

**YARRA CITY COUNCIL**

**Internal Development Approvals Committee**

**Agenda**

**to be held on Wednesday 16 October 2019 at 6.30pm  
in Meeting Rooms 1 & 2 at the Richmond Town Hall**

**Rostered Councillor membership**

Councillor Amanda Stone  
Councillor Jackie Fristacky  
Councillor Danae Bosler (substitute for Cr Mi-Lin Chen Yi Mei)

**I. ATTENDANCE**

Sarah Griffiths (Senior Co-ordinator Statutory Planning)  
Chris Stathis (Senior Statutory Planner)  
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.  
Yarra City Council acknowledges the  
Wurundjeri Woi-wurrung as the  
Traditional Owners of this country,  
pays tribute to all Aboriginal and  
Torres Strait Islander people in Yarra  
and gives respect to the Elders past  
and present."***

### **Internal Development Approvals Committee Submissions**

“Prior to the consideration of any Committee Business Report at a meeting of the Internal Development Approvals Committee, members of the public shall be invited by the Chairperson to make a verbal submission. In determining the order of submissions, the Chairperson shall first invite the applicant or their representatives to submit, followed by formal objectors and finally any other interested persons.

All submitters accepting the invitation to address the meeting shall make submissions in accordance with these guidelines (or a variation of these guidelines as determined by the Chairperson at their sole discretion).

- Speak for a maximum of five minutes;
- Direct their submission to the Chairperson;
- Confine their submission to the planning permit under consideration;
- If possible, explain their preferred decision in relation to a permit application (refusing, granting or granting with conditions) and set out any requested permit conditions.
- Avoid repetition and restating previous submitters;
- Refrain from asking questions or seeking comments from the Councillors, applicants or other submitters;
- If speaking on behalf of a group, explain the nature of the group and how the submitter is able to speak on their behalf.

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

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

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

*Extract from the Council Meeting Operations Policy, September 2019*

## 1. Committee business reports

Item		Page	Rec. Page
1.1	PLN16/1082.03 - 366 Johnston St, Abbotsford - Section 72 Amendment to Planning Permit PLN16/1082 for buildings and works, the sale and consumption of liquor (on premises licence) and a reduction in the car parking requirements associated with the use of the land as a Bar (no permit required for Bar use).	5	32
1.2	PLN19/0025 - 9 Kingston Street Richmond - Construction of a six-storey office building and a reduction in the car parking requirements.	36	73
1.3	PLN19/0145 - 106 Queens Parade, Fitzroy North - Partial demolition to the existing dwelling for the construction of a ground and first floor extension, including alterations.	80	101

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- 1.1 PLN16/1082.03 - 366 Johnston St, Abbotsford - Section 72 Amendment to Planning Permit PLN16/1082 for buildings and works, the sale and consumption of liquor (on premises licence) and a reduction in the car parking requirements associated with the use of the land as a Bar (no permit required for Bar use).**
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## **Executive Summary**

### **Purpose**

1. This report provides Council with an assessment of an application to amend Planning Permit PLN16/1082 and recommends approval subject to conditions.

### **Key Planning Considerations**

2. Key planning considerations include:
- (a) clause 13.05-S – Noise Abatement;
  - (b) clause 22.05 – Interface Uses;
  - (c) clause 22.09 – Licensed Premises; and
  - (d) clause 52.06 – Car Parking.

### **Key Issues**

3. The key issues for Council in considering the proposal relate to:
- (a) Noise impacts; and
  - (b) Sale and consumption of liquor.

### **Submissions Received**

4. Fourteen objections were received to the application, these can be summarised as:
- (a) Noise impacts (poor noise attenuation associated with current buildings on the land, noise generation from the proposed licence, the venue's history with unauthorised live music events, noise impacts associated with the waste area and noise impacts associated with patrons using the toilet area);
  - (b) Excessive licensed hours;
  - (c) Previous non-compliances at the site;
  - (d) Anti-social behaviour;
  - (e) No need for another licensed premises in the area;
  - (f) Cumulative Impact report does not reflect the Planning Permit for the sale and consumption of liquor at No. 370 Johnston Street;
  - (g) Appropriateness of use classification as a Bar;
  - (h) Bar will conflict with use of adjacent commercial premises;
  - (i) The proposed amendment is a transformation of the permit;
  - (j) Concerns regarding the proposed car parking reduction; and
  - (k) Impacts to property value.
5. Eight letters of support were received to the application, the grounds of which can be summarised as follows:
- (a) The vibrancy that the proposal will bring to the immediate vicinity;
  - (b) The net community benefit associated the proposal, and;
  - (c) The venue's history of supporting not-for-profit organisations.

### **Conclusion**

6. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported subject to the following key recommendations:

- (a) Increase the scale of proposed noise attenuation upgrades across the site as recommended by the independent acoustic peer review;
- (b) A condition requiring music to be played at a background level only after 10pm on any night;
- (c) Limit hours of operation to 1am (the following day) on Friday and Saturday only; and
- (d) The submitted Noise and Amenity Action Plan updated to provide further clarification and detail on management practices and strategies for the proposal.

**CONTACT OFFICER:** Chris Stathis  
**TITLE:** Senior Statutory Planner  
**TEL:** 9205 5352

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**1.1 PLN16/1082.03 - 366 Johnston St, Abbotsford - Section 72 Amendment to Planning Permit PLN16/1082 for buildings and works, the sale and consumption of liquor (on premises licence) and a reduction in the car parking requirements associated with the use of the land as a Bar (no permit required for Bar use).**

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Reference: D19/168162

Authoriser: Senior Coordinator Statutory Planning

**Proposal:** Section 72 Amendment to Planning Permit PLN16/1082 for buildings and works, the sale and consumption of liquor (on premises licence) and a reduction in the car parking requirements associated with the use of the land a Bar (no permit required for Bar use).

**Existing use:** Plant Nursery

**Applicant:** Ewan Harding

**Zoning / Overlays:** Commercial 1 Zone (C1Z)  
Design and Development Overlay (Schedule 15) (DDO15)

**Date of Application:** 16 April 2019

**Application Number:** PLN16/1082.03

### Planning History

1. Planning Permit PLN16/1082 was issued by Council on 20 December 2016 for *buildings and work and waiver of loading bay requirements associated with the as-of-right use of the land a plant nursery*. The delegate report associated with this permit also stated that the proposal included a café component, which was found to be ancillary to the plant nursery use, as well as also being as-of-right under the land zoning.
2. Planning Permit PLN16/1082 was further amended by Council on 21 April 2017 to include toilets, storage buildings and gates to the rear of the site, introduction of a pergola structure towards the front of the site and reconfiguration to the layout of garden beds and display tables.
3. A second application to amend Planning Permit PLN16/1082 was lodged in August 2017 to allow for the sale and consumption of liquor. The application was lapsed in February 2019 due to the required information not being provided to Council within the prescribed timeframes.

### Background

#### Acoustic reports and peer reviews

4. The applicant submitted an acoustic report (dated 04 March 2019) with the application. This document was peer-reviewed by an external acoustic consult. The Council peer review (dated 07 August 2019) found a number of issues that needed to be addressed by way of a revised acoustic report.
5. A revised acoustic report (dated 28 August 2019) was provided to Council. This provides a greater level of detail on acoustic assessment and more conservative recommendations for appropriate noise attenuation and management. The subsequent peer review is dated 19 September 2019 and provides a number of recommendations that are discussed throughout this report. Similarly, the recommendations and commitments made within the updated acoustic report (dated 28 August 2019) are discussed throughout this report.

### Use Term Change

6. Planning Scheme Amendment VC159 was gazetted on 08 August 2019, which, amongst other things changed the land use term *Tavern* to *Bar*. The change is simply a name change and does not make any changes to the definition of the use. The amendment took place during the application process, which is why the advertised documentation refers to the use associated with the application as a *Tavern*. The report will refer to the use as a *Bar* as now defined under the Yarra Planning Scheme.

### **The Proposal**

7. The application proposes to amend Planning Permit PLN16/1082 in the following ways:

#### Liquor

- (a) Provide for the sale and consumption of liquor (under an On-premises licence) with operational details as follows:
- (i) A maximum of 115 patrons on the land at any one time, distributed as follows:
    - A maximum of 50 patrons in the internal bar area;
    - A maximum of 50 patrons in the rear external area;
    - A maximum of 15 patrons in the front external area.
  - (ii) Licensed hours (internally) as follows:
    - Monday to Wednesday 12noon to 11pm
    - Thursday to Saturday 12noon to 1am (the following day)
    - Sunday 12noon to 10pm
  - (iii) Licensed hours in the external areas of the site until 10pm on any day.
  - (iv) Provision of live music (the application material does not provide any further information on the proposed live music, other than recommendations made in the applicant's acoustic report, which will be discussed in later in this report).
  - (v) The extent of the proposed license's red line area includes the entire site except the rear car parking area, storage area and toilet facilities.

#### Buildings and works

- (b) The application seeks retrospective approval for an extension to the existing pergola structure on the land. The extension to the pergola stretches across the width of the subject site and has a height less than the existing pergola. These works have been carried out. Whilst the plans lack dimensions, the highest built form proposed would be the acoustic walls which are proposed to be 3.6m high.
- (c) The application also proposes additional buildings and works in the form of acoustic barriers located along the eastern section of the of the rear external area and along the northern extent of the red line area, to the west of the existing toilets. The northern acoustic barrier is also proposed to function as a gate. These additional items have not been shown on the submitted elevations, however this omission will be discussed within the report. These additional items are as follows:
- (i) Northern façade of the building upgraded to enhance its noise attenuation, with the required specifications to achieve a minimum acoustic performance as detailed in the acoustic report through the installation of weatherboards to the northern façade to be caulked with a durable flexible sealant or with non-setting mastic;
  - (ii) Acoustic gate along the northern boundary of the proposed red line area to have a minimum surface density of 12kg / sqm; and
  - (iii) External doors fitted with self-closing mechanisms.

- (d) The application also proposes the following internal works, which do not require a planning permit but are required for the purposes of noise attenuation:
  - (i) Installation of a ceiling to the entire roof system of the building on site, achieving a minimum surface density of 12kg/sqm.

Use

- (e) The application proposes to use the land as a Bar, however the use does not require a planning permit under the Commercial 1 Zone. The business name for the bar would be called Native Home, House of Plants with the Bar providing a theme based on native plants. The applicant's acoustic report indicates that a portion of the rear external area (to the west of the footpath) would be used for the purposes of a *Plant Nursery* (currently shown as tables and chairs).

**Legislative Provisions**

- 8. The amendment has been requested pursuant to Section 72 of the *Planning and Environment Act 1987 (the Act)*. Section 72 of the Act states:
  - (1) *A person who is entitled to use or develop land in accordance with a permit may apply to the responsible authority for an amendment to the permit.*
  - (2) *This section does not apply to—*
    - (a) *a permit or a part of a permit issued at the direction of the Tribunal, if the Tribunal has directed under section 85 that the responsible authority must not amend that permit or that part of the permit (as the case requires); or*
    - (b) *a permit issued under Division 6.*
- 9. The original Planning Permit was issued on 20 December 2016 and was not issued at the direction of the Tribunal or under Division 6 of the Act. The approved works commenced within two years of the date of the permit, as evidenced by Council GIS aerial image dated August 2017. The permit is still valid.
- 10. Section 73 of the Act states that Section 47 to 62 of the Act apply to the amendment application. This allows the Responsible Authority to apply the abovementioned section of the Act to the amendment application as if it were an application for a permit. Accordingly, the relevant sections will be addressed in this report.

**Existing Conditions**

Subject Site

- 11. The subject site is located on the northern side of the 'T' intersection between Johnston and Nicholson Streets in Abbotsford. The lot itself is rectangular with a frontage to Johnston Street of 6.2m and a depth of 40.23m, comprising an area of approximately 249sqm. The lot is largely vacant, excluding the structures on the land now, which include a pitched-roof structure with a rear, flat-roofed extension as well as an open pergola to the front of the site above an in-built seating area. A garden bed and accessibility ramp are also located towards the front of the lot.



**Figure 1:** The subject site as viewed from Johnston Street, showing the front external area (Planning Officer photo, September 2019)

12. The subject site is currently used as a Plant Nursery (with a subservient part of the land being used as a café), both of which are as-of-right uses under the Commercial 1 Zone. As previously outlined, the original planning permit allowed for buildings and works and a waiver of the car parking and loading bay requirements associated with the Plant Nursery use.



**Figure 2:** The subject site viewed from Johnston Street, with the commercial properties on either side, and apartments shown to the right. (Planning Officer photo, September 2019)



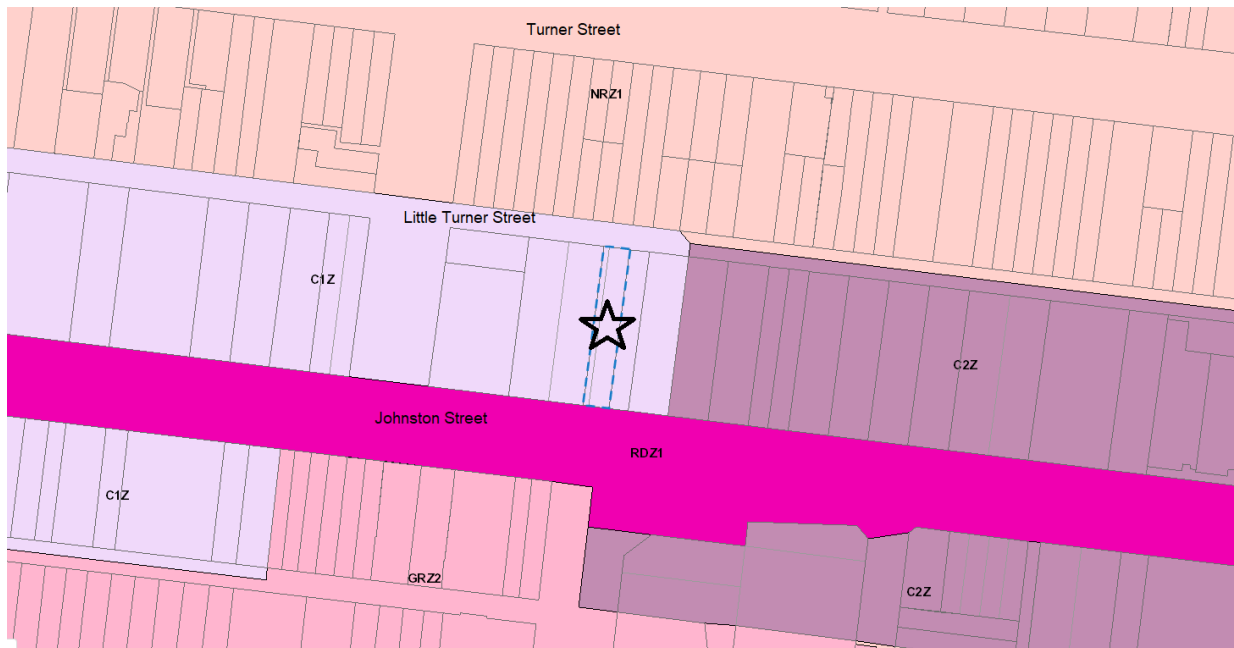
**Figure 3:** The subject site (centre) as viewed from Little Turner Street (Planning Officer photo, September 2019)

#### Surrounding Land

13. The surrounding land is mixed both in terms of land use and built form. To the north, the land is largely zoned Neighbourhood Residential Zone (NRZ). To the west and east, the land is zoned C1Z and to the south, the land is a mix of the General Residential Zone (GRZ) towards the southwest and the Commercial 2 Zone (C2Z) towards the southeast.
14. The Abbotsford section of Johnston Street forms a largely commercial strip which is listed as a Neighbourhood Activity Centre (NAC) and includes:
  - (a) older, fine-grain shop buildings of the Victorian, Edwardian and Interwar eras, typically single or double-storey. Closer to Victoria Park Railway Station, these buildings house small scale hospitality and retail businesses;
  - (b) larger-scale commercial buildings of the post-war era which typically house showrooms, offices or warehouses;
  - (c) contemporary, multi-storey apartment developments, a number of which are currently under construction, and;
  - (d) a small number of older dwellings from the Victorian and Edwardian eras. These dwellings are anomalous across the activity centre, however there is a row of them to the southwest of the subject site, which is zoned General Residential.
15. Whilst the subject site is located within the C1Z of the NAC, further east, this transitions to the C2Z, where office and warehouse buildings dominate.



**Figure 4:** Aerial image of the subject site and surrounding area (Council GIS, December 2018)



**Figure 5:** The land zoning context of the surrounding land.

16. To the north of the subject site is Little Turner Street which forms the border between the C1Z and the NRZ further north which is a residential area composed largely of single and double-storey Victorian and Edwardian-era dwellings. A number of contemporary in-fill developments also front Little Turner Street; these dwellings are the closest residentially-zoned interface with the subject site.

*West*

17. To the west of the subject site is No. 358 Johnston Street, a single-storey commercial building that is currently being used as an office and warehouse for a leather retailer. The building takes up the entire lot and presents high boundary walls along the boundary with the subject site.

18. Further west, on the corner of Johnston and Rich Streets, is a similar warehouse building at No. 350 Johnston Street which is used as an art supplies shop. The lot of this site does not extend all the way to Little Turner Street. A single-storey, Edwardian-era dwelling (No. 2 Rich Street) is located at the corner of Rich and Little Turner Streets. This dwelling fronts Rich Street and is separated from the subject site by the warehouse building at No. 358 Johnston Street.

*North*

19. To the north of the site is Little Turner Street, which has a width of approximately 5.5m. The northern side of the street has a 'back-of-house' context with rear fencing and roller doors associated with dwellings fronting Turner Street taking up the majority of the street frontage.
20. On the northern side of Little Turner Street, opposite the subject site is No. 61 Turner Street, a single-storey Victorian-era dwelling fronting Turner Street to the north. The dwelling features a garage which fronts Little Turner Street, the dwelling's secluded area of private open space (SPOS) is located to the north of the garage. To the east of this dwelling is No. 63 Turner Street which is also a single-storey, Victorian-era dwelling fronting Turner Street to the north. A roller door and rear fencing presents to Little Turner Street. The dwelling's area of SPOS is located at the rear of the site (i.e. towards Little Turner Street).
21. To the northeast of the subject site are three contemporary, double-storey dwellings (Nos. 68 – 72 Little Turner Street) which front Little Turner Street. These dwellings each have pedestrian and vehicle entry via Little Turner Street and each have windows and a balcony fronting Little Turner Street. The primary area of SPOS for each of these dwellings is at ground floor to the north (i.e. away from the subject site).
22. To the northwest of the subject site are two contemporary, double-storey dwellings (Nos 60 and 62 Little Turner Street) which front Little Turner Street. Both dwellings have pedestrian and vehicle entry via Little Turner Street and both have windows facing Little Turner Street at first floor.



**Figure 6:** Little Turner Street, looking northeast with the dwellings at Nos. 60 and 62 Little Turner Street shown in the foreground (Planning Officer photo, September 2019)



**Figure 7:** Little Turner Street, looking northwest to the dwellings at Nos. 68 - 72 Little Turner Street (Planning Officer photo, September 2019)



**Figure 8:** Little Turner Street, looking northwest with the rear interfaces of the dwellings at Nos. 61 and 63 Turner Street shown in the centre ground (Planning Officer, September 2019)

#### *South*

23. To the south of the subject site is Johnston Street, which is an arterial road with a width of approximately 15m. Further south, and directly opposite the subject site is Nicholson Street, a north-south road that continues south to Victoria Street in Richmond. To the southwest corner of Johnston and Nicholson Streets is No. 323 - 325 Johnston Street, a double-storey, Victorian-era shop building with a café taking up the eastern half of the ground floor of the building. The western half of the ground floor is currently vacant. The first floor of the building is used as a shop-top dwelling. This site is located in the General Residential Zone.
24. To the southeast corner of Johnston and Nicholson Streets is No. 329 Johnston Street which includes a largely a vacant site excluding a single-storey building to the southeast of the site (associated with a former car dealership). The site has planning approval for an eight-storey, mixed-use building (comprising apartment dwellings, office, child care centre, shops and cafes) under Planning Permit PLN16/1188 which was issued at the direction of VCAT on 01 February 2018. Construction has not yet commenced, further the plans for endorsement have not yet been submitted to Council.

### **Planning Scheme Provisions**

#### Zoning

#### *Commercial 1 Zone*

25. Pursuant to Clause 34.01-1 of the Yarra Planning Scheme, a planning permit is not required to use the land for a Bar.
26. Pursuant to Clause 34.01-4 of the Yarra Planning Scheme, a planning permit is required to construct and carry out works.

#### Overlays

##### *Design and Development Overlay (Schedule 15)*

27. Pursuant to Clause 43.02-2, a planning permit is required to construct a building or carry out works.

#### Particular Provisions

##### *Clause 52.06 – Car parking*

28. Clause 52.06 prescribes that that a new use must not commence or the floor area of an existing use must not be increased until the required car spaces have been provided on the land. The table below outlines the car parking requirements for the proposed office use (pursuant to Table 1 at Clause 52.06-5), the proposed car parking provision on site and the resultant car parking reduction.

Land Use	Units/Area proposed	Rate	No. required	No. proposed	Reduction sought
Bar	98sq.m. leasable floor area*	3.5 car parking spaces per 100sq.m. of leasable floor area	3 (rounded down)	2	1

\*leasable floor is based on the red line plans provided and includes the internal floor area as well as the toilet facilities towards the rear of the lot.

29. As shown in the table above, the proposed as-of-right use requires a planning permit for a car parking reduction pursuant to Clause 52.06-3. A reduction of one space is sought.

##### *Clause 52.27 – Licensed Premises*

30. Pursuant to Clause 52.27 of the Scheme, a planning permit is required to use land to sell or consume liquor if a *licence is required under the Liquor Control Reform Act 1998*.

##### *Clause 52.34 – Bicycle Facilities*

31. The purpose of this provision is to encourage cycling as a mode of transport and to provide secure, accessible and convenient bicycle parking spaces. A new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land. The table below (continued overleaf) outlines the bicycle parking requirements for the proposed use.

Land Use	Units/Area proposed	Rate	No. required	No. proposed	Reduction sought?
Retail premises	98sq.m. leasable floor area	<i>Employee spaces</i> 1 space to each 300m <sup>2</sup> leasable floor area	0	0	No
		<i>Visitor spaces</i> 1 space to each 500m <sup>2</sup> leasable floor area	0	0	No
		<i>Showers / Change Rooms</i> 1 to the first 5 employee spaces and 1 to each additional 10 employee spaces	0	0	No

32. As demonstrated in the table above, a planning permit is not required for a reduction in the bicycle space requirements.

#### General Provisions

33. 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 of 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 Planning Policy Framework, Local Planning Policy Framework and any local policy, 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 provided later in this report.

Planning Policy Framework (PPF)

34. The following provision of the Scheme are relevant:

*Clause 13.05-1S – Noise abatement*

35. The relevant objective of this clause is:
- (a) *To assist the control of noise effects on sensitive land uses.*
36. The relevant strategy is to:
- (a) *Ensure that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area*

*Clause 17.02-1S – Business*

37. The relevant objective of this clause 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.*
38. The relevant strategy of this clause is:
- (a) *Locate commercial facilities in existing or planned activity centres.*

Local Planning Policy Framework (LPPF)

39. The following provisions of the Scheme are relevant:

*Relevant Local Policies*

*Clause 22.05 – Interface Uses Policy*

40. This policy applies to applications for use and development within a Residential Zone and within 30 metres of an existing business. The policy comprises various considerations and decision guidelines for non-residential use and development located near residential properties relating to overlooking, overshadowing, noise, fumes and air emissions, light spillage, waste management and other operational disturbances that may cause unreasonable detriment to the amenity of nearby residential properties. With regard to the subject application, the proposed *Bar* use is as-of-right under the land zoning and therefore only the development component of the policy is relevant.

*Clause 22.07 – Development abutting laneways*

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

*Clause 22.09 – Licensed Premises*

42. The following objectives of this clause are relevant:
- (a) *To protect the amenity of nearby properties and areas by effectively managing the location, size, operation and hours of licensed premises;*
  - (b) *To protect residential and other commercial uses from excess noise, traffic and car parking issues, and;*
  - (c) *To provide for daytime trade and active street frontages in retail strips, while providing reasonable commercial opportunities for the trading of licensed premises.*
43. The following relevant policies are outlined and categorised below:

*Location and Access*

- (a) *Licensed premises should be located where:*
  - (i) *The land is not zoned Residential (excluding the Mixed Use Zone);*
  - (ii) *Potential amenity impacts from (but not limited to) patron noise, ingress and egress of patrons, queuing of patrons, smoking areas for patrons, and dispersal of patrons from the site can be appropriately managed or buffered;*
  - (iii) *There is opportunity for a high level of public safety and surveillance of patrons as they enter and leave the premises, and;*
  - (iv) *The premises would not result in an unreasonable cumulative impact on the amenity of the surrounding area.*

*Venue Design*

- (b) *The entry and exit points of a licensed premise and the areas for queuing of patrons are located away from sensitive land uses.*
- (c) *Waste management and storage is provided on-site, and noise enclosures are provided where bottle crushers are to be used.*

*Hours of Operation*

- (d) *Licensed premises in a Commercial or Industrial zone should not provide for the sale and consumption of liquor beyond 1am, unless the responsible authority is satisfied that it will not adversely affect the amenity of the area.*
- (e) *Licensed premises within 30 metres of a residential zone should not provide for the sale and consumption of liquor beyond 11pm, unless the responsible authority is satisfied that it will not adversely affect the amenity of the area.*
- (f) *For outdoor areas, including smoking areas, rooftops and open courtyards, the sale and consumption of liquor should not occur after 10pm, unless the responsible authority is satisfied that it will not adversely affect the amenity of the area.*
- (g) *Deliveries to and waste collection from a licensed premises should not occur after 10pm on any day, before 7am Monday to Saturday, or before 9am on a Sunday or public holiday except for those allowed under any relevant local law.*
- (h) *Emptying bottles into bins in outdoor areas should not occur after 10pm on any day, before 7am Monday to Saturday, or before 9am on a Sunday or public holiday;*
- (i) *An assessment of the impact of the hours of operation on the amenity of nearby properties and the surrounding area must consider:*
  - (i) *The proposed use and licence type.*
  - (ii) *The zoning of surrounding land.*
  - (iii) *The location of the premises, location of car parking and availability of public transport, taxi ranks and ride sharing.*
  - (iv) *The nature of surrounding uses and hours of operation.*
  - (v) *Potential noise emissions from the premises.*
  - (vi) *The impact of patrons arriving and leaving the premises, including:*

- *for venues operating after 10pm, whether access from the licensed premises to public transport is likely to be through a residential area; and*
- *any cumulative impact on the amenity of the area.*

#### *Patron Numbers*

- (j) *The number of patrons should not exceed the safe and amenable operating capacity of the premises. An assessment of the maximum number of patrons that can be physically accommodated within a venue should be based on the VCGLR Liquor Licensing Fact Sheet – Maximum Patron Capacity (2016).*
- (k) *The number of patrons reflects the strategic and physical context of the site and will not adversely affect the amenity of nearby properties and the surrounding area, including by any unreasonable cumulative impact.*

#### *Noise*

- (l) *Noise from the operation of the licensed premises should not have an unreasonable impact on the amenity of the area.*
- (m) *Noise emissions from licensed premises should comply with the standards specified in the State Environmental Protection Policy or any other relevant requirement such as accepted sleep disturbance criteria or relevant Australian Standards.*
- (n) *On-site noise attenuation measures should be applied for licensed premises where unreasonable amenity impacts on the surrounding area may result from the proposed activities.*
- (o) *Where required, a licensed premise must be designed and managed in accordance with an acoustic report approved by the responsible authority.*

#### *Noise and Amenity Action Plan*

- (p) *Where required, licensed premises are managed in accordance with a Noise and Amenity Action Plan (NAAP).*

### **Advertising**

44. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 80 letters sent to surrounding owners and occupiers and by two signs displayed on site (one at the Johnston Street boundary and one at the Little Turner Street boundary). Council received 14 objections and 8 letters of support. The grounds of the objections can be summarised as follows:

- (a) Noise impacts (poor noise attenuation associated with the current buildings on the land, noise generation from the proposed licence, the venue's history with unauthorised live music events, noise impacts associated with the waste area and noise impacts associated with patrons using the toilet area);
- (b) Excessive proposed licensed hours;
- (c) Previous non-compliances at the site;
- (d) Anti-social behaviour;
- (e) No need for another licensed premises in the area;
- (f) Cumulative Impact report does not reflect the Planning Permit for the sale and consumption of liquor at No. 370 Johnston Street;
- (g) Appropriateness of use classification as a Bar;
- (h) Bar will conflict with use of adjacent commercial premises;
- (i) The proposed amendment is a transformation of the permit;
- (j) Concerns regarding the proposed car parking reduction; and
- (k) Impacts to property value.

