



**YARRA CITY COUNCIL**  
**Internal Development Approvals Committee**  
**Agenda**

**to be held on Wednesday 12 December 2012  
at 6.30 pm in Meeting Room 3  
at the Richmond Town Hall**

**Rostered Councillor membership**

Councillor Simon Huggins  
Councillor Sam Gaylard  
Councillor Phillip Vlahogiannis

- I. ATTENDANCE**  
Tarquin Leaver (Co-ordinator Statutory Planning)  
Cindi Johnston (Governance Officer)
- II. DECLARATIONS OF PECUNIARY INTEREST AND CONFLICT OF INTEREST**
- III. CONFIRMATION OF MINUTES**
- IV. COMMITTEE BUSINESS REPORTS**

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***"Welcome to the City of Yarra.  
Council acknowledges the Wurundjeri  
community as the first owners of this  
country.***

***Today, they are still the custodians of  
the cultural heritage of this land.***

***Further to this, Council acknowledges  
there are other Aboriginal and Torres  
Strait Islander people who have lived,  
worked and contributed to the cultural  
heritage of Yarra."***



## Guidelines for public participation at Internal Development Approval Committee meetings

### **POLICY**

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Council provides the opportunity for members of the public to address the Internal Development Approvals Committee.

The following guidelines have been prepared to assist members of the public in presenting submissions at these meetings:

- public submissions are limited to a maximum of five (5) minutes
- where there is a common group of people wishing to make a submission on the same matter, it is recommended that a representative speaker be nominated to present the views of the group
- all public comment must be made prior to commencement of any discussion by the committee
- any person accepting the chairperson's invitation to address the meeting shall confine himself or herself to the subject under consideration
- people making submissions shall address the meeting as a whole and the meeting debate shall be conducted at the conclusion of submissions
- the provisions of these guidelines shall be made known to all intending speakers and members of the public generally prior to the commencement of each committee meeting.

For further information regarding these guidelines or presenting submissions at Committee meetings generally, please contact the Governance Branch on (03) 9205 5110.

**Governance Branch  
2008**

## 1. Committee business reports

Item		Page	Rec. Page
1.1	165 Alfred Crescent, North Fitzroy - Planning Permit Application No. PLN12/0791 - Development of the land for the construction of a double-storey dwelling, including full demolition and a reduction in the car parking requirement.	5	21
1.2	52 Charles Street, Fitzroy - Planning Permit Application No. PLN12/0544. Use of part of the ground floor as a Restricted Recreation Facility (Pilates Studio), and construction and display of advertising signage.	23	33
1.3	Supplementary Report: 597 - 603 Grosvenor Street and 1 Flockhart Street, Abbotsford – Planning Permit Application No.PL08/1088	35	38

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**1.1 165 Alfred Crescent, North Fitzroy - Planning Permit Application No. PLN12/0791 - Development of the land for the construction of a double-storey dwelling, including full demolition and a reduction in the car parking requirement.**

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### **Executive Summary**

#### **Purpose**

1. This report provides an assessment of the above planning application, which seeks approval for development of the land for the construction of a double-storey dwelling, including full demolition and a reduction in the car parking requirement.

#### **Key Planning Considerations**

2. Key planning considerations include:
  - (a) Clause 15.01-1 – Urban design;
  - (b) Clause 15.01-5 – Cultural identity and neighbourhood character;
  - (c) Clause 15.02-1 – Energy and resource efficiency;
  - (d) Clause 15.03-1 – Heritage conservation;
  - (e) Clause 21.05-1 – Heritage;
  - (f) Clause 21.05-2 – Urban design;
  - (g) Clause 21.06 – Transport;
  - (h) Clause 21.07-1 – Ecologically sustainable development;
  - (i) Clause 21.08-8 – North Fitzroy;
  - (j) Clause 22.02 – Development guidelines for sites subject to the Heritage Overlay;
  - (k) Clause 52.06 – Car parking; and
  - (l) Clause 54 – One dwelling on a lot.

#### **Key Issues**

3. The key issues for Council in considering the proposal relate to:
  - (a) Clause 54 – ResCode;
  - (b) Heritage;
  - (c) Car parking; and
  - (d) Objectors' concerns.

#### **Objector Concerns**

4. A total of 12 objections were received to the application, with the grounds summarised as follows:
  - (a) The proposed height of the new dwelling is inappropriate, resulting in visual bulk impacts;
  - (b) Proposal is inconsistent with existing neighbourhood and heritage character;
  - (c) The side setbacks of the upper levels do not comply with applicable standards in the Yarra Planning Scheme;
  - (d) Off-site amenity impacts including overlooking and overshadowing to adjacent sites;
  - (e) Lack of on-site car parking provision; and
  - (f) Development not located within title boundaries.

#### **Conclusion**

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

**CONTACT OFFICER:** Lara Fiscalini  
**TITLE:** Statutory Planner  
**TEL:** 9205 5372

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**1.1 165 Alfred Crescent, North Fitzroy - Planning Permit Application No. PLN12/0791 - Development of the land for the construction of a double-storey dwelling, including full demolition and a reduction in the car parking requirement.**

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Trim Record Number: D12/88120

Responsible Officer: Co-ordinator Statutory Planning

<b>Proposal:</b>	Development of the land for the construction of a double-storey dwelling, including full demolition and a reduction in the car parking requirement.
<b>Existing use:</b>	Single Storey Building - former plumbers workshop
<b>Applicant:</b>	Graham Gough
<b>Zoning / Overlays:</b>	Residential 1 Zone; Heritage Overlay (HO327 – North Fitzroy Heritage Precinct)
<b>Date of Application:</b>	11 September 2012
<b>Application Number:</b>	PLN12/0791

### Planning History

6. Planning Application No. PLN11/0505 for the demolition of all buildings on site and the construction of a three-storey dwelling was refused by Council on 21 December 2011. Council's decision was subsequently appealed at the Victorian Civil Administrative Tribunal [the Tribunal], with the decision upheld by the Tribunal on 3 August 2012.
7. The original grounds of refusal were based on; inadequate response to the surrounding built form, heritage context, and prevailing neighbourhood character with particular concerns about excessive height, insufficient side setbacks, design detail and overshadowing.
8. In upholding Council's decision, the Tribunal found that the proposal failed to respond acceptably to the heritage and built form setting that various provisions of the Scheme aim to respect and retain, and raised concern with the impact on neighbouring properties.

### Background

9. Plans for the current application were submitted to Council on 11 September 2012. The application referenced the Tribunal's decision through a reduction in height of the dwelling from triple to double-storey, which in turn influenced side setbacks and associated off-site amenity impacts such as overshadowing. The design of the dwelling was also amended.
10. In response to objector concerns regarding the height of the dwelling and potential overlooking to the site to the east, amended plans were formally submitted in accordance with Section 57A of the *Planning and Environment Act 1987* on 16 November 2012. These plans included an overall reduction in height of the dwelling by 300mm, and a 1.7m high privacy screen to be constructed along part of the first-floor balcony. These amended plans form the decision plans for this assessment.

### Existing Conditions

#### Subject Site

11. The subject site is located on the southern side of Alfred Crescent, North Fitzroy, with Grant Street to the east and Jamieson Street to the west. The site has a slight fall in land from the south to the north and from the east to the west.
12. The subject site is irregular in shape, with a frontage to Alfred Crescent of 10.06m, an eastern boundary of 12.91m, western boundary of 13.45m and staggered southern boundary with an overall site area of approximately 132sqm.

13. The subject site is developed with a single-storey, brick building, with direct abuttal to the east and north boundaries and part of the south boundary for a length of 4.85m. The remainder of the southern wall is setback 0.91m from the southern boundary, with a 0.8m setback from the western boundary. A single roller door is located within the building's northern façade, with vehicle access via an existing crossover to Alfred Crescent and a pedestrian gate located on the western side of the site, providing access to a walkway beyond. The building has been used in the past as a plumber's workshop.
14. The Victorian Heritage Database notes that the building was constructed between 1990 and 2000, and is graded 'not-contributory' to the North Fitzroy Heritage Overlay (HO327).
15. There are no restrictive covenants or encumbrances detailed on the Certificate of Title submitted with the application; however a 'Right-of-Way' easement is located along the western and part of the southern boundary of the site.

#### Surrounding Land

16. The surrounding area is characterised as primarily residential, and generally consists of single and double-storey Victorian and Edwardian-era dwellings and more recent garages and outbuildings.
17. Immediately to the north of the subject site, on the opposite side of Alfred Crescent, is the Edinburgh Gardens.
18. To the east of the subject site is the secluded private open space associated with No. 49 McKean Street; with a substantial double-fronted, single-storey Victorian-era dwelling oriented to the south and located approximately 7m to the south of the subject site. The private open space measures approximately 230sqm overall, with an outbuilding abutting the north-west corner of the site, and vehicle access available via Alfred Crescent.
19. Immediately to the west of the subject site is a single-storey brick garage, associated with the site at No. 43 McKean Street. The garage has two single roller-doors providing vehicle access to Alfred Crescent, with secluded private open space, measuring approximately 90sqm, to the south. A single-storey Victorian-era dwelling is oriented towards McKean Street and is located approximately 7m to the south of the subject site.
20. To the south of the subject site are two single-storey Victorian-era dwellings, oriented towards McKean Street. The eastern dwelling has a small area of secluded private open space directly abutting the subject site, with a brick outbuilding associated with the western dwelling abutting the Right-of-Way easement along its northern boundary. Both sites have pedestrian access to Alfred Crescent via this easement.

#### **The Proposal**

21. The application is for the development of the land for the construction of a double-storey dwelling, including full demolition and a reduction in the car parking requirement. The proposal can be summarized as follows;

##### *Demolition*

22. Full demolition of the existing single-storey brick building, along with the pedestrian gate on the western side of the Alfred Crescent frontage.

##### *Construction - Ground floor*

23. Construction of a double-storey brick dwelling. The ground level will directly abut the entire eastern boundary and part of the southern boundary for a length of 4.6m. The remainder of the southern wall (3.7m) will be setback 0.91m from the southern boundary, retaining access to the two adjacent sites to the south. The western wall will be setback 1.25m from the western boundary, with the dwelling's façade setback on an angle from Alfred Crescent, between 0.7m to the west and increasing to 1.06m to the east.

24. The ground floor contains a central entrance way, providing access to three bedrooms, one with a walk-in-robe and ensuite, along with a study, wine cellar, laundry and second bathroom with access to a small courtyard in the site's south-east corner. A side entrance on the western elevation provides access to the adjacent Right-of-Way easement, with a storage area for bicycles and bins accessible via these outward opening doors.
25. The front setback will contain low-level shrubs with a 1m high metal fence along the Alfred Crescent boundary. A 1.8m high metal gate will provide pedestrian access to the western easement.

*First floor*

26. The first-floor will be setback 1.28m from the eastern boundary, 1.4m and 2.3m from the southern boundary, 1.4m from the western boundary and between 2m to 2.38m from the northern boundary.
27. This level contains an open-plan kitchen, dining room and living room, with a storage area to the south. A balcony, providing approximately 14.6m of open space, is located within the front (northern) setback, with direct access from the living room. A canopy, composed of adjustable louvers, is located above this balcony. A 1m high balustrade will extend along the northern side of the balcony, with this height increasing to 1.7m for a length of 1.5m on the eastern side.

*General information*

28. The dwelling will extend to an overall height of 7m (6.7m to the east due to the fall in the land), with floor to ceiling heights of 2.7m at ground level and 3m at first-floor. The southern wall of the dwelling will be raked, with the minimum height of this wall 3m in the south, extending to 6.7m to the north.
29. Solar hot water panels will be located on the north or west side of the dwelling, with the exact location unconfirmed. A condition of the permit will require amended plans demonstrating the exact location of these panels.

*Materials and finishes*

30. The dwelling will be composed of the following materials and finishes;
  - (a) Walls - Render (Dulux Stone);
  - (b) Roof – Colourbond;
  - (c) Windows/Doors – Dulux Night Sky;
  - (d) Fence/Balustrade/Gate – Metal;
  - (e) Canopy louvers – Powder-coated Dulux Stone.

**Planning Scheme Provisions**

Zoning

*Residential 1 Zone*

31. The purpose of the Residential 1 Zone is, “*To provide for residential development at a range of densities with a variety of dwellings to meet the housing needs of all households*”, and “*To encourage residential development that respects the neighbourhood character*”.
32. Pursuant to Clause 32.01-3 of the Yarra Planning Scheme [the Scheme], a planning permit is required to construct or extend one dwelling on a lot less than 500sqm. A development must meet the requirements of Clause 54.

Overlays

*Heritage Overlay (HO327 – North Fitzroy Heritage Precinct)*

33. Pursuant to Clause 43.01-1 of the Scheme, a planning permit is required to demolish or remove a building, construct a building or construct or carry out works.

### Particular Provisions

#### *Clause 52.06 – Car Parking*

34. The provisions of Clause 52.06-2 state that prior to a new building being occupied, “*the car parking spaces required under Clause 52.06-5 must be provided on the land or as approved under Clause 52.06-3 to the satisfaction of the responsible authority*”.
35. A new dwelling with 3 or more bedrooms is required to provide two car parking spaces. As no on-site car parking spaces are provided as part of this application, a planning permit (in accordance with Clause 52.06-3) is required to reduce this requirement to zero.

