



Agenda – Part 1

Planning Decisions Committee

6.30pm, Wednesday 12 May 2021

Richmond Town Hall

The Planning Decisions Committee

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

Participating in the Meeting

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

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

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

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

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

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

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

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

Arrangements to ensure our meetings are accessible to the public

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

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

1. Appointment of Chair

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

2. Statement of recognition of Wurundjeri Woi-wurrung Land

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

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

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

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

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

3. Attendance, apologies and requests for leave of absence

Anticipated attendees:

Councillors

Cr Anab Mohamud

Cr Claudia Nguyen

Cr Amanda Stone

Council officers

Mary Osman (Manager Statutory Planning)

Julian Larkins (Co-Ordinator Statutory Planning)

Jessica Sutherland (Acting Senior Planner)

Rhys Thomas (Senior Governance Advisor)

Cindi Johnston (Governance Officer)

4. Declarations of conflict of interest

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

5. Confirmation of Minutes

RECOMMENDATION

That the minutes of the Planning Decisions Committee held on Wednesday 28 April 2021 be confirmed.

6. Committee business reports

Item		Page	Rec. Page
6.1	PLN20/0470 - 4-12 Langridge Street, Collingwood	5	55
6.2	PLN20/0737 - 27 - 31 Gibdon Street Burnley - Full demolition of existing buildings, the construction of ten townhouse dwellings, a vehicle crossover and a reduction in the car parking requirements.	65	111
6.3	PLN18/0328.03 - 459 - 471 Church Street and 20 - 26 Brighton Street Richmond - Section 72 amendment to the permit and plans to amend the approved use of the land as a child care to centre by way of an increase in children from 80 to 104, resulting in a further reduction in the car parking requirements, and associated built form changes to Building C.	118	137
6.4	PLN15/1176.02 – 2 Gough Street, Cremorne – Amendment to the endorsed plans and permit conditions including: Changes to the permit preamble, deletion/amendment of conditions, reconfiguration of building uses including deletion of residential component, internal reconfiguration of buildings, changes to the car parking and bicycle parking provision/allocation and built form changes including façade changes and increase in height.	152	
(LATE ITEM – to be distributed separately)			
6.5	VCAT application P1878/2020 - 45 Wangaratta Street Richmond - Amend Planning Permit PLN15/1260 pursuant to section 87A of the Planning and Environment Act 1987 to amend the permit which allows 'Use of the land for office, demolition, and construction of a 7 storey building containing offices and food and drinks premises (café) above one basement level in the Mixed Use Zone and Heritage Overlay, reduction in the car parking requirements in clause 52.06 and in accordance with the endorsed plans' by deleting condition 8 which restricts the operating hours of the office use.	153	163
6.6	PLN20/0168 - 40 - 50 Rokeby Street, Collingwood		
(CONFIDENTIAL ITEM)			

6.1 PLN20/0470 - 4-12 Langridge Street, Collingwood

Executive Summary

Purpose

1. This report provides the Planning Decision Committee (PDC) with an assessment of planning permit application PLN20/0470 against the provisions of the Yarra Planning Scheme (the Scheme) and recommends that Council notify the Victorian Civil and Administrative Tribunal (VCAT) and all parties to the proceeding that Council supports the application, subject to conditions.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Interfaces uses policy (Clause 22.05);
 - (b) Built form (Clauses 15, 21.05, 22.10 and 34.01-8); and
 - (c) Car Parking and Bicycle Provision (Clauses 52.06 and 52.34) of the Yarra Planning Scheme.

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Policy and strategic support;
 - (b) Built form and urban design;
 - (c) On-site amenity (including environmentally sustainable design);
 - (d) Off-site amenity;
 - (e) Car parking and traffic; and
 - (f) Objector concerns.