45. The grounds of the letters of support can be summarised as follows:

- (a) The vibrancy that the proposal will bring to the immediate vicinity;
  - (b) The net community benefit associated the proposal, and;
  - (c) The venue's history of supporting not-for-profit organisations.
46. A planning consultation meeting was held on 23 July 2019 and attended by seven objectors, four supporters, the applicant and Council Planning Officers to discuss all issues and concerns raised in the letters of objection. There was no specific resolution made at the meeting, however following the meeting, the applicant provided a revised acoustic report (with more conservative noise attenuation commitments) in accordance with the recommendations made by the first external acoustic peer review.

## Referrals

### External Referrals

47. The application was referred externally to SLR Consulting for peer review of the applicant's submitted acoustic report. Referral comments (dated 07 August 2019 and 19 September 2019) have been included as attachments to this report.

### Internal Referrals

48. The application was referred to the following units within Council:
- (a) Council's Social Planning Unit;
  - (b) Council's Compliance Unit; and
  - (c) Council's Engineering Services Unit.
49. Referral comments have been included as attachments to this report.

## OFFICER ASSESSMENT

50. The primary considerations for this application are as follows:
- (a) Policy and strategic support;
  - (b) Buildings and works;
  - (c) Sale and consumption of liquor;
  - (d) Car parking;
  - (e) Objector concerns, and;
  - (f) Other Matters.

### Policy and Strategic Support

51. The planning policy framework encourages the sustainability of commercial uses. These policies encourage development which meets 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, provided that a balance is achieved in relation to off-site amenity impacts.
52. Specifically, Clauses 13.04-1, 21.04-2 and 22.05 identify that noise and the interface between uses must be managed appropriately, particularly in a municipality such as Yarra where *'almost all residents are within 400m of an activity centre... Abutting uses along the length of the strips are generally residential, creating interface conflicts where some uses are not well managed or inappropriate uses are permitted'* (Clause 21.04-2).
53. The subject site is located within the C1Z, under which a permit is not required to use land for a Bar, indicating strong strategic support. A key purpose of the zone is to *create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses*. The proposal will introduce a new licensed premises to the area, thus providing a new hospitality-based retail offering to the area in accordance with the purpose of the zone. The subject site is also located within a NAC, and is thus a strategic location for a commercial premises as encouraged by planning policy at Clauses 17.02-1S and 21.04-2.

54. Whilst the proposal has strong strategic support from the Scheme, local policy at Clause 22.09 also directs that for liquor applications, amenity impacts to nearby sensitive uses must be considered. As will be discussed throughout this report, a number of changes have been recommended through a peer review of the applicant's acoustic report as well as from advice from internal Council departments. These will ensure amenity impacts are controlled and are of minimal detriment to dwellings nearby.
55. The proposal is consistent with relevant provisions of the State and local planning policy frameworks in relation to economic development, and will not impact on the orderly planning of the area, subject to the recommendations discussed in more detail later in this report.

Buildings and Works

56. The proposed buildings and works are low in scale (with a maximum building height of 3.6m) and will generally not be visible from the public realm. As such, they are of no consequence when assessed against the provision of the Design and Development Overlay (Schedule 15), which, for the most part, provides urban-design-based guidance on larger-scale developments. The schedule to the Design and Development Overlay also provides the following relevant design objective:

*To activate the street edge, provide passive surveillance opportunities and accommodate commercial activity at the lower levels of new development and enhance the public realm through high quality buildings public spaces on the southern side of Johnston Street from loss of amenity from overshadowing.*

57. The proposed buildings and works will facilitate the site being used as a Bar, which provide commercial activity at ground floor and will allow the existing in-built seating within the front setback to be used by patrons, providing passive surveillance to Johnston Street. The limited scale of the works will ensure no overshadowing of the southern side of Johnston Street. The proposed buildings and works are thus considered to satisfy the Design and Development Overlay.
58. The limited scale of the proposed works are modest being single storey extensions to the existing pergola and new acoustic walls / gates. Given the commercial zoning of the east and west-adjoining properties (which are built to both boundaries of the subject site), the proposed works will not generate any visual bulk, overshadowing or overlooking impacts to the adjacent residential uses, thereby satisfying the objectives of Clause 22.05 and Clause 22.09 which pertain to off-site amenity. Similarly, the limited scale of the proposed works (and their generous setback from the northern boundary of approximately 7.2m) will ensure that there is no visual bulk, overshadowing or overlooking impacts to the dwellings located in the NRZ to the north of Little Turner Street.
59. The proposed buildings and works will also assist with noise attenuation, minimising noise impacts to nearby residential uses. This will be discussed in greater detail within the following section of the report. However, clear dimensions, elevations and details are missing from the decision plans which will be required by conditions. A roof plan and lighting details will also be required to ensure minimal impacts.
60. For the above reasons, the proposed buildings and works are supported. Some of the proposed works have not been shown consistently across the application package. This will be resolved via condition.

Sale and consumption of liquor

61. Clause 22.09 (Licensed Premises Policy) and Clause 52.27 (Licensed Premises) provide the relevant guidance in relation to considerations of the proposed sale and consumption of liquor on off-site amenity impacts, including cumulative impacts. Clause 22.09 of the Scheme is a local policy which guides the assessment of new or extended licensed premises within the municipality.

It contains six key elements that will be considered in the following section. The decision guidelines under Clause 52.27 also provide critical items for assessment. These include impact on amenity (including impacts associated with the operating hours and patron numbers) as well as the cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area. These considerations can be assessed within the framework of the six key elements of Clause 22.09, excluding that of cumulative impacts, which will be discussed separately.

*Location and Access*

62. The subject site is located in the C1Z and in a Neighbourhood Activity Centre. This is in accordance with local policy at Clause 22.09 which discourages new licensed premises in residential zones. The proposed number of patrons is less than 200, and as such, the location in a NAC (as opposed to a Major Activity Centre (MAC)) is supported by Clause 22.09.
63. The venue will be accessed by patrons from Johnston Street only (i.e. there will be no patron access via Little Turner Street – this will be limited to staff). As such, impacts associated with patron ingress and egress will not unreasonably impact the residential interface along Little Turner Street and beyond. Council's Social Planning Unit was also supportive of the proposed access.
64. Patron queueing is not anticipated to pose a risk to amenity given the moderate number of patrons proposed and that the site has a front setback area that can accommodate queues. Should the proposed licence result in queues spilling out on to Johnston Street, this would be acceptable given the background noise on Johnston Street which is a busy arterial road and the commercial zoning. Council's Social Planning Unit, however, recommended that details on queue management should be clarified by the applicant. This recommendation is considered reasonable and will further ensure effective management of the premises. This clarification will be required by way of condition for an updated NAAP.
65. With respect to public safety, it is anticipated that a majority of patrons would leave the venue in a westerly direction on Johnston Street towards other hospitality offerings and Victoria Park Railway Station. The immediate access to bus stops along Johnston Street also facilitate patron egress and dispersal from the site. Given the commercial nature of Johnston Street it is considered that there will be an appropriate level of patron surveillance, facilitating a high level of public safety. Further, the outdoor licensed area towards the front of the site will provide added surveillance for patrons leaving the premises. Council's Social Planning Unit concurred with these considerations, stating that *patrons arriving and leaving the premises [will be likely to] concentrate on Johnston Street (away from adjoining residential zoned land) and with reasonable access to public transport.*

*Venue design*

66. Clause 22.09 directs that licensed premises should be designed to be in accordance with the *Design Guidelines for Licensed Premises* (VCGLR, 2017), which encourages new venues to consider access, passive surveillance opportunities, patron management and acoustic attenuation
67. The site currently has a main, pitched roof structure and a flat-roofed section to the rear. These structures are relatively lightweight and do not currently have any acoustic attenuation. Otherwise the site is open. The application proposes an acoustic barrier to the northern and eastern extents of the rear external area which will assist in mitigating noise. The applicant's acoustic report recommends a number of additional acoustic attenuation measures. Beyond this, the independent acoustic peer review recommends further treatments. All of these items are discussed in greater detail under the *Noise* section of this report.

68. The location of the two external areas to the front and rear of the land are considered to be appropriately located given that the adjoining properties to the east and west are commercial sites. Further, the red line area shows that patrons will not be able to access the rear parking area, which is most proximate to dwellings along Little Turner Street to the north. As previously outlined, the application proposes to close the external areas by 10pm on any night. Council's Social Planning Unit confirmed that this is in accordance with local planning policy at Clause 22.09 and was thus supportive of the operation of the external areas.
69. Notwithstanding the above, patrons will need to walk through the rear external area to use the toilet facilities after 10pm. The NAAP should thus be updated to clarify how these patrons will be managed and their noise impacts minimised. Additionally, a condition is recommended for details on lighting to ensure patron safety as they walk from the internal bar area to the toilet. This lighting should be designed in a way that minimises light impacts to the nearby residential uses.
70. With regards to waste management, the applicant's NAAP commits to disposing of glass during the daytime period only and confirms that waste will be moved to Little Turner Street on Tuesday afternoons for collection Wednesday morning. Council's Social Planning Unit recommended that a Waste Management Plan be required for the premises and stated that the waste storage area should be located to the south of the proposed acoustic barrier if it will be accessed after 10pm. Given the number of patrons proposed, it is reasonable to require a Waste Management Plan. This will be done via condition. The condition for the waste area to be located to the south of the acoustic barrier is not considered necessary given that the applicant has committed to disposing glass during the daytime only in the submitted NAAP. Given that the satisfactory WMP may require some site reconfigurations, a condition is also recommended for the development plans to be updated as required for any changes nominated on the endorsed WMP.

#### *Hours of Operation*

71. The application seeks the sale and consumption of liquor during the following hours:
  - (a) Monday to Wednesday 12noon to 11pm
  - (b) Thursday to Saturday 12noon to 1am the following day
  - (c) Sunday 12noon to 10pm
  - (d) External areas 12noon to 10pm on any day
72. Clause 22.09 provides guidance on licensed hours. These recommendations are based on the land zoning, site context and the proposed operation of the licence. Relevantly, the policy provides the following:
  - (a) *Licensed premises in a Commercial or Industrial zone should not provide for the sale and consumption of liquor beyond 1am, unless the responsible authority is satisfied that it will not adversely affect the amenity of the area.*
  - (b) *Licensed premises within 30 metres of a residential zone should not provide for the sale and consumption of liquor beyond 11pm, unless the responsible authority is satisfied that it will not adversely affect the amenity of the area.*
  - (c) *For outdoor areas, including smoking areas, rooftops and open courtyards, the sale and consumption of liquor should not occur after 10pm, unless the responsible authority is satisfied that it will not adversely affect the amenity of the area.*
  - (d) *Licensed premises (including packaged liquor outlets) should not commence the sale and consumption of liquor before 9am.*
73. The proposal complies somewhat with the above policy recommendations. Specifically:
  - (a) the earliest commencement for liquor proposed is 12noon, which complies with the earliest allowable provided by the policy (9am), and;
  - (b) the cease of liquor sale and consumption in the external areas is 10pm, compliant with the policy recommendation (10pm).

74. Whilst the subject site is located in the C1Z (with an applicable limit of 1am), the site's proximity (within 30m) to a residential zone means that the preferred maximum licensed hours is 11pm (remembering that the use can operate at any time within the zone). Thus the proposal complies with the policy recommendations on Monday, Tuesday, Wednesday and Sunday. The proposal however, does not comply with the policy on Thursday, Friday and Saturday, when a close time of 1am (on the following day) is sought, two hours beyond the recommended close time (11pm). The policy allows for the recommended hours to be exceeded if the Responsible Authority is satisfied that it will not adversely affect the amenity of the area. A detailed assessment of noise impacts below will discuss the suitability of the hours further, however it is noted that there have been a number of noise complaints to Council within the last six months.

*Patron Numbers*

75. The applicant submitted a Building Surveyor's Report which found that the site has the capacity to accommodate a maximum of 216 patrons, of which a maximum of 81 patrons can be accommodated within the internal bar area. These figures are based on the VCGLR floor area calculation (a ratio of 0.75sqm per patron). The application proposes a maximum of 115 patrons, distributed as follows:
- (a) 15 patrons in the front external area;
  - (b) 50 patrons in the internal area;
  - (c) 50 patrons in the rear external area.
76. Council's Social Planning Unit was generally satisfied by the above patron distribution and numbers, however noted that after 10pm, the patrons in the external areas would need to move to the internal bar area, which would result in 115 patrons in an area with a maximum patron capacity of 80. As such, the Unit recommended that this be addressed by additional clarification on how this would be managed, or alternatively, via a condition for a reduction in patrons to a maximum of 80 after 10pm.
77. The above numbers and distribution of patrons were based on the applicant's original acoustic report. The revised acoustic report instead recommends a maximum of 111 patrons to be distributed as follows:
- (a) 15 patrons in the front external area;
  - (b) 80 patrons in the internal area;
  - (c) 16 patrons in the rear external area.
78. This is considered to be an improved patron distribution as the rear external area (which, given its location proximate to a residential zone has a higher potential for noise impacts) has its patron capacity significantly reduced.
79. The revised patron distribution still results in an excessive number of patrons for the internal bar area after 10pm as highlighted by Council's Social Planning Unit. One way to deal with this matter is to require, via condition, a maximum of 80 patrons after 10pm. In addition, the applicant's Noise and Amenity Action Plan needs to be updated to provide detail on how this reduction in patron numbers will be managed by staff.

*Noise*

80. Noise impacts are a key consideration for this application. Clause 22.09 requires that licensed premises are effectively designed and managed to minimise noise impacts to sensitive interfaces. The applicant's acoustic report identified the following sites as the most immediate noise-sensitive receivers:
- (a) The apartment development at No. 370 Johnston Street;
  - (b) The double-storey dwelling located at No 62 Little Turner Street, northwest of the subject site;

- (c) The double-storey dwelling located at No. 68 Little Turner Street, northeast of the subject site;
  - (d) The single-storey dwelling located at No. 319 Johnston Street, to the southwest of the subject site.
81. The independent acoustic peer review found that these were appropriate, agreeing that they were the most sensitive interfaces. The adjoining properties to the west and east both house commercial uses and as such are not considered to be sensitive interfaces.
82. The applicant's acoustic report makes the following key recommendations and assumptions about the proposal:
- (a) That a ceiling is installed to the entire roof system of the building on site, achieving a minimum surface density of 12kg/sqm as well as other specifications provided in the report.
  - (b) Northern façade of the building upgraded to enhance its noise attenuation, with the required specifications provided in the report (and previously outlined at paragraph 7(c))
  - (c) Acoustic gate along the northern boundary of the proposed red line area to have a minimum surface density of 12kg / sqm;
  - (d) External doors fitted with self-closing mechanisms;
  - (e) Patrons in the rear external area limited to the seating area along the eastern boundary;
  - (f) Maximum patron numbers reduced from 115 to 111 and their distribution across the site revised as follows:
    - (i) A maximum of 80 patrons in the internal bar area;
    - (ii) A maximum of 15 patrons in the front external area;
    - (iii) A maximum of 16 patrons in the rear external area.
  - (g) All windows and doors remain closed after 8pm on any night and anytime above-background-level music is played;
  - (h) No live or pre-recorded music to be played in outdoor area;
  - (i) Installation of a sound limiting device into the sound system, with the master control locked so as to prevent tampering from unauthorised parties; and
  - (j) DJs to use the house sound system or connect their own equipment to the sound limiting device.
83. These recommendations will be reflected by condition within an endorsed acoustic report. Further, with regards to items (a), (b), (c) and (d) above, these will also be required to be shown on the development plans by way of condition. With regards to item (e), this can be further facilitated by a requirement that the red line plan be reduced so as to delete the section of the rear external area to the west of the footpath as well as the tables and chairs shown within this section.
84. The applicant's acoustic report has been peer-reviewed by an independent acoustic consultant. The independent peer review was largely supportive of the recommendations made in the applicant's acoustic report, however made the following recommendations to ensure that noise is appropriately mitigated:

1. *The location of the unattended noise monitoring used for NSA 2 & 3 should be clarified. If this is the location shown in Figure 10, we are concerned that the monitoring could have been affected by existing mechanical plant noise. An alternative cause of the 37 dBA minimum reading could be the noise floor of the logger, therefore this should be checked. If the measurement results were affected by the noise floor, the assessment should be revised, based on lower criteria for patron and music noise during the night period.*
  2. *Whether a facade reflection of sensitive receiver buildings has been included in the predictions should be clarified (since it has been included in the background noise levels).*
  3. *The sound pressure level of music noise used for the day/evening period assessment be presented.*
  4. *Live music during the SEPP N-2 night period should be restricted to quiet acoustic performances. All music, pre-recorded and live performances, shall meet the SEPP N-2 noise limits at all times.*
  5. *The noise limiter be commissioned by a suitably qualified acoustic consultant, to ensure that its use results in SEPP N-2 compliance. Since the windows are proposed to be opened during the day and evening periods, the commissioning of the noise limiter should also ensure compliance if all doors and windows are opened during these periods.*
  6. *The 3.3 metre high acoustic barrier should be free from gaps and the gate should effectively seal when closed.*
85. The peer review then goes on to state that items 4, 5 and 6 can be included via condition, and that in lieu of the acoustic report being updated for items, 1, 2 and 3, the following is recommended as a conservative alternative:
- (a) *Music after 10pm to be played at background levels (no live music), until Council approves an acoustic commissioning report for the noise limiter that includes SEPP N-2 noise limits based on new measurements.*
86. The applicant was not able to provide a revised acoustic report. As such, the alternative option will be used.
87. The alternative option provided by the independent acoustic peer review is worded in a manner that is too flexible and anticipates a revised acoustic report being provided to Council following approval. This is not acceptable. As such, a condition will require that music must be played at a background level only after 10pm on any night. This would make the independent acoustic peer review's recommendation for quiet acoustic performances after 10pm (the first section of item 4) redundant as background level music is a more conservative outcome than quiet acoustic performances. In addition, a condition will require a further acoustic report within three months of operation to demonstrate compliance with SEPP N-2 and any further works recommended and undertaken if non-compliance is found.
88. In light of the above assessment and advice provided by the independent acoustic peer review, the applicant's acoustic report (dated 28 August 2019) should be updated to include the following commitments:
- (a) All music, pre-recorded and live performances, must meet the SEPP N-2 noise limits at all times.
  - (b) The noise limiter be commissioned and installed by a suitably qualified consultant, to ensure that its use complies with SEPP N-2 compliance, including during the day and evening periods when the windows are open.
  - (c) The acoustic barriers must be free from gaps and the gate component must effectively seal when closed.
89. Further, a general condition will be included to require that music is played at a background level only after 10pm on any night (no live music).

90. Finally, a condition will require that the sale and consumption of liquor cease at 11pm on Thursdays (as opposed to the proposed 1am). This is considered appropriate given the site's history of noise complaints and use breeches. In addition, Thursday night is a week night and therefore considered to be more of a sensitive time period. The reduction to 11pm is also consistent with Clause 22.09 for venues within 30 metres of a residential zone.

91. Subject to all the above conditions, the proposed licensed hours (including the non-compliance with preferred hours at Clause 22.09) is supported.

*Noise and Amenity Action Plan*

92. The applicant's Noise and Amenity Action Plan commits to a number of management measures which relate to staffing, patron management, waste management, security and access and egress. The key commitments include:

- (a) Patrons moved inside after 10pm by trained staff and security;
- (b) Disposing of glass to occur during the day only;
- (c) Patron ingress and egress will be via Johnston Street only (no access from Little Turner Street);
- (d) All staff to have Responsible Service of Alcohol training;
- (e) Proprietor or manager on duty at all time.

93. Whilst these measures are acceptable, further commitments are required to ensure the venue is managed appropriately, as discussed throughout this report. The NAAP should be updated to provide for the following:

- (a) Clarification as to how potential queues will be managed;
- (b) Detail how the number of patrons will be reduced to 80 prior to the close of the external areas at 10pm;
- (c) Details of how the external area will be closed to patrons after 10pm (excepting for the use of the toilets) and methods to ensure patrons do not use the rear external courtyard after 10pm.
- (d) Clarify how patrons walking through the rear external area after 10pm to use the toilet facilities will be managed.

94. The justifications for items (a), (b) and (d) are provided at paragraphs 65, 80 and 70 respectively. Item (c) is recommended so as to provide greater detail on patron management with respect to managing the rear external area. These will ensure that the venue is managed appropriately with commitments and strategies in place to minimise off site amenity impacts.

*Venue History*

95. The application was referred to Council's Enforcement and Amenity Unit who identified that the venue has received three noise-related complaints within the last six months as well as an alleged use breach. In light of this information, the Unit recommended that the following requirements:

- (a) The outdoor area to close at 10pm at all days;
- (b) A noise limiter to be installed and managed by a qualified engineer;
- (c) A SEPP reading and the setting of the limiter to be conducted prior to the approval of the permit and followed up in three months' time, to be re-assessed and calibrated to the approved limits.
- (d) All amplified music to go through the approved limiter.

96. With regards to item (a), this was already proposed by the application and will be conditioned. With regards to items (b) and (d), these have been addressed by the recommendations made by the independent acoustic peer review. With regards to item (c), the venue needs to operate first before a SEPP reading can be done.

Regardless, a condition will require a further acoustic report to be submitted within three months of operation to demonstrate compliance with SEPP-N2. The condition will require any further works to be undertaken if non-compliance is found. This condition will ensure that the venue is compliant with SEPP N-2 post commencement.

*Cumulative Impact*

97. It is necessary to give consideration to potential cumulative impacts associated with a proposal for a new or expanded liquor licence as outlined at both Clauses 22.09 and 52.27. The 'Corner Hotel' decision (Swancom Pty Ltd T/as Corner Hotel v Yarra City Council & Ors) provides an assessment methodology for considering applications that may result in cumulative impact. The decision also acknowledges that depending on the nature of the use (i.e. premise type, patron numbers and operating hours), the required level of assessment will vary.
98. Since the 'Corner hotel' decision, Council has developed an assessment tool to determine the likelihood of cumulative impacts occurring as a result of a proposal based on risk factors associated with the type of premises, size of premises and closing hours of the premises, to help determine what level of assessment is appropriate.

Type of Premise	Risk Factor
Café / Restaurant	0
Bar / Restaurant / Café	1
<b>Bar</b>	<b>3</b>
Hotel / Tavern	3
Night Club	3
Place of Assembly	2

Size of Premise	Risk Factor
0 – 49 patrons	1
50 – 99 patrons	1
<b>100 – 199 patrons</b>	<b>2</b>
200+	3

Closing hours	Risk factor
11pm	0
12am	1
<b>1am</b>	<b>2</b>
2am	3
3am	3
After 3am	4

99. Applying the matrix of risk above, a reasonable consideration would suggest that a score of 1-3 would be of no risk and a score of higher than 3 would be a potential risk and require a cumulative impact assessment. Given that the proposal scores a 7 on the matrix, a cumulative impact assessment is warranted.
100. *Practice Note 61 - Licensed premises: Assessing cumulative impact* was released by the former Department of Planning and Community Development (DPCD) in March 2011, and provides a framework for assessing cumulative impact. The Practice Note outlines the following matters to be considered when assessing the cumulative impact of licensed premises:
- (a) Planning policy context
  - (b) Surrounding land use mix and amenity
  - (c) The mix of licensed premises
  - (d) Transport and dispersal
  - (e) Impact mitigation
101. A number of these factors (items (a), (b), (d) and (e)) have been discussed previously within this report. An assessment of item (c), however, needs to be undertaken.
102. When assessing the mix of licensed premises, Practice Note 61 provides some guidance as to what is to be achieved. The practice note states the *mix of licensed premises in an area can influence potential cumulative impacts. For example, an area with a mix of restaurants, cinemas and small bars may have fewer impacts than an area with primarily large bars and nightclubs.*
103. A survey of licensed premises found that there were 18 licensed premises within a 500m radius of the site and 1 licensed premises within a 100m radius. Of the 18 identified licensed premises:
- (a) Three premises have a General licence;

- (b) Two premises have a Packaged liquor licence;
  - (c) Five premises have a Restaurant and café licence;
  - (d) Five premises have an On-premises license;
  - (e) Three premises have a limited licence.
104. As the survey was conducted in August 2017, a desktop review was undertaken by the Planning Officer which identified the following additional licensed premise that have commenced since this time:
- (a) Bodriggy Brewing Co, located at 243-245 Johnston Street, which allows for an On-Premises licence as approved by Planning Permit PLN16/0974.
105. In addition to the above, Planning Permit PLN17/0559 allows for a Restaurant and Café liquor licence at No. 370 Johnston Street (i.e. the ground floor frontage of the apartment building to the east of the subject site). The Planning Permit was issued on 01 November 2017 and as such, the permit is still valid. However, the ground-floor tenancy is vacant and as such the permit has not currently been acted on. There is no active licensed premises at the site and as such cannot be considered as part of the cumulative impact assessment.
106. The survey identifies that there is a broad range of licences in the area, with over a quarter of these being restaurant and café licences which are lower risk as they are required to provide tables and chairs for at least 75% of patrons attending the premises at any one time.
107. There appears to be up to eight premises that have the capacity for late night operation and 'vertical drinking' within a 500m radius of the subject site. This is not considered to be uncommon for a NAC. The addition of the proposed venue to the area is thus not unreasonable in this context.
108. With respect to the immediate vicinity (i.e. within 100m of the site), there is only one licensed premises which is the Retreat Hotel located on Nicholson Street to the south of the subject site. As such, the proposed licence would not pose a detrimental cumulative impact on the immediate vicinity. Rather it is considered to add activity to this section of the NAC, which has a low number of licensed premises.
109. Council's Social Planning Unit supported this view, stating that the *area is not characterised with excessive alcohol consumption* and that the proposed venue *would not result in an unreasonable cumulative impact on the amenity of the surrounding area*, subject to the Unit's recommendations being included.
110. Furthermore, conditions will require:
- (a) the Thursday licensed hours be reduced from 1am down to 11pm, and;
  - (b) the submission of a post-operation acoustic report demonstrating compliance with SEPP N-2 or outlining additional measures required to achieve compliance if non-compliance is found.
111. These measures will further reduce the scope of the proposed licence and will ensure minimal cumulative impacts on the amenity of the surrounding area.
112. For the above reasons it is considered that the proposal will not detrimentally contribute to a cumulative impact on the surrounding area as a result of the proposed liquor licence.