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

36. Under the provisions of the R1Z, the proposed development must satisfy the provisions of Clause 54 (ResCode).

### General Provisions

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

### State Planning Policy Framework (SPPF)

#### *Clause 15.01-1 – Urban design*

38. The objective of this Clause is:
  - (a) *To create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.*

#### *Clause 15.01-5 – Cultural identity and neighbourhood character*

39. The objective of this Clause is:
  - (a) *To recognise and protect cultural identity, neighbourhood character and sense of place.*

#### *Clause 15.02-1 – Energy and resource efficiency*

40. The relevant objective of this Clause is:
  - (a) *To encourage land use and development that is consistent with the efficient use of energy and the minimisation of greenhouse gas emissions*

#### *Clause 15.03-1 – Heritage conservation*

41. The relevant objective of this Clause is:
  - (a) *To ensure the conservation of places of heritage significance*

### Local Planning Policy Framework (LPPF)

#### *Clause 21.05-1 – Heritage*

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

#### *Clause 21.05-2 – Urban design*

43. The relevant objectives of this Clause are:
- (a) *To reinforce the existing urban framework of Yarra.*
  - (b) *To retain, enhance and extend Yarra's fine grain street pattern.*
  - (c) *To create an inner city environment with landscaped beauty.*
  - (d) *To ensure that new development contributes positively to Yarra's urban fabric*

*Clause 21.06 – Transport*

44. This policy recognises that Yarra needs to reduce car dependence by promoting walking, cycling and public transport use as viable and preferable alternatives. Relevant objectives and strategies of this Clause are as follows:
- (a) *Objective 30 – To provide safe and convenient pedestrian and bicycle environments.*
    - (i) *Strategy 30.2 – Minimise vehicle crossovers on street frontages.*
    - (ii) *Strategy 30.3 – Use rear laneway access to reduce vehicle crossovers.*
  - (b) *Objective 31 – To facilitate public transport usage.*
  - (c) *Objective 32 – To reduce the reliance on the private motor car.*

*Clause 21.07-1 – Ecologically sustainable development*

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

*Clause 21.08-8 – North Fitzroy*

46. The following relevant elements are offered at this Clause:
- (a) *North Fitzroy is known for the beautiful Edinburgh Gardens which combine open space, sportsgrounds, barbecue area, gardens with long-established European elm trees, skate bowl, tennis and basketball courts, bandstand, bowling greens and bocce links, remnants of the old Melbourne rail loop, and a heritage listed grandstand.*
  - (b) *The neighbourhood is largely residential. The northern part of North Fitzroy has a low density residential character consisting of late Victorian and early Edwardian double fronted dwellings.*

Relevant Local Policies

*Clause 22.02 – Development guidelines for sites subject to the Heritage Overlay*

47. The relevant objectives of this Clause are:
- (a) *To conserve Yarra's natural and cultural heritage.*
  - (b) *To conserve the historic fabric and maintain the integrity of places of cultural heritage significance.*
  - (c) *To retain significant view lines to, and vistas of, heritage places.*
  - (d) *To preserve the scale and pattern of streetscapes in heritage places.*
  - (e) *To ensure that additions and new works to a heritage place respect the significance of the place.*
48. Clause 22.02-5.1 (Full Demolition or Removal of a Building) outlines that it is policy to:
- (a) *Generally encourage the retention of a building in a heritage place, unless*
    - (i) *The building is identified as being not contributory.*

49. Clause 22.02-5.7 (New Development, Alterations or Additions) outlines that it is policy to (relevantly):
- (a) *Encourage the design of new development and alterations and additions to a heritage place or a contributory element to a heritage place to:*
    - (i) *Respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape.*
    - (ii) *Be articulated and massed to correspond with the prevailing building form of the heritage place or contributory elements to the heritage place.*
    - (iii) *Be visually recessive and not dominate the heritage place.*
    - (iv) *Be distinguishable from the original historic fabric.*
    - (v) *Not remove, cover, damage or change original historic fabric.*
    - (vi) *Not obscure views of principle façades.*
    - (vii) *Consider the architectural integrity and context of the heritage place or contributory element.*
  - (b) *Minimise the visibility of new additions by:*
    - (i) *Encouraging upper level additions to heritage places to be sited within the 'envelope' created by projected sight lines (for Contributory buildings refer to Figure 2 and for Individually significant buildings refer to Figure 3).*
  - (c) *Discourage elements which detract from the heritage fabric or are not contemporary with the era of the building such as unroofed or open upper level decks or balconies, reflective glass, glass balustrades and pedestrian entrance canopies.*
50. The subject site is located within the North Fitzroy Heritage Precinct. The 2007 *City of Yarra Review of Heritage Overlay Areas* study by Graeme Butler & Associates lists the existing building as 'not contributory' to the precinct.

### **Advertising**

51. The application was advertised in accordance with Section 52 of the *Planning and Environment Act 1987* [the Act] by way of letters sent to the adjacent property owners and occupiers, and a sign placed on the Alfred Crescent frontage of the site.
52. A total of 12 objections were received to the application, with the grounds summarised as follows:
- (a) The proposed height of the new dwelling is inappropriate, resulting in visual bulk impacts;
  - (b) Proposal is inconsistent with existing neighbourhood and heritage character;
  - (c) Lack of on-site car parking provision;
  - (d) The side setbacks of the upper levels do not comply with applicable standards in the Yarra Planning Scheme;
  - (e) Off-site amenity impacts including overlooking and overshadowing to adjacent sites; and
  - (f) Development not located within title boundaries.
53. A consultation meeting was held on 15 November 2012, attended by planning officers, the applicant, and three objectors. As a result of this meeting, amended plans were submitted in accordance with Section 57 of the Act. These plans decreased the floor to ceiling height of the ground level from 3m to 2.7m, and added a 1.7m high balustrade to the eastern side of the first-floor balcony.

### **Referrals**

#### External Referrals

54. The application was not required to be referred (or notice given) to any referral authorities under Clause 66 of the Scheme.

#### Internal Referrals

55. The application was referred to Council's heritage advisor, who made the following relevant comments and observations:
56. Comments regarding proposed demolition:
- (a) *The extent of demolition proposed by this application includes full demolition of the existing c1970s garage/workshop, with is non-contributory to the heritage overlay. No original heritage fabric will be lost by the demolition of this building.*
  - (b) *Removal of this structure will have no detrimental impact on the heritage precinct.*
57. Comments regarding new development, alterations and additions:
- (a) *The key consideration for assessing this aspect of the works is whether the proposed development will adversely affect the significance, character or appearance of the heritage building or the broader heritage precinct.*
58. Ground level setbacks:
- (a) *The proposed ground-level front setback will vary from about 0.7m to 1m. The front setback of structures associated with the immediately adjacent properties are zero metres. The predominant front setbacks of the nearby properties from Alfred Crescent is zero metres, however the collection of small cottages located west of the subject site have small front setbacks of around 1m or a little more in some cases. The proposed ground-level front setback of the new building is therefore considered appropriate.*
  - (b) *the proposed side setback for the new building at ground-level will be zero metres from the eastern boundary and about 1.4m from the western boundary. Side setbacks of the nearby garages and residential properties appear to be predominantly zero metres. The proposed ground-level side setbacks of the new building are therefore considered appropriate.*
59. Upper level setbacks:
- (a) *The proposed upper level front setback for the new building will be about 2m. There are no comparable nearby two-storey properties fronting this section of Alfred Crescent. The proposed setback of the front wall in essence should reduce the impact of the two-storey height at the street frontage however the 2m width of the proposed balcony will negate this by projecting beyond the alignment of the ground-level front wall.*
  - (b) *The proposed upper-level side setback for the new building will be about 1.3m from the eastern boundary and about 1.4m from the western boundary. With no nearby comparable two-storey properties, the appropriateness of these on heritage grounds cannot be assessed.*
60. Scale/height:
- (a) *The proposed facade height for the new development will be 7.3 metres. The facade heights of the adjacent properties have not been drawn on the submitted drawings however the garages appear to be about 3 metres. The common facade height of contributory buildings located further west along the street also appears to be about 3 metres. The proposal to introduce a two-storey building in an existing predominantly single-storey historic streetscape is not considered unacceptable however the overall scale of the two-storey building needs to be conservative. The 3 metre floor-to-ceiling heights of the proposed development are not reflective of the modest scale of the nearby heritage dwellings located west of the site. By reducing the floor-to-ceiling heights to 2.7 metres the scale of the building could be easily reduced by 0.6 metres with no impact on the floor plans.*
  - (b) *The proposed roof form for the new development will be flat but will be fully concealed from the front by a parapet. The roof forms of the immediately adjacent properties are flat. The flat roof form is considered consistent with the adjoining properties.*

61. Appearance:
- (a) *The proposed facade detailing for the new development will stylistically be a simplified version of a traditional terrace house. The facade detailing of the immediately adjoining properties are without architectural style however Alfred Crescent generally is characterised by Victorian style dwelling, most of which are detailed in a grand style. It should be noted however that those properties located west of the subject site are more modest in appearance. The proposed detailing of the new building is considered acceptable on the basis that it provides a visual transition between the modest style of cottages to the west and the grander dwellings to the east.*
  - (b) *The predominant external materials for the new development will be render. The external materials of the adjacent properties are face brickwork. The predominant external materials in the street are render, face brickwork and timber weatherboards. Therefore the proposed rendered appearance of the building is considered appropriate.*
62. Front fence:
- (a) *The scale and appearance of the proposed front fence is acceptable.*
63. Overall recommendation:
- (a) *On heritage grounds the works proposed in this application may be approved subject to the following conditions:*
    - (i) *That the maximum floor-to-ceiling heights of the proposed new building be reduced to 2.7 metres to ensure that the finished building is more respectful of the modest scale of the streetscape in this section of Alfred Crescent.*

### **Planning Considerations**

64. The key planning considerations for Council in considering the proposal relate to:
- (a) Clause 54 – ResCode;
  - (b) Heritage;
  - (c) Car parking; and
  - (d) Objectors' concerns.

#### Clause 54 of the Yarra Planning Scheme (Rescode)

##### *Standard A1 – Neighbourhood Character*

65. The neighbourhood character found in the section of Alfred Crescent between Grant Street and Jamieson Street is distinctively different from the northern and eastern sides of the Edinburgh Gardens, which is characterised by substantially intact Victorian and Edwardian-era dwellings.
66. The majority of the streetscape directly adjacent to the subject site consists of the rear of sites oriented towards McKean Street to the south. Of the approximately twelve sites within this block, one contains a double-storey dwelling facing Grant Street in the east, four contain single-storey dwellings further to the west, with the remaining seven directly adjacent to the subject site characterised by rear boundary fences, garages and roller doors associated with sites oriented towards McKean Street to the south. These structures are composed predominantly of galvanized meeting sheeting and face brickwork.
67. This variety of built form lends no consistent character to the immediate streetscape, however it is recognized that multi-storey dwellings directly adjacent to single-storey structures, garages and fences can be found within the wider neighbourhood, with the proposed height and scale of the double-storey development characteristic of traditional built form within the Alfred Crescent streetscape further to the north.
68. The design of the dwelling is simple and unobtrusive with regards to form, materials and finishes. It integrates in a respectful manner with adjacent structures and does not dominate the adjoining streetscape.

69. In this context, with no consistent character in the immediate streetscape, the inclusion of a double-storey building which maintains similar front and side setbacks to adjacent garages is considered to be an acceptable response to the area of neighbourhood in which it is proposed.

*Standard A2 – Integration with the street*

70. The proposed double-storey dwelling is oriented to directly face Alfred Crescent, with a 1m high metal fence to align the site's front boundary. The transparent design of the fence and low height will provide direct views to the dwelling's façade, with the orientation of the façade to Alfred Crescent in accordance with dwellings further to the west. The objectives of this standard are therefore met.

*Standard A3 – Street setback*

71. To the immediate east of the subject site is a rear boundary fence, built directly to the northern boundary, and to the west is a single-storey garage, also constructed directly to the Alfred Crescent footpath along the northern boundary.
72. Table A1 at Clause 54.03-1 specifies that if there is an existing building on one abutting allotment facing the same street and no existing building on the other abutting allotment facing the same street, and the site is not on a corner, then the dwelling should be setback the same distance as the setback of the front wall of the existing building on the abutting allotment facing the front street or 9m, whichever is the lesser.
73. With the garage to the west directly abutting Alfred Crescent, a zero front setback should be provided for full compliance with this standard to be achieved.
74. Due to the double-storey scale of the proposed dwelling, a minimal front setback is considered to be more appropriate in this instance, with the 0.7m to 1m setback resulting in a less overwhelming design response when viewed from the north. In addition, a minimal front setback is associated with nearby dwellings; the setback provides a degree of differentiation with the rear garages found on adjacent sites, and residential development further to the west. It is considered to be appropriate for the minimal setback to reference the layout of dwellings in the area as opposed to structures associated with the rear of sites oriented towards McKean Street. On this basis the objectives of this standard are met

*Standard A4 – Building height*

75. The maximum height of the double-storey dwelling will be 7m; thereby achieving compliance with the maximum 9m height specified in the Scheme. In line with recommendations received from Council's Heritage Advisor, if the floor to ceiling heights of the upper level are also reduced by 300mm to 2.7m overall, the height of the dwelling will reduce to 6.7m. This will further align with the objectives of this standard.

*Standard A5 – Site coverage*

76. The proposed development will result in site coverage of approximately 80%; thereby exceeding the 60% standard as specified in the Scheme.
77. This degree of site coverage is a reduction in existing built form coverage found on the site; due to the provision of a front setback, an increased ground floor setback from the western boundary and the small external courtyard in the site's south-east corner. In this instance, the non-compliance with this standard is considered to be an improvement on current conditions, and results in an acceptable outcome.

*Standard A6 – Permeability*

78. Given the high site coverage experienced on the subject site, opportunities for drainage and storm water infiltration are limited, with the concrete path along the Right-of-Way easement and decking above the courtyard resulting in 0% permeability. As the existing permeability found on the site is just as limited, this outcome is considered acceptable.

*Standard A7 – Energy efficiency protection*

79. The design of the dwelling will result in an acceptable degree of energy efficiency, with the layout of the dwelling utilising the north-south aspect of the site and designed to respond to the constraints placed on the site by its limited size.
80. The principal habitable rooms are located on the northern side of the dwelling at first-floor level, ensuring the maximum possible degree of direct solar access to this space.
81. The principal area of private open space is also located on the northern side of the dwelling, with the first-floor balcony providing excellent direct solar access.
82. The adjustable louvers above this balcony will provide opportunities to shade the principal living space and private open space when necessary and thereby decrease the use of mechanical cooling devices, resulting in improved energy efficiency for the dwelling.
83. A number of operable windows are located throughout the dwelling, including all north-facing windows and the ground floor windows on the western elevation. This will increase cross-ventilation opportunities and thereby provide for natural cooling throughout. It is recommended however that the two first-floor windows on the east and west elevations also be operable in order to increase these opportunities. As these windows are highlight windows, allowing them to be operable will not influence overlooking impacts to adjacent sites. This recommendation will be facilitated via a condition of the permit.
84. Solar hot water panels will be located on the dwelling's roof, further improving the overall energy efficiency of the dwelling.
85. It is not considered that the energy efficiency of adjoining dwellings will be significantly affected as a result of this proposal.