Submissions Received

4. Seventeen (17) objections were received to the application, these can be summarised as:
 - (a) Built form and design (inappropriate height, massing, architectural expression including 'blank' northern wall; out of keeping with heritage);
 - (b) Amenity impacts (unacceptable internal amenity, waste arrangements and ESD; public realm overshadowing; drainage impacts);
 - (c) Off-site amenity (loss of views, noise and wind impacts);
 - (d) Increased traffic and lack of car parking;
 - (e) Construction impacts (noise, pollution, impacts to structures of buildings);
 - (f) Lack of open space within the area; and
 - (g) No need for additional office floor space in area.

VCAT Proceedings

5. On 16 February 2021, Council was informed that the applicant had lodged a Section 79 'failure to determine within the prescribed time' appeal with the Victorian Civil and Administrative Tribunal (VCAT).
6. A total of 2 complete statements of grounds have been received with a total of 1 party having joined the appeal.
7. A Compulsory Conference is listed for 24 May 2021 with a VCAT Full Hearing scheduled for three days beginning on 26 July 2021.

Conclusion

8. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported subject to the following key recommendations:
- (a) Deletion of one podium level (Level 01 or Level 02);
 - (b) The western elevation of the stair core at the roof terrace level modified to clear glazing;
and
 - (c) A Façade Strategy and Materials and Finishes Plan.

CONTACT OFFICER: Michelle King
TITLE: Principal Planner
TEL: 9205 5333

6.1 **PLN20/0470 - 4-12 Langridge Street, Collingwood**

Reference D21/36050
Author Michelle King - Principal Planner
Authoriser Senior Coordinator Statutory Planning

Ward: Langridge
Proposal: Construction of an eight storey building including roof top terrace / services (plus one level of basement) and a reduction of the car parking requirements associated with office and a retail premises (no permit required for uses)
Existing use: Office/warehouse
Applicant: Urbis Pty Ltd
Zoning / Overlays: Commercial 1 Zone / Development Contributions Plan Overlay (Schedule 1)
Date of Application: 14 July 2020
Application Number: PLN20/0470

Planning History

1. Planning Permit PL10/0331 was issued on 19 November 2012, allowing the construction of a five storey mixed use development with basement, to consist of a shop and office at the ground floor and a total of nine (9) dwellings at the first, second, third and fourth floors, including a reduction in the car parking and waiver of the loading bay requirements.
2. The permit is still valid, with the most recent extension of time granted 23 June 2020. The development approved under this permit must now commence no later than 19 November 2021, be completed no later than 19 November 2023 and the use must commence no later than 19 November 2024.
3. Key features of the approved development included the provision of vehicular access from Little Oxford Street and from the western right-of-way (ROW), a four-storey podium with a maximum height of 15.25 metres with the upper level recessed from the eastern, southern and western boundaries. The development is to be built to the northern boundary for the full five levels. The endorsed elevations are shown below:



*Figure 1
 Image: South, East, North and West Elevations of development approved pursuant to Planning Permit PL10/0331
 Source: Endorsed Plans to Planning Permit PL10/0331*

Background

VCAT Proceedings

4. On 16 February 2021, Council was informed that the applicant had lodged a Section 79 ‘failure to determine within the prescribed time’ appeal with the Victorian Civil and Administrative Tribunal (VCAT).
5. A total of 2 complete statements of grounds have been received with a total of 1 party having joined the appeal.
6. A Compulsory Conference is listed for 24 May 2021 with a VCAT Full Hearing scheduled for three days beginning on 26 July 2021.