#### *Car parking*

113. As previously outlined, the proposal triggers the requirement for a car parking reduction of one space pursuant to Clause 52.06-3. This is supported for the following reasons:
- (a) The application retains two existing car spaces on the land which are accessible from Little Turner Street. Given the narrow width of the lot, it would be impractical to provide greater than two spaces on the land;

- (b) The access to public transport including bus services on Johnston Street (which is a highly utilised route that connects the site westwards to Collingwood, Fitzroy and the CBD and eastwards to the eastern suburbs of Doncaster and Bulleen). The site is also within walking distance of Victoria Park Railway Station and bus services on Hoddle Street.
- (c) The provision of bicycle infrastructure and bicycle lanes in the surrounding area, including on Nicholson Street to the south and Trenerry Crescent to the east.
- (d) State and local planning policy at Clauses 18.02, 21.03, 21.06-3 and 21.07 encourages reduced rates of car parking provision for sites within close proximity to public transport routes and activity centres.
- (e) On-street car parking includes selected areas along Johnston Street for 2-hour parking, and a mix of 1-hour and permit-restricted car parking spaces in the residential area to the north of the subject site. The 2 hour spaces would be convenient for patrons to use, which would encourage patrons to park on Johnston Street, away from the residential areas to the north of the subject site. The 1-hour spaces are unlikely to be used by patrons of the proposed bar given that the stay duration for a bar would typically be longer than an hour. The permit-restricted spaces will ensure that reasonable access to public car spaces is not unduly compromised for residents.
- (f) The proposed use is for a bar. It is considered that this type of use has a low car parking demand given that some patrons would likely choose not to drive so as to avoid driving under the influence of alcohol.

### Objector Concerns

114. The objector concerns are outlined and discussed below:

- (a) *Noise impacts (poor noise attenuation associated with the current buildings on the land, noise generation from the proposed licence, the venue's history with unauthorised live music events, noise impacts associated with the waste area and noise impacts associated with patrons using the toilet area)*  
Noise impacts have been discussed at paragraphs 81-92.
- (b) *Excessive nature of proposed licensed hours;*  
The proposed licensed hours have been discussed at paragraphs 72-75.
- (c) *Previous non-compliances at the site;*  
This matter has been discussed at 96-97.
- (d) *Anti-social behaviour;*  
Anti-social behaviour will be mitigated by the site layout and venue design of the licensed premises as well as additional requirements for the NAAP, as discussed at paragraphs 63-66, 67-71 and 93-95 respectively.
- (e) *No need for another licensed premises in the area;*  
The cumulative impact assessment at paragraphs 98-113 found that the proposed licence will not pose an unacceptable cumulative impact on the amenity of the surrounding area.
- (f) *Cumulative Impact report does not reflect the Planning Permit for the sale and consumption of liquor at No. 370 Johnston Street;*  
As outlined by paragraph 106, whilst No. 370 Johnston Street has approval for a liquor licence, this has not yet been acted upon and as such there is no licensed premises at this site.
- (g) *Appropriateness of use classification as a Bar;*  
Pursuant to Clause 73.03, a *Bar* is defined as *land used to sell liquor for consumption on the premises. It may include accommodation, food for consumption on the premises, entertainment, dancing, amusement machines, and gambling.*

It is thus considered that the proposed use, which includes live music, is appropriately categorised as a *Bar*, which allows for entertainment to be provided on the land.

- (h) *Bar will conflict with use of adjacent commercial premises;*  
The proposed bar (and liquor licence) is considered to be appropriate for the C1Z and NAC context, as outlined at paragraph 54.
- (i) *The proposed amendment is a transformation of the permit;*  
The provisions of Section 72 of the Planning & Environment Act 1987 allow for an amendment application to change a wide variety of matters including new permit triggers. Whilst the proposed amendment will change the nature of the permit, this is permitted by *Planning and Environment Act 1987* from a procedural perspective.
- (j) *Concerns regarding the proposed car parking reduction;*  
Impacts to car parking availability have been discussed at paragraph 114.
- (k) *Impacts to property value.*  
This is not a planning matter, as established by numerous VCAT decisions.

## Other Matters

### Ancillary use

115. The applicant's acoustic report indicates that a portion of the rear external area (to the west of the footpath) would be used for the purposes of a *Plant Nursery*, which would be a remnant of the current operation of the site. This can be considered as an ancillary use to the proposed *Bar* use given the native-plant theme of the proposed business as well as the small proportion of the site nominated for the *Plant Nursery* function as compared to the overarching *Bar* use proposed as part of the application. In any case, ancillary discussions are largely academic in this case given that the use *Plant Nursery* does not require a planning permit under the C1Z, similarly to the as-of-right status for the proposed overarching *Bar* use.

### Additional details to be shown on plans

116. The plans show a number of inconsistencies and omissions. These can be addressed by conditions to show the following:
- (a) The existing ramp and stairs towards the front of the site;
  - (b) Storage area within pergola to be shown on floor plans or deleted from Section B;
  - (c) Sections to show new works at 1:100 scale;
  - (d) A separate site plan updated to match the red line plan;
  - (e) Car spaces dimensioned to show a minimum width of 2.4m and a minimum length of 5.4m for each space;
  - (f) Roof plan; and
  - (g) Materials schedule.
117. With regards to items (a), (b) and (d), these relate to corrections to the plans. Specifically item (d) is required so to ensure that a separate site plan will be provided as part of the endorsed documentation so as to replace the current site plan associated with the current set of endorsed plans. With regards to items (c), (f) and (g), these will ensure detailed information on all the proposed works (which includes acoustic attenuation measures) to be included in the endorsed set of plans. Item (e) will ensure vehicle spaces are provided in accordance with the access requirements at Clause 52.06 (Car Parking).

## Conclusion

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

## RECOMMENDATION

That having considered all objections and relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant an Amended Planning Permit PLN16/1082 for the sale and consumption of liquor (on premises licence), buildings and works and a reduction in the car parking requirements associated with the use of the land as a Bar (no permit required for use), at 366 Johnston Street, Abbotsford, subject to the following amended permit preamble and conditions:

### **Amended preamble to read:**

The sale and consumption of liquor (on premises licence), buildings and works and a reduction in the car parking requirements associated with the use of the land as a Bar (no permit required for use).

### **Conditions (amended or new conditions in bold):**

1. **Before the sale and consumption of liquor / development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans but modified to show:**
  - (a) **The existing ramp and stairs at the front of the site.**
  - (b) **Dimensions for all proposed works to accurately show where the length applies (from/to).**
  - (c) **The extent of the red line plan reduced so that the sale and consumption of liquor is not permitted to the west of the footpath shown in the rear external area and the associated tables and chairs deleted from the plans.**
  - (d) **Separate site plan to match red line plan.**
  - (e) **Elevations all of works (including pergola, lighting, verandah and acoustic walls) drawn at 1:100 scale.**
  - (f) **Sections to show all new works, drawn at a 1:100 scale.**
  - (g) **Roof plan.**
  - (h) **Storage area within pergola to be shown on floor plans or deleted from Section B.**
  - (i) **Car spaces dimensioned with a minimum width of 2.4m and a minimum length of 5.4m each.**
  - (j) **Details of lighting to the rear courtyard and the toilets.**
  - (k) **Materials schedule.**
  - (l) **All recommendations and requirements of the endorsed Acoustic Report (as required by condition 7), where relevant to show on the plans.**
  - (m) **Any changes required by the endorsed Waste Management Plan (as required by condition 13), where relevant to show on the plans.**
2. The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. **Prior to the commencement of the sale and consumption of liquor, all works must be completed to the satisfaction of the Responsible Authority.**
4. **No more than 111 patrons are permitted to be on the premises at any one time, with a maximum of 80 patrons in the internal bar area, 15 patrons in the front external area and 16 patrons in the rear external area at any one time.**

5. After 10pm on any night, no more than 80 patrons are permitted on the premises at any one time.
6. Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor may only occur between the following hours:
  - (a) Monday to Thursday 12noon to 11:00pm
  - (b) Friday and Saturday 12noon to 1:00am (the following day)
  - (c) Sunday 12noon to 10:00pm
  - (d) External areas 12noon to 10:00pm on any day
7. Before the sale and consumption of liquor commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Audiometric and Acoustic Services and dated 28 August 2019, but modified to include:
  - (a) Commitment to the noise limiter being commissioned and locked by a suitably qualified acoustic consultant to ensure that its use results in SEPP N-2 compliance, including for when the venue has doors and windows open.
  - (b) Commitment to the acoustic barriers being free from gaps.
  - (c) Commitment to the acoustic gate being made to effectively seal when closed.
  - (d) Commitment that all amplified music will go through the noise limiter.
8. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
9. Within 3 months of the commencement of the sale and consumption of liquor, an Acoustic Report to the satisfaction of the Responsible Authority must be prepared by a suitably qualified acoustic engineer and must be submitted to and approved by the Responsible Authority. When approved, the Acoustic Report will be endorsed and will form part of this permit. The acoustic report must assess the compliance of the venue and, where necessary, make recommendations to limit the noise impacts in accordance with the State Environment Protection Policy (Control of music noise from public premises) No. N-2 (SEPP N-2) or any other requirement to the satisfaction of the Responsible Authority.
10. Before the commencement of the sale and consumption of liquor, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating the rear external area, toilets and front external area must be provided within the property boundary. Lighting must be:
  - (a) located;
  - (b) directed;
  - (c) shielded; and
  - (d) of limited intensity,to the satisfaction of the Responsible Authority.
11. Before the sale and consumption of liquor commences, an amended Noise and Amenity Action Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Noise and Amenity Action Plan will be endorsed and will form part of this permit. The amended Noise and Amenity and Action Plan must be generally in accordance with the Noise and Amenity Action Plan prepared by Ewan Harding and received by Council on 28 May 2019 , but modified to include:

- (a) Licensed hours in accordance with the requirements of condition 6
  - (b) Clarification as to how potential queues will be managed;
  - (c) Detail how the number of patrons will be reduced to 80 prior to the close of the external areas at 10pm.
  - (d) Clarify how patrons walking through the rear external area after 10pm to use the toilet facilities will be managed and their noise impacts minimised.
  - (e) Details of how the rear external area will be closed to patrons after 10pm.
12. The provisions, recommendations and requirements of the endorsed Noise and Amenity Action Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
13. Before the sale and consumption of liquor commences, a Waste Management Plan to the satisfaction of the must be submitted to and approved by the Responsible Authority. Once approved, the Waste Management Plan will be endorsed and will form part of this permit.
14. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
15. The provision of music and entertainment on the land must be at a background noise level (no live music) in the external areas.
16. The provision of music and entertainment on the land must be at a background noise level (no live music) after 10pm on any day.
17. No emptying of bottles into garbage bins is permitted after 8pm on any night or before 8am on any day.
18. Except with prior written consent of the Responsible Authority, delivery and collection of goods to and from the land may only occur between 7am and 10pm on any day.
19. Before the commencement of the sale and consumption of liquor, the applicant must, to the satisfaction of the Responsible Authority, display a sign at the exit of the licensed premises advising patrons to respect the amenity of adjacent residential areas and to leave in a quiet and orderly manner.
20. The use must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
21. The use must comply at all times with the State Environment Protection Policy – Control of Noise from Public Premises (SEPP N-2).
22. This permit will expire if:
- (a) the sale and consumption of liquor is not commenced within two years from the amended date of this permit; or
  - (b) the sale and consumption of liquor is discontinued for a period of two years; or
  - (c) the development is not commenced within six months from the amended date of this permit; or
  - (d) the development is not completed prior to the commencement of the sale and consumption of liquor.

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

## NOTES

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

**CONTACT OFFICER:** Chris Stathis  
**TITLE:** Senior Statutory Planner  
**TEL:** 9205 5352

### Attachments

- 1 PLN16.1082.03 - 366 Johnston Street Abbotsford - IDAC Attachment - Site Locality Plan
- 2 PLN16/1082.03 - 366 Johnston Street Abbotsford - IDAC Attachment - Red Line Plan
- 3 PLN16/1082.03 - 366 Johnston Street Abbotsford - IDAC Attachment - Elevations
- 4 PLN16/1082.03 - 366 Johnston Street Abbotsford - IDAC Attachment - Site Context Plan
- 5 PLN16/1082.03 - 366 Johnston Street Abbotsford - IDAC Attachment - Noise and Amenity Action Plan (received 28 May 2019)
- 6 PLN16/1082.03 - 366 Johnston Street Abbotsford - IDAC Attachment - Cumulative Impact Assessment
- 7 PLN16/1082.03 - 366 Johnston Street Abbotsford - IDAC Attachment - Original Acoustic Report
- 8 PLN16/1082.03 - 366 Johnston Street Abbotsford - IDAC Attachment - SLR Acoustic Peer Review (dated 07 August 2019)
- 9 PLN16/1082.03 - 366 Johnston Street Abbotsford - IDAC Attachment - Revised Acoustic Report
- 10 PLN16.1082.03 - 366 Johnston Street Abbotsford - IDAC Attachment - SLR Acoustic Peer Review (dated 19 September 2019)
- 11 PLN16/1082.03 - 366 Johnston Street Abbotsford - IDAC Attachment - Compliance Referral Comments
- 12 PLN16/1082.03 - 366 Johnston Street Abbotsford - IDAC Attachment - Social Planning Referral Comments

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**1.2 PLN19/0025 - 9 Kingston Street Richmond - Construction of a six-storey office building and a reduction in the car parking requirements.**

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## **Executive Summary**

### **Purpose**

1. This report provides Council with an assessment of Planning Application PLN19/0025 which is for the construction of a six-storey office building and a reduction in the car parking requirements at No. 9 Kingston Street Richmond. The report recommends approval subject to conditions.

### **Key Planning Considerations**

2. Key planning considerations include:
  - (a) Clause 15.01 – Urban Environment – Higher Density Guidelines;
  - (b) Clause 22.10 – Built Form and Design Policy;
  - (c) Clause 34.02 – Commercial 2 Zone; and
  - (d) Clause 52.06 – Car Parking.

### **Key Issues**

3. The key issues for Council in considering the proposal relate to:
  - (a) Policy and strategic support;
  - (b) Built form, and;
  - (c) Off-site amenity.

### **Submissions Received**

4. Seven objections were received to the application, the grounds of which can be summarised as:
  - (a) Concerns regarding the proposed design, including the building height and scale not being in accordance with the existing neighbourhood character and insufficient provision of landscaping;
  - (b) Off-site amenity (including overlooking, overshadowing, loss of daylight, visual bulk and inadequate setbacks, and potential for loss of daylight and overlooking to the Primary School to the east);
  - (c) Traffic and car parking concerns (including an objection to the proposed provision of on-site electric car charging);
  - (d) Concerns regarding construction noise and traffic;
  - (e) Property devaluation; and
  - (f) Lack of consideration for non-conforming residential uses in the Commercial 2 Zone.

### **Conclusion**

5. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported subject to the following key recommendation:
  - (a) Reduction in built form in accordance with sketch plans which reduce shadow impacts to the dwellings located at Nos. 82 – 86 Brighton Street.

**CONTACT OFFICER:** Chris Stathis  
**TITLE:** Senior Statutory Planner  
**TEL:** 9205 5352

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**1.2 PLN19/0025 - 9 Kingston Street Richmond - Construction of a six-storey office building and a reduction in the car parking requirements.**

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Reference: D19/156011  
 Authoriser: Senior Coordinator Statutory Planning

**Proposal:** Construction of a six-storey office development and a reduction in the car parking requirements.  
**Existing use:** Private Car Park  
**Applicant:** GB Investments Pty Ltd  
**Zoning / Overlays:** Commercial 2 Zone / Design and Development Overlay (Schedule 5)  
**Date of Application:** 21 January 2019  
**Application Number:** PLN19/0025

**Planning History**

1. Planning Permit No. 166 was issued on 19 February 1970 for the *purpose of using vacant land for car parking* for land identified as No. 9 Kingston Street.
2. Planning permit No. 328 issued 31 May 1971 for the *purpose of using land for car parking* on land identified as No. 11 Kingston Street.
3. In April 2000, Council approved a four lot subdivision (S00436) of land then known as Nos. 511- 521 Church Street and 64-80 Brighton Street, Richmond. Lot 1, which included the land subject to this current application, was the largest of the four lots in the subdivision and consisted of two separate parts: a primary section of 3,170 square metres fronting Church Street and with a substantial northern side boundary to Gibbons Street; and a smaller section to the south which fronted Kingston Street of 616 square metres. The two sections were separated by the Selby Right of Way (R.O.W).
4. A further subdivision application (SP12/0057) was lodged in August 2012 and sought to subdivide Lot 1 into two allotments (Lot 1A and Lot 1B), the former being the larger lot fronting Church Street and the latter being the subject site, which fronts Kingston Street. This subdivision was approved in March 2013.
5. On 21 July 2016, Council issued a Notice of Decision for planning application PLN15/1227 for *the use of the land as a car park and buildings and works including the installation of a parking meter*. The application sought to use the land for *paid* car parking. Following an objector appeal to the Victorian Civil and Administrative Tribunal (VCAT), Council's decision was set aside via consent by VCAT Order dated 30 December 2016. No permit was granted. Since this refusal, Council records indicate that the car parking on the subject site has been used privately by the office use that was (until recently) associated with the land at No 64-80 Brighton Street, which houses a double-storey office building. This is no longer the case because the permit holder associated with the office building site is currently acting on a recent planning permit (PLN17/0459) which allows for the use of the land as a Child Care Centre. This will be elaborated upon in more detail in a latter section of this report.
6. Planning Permit PLN16/0821 was issued by Council on 05 April 2017 to land at Nos. 64 - 66, and 78 – 80 Brighton Street and 13 Kingston Street for the *development of the land for the display of five signs across three sites*. The subject site was one of the three sites referenced in the permit preamble (No. 13 Kingston Street is what the subject site has previously been referred to).

## **Background**

### Sketch Plans

7. The current application was lodged on 21 January 2019, with further information received on 12 April 2019. The application was subsequently advertised, with a total of 7 objections received. On 23 July 2019, a community consultation meeting was held which was attended by Council Planning Officers, the permit applicant and 3 objectors.
8. Following the consultation meeting, the applicant provided sketch plans (produced by Bates Smart, Revision D 'Concept Plan', dated 09 September 2019), which reduce shadow impacts at the affected dwellings through a reduction in the built form across the site. The sketch plans make the following key changes:
  - (a) Reduction in the overall building height from 24m to 22.8m, which has been achieved through reductions in the floor-to-ceiling heights, and;
  - (b) Increased side setbacks across the eastern façade of the development:
    - (i) From a minimum setback of 0.375m to a minimum setback of approximately 0.4m at level 1;
    - (ii) From a minimum setback of 0.375m to 0.49m at level 2;
    - (iii) From a minimum setback of 2m to 3.2m at level 3;
    - (iv) From a minimum setback of 4.8m 5.6m at level 4;
    - (v) From a minimum setback of 7.8m 8.4m at level 5;
  - (c) Modifications to the configuration of screening elements to the eastern façade to accord with the above changes so that overlooking into the eastern residential interface continues to be mitigated as part of the sketch plan scheme.
9. The sketch plans make the above changes whilst still retaining the architectural quality of the decision plans. Screening to the eastern façade has been modified to accord with the sketch plan scheme whilst still offering the same mitigation of downward views. The sketch plans do not make any changes to the basement level or the ground floor, and as such, the sketch plans do not show these floor plans.
10. The sketch plans will be referred to where relevant in this report. Otherwise, the assessment of the application is based on the decision plans.

### Shadow Diagrams

11. The shadow diagrams associated with the decision plans were based on the previously-existing conditions at No. 82 Brighton Street. However, during the application process, the ground and first floor extension at No. 82 Brighton Street has neared completion of works, and as such can be considered to form the existing conditions.
12. The applicant provided updated shadow diagrams which show the shadow impacts associated with the decision plans but with the additional changes imposed by the extension at No. 82 Brighton Street. The overshadowing section of this report will refer to these updated shadow diagrams. Additionally the sketch plan shadow diagrams are similarly based on the extension at No. 82 Brighton Street forming the existing conditions.

## **The Proposal**

13. The proposal is for the construction of a six-storey office building (no permit required for office use) and a reduction in the car parking requirements. The proposal can be described in more detail as follows:

### Use

- (a) The application proposes to use the land for office, with a net floor area of 1,929sqm. A planning permit is not required for the use of the land.

## Development

### *Basement*

- (b) A basement level will be accessed via Selby R.O.W, with the following features
  - (i) 14 car parking spaces (which includes four spaces with electric vehicle charging bays);
  - (ii) 8 employee bicycle spaces;
  - (iii) 2 motorcycle parking spaces;
  - (iv) Services including a pump room, 8,000L rainwater tank, water meter and lift and stair access.

### *Ground Floor*

- (c) The ground level will be largely constructed to all boundaries, with a street setback of 1.33m and 2.3m along Kingston Street.
- (d) The Kingston Street frontage will be composed of glazing, the main pedestrian entrance and a small area for services. The front setback area will feature a landscaped area with a length of approximately 9.5m (including a 15sqm rain garden) as well as six visitor bicycle spaces which will be located towards the eastern end of the site frontage. Except for the section reserved for site services, the entirety of the street frontage will have views into the office floor area at ground floor, which takes up roughly half of the ground floor area.
- (e) The ground floor provides a lift core along the western boundary with 10 employee bicycle spaces, end of trip facilities (four separate shower / change rooms and 36 lockers located towards the rear of the office). A bin room and data room are proposed along the western boundary.
- (f) Along Selby R.O.W., vehicle access to the basement would be provided via a ramp at the eastern end of the northern boundary. A substation and switch room are also located along the R.O.W.
- (g) The western section of the Selby R.O.W interface would provide two car spaces (one of which is designated as accessible), pedestrian access to the rear of the building and two visitor bicycle spaces.

### *Levels 1 & 2*

- (h) Both levels feature 444sqm office areas with planter boxes for landscaping and operable glazing along the eastern edge of the building. The lift and services core is provided along the western boundary. Setbacks from the eastern boundary vary from 0.375 to 2.44m.
- (i) The front wall is set back 1.065m from Kingston Street, with fixed vehicle battens provided in this setback at level 1.

### *Levels 3, 4 & 5*

- (j) As the development ascends, each floor is provided with a greater eastern side setback and lesser floor area. At level 3 the eastern setbacks are between 1.9m and 5.44m and by level 5 (the top level), an eastern setback of between 7.8m and 11.44m is provided with office floor area reduced to 205sqm. All levels feature landscaped planter boxes, balconies and operable glazing along their respective eastern extents.

### *Roof Level*

- (k) An open plant area is provided at the roof above level 5, with a street setback of approximately 3m. The lift overrun and service stairs are also located at roof level with a street setback of 6.64m. The northern section of the roof contains solar panels.

*General*

- (l) As previously described, the development increases in height from east to west, providing greater eastern side setbacks as the development ascends. The development will be constructed flush to the northern boundary and will provide a six-storey boundary wall to the western interface. Whilst a ground floor front setback of 2.3m is provided at ground floor, levels 1 through to 5 seek a front setback of 1.065m.
- (m) The development proposes a maximum building height of 24m. When including the lift overrun, the proposed building height is approximately 25.5m.

*Materials and finishes*

- (n) The development proposes a mix of concrete, glazing and metal elements including metal cladding, louvres and vertical blades.
- (o) Concrete is predominantly expressed at the western boundary wall in the form of patterned concrete. Concrete has also been selected for the boundary wall along the southern section of the eastern boundary as well as for the landscaping planters along the Kingston Street frontage.
- (p) The northern and southern facades are largely composed of glazing with the southern elevation provided with a canopy at first floor composed of vertical metal blades.
- (q) The eastern façade is composed of planter boxes and balconies, all of which are provided with a metal shell composed of metal batten screening in alignment with the upward slope of the eastern façade.
- (r) The development plans do not provide any commitments to proposed material colours as the materials schedule nominates that colours will be as selected.

14. A three-dimensional perspective of the development is provided below at Figure 1.



**Figure 1:** Three dimensional perspective of the proposed development.

## Existing Conditions

### Subject Site

15. The subject site is nominally rectangular in shape and located on the northern side of Kingston Street, approximately 27.3 metres west of Brighton Street, in Richmond. The site has a frontage to Kingston Street of 21.9 metres and a depth of 28.5 metres and a total site area of 616 square metres.

The site also has a 21 metre frontage to the Selby Right of Way (R.O.W.) to the north. The site has a staggered alignment along the eastern boundary, which reduces the width of the northern portion of the site.



**Figure 2:** The subject site as viewed from Kingston Street, looking northeast (Planning Officer, September 2019)

16. The site is currently used as a car park which has historically been associated with nearby commercial uses. Council records indicate that the subject site has been used as a private car park since 1970, and has most recently been used by the office business located at No. 68 Brighton Street. The site currently has a total of 27 car parking spaces and almost the entire site is covered in asphalt, with the exception of a landscape strip along the Kingston Street frontage.



**Figure 3:** The subject site (foreground, right) and Kingston Street looking west towards Church Street (Google Streetview, 2016).

17. Vehicle access to the site is currently gained via a double width crossover to Kingston Street and via the Selby R.O.W. to the north. An approximately 2 metre high cyclone wire fence is erected along the Kingston Street frontage of the site, with the exception of the driveway, and along the northern half of the western boundary.
18. The subject site is legally described as Lot 1B on Plan of Subdivision 714025B and is affected by a Section 173 Agreement. The agreement was established in response to the office development located at No. 511 - 521 Church Street and relates to the widening of Gibbons Street, vesting the land relating to the widening of the street with Council. This application, will not contravene the intent of the Section 173 Agreement.