*Standard A8 – Significant trees*

86. There are no significant trees on the site that will be affected by the proposed development.

*Standard A10 – Side and rear setbacks*

*Eastern elevation*

87. The dwelling's first-floor will be setback 1.28m from the eastern boundary. The height of this wall is 6.7m at its highest point, reducing to 3m in the south. A privacy screen associated with the north-facing balcony, also setback 1.28m from the eastern boundary, will extend in height to 4.6m above ground level.
88. In order to comply with this standard, the higher section of wall, lower section of wall and privacy screen should be setback 1.93m, 1m and 1.3m respectively.
89. As noted previously, if the recommendations of Council's Heritage Advisor are adopted, the overall dwelling height will reduce by a further 300mm, resulting in a maximum height of 6.4m on its eastern side. This would reduce the required setback to 1.81m.
90. Accordingly, the higher section of wall (at either 6.4m or 6.7m) and the privacy screen will not comply with this standard. In this instance, non-compliance is considered to be acceptable, based on the location of this wall when viewed from the adjacent private open space to the east.
91. This private open space has a depth of approximately 18m, with an overall area of 230sqm. The area of open space adjacent to this setback contains a shed and a water tank. There is an area of approximately 10m between the rear wall of the adjacent dwelling and the proposed new wall.

It is considered that this area directly adjacent to the rear of the dwelling would be the principal area of open space used for recreational purposes by the dwelling occupants, particularly considering the location of the rear outbuilding. Furthermore the location of the wall will result in extremely minimal additional overshadowing impacts to the east (to be discussed in more detail below).

92. It is noted in the previous Tribunal decision associated with this site that concerns were raised regarding visual bulk from the east. In particular, Member Wilson said:

*"I find the 9m height of the proposed building together with the absence of front setback will create a building that is out of scale and overwhelming in the immediate context"*

with dwellings of a similar scale further to the east generally including;

*"a front setback and balcony element that mitigates the scale to the street"*

93. The current application involves a decrease in height of the dwelling when viewed from the east to 6.7m, with a front setback and balcony added to the first floor level. It is therefore considered that the aforementioned concerns have been referenced in the redesign of the dwelling, and that the majority of the significant area of private open space to the east will remain unaffected by the proposed upper level, with the non-compliance of this setback an acceptable outcome. Furthermore, if the dwelling is reduced in height by an additional 300mm, potential visual impacts will decrease accordingly.

*Southern elevation*

94. At ground floor level, a section of the southern wall will be setback 0.91m from the southern boundary for a length of 5.21m and average height of 3m. As this mirrors existing conditions on the site and as this setback is directly adjacent to an existing garage on the site to the south; the 0.91m setback is acceptable.
95. At first-floor level, the southern wall will be setback 1.4m and 2.3m from the southern boundary; at this point the wall is 3m in height, with a setback of 1m required, thereby achieving compliance with this standard.
96. The southern wall is raked and extends in height from the aforementioned 3m to a maximum height of 6.7m. At its highest point the wall is setback 3.6m and 4.6m from the southern boundary, with a setback requirement of 1m and 1.93m respectively. On this basis, the standard is comfortably exceeded.

*Western elevation*

97. At ground floor level the dwelling's western wall will be setback 1.25m from the western boundary. The ground floor wall will average 3.2m in height; ensuring that the 1.25m setback is compliant. It is noted that a set of outward opening doors are located within this western setback, with this setback associated with the carriageway easement providing access to properties in the south. In order to ensure that the doors provide no obstruction to access along this carriageway, a condition will be placed on the permit requiring an amendment to these doors to provide a sliding design.
98. At first-floor, the dwelling's western wall will be setback 1.4m from this boundary. The first-floor wall will range in heights of between 3.2m, 7m and 4.3m where associated with the privacy screen, resulting in setback requirements of 1m, 2.1m and 1.21m respectively.
99. On this basis, the highest element of this wall will not achieve compliance with the standard; however as this section of wall is directly adjacent to a single-storey garage to the west, with the wall decreasing in height where adjacent to the neighbouring private open space, this non-compliance will not result in any unreasonable off-site amenity or visual impacts when viewed from the west.

*Standard A11 – Walls on boundaries*

*Eastern boundary*

100. The dwelling's eastern wall will directly abut the site's eastern boundary at ground floor level for its entire length (12.91m), at a height of 2.9m for a length of 10.02m, reducing to 2.5m in height for a length of 2.89m.
101. This wall replaces an existing wall on the eastern boundary of the same length, with the height of this wall averaging 3.6m.
102. On this basis, the proposed decrease in wall height along this boundary is considered to be an improvement on existing conditions and complies with the standard.

*Southern boundary*

103. The southern wall of the dwelling will directly abut the eastern side of the southern boundary for a length of 4.85m and average height of 3m. As this mirrors existing conditions, the location and dimensions of this wall are acceptable.

*Standard A12 – Daylight to existing windows*

104. All of the existing windows within adjacent dwellings will continue to receive adequate daylight in accordance with the standard, with the closest window to the proposed dwelling associated with the site at No.47 McKean Street and located 5.8m from the subject site.

*Standard A13 – North-facing windows*

105. There are no north-facing windows within 3m of the site's southern boundary.

*Standard A14 – Overshadowing open space*

106. It is noted that the shadow plans used in this assessment are based on the height of the dwelling as shown in the original plans submitted on 11 September 2012, with the subsequent amended plans reducing the maximum dwelling height by 300mm.

107. Overall, any additional overshadowing to adjacent sites on the 23 September equinox is extremely minimal, with the only additional shadows during morning hours restricted to the site to the west. These shadows range from an additional 0.3sqm of shadowing at 9.00 am, decreasing to approximately 0.08sqm by 10.00 am and 1.3sqm by 11.00 am. At all times these additional impacts are minimal, and restricted to the rear of the adjacent site.

108. Midday shadows are slightly increased, again in the site to the west, by approximately 1.8sqm, with no additional shadows experienced in any adjacent sites at 1.00 pm. It is noted that all additional overshadowing within the site to the west is located between 7m to 8m from the rear wall of the neighboring dwelling, with no unreasonable increased amenity impacts to approximately 52sqm of private open space within this site. On this basis, all of this additional overshadowing is considered reasonable and acceptable.

109. A very narrow sliver of additional overshadowing will occur within the site to the east at 2.00 pm. These shadows will sit directly alongside existing shadows cast by the boundary fence, with the narrow nature of the shadow ensuring that it will be barely discernible within this adjacent site. The additional 3.00 pm shadows within this site will be similar in scale, with a narrow sliver of additional shadow directly adjacent to existing shadows within this site.

110. The previous Tribunal decision made particular reference to additional overshadowing within the site at No. 47 McKean Street, noting;

*“in any future proposal for the site, I would encourage an outcome that avoided additional shadow to that secluded private open space”*

In this instance it is considered that the negligible degree of additional overshadowing to this site has achieved this outcome.

111. Based on these nominal increases in overshadowing, it is considered that in all cases the objectives to this standard are met.

*Standard A15 – Overlooking*

112. There will be limited overlooking opportunities to adjacent sites associated with the proposed dwelling, with one window on the eastern elevation at first-floor level, two windows on the western elevation at first-floor level and no windows on the southern elevation.

113. All three of these windows will be fixed, with two composed of clear glass and located 2.2m above the finished floor level of this upper floor. The third window is associated with a stairwell and therefore is not required to be screened under this standard. Irrespective of this, the window is composed of obscure glazing to limit potential overlooking to the site to the west.

114. The eastern side of the north-facing balcony will be partially screened to a height of 1.7m above the finished floor level, with a metal balustrade providing a maximum of 25% transparency. This screening will slope down to 1m in height at the front of the balcony, ensuring that at least three quarters of this balcony is screened to a height of 1.7m.
115. The design of this privacy screen is considered to be appropriate. The balcony is directly adjacent to a shed in the south-west corner of the neighbouring site. The orientation of the balcony and the abuttal of the shed will sufficiently inhibit overlooking into the adjacent private open space to an acceptable level, and thereby achieve the objectives of this standard.

*Standard A16 – Daylight to new windows*

116. All of the new windows associated with the proposed dwelling will receive adequate daylight and thereby comply with the requirements of this standard.

*Standard A17 – Private open space*

117. The subject site has access to four separate areas of private open space. The principal area of open space measures approximately 14.6sqm, being the north-facing balcony at first-floor level. Other areas of open space within the site include the front setback, side walkway and courtyard in the south-east corner of the site.
118. Whilst the dimensions of the balcony do not comply with the requirements of this standard, the direct access from the dwelling's living room achieves compliance with the objectives of this standard.
119. In addition, the immediate proximity to the Edinburgh Gardens on the opposite side of Alfred Crescent provides excellent access to a substantial area of public open space, further complying with objectives of this standard.

*Standard A18 – Solar access to open space*

120. The principal area of private open space is located on the northern side of the dwelling, thereby achieving compliance with this standard and ensuring direct solar access will be available.

*Standard A19 – Design detail*

121. The material palette proposed for the dwelling is simple and does not contain a large number of materials, with rendered finishes in a neutral shade being the predominant component.
122. The design of the dwelling is also simple, with the contemporary design and flat roof form referencing components of built form existing on adjacent sites. Overall it is considered that the dwelling provides an acceptable built form replacement for a relatively non-descript building with no heritage value and no integration to Alfred Crescent.

*Standard A20 – Front fences*

123. The proposed front fence is 1m in height and achieves 50% transparency, thereby complying with the requirements of the standard.

Heritage

124. The relevant purpose of the Heritage Overlay is to ensure that development does not adversely affect the significance of heritage places. The subject site is included in Heritage Overlay 327, which applies to the North Fitzroy Heritage Precinct. The subject site is identified as 'not contributory' within this precinct. Clause 22.02 articulates Council's local planning policy in relation to development guidelines for sites subject to the heritage overlay.
125. This Clause generally encourages the retention of a building in a heritage place unless the building is identified as being not contributory.

Council's heritage advisor is supportive of full demolition of the existing building, stating that *"No original heritage fabric will be lost by the demolition of this building, and removal of this structure will have no detrimental impact on the heritage precinct."* Overall, the proposed demolition of the 'not contributory' building is acceptable.

126. Clause 22.02 seeks to ensure that new development respects the pattern, rhythm, fenestration, roof form, materials and heritage character of the surrounding streetscape, and is articulated and massed to correspond with the prevailing built form of the heritage place. The key consideration for assessing the application is whether the new dwelling will adversely affect the significance, character or appearance of the broader heritage precinct.
127. As discussed, the dwelling is located within a section of Alfred Crescent that is predominantly composed of rear boundary fences and garages associated with south-facing dwellings, with the more intact heritage streetscape further to the north. It is acknowledged that a number of single-storey heritage cottages are located further to the west, near the corner of Jamieson Street, with the adjacent garages also single-storey in height.
128. Whilst the dwelling will be the only double-storey element within the single-storey streetscape between Grant Street and Jamieson Street, it is considered that the north-facing balcony and the setback of the eastern wall at first-floor level will appropriately articulate the dwelling's façade and 'soften' the proposed built form of the double-storey structure.
129. It was noted by Council's heritage advisor that a decrease in overall height of the dwelling by 600mm (originally at 7.3m) would improve integration with the adjacent streetscape. A subsequent decrease of the ground level floor to ceiling height resulted in a reduced height of 7m overall, however it is considered that a further decrease of 300mm as recommended will further improve assimilation with the neighbouring structures. This reduced height, along with the eastern setback and flat roof design will adequately integrate the dwelling with neighbouring garages, with the roof design consistent with those found on adjacent built form. On this basis, a condition of the permit will require a reduction in overall height of the dwelling by 300mm, in line with recommendations within Council's heritage advice.
130. It was concluded by Council's heritage advisor that the appearance of the dwelling provides a visual transition between the more modest single-storey cottages to the west and the grander dwellings to the east, with the rendered finish of the dwelling appropriate within the wider context of the heritage precinct.
131. On this basis, with the condition as discussed above, it is considered that the proposal appropriately responds to the particular requirements contained within Clause 22.02 and Clause 43.01 of the Scheme, and therefore is considered acceptable in relation to the heritage context of the street.

#### Car parking

132. Under Clause 52.06, the proposed construction of a three bedroom (plus study) dwelling requires the provision of 2 car parking spaces on the site.
133. In exercising its discretion to reduce the requirements of Clause 52.06, Council must consider a number of relevant decision guidelines, including the car parking demand likely to be generated, and whether it is appropriate to allow fewer spaces to be provided given the site context. An assessment of the car parking demand and proposed reduction is provided below.

#### *Sustainable transport (public transport, walking, cycling)*

134. The subject site enjoys excellent access to public transport, including Brunswick Street trams 330m to the west of the site and Queens Parade trams 218m to the south-east.

Pedestrian and cyclist access to the site is highly convenient; with dedicated bicycle lanes throughout the Edinburgh Gardens and along Napier Street to the south, with the site located within an inner city area where walking and cycling are popular modes of travel.

*Parking demand*

135. It is considered that the demand for parking for a single dwelling is unlikely to be significant. It was highlighted during the consultation meeting undertaken on 15 November 2012 that the future occupants of the dwelling have one car, with a scooter and bicycles also used as modes of transport. An area beneath the dwelling stairs within the subject site has been designated for scooter and bicycle parking.