Lodgement of additional “without prejudice” documents

7. On 19 October 2020 the applicant provided a response to the referral received from Council’s City Works Unit. A sketch plan was provided demonstrating how the waste room could be enlarged in response to the comments received. This sketch plan has been included as an attachment to the report.
8. On 17 December 2020 the applicant provided a response to the referrals received including sketch plans showing the following to respond to the comments of Council’s internal Urban Design Unit:
 - (a) Deletion of the podium frame to the Level 4 terrace;
 - (b) Modification to the rooftop level, including:
 - (i) Reduced height of stair core by 1m to achieve RL 57.10;
 - (ii) Reduced height of bathroom by 400mm to achieve RL 57.7;
 - (iii) To west elevation, replace dark louvre material finish with clear glass; and
 - (iv) Replace concrete slab “core lid” with lightweight canopy.
 - (c) Information on how the proposal provides an equitable development scenario to the property at No. 64-68 Smith Street, Collingwood.
9. The sketch plans submitted provide additional information and have not been formally substituted. They are provided on a ‘without prejudice’ basis for information purposes on how the identified urban design issues could be addressed. They have been included as an attachment to the report.
10. On 20 January 2021, the applicant submitted an updated Sustainable Management Plan (SMP). The SMP provides additional information and has not been formally substituted. It has been provided on a ‘without prejudice’ basis for information purposes on how the identified environmentally sustainable design issues could be addressed.
11. The updated SMP was reviewed by Council’s ESD Advisor with their updated comments included as an attachment to this report and referred to in the assessment of the application, where relevant.

The Proposal

12. The proposal is to construct an eight storey building including roof top terrace / services (plus one level of basement) and a reduction of the car parking requirements associated with office and a retail premises (no permit required for uses). Key features of the proposal include:

Use and layout

13. The building has three frontages; to Langridge Street to the south, Little Oxford Street to the east and the right-of-way (ROW) to the west. At the ground floor the building contains a retail premises of 133sqm. The entrance to the retail premises is from Langridge Street, located centrally along the frontage.

14. Also at ground level is the main entrance to the office lobby, interfacing with Langridge Street to the west. Secondary entrances to the building lobby / end of trip facilities and bicycle parking are also located along the western and eastern elevations, at the northern end of the building. The building lobby comprises a 29sqm lounge area and a 19sqm meeting room, as well as a 2.2 metre wide corridor leading to the lift and stair services.
15. The upper levels accommodate 1,552sqm of office floor area. Two terraces with approximate areas of 64 sqm and 44sqm are proposed on the fourth and fifth levels respectively. A roof terrace with an approximate area of 89 sqm is also proposed to service the office building.
16. A total of 13 car spaces are provided within the basement and accessed from Little Oxford Street at the ground level, with 8 spaces accommodated within a car stacker. A total of 30 on-site bicycle spaces for employees and 2 for visitors are provided at the ground floor, with a dedicated bicycle entrance from Little Oxford Street. Associated end-of-trip facilities are provided at the ground floor level also.

Construction

Demolition

17. All structures on site are to be demolished (no permit required).

Construction

Basement

18. The proposed garage is generally constructed to all title boundaries and contains the car parking spaces (as described above), the waste room, services rooms and cupboards as well as the 5,000 litre rainwater tank. Access is gained from a vehicular ramp from Little Oxford Street, at the northern end of the site.

Ground Floor

19. The building is built along the entire northern boundary. To the east, west and south are several columns (approximately 0.9 metres wide) that would abut the street with glazing in between setback approximately 0.25 metres from the boundaries, with the exception of the entrance to the office lobby which is setback approximately 0.665 metres from the southern boundary.

Level 01 to Level 03

20. The building is built along the entire northern boundary. To the east, west and south are several columns (approximately 0.9 metres wide) that would abut the street with glazing in between setback approximately 0.25 metres from the boundaries.

Level 04

21. The columns and building remain as described pursuant to the lower levels, however, the building is now setback a minimum 2 metres from the east and 3.9 metres from the south (for a length of 11.96 metres taken from the eastern boundary), behind the column framing. A terrace is located within this setback area.

Level 05

22. At this level, the building is setback 2 metres from the eastern boundary and 3.9 metres from the southern boundary. There is no podium framing at this level. A terrace is accommodated within the southern setback for a length of 12.22 metres taken from the western boundary.

Level 06

23. Level 06 adopts the setbacks as described in relation to Level 05, with no terraces provided at this level.

Level 07

24. Atop of Level 06 is the roof terrace and services level. The roof terrace is setback 1.3 metres from the southern building edge, 1 metre from the western building edge and 1.3 metres from the eastern building edge. The terrace is located on the southern side of the services and setback in excess of 5 metres from the northern boundary.
25. Along the northern boundary, the on-boundary wall adopts a length of 8.165 metres. The stair is setback from the western boundary by 1.025 metres at this level.
26. A services enclosure is located to the east of the lift lobby and amenities area, for a length of 8.75 metres, the services are located 4.1 metres from the eastern edge of the building.