#### Surrounding Land

19. The surrounding land is mixed and is located in close proximity to activity centres and public transport routes. The site is within 400m of the Swan Street Major Activity Centre (MAC) and within 100m of the commercial activity centred on Church Street. Public transport is readily available to the site with tram services on both Church and Swan Streets as well as East Richmond Railway Station located within 350m to the northeast.
20. The subject site is located in the Commercial 2 Zone (C2Z), with the Neighbourhood Residential Zone (NRZ1) to the east, the General Residential Zone (GRZ2) to the south and a Public Use Zone (PUZ2) to the southeast. The surrounding land is mixed, and this pattern is most clearly demonstrated by the zoning context; specifically by the C2Z and residential zones to the east, as depicted at figure 4 below.



**Figure 4:** Zoning context of the subject site and surrounding land.



**Figure 5:** Aerial image of the subject site and surrounding area (Council GIS, December 2018)

21. To the west (and inclusive) of the subject site the land is zoned C2Z and runs along Church Street. This area extends further west of Church Street and is typified by low-rise, older (Victorian through to early post-war eras) industrial and commercial buildings of 1-4 storeys as well as an emergent character of mid-rise contemporary office developments of up to 11 storeys. The older building stock typically has high site coverage with buildings presenting to the public realm with sheer walls and minimal (if any) street setbacks. The emerging developments in the area provide contemporary architectural responses, typically with rectilinear forms and materials including concrete, metal cladding and facades with high proportions of glazing. Examples of this emergent character include the following:
- (a) A seven-storey office building located at No. 12-18 Albert Street, 50m north of the subject site. This development is currently under construction and has an eastern interface to residentially-zoned dwellings, similar to the subject site.
  - (b) An 11-storey mixed use building (majority of which is for office) located at Nos. 506 - 510 Church Street, 150m northwest of the subject site. This development is also currently under construction.



**Figure 6:** The seven storey office development located at No. 12-18 Albert Street, currently under construction (Planning Officer, September 2019)



**Figure 7:** Three dimensional perspective of the approved mixed use development located at 506-510 Church Street.

22. To the immediate east of the subject site, the land is zoned Neighbourhood Residential Zone (NRZ) and largely consists of low-rise, single and double storey dwellings, the majority of which are of the Victorian or Edwardian-eras and are affected by the Heritage Overlay. These dwellings are typically constructed of timber or brick and many feature contemporary, single or double storey additions to the rear, often constructed with timber or metal cladding. A small number of post-war flat buildings are also found intermittently throughout the surrounding land with Richmond Primary School (50m east) and Barkly Gardens (200m east) also located in the area.
23. To the east of the subject site is a narrow pedestrian laneway. Opposite this laneway are three dwellings facing Brighton Street further east – Nos. 82 – 86 Brighton Street. All three dwellings are single-fronted, single-storey Victorian-era brick dwellings with matching front verandahs and roof parapets. No. 84 and No. 86 both feature small areas of secluded private open space (SPOS) towards the rear of their lots (i.e. adjacent to the subject site) and have rear lean-tos constructed along their respective northern boundaries. No. 86 has approval for a double-storey rear extension to the existing dwelling under Planning Permit PLN17/0742. The approved works were nearing completion on 05 September 2019 (the most recent site visit undertaken by Council's Planning Officer). Accounting for the extension, the dwelling has one modest-sized area of SPOS towards the rear, adjacent to the subject site. All three dwellings abut the southern half of the subject site and are located within the NRZ.



**Figure 8:** The child care centre currently under construction at No. 64-80 Brighton Street (right) and the three dwellings to the east of the subject site (right) - Nos. 82-86 Brighton Street. (Planning Officer, September 2019)

24. Abutting the northern half of the subject site is a similar at-grade car park to that on the subject site located at No. 78 – 80 Brighton Street, with vehicle access also gained from the Selby R.O.W. That car park is associated with the two-storey office building with a frontage to Brighton Street to the north-east of the subject site at No. 68 Brighton Street. However, Planning Permit PLN17/0459 was recently issued by VCAT for the larger, combined site (i.e. No. 78-80 Brighton Street and No. 64 Brighton Street) to allow for partial demolition and use and development of the land for a child care centre. The endorsed plans show that the land associated with No. 78-80 Brighton Street (i.e. the land immediately east of the subject site) will remain as a car park for the child care centre and the double-storey office building at No. 64 Brighton Street will be converted and modified to be used as the child care centre. A total of 25 car spaces associated with the child care centre will be accessed via Selby R.O.W. The endorsed plans show that Selby R.O.W will be unencumbered by the development. Works have commenced on site.
25. To the north of the site is Selby R.O.W., a 4.6 metre wide laneway that commences at Brighton Street to the east and terminates at the western boundary of the subject site. On the northern side of Selby R.O.W. (opposite the subject site) is a five-storey development (located at No. 511-521 Church Street) with a frontage to Church Street to the west, and a multi-deck car park immediately opposite the subject site.
26. To the west of the site is No. 1-7 Kingston Street, a commercial building used for motor vehicle repairs with a brick wall constructed on the boundary with the subject site. The building has a high site coverage with a front setback of approximately 1.8m for the majority of the Kingston Street frontage which is used for car parking. A wide vehicle crossover provides access to the site from Kingston Street.
27. To the south of the site is Kingston Street, a 6.3 metre wide one-way street travelling in an easterly direction from Church Street to Brighton Street. On the southern side of Kingston Street, opposite the subject site, is a double storey (plus roof terrace) contemporary office development approved under Planning Permit PLN17/0091.
28. Further east along the southern side of Kingston Street are two single-storey, Edwardian-era dwellings fronting Kingston Street (Nos. 14 and 16 Kingston Street). These dwellings both feature front setbacks of approximately 1-2m, with habitable-room windows facing Kingston Street and areas of secluded private open space (SPOS) located at the southern ends of their respective lots (i.e. away from the subject site). No. 14 is located within the Commercial 2 Zone whilst No. 16 is located within the General Residential Zone (Schedule 2) (GRZ2).



**Figure 9:** Dwellings located on the southern side of Kingston Street, looking southeast (Planning Officer, September 2019)

29. At the corner of Brighton and Kingston Streets is No. 88 Brighton Street, a double-storey, contemporary dwelling which is constructed flush to Kingston Street. The dwelling is located in the GRZ2 and has two areas of SPOS, a small area at ground floor towards the west of the lot and a first floor balcony located in the northeast corner of the lot.

## Planning Scheme Provisions

### Zoning

#### *Commercial 2 Zone*

30. Pursuant to Clause 34.02-1 of the Yarra Planning Scheme (the Scheme), a planning permit is not required for the use of the land for offices.
31. Pursuant to Clause 34.02-4 of the Scheme, a planning permit is required to construct a building or construct or carry out works.

### Overlays

#### *Design and Development Overlay (Schedule 5)*

32. Under Clause 43.02 of the Scheme, a planning permit is not required for the use of the land or for buildings and works. Pursuant to Section 4.0 of the Schedule and the Schedule to Clause 66.06, where a permit is required for the development of the land (in this case under the C2Z), notice of the application must be given to the Environment Protection Authority (EPA), Transurban City Link, and the Roads Corporation (VicRoads).

### Particular Provisions

#### *Clause 52.06 – Car parking*

33. Clause 52.06-1 of the Scheme prescribes that a new use must not commence or the floor area of an existing use must not be increased until the required car spaces have been provided on the land. The table overleaf outlines the car parking requirements for the proposed office use (pursuant to Table 1 at Clause 52.06-5), the proposed car parking provision on site and the resultant car parking reduction.

Land Use	Units/Area proposed	Rate	No. required	No. proposed	Reduction sought
Office	1929sq.m. net floor area	3 car parking spaces per 100sq.m. of net floor area	57	16	41

34. As shown in the table above, the development requires a planning permit for a car parking reduction pursuant to Clause 52.06-3. A reduction of 41 spaces is sought.

#### *Clause 52.34 – Bicycle facilities*

35. A new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land. The table below outlines the bicycle parking requirements for the proposed use.

Land Use	Units/Area proposed	Rate	No. required	No. proposed	Surplus
Office	1929sq.m. net floor area	<i>Employee spaces</i> 1 space to each 300m <sup>2</sup> net floor area (if the net floor area exceeds 1000m <sup>2</sup> )	6	18	Surplus of 12
		<i>Visitor spaces</i>	2	8	Surplus of 6

Land Use	Units/Area proposed	Rate	No. required	No. proposed	Surplus
		1 visitor space to each 1000sq.m. of net floor area (if the net floor area exceeds 1000m <sup>2</sup> )  <i>Showers / Change Rooms</i> 1 to the first 5 employee spaces and 1 to each additional 10 employee spaces	2	4	Surplus of 2

36. As detailed in the above table, the proposal provides a surplus of 12 employee spaces, 6 visitor spaces and 2 showers / change rooms. As such, a planning permit is not triggered under this provision.

#### General Provisions

37. The decision guidelines outlines at Clause 65 of the Scheme are relevant to all applications. 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 Planning Policy Frameworks, Local Planning Policy Frameworks and any local policy, as well as the purpose of the zone, overlay or any other provision.

#### Planning Policy Framework (PPF)

38. Relevant clauses are as follows:

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

39. Relevant strategies include;

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

*Clause 11.02 (Managing Growth)*

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

40. The objective is:

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

*Clause 11.03 (Planning for Places)*

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

41. Relevant strategies are:

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

*Clause 15.01 (Built Environment and Heritage)*

42. This clause outlines the following guidelines;

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

*Clause 15.01-1S (Urban design)*

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

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

44. The objective is:
- (a) *To create distinctive and liveable city with quality design and amenity.*

*Clause 15.01-2S (Building Design)*

45. The objective is:
- (a) *To achieve building design outcomes that contribute positively to the local context and enhance the public realm.*
46. The strategies of this clause are:
- (a) *Ensure the site analysis provides the basis for the consideration of height, scale and massing of new development.*
  - (b) *Ensure development responds and contributes to the strategic and cultural context of its location.*
  - (c) *Minimise the detrimental impact of development on neighbouring properties, the public realm and the natural environment.*
  - (d) *Ensure the form, scale, and appearance of development enhances the function and amenity of the public realm.*
  - (e) *Ensure buildings and their interface with the public realm support personal safety, perceptions of safety and property security.*
  - (f) *Ensure development provides safe access and egress for pedestrians, cyclists and vehicles.*
  - (g) *Ensure development provides landscaping that responds to its site context, enhances the built form and creates safe and attractive spaces.*

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

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

*Clause 15.01-5S (Neighbourhood character)*

48. The objective is:

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

49. Strategies are:

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

*Clause 15.02 (Sustainable Development)*

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

50. The objective 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 17 (Economic development)*

51. The clause states:

- (a) *Planning is to contribute to the economic wellbeing of the state and foster economic growth by providing land, facilitating decisions and resolving land use conflicts, so that each region may build on its strengths and achieve its economic potential.*

*Clause 17.01-1S (Diversified economy)*

52. The objective is:

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

53. Relevant strategies are:

- (a) *Protect and strengthen existing and planned employment areas and plan for new employment areas.*
- (b) *Improve access to jobs closer to where people live*

*Clause 17.01 -1R (Diversified economy – Metropolitan Melbourne)*

54. Strategies include:

- (a) *Facilitate the development of National Employment and Innovation Clusters by ensuring they:*
  - (i) *Have a high level of amenity to attract businesses and workers;*
  - (ii) *Are supported by good public transport services and integrated walking and cycling paths;*
  - (iii) *Maximise investment opportunities for the location of knowledge intensive firms and jobs.*

*Clause 17.02-1S (Business)*

55. The objective is:

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

56. Relevant strategies include:

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

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

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

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

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

*Clause 18.02-2S (Public Transport)*

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

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

61. A relevant strategy of this clause is to:
- (a) *Maximise the use of existing infrastructure and increase the diversity and density of development along the Principal Public Transport Network, particularly at interchanges, activity centres and where principal public transport routes intersect.*

*Clause 18.02-4S (Car Parking)*

62. The objective is:
- (a) *To ensure an adequate supply of car parking that is appropriately designed and located.*
63. A relevant strategy is:
- (a) *Protect the amenity of residential precincts from the effects of road congestion created by on-street parking.*

Local Planning Policy Framework (LPPF)

64. Relevant clauses are as follows:
- Clause 21.04-2 (Activity Centres)*

65. Relevant strategies include:
- (a) *Strategy 4.1 Increase the range of retail, personal and business services, community facilities, and recreation activities, within individual centres.*
  - (b) *Strategy 5.2 Support land use change and development that contributes to the adaptation, redevelopment and economic growth of existing activity centres.*

- (c) *Strategy 5.3 Discourage uses at street level in activity centres which create dead frontages during the day.*

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

- 66. The objective of this clause is *to increase the number and diversity of local employment opportunities.*
- 67. The clause also acknowledges that Yarra's *commercial and industrial sectors underpin a sustainable economy and provide employment. Yarra plans to retain and foster a diverse and viable economic base.*

*Clause 21.05-2 (Urban design)*

- 68. The relevant objectives and strategies are:
  - (a) *Objective 16 To reinforce the existing urban framework of Yarra;*
  - (b) *Objective 17 To retain Yarra's identity as a low-rise urban form with pockets of higher development.*
    - (i) Strategy 17.2 encourages new development to be no more than five – six storeys unless it can be demonstrated that the development can achieve specific benefits.
  - (c) *Objective 18 To retain, enhance and extend Yarra's fine grain street pattern;*
  - (d) *Objective 20 To ensure that new development contributes positively to Yarra's urban fabric;*
  - (e) *Objective 21 To enhance the built form character of Yarra's activity centres;*
    - (i) *Strategy 21.1 Require development within Yarra's activity centres to respect and not dominate existing built form; and*
  - (f) *Objective 22 To encourage the provision of universal access in new development.*

*Clause 21.05-4 (Public environment)*

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

*Clause 21.05-3 (Built form character)*

- 70. The relevant objective is:
  - (a) *Objective 27 To improve the interface of development with the street in non-residential areas.*

*Clause 21.06 (Transport)*

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

*Clause 21.06-1 (Walking and cycling)*

- 72. This clause builds upon the Objectives outlined at Clause 18, promoting cycling, walking and public transport as alternatives to private motor vehicle usage.
  - (a) *Objective 30 To provide safe and convenient bicycle environments:*
    - (i) *Strategy 30.2 Minimise vehicle crossovers on street frontages.*

*Clause 21.06-2 (Public transport)*

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

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

- (c) *Objective 32 To reduce the reliance on the private motor car.*

*Clause 21.07-1 (Environmentally sustainable development)*

73. The relevant objective of this clause is:

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

*Clause 21.08-2 Neighbourhoods (Burnley, Cremorne, South Richmond)*

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

- (a) *This neighbourhood is largely an eclectic mix of commercial, industrial and residential land use. With two railway lines and both north south, and east west tram routes, the neighbourhood has excellent access to public transport. The Cremorne commercial area functions as an important metropolitan business cluster which must be fostered.*
- (b) *Along Church Street is an activity centre based on furniture and homewares, professional and business services and hospitality. There is an opportunity to enhance this activity centre with consistent active frontages.*

#### Relevant Local Policies

75. Relevant clauses are as follows:

*Clause 22.05 (Interface Uses Policy)*

76. The relevant policy is:

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

*Clause 22.07 (Development abutting laneways)*

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

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

*Clause 22.10 (Built form and design policy)*

78. This policy applies to all new development that is not included within a heritage overlay. The policy comprises design elements to guide the scale, form and appearance of new development, of which the following are relevant to this application:

- (a) *Setbacks and building heights;*

- (b) Street and public space quality;
- (c) Environmental sustainability;
- (d) On-site amenity;
- (e) Off-site amenity;
- (f) Landscaping and fencing; and
- (g) Parking, traffic and access.

79. The policy has the following objectives:

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

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

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

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

**Clause 22.17 (Environmentally Sustainable Design)**

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

**Advertising**

82. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 228 letters sent to surrounding owners and occupiers and by two signs displayed on site. Council received 7 objections, the grounds of which are summarised as follows:

- (a) Concerns regarding the proposed design, including the building height and scale not being in accordance with the existing neighbourhood character and insufficient provision of landscaping;

- (b) Off-site amenity (including overlooking, overshadowing, loss of daylight, visual bulk and inadequate setbacks including potential loss of daylight and overlooking impacts to the Primary School to the east);
  - (c) Traffic and car parking concerns (including an objection to the proposed provision of on-site electric car charging);
  - (d) Concerns regarding construction noise and traffic;
  - (e) Property devaluation; and
  - (f) Lack of consideration for non-conforming residential uses in the Commercial 2 Zone.
83. A planning consultation meeting was held on 23 July 2019 and attended by three objectors, the applicant, and Planning Officers to discuss all issues and concerns raised in the letters of objection. The applicant did not make any commitments to make changes, however provided sketch plans dated 09 September 2019 which shows:
- (a) A reduction in the building height from 24m to 22.8m;
  - (b) Increased eastern side setbacks; and
  - (c) Reconfiguration of screening details of the eastern façade to match the revised design.
84. The advertised plans form the basis of the assessment, however the sketch plan will be discussed where relevant.

## Referrals

### External

85. No external referrals were required by the application. However, pursuant to the requirements of Schedule 5 to the Design and Development Overlay, notice was provided to the following authorities:
- (a) Transurban – no response received.
  - (b) VicRoads – response received; no objection.
  - (c) EPA Victoria – response received; no objection.

### Internal Referrals

86. The application was referred to the following units within Council:
- (a) Engineering Services Unit;
  - (b) ESD Advisor;
  - (c) Waste Unit;
  - (d) Open Space Unit;
  - (e) Strategic Transport Unit; and
  - (f) Urban Design Unit.
87. Referral comments have been included as attachments to this report.

## OFFICER ASSESSMENT

88. The primary considerations for this application are as follows:
- (a) Policy and strategic support;
  - (b) Built form;
  - (c) On-site amenity;
  - (d) Off-site amenity;
  - (e) Car parking, vehicle access, traffic, loading and waste;
  - (f) Bicycle facilities; and
  - (g) Objector concerns.

### Policy and Strategic Support

89. The proposed development achieves the various land use and development objectives outlined in the Scheme and is in accordance with relevant State and local planning policies applicable to the redevelopment of sites within areas such as this. The subject site is within proximity (approximately 380m) to the Swan Street MAC, which provides a wide range of retailing, services and food and drinks premises with good public transport links. Additionally, the site is within 100m of the Cremorne segment of Church Street, which, whilst not a MAC, is an emerging office precinct located on a tram route with numerous retail and hospitality offerings. This ensures that the site is well serviced by local infrastructure and commercial offerings.
90. The subject site is located within the Commercial 2 Zone (C2Z), a key purpose of which is *to encourage commercial areas for offices ... and associated business and commercial services*. The proposed office use is a Section 1 use (no permit required) which indicates strong strategic support for the proposed office.
91. With regard to the proposed development of the site, State and local policies encourage the concentration of development in and around activity centres with more intense development on sites well-connected to public transport, thereby ensuring efficient use of existing infrastructure. The site is well connected to public transport opportunities, with trams along Church Street and Swan Street, and with the proximity of the East Richmond Railway Station, encouraging the use of alternative modes of transport to and from the site and reducing reliance on motor vehicles as encouraged by clauses 18.02 (Transport), 21.03 (Vision), 21.06-3 (the road system and parking) and 21.07 (Environmental Sustainability).
92. While it is not relied upon (as the document does not form part of the Yarra Planning Scheme), Council's Swan Street Structure Plan (SSSP) provides further guidance for the preferred direction for land use and development on the subject site and the surrounding land. The SSSP reinforces current State and local policy to increase the number and diversity of employment opportunities within and around activity centres. The application proposes the construction of a six-storey office development on a site which is currently underutilised in an area identified for increased development under the Swan Street Structure Plan. The proposal is highly consistent with the purpose of the zone and strategic intent for this area that seek to encourage intensification of commercial uses and provision of diverse employment opportunities.
93. Whilst there is a high degree of strategic and policy support for the proposal, the built form policy under clause 22.10 (Built form and design policy) and the decision guidelines of the C2Z direct that consideration must be given to the design of the building and its interface with the surrounding area. As the subject site abuts dwellings in the NRZ, consideration of off-site amenity impacts is of critical importance and will be discussed further within this report.
94. As will be discussed in detail within this report, it is considered that the proposal achieves a good balance of State and local policy objectives in relation to high quality developments and the reasonable protection of amenity to sensitive interfaces.

### Built Form

95. This section of the report considers the built form of the proposed development and is guided by decision guidelines of the Commercial 2 Zone at clause 34.02-7. This assessment is also based on State and local planning policy at clauses 15.01-2 – Urban design principles; 21.05 – Urban design; 22.05 – Interface Uses Policy, 22.07 – Development abutting laneways policy and 22.10 – Built form and design policy.

96. These provisions and policies seek a development that responds to the existing or preferred neighbourhood character and provides a contextual urban design response reflective of the aspirations of the area. Particular regard must be given to the site context, building height, massing, architectural response, the pedestrian experience and the development's interface with sensitive uses. These will be considered in the following paragraphs.

#### *Site Context*

97. As outlined earlier within this report, built form in the immediate area is mixed, with an emergence of contemporary, higher-scale development evident in the commercially-zoned land to the west of the subject site. These developments are interspersed throughout a streetscape that is defined by robust commercial and industrial buildings, typically provided with modest (if any) street setbacks.
98. The surrounding context is also defined by the low-scale, residential development which occurs immediately to the east of the subject site, which is located in either the NRZ or GRZ. These dwellings are typically one to two storeys and situated on narrow allotments.
99. Three dwellings are located immediately east of the subject site, all of which feature their areas of SPOS in the western section of their respective lots, proximate to the subject site. Clauses 22.05, 22.10 and the decision guidelines of the zone require that new development respond appropriately to sensitive residential interfaces. The proposal has responded through a 6m-high eastern boundary wall which then rakes towards the west to provide an angled eastern façade across the development. This design response acknowledges the subject site as the border between the commercially-zoned land to the west and the residential context to the east. Whilst not relied upon, this response is also in accordance with the urban design principles set out in the SSSP, which recommends a maximum building height of 3 storeys or ten metres at the interface with residential dwellings. A more detailed assessment of amenity impacts to the residential interfaces will be provided in a latter section of this report.
100. As outlined previously, there is no dispute that strategically the subject site is well-located for a higher-density development, being located in the C2Z and within proximity to a MAC, and with excellent access to cycling networks, public transport, services and facilities. Based on these attributes, it is a reasonable expectation that this site will experience intensification in use and development.

#### *Building Height*

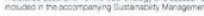
101. The development proposes a solid built-form height ranging from roughly one storey (plus screening wall) at the eastern interface with residential dwellings, to six storeys towards the western end of the lot.  
The one-storey component abuts the dwellings located at Nos. 82-86 Brighton Street and will have a height of 6m whilst the overall building height towards the western end of the site is proposed to be 24m. This graduating scale from east to west acknowledges both the eastern residential interface as well as the aspirations for commercial development in Cremorne and southern Richmond. The lift core/ service stairwell protrudes 1.5m above the building, however this is supported given that it has been located away from the northern, southern and eastern perimeters of the rooftop area and will not result in unreasonable views from the public realm.
102. Council's Urban Design Unit were largely supportive of the proposed building height, noting that *the proposed building height transitions from 6m at the east boundary to 6 storeys (24m) ...on the west. This is logical, and limits amenity impacts on residential neighbours in an integrated way.* Council's Urban Design Unit were supportive of the overall building height however recommended increased building setbacks which will be discussed in the following section of this report.

103. Whilst not strictly relied upon, Council's SSSP provides further guidance on building height. The subject site is located within precinct 9; the associated map of which prescribes a preferred maximum height of 5-6 storeys or 19m. The proposed development complies with this in that it is a six-storey development. The overall building height of 24m, however, does not comply with the recommended maximum of 19m. This is acceptable considering the following:
- (a) The non-compliance is limited to the westernmost section of the site, which abuts commercial properties;
  - (b) The development is reflective of office developments in the surrounding area, particularly the approved development at No. 12-18 Albert Street (located 50 metres to the north of the subject site) which provided an overall building height of 7 storeys and approximately 26 metres;
  - (c) The difference in height of 5m will not be appreciable from the residential areas to the east as the form rakes away from the interface and will read only as secondary to other commercial built form in the area;
  - (d) Development to the west of the subject site is anticipated at a similar 5-6 storeys which the proposal would be similar to; and
  - (e) The sketch plan changes (which will be required by condition) will reduce the building height to 22.8m, which is closer to the preferred maximum of 19m.
104. Based on these considerations, the proposed building height is supportable subject to further consideration of off-site amenity impacts.

*Massing*

105. The development would provide a consistent street setback (i.e. from Kingston Street) of 1.065m across all floors save for the ground floor which has a setback of 2.3m and the first floor which includes a canopy composed of metal cladding and fixed vertical blades to the street boundary. Whilst the proposed street setback is limited for the upper levels, the graduating height of the development from east to west would provide a sense of visual relief – both for the dwellings to the east and for pedestrians along Kingston and Brighton Streets.
106. Further, the generous street setback at ground floor allows for meaningful landscaping and visitor bicycle spaces to be provided as part of the response to Kingston Street. This is also considered to provide a human scale to the development by focussing pedestrian sightlines to the ground floor and improves the Kingston Street public realm as the majority of the street is hard edged built form with no landscaping.
107. Council's Urban Design Unit was supportive of the ground floor and first floor street setback, but was concerned that the upper levels were not recessive enough with a street setback of 1.07m and thus recommended that the upper level street setbacks (levels 3, 4 and 5) be increased by an additional 1.5m. This recommendation is not supported for the following reasons:
- (a) The graduating building height from east to west provides a sense of visual relief when viewed from the street;
  - (b) The landscaping, bicycle spaces and glazing provided at ground floor and the fixed vertical-blade canopy at first floor will encourage pedestrian sightlines to the lower levels of the development; and
  - (c) The proposal is considered to be of a high level of architectural quality, providing a simple, considered form. Requiring upper level setbacks would detract from this. Further the recommended upper level setbacks (an additional 1.5m) is considered tokenistic and would have little effect on reducing visibility of the upper levels from Selby R.O.W and Kingston Street, which both have hard edged built form.

- included in the accompanying Sustainability Management



included in the accompanying Sustainability Management

- included in the accompanying Sustainability Management

included in the accompanying Sustainability Management

- included in the accompanying Sustainability Management

111. A small portion of the Kingston Street frontage has been reserved for services – this is appropriate and has been located efficiently in front of the lift/stairwell core. This allows the entirety of the ground floor office floor area to be visible from the street.