*Availability of car parking*

136. Council's engineering services unit has confirmed that even though the existing site is not used for residential purposes, the proposed development will be eligible for parking permits as it is not increasing the number of occupancies.
137. It is also noted that the surrounding street network contains on-street short terms car parking spaces. It is considered that visitors choosing to drive to the dwelling should be able to find a park within easy walking distance of the site and residents could utilise resident parking areas.
138. An existing crossover provides vehicle access to the current building. As this crossover will not be necessary for the proposed development of the site, it will be conditioned via the permit that this crossover be removed, and the kerb be reinstated. This will provide one additional car parking space directly in front of the site on the southern side of Alfred Crescent.
139. Overall the reduction of two car parking spaces associated with the single dwelling is supported.

Objector Concerns

140. The majority of issues associated with the objector concerns have been discussed throughout this report; the remaining objection topics which have yet to be assessed are discussed below.
141. *The proposed height of the new dwelling is inappropriate, resulting in visual bulk impacts;* Issues associated with the height of the new dwelling have been discussed earlier within this report (paragraph 75).
142. *Proposal is inconsistent with existing neighbourhood and heritage character;* Issues associated with the neighbourhood and heritage character of the new dwelling have been discussed earlier within this report (paragraphs 66-69 & 125-132).
143. *The side setbacks of the upper levels do not comply with applicable standards in the Yarra Planning Scheme;* Issues associated with proposed setbacks of the new dwelling have been discussed earlier within this report (paragraphs 87-99).
144. *Off-site amenity impacts including overshadowing and overlooking to adjacent sites;* Issues associated with potential off-site amenity impacts have been discussed earlier within this report (paragraphs 106-112 & 113-116).
145. *Lack of on-site car parking provision;* Issues associated with the lack of on-site car parking associated with the new dwelling have been discussed earlier within this report (paragraphs 133-140).

146. *Development not located within title boundaries.*

It has been brought to Council's attention that a claim for adverse possession associated with the site's eastern boundary has been lodged with the Department of Sustainability and Environment. As this process has not been resolved, this assessment is based on the existing title boundaries

**Conclusion**

147. The proposal demonstrates a high level of compliance with the policy requirements outlined in the Yarra Planning Scheme, and is supported subject to conditions.

**RECOMMENDATION**

That having considered all relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant Planning Permit PLN12/0791 for development of the land for the construction of a double-storey dwelling, including full demolition and a reduction in the car parking requirement at 165 Alfred Crescent North Fitzroy, 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 received by Council on 11 September 2012, 26 September 2012 and 16 November 2012 but modified to show:
  - (a) The two first-floor windows (located 2.2m above the finished floor level) on the east and west elevations to be operable.
  - (b) The outward opening door at ground level on the western elevation to be amended to a sliding design.
  - (c) A roof plan and amended site plan demonstrating exact location of proposed solar hot water panels, with no part of these panels to be visible from Alfred Crescent.
  - (d) The dwelling to be reduced in height by 300mm, to achieve a maximum height of 6.7m.
2. All development must accord with the endorsed plans. Any alterations must be approved in writing by the Responsible Authority.
3. Any damage to road(s) and footpath(s) or other Council infrastructure as a result of the development must be reinstated to the satisfaction of the Responsible Authority.
4. All new on-boundary walls are to be cleaned and finished to the satisfaction of the Responsible Authority.
5. Prior to occupation of the building, the existing vehicular crossing made redundant by the building and works hereby permitted must be broken out and re-instated as standard footpath and kerb and channel at the permit holders cost and to the approval and satisfaction of the Responsible Authority.
6. Except with the written consent of the Responsible Authority, demolition or construction works must only be carried out between: 7.00 am - 6.00 pm, Monday-Friday (excluding public holidays) and 9.00 am - 3.00 pm, Saturday and public holidays. No work is to be carried out on Sundays, ANZAC Day, Christmas Day or Good Friday without a specific permit. All site operations must comply with the relevant Environmental Protection Authority's Guidelines on Construction and Demolition Noise.
7. This permit will expire if any of the following occur:
  - (a) The development is not commenced within two (2) years from the date of this permit;
  - (b) The development is not completed within four (4) years from the date of this permit.

The Responsible Authority may approve extensions to these time limits if requests are made before the permit expires or within 3 months afterwards.

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

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

**CONTACT OFFICER:** Lara Fiscalini  
**TITLE:** Statutory Planner  
**TEL:** 92055372

**Attachments**

- 1 Demolition Plan
- 2 Proposed site/floor plans
- 3 Proposed elevations
- 4 Shadow Diagrams

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**1.2 52 Charles Street, Fitzroy - Planning Permit Application No. PLN12/0544. Use of part of the ground floor as a Restricted Recreation Facility (Pilates Studio), and construction and display of advertising signage.**

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### **Executive Summary**

#### **Purpose**

1. The purpose of this report is to provide an assessment for the proposed Pilates Studio located on part of the ground floor at 52 Charles Street in Fitzroy.

#### **Key Planning Considerations**

2. Key planning considerations include:
  - (a) *Clause 11.01 Activity Centres*
  - (b) *Clause 13.04-1 Noise abatement*
  - (c) *Clause 15.03-1 Heritage conservation*
  - (d) *Clause 17.01-1 Business*
  - (e) *Clause 18.02-5 Car Parking*
  - (f) *Clause 21.04 Land Use*
  - (g) *Clause 21.04-2 Activity Centres*
  - (h) *Clause 21.06 – Transport*
  - (i) *Clause 21.08-7 Fitzroy (neighbourhoods)*
  - (j) *Clause 22.01 Discretionary Uses in the Residential 1 Zone*
  - (k) *Clause 22.04 Advertising Signage Policy*

#### **Key Issues**

3. The key issues for Council in considering the proposal relate to:
  - (a) Use
  - (b) Car parking/traffic
  - (c) Amenity impacts

#### **Objector Concerns**

4. Six (6) objections were received to the application, these can be summarised as:
  - (a) Lack of car parking in the area;
  - (b) Increased traffic in the area;
  - (c) Discrepancies showing the location of car parking availability in the area;
  - (d) Inappropriate use for the residential area;
  - (e) Discrepancies in the proposed number of classes held per week;
  - (f) Inappropriate hours, which could potentially be extended;
  - (g) Potential future uses (i.e. Zumba);
  - (h) Potential amenity impacts, including: loss of privacy, security issues, noise (from people leaving and arriving); and
  - (i) The proposed use does not meet Clause 22.01- *Discretionary Uses in the Residential 1 Zone*.

#### **Conclusion**

5. Based on the following report and recommended conditions, the proposal will not result in unreasonable off-site amenity impacts on the surrounding residential area or place unreasonable pressure on nearby on-street parking.

**1.2 52 Charles Street, Fitzroy - Planning Permit Application No. PLN12/0544. Use of part of the ground floor as a Restricted Recreation Facility (Pilates Studio), and construction and display of advertising signage.**

Trim Record Number: D12/89775  
 Responsible Officer: Coordinator Statutory Planning

<b>Proposal:</b>	Use of part of the ground floor as a Restricted Recreation Facility (Pilates Studio) and construction and display of advertising signage.
<b>Existing Use:</b>	Residential
<b>Applicant:</b>	Das Studio Pilates
<b>Zoning/Overlays:</b>	Residential 1 Zone Heritage Overlay – Schedule HO334 South Fitzroy Precinct
<b>Date of Application:</b>	29/06/2012
<b>Application No.:</b>	PLN12/0544

**Planning History**

1. Planning permit PLN10/0612 was approved on 23 November 2010 for part demolition to allow for the construction of a new gantry and the installation of new windows at the rear of the existing building for 52 & 54 Charles Street Fitzroy.

**Existing Condition**

Subject land

2. The subject site is located on the southern side of Charles Street, between George Street to the east and Napier Street to the west, in Fitzroy. The proposal involves use of the ground level of a three-storey former factory building. The building has since been subdivided into two lots known as 52 Charles Street for Unit 2 and 54 Charles Street for Unit 1 on Strata Plan 019624. The current use for this building is residential. The subject site has a frontage of 11.84m to Charles Street, and a depth of 6.34m, yielding an overall site area of approximately 75sqm.
3. The subject building is classified as ‘individually significant’ to the heritage precinct based on the City of Yarra Review of Heritage Overlay Areas 2007 Appendix 8.

Surrounding land

4. The subject site is located approximately 236m to the west of Smith Street, and 260m east of Brunswick Street, both have been identified as a Major Activity Centre [MAC]. The subject site is located approximately 315m north of Gertrude Street. Smith, Brunswick and Gertrude Streets contain a number of shops, restaurants and entertainment based uses along with a mixture of residential and commercial uses.
5. The immediate surrounding area of the site is residential, with non-residential and civic uses, including, the western adjacent Yarra Community Youth Centre, Fitzroy Town Hall, the Napier Hotel (pub), and Melbourne Fashion Institute; all within close walking distance of the subject site.
6. To the west of the site is the Yarra Community Youth Centre, bounded by Charles, Napier and Little Charles Street. There are two open car parking areas which are accessed from Charles and Little Charles Streets.

Further west is Napier Street and beyond are the Atherton Gardens and the high rise, public housing estate. Car parking along Napier Street comprises 1P to the west and 2P along the east side.

7. To the east of the site is 54 Charles Street, contained within the same three-storey former factory building and is currently used as residential. Further east are two-storey dwellings facing Charles Street.
8. To the north is Charles Street, and beyond on the northern side of Charles are single-storey Victorian dwellings.
9. To the south is a common courtyard (shared with 54 Charles, and 23 and 25 Little Charles Street), and two former factory buildings which have been converted into dwellings.
10. Car parking along the northern side of Charles Street, are 11 'permit' car parking bays and on the southern side of the street are 8 car parking bays (2P, 7.00 am – 7.00 pm).

#### Proposal

11. The proposal seeks to use part of the ground floor of the site as a Restricted Recreation Facility (Pilates Studio) more specifically:
  - (a) proposed hours:
    - (i) Tuesday to Saturday: 8.00 am – 10.00 am;
    - (ii) \*Monday to Friday : 12.00 pm – 12.45 pm;
    - (iii) Monday to Thursday: 5.00 pm – 8.00 pm.
  - (b) maximum of 5 students and 1 staff; and
  - (c) construct and display of a business identification advertising sign;
    - (i) made from brass plaque, etched lettering 'Das Studio Pilates', dimensions of 360mm by 170mm.
12. Of note there was a discrepancy in the proposed hours, with regards to the lunch time class. However, as a result of the consultation meeting, held on 13 November 2012, the Applicant confirmed the lunch time classes are **\*Tuesday and Thursday** only, and not Monday to Friday.

### **Planning Controls**

#### Zoning

13. The subject site is located within a Residential 1 Zone. The purposes of the zone are:
  - (a) *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies;*
  - (b) *To provide for residential development at a range of densities with a variety of dwellings to meet the housing needs of all households.*
  - (c) *To encourage residential development that respects the neighbourhood character. In appropriate locations, to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs.*
14. Pursuant to Clause 32.01-1 (table of uses) of the Yarra Planning Scheme (**the Scheme**), the proposed use of the site as a Restricted Recreation Facility (Pilates Studio) is not listed, therefore the use is a discretionary use and requires a planning permit under the provision of the zone.
15. Clause 74 of the Scheme defines a **Restricted Recreation Facility** as:
  - (a) *Land used by members of a club or group, members' guests, or by the public on payment of a fee, for leisure, recreation, or sport, such as a bowling or tennis club, gymnasium and fitness centre. It may include food and drink for consumption on the premises, and gaming.*

#### Overlay

*Heritage Overlay – South Fitzroy Precinct*

16. Pursuant to Clause 43.01-1 a planning permit is required to construct or display a sign.
17. Clause 43.01-4 - decision guidelines, states:
  - (a) *Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:*
    - (i) *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
    - (ii) *The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.*
    - (iii) *Any applicable statement of significance, heritage study and any applicable conservation policy.*
    - (iv) *Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.*
    - (v) *Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.*
    - (vi) *Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.*
    - (vii) *Whether the proposed sign will adversely affect the significance, character or appearance of the heritage place.***

Particular Provisions

*Clause 52.05: Advertising Signage*

18. The site is located in a Residential 1 zone, in which advertising signage falls within Category 3 – High Amenity Areas under Clause 52.05-9 of the Scheme. This Category indicates ‘Medium limitation’, with the purpose:
  - (a) *To ensure that signs in high-amenity areas are orderly, of good design and do not detract from the appearance of the building on which a sign is displayed or the surrounding area.*
19. Pursuant to Clause 52.05 of the Yarra Planning Scheme, a planning permit is required to construct or display a business identification sign.

Clause 52.06 Car Parking

20. The number of car parking spaces for a Restricted Recreation Facility is not specified under the table at Clause 52.06-5, and as such, an adequate number of car spaces must be provided to the satisfaction of the Responsible Authority.

General Provisions

*Clause 65 Decision Guidelines*

21. General provisions found at Clause 65 Decision Guidelines of the Yarra Planning Scheme are relevant to this application. Before deciding on an application or approval of a plan, the Responsible Authority must consider, as appropriate and relevant:
  - (a) *The matters set out in Section 60 of the Act;*
  - (b) *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies;*
  - (c) *The purpose of the zone, overlay or other provision;*
  - (d) *Any matter required to be considered in the zone, overlay or other provision;*
  - (e) *The orderly planning of the area;*
  - (f) *The effect on the amenity of the area.*

## **State Planning Policy Framework (SPPF)**

22. Relevant clauses are as follows:

*Clause 15 - Built Environment and Heritage*

23. This clause specifies that planning should achieve high quality urban design and architecture that:

- (a) *Contributes positively to local urban character and sense of place.*
- (b) *Reflects the particular characteristics, aspirations and cultural identity of the community.*
- (c) *Enhances liveability, diversity, amenity and safety of the public realm.*
- (d) *Promotes attractiveness of towns and cities within broader strategic contexts.*
- (e) *Minimises detrimental impact on neighbouring properties.*

*Clause 15.03-1 - Heritage conservation*

24. This clause specifies that it is an objective:

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

*Clause 17.01-1 – Business*

25. This clause specifies the objective is:

- (a) *To encourage development which meet the communities' needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.*

*Clause 18.02-5 – Car parking*

26. The policy is relevant to the proposal because the application seeks reduction in the car parking requirement of the Scheme. The objective is to ensure an adequate supply of car parking that is appropriately designed and located. It is also required to allocate or require land to be set aside for car parking subject to the existing and potential modes of access including public transport, the demand for off-street car parking, road capacity and the potential for demand management of car parking. Proposals are also encouraged to facilitate the use of public transport.