Elevations

27. To Langridge Street, Little Oxford Street and the ROW, a 18.63 metre (maximum) podium consisting of five storeys is proposed.
28. The building will be eight storeys (inclusive of the rooftop services/terrace level) with an overall height of 29.4 metres (including lift overrun) proposed. The development will be built to the northern boundary.

Materials and finishes

29. The primary material palette for the proposed built form consists of charcoal brick, dark mortar (BR-01) with aged brass metal trim inlaid to brick (MT-03), dark grey metal (MT-01), aged brass finish (MT-02), off-form concrete finish (CON-01), concrete painted to match MT-02 (CON-02), brick formed concrete finish (CON-03) and bluestone cladding (ST-01). A range of glazing types is also proposed throughout.



Figure 2: Image render of the proposed development
Source: Urban Context Report

Existing Conditions

Subject Site

30. The subject site is located on the north-western corner of Langridge and Little Oxford Streets, in Collingwood. The site has frontages to Langridge Street of 24.11 metres and Little Oxford Street of 15.26 metres, resulting in a site area of 367 square metres. The site has a fall of approximately 1.54 metres from west to east.



Figure 3: Aerial photograph of No. 4 – 12 Langridge Street, Collingwood
Source: Nearmap, image capture date: 11 March 2021

31. The land is developed with a two storey brick building covering the western portion of the site, and a single storey brick building to its east. The single storey building is setback from Langridge Street approximately 4.5 metres, with this area being open and concreted. Crossovers are located along both the Langridge and Little Oxford Street frontages. The buildings are used as offices and a warehouse.



Figure 4: Subject site taken from Langridge Street, Collingwood
Source: Applicant Town Planning Report

Title Documents

32. The title submitted with the application does not show any covenants, restrictions or easements.

Surrounding Land

33. The site is partially located within the Smith Street Major Activity Centre (MAC) as identified within Council's Strategic Framework Plan (clause 21.03). The MAC contains a wide range of retail, entertainment, dining and service offerings. Yarra Planning Scheme Amendment C269 seeks to include the entire site and the Collingwood Mixed Use precinct within the Smith Street MAC. The site is located west of the Collingwood Gipps Street precinct, a major employment precinct. A tram route is accessible from Smith Street providing access to the CBD and Bundoora.

34. The built form types in the area are mixed. Evident in the area are buildings industrial in nature reflective of the area’s historic uses, intermixed with remnant workers cottages, modern residential developments and warehouse residential conversions. This area has experienced substantial growth encouraged by the Commercial 1 and Mixed Use Zoning of the land. One and two storey buildings are being replaced with 6 to 13 storey buildings.
35. The subject site is located within a Commercial 1 Zone (C1Z) and the existing development in the wider area is mixed, consisting of residential, commercial and industrial uses resulting in diverse built form. The surrounding area and zoning is shown below.