**Figure 11:** Perspective (looking northeast) depicting the development's response to Kingston Street.

112. Vehicle access and the majority of services (including switch room, substation and waste area) have been provided off Selby R.O.W. This ensures that vehicles do not unduly interrupt the pedestrian experience along the site's principal street frontage at Kingston Street and allows the majority of this frontage to be dedicated to active frontages as previously described. In addition the existing wide vehicle crossover to Kingston Street will be removed which further improves the pedestrian realm (subject to a condition to reinstate the footpath). Council's Urban Design Unit was not supportive of the proposed at grade car spaces proposed along Selby R.O.W stating:

*The ground level car parking is not supported as it presents an inactive and unsavoury undercroft space to the laneway. Although Selby R.O.W. is currently a poor pedestrian environment, its unattractive qualities need to be improved rather than further embedded, bearing in mind the intention for this to become an 'improved pedestrian route' to Church Street. Also, the valuable ground floor space for habitable uses should be maximised.*

113. This recommendation is not supported as Selby R.O.W. does not provide a through connection to Church Street. In addition, it is not a high-amenity laneway (given its limited width) and does not abut any dwellings. Urban design policy at Clause 22.10 also encourages vehicle access via laneways other than from the street frontage, which allows an improved pedestrian experience on Kingston Street (which does connect to Church Street).
114. Further, the intention for it to become a pedestrian route to Church Street is a vague reference within the SSSP, which, as previously outlined, is not relied upon because it is not incorporated into the planning scheme. Selby R.O.W. is currently a dead end laneway and there is no guarantee that future development at No. 525 Church Street will extend it to Church Street. Finally, it should be noted that the provision of 25 at-grade car spaces has been proposed along Selby R.O.W. for the child care development which is currently under construction at No. 68 – 80 Brighton Street, and as such the deletion of two at-grade spaces for the subject development would be unreasonable in this context.
115. The ground floor plans also indicates that the existing crossover on Kingston Street will be removed and replaced with footpath. This is a positive urban design outcome that will enhance the pedestrian experience.

116. Based on the above considerations, the presentation of the development to the public realm is well designed and will provide a positive interface with the street.

*Architectural quality*

117. Policy at clause 15.01-2S encourages high standards in architecture and urban design, whilst clause 22.10 encourages the design of new development to respect (amongst others) the pattern, spatial characteristics, fenestration, roof form and materials if the surrounding area.
118. As noted earlier, an increasing degree of contemporary, higher built form is visible along and nearby the Cremorne Segment of Church Street. These developments provide robust, rectilinear designs, straight lines, high proportions of glazing across facades, and roof forms that are either flat or pitched in a contemporary fashion.
119. The dominant materials proposed are concrete, glazing and metal cladding, louvres and vertical blades. The concrete is expressed across the eastern boundary walls, the western boundary wall, the external and internal floor treatment at ground floor and the planter boxes fronting Kingston Street. The use of concrete to connect the eastern boundary wall with the Kingston Street frontage is considered to be a well-resolved architectural outcome.



**Figure 12:** Rendered image of the development, showing the incorporation of concrete at the ground floor interface with Kingston Street.

120. The high proportion of glazing across the development is consistent with the emerging character for office developments in the surrounding area. The extent of the glazing along the south elevation is effectively broken down through the use of vertical-horizontal panes and a canopy above the ground floor entrance constructed of metal blades. The extent of glazing across the eastern façade is effectively mitigated through the use of balconies and associated planter boxes for landscaping and metal batten screening. These elements assist in providing an articulated response to the residential interface to the east and ensure that glare impacts are not unreasonable.

121. Council's Urban Design Unit were largely supportive of the architectural quality and the selection of materials proposed, stating that the *presentation to Kingston Street is well composed at a broad scale*, however made the following recommendations:
- (a) Incorporation of operable windows into the large, flat panes of the north and south elevations;
  - (b) Sun shading provided to the northern façade;
  - (c) Elevations and finishes legend provided in full colour with variegation in colour recommended for the screening proposed across the eastern elevation;
  - (d) Finishes legend corrected to rename acronym 'MC1' correctly as 'MP1'.
  - (e) Further detail provided on the patterning proposed for the west elevation.
122. These recommendations would add a greater degree of depth to the facades of the building. As such, they will be included as conditions. The operable windows to the northern and southern elevations will help to *animate these facades and provide cross ventilation* as stated by Council's Urban Designer, and the sun shading to the northern façade is consistent with recommendations made by Council's ESD Officer. A colour version of the finishes legend and elevations with colour nominations will be required by condition to clarify the colour treatments proposed. A condition will also require deletion of notations on elevations that state "in selected colours".
- Colour variegation across the eastern façade is also supported as this will bring an added degree of articulation to the eastern residential interface. The requirement for further detail on the patterning of the concrete panels for the western façade is supported as this wall has the potential to pose visual bulk impacts to the public realm, and the details will need to demonstrate a breaking up of this mass.

#### *Landscaping*

123. The development provides a substantial extent of landscaping to the Kingston Street frontage in the form of a long, raised garden bed area that stretches across roughly half of the frontage. This is considered to soften the development's response to the public realm at ground floor level and provide visual interest for pedestrians on the street, particularly in a street with no vegetation (except at the residential interface). The eastern façade of the development proposes planter boxes at each level, set behind a shell composed of metal-louvre screening. Whilst these plants will be visibly restricted from the public realm (due to the screening), it is considered that upon maturation, these plants will assist in softening the eastern façade. This is considered to be an appropriate outcome. Council's Open Space Unit raised no issues with the detail shown on the submitted landscape plan, however recommended that it be updated to include notes on the following matters:
- (a) Works to be undertaken prior to planting;
  - (b) Details on the proposed method of irrigation and drainage;
  - (c) Details on the proposed maintenance schedule.
124. These recommendations can be pursued by way of a condition for an amended landscape plan. The landscape plan should also be updated to reflect the changes to the balcony configurations as required by the sketch plans. Additionally, the current landscape plan shows a previous iteration of the ground floor response with regards to the location of the ground floor landscaping and the visitor bicycle spaces. This is an error and is inconsistent with the decision plans. Both of these updates can be addressed via condition.

#### *Site coverage*

125. The majority of the land will be covered in built form, with the exception of the street setback and a parcel of land abutting No. 68 – 80 Brighton Street. Whilst the development does not achieve the recommended maximum site coverage of 80% in accordance with Clause 22.10, this is acceptable because the proposed high site coverage is similar to that of commercial buildings in proximity to the land, with intensive development a characteristic of the surrounding area (i.e. the commercial land to the west of the subject site).

The extent of site coverage is considered acceptable based on the context of the land and is not considered to result in a visually bulky or imposing building. Further, the provision of landscaping across the Kingston Street frontage, together with the ground floor setback help to provide a sense of spaciousness when viewed from Kingston Street.

*Laneway Abuttal*

126. Clause 22.07 of the scheme aims to maintain the unique character of laneways, ensure that development abutting laneways respects the scale of surrounding built form and that vehicle access via laneways will not detrimentally impact other users of the laneway.
127. The subject site abuts Selby R.O.W. to the north, which, is a narrow laneway providing a 'back of house' context with no residential abuttal. The laneway has a dead-end and therefore does not act as a thoroughfare for pedestrians. Council's Urban Design Unit was not supportive of the proposed at-grade car spaces along the laneway and recommended their removal. As previously outlined, this will not be pursued given the low useability of the laneway and that at-grade parking forms part of the laneway's existing and emerging context.
128. Council's Engineering Services Unit have assessed the at-grade car spaces and the basement ramp and found them to be acceptable. This will be expanded upon in a latter section of this report, however it clarifies that vehicle access will not pose an unreasonable safety or access issue to other users of the laneway.

Council's Engineering Services Unit, however made a recommendation for the service doors opening on to Selby R.O.W to be shown as doors capable of swinging open to 180 degrees. This will ensure that the doors do not obstruct access for other users of the laneway in accordance with local policy at Clause 22.07. A condition will require that the doors are latched to the building when open.

*Light and shade*

129. The proposed development will result in new shadowing to the southern footpath of Kingston Street, with shadows cast consistently between 9am and 3pm on the September equinox. However, Kingston Street is very narrow, which makes it impractical for new development to avoid overshadowing the public realm. The footpaths along Kingston Street are also very narrow and are partially affected by a number of existing crossovers. This is reflective of the commercial nature of the area. Further, the SSSP encourages development of 5-6 storeys and there is no development at this height that would not cause overshadowing of the footpath. In addition, a 2-storey building built to the boundary (as per the rest of the street) would have a greater shadow impact on the southern footpath. In light of this context the proposed overshadowing of the public realm is considered acceptable.

On-Site Amenity

130. The development is considered to achieve a good level of internal amenity through the following:
  - (a) provision of a suite of ESD features which include natural ventilation to all floors, excellent daylight access with the majority of office space provided with daylight from the northern, eastern and southern aspects,
  - (b) majority of floors provided with balconies or planter boxes along the eastern perimeter.
  - (c) bicycle parking for both employees and visitors and end of trip facilities for employees.
131. With regards to the wider ESD features proposed for the development; rainwater will be captured for irrigation use, a 5kW array of solar panels will be located on the roof and sustainable products will be used throughout the design. These features (amongst others) achieve a BESS score of 64%, with a score of 50% signifying 'best practice'.

132. To further increase the development's energy efficiency (and to ensure that the development will actually achieve the stated BESS score), Council's ESD Advisor recommended a number of modifications and additions to the design as well as the Sustainability Management Plan (SMP). These include the following:
- (a) Addition of external shading devices to the northern façade to control heat gain;
  - (b) Target a recycling rate of 80% of construction and demolition waste for the construction phase of the development to minimise the volume of waste to landfill;
  - (c) Commitment for an Environment Management Plan to be developed by the building contractor to monitor and control activities undertaken during construction;
  - (d) SMP and BESS report updated to remove innovation points for stated initiatives. These initiatives are supported but are not regarded as innovative.
  - (e) Clarify provision of outdoor air to office spaces to all levels;
  - (f) Advise on the visible light transmission of proposed glazing;
  - (g) Provide JV3 report showing at least 10% improvement on the reference case;
  - (h) Provide basis for:
    - (i) thermal performance improvements,
    - (ii) greenhouse gas performance improvements,
    - (iii) 30% improvement in lighting efficiency
  - (i) Provide a size specification for solar PV in the SMP
  - (j) Update SMP to state that collected rainwater will be connected to all toilets in accordance with the submitted BESS report;
  - (k) Provide a Green Travel Plan with performance targets and monitoring and reporting components included.
133. These improvements and updates can be included as conditions for an updated SMP. Further, a condition can be added to condition 1 to ensure that all details associated with the endorsed SMP be included on the development plans.

#### Off-Site Amenity

134. Clause 15.01-2S of the Scheme aims to provide building design that minimises the detrimental impacts on neighbouring properties, the public realm and the natural environment, with potential impacts relating to overshadowing of SPOS, loss of daylight to windows, visual bulk and overlooking of sensitive areas. The relevant policy framework for amenity considerations is contained within clauses 22.05 and 22.10 as well as the decision guidelines of the Commercial 2 Zone at Clause 34.02-7.
135. The adjacent site to the west, north and the (majority of the) south contain commercial uses, with the eastern sites being the most sensitive interfaces with regards to potential off-site amenity impacts.

#### *Daylight to windows*

136. The closest habitable room windows (for a dwelling in a residential zone) addressing the subject site are the west-facing windows of the dwellings located at No. 82 – 86 Brighton Street, which have a minimum setback of approximately 5 metres from the proposal's eastern boundary wall. Whilst not strictly applicable, this would comply with both components of Standard A12 (Daylight to habitable room windows) of ResCode as:
- (a) The windows will continue to have access to a light court with an area of greater than 3sqm and a minimum dimension of greater than 1m.
  - (b) The setback (minimum 5m) from the eastern boundary wall is greater than half (3m) of the height of the eastern boundary wall (6m).
  - (c) The setback (minimum 17m) from the eastern wall of level 5 is greater than half (12m) of the height of the eastern level 5 wall (24m).
137. In light of the above, the habitable room windows of the dwellings at Nos. 82-86 Brighton Street will not be unreasonably impacted with regard to daylight access.

138. The north-facing windows of No. 14 Kingston Street will be have reduced daylight access as a result of the development. This impact will be limited given that the northern windows are located under either a window canopy or the front verandah. In addition, this impact is acceptable when considering that the dwelling is a non-conforming use within the Commercial 2 Zone and the windows generous setback of approximately 8.5m from the subject site. Further, the lower building heights proposed along the eastern end of the subject site will mitigate loss of daylight to these windows.
139. The north-facing windows of No. 16 Kingston Street (which is located in the GRZ) are not anticipated to be unreasonably impacted by the development given that the dwelling is not located directly opposite the subject site.

*Overshadowing*

140. Although not strictly applicable in this instance, Standard B21 of Clause 55 notes:
- (a) *Where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September; and*
  - (b) *If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.*
141. Given their immediate abuttal, the dwellings to the east of the subject site at Nos. 82-86 Brighton Street require a close assessment of shadow impacts. The shadow impacts at the September equinox are shown in the tables below. The shadows reference a revised set of shadow diagrams (i.e. not from the decision plans). This is due to the proposed extension at No. 82 Brighton Street nearing completion, which has reduced the size of the SPOS of NO. 82 Brighton Street and added some additional shadowing to the SPOS of No. 84 Brighton Street. During the notice period for the subject application, the works at No. 82 Brighton Street had only just commenced and therefore were not considered as 'existing conditions' at the time.

*No. 82 Brighton Street*

	9am	10am	11am	12pm	1pm	2pm	3pm
Proposed new shadowing	0 m <sup>2</sup>	0 m <sup>2</sup>	0 m <sup>2</sup>	0 m <sup>2</sup>	0 m <sup>2</sup>	<b>5.91 m<sup>2</sup></b>	1.43 m <sup>2</sup>
Remaining unshaded	0m <sup>2</sup> (0%)	1.89 m <sup>2</sup> (9.7%)	7.28 m <sup>2</sup> (37.2%)	7.28m <sup>2</sup> (37.2%)	12.94m <sup>2</sup> (47.8%)	<b>0 m<sup>2</sup></b> (0%)	0 m <sup>2</sup> (0%)

*No. 84 Brighton Street*

	9am	10am	11am	12pm	1pm	2pm	3pm
Proposed new shadowing	0 m <sup>2</sup>	0 m <sup>2</sup>	0 m <sup>2</sup>	0 m <sup>2</sup>	0 m <sup>2</sup>	<b>4.13 m<sup>2</sup></b>	4.33 m <sup>2</sup>
Remaining unshaded	0 m <sup>2</sup> (0%)	0.23 m <sup>2</sup> (1.5%)	2.37 m <sup>2</sup> (15.3%)	3.82 m <sup>2</sup> (24.7%)	4.11m <sup>2</sup> (26.6%)	<b>0 m<sup>2</sup></b> (0%)	0 m <sup>2</sup> (0%)

*No. 86 Brighton Street*

	9am	10am	11am	12pm	1pm	2pm	3pm
Proposed new shadowing	0 m <sup>2</sup>	0 m <sup>2</sup>	0 m <sup>2</sup>	0 m <sup>2</sup>	1.25 m <sup>2</sup>	<b>13.1m<sup>2</sup></b>	15.46m <sup>2</sup>
Remaining unshaded	3.37 m <sup>2</sup> (10.6%)	7.04 m <sup>2</sup> (22.1%)	12.23 m <sup>2</sup> (38.4%)	16.48 m <sup>2</sup> (51.8%)	15.04m <sup>2</sup> (47.3%)	<b>3.17 m<sup>2</sup></b> (10%)	0 m <sup>2</sup> (0%)

142. As identified in the tables above, the proposal does not impose any new equinox shadowing in the morning hours between 9am and 12pm. The new shadows at 1pm are limited for Nos. 82 and 84 Brighton Street and for No. 86 Brighton Street, the additional shadow will still retain a moderate unshaded area of almost 12sqm. By 2pm, the proposed development would cast the entire areas of SPOS of Nos. 82 and 84 Brighton Street in shadow and overshadow the majority of the SPOS of No. 86 Brighton Street. At 3pm, all three areas of SPOS would be fully overshadowed.
143. The new equinox shadowing at 1pm is supported given the limited impact proposed at this time. The 3pm equinox shadowing is also supported because the affected dwellings abut commercially-zoned land and given the location of the affected sites to the east of the subject site, it would be impractical to expect a highly amenable solar access outcome by 3pm at equinox. However, the equinox shadowing proposed at 2pm is not supported as it would leave the areas of SPOS of Nos. 82 and 84 Brighton Street fully cast in shadow and retain only a small proportion of solar access to No. 86, thereby unreasonably impacting their recreational amenity. In response to this issue the applicant provided sketch plans which reduce the scale of the built form (as previously outlined at paragraph 9) and correspondingly improve solar access at 2pm, as shown in the following tables below:

*No. 82 Brighton Street*

	<b>1pm (sketch plan)</b>	1pm (decision plan)	<b>2pm (sketch plan)</b>	2pm (decision plan)
Proposed new shadowing	<b>0 m<sup>2</sup></b>	0 m <sup>2</sup>	<b>5.11 m<sup>2</sup></b>	5.91 m <sup>2</sup>
Remaining unshaded	<b>9.35 m<sup>2</sup> (47.8%)</b>	12.94m <sup>2</sup> (47.8%)	<b>0.8 m<sup>2</sup> (4.1%)</b>	0 m <sup>2</sup> (0%)

*No. 84 Brighton Street*

	<b>1pm (sketch plan)</b>	1pm (decision plan)	<b>2pm (sketch plan)</b>	2pm (decision plan)
Proposed new shadowing	<b>0 m<sup>2</sup></b>	0 m <sup>2</sup>	<b>2.41 m<sup>2</sup></b>	4.13 m <sup>2</sup>
Remaining unshaded	<b>4.11 m<sup>2</sup> (26.6%)</b>	4.11m <sup>2</sup> (26.6%)	<b>1.74 m<sup>2</sup> (11.1%)</b>	0 m <sup>2</sup> (0%)

*No. 86 Brighton Street*

	<b>1pm (sketch plan)</b>	1pm (decision plan)	<b>2pm (sketch plan)</b>	2pm (decision plan)
Proposed new shadowing	<b>0.8 m<sup>2</sup></b>	1.25 m <sup>2</sup>	<b>9.1m<sup>2</sup></b>	13.1m <sup>2</sup>
Remaining unshaded	<b>15.49m<sup>2</sup> (48.7%)</b>	15.04m <sup>2</sup> (47.3%)	<b>7.17 m<sup>2</sup> (22.5%)</b>	3.17 m <sup>2</sup> (10%)

144. The revised shadow impacts to Nos. 82 – 86 Brighton Street are considered acceptable for the following reasons:
- (a) The dwellings at No. 82 and No. 84 Brighton Street will be provided with reasonable equinox solar access between the hours of 11am and 2pm, as shown in the tables above. This is considered to be an acceptable outcome for dwellings at the interface of the Commercial 2 Zone and will allow for reasonable recreational amenity for occupants. Numerically, the solar access to No. 84 Brighton Street is low, however it is proportionate to the small size of its SPOS.
  - (b)

- (b) The dwelling at No. 84 Brighton Street is provided with low solar access under existing conditions, which is partly due to the location of an outbuilding to the north of the dwelling's SPOS. The additional shadows imposed by the subject development are limited at 1pm (1.32sqm) and 2pm (2.41sqm). As such, the new shadow impacts are considered to result in no unreasonable change in solar access when compared to the existing conditions.
- (c) The shadow impact for all three affected dwellings at 3pm is not insignificant, however as previously described given that the dwellings are located immediately east of the subject site and at the interface of the C2Z, it would be unreasonable for the subject development to mitigate shadows by 3pm.
- (d) Given Council's expectation for 5-6 storey developments in this area, it is unreasonable to expect no change to shadows. Similarly, development in the C2Z generally has site coverage of 100%. Thus, the affected dwellings have benefitted from the lack of development at the subject site.
- (e) More generally, the shadow impacts are acceptable taking into account the affected dwellings' interface with the C2Z and their location in inner-city Richmond, where lots and areas of SPOS are small, and solar access to open space is often compromised.

145. In light of the above, it is recommended that a condition require the development to reduce in scale in accordance with the sketch plans produced by Bates Smart, Revision D 'Concept Plans' dated 09 September 2019.

146. The development also proposes equinox shadowing to the private open space of Nos. 14 and 16 Kingston Street. This is acceptable as it is restricted to the front yards, leaving their areas of SPOS (to the rear of each lot) unaffected. The development also proposes some additional equinox shadowing the ground floor SPOS of No. 88 Brighton Street.

This is considered acceptable given that it is limited to 3pm and because the dwelling enjoys a secondary area of SPOS in the form of a sizeable first-floor balcony.

#### *Overlooking*

147. Standard B22 of Clause 55 (ResCode) of the Scheme includes requirements for managing overlooking, and requires that:

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

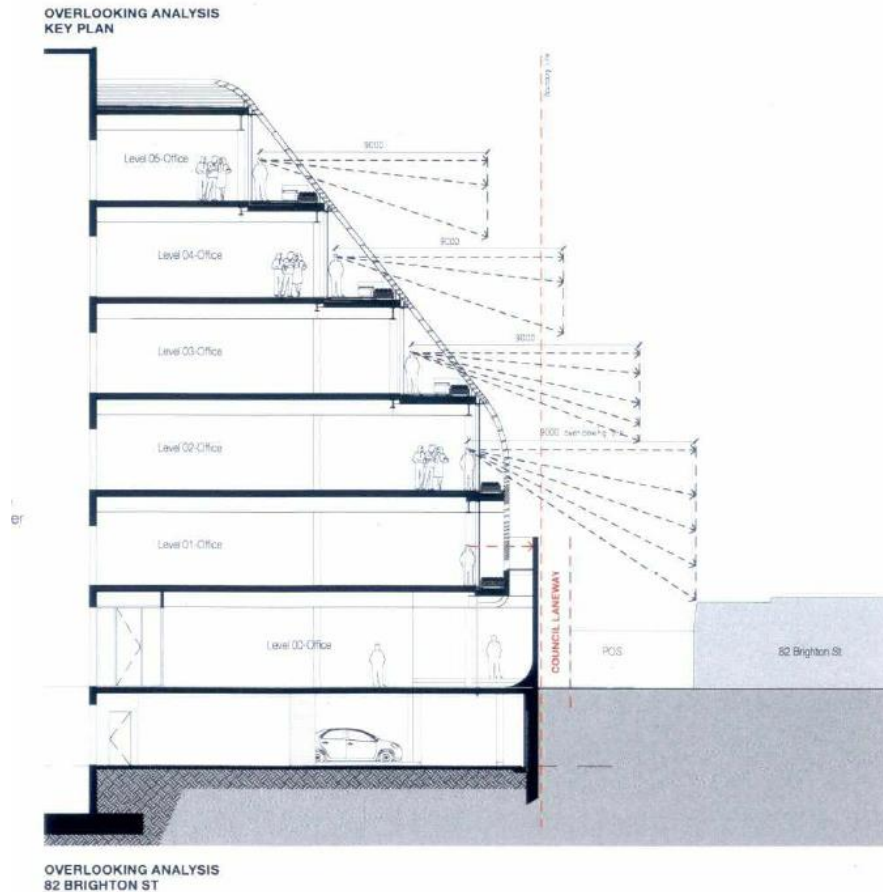
148. The strict application of the Standard is not required in this instance because the proposal is for an office development and is therefore not required to satisfy the objectives contained within Clause 55 (ResCode). However, in the absence of any other test, the Standard can be used as a decision guideline for measuring overlooking impacts.

149. The closest habitable room windows and SPOS within proximity to the subject site are associated with the dwellings located at Nos. 82-86 Brighton Street, all of which are located within 9m of the subject site. The eastern façade of the development has been appropriately designed to limit overlooking impacts to these properties. Specifically:

- (a) Provision of the eastern boundary wall (southern section of site) which will form a screen to the first-floor of the development with a height of approximately 1.7m above the finished floor level (which meets the Standard height under ResCode).
- (b) Provision of screening louvres within the sloping balustrade along the eastern façade across the second, third, fourth and fifth floors and the northern section of the first floor.

These louvres have been located strategically so as to minimise downward views into the SPOS and habitable room windows of Nos. 82-86 Brighton Street, as depicted at figure 13 below;

- (c) The provision of planter boxes along the eastern façade also creates non-trafficable spaces at the interface with Nos.82-86 Brighton Street, thereby further mitigating downward views into these properties.



**Figure 13:** Section showing the response to overlooking impacts to the residential eastern interface

- 150. The sketch plans, whilst making some changes to the form of the eastern façade, has retained the eastern boundary wall, strategically-located louvres, and planter boxes, so as to ensure that overlooking continues to be managed in a similar fashion to that of the decision plans.
- 151. The dwellings located on the southern side of Kingston Street feature habitable room windows fronting the street, and are therefore currently overlooked from the street. However, these will not be unduly affected by overlooking impacts as they are located greater than 9m from the subject site. The unscreened south-facing windows of the proposed development would thus comply with Standard B22 (Overlooking) of Clause 55, although this is not strictly applicable to the subject application. In addition, the verandah and window canopy of the dwelling will further prevent overlooking into these windows from upper levels of the development.

#### *Visual Bulk*

- 152. A variety of measures have been incorporated into the development to assist in limiting visual bulk impacts from adjacent sites. These include the sloped built form which graduates in height from east to west as well as the utilisation of screening louvres which provide articulation across the eastern façade.

Whilst direct views of the proposal will be possible from Nos. 82 – 86 Brighton Street as well as other residential dwellings in the surrounding area, the design response to the eastern façade of the development allows for appropriate mitigation at this boundary between residential and commercial zoning. In addition, changes made by the sketch plans (which are recommended to be included as conditions) will further reduce visual bulk impacts through a reduction in the building height and increased setbacks from the eastern boundary.

*Wind Impacts*

153. Wind impacts relate to the public realm, with a particular focus on potential impacts to pedestrians using the public realm. A wind assessment was not undertaken as part of the proposal as the proposed height of the development is only marginally higher (one storey) than the existing multi-storey office development located to the north of Selby R.O.W.
154. Further, the canopy provided above the ground floor of the Kingston Street entrance will protect pedestrians and office employees from potential 'downwashing' of wind that would otherwise occur of the building façade. Landscaping and louvre details along the eastern façade will also mitigate unreasonable window impacts to the east.

*Equitable Development*

155. To ensure the 'fair, orderly, economic and sustainable development of land' in accordance with the objective of the Act, matters of equitable development must be considered. In this instance, the site is separated from land to the south by Kingston Street and to the north by Selby R.O.W. Land to the east is located within the Neighbourhood Residential Zone, which has a mandatory maximum building height of two stories. The sites to the west (No. 1-7 Kingston Street and No. 525 Church Street), like the subject site are located within the Commercial 2 Zone with no heritage controls and thus have robust development potential. The proposed development has responded to the western interface with a blank concrete wall. As such, the proposed development provides a non-sensitive interface to these sites which will ensure their equitable development opportunities.

