP is satisfactory.

Loading

195. The Scheme does not provide any requirements for loading bays, rather Council must consider loading and unloading as relevant to the application. A loading bay has not been provided as part of the development. This is considered to be an acceptable outcome given that the majority of the development is associated with an office use. Whilst there will be a café proposed at ground floor, this is not a largescale operation and deliveries are likely to be from small vehicles which can utilise the on-street parking.

Objector concerns

196. The objector concerns are outlined and discussed below:

- (a) *Design and overdevelopment (height, scale, bulk) and deviation from the Swan Street Structure Plan;*

Matters relating to height, scale, bulk and the Swan Street Structure Plan are discussed at paragraphs 99 to 122.

- (b) *Off-site amenity (visual bulk, overshadowing, overlooking);*

Visual bulk is discussed in paragraph 152 to 153. Daylight/Solar access to HRW have been discussed in paragraph 154-157. Overshadowing and overlooking have been discussed in paragraphs 155 to 157 and paragraphs 158 to 161 respectively.

- (c) *Car parking, traffic impacts and pedestrian/cyclist safety;*

Car parking, traffic impacts and pedestrian/cyclists safety have been discussed in paragraphs 171 to 192 and under the public realm section of the report in paragraphs 115 to 122.

- (d) *Noise impacts from the proposed office use;*

Noise impacts from the proposed office use have been discussed in paragraphs 96 and 162-164.

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

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

- (f) *Creation of wind tunnels;*

Wind impact assessment has been discussed in paragraphs 165 to 167.

- (g) *Lack of a smoker's area and loading bay on-site;*

A 'smoker's lobby' has been provided at ground floor further north of the site, away from the sensitive residential interface to the south, across Balmain Street. A discussion relating to no loading bay on-site has been included in paragraph 195.

- (h) *Reduced property values;*

VCAT has consistently found that property values are speculative and not a planning consideration. Fluctuations in property prices are not a relevant consideration when assessing an application under the provisions of the *Planning & Environment Act* (1987), or the Yarra Planning Scheme.

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

The proposed development is located within the C2Z, on a site which was previously used as a warehouse, with full site coverage. There are no existing trees to be removed, with a condition requiring an additional street tree be planted at the corner of Balmain and Cubitt Streets. Therefore, there is no impact on the local ecosystem. As discussed earlier in the report, the proposed development has been provided with a context appropriate raked setback from south to north, in order to reduce any off-site amenity impacts to neighbouring lots. Any noise, traffic and pollution to occur during the construction phase will be managed by the CMP.

- (j) *Shift in working arrangements due to Covid-19; and*

In terms of a shift in working arrangements due to the current Covid-19 crisis, this may be a temporary shift and cannot be considered, especially as the office use is as-of-right in the zone.

- (k) *Selling of laneway to developers.*

This is not a planning matter.

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 PLN20/0037 for the construction of a multi-level building, with a reduction in the car parking requirements associated with the use of the land as a food and drink premises (cafe) and as-of-right office at Nos. 25 Balmain Street & 128 - 134 Cubitt Street Cremorne & Laneway TP938653J Cremorne VIC 3121, 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 Jackson Clements Burrows Architects, dated 02.10.2020 (Rev 3: TP0-000, 101, 102, 103, dated 04.03.2020 (Rev 2: TP0-104), dated 02.10.2020 (Rev 3: TP0-105, 106, 107, TP2-101, 102, 103, 104, TP3-101, 102, 103, 104) and dated 05.2020 (Materials) but modified to show the following:
 - (a) Wall-mounted sensor lighting to be provided to all pedestrian entrances;
 - (b) Width of garage door and vehicle crossover annotated on the proposed ground floor plan;
 - (c) A notation confirming any service cabinet door opening onto a Public Highway to swing 180 degrees and be latched to the building when opened;
 - (d) Southern elevation to correctly show extent of EM-01 (black metal flat-lock cladding);
 - (e) Design changes to implement recommendations of the Sustainable Management Plan Condition No. 7 of this permit; and
 - (f) Design changes to implement recommendations of the Wind Assessment Report Condition No. 13 of this permit.
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.

Food and drink premises (Café use)

3. No more than 35 patrons are permitted on the land at any one time.
4. No more than 3 staff are permitted on the land at any one time.
5. Except with the prior written consent of the Responsible Authority, the use authorised by this permit may only operate between Monday to Friday - 7.00am to 6.00pm.
6. 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.

Sustainable Management Plan

7. Before the plans are endorsed, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Sustainable Management Plan will be endorsed and will form part of this permit. The Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by Sustainable Development Consultants and dated October 2020, but modified to include the following:
 - (a) All design changes required under Condition 1 of this permit;
 - (b) Increase contingency of innovation points to 4 to 5 points above the threshold to ensure that the 4 star Green Star rating can be reached;
 - (c) Reduce innovation credits which rely on 'Access by Public Transport';
 - (d) Clarify project-wide specification for hazardous materials (adhesives, sealants, carpets, and timber);
 - (e) Confirm, and provide calculations (Section J Analysis) to support improvement on 2019 NCC reference;
 - (f) Include details on façade design and performance to support calculations;
 - (g) Clarify HWS and consider using a heat pump;
 - (h) Clarify HVAC provision and consider 3 pipe VRF;
 - (i) Confirm car park ventilation strategy (whether garage door vented or open to facilitate ventilation);
 - (j) Clarify improvement in lighting density over NCC requirements;
 - (k) Confirm WELS ratings of dishwashers;
 - (l) Clarify treatment of stormwater prior to reuse;
 - (m) Clarify use of recycled or reused materials;
 - (n) Clarify certification (FSC or similar), and/or recycled timber to be used within project;
 - (o) Confirm, and consider the addition of a shower in the DDA compliant bathroom to allow all users access to End of Trip facilities;
 - (p) Provide documentation to support 75% target for UHI materials and green infrastructure claim;

- (q) Clarify innovative technology includes site-wide leak detection system, and Dematerialisation of PV array and support racking by 20% through use of bifacial modules with high-efficiency cells;
 - (r) Confirm extent of building commissioning and tuning strategy; and
 - (s) Clarify provision of a BUG to support the uptake of sustainable practices by building users.
8. The provisions, recommendation and requirements of the plans and endorsed Sustainable Development Assessment must be implemented and complied with to the satisfaction of the Responsible Authority.