*Clause 21.04-2 Activity Centres*

27. Clause 21.04-2 encourages a mixture of retail, personal and business services and community and recreation facilities in and around activity centres. The proposed restricted recreation facility adds to the mix of uses in the area which will enhance the destination experience of Brunswick Street Major Activity Centre and surrounds and provide recreational facilities for local residents.

## **Local Planning Policy Framework (LPPF)**

*Municipal Strategic Statement (MSS)*

28. The most relevant MSS provision relating to this application includes:

*Clause 21.04-2 Activity Centres*

29. Clause 21.04-2 recognises the importance of activity centres as local destinations and the need to maintain a range of services. This Clause aims to achieve these objectives through increasing the range of retail, business, leisure and other services within in activity centres and supporting the regional role of activity centres while ensuring the needs of local residents are met.

*Clause 21.06 – Transport*

30. The relevant objective of this clause is:

- (a) *To reduce the reliance on the private motor car.*

Neighbourhoods

*Clause 21.08-7 Fitzroy*

31. The subject site is located in the suburb of Fitzroy; characterised as a 'mixed commercial and residential neighbourhood notable for the consistency of its Victorian streetscapes. It comprises a dense combination of residential areas, shopping precincts and commercial/ industrial activities'.
32. The role of the Brunswick Street centre can be characterised as hospitality, entertainment, clothing and footwear, art galleries and studios, and non-government community services, all *with a metropolitan focus.*
33. The Gertrude Street centre has a number of eclectic and innovative retailers as well as heritage buildings which help to give the centre an individual and unique sense of place. Gertrude Street also has an arts focus which should be retained and fostered.
34. Clause 21.04-2 recognises the importance of activity centres as local destinations and the need to maintain a range of services. The Clause aims to achieve these objectives through increasing the range of retail, business, leisure and other services within in activity centres and supporting the regional role of activity centres while ensuring the needs of local residents are met.
35. The relevant policy to assess a use in a Residential 1 Zone is at Clause 22.01 *Discretionary Uses in the Residential 1 Zone.*
36. Clause 22.01-1, the policy basis, acknowledges that:
- (a) *the Residential 1 Zone provides for a wide range of non-residential uses subject to the grant of a permit. Non-residential uses in this zone have the potential to adversely affect the amenity of the residential areas. This policy provides guidance on the performance standards to be met by such non-residential uses.*
37. *The objective of this policy is:*
- (a) *To ensure that residential amenity is not adversely affected by non-residential uses.*
38. An assessment to this policy is offered within the assessment section of this report.

**Advertising**

39. The application was advertised under the provisions of Section 52 of the Planning and Environment Act (1987) by letters sent to surrounding owners and occupiers and a sign displayed facing Charles Street.
40. Council originally received six (6) objections and a planning consultation meeting was held on 13 November 2012. Whilst much discussion occurred, objectors are fundamentally opposed to the proposal.

Summary of Issues and Concerns

41. The grounds of objection are summarised as follows:
- (a) Lack of car parking in the area;
- (b) Increase traffic in the area;
- (c) Discrepancies showing the location of car parking availability in the area;
- (d) Inappropriate use for the residential area;
- (e) Discrepancies in the proposed number of classes held per week;
- (f) Inappropriate hours, which could potentially be extended, once the proposed use is established;
- (g) Potential future uses (i.e. Zumba);
- (h) Amenity impacts, including:
- (i) Privacy;
- (ii) Security;
- (iii) Noise (people coming and leaving); and

- (i) The proposed use does not meet Clause 22.01- *discretionary uses in the residential 1 zone*.

### Supporters

- 42. Council received a total of 5 letters in support of the proposed use, from residents who reside in Charles and Web Streets or are existing Pilate's students.

### **Referral**

#### Traffic Engineering Services Unit

- 43. The application was referred to the Council's Traffic Engineering Services Unit. There was no objection to the proposal and the following comments were offered:
- 44. Engineering comments and observations:
  - (a) *The proposed development comprises a restricted recreation facility (Pilates studio) with no on-site car parking. Three on-site bicycle parking spaces will be provided. The site is located on the south side of Charles Street, between Napier Street and George Street. It is expected that there would be around one staff member and five participants per class at any one time (with class times being one hour duration).*
  - (b) *The surrounding area is predominantly residential, with some community and civic properties located nearby. The subject's sites location would attract a significant proportion of local residents and potentially employees who work in the area. The surrounding area is very active in terms of pedestrian movements and bicycle travel, particularly along Napier Street which is a very high-use route for both these modes of travel.*
  - (c) *For patrons who choose to drive to the area, on-street parking opportunities can be found in Napier Street, Condell Street, George Street, Charles Street and Gore Street. Parking restrictions in the area range from 1P to 3P restrictions operating during normal business hours (8:00am to 6:00pm weekdays).*
  - (d) *The site has the advantage of being located within walking distance of tram services along Brunswick Street, Smith Street, Gertrude Street and Nicholson Street. Bus services can be accessed from Johnston Street.*
  - (e) *From a traffic engineering perspective, it is considered that the operation of the new Pilates studio should not adversely impact on existing parking conditions in the area.*
  - (f) *Before a decision is made whether to grant a dispensation in the car parking requirement, the above factors should be taken into account.*

### **Planning Considerations**

- 45. The primary considerations for this application are as follows:
  - (a) Clause 22.01 – Discretionary Uses in the Residential 1 Zone
  - (b) Clause 52.06 – Car parking;
  - (c) Clause 52.05 – Advertising signs and clause 22.04 – advertising signs policy;
  - (d) Clause 43.01-1 – Heritage;
  - (e) Objector concerns; and
  - (f) Other matters (letters of support).

### Use

#### *Clause 22.01 – Discretionary Uses in the Residential 1 Zone*

- 46. The objective of this policy is:
  - (a) *To ensure that residential amenity is not adversely affected by non-residential uses.*
- 47. Clause 22.01-3 states, that it is policy that:

- (a) *Existing buildings constructed for non-residential purposes are the preferred location for non-residential uses.*
  - (b) *Food and drink premises, places of assembly, places of worship and plant nurseries should have access to and adjoin a road in a Road Zone.*
  - (c) **Except on land adjoining and gaining direct access from a road in a Road Zone:**
    - (i) **all required car parking should be on-site.**
    - (ii) **the scale of the proposed use should be compatible with providing service to the local residential community.**
  - (d) **Hours of operation should be limited to 8am to 8pm except for convenience shop.**
  - (e) *New buildings and works should be consistent with the scale, bulk and character of the area.*
  - (f) **Noise emissions should be compatible with a residential environment.**
48. The proposed use is for a Pilates studio located at the ground level of a three-storey former factory building which is also used for residential purposes. The subject building is located in a Residential 1 Zone, situated in central Fitzroy and is within walking distance to the Fitzroy Town Hall, the Brunswick Street and Smith Street Major Activity Centre's and Gertrude Street to the south of the site.
49. Having regard to the policy guidelines above, the proposed use is considered not to have adverse impact on the amenity of the residential area, given:
- (a) The use will be located within a purpose built commercial building, not a purpose built dwelling;
  - (b) The proposed hours are in accordance with the policy, being between 8am to 8pm; which are considered to be reasonable;
  - (c) The Pilates studio use is considered to be low impact; compatible with the mix of uses within the surrounding area, including the Yarra Community Youth Centre to the west of the site, Fitzroy Town Hall, the Napier Hotel (pub), and Melbourne Fashion Institute;
  - (d) Classes will comprise of a small group (maximum of 5 students and 1 teacher);
  - (e) Noise will be limited to relaxation background music only, contained within the existing building, and therefore is considered to be acceptable noise within a residential and mixed use environment;
  - (f) The proposed use will not have any impact on the residential use of the subject building at first and second levels;
  - (g) The site is within walking distance to Smith and Brunswick Street, Major Activity Centre's, and is unlikely to be a destination establishment most likely catering to locals.
50. The proposed floor plan shows there is an entry foyer within the building, where the Applicant has advised is where the students will wait before classes. Given this is not clearly stated on plans, and to assist with student management, a condition on the permit can restrict queuing to be inside the entrance area, as shown on the submitted plans.
51. With respect to car parking, an assessment is offered below.
- Clause 52.06 – Car parking
52. Pursuant to Clause 52.06-1 of the Scheme a new use must not commence until the required car spaces have been provided on the land. Where a use is not listed in the table to Clause 52.06-5 (this includes a restricted recreation facility), an adequate number of car spaces must be provided to the satisfaction of the responsible authority.
53. Pursuant to clause 52.06-9, reducing the requirement for car parking must make consideration of the following relevant assessment guidelines:
- (a) *The State Planning Policy Framework and the Local Planning Policy Framework including the Municipal Strategic Statement and local planning policies.*
  - (b) *The role and function of nearby roads and the ease and safety with which vehicles gain access to the site.*

- (c) *The ease and safety with which vehicles access and circulate within the parking area.*
  - (d) *The provision for pedestrian movement within and around the parking area.*
  - (e) *The provision of parking facilities for cyclists and disabled people.*
  - (f) *The protection and enhancement of the streetscape.*
  - (g) *The provisions of landscaping for screening and shade.*
  - (h) *The measures proposed to enhance the security of people using the parking area particularly at night.*
  - (i) *The amenity of the locality and any increased noise or disturbance to dwellings and the amenity of pedestrians.*
  - (j) *The need for the required car parking spaces to adjoin the premises used by each occupier, if the land is occupied by more than one occupier.*
  - (k) *The workability and allocation of spaces of any mechanical parking arrangement.*
  - (l) *The design and construction standards proposed for paving, drainage, line marking, signage, lighting and other relevant matters.*
  - (m) *The type and size of vehicle likely to use the parking area.*
  - (n) *Whether the layout of car parking spaces and access lanes is consistent with the specific standards or an appropriate variation.*
  - (o) *The need for the required car parking spaces to adjoin the premises used by the occupier/s, if the land is used by more than one occupier.*
  - (p) *Whether the layout of car spaces and accessways are consistent with the relevant Australian Standard for car parking.*
54. The proposed use provides no car parking on site, given the existing commercial, heritage building, which is graded as 'individually significant,' covers 100% of the site and therefore relies on alternative modes of transport, such as walking, cycling, tram and bus services, and on-street car parking availability in the surrounding streets.
55. Currently, car parking along Charles Street offers 11 car parking bays (permits only) along the northern side and 8 car parking bays on the southern side (2P, 7am – 7pm).
56. Council's records suggest eight (8) residential permits, and two (2) visitor permits have been issued for the dwellings located on the northern side of Charles Street.
57. The proposed use was referred to Council's Traffic Engineering Services Unit, who considered the use not to have an adverse impact on the existing parking conditions in the area, due to:
- (a) The subject site being located within walking distance to tram services along Brunswick, Smith, Gertrude and Nicholson Streets. Buses services can also be accessed from Johnston Street
  - (b) Car parking availability (1P – 3P hour restrictions) located within the surrounding streets, along Napier, Condell, George, Charles and Gore Streets.
  - (c) The immediate area also comprising of community and civic uses, and the area is highly active with pedestrian and bicycle users.
58. The Applicant provided photos, taken on 30 October and 7 November 2012, which showed there was car parking available on Charles Street between 7am – 6pm.
59. Planning Officers have also inspected the site and the surrounding streets, during different hours of a workday and have also found car parking along Charles and surrounding streets.
60. In light of the above, the potential car parking demand associated with the proposed use can be accommodated on the street and will not to have an adverse impact on the existing public car parking, given;
- (a) the availability of public car parking in the surrounding streets;
  - (b) the site has direct access by public transport, and bicycle route, and walking;
  - (c) the low number of students (5 maximum) on site will not result in an excessive demand for car parking spaces; and

- (d) some students who already live in the area, who stated (by way of letter of support) that they will not drive to/from the site.

61. Importantly, as with many heritage buildings, requiring on-site car parking would result in the demolition of important heritage fabric, an unnecessary outcome in an inner city area, with good access to other transport modes.

Clause 52.05 – Advertising signs and Clause 22.04 – advertising signs policy; and Clause 43.01-1 - heritage

62. *Clauses 52.05-3 (Advertising signs) and 22.04 (Advertising signs policy) of the Scheme provide the relevant decision guidelines for advertising sign. An assessment is provided as follows:*

(a) *Impact of the sign on the streetscape/character of the area including views and vistas*

- (i) The proposed sign is a simple brass plaque comprising the business name, located beside the front entrance. It will not have any impact on the streetscape character or obstruct any views and vistas to heritage fabric.

(b) *Design and relationship of the sign on the building*

- (i) The small size of the sign respects the heritage building

(c) *Impact of signage structures (including logo boxes) on the building*

- (i) The sign is not attached to the building by nails, and could be easily removed, without causing damage to the heritage building.

(d) *Impact of illumination/animation of the sign*

- (i) *The sign is not illuminated or animated*

(e) *Opportunities and need for identification of the site*

- (i) This is the only sign on site

(f) *Impact of signs on road safety*

- (i) Due to the proposed design, size and location of the sign, it will not have any impact on road safety.

63. With regards to decision guidelines at Clause 43 (heritage Overlay), and in light of the above assessment, the proposed advertising signage is unlikely to have an adverse impact on the significance, character or appearance of the heritage place.

Objector concerns

64. As discussed earlier in this report, six (6) objections were received in regards to the application. While the grounds of objection have been largely covered by the assessment of the proposed development against the requirements of the Yarra Planning Scheme, the following section of this report will specifically address the objector concerns.