Car parking, vehicle access, traffic, loading and waste

*Provision of car parking*

156. The proposed development would provide 16 on-site car parking spaces; fourteen at basement level and two at ground level along Selby R.O.W. Pursuant to Table 1 of Clause 52.06-5, the applicable required provision is 3 spaces per 100sqm of net floor area. As previously outlined, this triggers a car parking reduction of 41 spaces.
157. The proposed car parking provision (and associated car parking reduction) are supported for the following reasons:
  - (a) On-street car parking in the surrounding area consists largely of 1 hour, 2 hour and permit-restricted spaces. The lack of long-stay car parking in the surrounding area will significantly reduce car parking demand. Further, the permit-restricted spaces in the area will continue to protect car parking availability for existing, permit-holding residents.
  - (b) The site has excellent access to public transport, including tram services on Church Street and Swan Street as well as East Richmond Railway Station, which is within walking distance;
  - (c) The provision of bicycle infrastructure in the surrounding area, including the Main Yarra Trail (500m south) which is a highly utilised commuter route for cyclists. The area also has shared lane markings for bicycles including on Church and Swan Streets. Further, the proposal provides in-excess of the bicycle space requirements prescribed by the Scheme. Notwithstanding this, a condition will require additional bicycle spaces to satisfy Council's best practice rates. These measures (as well as the proposed end of trip facilities) will encourage employees to arrive via bicycle.

Highly visible bicycle spaces along Kingston Street will similarly encourage visitors to ride to the development;

- (d) Local planning policy at clauses 18.02, 21.03, 21.06-3 and 21.07 encourages reduced rates of car parking provision for development sites within close proximity to public transport routes and activity centres.
- (e) Traffic is a key issue affecting the road network, particularly in Cremorne and southern Richmond. By providing a lower rate of on-site car spaces, it will ensure that the development does not generate any unreasonable increase in traffic levels for the surrounding road network.
- (f) The reduction in the built form as shown in the sketch plans will provide a modest reduction in the net floor area associated with the proposed development, which ensures that the reduction of 41 spaces (as based on the decision plans) is a conservative figure.
- (g) Council's Engineering Services Unit reviewed the proposed car parking provision and raised no issue to the proposed reduction, stating that it is appropriate for the site, which is *very easily reached by public transport*. Further, Council's Engineering Services Unit highlighted that the proposed car parking provision (at a rate of 0.83 car spaces per 100sqm of floor area) is similar to that of other office developments recently approved by Council in Cremorne and Collingwood which ranged from rates of 0.85 to 0.89 spaces per 100sqm floor area.

#### *Vehicle Access*

- 158. The application seeks to provide access to the basement car parking area via a single width access door and ramp. Visibility for vehicle ingress and egress has been provided in the form of a convex mirror located at the western side of the entrance of the basement car park. Two at grade spaces are provided along the Selby R.O.W. boundary, one of which would be an accessible space. Other than requesting additional information to be shown on the plans, Council's Engineering Services Unit did not raise any issues with vehicle access and safety. Further, the relatively low number of on-site car spaces will provide an acceptable outcome with regards to vehicle access and safety outcomes.
- 159. Council's Engineering Services Unit were largely supportive of the proposed access arrangements, with minor changes and additional details required as follows:
  - (a) The kerb width on either side of the access ramp are to be dimensioned on the drawings.
  - (b) Headroom clearance at basement car park entrance to be dimensioned on the drawings.
  - (c) A bollard is to be provided in the shared area associated with the accessible parking space
  - (d) Column depths and setbacks dimensioned on the drawings to satisfy AS/NZS 2890.1:2004.
  - (e) A minimum clearance of 300mm to walls for all car spaces;
  - (f) The length of each ramp grade section dimensioned on the drawings;
  - (g) Specification of the inside and outside radii of the curved ramp;
  - (h) Provision of ground clearance checks of the curved ramp along the inside radius using the B99 design vehicle;
  - (i) Relocation of the Sewer Vent to the satisfaction of Council and the relevant water authority. All costs and work associated with relocating the sewer vent must be borne by the Permit Holder.
  - (j) The grade for the internal concrete slab is to be shown on the drawing
  - (k) A 1 in 20 scale cross-sectional drawing must be submitted to show the existing and proposed floor levels. The levels should include the centre/invert of the Selby R.O.W., property line and top edge of the internal concrete slab. The internal concrete slab must be designed to ensure that a B99 design vehicle can enter and exit the at-grade car spaces and basement car park entrance without bottoming-out or scraping.

- (l) For any new internal concrete work, the finished floor levels along the edge of the slab must be set 40 mm above the edge of Selby R.O.W. – Council Infrastructure requirement.
  - (m) Any service cabinet door opening onto a Public Highway must swing 180-degrees and be latched to the building when opened.
160. With regards to items (a), (b), (c), (d), (e), (f), (g), (h) (j), (l) and (m) above, these items can be included on the development plans by way of conditions. With regards to item (i), this has already been nominated on the plans as a notation, however this can be further addressed by way of a separate condition which requires the removal of the sewer vent to be undertaken prior to occupation of the development.  
With regards to item (k), this can be addressed through the subsequent requirement for a separate vehicle crossing permit from Council.
161. A number of additional recommendations were made by Council's Engineering Services Unit; these relate to various infrastructure requirements immediately surrounding the site that should be undertaken to Council's satisfaction and at the Permit Holder's cost, as follows:
- (a) The footpath immediately outside the property's Kingston Street road frontage must be stripped and re-sheeted to Council's satisfaction and at the Permit Holder's cost. The footpath must have a cross-fall of 1 in 40 or unless otherwise specified by Council.
  - (b) The redundant vehicle crossing along the Kingston Street road frontage is to be demolished and reinstated with paving, and kerb and channel to Council's satisfaction and at the Permit Holder's cost. The footpath must have a cross-fall of 1 in 40 or unless specified by Council.
  - (c) The full-width road pavement of Selby R.O.W. (from the northern road alignment to the southern road alignment) along the property frontage must be profiled and re-sheeted to Council standard. Any isolated areas of pavement failure shall require full depth road pavement reconstruction.
  - (d) Any damaged roads, footpaths and other road related infrastructure adjacent to the development site as a result of the construction works, including trenching and excavation for utility service connections, must be reconstructed to Council's satisfaction and at the developer's expense.
  - (e) A Construction Management Plan must be prepared and submitted to Council. The Plan must be approved by Council prior to the commencement of works. A detailed dilapidation report should detail and document the existing and post construction conditions of surrounding road infrastructure and adjoining private properties.
  - (f) Any services poles, structures or pits that interfere with the proposal must be adjusted, removed or relocated at the owner's expense after seeking approval from the relevant authority.
  - (g) Areas must be provided inside the property line and adjacent to the footpath to accommodate pits and meters. No private pits, valves or meters on Council property will be accepted.
  - (h) Only roof runoff, surface water and clean groundwater seepage from above the water table can be discharged into Council drains.
  - (i) Contaminated ground water seepage into basements from above the water table must be discharged to the sewer system through a trade waste agreement with the relevant authority or in accordance with EPA guidelines.
  - (j) Contaminated groundwater from below the water table must be discharged to the sewer system through a trade waste agreement from the relevant sewer authority.
162. The majority of these additional recommendations can be appropriately captured under general infrastructure, drainage and construction management conditions and/or notes that are usually placed on a permit of this type. With regards to item (c), this item can be included by condition.

### *Traffic*

163. The traffic report submitted as part of the application outlined that the loss of the existing paid parking on the subject site (total 27 spaces) associated with the proposed development will generate reduced traffic levels for the surrounding area and will outweigh the traffic generated by the proposal for 16 car spaces on site as part of the development.
164. In addition to the above, Council's Engineering Services Unit found that the proposed development would likely result in 8 individual trips in the morning peak and 8 in the evening peak (adopting a traffic generation of 0.5 trips per space per peak hour). Council's Engineering Services found that these were not unduly high and would not pose adverse impacts on the surrounding road network.

*Loading, unloading and waste*

165. The Scheme does not provide any requirements for loading bays, rather Council must consider loading and unloading as relevant to the application. A loading bay has not been provided as part of the development. This is considered to be an acceptable outcome given that the development is associated with an office use. Goods will not be sold on site which ensures that the development will not impose any unreasonable loading requirements to either Selby R.O.W. or Kingston Street.
166. Waste will be collected on Selby R.O.W. via a private collection service which is an appropriate outcome given the back of house context along Selby R.O.W. This will also ensure that Kingston Street remains unaffected by stationary waste vehicles during collection. Swept path diagrams have been provided to demonstrate that a small waste collection vehicle can access the site via Selby R.O.W., which was supported by Council's Engineering Services Unit.
167. The submitted Waste Management Plan (WMP) and the plans show an externally-accessible waste storage area on site located at ground floor towards the northwest corner of the site. The WMP has been assessed by Council's Civil Works Unit, who raised a number of issues that need to be addressed, as follows:
  - (a) *Please be definite on how e-waste will be managed in accordance with legislation;*
  - (b) *Please identify hard waste storage area within the bin storage area diagram;*
  - (c) *The bin storage area should be expanded;*
  - (d) *Food waste diversion should be included as a requirement;*
  - (e) *Council does not allow private and Council services to operate at the same site;*
  - (f) *A clause must be included in the plan regarding potential review into the service if operational requirements change.*
168. These recommendations can be included as conditions for a revised WMP. As the changes will require changes to the ground floor layout, a condition is also recommended for the development plans to be revised to accommodate any relevant changes required by the endorsed WMP. With regards to item (b), further advice was sought from Council's Civil Works Unit on satisfying this recommendation, given the vague language used. It was clarified that the waste area needs to be increased in size to provide adequate space for movement and rotation of the bins, space for temporary storage of hard waste, e-waste and organics. This detail can be included on the relevant WMP condition.

Bicycle Provision

169. With regards to visitor spaces, the development will provide in-excess of the statutory requirements outlined in Clause 52.34. Council's Strategic Transport Unit also outlined that the provision of visitor spaces exceeds Yarra's best practice rates and was thus supportive of the visitor space provision. A recommendation was made, however, for the visitor spaces at the Kingston Street frontage to be relocated closer to the pedestrian entrance of the development presumably to make the spaces more visible to visitors and easier to access.

This recommendation is considered to be unnecessary given that the Kingston Street spaces will still be highly visible from the street and that Council's Strategic Transport Unit subsequently acknowledged that *despite the suggestion ...to relocate the Kingston Street spaces closer to the building entrance, the spaces are easily accessible and acceptably close to the building entrances*. Further, it is considered that the relocation of the Kingston Street planter would provide a less effective urban design outcome.

170. With regards to employee bicycle spaces, the development exceeds the statutory requirements outlined in Clause 52.34, along with the provision of adequate end-of-trip facilities for employees. Whilst the proposal provides in-excess of the statutory requirements, Council's Strategic Transport Unit found that the subject development is a prime candidate to apply Yarra's best practice rates of bicycle space provision (1 employee space to each 100sqm) which equates to 20 employee spaces. This recommendation should be pursued for the following reasons:
  - (a) The application seeks a car parking reduction of 41 car spaces and therefore a best practice provision of employee bicycle spaces will further encourage employees to cycle to work, mitigating the impact of the sought reduction;
  - (b) The subject site is located in an inner-city urban area where demand for bicycle commuting is high and projected to increase into the future;
  - (c) State and local planning policies include objectives pursuing the adoption of sustainable modes of transport.
171. Council's Strategic Transport Unit also made the following additional recommendations for the required minimum 20 employee spaces:
  - (a) Location of spaces within a secure storage facility (the proposed scheme does not provide for this);
  - (b) Configuration and access of spaces to satisfy the requirements of AS2890.3 or otherwise to the satisfaction of the responsible Authority;
  - (c) A minimum of 20% of the 20 employee spaces to be provided as horizontal-at-grade spaces or otherwise be to the satisfaction of the Responsible Authority. This particular recommendation ensures a reasonable provision of bike spaces that do not require the lifting of the bike, which is not achievable for all cyclists.
172. The above recommendations should be included by way of conditions to ensure an appropriate outcome for employee space provision and for the reasons previously outlined.

#### Objector Concerns

173. Objector concerns are discussed as follows:

- (a) *Concerns regarding the proposed design, including the building height and scale not being in accordance with the existing neighbourhood character and insufficient provision of landscaping;*  
The building height has been discussed at paragraphs 101-104. The massing and scale of the development has been discussed at paragraphs 105-109. The development's response to the surrounding character and context has been discussed at paragraphs 95-100 and landscaping has been assessed at paragraph 123-124.
- (b) *Off-site amenity (including overlooking, overshadowing, loss of daylight, visual bulk and inadequate setbacks and potential loss of daylight and overlooking impacts to the Primary School to the east);*  
Off-site amenity considerations have been considered under the same section of the report at paragraphs 134 to 155. Given the considerable distance (approximately 40m) between the Primary School and the subject site, and the lower built form proposed towards the east of the subject site, there will be no unreasonable off-site amenity impacts on the Primary School.

- (c) *Traffic and car parking concerns (including an objection to the proposed provision of on-site electric car charging);*  
Traffic and car parking discussions are found within the report at paragraphs 163-164 and 156-157 respectively. With regard to the electric car charging, this is a forward-looking ESD measure and is a common feature in contemporary office developments.
- (d) *Concerns regarding construction noise and traffic.*  
Whilst construction issues are not strictly planning issues, given the scale of the proposed development, a Construction Management Plan is required by way of condition. This would be assessed by Council's Construction Management Unit and form part of the endorsed documentation. A general condition is also recommended for the standard construction hours allowed under Council's local laws.
- (e) *Property devaluation;*  
This is not a planning matter.
- (f) *Lack of consideration for non-conforming residential uses in the Commercial 2 Zone.*  
The nearest non-conforming residential use is No. 14 Kingston Street, the amenity of which has been considered at paragraphs 136 to 151.

## Conclusion

174. As outlined throughout this assessment there is strong policy support at both State and local levels for urban consolidation. Given the site's strategic location, proximity to the Swan Street MAC, Church Street and excellent public transport options; the site lends itself as an ideal development site for higher density. By conditioning the development to accord with the sketch plans, the proposal tempers density with an appropriate response to its residential interface, providing a reasonable balance between these two competing but relevant objectives.

## RECOMMENDATION

That having considered all objections and relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant Planning Permit PLN19/0025 for the construction of a six storey office building and a reduction in the car parking requirements at 9 Kingston Street Richmond, subject to the following conditions:

1. Before the development commences, amended plans to the satisfaction of the responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans must be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the decision plans prepared by Bates Smart (Revision C, dated 29 April 2019) but modified to show:
  - (a) Reduction in the building height of the development from 24m to 22.8m, increased eastern setbacks and reconfiguration of screening details to the eastern facade in accordance with sketch plans produced by Bates Smart (Revision D 'Concept Plans', dated 09 September 2019);
  - (b) Incorporation of operable windows into the glazing to the northern and southern facades;
  - (c) External, operable sun shading devices provided to the northern facade at levels 1, 2, 3, and 4;
  - (d) Elevations and finishes legend provided in full colour and deletion of notations "in selected colour" from elevations;
  - (e) Screening details on the eastern facade provided with a variegation in colour;
  - (f) Finishes legend updated to rename material acronym 'MC1' correctly as 'MP1';

- (g) Details of the concrete patterning to the western façade to break up the visual massing;
  - (h) The kerb width on either side of the basement access ramp dimensioned;
  - (i) Headroom clearance at basement car park entrance dimensioned;
  - (j) Provision of a bollard in the shared area associated with the accessible parking space;
  - (k) Column depths and setbacks dimensioned on the basement plan to satisfy AS/NZS 2890.1:2004.
  - (l) A minimum clearance of 300mm to walls for all car spaces;
  - (m) The length of each ramp grade section dimensioned;
  - (n) Specification of the inside and outside radii of the curved ramp;
  - (o) Provision of ground clearance checks of the curved ramp along the inside radius using the B99 design vehicle;
  - (p) Notation for the grade of the internal concrete slab;
  - (q) Notation to state that for any new internal concrete work, the finished floor levels along the edge of the slab must be set 40 mm above the edge of Selby R.O.W.
  - (r) Notation to state that the service cabinet doors opening onto Selby R.O.W. must swing 180-degrees and be latched to the building when opened.
  - (s) A minimum of 20 employee bicycle spaces, all to be located within a secure storage facility;
  - (t) Configuration and access of spaces to satisfy the requirements of AS2890.3 or otherwise to the satisfaction of the Responsible Authority;
  - (u) A minimum of 20% of the 20 employee bicycle spaces to be provided as horizontal-at-grade spaces or otherwise be to the satisfaction of the Responsible Authority.
  - (v) Any change required by the endorsed Sustainability Management Plan (as required by condition 3), where relevant to show on the plans;
  - (w) Any change required by the endorsed Landscape Plan (as required by condition 5), where relevant to show on the plans;
  - (x) Any change required by the endorsed Waste Management Plan (as required by condition 7), where relevant to show on the plans;
2. The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

### **Sustainability Management Plan**

3. Before the development commences, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Management Plan will be endorsed and will form part of this permit. The amended Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by Waterman Group, (Revision 4, dated 29 April 2019) but modified to include;
- (a) Addition of external, operable shading devices to the northern façade;
  - (b) Target a recycling rate of 80% of construction and demolition waste for the construction phase of the development;
  - (c) Commitment for an Environment Management Plan to be developed by the building contractor to monitor and control activities undertaken during construction;
  - (d) SMP and BESS report updated to remove innovation points for stated initiatives.
  - (e) Clarify provision of outdoor air to office spaces to all levels;

- (f) Advise on the visible light transmission of proposed glazing;
  - (g) Provide JV3 report showing at least 10% improvement on the reference case;
  - (h) Provide basis for:
    - (i) thermal performance improvements,
    - (ii) greenhouse gas performance improvements,
    - (iii) 30% improvement in lighting efficiency
  - (i) Provision of a size specification for solar PV in the SMP;
  - (j) State that collected rainwater will be connected to all toilets in accordance with the submitted BESS report;
  - (k) Provision of a Green Travel Plan with performance targets and monitoring and reporting components included.
4. The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

### **Landscape Plan**

5. Before the development commences, an amended Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Landscape Plan will be endorsed and will form part of this permit. The Landscape Plan must be generally in accordance with the Landscape Plan produced by Jack Merlo Design and Landscape, Revision B, dated 04 December 2018 but modified to include:
- (a) changes associated with the sketch plans produced by Bates Smart (Revision D 'Concept Plans', dated 09 September 2019);
  - (b) location of the ground floor landscaping and visitor bicycle spaces revised in accordance with the decision plans produced by Bates Smart, Revision C, dated 29 April 2019;
  - (c) Notations to clarify:
    - (i) Works to be undertaken prior to planting;
    - (ii) Details on the proposed method of irrigation and drainage, and;
    - (iii) Details on the proposed maintenance schedule.
- to the satisfaction of the Responsible Authority.
6. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:
- (a) implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
  - (b) not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
  - (c) replacing any dead, diseased, dying or damaged plants,
- to the satisfaction of the Responsible Authority.

### **Waste Management Plan**

7. Before the development commences, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Waste Management Plan will be endorsed and will form part of this permit. The Waste Management Plan must be generally in accordance with the Waste Management Plan produced by Low Impact Development Consulting dated 26 February 2019, but modified to include:
  - (a) Clarification on how e-waste will be managed in accordance with relevant current legislation;
  - (b) Identify hard waste storage area within the bin storage area
  - (c) Bin storage area increased in size to allow for appropriate bin rotation and to allow for temporary storage of hard waste, e-waste and organic waste.
  - (d) Clarification on how food waste diversion will be achieved;
  - (e) Remove any reference to Council collection services;
  - (f) Commitment to review the plan if operational requirements of the development change.
8. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
9. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.

#### **Infrastructure**

10. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any new vehicle crossing must be constructed:
  - (a) in accordance with any requirements or conditions imposed by Council;
  - (b) at the permit holder's cost; and
  - (c) to the satisfaction of the Responsible Authority.
11. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the redundant vehicular crossing within the Kingston Street frontage must be demolished and reinstated as standard footpath and kerb and channel:
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
12. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated, including the footpath along the property's Kingston Street and Selby R.O.W. frontages, with these footpaths to be reinstated:
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
13. Before the building is occupied, unless with the further written consent of the Responsible Authority, the sewer vent located at the interface with Selby R.O.W. must be removed and / or relocated in accordance with the requirements of the relevant water authority
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.

#### **General**

14. The development must comply at all times with the State Environment Protection Policy — Control of Noise from Commerce, Industry and Trade (SEPP N-1).
15. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the pedestrian and vehicular entrances must be provided on the subject site. Lighting must be:
  - (a) located;
  - (b) directed;
  - (c) shielded; and
  - (d) of limited intensity,to the satisfaction of the Responsible Authority.
16. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
17. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
18. Before the building is occupied, any wall located on a boundary facing public property must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.

### **Construction Management Plan**

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

- (m) An outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services.
  - (n) An emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced.
  - (o) The provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads.
20. The provisions, recommendations and requirements of the endorsed construction management plan must be implemented and complied with to the satisfaction of the Responsible Authority.
21. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
- (a) Monday to Friday (excluding public holidays) before 7:00am or after 6:00pm.
  - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9:00am or after 3:00pm.
  - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

### **Permit Expiry**

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

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

### **NOTES:**

A building permit may be required before development is commenced. Please contact Council's building services on 9205 5095 to confirm.

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

Provision must be made for drainage of the site to a legal point of discharge. Please contact Council's building services on 9205 5095 for further information.

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

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

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

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

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

**CONTACT OFFICER:** Chris Stathis  
**TITLE:** Senior Statutory Planner  
**TEL:** 9205 5352

**Attachments**

- 1 PLN19/0025 - 9 Kingston Street Richmond - IDAC Attachment - Locality Plan
- 2 PLN19/0025 - 9 Kingston Street Richmond - IDAC Attachment - Decision Plans
- 3 PLN19/0025 - 9 Kingston Street Richmond - IDAC Attachment - Survey Plan
- 4 PLN19/0025 - 9 Kingston Street Richmond - IDAC Attachment - Waste Management Plan
- 5 PLN19/0025 - 9 Kingston Street Richmond - IDAC Attachment - Landscape Plan
- 6 PLN19/0025 - 9 Kingston Street Richmond - IDAC Attachment - Swept Path Diagrams
- 7 PLN19/0025 - 9 Kingston Street Richmond - IDAC Attachment - Traffic Report
- 8 PLN19/0025 - 9 Kingston Street Richmond - IDAC Attachment - Planning Report
- 9 PLN19/0025 - 9 Kingston Street Richmond - IDAC Attachment - Shadow Study
- 10 PLN19/0025 - 9 Kingston Street Richmond - IDAC Attachment - Sustainability Management Plan
- 11 PLN19/0025 - 9 Kingston Street Richmond - IDAC Attachment - Council's ESD Advisor Referral Comments
- 12 PLN19/0025 - 9 Kingston Street Richmond - IDAC Attachment - Council's Open Space Unit Referral Comments
- 13 PLN19/0025 - 9 Kingston Street Richmond - IDAC Attachment - Council's Engineering Services Unit Referral Comments
- 14 PLN19/0025 - 9 Kingston Street Richmond - IDAC Attachment - Strategic Transport Unit Referral Comments
- 15 PLN19/0025 - 9 Kingston Street Richmond - IDAC Attachment - Shadow diagrams based on the decision plans (taking into account the extension under construction at No. 82 Brighton Street)
- 16 PLN19/0025 - 9 Kingston Street Richmond - IDAC Attachment - Sketch Plans (with associated 1pm and 2pm shadow diagrams)

- 
- 1.3 PLN19/0145 - 106 Queens Parade, Fitzroy North - Partial demolition to the existing dwelling for the construction of a ground and first floor extension, including alterations.**
- 

## **Executive Summary**

### **Purpose**

1. This report provides Council with an assessment of a planning permit application submitted for No. 106 Queens Parade, Fitzroy North VIC 3068, which seeks approval for partial demolition to the existing dwelling for the construction of a ground and first floor extension, including alterations. The report recommends approval, subject to conditions.

### **Key Planning Considerations**

2. Key planning considerations include:
- (a) Clause 32.09 – Neighbourhood Residential Zone (Schedule 1);
  - (b) Clause 43.01 – Heritage Overlay;
  - (c) Clause 54 – One dwelling on a lot (Rescode); and
  - (d) Clause 22.02 – Development guidelines for sites subject to the heritage overlay.

### **Key Issues**

3. The key issues for Council in considering the proposal relate to:
- (a) Clause 54 (Rescode);
  - (b) Heritage; and
  - (c) Objector concerns.

### **Submissions Received**

4. Seven objections were received to the application, these can be summarised as:
- (a) Impact on heritage streetscape and neighbourhood character;
  - (b) Built form (reduced amounts of site coverage and permeability not in keeping with the area, and non-compliance of side and rear setbacks); and
  - (c) Amenity impacts (visual bulk, loss of privacy and daylight).

### **Conclusion**

5. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported subject to the following key conditions:
- (a) the proposed upper level addition to be constructed with a finished height of no greater than 31.28 AHD.
  - (b) the finished floor level of the proposed front terrace to be at least 2m below the height of the proposed parapet.
  - (c) the boundary wall associated with the walk-in-pantry reduced to a maximum height of 3.2m above NGL and finished in a light coloured finish (e.g. light grey “RN”).

**CONTACT OFFICER:** Emily Zeng  
**TITLE:** Statutory Planner  
**TEL:** 03 9205 5363

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**1.3 PLN19/0145 - 106 Queens Parade, Fitzroy North - Partial demolition to the existing dwelling for the construction of a ground and first floor extension, including alterations.**

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Reference: D19/151156  
 Authoriser: Senior Coordinator Statutory Planning

**Proposal:** Partial demolition to the existing dwelling for the construction of a ground and first floor extension, including alterations.  
**Existing use:** Vacant derelict dwelling.  
**Applicant:** Adam Kane Architects  
**Zoning / Overlays:** Neighbourhood Residential Zone (Schedule 1)  
 Heritage Overlay (Schedule 327)  
**Date of Application:** 15 March 2019  
**Application Number:** PLN19/0145

**Background**

1. The subject site is situated on an allotment which is orientated in a south-east and north-west direction. For ease of assessment, the Groom Lane (rear) boundary will be referred to as north, the Queens Parade frontage will be referred to as south; the interface with No. 108 Queens Parade as east and the remaining interface with No. 104 Queens Parade as west.

**The Proposal**

2. The proposal is for partial demolition to the existing dwelling for the construction of a ground and first floor extension, including alterations. The proposal is summarised as follows:

Demolition

- (a) Rear portion of the existing dwelling incorporating the kitchen, dining and living area, as well as the bathroom and laundry;
- (b) Remaining roof over the kitchen, bathroom and laundry areas, as well as the remaining front bullnose verandah roofing;
- (c) Two existing chimneys within the living area and between the two bedrooms;
- (d) North-facing window within the northernmost bedroom and southern window in southernmost bedroom (including hoarding);
- (e) Internal sections of walls and doors within the two bedroom and entrance hall;
- (f) Rear 2.1m high timber board and paling fence and front 0.8m high woven wire fence;
- (g) Remove existing vegetation across site (no permit required);

Construction - Ground Floor

- (h) Construction of a double-storey extension to the rear of the existing heritage dwelling. The ground floor will contain a master bedroom with associated ensuite, wardrobe, powder room, and an open plan kitchen, dining and living area with an associated walk-in-pantry. Private open space (POS) is provided within the northern portion of the site and includes a paved courtyard, garden along the eastern boundary and a 2,000L rainwater tank which will be connected for sanitary purposes.
- (i) The ground floor extension will increase the length of the existing 20.48m long western boundary wall and 9.865 long eastern boundary wall by 2.24m and 2.8m respectively. The proposed eastern boundary wall will have a length of 2.8m with a maximum height of 3.503m above Natural Ground Level (NGL) associated with the proposed walk-in-pantry. Where not built on the eastern boundary, the ground floor extension will be setback between 0.9m and 1.943m from the eastern boundary. The dwelling will be setback 5.808m from the northern (rear) boundary which will be fenced with a 2.7m high fence and roller door.