Waste Management Plan

9. 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.

Green Travel Plan

10. The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Landscape Plan

11. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:
- (a) implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
 - (b) not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
 - (c) replacing any dead, diseased, dying or damaged plants,
- to the satisfaction of the Responsible Authority.
12. Before the development commences, the permit holder must make a one off contribution of \$1,037 to the Responsible Authority to be used for new street tree planting on Balmain Street (in the no standing area) that is required as a result of the development. This fee will cover:
- (a) Tree sourcing;
 - (b) Planting;
 - (c) 2 years maintenance fee; and
 - (d) this fee must be provided in a manner, and on terms, to the satisfaction of the Responsible Authority.

Wind Assessment Report

13. 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 Wind Assessment Report will be endorsed and will form part of this permit. The Wind Assessment Report must be generally in accordance with the Wind Assessment Report produced by MEL Consultants dated 14 October 2020, but modified to include:
- (a) Higher balustrading or screening along the northern perimeter of the terrace at Level 5.
14. The provisions, recommendations and requirements of the endorsed Wind Assessment Report must be implemented and complied with to the satisfaction of the Responsible Authority.

General

15. 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).
16. 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.
17. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
18. 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.
19. 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.
20. 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) at the permit holder's cost; and
 - (c) to the satisfaction of the Responsible Authority.
21. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the redundant vehicular crossing on Balmain and Cubitt Streets 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.
22. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the footpath along the property's Balmain and Cubitt Street frontages must be stripped and re-sheeted with a cross-fall of 1:40 or unless otherwise specified by Council:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.

23. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the half width road pavement of Balmain Street (from the centre line of the road to the north kerb) and Cubitt Street (from the centre line of the road to the west kerb) along the property frontages must be profiled (grounded by 50mm) and re-sheeted;
- (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.

Construction Management Plan

26. 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.

27. 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.

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.

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

30. 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.

Permit Expiry

31. 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 food and drink premises (café) 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.

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

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

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

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

No 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.

All future employees working within the development approved under this permit will not be permitted to obtain employee car 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.

Attachments

- 1 PLN20/0037 - 25 Balmain Street & 128 - 134 Cubitt Street Cremorne & Laneway TP938653J - Site Location Plan
- 2 PLN20/0037 - 25 Balmain Street & 128 - 134 Cubitt Street Cremorne & Laneway TP938653J - Advertised Plans
- 3 PLN20/0037 - 25 Balmain Street, 128 - 134 Cubitt Street & Laneway TP938653J - Traffic Engineering Comments (Advertised plans)
- 4 PLN20/0037 - 25 Balmain Street, 128 - 134 Cubitt Street & Laneway TP938653J - Urban Design Comments (Advertised plans)

- 5 PLN20/0037 - 25 Balmain Street, 128 - 134 Cubitt Street & Laneway TP938653J - ESD Comments (Advertised plans)
- 6 PLN20/0037 - 25 Balmain Street, 128 - 134 Cubitt Street & Laneway TP938653J - Open Space Comments (Advertised plans)
- 7 PLN20/0037 - 25 Balmain Street, 128 - 134 Cubitt Street & Laneway TP938653J - Strategic Transport Comments (Advertised plans)
- 8 PLN20/0037 - 25 Balmain Street, 128 - 134 Cubitt Street & Laneway TP938653J - Waste Management Comments (Advertised plans)
- 9 PLN20/0037 - 25 Balmain Street, 128 - 134 Cubitt Street & Laneway TP938653J - External Wind Comments (Advertised plans)
- 10 PLN20/0037 - 25 Balmain Street & 128 - 134 Cubitt Street Cremorne & Laneway TP938653J - S57A Plans (Decision Plans)
- 11 PLN20/0037 - 25 Balmain Street & 128 - 134 Cubitt Street Cremorne & Laneway TP938653J - Traffic Engineering Comments (S57A Plans)
- 12 PLN20/0037 - 25 Balmain Street & 128 - 134 Cubitt Street Cremorne & Laneway TP938653J - ESD Comments (S57A Plans)
- 13 PLN20/0037 - 25 Balmain Street & 128 - 134 Cubitt Street Cremorne & Laneway TP938653J - Open Space Comments (S57A Plans)
- 14 PLN20/0037 - 25 Balmain Street & 128 - 134 Cubitt Street Cremorne & Laneway TP938653J - Strategic Transport Comments (S57A Plans)
- 15 PLN20/0037 - 25 Balmain Street & 128 - 134 Cubitt Street Cremorne & Laneway TP938653J - Waste Management Comments (S57A Plans)
- 16 PLN20/0037 - 25 Balmain Street & 128 - 134 Cubitt Street Cremorne & Laneway TP938653J - External Wind Comments (S57A Plans)