(a) *Discrepancies showing the location of car parking availability in the area*

- (i) The discrepancy on plan refers to a notation to the 2 hour car parking spaces located in front of the open parking associated with the adjacent Yarra Community Youth Centre. A site inspection confirmed this area is serviced by a vehicle cross-over and therefore this report has relied on the actual car parking bays and restrictions currently exist for Charles Street.

(b) *Inappropriate hours, which could potentially be extended*

- (i) As stated earlier, the proposed hours are considered to be appropriate and comply with the hours for a discretionary use within a Residential 1 Zone.

If, in the future, an application sought to extend the operating hours beyond 8am - 8pm, the application would be assessed on its own planning merits, and the surrounding properties would need to be notified.

(c) *Potential future uses (i.e. Zumba)*

- (i) Any future uses will be assessed on their own planning merits, similar to the requirement and process that the proposed current application has followed.

(d) *Potential amenity impacts, including: loss of privacy, security issues, noise (from people leaving and arriving)*

- (i) As discussed, the proposed use is considered to be low impact and therefore officers do not foresee any related security concerns, as the use is not intense, where potential security concerns may be warranted. There are no concerns relating to loss of privacy, given the use is contained within a building, and therefore provides no potential to overlook into private open spaces or habitable room windows. It is considered that students arriving/ leaving the site is no different to any person walking along Charles Street or any other surrounding street as a legitimate public thoroughfare. As recommended, a condition for waiting to be within the building, will limit potential for unreasonable noise on the street.

Other matters

65. It is acknowledged that Council has received 5 letters supporting the proposed use, including residents who live in Charles and Webb Street and students, who currently attend Pilate's classes with the Applicant.

**RECOMMENDATION**

That having considered all objections and relevant planning documents, the Committee resolves to issue a Notice of Decision to Grant a Planning Permit (PLN12/0544) for the use of the land as a Restricted Recreation Facility (Pilates Studio) at the ground level at 52 Charles Street Fitzroy, subject to the following conditions:

1. Before the use 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 application plans, received by Council on 31 July 2012, but modified to provide:
  - (a) A management plan must be submitted to and approved in writing by the Responsible Authority. The plan must include the following information:
  - (b) the identification of all noise sources associated with the premises (including, but not limited to music noise, entries and exits to the premises and courtyards) likely to impact on nearby properties;
  - (c) details of staffing arrangements including numbers and working hours;
  - (d) procedures to be undertaken by staff in the event of complaints by a member of the public or an authorised officer of Council;
  - (e) a contact for residents and the Responsible Authority in the event of queries or problems experienced; and
  - (f) provision of internal signage alerting members to take into account nearby residences when leaving the Pilates studio.
2. The layout of the use on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

3. The location and details of the sign must accord with the endorsed plans. Any alterations must be approved in writing by the Responsible Authority.
4. The sign must be constructed and thereafter maintained to the satisfaction of the Responsible Authority.
5. The sign must not be illuminated or animated.
6. No students may queue on Charles Street and all queuing must be within the entry area of the subject building, in accordance with the endorsed plan and to the satisfaction of the Responsible Authority.
7. The use hereby approved may only operate between the hours of:
  - (a) Tuesday to Saturday: 8.00 am – 10.00 am;
  - (b) Tuesday and Thursday : 12.00 pm – 12.45 pm;
  - (c) Monday to Thursday: 5.00 pm – 8.00 pm.
8. A maximum of five (5) students associated with the restricted recreation facility (Pilates studio) are permitted on the site at any one time.
9. A maximum of one (1) staff is permitted to work from the premises (Pilate's studio) at any time, unless with the prior written consent of the Responsible Authority.
10. Noise emissions must comply with the *State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 (in metropolitan Melbourne)* or any other standard recommended by the Environmental Protection Authority to the satisfaction of the Responsible Authority.
11. Any provision of music must be limited to background levels only, with speakers only internal to the building, unless with the prior written consent of the Responsible Authority.
12. This permit will expire if the use is not commenced within two (2) years from the date of this permit. The Responsible Authority may approve extensions to these time limits if requests are made before the permit expires or within 3 months afterwards.
13. The approval granted for the advertising sign will lapse fifteen (15) years from the date of this permit.

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

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

**CONTACT OFFICER: Tamina Loan Vy**  
**TITLE: Statutory Planner**  
**TEL: 92055104**

#### **Attachments**

- 1 Subject land zoning and overlay
- 2 Proposed plan

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**1.3 Supplementary Report: 597 - 603 Grosvenor Street and 1 Flockhart Street, Abbotsford – Planning Permit Application No. PL08/1088**

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Trim Record Number: D12/92073

Responsible Officer: Manager Statutory Planning

**Proposal:** Amendment pursuant to Section 87A of the *Planning and Environment Act 1987*, seeking introduction of a child care centre use, construction of an additional level to one of the buildings and minor plan changes.

**Existing use:** Under Construction

**Applicant:** FDG Developments Pty Ltd

**Zoning / Overlays:** Part Business 1 Zone (B1Z), part Business 2 Zone (B2Z), Design and Development Overlay Schedules 2 and 6 (DDO2 & DDO6) and Environmental Audit Overlay (EAO)

**Date of Application:** 2 October 2012

**Application Number:** PL08/1088

**Planning History**

1. Planning Permit PL08/1088 was issued at the direction of the Tribunal on 12 April 2010 and approved:
  - (a) *Use and development including the construction of a multi-storey building to be used for dwellings and associated facilities, shop, a food & drinks premise (café), offices with a ground-floor frontage of more than 2 metres, associated on-site car parking and bicycle parking, alteration to the access to land in a Road Reserve Category 1 and a reduction in the car parking requirements of clause 52.06 of the Yarra Planning Scheme.*
2. Subsequent to this, the permit has been amended to facilitate some changes to the plans, however these approved changes did not seek to substantially alter that which was already approved by the Victorian Civil and Administrative Tribunal (**VCAT**).

**Background**

3. An amendment to the application was lodged with VCAT pursuant to Section 87A of the *Planning and Environment Act 1987 (the Act)* seeking the following changes:
  - (a) Introduction of a 120 place childcare centre catering for infants to pre-school). The centre will operate between 7:00am to 9:00pm Monday to Friday;
  - (b) Construction of an additional level and roof terrace to Building C to facilitate the required floor space area for the childcare centre;
  - (c) Provision of 24 car parking spaces for the centre; and
  - (d) Floor plate change to one of the dwelling/office areas at the base of Building C.

**VCAT Process**

4. The application has been listed on the Major Cases List and a 2 day hearing has been scheduled for 14 & 15 January 2013.
5. A practice day hearing was held on 21 September 2012 where the Tribunal required the applicant to give notice of the amendment to a list of adjoining provided by Council.
6. Notice of the amendment was given and one objection/statement of grounds was lodged with VCAT outlining the following concerns:

- (a) Impact of the childcare centre on the functioning operations of the housing facility on Flockhart Street; and
  - (b) Lack of screening between the properties and potential interlooking.
7. A mediation session was scheduled by VCAT on 27 November 2012 which was attended to by Council, the permit application and the one party to the appeal.
8. At the VCAT mediation session general agreement was reached by parties to the proposed use and development changes, subject to additional conditions being imposed on the permit which include:
- (a) Additional screening to the Flockhart Street elevation which limits interlooking but maintains light into the childcare centre;
  - (b) Formalises car parking requirements;
  - (c) Controls number of childcare placements, staff numbers and hours;
  - (d) Requires confirmation that due to site contamination matters that the site is suitable for a childcare centre after clean up has occurred.
10. These agreements are in principal and require IDAC approval as IDAC was the original decision making forum.
11. The additional permit conditions reflect referral comments obtained from Council's Engineering Services Unit, Childrens Service Unit and go some way to respond Urban Design Comments received for the proposed amended plans.

### **Assessment of the Substituted Plans**

12. This report recommends that Council consent to the 'mediated' outcome as agreed to by the permit applicant and objector party.
13. If agreement is reached, the two day hearing scheduled for 14 & 15 January 2013 will be vacated.
14. There are two main issues matters that need assessment being:
- (a) Use of the building as a Childcare Centre; and
  - (b) Construction of an addition level and rooftop garden.

### Assessment - Use

15. A planning permit is required for the use of the site as a childcare centre pursuant to clause 34.02-1 as the use is not specified within the table of uses.
16. When considering the appropriateness of a use establishing within an area, consideration must be given to strategic policy. Within Council's MSS, objective 4 seeks *to maintain a balance between local convenience and regional retail roles in Yarra's activity centres.*
17. More specifically at strategy 4.3 Council' MSS seeks to *Support the role of all activity centres, including Neighborhood Activity Centres in providing local day to day needs of residents of all abilities*
18. Objective 9 seeks to *provide community services that meet the needs of a diverse and changing community* and specifically strategy 9.2 which seeks the consideration of *opportunities for the appropriate provision of , or contribution towards community facilities or service to support new residents, for large scale residential development proposals.*
19. The Victoria East Precinct which the site sits within, has seen other the last 4 – 5 years a strategic change in focus from former larger scale 'redundant' commercial facilities to higher density housing.

20. It is anticipated that with approvals granted approximately 2500 new households will be moving into the area as development projects finalise.
21. Council has in the past has undertaken a future needs analysis for the precinct were child care facilities was considered to be a use that would be required to support new and existing families with this precinct.
22. The applicant has applies for a childcare centre with 120 catering for infants through to pre-school. It is consider that subject to conditions on the permit, the new use appropriately complements the surrounding uses, and with the additional requirements requested by Yarra Community Housing will ensure that limited adverse impact to adjoining properties occurs.

#### Design Changes

23. The proposal seeks the construction of an addition level and roof top terrace to half the floor plate of Building C orientated to Flockart Street.
24. The application was referred to Council's Urban Design Unit who offered the following comments:
  - (a) *The attached 3 D image with the facades of three buildings and the amended colour scheme suggest that the building facades will have some correlation with each other which was difficult to establish without the larger precinct image. My earlier concerns about a coherent built form and façade detailing are thus addressed.*
  - (b) *In regards to the height and massing fronting Flockhart Street, I still feel that the proposed building C will appear most dominant at the pedestrian level due to its height. Whilst it will be preferable to remove or set back the upper most floor, if the fifth storey was to continue for the reasons of the area requirement and the need for a Child Care Centre at that location, a suggestion to overcome the height issue in some way would be, to make the balustrade at the roof level recessive by creating a setback at the roof level and by choosing materials/finishes in a way so that the balustrade appears lighter (recessive) in comparison to the rest of the façade.*
25. During the course of the mediation session, to address concerns regarding overlooking to the Yarra Community Housing site, further amendments to the façade treatment were proposed which includes the use of opaque glassing and frit patterning to the glass which also addresses the urban design comments as the balustrade to the roof terrace is proposed to be glass presenting as translucent top to the building when compared to the more solid nature of the lower levels.
26. The façade compositions with the proposed amendments will read comfortably with the Flockhart Street streetscape and will present a building that still is legible within the broader development site.

#### Other changes

27. Changes to the floor plate of a ground floor unit and the car parking arrangements are considered to be appropriate. No objection to the proposal has been outlined by Council's Engineering Unit.

#### **Conclusion**

28. Given the reasons above, it is recommended that Council consent to the amendments to the permit and formalise the consent order as outlined below.

## RECOMMENDATION

1. That having considered all relevant matters, the Committee consents to Council advising VCAT this it consents to the mediated outcome as outlined below (changes shown as underlined).

### Permit Preamble to Read:

Use and development including the construction of a multi-storey building to be used for dwellings and associated facilities, a child care centre, shop, a food & drinks premise (café), offices with a ground-floor frontage of more than 2 metres, associated on-site car parking and bicycle parking, alteration to the access to land in a Road Reserve Category 1 and a reduction in the car parking requirements of clause 52.06 of the Yarra Planning Scheme.

### 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 permit application plans but further modified to show the following.

#### Building design

- (a) The lower ground level and ground level to provide individual apartment entries off the street generally in accordance with DKO Plan No. TP103C, dated 4 June 2009;
- (b) The pedestrian area at the intersection of Victoria and Flockhart Streets increased in size as generally depicted on DKO Plan No TP104E dated 28 October, 2011.
- (c) The Shamrock Street extension as depicted in DKO Plan No. TP103A.

#### Car and bicycle parking

- (d) Ramp grades to the loading bay modified to comply with the relevant requirements of Australian Standard AS2890.2-2002;
- (e) The loading bay reduced in size (including the radii on the south edge with Flockhart Street) to satisfy the requirements of a Heavy Rigid Vehicle;
- (f) Car spaces located against a wall or column obstructing door opening to be:
  - (i) 2.6m in width if marked as a small bay;
  - (ii) 2.7m in width if residential / employee spaces; and
  - (iii) 2.7m in width if visitor / customer bay.
- (g) All columns adjusted to meet the requirements of Australian Standards for door openings and AS2890.1-2004;
- (h) Car spaces C01 to C20 allocated to commercial (office) employees;
- (i) Disabled car spaces C59 and C73 relocated as close as possible to an appropriate lift well;
- (j) Pedestrian walkways to lifts and storage facilities a minimum width of 1.0m;
- (k) All vehicle ramp grades and parking grades to comply with Australian Standard for Off-Street Parking (AS2890.1-2004);
- (l) A minimum headroom clearance of 2.2m provided throughout the car park for vehicles;
- (m) Control measures, including the provision of convex mirrors and stop lines at the top and bottom of the ramp to Basement Level 2;
- (n) Bollards provided at the stairwells and lifts to shield pedestrians from reversing cars;

- (o) Bicycle facilities designed to comply with Clause 52.34, the Australian Standard for Bicycle Parking (AS2890.3-1993) and Ausroads Guide to Traffic Engineering Practice – Part 14: Bicycles. Dimensions, grades and the type of bicycle spaces and dimensions to be provided (i.e. side-by-side, vertical, lockers, etc.);
- (p) A minimum headroom clearance of 2.25m provided for cyclists in accordance with AS2890.3-1993;
- (q) Appropriate ramp grades for cyclists and manoeuvring space at the top and bottom of access ramps, including details of the grade change between Basement Level 1, the Residential Bicycle Parking, Lower Ground and Flockhart Street;
- (r) Deletion of the alternate bicycle entry requiring movement over steps between ground level and Basement 01;
- (s) Radii of all entries to the development tightened to promote slower vehicle movements and improve pedestrian amenity;
- (t) Eight bicycle hoops located near the entrance to the retail area;
- (u) Provision of 20 motorcycle spaces within the basement parking areas in a shared arrangement.
- (v) A total of 392 bicycle parking spaces on-site with a minimum 35 employee spaces;
- (w) A minimum of 4 showers and change rooms for use by all employees of the retail and commercial components of the development.