- (j) With regards to the heritage façade of the dwelling; the façade brickwork, fenestration, verandah bullnose roofing and timber detailing will be reinstated to original conditions. Additionally as a result of a slope across the site, a new 1.2m to 1.5m high post and woven wire front fence with metal detailing will be constructed along the southern boundary to match the existing front fence at No. 108 Queens Parade.

#### Construction - First Floor

- (k) The first floor will contain two bedrooms, bathroom, laundry and a 'flexi-room' (multi-purpose living room) which provides direct access to a terrace which measures 3.2m wide and 6.3m long with a setback of approximately 4m from Queens Parade.
- (l) The first floor will be built to the eastern boundary for a length of 4.818m at a height of approximately 6.7m above NGL before a setback of between 0.9m and 1.943m. Along the western boundary, the first floor will be built for a length of 19.04m with a maximum height of 6.844m above NGL.
- (m) The first floor will cantilever 1.5m over the north-facing wall of ground floor and will be setback 4.548m from the northern boundary. The south-facing wall of the first floor will be setback 7.262m from the southern boundary. However, an approximately 0.26m wide roof eave will project into this setback.
- (n) A gable parapet will be constructed along the southern edge of the proposed terrace to match the design of the adjoining parapet at No. 108 Queens Parade. The parapet will have a height of between 1.45m and 1.76m above Finished Floor Level (FFL) of first floor.

#### Materials/Finishes

- (o) Walls – light grey and dark grey paint finish render;
- (p) Roofing – light grey roof sheeting and dark grey custom orb roof sheeting (verandah);
- (q) Parapet – red brick and dark grey paint finish render;
- (r) Windows – dark grey frames with clear or obscure glazing; and
- (s) Fencing – dark grey roller door and wire and post front fence to match No. 108 Queens Parade.

### **Existing Conditions**

#### Subject Site

3. The subject site is located on the north side of Queens Parade between Remy Lane to the east and Jamieson Street to the west, in Fitzroy North. The eastern and western boundaries of the site border two neighbouring dwellings whilst the northern boundary borders a 2.93m wide bluestone laneway.
4. The site is generally rectangular in shape with a slight kink along the western boundary. The site has a street frontage of 6.5m to Queens Parade and a depth of 30.48m along the eastern and western boundaries. The site has an overall area of 195sqm.
5. Occupying the site is a single-storey, Edwardian-era dwelling which was affected by a fire in 2012. As it currently stands, the dwelling's heritage façade survived and retains a bull-nose front verandah incorporating cast-iron detailing, decorative casement box windows and entry door glazing and side panel. Whilst, the dwelling's internal and external brick walls and chimneys have been retained, there is no roofing over the majority of the dwelling (except for the front verandah and rear portion of roofing over the existing kitchen, bathroom and laundry). Prior to the fire, the dwelling appeared to have a gable roof form with timber strap detailing facing Queens parade and a front fence similar to the woven wire front fence with metal detailing as No. 108 Queens Parade.



*Figure 1: View of subject site (Officer site photo 12 July 2019)*

6. The dwelling has a setback of between approximately 3.2m and 4.5m from Queens Parade which is bordered by an existing 0.8m high woven wire fence. The dwelling is built along the eastern boundary for a length of 9.88m before a setback of approximately 1.65m. The dwelling is built along the western boundary for a length of 20.51m with a maximum height of approximately 3.7m above Natural Ground Level (NGL). Private open space (POS) is located to the north (rear).
7. The Victorian Heritage Database notes that the building was constructed between 1900 and 1915, and is graded 'contributory' to the North Fitzroy Heritage Precinct (HO327).



*Figure 2: View of subject site from first floor balcony of No. 108 Queens Parade (Officer site photo 12 July 2019)*

#### Surrounding Land

8. The area immediately surrounding the subject site comprises an established residential area characterised by single and double-storey heritage dwellings with a number of contemporary ground and first floor extensions, as well as a number of modern in-fill developments.
9. To the north across Groom Lane is a single-storey Victorian-era dwelling which forms one of a row of four similar heritage buildings fronting Jamieson Street. The heritage dwelling is built along the laneway and incorporates three on-boundary windows providing daylight into a bedroom, bathroom and a living/kitchen area.
10. To the east is a single-storey Edwardian-era building with a contemporary ground and first floor extension approved by Planning Permit No. PLN11/0937. The building is split into two separate residences; one being located at ground floor and the other at first floor with POS located at the first floor terrace. The dwelling incorporates a similar heritage façade to that of the subject site, including bullnose verandah roof, cast-iron detailing, casement box windows and a recessed entry door.

The building is built along the eastern boundary for its entirety; (19.515m) and for a length of 12.48m along the common boundary with the subject site. The western boundary incorporates a light court measuring 7.82m long and 1.55m wide with south and west-facing habitable room windows. Private open space (POS) is provided at the rear of the site and includes a pergola measuring approximately 5.8m long and 1.6m wide built along the western boundary and a roller door along the northern boundary providing vehicle access into the site.

11. To the south is Queens Parade which is an approximately 60m wide major arterial road which consists of four lanes of traffic with service lanes and nature strips along the northern and southern sides.
12. To the west is a single-storey Edwardian-era dwelling which is located on a corner lot with frontages to both Queens Parade and Jamieson Street. The dwelling has undergone alterations and is identified as “not contributory” to the North Fitzroy Heritage Precinct. The dwelling (including rear garage) is built along the common boundary with the subject site for a length of approximately 28m. Vehicle access for the garage is provided by an existing crossover along Jamieson Street.

## Planning Scheme Provisions

### Zoning

#### *Clause 32.09 Neighbourhood Residential Zone (Schedule 1)*

13. Pursuant to the mandatory provisions within *Clause 32.09-4* of the Yarra Planning Scheme (the Scheme), an application to construct or extend a dwelling or residential building on a lot between 400 -500sqm must provide a minimum garden area of 25%. The subject site has an overall area of 195sqm; therefore does not require a minimum garden area of 25%.
14. Pursuant to *Clause 32.09-5* of the Scheme, a planning permit is required to construct or extend one dwelling on a lot less than 500sqm. As the subject is 195sqm, a planning permit is required and must meet the requirements of *Clause 54 (Rescode)*.
15. Pursuant to *Clause 32.09-10* of the Scheme, a building must not exceed nine metres and must not contain more than two storeys at any point. The proposed development will have two storeys with a maximum height of 6.844m and therefore complies with the maximum building height.

### Overlays

#### *Heritage Overlay (Schedule 327 – North Fitzroy Precinct)*

16. Pursuant to *Clause 43.01-1* of the Scheme, a planning permit is required to demolish a building and to construct a building or construct or carry out works, including fences.
17. The subject site is identified as being “contributory” to the North Fitzroy Heritage Precinct within the Incorporated Document *Appendix 8 to the City of Yarra Review of Heritage Areas, 2007*.

### Particular Provisions

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

18. Pursuant to *Clause 54* of the Scheme, the provisions apply to construct or extend a dwelling on a lot under 500sqm in a Neighbourhood Residential Zone.

### General Provisions

#### *Clause 65 – Decision Guidelines*

19. 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 provisions.

Planning Policy Framework (PPF)

*Clause 15.01-1 – Urban design*

20. The objectives of this clause are:

- (a) *To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity; and*
- (b) *To create a distinctive and liveable city with quality design and amenity.*

*Clause 15.01-2 – Building design*

21. The objective of this clause is:

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

*Clause 15.01-5 – Neighbourhood character*

22. The objective of this clause is:

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

*Clause 15.02-1 – Energy and resource efficiency*

23. The objective of this clause is:

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

*Clause 15.03 – Heritage*

24. The 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*

25. The relevant objective of this clause is:

- (a) *Objective 14 – To protect and enhance Yarra's heritage places.*

*Clause 21.05-2 – Urban design*

26. The relevant objectives of this clause are:

- (a) *Objective 16 – To reinforce the existing urban framework of Yarra.*
- (b) *Objective 20 – To ensure that new development contributes positively to Yarra's urban fabric.*

*Clause 21.08-8 – North Fitzroy*

27. The subject site is located within the North Fitzroy neighbourhood which 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. 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. Further south dwellings are more likely to be single fronted and one or two storeys."*

28. Figure 19, the built form character map, shows the subject site covered by a Heritage Overlay. The objective is to *"ensure that development does not adversely affect the significance of the heritage place"*.

#### Relevant Local Policies

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

29. This policy refers to an incorporated document "City of Yarra Review of Heritage Overlay Areas 2007", which identifies the level of significance of all buildings/sites within the Heritage Overlay. Specifically, the subject site is identified as 'contributory' to the North Fitzroy Heritage Precinct.

##### *Clause 22.02-5.1 – Demolition*

###### *Full demolition or removal of a building*

30. *Generally encourage the retention of a building in a heritage place, unless*  
(a) *The building is identified as being not contributory.*

##### *Clause 22.02-5.7 – New Development, Alterations or Additions*

31. The relevant policies of Clause 22.02-5.7.1 of the Scheme encourages the design of new development to a heritage place or a contributory element to:
- (a) *Respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape.*
  - (b) *Be articulated and massed to correspond with the prevailing building form of the heritage place or contributory elements to the heritage place.*
  - (c) *Be visually recessive and not dominate the heritage place.*
  - (d) *Be distinguishable from the original historic fabric.*
  - (e) *Not remove, cover, damage or change original historic fabric.*
  - (f) *Not obscure views of principle façades.*
  - (g) *Consider the architectural integrity and context of the heritage place or contributory element.*

32. *Front fences and gates*

###### *Encourage front fences and gates to be designed to (as relevant):*

- (a) *Be a maximum of 1.2 metres high if solid or 1.5 metres if more than 50% transparent (excluding fence posts).*

##### *Clause 22.07 – Development abutting laneways*

33. Clause 22.07 of the Scheme applies to applications for development that is accessed from a laneway or has laneway abuttal. The relevant objectives of the policy include:
- (a) *To provide an environment which has a feeling of safety for users of the laneway.*
  - (b) *To ensure that development along a laneway acknowledges the unique character of the laneway.*
  - (c) *To ensure that where development is accessed off a laneway, all services can be provided to the development*
  - (d) *To ensure that development along a laneway is provided with safe pedestrian and vehicular access.*

##### *Clause 22.16 – Stormwater management (Water Sensitive Urban Design)*

34. *Clause 22.16* of the Scheme applies to applications for extensions to existing buildings which are 50 square metres in floor area or greater. The relevant objective of the policy is:  
(a) *To promote the use of water sensitive urban design, including stormwater re-use.*

### **Advertising**

35. The application was advertised in accordance with Section 52 of the *Planning and Environment Act 1987*, by way of 9 letters sent to surrounding property owners and occupiers and the display of a sign along Queens Parade.
36. Seven (7) objections were received, and raised the following concerns:
- (a) Impact on heritage streetscape and neighbourhood character;
  - (b) Built form (reduced amounts of site coverage and permeability not in keeping with the area, and non-compliance of side and rear setbacks); and
  - (c) Amenity impacts (visual bulk, loss of privacy and daylight);
37. A planning consultation meeting was held on 18 June 2019 and attended by objectors, the applicant, and Council planning officers to discuss issues raised in the letters of objection. There was discussion between the applicant and objectors during and after the consultation meeting, with no changes made.

### **Referrals**

#### External Referrals

38. The application was not required to be referred to any external authorities under the Scheme.

#### Internal Referrals

39. The application was referred to Council's Heritage Advisor. The comments are located in the Appendix to this report.

## **OFFICER ASSESSMENT**

40. The primary considerations for this application are as follows:
- (a) Clause 54 (Rescode);
  - (b) Heritage; and
  - (c) Objector concerns.

#### Clause 54 – (Rescode)

41. The particular provision comprises 19 design objectives and standards to guide the assessment of new residential development. Given the site's location within a built up inner city residential area, strict application of the standard is not always appropriate, whether the proposal meets the objective is the relevant test. Where relevant, assessment will also be made in this section against Clause 22.07 (Development abutting laneways) and Clause 22.16 (Stormwater Management).

#### *Standard A1 – Neighbourhood Character*

42. The neighbourhood character is a mixture of substantially intact heritage dwellings with contemporary ground and first floor extensions located at the rear, as well as contemporary in-fill developments. The proposed double-storey extension to the rear of the existing Edwardian-era dwelling will continue to front Queens Parade. The dwelling will be built along the eastern and western boundaries with POS located within the northern portion. The uniform built form and single-storey façade representation along the northern side of Queens Parade between Jamieson Street and Remy Lane provides a consistent character to the immediate streetscape.

The proposed development continues the surrounding, established neighbourhood pattern of front garden setbacks and rear setbacks providing private open space (POS) along the northern portions of the adjoining dwellings.

43. While “heritage” will be considered separately later in the report, the neighbourhood character is largely defined by heritage fabric. The front façade of the existing heritage dwelling is proposed to be reinstated, drawing upon the existing dwelling and neighbouring dwelling (No. 108 Queens Parade) contributory elements, including fenestration, brickwork, front verandah and front fencing.
44. The contemporary design of the ground and first floor extension located at the rear of the existing Edwardian-era dwelling will be partially visible behind the Queens Parade frontage. The proposal incorporates design detailing such as simple, raked roof lines concealed behind straight parapets and glazing to the first floor façade, as well as contemporary building materials, i.e. rendering, metal roofing and roller doors. Overall, the contemporary design is considered appropriate to the subject site and the surrounding neighbourhood area as the extension will not result in unreasonable visual bulk from the street frontage subject to conditions.
45. With regards to Clause 22.07 (Development abutting laneways), the proposed extension to the rear of the existing dwelling will be setback 4.548m from the north (rear) boundary. As such no built form will be built to directly abut the laneway and will not obstruct existing access to other properties in the laneway. In terms of the surrounding built form, the 2.7m high rear fence and roller door will respect the scale and character of the laneway which consists of rear boundary fencing, walls, as well as outbuildings of dwellings fronting both Jamieson Street and Queens Parade.

*Standard A2 - Integration with the street*

46. The standard aims to integrate the layout of the development with the street. Under the proposal, the dwelling will continue to be orientated to directly face Queens Parade. The transparent design of front fence will provide direct views to the dwelling’s façade and will promote passive surveillance of the public realm.

*Standard A3 – Street setback*

47. This will not be altered from the existing setback.

*Standard A4 – Building height*

48. The maximum height of the double-storey extension will be 6.844m above NGL which is below the maximum height of 9m allowed by the zone; Neighbourhood Residential Zone (Schedule 1).

*Standard A5 – Site coverage*

49. The objectives states “to ensure that the site coverage respects the existing or preferred neighbourhood character and responds to the features of the site”. The standard for site coverage states that the coverage should not exceed 60%. The proposal increases site coverage from 59.5% (116sqm) to 69.7% (136sqm) which exceeds the standard.
50. Although the proposal exceeds the standard, it is an acceptable variation given the context of the site within an inner urban environment with smaller lot sizes, where site coverage is often between 60% and 80%. The subject site has narrow dimensions of 6.5m wide and 30.48m long which constrains the ability to provide less site coverage. However, the ground and first floor extension to the rear of the remaining dwelling will continue to reflect similar rear setbacks within the surrounding area.

51. With regards to the wider neighbourhood context, surrounding lots feature similar and/or greater levels of coverage to that of the proposal. The property directly to the east at No. 108 Queens Parade has a site coverage of approximately 78%. No. 104 Queens Parade to the west has a site coverage of approximately 81% and No. 1 Jamieson Street to the north has a site coverage of approximately 77%.

*Standard A6 – Permeability*

52. The standard for permeability states that the site area covered by pervious surfaces should be at least 20% of the site. Permeable surfaces will be provided within the front garden setback and within the garden and planting areas along the eastern boundary. The proposal will decrease site permeability from 37.4% (73sqm) to 14.8% (29sqm) which is less than the requirement of the standard. It is unclear on the plans if the paving within the rear private open space is permeable. In the event the courtyard consists of permeable pavers, the site permeability will increase to approximately 29% (57sqm) which would meet the standard. Therefore, a condition will require the floor plan to detail the area permeable surfaces shown to 80% of site as per Clause 54.03-4 (permeability objectives) of the Yarra Planning Scheme.



*Figure 3: Nos. 104, 108 and 114 Queens Parade and Nos. 1 and 2 Jamieson Street shown in red (Council GIS – December 2018)*

53. Clause 22.16 (Stormwater Management (Waster Sensitive Urban Design)) of the Scheme applies to this application as the proposed extension is greater than 50sqm in area. The proposed ground floor plan indicates that there will be a 2,000L rainwater tank along the eastern boundary within the POS which will be utilised for sanitary purposes (although it also notes this as indicative in size). However, the Melbourne Water STORM report provided indicates the installation of a 1,700L rainwater tank which will achieve a STORM rating of 100% for the site. Although there is inconsistency between the plans and STORM rating report, given the 1,700L rainwater tank achieves a STORM rating of 100%, the 2,000L tank will result in an improved STORM rating which is appropriate. However, a condition will require the tank to be shown accurately on plans the notation states the size is “shown indicatively”.

*Standard A7 – Energy efficiency protection*

54. The standard for energy efficiency aims to achieve and protect energy efficient dwellings and to ensure the orientation and layout of developments reduces fossil fuel energy usage and makes appropriate use of daylight and solar energy.
55. The layout of the dwelling utilises the northern aspect of the site by locating the ground floor living areas and the POS towards the rear of the site. The open plan kitchen, dining and living area will be provided with 8.1m and 4.6m wide sliding glazing along the eastern and northern wall respectively. The sliding glazing which will open onto the planting zone to the east and the POS to the north will provide adequate amounts of natural daylight and ventilation into the habitable space. However, a section of first floor measuring 1.5m long and 5m wide with a maximum height of 3m above NGL will cantilever over the rear (north-facing) glazing at ground floor. Although the first floor will project over the north-facing glazing, the amount of natural daylight will not be unreasonably reduced given the overall extent of glazing proposed along the eastern and northern walls of the ground floor habitable space. Additionally, the built form over the glazing will provide protection from solar heat gain (particularly during the hot summer months) which will reduce the dwelling's reliance on artificial cooling.
56. At ground floor, the master bedroom will be provided adequate amounts of natural daylight from the reinstated, south-facing box casement windows along the dwelling's heritage façade.
57. Both bedroom windows at first floor will be provided with operable windows which will provide adequate natural daylight and ventilation into the rooms. Located to the southern portion of the first floor is a Flexi-Room which incorporates 6m wide sliding glazing providing access to the first floor terrace. The south-facing glazing will provide adequate natural daylight and ventilation into the space.
58. With regards to existing rooftop solar energy facilities, there are two existing solar hot water units located on the eastern-edge of the adjoining roofing at No. 108 Queens Parade. According to the standard, *buildings should be sited and design to ensure that the performance of existing rooftop solar energy facilities on dwelling on adjoining lots in a General Residential Zone, Neighbourhood Residential Zone or Township Zone are not unreasonably reduced.*
59. As shown on the submitted shadow diagrams, the proposed double-storey development will not overshadow the existing solar facilities which will continue to receive full solar access during the day. Therefore, it is considered that the energy efficiency of adjoining dwelling will not be significantly affect as a result of this proposal.

*Standard A8 – Significant trees*

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

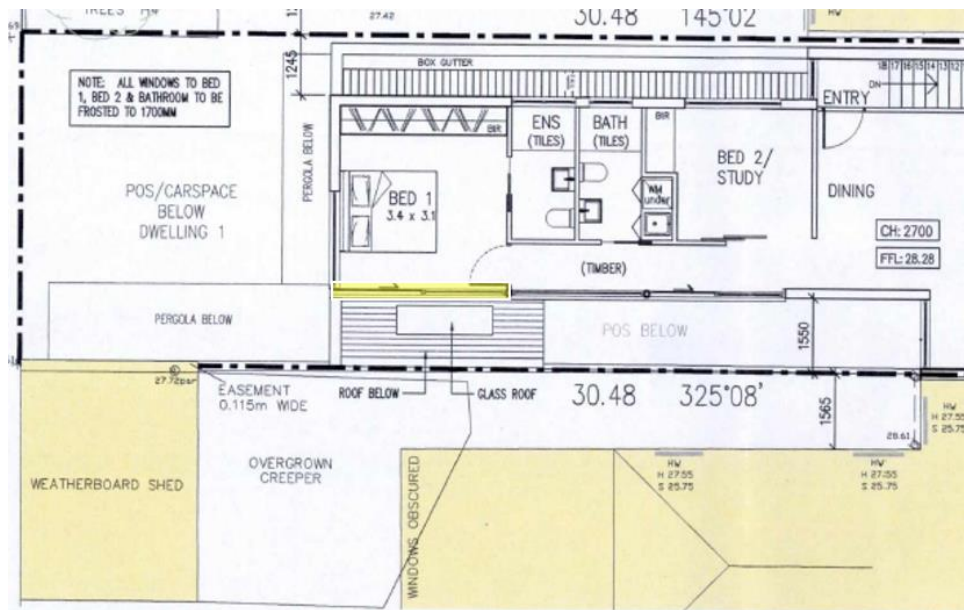
*Standard A10 – Side and rear setbacks*

61. The standard requires a building not on or within 200mm of a boundary to be setback from the side or rear boundaries 1m, plus 0.3m for every metre of height over 3.6m up to 6.9m, plus 1m for every metre of height over 6.9m.
62. As shown in the table below, the proposed setbacks from the northern and eastern wall (with setback of 1.943m) will comply with the requirements of the standard however, the proposed 0.9m setback for the double-storey high portion of eastern wall will not comply.

	Setback Provided	Wall Height	Setback Required	Complies?
Ground floor- northern wall of dining area	5.808m	3m	1m	Yes
First floor – northern wall of Bedroom 2	4.548m	6.65m	1.915m	Yes

Ground and First floor – eastern wall of dining/living area, Bedroom 2 and Bath.	0.9m	6.7m - 6.844m	1.93m - 1.9732m	No
Ground and first floor – eastern wall of staircase, Bedroom 3 and laundry	1.943m	6.7m	1.93m	Yes

63. From the eastern boundary, the ground floor wall fails to comply by 0.1m and the first floor wall fails to comply by 1.0732m.
64. At ground floor, the proposed setback of 0.9m from the eastern boundary is considered acceptable as the wall will directly face an existing 3.21m high boundary wall of No. 108 Queens Parade. Whilst an approximate 3.1m long southernmost section of wall will face an existing 2.5m high boundary fence and light court of No. 108 Queens Parade, the ground floor wall will not result in unreasonable impacts as the wall will have an overall setback (including the 1.55m setback of the No. 108 Queens Parade) of 2.45m from the western wall of the adjoining property.
65. The eastern wall at first floor will directly face the western wall of No. 108 Queens Parade which includes windows to a hallway and to a habitable room window of Bed 1 with fixed obscure glazing to a height of 1.7m above finished floor level, as shown below.



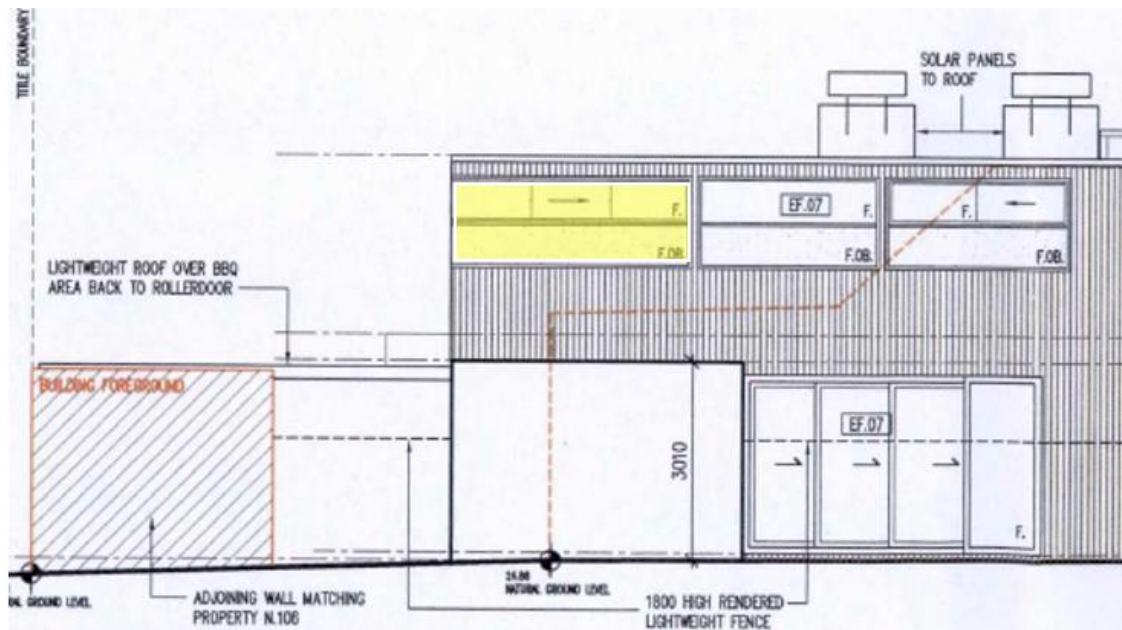


Figure 4: First floor plan and elevation showing Bedroom 1 glazing – floor plan (top) & western elevation (bottom) (Council Endorsed Plan PLN11/0937)



Figure 5: North-west-facing view of first floor Bed 1 at No. 108 Queens Parade (Officer site photo 12 July 2019)

66. Although there is a west-facing habitable room window of a first floor bedroom at No. 108 Queens Parade, the window is located approximately 1.55m from the common boundary with an overall setback 2.45m from the proposed eastern wall of the development which would exceed the required setback if taking the sites together. The variation in the setback requirement will not result in unreasonable visual bulk and amenity impacts given the bedroom has dual aspect and is provided north-facing glazing out towards the rear POS. As such, the habitable room will continue to receive adequate amounts of daylight access and be provided reasonable amenity for current and future occupants.

#### Standard A11 – Walls on boundaries

67. The standard for walls on boundaries states that the permissible length of walls along the eastern and western boundary must not exceed a total length of 15.12m (for a title length of 30.48m), unless abutting a simultaneously constructed wall. In terms of height, the proposed wall must not exceed an average of 3.2m and a maximum of 3.6m unless abutting a higher or simultaneously constructed wall on an adjoining lot.

#### Eastern Wall

68. The total length of wall along the eastern boundary will be 12.665m which complies with the permissible length of the standard. With regards to height, the average height of existing and proposed walls along the eastern boundary will be approximately 4.9m with a maximum height of 6.8m above NGL which exceeds the height requirements of the standard.
69. Under the proposal, the existing 9.865m length of ground floor, on-boundary wall will be retained. However, as a result of the proposed first floor extension, this portion of existing boundary wall will be extended in height to a maximum of 6.8m above NGL which will be built to directly abut an existing approximately 6.9m high boundary wall of No. 108 Queens Parade. The proposed wall will not extend beyond the length and height of the existing southern portion of boundary wall of the adjoining dwelling and is therefore acceptable.
70. At ground floor, the application seeks to build a new on-boundary wall measuring 2.8m long with a maximum height of 3.503m above NGL associated with a walk-in-pantry. The wall will be built directly adjacent the existing light court of No. 108 Queens Parade and will protrude 0.503m above the existing boundary fence height of 2.55m above NGL. The light court incorporates floor-to-ceiling high glazing providing natural daylight into the dual aspect habitable room of the adjoining property which also has north-facing glazing.



*Figure 6: View of light court from ground floor glazing of No. 108 Queens Parade (Officer site photos 12 July 2019)*

71. Although boundary walls are a part of the neighbourhood character, the proposed amenity impacts of such additions need to be considered, including visual bulk and amenity impacts, as well as the *opportunity to minimise the length of walls on boundaries by aligning a new wall on a boundary with an existing wall on a lot of an adjoining property*. The adjoining property at No. 108 Queens Parade incorporates a 4.43m long and 3.21m high western boundary wall towards the rear of the site which provides the subject site the opportunity to build boundary-to-boundary.
72. With regards to visual bulk and amenity impacts, the proposed wall will protrude 0.953m above the existing 2.55m high boundary fence and will be finished in a dark grey render. The boundary wall will create visual bulk impacts when viewed from the adjoining habitable room windows at ground floor. Given the height of the proposed walls exceed the average height of 3.2m and a maximum height of 3.6m above NGL, and is associated with a pantry (non-habitable room), a condition will require the boundary associated with the pantry to be reduced to a maximum height of 3m above NGL and consist of a light coloured finish (e.g. light grey "RN") to comply with the standard and to lighten the aspect (i.e. not dark grey) to improve daylight.
73. As a result of the condition, the wall will protrude only 0.5m above the height of the existing boundary fence and incorporate a lighter finish than the proposed dark grey which will reduce its dominance along the boundary.

Given the adjoining ground floor habitable room is dual aspect, the reduction of eastern boundary wall will continue to allow adequate amounts of natural daylight into the habitable room and will provide a usable space for its occupants.

### Western Wall

74. The existing length of western boundary wall is approximately 20.481m and the existing height is approximately 3.7m above NGL. Under the proposal, the development will increase the length to 24.021m and increase the height to a maximum of 6.8m above NGL which does not comply with either the length or height requirements of the standard.
75. Although the western wall exceeds the length and height requirements of the standard, it is considered to be an acceptable variation given the wall will directly face the single-storey roof of the adjoining property and outbuilding to the west (No. 104 Queens Parade) which is built to directly abut the common boundary. However, a 1.1m long and 6.8m high portion of boundary wall will face a 2.46m high brick fence and roofed walkway area between the adjoining property and its outbuilding as shown below. The roofed walkway has a gap of approximately 0.2m from the 2.46m high brick fence and from the outbuilding to the north which will partially conceal views of the proposed western boundary wall from view.

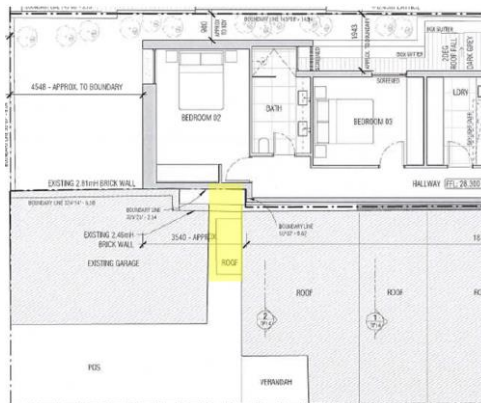


Figure 7: Location of walkway shown in yellow (Applicant submission – advertised plans)

76. Based on the above, the ground floor wall which projects 2.247m beyond the rear wall of No. 104 Queens Parade at a height of 3.4m above NGL of the adjoining site is considered acceptable. In addition, the proposed first floor wall is considered acceptable as there is no secluded private open space located directly to the west of the wall as a result of existing built form on No. 104 Queens Parade. Furthermore, the proposed wall will result in limited amenity impacts such as overshadowing which will be discussed later in the assessment.

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

77. The standard stated that development is to continue to allow adequate daylight into existing habitable room windows. Under the standard, *buildings opposite an existing habitable room window should provide for a light court to the existing window that has a minimum area of 3 square metres and minimum dimension of 1 metre clear to the sky. The calculation of the area may include land on the abutting lot.*
78. No. 108 Queens Parade to the east of the subject site incorporates existing habitable room windows at both ground and first floor which face onto the proposed development. For the residence at ground floor, the south and west-facing habitable room windows within the light court will continue to be provided adequate amounts of natural daylight in accordance with the requirements of the standard as the existing light court measures 7.82m long and 1.55m wide with an area of 12.12sqm.

79. For the residence at first floor, the west-facing windows within the northernmost habitable room will continue to be setback 1.55m from the common boundary and be clear to the sky. Additionally, as shown in the figure below, the bedroom is provided with dual aspect windows to the north and west which will continue to allow adequate amounts of daylight to filter into the space.

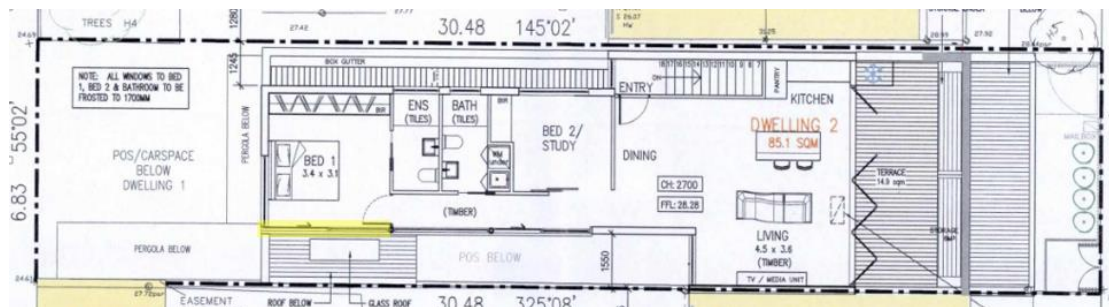


Figure 8: Yellow highlight showing location of west-facing habitable room windows at first floor of No. 108 Queens Parade (PLN11/0937 Endorsed Plans)

#### Standard A13 – North-facing windows

80. This standard is not applicable as there are no north-facing habitable room windows within 3m of the subject site.

#### Standard A14 – Overshadowing open space

81. The standard for overshadowing states *where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75%, or 40sqm with minimum dimension of 3m, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9am and 3pm on 22 September. And if existing sunlight to the secluded private open space of an existing dwelling is less than the requirement of this standard, the amount of sunlight should not be further reduced.*
82. The subject site is orientated in a south-east and north-west direction and as such, causes shadows over No. 104 Queens Parade in the morning and over Queens Parade and No. 108 Queens Parade in the afternoon. The standard protects only secluded private open space (SPOS) from shadows.
83. The development casts additional shadows over the POS of No. 104 Queens Parade between the hours of 9am and 10am. This is the only dwelling which is impacted by the proposed development.
84. At 3pm, the development will only cast shadows within the western boundary light court of No. 108 Queens Parade. Whilst the light court has direct access from a living area, it does not meet the minimum dimension of 3m at the side of the dwelling, and as such only the primary SPOS which is located at the rear of the property will be considered under this standard.

Time	Shadowed (Existing)	Additional Shadow	Shadowed (Proposed)
9am	23sqm (96.6%)	0.8sqm	23.8sqm (100%)
10am	22.6sqm (80.2%)	1.2sqm	23.8sqm (100%)
11am	23.8sqm (100%)	0sqm	Per existing
12pm	15.9sqm (66.8%)	0sqm	Per existing
1pm	12sqm (50.4%)	0sqm	Per existing
2pm	10.5sqm (44.1%)	0sqm	Per existing
3pm	15.8sqm (66.3%)	0sqm	Per existing

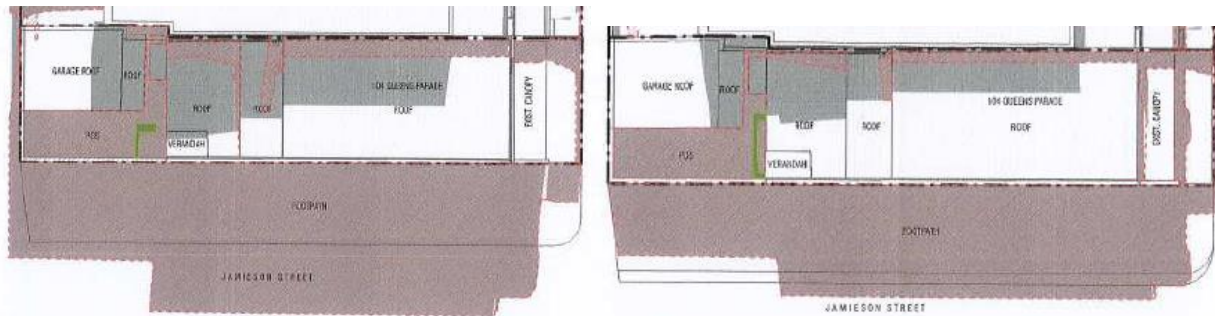


Figure 9: Additional overshadowing shown in green at 9am and 10am (Applicant submission – advertised plans)

85. From the table above, the proposed development will only impact No. 104 Queens Parade to the west of the subject site between the hours of 9am and 10am. The SPOS of No. 104 Queens Parade consists of 23.8sqm and is already heavily shadowed between the hours of 9am and 12noon by the existing built form (dwelling, 2.46m high fence and outbuilding) on the site.
86. The proposed development will increase overshadowing by 0.8sqm and 1.2sqm within the south-western portion of the SPOS. Under existing conditions, the small amounts of sunlight penetrating through the gaps of built form would not provide substantial areas of sunlight for occupants to utilise as shown in the figure above. Although the proposed extent of shadowing between 9am and 10am does not meet the standard, it is considered acceptable as the reduction would not significantly affect the existing use of the SPOS during those morning hours.
87. At 11am, No. 104 Queens Parade already experiences 100% overshadowing from existing built form on site. From 12noon onwards, the SPOS will gradually receive increased amounts of solar access and will continue to be a useable space for its occupants.

#### Standard A15 – Overlooking

88. The standard for overlooking requires a habitable room window, balcony, terrace, deck or patio to be located and designed to avoid direct views within 9m and a 45 degree arc into the secluded private open space (SPOS) and habitable room windows of an existing dwelling.
89. The proposed double-storey high, east-facing window within the stairwell is not required to be screened as a stairwell is not a habitable space.
90. At ground floor there are proposed east and north-facing glazing within the ground floor open plan kitchen, dining and living area. These windows will not provide any overlooking opportunities into any adjoining areas of POS or habitable room windows as the existing boundary brick walls and fencings in excess of 1.8m along the eastern and western boundaries will suitably restrict views given the floor level is less than 0.8m above NGL.
91. At first floor, the east and north-facing windows within Bedroom 2 and 3 will be screened with obscure glazing to a height of 1.7m above FFL. However, the habitable room windows are shown to be operable which may allow for overlooking opportunities. As such, a condition will require all first floor habitable room windows to be screened in accordance with the objectives of Clause 54.04-6 (overlooking objectives) of the Yarra Planning Scheme.
92. With regards to the first floor terrace, it is unclear as to the height of the boundary wall between the subject site's terrace and that of the adjoining property. As such, overlooking to the terrace and south-facing glazing of No. 108 Queens Parade may occur. A condition will require the first floor terrace to be screened in accordance with the objectives of Clause 54.04-6 (overlooking objectives) of the Yarra Planning Scheme.

#### Standard A16 – Daylight to new windows

93. The standard for daylight to new windows requires new habitable room windows to receive adequate amounts of daylight access. Under the proposed development, there are two habitable room windows at ground floor which will not be provided an outdoor space clear to the sky as a result of built form protruding over the windows.
94. The reinstated south-facing habitable room window within the ground floor master bedroom will continue to have a 1.8m long front bullnose verandah cantilevering over at a height of 2.1m above FFL. Given the habitable room window and verandah are existing elements along the heritage façade which will be reinstated, the master bedroom will continue to allow natural daylight to filter through as per existing conditions.
95. The north-facing sliding glazing within the open plan kitchen, dining and living area at ground floor will have a 1.5m wide and 6m long portion of first floor cantilevering over at a height of 3m above NGL. Although the extended built form reduces the amount of daylight access into the space, given the glazing is north-facing and is floor-to-ceiling in height, the amount of daylight will not be significantly reduced. In addition, the habitable space will also be provided with 8.1m long floor-to-ceiling high glazing along the eastern wall which will provide the room with dual aspect windows and additional daylight.
96. The south-facing sliding glazing within the flexi-room at first floor will have an approximately 0.3m wide and 6m long portion of roofing cantilevering over at a height of 2.7m above FFL. Although the window is south-facing, the proposed roofing will not significantly reduce the amount of daylight into the room given the extent of glazing proposed. As such, the habitable room will be provided adequate amounts of daylight access.
97. All other new windows associated with the proposed dwelling will be clear to the sky and will receive adequate daylight and thereby comply with the requirements of this standard.

*Standard A17 – Private open space*

98. The standard for private open space (POS) states that a dwelling should have POS consisting of an area of 80sqm or 20% of the area of the lot, whichever is the lesser, but not less than 40sqm with a minimum of 25sqm of secluded private open space. Private open space is provided within two sections of the proposed dwelling; the northern portion of the site (which is accessible from the ground floor open plan kitchen, dining and living area) and the first floor terrace (which is accessible from the Flexi-Room). Under the proposal, POS will comprise 24.2% (47.2sqm) which exceeds the requirement of the standard. In the event the Flexi-Room is utilised for another purpose, the open space located at ground floor will provide 29sqm of secluded private open space which exceeds the minimum 25sqm under the standard.

*Standard A18 – Solar access to open space*

99. This standard is not applicable to extensions to a dwelling.

*Standard A19 – Design detail*

100. The standard for design detail encourages development to be designed to respect the existing or preferred neighbourhood character including, façade articulation, window and door proportions, roof form and verandah, eaves and parapets.
101. The material palette proposed for the double-storey dwelling is simple and does not contain a large number of materials, with light and dark grey rendering being the predominant component, as well as other materials such as dark grey window framing and a dark grey front fence to match the adjoining fence at No. 108 Queens Parade.

102. The development proposes to reinstate the ground floor front façade of the heritage dwelling to its original condition as the existing façade has been damaged by fire. The existing heritage elements, including the box casement windows, front verandah and front fence will reflect the existing neighbourhood character.
103. The design of the extension is contemporary in nature and draws upon the existing contemporary addition on the adjoining property at No. 108 Queens Parade with regards to building heights, setbacks, fenestrations and materiality.
104. Overall, it is considered that the dwelling provides an appropriate built form.

#### *Standard A20 – Front fences*

105. The standard encourages front fences within 3m of a street to respect the existing or preferred neighbourhood character and have a maximum height of 1.5m.
106. The application proposes the construction of a 1.2m – 1.5m high post and woven wire front fence with metal detailing to match the existing front fence at No. 108 Queens Parade. Given the proposed fence height and style, the front fence is considered to comply with the standard. However, a further assessment will be made within the heritage assessment component of the report.

#### Heritage

107. The decision guidelines from Clause 43.01-4 (Heritage Overlay) and policy from Clause 22.02 (Development Guidelines for Sites Subject to the Heritage Overlay) of the Scheme are used to assess the proposed works, in-order to ensure that there is consistency achieved with the heritage values of the surrounding area.

#### *Demolition*

108. Clause 22.02-5.1 of the Scheme *generally discourage the demolition of part of an individually significant or contributory building or removal of contributory elements unless:*

##### *For a contributory building:*

- *that part is not visible from the street frontage (other than a laneway), abutting park or public open space, and the main building form including roof form is maintained; or*
- *the removal of the part would not adversely affect the contribution of the building to the heritage place.*

109. The subject site is identified as 'contributory' to the North Fitzroy Precinct and the proposed extent of demolition would remove all remaining built structures (left after the fire) beyond the depth of the original two front rooms, including the existing chimneys and the hoarding fence at the rear of the site. Under the proposal, the demolition works are considered acceptable as the majority of works proposed are located beyond the principle façade. The extent of demolition proposed would not adversely affect the contribution of the 'contributory' graded dwelling to the surrounding heritage precinct as no works will involve the removal of heritage elements which are mostly found on the façade of the dwelling; except for the proposed works to reinstate the front façade and front fence. In addition, Council's Heritage Advisor is supportive of the extent of demolition to the heritage dwelling.
110. However, the demolition works located within the north-western corner of the existing kitchen at ground and roof level are shown outside of title boundaries. Therefore a condition will require the demolition plan to show all works within title boundaries.

#### *Proposed Works*

111. Clause 22.02-5.7 of the Scheme 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.
112. As mentioned, the existing Edwardian-era dwelling was previously damaged by fire and the original gable with timber straps has been lost. The application proposes the construction of a parapet to the top of the remaining ground floor façade to match the parapet of No. 108 Queens Parade. Although it would be an ideal heritage outcome to reconstruct the decorative gable roof, Council's Heritage advisor acknowledged that the proposed construction of the parapet to match the existing parapet of No. 108 Queens Parade would result in the visual unification of the two properties which are similar along their ground floor façades (i.e. box casement windows, recessed entryway, garden setbacks and front verandah). Furthermore, Council's Heritage Advisor stated that the unification of the two properties with matching parapets would result in a stronger contribution to the street than the current mismatch of three originally matching dwellings between Nos. 104 and 108 Queens Parade.
113. The proposed first floor addition is sited behind the proposed parapet and principle façade. The submitted sightline diagrams demonstrate that the first floor addition will not be visible on the service lane nature strip. This is not strictly in accordance with Figure 2 guidelines provided by Clause 22.02-5.7.1, as the sightline should be measured from the opposite side of Queens Parade however, measuring from this location is impractical as Queens Parade is 60m wide and there are significant canopy trees directly out the front of the subject site that obstruct views to the dwelling. The siting of the first floor addition is considered acceptable as it will be generally concealed from the principle street. However, there will be some degree of visibility due to the height of the development when viewed from the Queens Parade service road and from the west over the single-storey built form of No. 104 Queens Parade.
114. With regards to scale and built form height, Clause 22.02-5.7.1 encourages *similar façade heights to the adjoining contributory elements in the street. Where there are differing façade heights, the design should adopt the lesser height.* The proposed development will have a finished height at 31.55 AHD which will be 0.11m less than the adjoining property to the east at No. 108 Queens Parade (31.66 AHD). As discussed by Council's Heritage Advisor, the endorsed plans for No. 108 Queens Parade [PLN11/0937] show that the addition should only have a height at 31.28 AHD. As such, the development has been constructed 0.38m higher than what was approved and a reduction of this height would reduce the visibility of the first floor addition behind the ground floor heritage façade. Council's Heritage Advisor goes on to further state that *"the original plans for the addition at no.108 showed a finished height for the addition at 30.98 AHD that would have been almost completely concealed from the street (refer to red line on image below). On this basis there were no heritage concerns. Due to subsequent amendments and the unauthorised additional height, the upper floor addition is currently 0.68m higher than that suggested by Figure 2 of the heritage policy. Thus the addition is now very visible from the street (refer to image below)."*



Above: Image showing the existing extent of visibility to upper floor addition to no. 108. Dotted red line indicates the originally proposed finished height of upper floor addition.

*Figure 10: Street view of Nos. 106 & 108 Queens Parade (Council's Heritage Advisor comments)*

115. Given the dwelling is identified as 'contributory' to the North Fitzroy Precinct and maintains contributory elements along the front façade, the design of the first floor extension is required to be recessive and not dominate the heritage place. Therefore in order to minimise the view of the contemporary first floor extension along Queens Parade, the first floor is to be reduced to a maximum height of 31.28 AHD.
116. With regards to setbacks from Queens Parade, the proposed development at ground floor will not be visible from the principle street and will have no impact on the appearance of the heritage building. At first floor, the proposed front setback of 6.99m from Queens Parade will be in line with the existing first floor setback of the adjoining development to the east at No. 108 Queens Parade. In addition the lack of side setbacks along the first floor façade will create a consistent frontage with the adjoining addition. Council's Heritage Advisor is supportive of the proposed setback of first floor from Queens Parade.
117. *Clause 22.02-5.7.2 discourages encourages 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.*
118. The development proposes the construction of a first floor terrace to match the adjoining first floor terrace at No. 108 Queens Parade which according to endorsed plans PLN11/0937 has a parapet with a maximum height of 1.95m above finished terrace level. The proposed parapet on the subject site will have a minimum height of approximately 1.5m and a maximum height of 1.76m above FFL. As a result of triangular pitched parapet, oblique views of activity on the proposed first floor terrace will be visible from the street. The minimum height of approximately 1.5m above FFL along the eastern and western edges would not suitably conceal views of activity and any outdoor paraphernalia (e.g. umbrellas, outdoor heater, etc.) would be visible from the street. Council's Heritage Advisor considered the proposed terrace to be acceptable as it will match the existing terrace of No. 108 Queens Parade however, has recommended that the proposed floor level of the terrace should be no less than 2m from the height of the proposed parapet in order to conceal views of any activities. This recommendation will be conditions to ensure concealment of activity on the proposed terrace.
119. The proposal seeks to reinstate the ground floor heritage façade to original conditions. The applicant provided a detailed heritage façade treatment which has been assessed and considered acceptable by Council's Heritage Advisor. The proposed works are considered acceptable as the works will match the original details and will recreate and refurbish the original contributory elements which have been damaged by the fire.
120. *Clause 22.02-5.7.2 (Front fence and gates) encourages front fences to be consistent with the architectural period of the heritage place or contributory element to the heritage place.* The existing dilapidated 0.8m high woven wire fence will be replaced with a 1.2m -1.5m high post and woven wire fence with metal detailing to match the original fence onsite and the front fence of No. 108 Queens Parade. The proposed fence will continue to allow views of the heritage façade and is considered to be consistent with the architectural period of the Edwardian-era dwelling. Additionally, the proposed front fence was considered acceptable by Council's Heritage Advisors.
121. As described earlier within the report, the area immediately surrounding the subject site comprises an established residential area characterised by single and double-storey heritage dwellings with a number of contemporary ground and first floor extensions, as well as a number of modern in-fill developments. Whilst the majority of dwellings in the area are from the Victorian and Edwardian eras, there are a number of examples of contemporary ground and first floor additions and multi-storey modern apartment and townhouse buildings utilising various building materials.

The proposed contemporary design and use of contemporary materials is considered acceptable as it will provide a distinction between the original fabric of the heritage dwelling and modern interventions as currently proposed.

122. Overall, the proposed development including works to the front heritage façade and contemporary addition are considered acceptable and will not adversely impact the wider heritage precinct. The proposal appropriately responds to the surrounding heritage streetscape in terms of façade fenestrations and contributory elements along Queens Parade. With regards to materials, the dwelling does not contain a large number of materials, with light and dark rendered walls being the predominant component, as well dark grey window trimmings, front fence and verandah.
123. However, there are inconsistencies with the proposed elevations and the material schedule. Materials “CL” labelled on the rear boundary fencing (*Proposed North-West Elevation – Laneway*) and Material “MT” to the north-facing wall of the pantry (*Section B*) are not detailed within the material schedule. Material “FC” is not notated on the proposed elevations and material “E.BK”/“E.BR” are inconsistently labelled across the elevations and material schedule. Therefore a condition will require the materials schedule to show “CL” and “MT” material and colour; deletion of “FC”; and “E.BR” shown on legend (not “E.BK”).
124. On this basis, the proposal appropriately responds to the particular requirements 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.

#### Objector Concerns

125. The majority of issues associated with the objector concerns have been discussed throughout this report.
126. *Impact on heritage streetscape and neighbourhood character.*

Issues associated with heritage streetscape and neighbourhood character have been discussed earlier within this report (paragraphs 42-45, 100-122).

127. *Built form (reduced amounts of site coverage and permeability not in keeping with the area, and non-compliance of side and rear setbacks).*  
Issues associated with built form have been discussed earlier within this report (paragraphs 49-51, 52-53, & 61-66).
128. *Amenity impacts (visual bulk, loss of privacy and daylight).*  
Issues associated with amenity impacts have been discussed earlier within this report (paragraphs 67-76, 77-79, 81-87 & 88-92).

#### **Conclusion**

129. The proposal demonstrates an acceptable level of compliance with the policy requirements outlined in the Yarra Planning Scheme. Based on the report, the proposal is considered to generally comply with the relevant policies of the Yarra Planning Scheme and is recommended for approval subject to conditions.

#### **RECOMMENDATION**

That having considered all relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant a Planning Permit PLN19/0145 for partial demolition to the existing dwelling for the construction of a ground and first floor extension, including alterations at 106 Queens Parade, Fitzroy North VIC 3068, in accordance with the plans and reports received by Council (on 15 March 2019 , 15 April 2019 and 16 April 2019) and subject to the following conditions:

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans but modified to show:
  - (a) Demolition plan to only show works within title boundaries;
  - (b) The proposed upper level addition to be constructed with a finished height of no greater than 31.28 AHD;
  - (c) The finished floor level of the proposed front terrace to be at least 2m below the height of the proposed parapet;
  - (d) The boundary wall associated with the walk-in-pantry reduced to a maximum height of 3.2m above NGL and finished in a light coloured finish (e.g. light grey "RN");
  - (e) All habitable room windows and first floor terrace to be screened in compliance with Clause 54.04-6 (overlooking objectives) of the Yarra Planning Scheme;
  - (f) Rainwater tank size to be shown accurately on plans (not "indicatively");
  - (g) Detail of permeable surfaces shown to 80% of site as per Clause 54.03-4 (permeability objectives) of the Yarra Planning Scheme; and
  - (h) Materials schedule to show "CL" and "MT" material and colour; deletion of "FC"; and "E.BR" shown on legend (not "E.BK").
2. The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. Within 2 months of the works being completed, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
4. Within 2 months of the works being completed, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
5. Within 2 months of the works being completed, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority.
6. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
  - (a) Monday-Friday (excluding public holidays) before 7 am or after 6 pm;
  - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm; or
  - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.
7. This permit will expire if:
  - (a) the development is not commenced within two years of the date of this permit; or

(b) the development is not completed within four years of the date of this permit.

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

**Notes:**

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

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

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

**CONTACT OFFICER:** Emily Zeng  
**TITLE:** Statutory Planner  
**TEL:** 03 9205 5363

**Attachments**

- 1 PLN19/0145 - 106 Queens Parade Fitzroy North - Subject Land
- 2 PLN19/0145 - 106 Queens Parade Fitzroy North - S52 Advertising Plans
- 3 PLN19/0145 - 106 Queens Parade Fitzroy North - Heritage advice