#### General

- (x) Internal corridor widths for Buildings B, C, D and E generally be a minimum of width of 1.6 metres or otherwise to the satisfaction of the responsible authority.
- (y) Apartments reconfigured so that reliance on borrowed light for bedrooms is removed in all two bedroom apartments (other than 'one-bedroom plus study' apartments or a suitable alternative to the satisfaction of the Responsible Authority;
- (z) The specification and location of all proposed external plant and equipment (including roof top plant and equipment, car park ventilation and individual air conditioning and hot water units). All plant and equipment must be screened to prevent views from the street and habitable room windows of nearby dwellings;
- (aa) An area set aside within the property boundaries for pits, meters and essential services; and
- (aa) Provide a staging plan that must include (but is not limited to) the order in which the development is to be staged, including excavation, construction, landscaping and car parking facilities of each stage.

#### Environmentally Sustainable Principles

- (ab) Details of environmentally sustainable principles required by the Environmentally Sustainable Principles report referred to in Condition 11.

#### Acoustic

- (ac) All works recommended in the report of the appropriately qualified and experienced acoustic engineer referred to in Condition 5, showing how the requirements of Condition 5 will be met;

#### Landscaping

- (ad) A landscape plan to the satisfaction of the Responsible Authority prepared by a suitably qualified person. When approved, the landscape plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:

- (i) The location of all areas to be covered by lawn or other surface materials;
- (ii) The location of any permanent structures, furniture or other facilities;
- (iii) Streetscape design for Victoria Street. Any streetscape furniture installed should be consistent with Council's Design Guidelines for streetscapes;
- (iv) Central courtyards to have public access and be designed to a public standard (hard wearing materials, has to adhere to Australian standards, DDA, security, etc);
- (v) All public area footpaths, steps, ramps and crossings to comply with DDA (with the exception of gradients in Shamrock Street extension)– Tactile indicators, nosings and handrails where necessary;
- (vi) The Shamrock Street crossing perpendicular to traffic;
- (vii) Grades of all ramps shown on plan;
- (viii) Grades of all footpaths shown on plan;
- (ix) Details of raised planters to courtyards to be confirmed (height, construction and tree planting details);
- (x) Location and type of water tank for irrigation;
- (xi) Detailed planting plan with plant schedule (common and botanical plant names, density, quantities and size at planting);
- (xii) Details of street lighting, including along Shamrock Street extension;
- (xiii) Distance between bottom of steps on Shamrock Street extension and bollards increased to a minimum of 1.5m is required;
- (xiv) Seating in northern courtyard is impeding access and should be located away from apartment entrances & ramps so as not to impede access;
- (xv) Details of street furniture, including bench seats and street tree planters;
- (xvi) The placing of the trees in Grosvenor St to obtain 4 car spaces between each tree; and
- (xvii) Street tree species to include only dwarf varieties (i.e. dwarf *Corymbia citriodora* (Lemon Scented Gum) and dwarf *Eucalyptus leucoxylon* (Yellow Gum) and to include water sensitive urban design tree pits. Street trees of *Pyrus Calleryana* 'Burgundy Snow' on Flockhart Street to be spaced a minimum 10m apart.

All to the satisfaction of the Responsible Authority.

#### Building Materials

- (ae) A updated schedule of all external materials and finishes (including colour and materials samples and coloured elevations/perspectives). The schedule must show the materials, colour and finish of all external walls, roof, fascias, window frames, glazing types, doors and fences.

#### Child Care Centre

- (af) Building C reconfigured to include a child care centre and associated car park (including an additional floor level), generally in accordance with amendment plans submitted to VCAT on 6.9.12 (ref nos: TP102k, TP103j, TP104h, TP105h, TP106i, TP107h, TP108h, 200k, 300g, and 301f).
- (ag) The façade design of the child care centre ('Building C') amended generally in accordance with the sketches provide to Council on 20.11.12, depicting revised materials and finishes to achieve a more 'vertical' presentation.

- (ah) Screening treatment to the Flockhart Street frontage comprising an applied frosting below 1.7 metres above finished floor level to the classroom area, and an applied frit pattern with an appropriate density to ensure obscure screening of the internal areas below 1.7 metres above finished floor level.
- (ai) The deletion of the internal door between the proposed dwelling and office at the ground floor within 'Building C' to the Flockhart Street frontage as shown on TP103j.

### Endorsed Plans

- 2. All development must accord with the endorsed plans. Any alterations must be approved by the Responsible Authority.
- 3. Floor levels shown on the endorsed plan(s) must not be altered or modified without written consent of the Responsible Authority.
- 4. All new on boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.

### Acoustic Treatments

- 5. Before the plans are endorsed, a report to the satisfaction of the Responsible Authority must be submitted to and approved in writing by the Responsible Authority. The report must be prepared by a suitably qualified acoustic engineer to show how the requirements of State Environment Protection Policy N-1 [SEPP N-1] and relevant Australian Standards will be met and must prescribe the form of proposed acoustic treatment to each dwelling in the development as follows:
  - (a) The design and attenuation measures applicable to each dwelling must be determined by applying the method in Schedule B of State Environment Protection Policy N-1 to comply with Australian Standard AS2107-2000 and meet the requirements of SEPP N-1 for the level of noise from industrial sources, with specific regard to the premises of Carlton United Brewery (CUB), the Terminus Hotel, Aquanas, Gyprock and FQP, and as applicable to all residential premises in the Residential 1 zone.
  - (b) Treatment to residential facades must be to the satisfaction of the Responsible Authority and in accordance with the three acoustical-treatment options of Ms. Williams, of Heggies, as set out in her statement of evidence (Section 4 and Appendix G), Plans TP10.2–TP10.13 and plans titled "Acoustic Treatment", submitted to the Tribunal, dated 10/23/2009 (signed by Read M on 26<sup>th</sup> March 2010), with the exception of:
    - (i) apartments B-209, B-316, B-414, B-510, B-511, B-512, B-513, B-514, B-601, B-612, B-701, B-801, B-901, B-1001, and E-321 which may have an alternative residential façade treatment in accordance with the report of 'Acoustic Logic' dated 20 April 2011, but which must include 12.76mm fixed laminate glass to bedrooms where required acoustic metal louvers are not installed; and
    - (ii) apartments requiring Acoustic Treatment Option 1 in which the balcony soffits may be modified to be lined with 50mm thick glasswool insulation with minimum 32kg/m<sup>3</sup> density to the slab soffit covered with minimum 20% open area perforated sheet metal.
  - (c) All mechanical plant and equipment installed or constructed as part of the development and the use of the loading bay must comply with SEPP N-1.
- 6. Within 6 months from the completion of the development a report prepared by a qualified acoustic engineer must be submitted to the Responsible Authority demonstrating to the satisfaction of the Responsible Authority that the development and use complies with condition 5.

In the event that any dwelling does not so comply, the report must set out appropriate remedial measures that will ensure compliance and the permit applicant must specify a time frame to the satisfaction of the responsible authority for completion of such works.

7. The acoustic engineer's recommendations must be incorporated into the plans submitted to the Responsible Authority for endorsement and, where they are recommendations of an ongoing nature, must be implemented to the satisfaction of the Responsible Authority.

### **Car Share**

8. Prior to the occupation of the development provision must be made for 2 car share vehicles on-site which must be operated by a car share operator or the owners corporation for a minimum period of 10 years. Any costs which may be associated with ensuring ongoing availability of 2 car share vehicles on site will be borne by the owner's corporation.

### **Transport Management**

9. Prior to the occupation of the development, a car parking management plan prepared by an appropriately qualified traffic consultant must be submitted to and approved by the Responsible Authority. When approved, the car parking management plan will be endorsed and form part of this permit. The car parking management plan must address, but is not necessarily limited to, all of the following:
  - (a) The number and location of the car parking spaces to each office, retail tenancy, child care centre and dwelling, with any tandem parking spaces applied to a single tenant or dwelling;
  - (b) The number and location of car spaces for shared use, including time of shared use;
  - (c) The management of visitor car parking spaces and security arrangements for occupants of the development, including details on how the 'Security Line' to the Residential Parking area is to operate and how residential visitors are to access this area. Car park security arrangements must allow for the expansion of the car-share scheme;
  - (d) Details of way-finding, cleaning, security of end of trip bicycle facilities;
  - (e) Policing arrangements and/or formal agreements;
  - (f) A schedule of all proposed signage including directional arrows and signage, informative signs indicating location of disabled bays and bicycle parking, exits, restrictions, pay parking system etc;
  - (g) Details on how the resident bicycle parking areas is to be secured from Flockhart Street and how visitors are to gain access to this area and how the commercial / retail bicycle parking spaces are to be secured;
  - (h) The collection of waste and garbage including the separate collection of organic waste and recyclables, all in accordance with the Waste Management Plan required by Condition 53; and
  - (i) Details regarding the management of loading and unloading of goods and materials for the commercial and residential uses.
10. The car parking management plan must be implemented to the satisfaction of the Responsible Authority. No alterations may be made without the prior written approval of the Responsible Authority.

### **Environmentally Sustainable Principles**

11. The recommendations of the Sustainability Statement (10 December 2008) prepared by Ark Resources or equivalent measures must implemented into the development with details submitted to the Responsible Authority demonstrating compliance with this condition.

### **Integrated Water Management Strategy**

12. Within two months of the approval of this development plan, or as otherwise agreed by the Responsible Authority, an integrated water management strategy (IWMS) and plans prepared by a suitably qualified consultant must be submitted and be to the satisfaction of the Responsible Authority to include how storm water is mitigated, stored, cleaned and used in the precinct and how the proposed initiatives will contribute to delivering water efficiency.
  - (a) The site should drain to the nearest Council drain of adequate depth and capacity or through its own outlet to the Yarra River which has been approved by Melbourne Water; and
  - (b) All water sensitive design elements including rainwater tanks, filtration systems, water retention including a specification of works to be undertaken prior to planting including details of proposed watering and opportunities for reuse of rainwater (irrigation system) site and specifications of tanks, rain gardens and wetlands and maintenance methods proposed for all landscaped areas including river environs and terrace areas.

### **Drainage**

14. Provision must be made for the drainage of the site including landscaped and pavement areas all to the satisfaction of the Responsible Authority.
15. The permit holder must apply for a Legal Point of Discharge under Regulation 610 – Stormwater Drainage of the Building Regulations 2006 from Yarra Building Services Unit.
16. The drainage design for the entire site, along with hydraulic calculations, must be submitted to the Responsible Authority for assessment and approval.
17. All piping and ducting, other than for drainage above the ground floor storey of the building must be concealed.
18. Any storm water drainage within the property must be provided and be connected to the nearest Council pit of adequate depth and capacity (legal point of discharge), to Council's satisfaction under Section 200 of the Local Government Act 1989 and Regulation 610.

### **Open Space, Public Areas and Landscape Implementation and Maintenance**

19. Prior to the occupation of the buildings, an Open Space Management Plan (OSMP) must be prepared to the satisfaction of the responsible authority. When approved, such plan will be endorsed and become part of the permit. The OSMP will identify matters including the classes of people who may have access to various areas of publicly accessible open space, including the Shamrock Street extension, in specified circumstances.
20. Except with the written consent of the Responsible Authority, the landscaping must be completed to the satisfaction of the Responsible Authority before the building is occupied.
21. Any landscaping outside the title boundary of 589-603 Victoria Street and 12- 20 Grosvenor St, Abbotsford must be carried out in consultation with and to the satisfaction of the Responsible Authority and at the cost of the permit holder.
22. The street tree planting in the road reserve must include water sensitive urban design techniques to ensure trees are self sufficient for watering needs. Detailed drawings must be submitted to the Responsible Authority for assessment and approval.
23. The street trees are to be in accordance with the City of Yarra's planting specification specified at condition 1(ad). The cost of the works must be borne by the permit holder. All works must be completed prior to occupation of the development except with the written consent of the Responsible Authority.

### **Vehicle Crossings and Accessways**

24. Any damaged road(s) and footpath(s) and other infrastructure adjacent to the development site as a result of the construction works must be reinstated to the satisfaction of the Responsible Authority.
25. Any portions of redundant vehicle crossing must be broken out and removed and reinstated with kerbing and paving of the surrounding area. The cost of these works must be borne by the permit holder.
26. The proposed new vehicle crossings are to be constructed in accordance with City of Yarra Standard Drawings and Specifications. The designer must ensure there is adequate freeboard between the top of the ramp and the invert levels along the west kerb alignment of Flockhart Street.
27. The development's finished floor levels for pedestrian access and car parking areas must be such that pedestrian and vehicular access accords with Australian Standards.
28. Existing footpath, kerb and channel, and road pavement surface levels must not be altered unless with the approval of the Responsible Authority.
29. The permit holder must not commence any civil infrastructure works on any Public Highway without obtaining official consent from the Responsible Highway Authority.
30. Prior to the occupation of development, land delineated in DKO Plan No TP104E dated 28 October 2011 shall, subject to the consent of the relevant road authority(s), be transferred by the owner to the relevant road authority(s).
31. The Flockhart Street, footpath construction and associated drainage infrastructure and works is to be designed and constructed in accordance with the Responsible Authority's standards and all relevant Austroads Standards. The permit holder is to submit detailed engineering design drawings to the Responsible Authority for assessment and approval prior to the commencement of works.
32. Within three months of the commencement of the development allowed by the permit, plans for footpath construction and associated drainage infrastructure and works must be submitted to VicRoads and the Responsible Authority.

### **Shamrock Street Extension**

33. Prior to the completion of the relevant stage of development the owner must undertake construction works to provide for the Shamrock Street extension at the full cost of the owner in accordance with the following.

#### Design detail

- (a) The Shamrock Street extension must be designed as a shared zone in accordance with the VicRoads design guidelines for Shared Zones with priority to pedestrian and bicycle traffic.
- (b) The Shamrock Street extension must be provided with a non-linear alignment to reduce vehicle speeds and is to be narrowed to a single lane of traffic at its intersections with Flockhart and Grosvenor Streets.
- (c) The physical traffic treatment of the Shamrock Street extension must enforce a right hand turn ban at the intersection of Shamrock and Grosvenor Streets.
- (d) Prior to the commencement of any construction works to provide for the Shamrock Street extension, the owner must submit detailed engineering design drawings to the Responsible Authority for assessment which plans must have obtained the approval of the responsible authority before works commence.

### General

- (e) Measures by which heavy vehicles are to be prohibited from utilising the Shamrock Street extension.
- (f) Provision of two short term parking spaces associated with the child care centre.

### Timing of works

- (g) Before completion of the development allowed by the permit, the Shamrock Street extension works must be fully completed to the satisfaction of the Responsible Authority.

### Cost

- (h) The cost of the design and construction of the Shamrock Street extension construction works and the cost of any modifications to public assets owned or controlled by the responsible authority must be borne by the owner and/or occupier of the land.

## **Road Infrastructure Works**

- 34. Prior to the occupation of the development, all the footpaths and kerb and channel surrounding and adjacent to the subject development must be reconstructed in accordance with the Responsible Authority's engineering standards and requirements and to the satisfaction of the Responsible Authority.
- 35. Prior to the occupation of the development, the road pavements of Flockhart Street and Grosvenor Street adjacent to the development site are to be re-sheeted with an asphalt overlay to the satisfaction of the Responsible Authority after the building works and the provision of underground utility services have been completed. The cost of these road infrastructure works must be borne by the permit holder.

## **General Parking Areas**

- 36. No fewer than 422 car parking spaces (including a minimum 2 car share vehicles spaces) and 392 bicycle parking spaces must be provided on the land at all times. Of the 422 spaces provided, no less than 24 car spaces including the two drop off spaces must be provided for the use of the child care centre.
- 37. The development must provide a minimum of 4 showers and change rooms for use by all employees of the retail and commercial components of the development.
- 38. The area set aside for the parking of vehicles, together with the associated access lanes as delineated on the endorsed plan must:
  - (a) Be provided and completed to the satisfaction of the Responsible Authority prior to the commencement of the development hereby permitted;
  - (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.
- 39. Bicycle ramps must be clearly signed and marked as bicycle access only.

## **Loading Areas**

- 40. Unless otherwise agreed to by the Responsible Authority, vehicles used in the loading and unloading of goods must not exceed a Heavy Rigid Vehicle.

41. All vehicles must enter and exit the road network in a forward direction.
42. All loading and unloading must be carried out within the confines of the land's boundaries.
43. The loading area must be closed and secured by the screening to the satisfaction of the Responsible Authority.
44. Loading movements are restricted to between the hours of 6.00 am and 9.00 pm, seven days a week.

### **Lighting**

45. The development must be provided with external lighting capable of illuminating access to each car parking space, motorcycle parking space, bicycle parking space, store, rubbish bin, recycling bin, pedestrian walkways, stairwells, lift, dwelling entrances and entry foyer.  
Lighting

must be located, directed, shielded and of limited intensity so that no nuisance or loss of amenity is caused to any person within and beyond the site, to the satisfaction of the Responsible Authority.

### **Food and Drink Premises (Café) Use**

46. Except with the written consent of the Responsible Authority, no more than 60 patrons may be present within the café at any one time.
47. The cafe must only operate between the hours of 7.00 am and 11.00 pm on any day.
48. Except with the written consent of the Responsible Authority music must not be played outside of the premises.
49. Bottles must not be emptied into garbage bins after 10.00 pm on any night, or before 7.00 am on any day unless the activity is inaudible from within any nearby residential premises.

### **Retail Use**

50. The retail use must only operate between the following hours unless with the further written consent of the Responsible Authority:  
7.00 am and 9.00 pm Monday to Friday; and  
7.00 am and 9.00 pm Saturday and Sunday.

### **Child Care Centre Use**

51. The child care centre must only operate between the hours of 7:00am and 9:00pm Monday to Friday, unless with the written consent of the Responsible Authority.
52. Except with the written consent of the Responsible Authority, the child care centre will accommodate no more than 120 children (infant to pre-school).
53. Except with the written consent of the Responsible Authority, the child care centre will accommodate no more than 30 members of staff.
54. All screening treatment applied to the child care centre must be maintained to the satisfaction of the Responsible Authority.

### **General amenity conditions**

55. Alarms associated with the commercial premises must be directly connected to a security service and must not produce noise beyond the premises.
56. The amenity of the area must not be detrimentally affected by the use or development, 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.

### **Waste Management**

57. Prior to the occupation of the dwellings the permit holder must submit a waste management plan in consultation with and to the approval of the Responsible Authority. Once approved the waste management plan must be complied with. Collection must be undertaken by private contractors. The Waste Management Plan must include, but is not limited to, the following information:
- (a) Weekly collection frequency;
  - (b) Waste weekly quantities in cubic metres of garbage and recycling that will be generated;
  - (c) Waste containers to accommodate the waste generated;
  - (d) Appropriately sized bin storage area;
  - (e) A minimum 3.6m high clearance from the entrance to the proposed collection point at the loading bay;
  - (f) Details of path of access for collection vehicles to the collection point, including turning templates for the vehicle;
  - (g) The actual collection process and procedures; and
  - (h) Clarification that the service will be by a private contractor and details as to how owners and occupiers of the dwellings are made aware of this collection agreement.
58. Rubbish, including bottles and packaging material, must at all times be stored within the building and screened from external view. All waste collection and recycling collection to be undertaken by private contractors between the hours specified in Council's Local Law No. 3.

### **Advice to future occupants**

59. At any time prior to the transfer of title of any lot created by the subdivision, the owner must enter into an agreement pursuant to Section 173 of the *Planning and Environment Act 1987* with and to the satisfaction of the Responsible Authority, which agreement must be registered on the title to the parent lot and any lot created by the subdivision. By agreement, the owner must covenant with the Responsible Authority to give written notice to all potential future occupants of the residential components of the development that the amenity for occupants in the dwellings may be reduced due to the presence of odour, dust and noise emissions from Carlton United Beverages (CUB) at 589-603 Victoria Street, 8-20 Grosvenor Street and 1 Flockhart Street, Abbotsford. The agreement must address the form, content and timing of such written notice. All costs of preparation and registration of such agreement must be borne by the owner of the land, including those incurred by the Responsible Authority.

### **Environmental audit**

60. Before the commencement of any stage of the development hereby approved (other than works associated with excavation and remediation) either:
- (a) Certificate of Environmental Audit indicating that each stage of the land is suitable for residential use must be issued for the land in accordance with Section 53Y of the *Environment Protection Act 1970*; or
  - (b) An environmental auditor appointed under the *Environment Protection Act 1970* must make a statement in accordance with Section 53Z of the Act that the environmental conditions of each stage of development of the land are suitable for residential use.

61. A copy of the certificate of environmental audit and/or statement, and the complete audit report and audit area plan must be submitted to the Responsible Authority.
62. The use and/or development/buildings and works allowed by this permit must comply with the directions and conditions of any statement of environmental audit issued for the land.
63. Prior to the occupation of dwellings a letter must be submitted to the Responsible Authority by an Environmental Auditor accredited with the Environment Protection Authority, to advise that all construction and remediation works necessary and required by an environmental audit or statement have been carried out.
64. The land owner and all its successors in title or transferees must, at any time prior to the transfer of title of any lot created by the subdivision, provide to the purchaser of any lot created by the subdivision a copy of the endorsed development plans, planning permit and statement of environmental audit (together with any later issued certificate of environmental audit) for the land.
65. Prior to the commencement of the use of the child care facility, a Statement prepared by a suitable environmental auditor appointed under the *Environmental Protection Act 1970* must be provided to the Responsible Authority to its satisfaction.

### Soil removal

66. Any handling and disposal of contaminated site soil must be in accordance with the requirements of any statement of environmental audit issued for the land, the requirements of the Environment Protection Authority and the *Environment Protection Act 1970*.

### Construction Management Plan

67. Before any development starts, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed as evidence of its approval. The plan must provide for or include the following:
  - (a) A pre-conditions survey (dilapidation report) of the subject site and all adjacent Council roads frontages and nearby road infrastructure;
  - (b) Protection works necessary to road and other infrastructure (limited to an area reasonably proximate to the site);
  - (c) Remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site);
  - (d) Containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build up of matter outside the site;
  - (e) On site facilities for vehicle washing;
  - (f) Methods for management of noise and general nuisance;
  - (g) Site security;
  - (h) Waste and stormwater treatment;
  - (i) Construction program;
  - (j) Preferred routes for trucks delivering to the site;
  - (k) Parking facilities for construction workers;
  - (l) Delivery and unloading points and expected frequency;
  - (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; and

- (o) Traffic management measures to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads.

### **Construction**

- 68. During the construction, the following must occur:
  - (a) any stormwater discharged into the stormwater drainage system to comply 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 premises enters the stormwater drainage system;
  - (c) vehicle borne material must not accumulate on the roads abutting the site;
  - (d) the cleaning of machinery and equipment must take place on site and not on adjacent footpaths or roads;
  - (e) all litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly; and
  - (f) all site operations must comply with the Environment Protection Authority's Publication TG302/92.
- 69. The development, once commenced, must be completed to the satisfaction of the Responsible Authority.

### **VicRoads' Requirements**

- 70. Amended plans shall be submitted to the Responsible Authority for endorsement which include the setback of the building line to accommodate footpath works on Flockhart Street and Victoria Street, generally in accordance with Traffic Design Drawing No. G11373-01-03 Rev C.
- 71. Any redundant crossovers to the site from Victoria Street shall be removed and the kerb, channel, footpath and nature strip reinstated to the satisfaction of the Responsible Authority.
- 72. Worksite traffic management practices for all work undertaken shall be in accordance with VicRoads 'Worksite Traffic Management (Roadworks Signing) Code of Practice which includes Australian Standard AS 1742.3- 2002 "Manual of Uniform Traffic Control Devices Part 3: Traffic Control devices for Works on Roads".
- 73. Before any work commences on the site, a construction-traffic management plan must be submitted to and approved by VicRoads.

### **Director of Public Transport Requirements**

- 74. Prior to the occupation of the residential component of the development a Green Travel Plan (GTP) must be prepared by a suitably qualified person to the satisfaction of the Director of Public Transport. The GTP must:
  - (a) Describe the location of the development site in the context of alternative modes of transport and objectives for the GTP.
  - (b) Outline GTP measures for the development, including, but not limited to:
    - (i) Household welcome packs;
    - (i) Possible incentives (e.g. Provision of Met Cards through rental/ownership of a dwelling);
    - (ii) Provision of Public Transport maps and/or timetables of nearby services;
    - (iii) Cycle parking and facilities included;
    - (iv) GTP management responsibilities, including ongoing monitoring and review;

- (v) Encourage use of the Burnley Street bus route;
- (vi) Annual reporting; and
- (vii) An update not less than every 5 years.

75. Once approved the GTP must form part of the Planning Permit and any ongoing Management Plan for the site (e.g. Owners Corporation Rules) to ensure the plan continues to be implemented by residents/owners to the satisfaction of the Responsible Authority.

### **Construction Hours and Noise**

76. Except with the written consent of the Responsible Authority, demolition or construction works must only be carried out between: 7.00 am – 6.00 pm, Monday-Friday (excluding public holidays) and 9.00 am – 3.00 pm, Saturday and public holidays. No work is to be carried out on Sundays, ANZAC Day, Christmas Day or Good Friday without a specific permit. All site operations must comply with the relevant Environmental Protection Authority's Guidelines on Construction and Demolition Noise.

### **Melbourne Water's Requirements**

- 77. No polluted and / or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or watercourses.
- 78. All internal floors are to be protected to a minimum of 600mm above the applicable flood level.
- 79. All doors, windows, vents and openings to the basement car park must be a minimum of 300mm above the applicable flood level.

### **Time limits**

80. This permit will expire if the development is not commenced within four years from the date of this permit. All development in each stage must be completed within two years from the date of commencement of that stage. The Responsible Authority may approve extensions to these time limits if requested within three months of the date of expiry.

Note: The site must be drained to the legal point of discharge to the satisfaction of the Responsible Authority.

Note: A building permit may be required before development is commenced. Please contact Council's Building Services Unit on Ph. (03) 9205 5351 to confirm.

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

Note: A copy of this permit and the endorsed plan (and any subsequent variation) must form part of the document to any Contract of Sale or Lease for any part of the site after the date of the permit.

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

### **Melbourne Water footnotes**

If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on telephone 9235 2517, quoting Melbourne Water's reference 152221.

The applicable flood level for this property is 11.2 metres to the Australian Height Datum (AHD). A licensed surveyor should be engaged to determine the exact effect of the applicable flood level on the property.

**CONTACT OFFICER:** Mary Osman  
**TITLE:** Manager Statutory Planning  
**TEL:** 9205 5334

**Attachments**

- 1 589 - 603 Victoria Street Abbotsford Part1 - plans
- 2 589 - 603 Victoria Street Abbotsford Part 2
- 3 589 - 603 Victoria Street Abbotsford Part 3
- 4 589 - 603 Victoria Street Abbotsford Part 4
- 5 589 - 603 Victoria Street Abbotsford Part 5
- 6 Attachment 2 - 589 - 603 Victoria Street Abbotsford
- 7 Attachment 3 - 589 - 603 Victoria Street Abbotsford