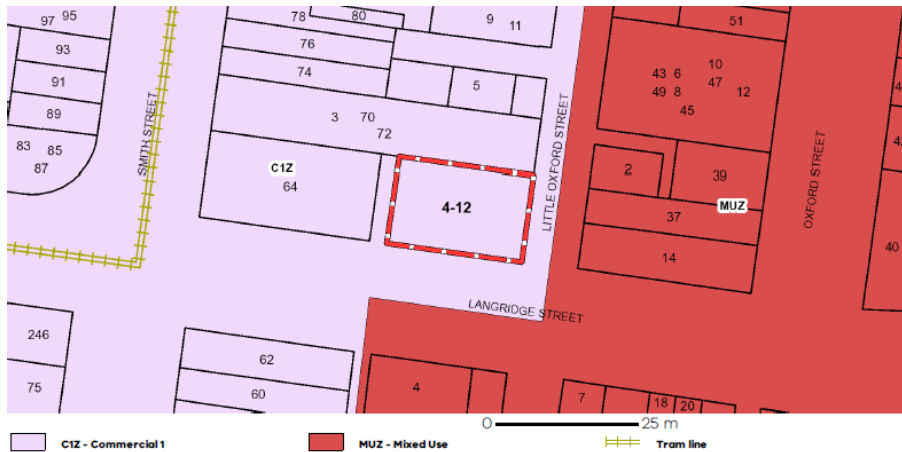


Figure 5: The subject site and surrounding land to the north & west shown as C1Z, with MUZ to the east & south
Source: DELWP



Figure 6: Aerial photograph of the subject site and surrounding built form
Source: Nearthmap image capture date: 11 March 2021

36. The site’s immediate interfaces are as follows:

North

37. Immediately to the north of the site, at No. 3 Little Oxford Street, are two, three storey dwellings. These dwellings face north, and present a blank, three storey wall to the subject site. At No. 5 Little Oxford Street, a single storey substation interfaces with the street. Behind this are two, three storey dwellings also facing north and presenting blank walls to the south.
38. Further north at No. 7-15 Little Oxford Street is an eight storey apartment building with a ground floor commercial premises approved pursuant to Planning Permit PLN14/0860. The development has a three storey podium with a height of 11.6 metres and an overall height of 26.25 metres (not including plant). Above the podium, levels 3 – 6 are setback 2.2 metres from the street with balconies projecting into the setback area. The topmost level is setback 4.2 metres from the street. The Little Oxford Street interface is shown below:

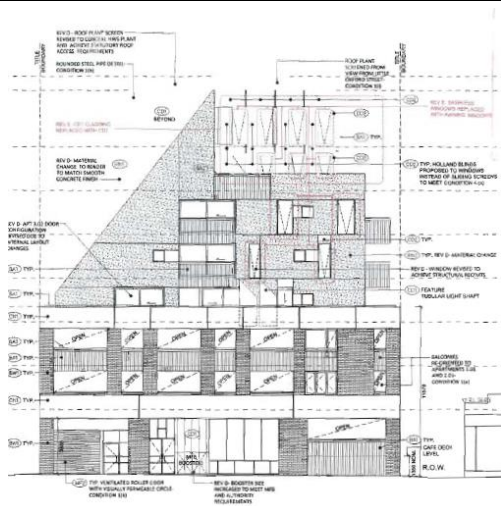


Figure 7: Little Oxford Street Elevation of No. 7-15 Little Oxford Street, Collingwood
Source: Excerpt from the and endorsed plans of PLN14/0860

39. To the north of this site, at No. 88-92 Smith Street and 17-21 Little Oxford Street, Planning Permit PLN15/0637 has been approved, allowing the development of the site for two buildings, one oriented to face Smith Street with one oriented to face Little Oxford Street. The building facing Little Oxford Street is an eight storey apartment building with a ground floor shop. Approved where interfacing with Little Oxford Street is a three storey podium with a height of 10.4 metres. Levels 3 – 5 above are setback 1.8 metres from the street with Levels 6 and 7 setback 4 metres from the street.
40. All of the above properties are located within the Commercial 1 Zone.

South

41. Langridge Street is immediately to the south. This street supports a single lane of traffic and a bicycle lane in each direction. Parallel parking is provided along both sides, interspersed with street trees.
42. Beyond Langridge Street, are a series of one to three storey commercial and residential buildings. Where opposite the site these are located within the Mixed Use Zone.

East

43. To the east, Little Oxford Street is a one-way (north-bound) street with parallel parking on the western side. Buildings on the eastern side of Little Oxford Street are mixed with single storey remnant dwellings, double storey warehouse residential conversions and double storey recent commercial buildings. Commonly, there are also the rear of some properties which face Oxford Street.
44. Opposite the site, No. 14 Langridge Street is double storey building built to all boundaries, appearing to be utilised as a commercial building. At the rear of No. 37 Oxford Street is an open car parking area for two car spaces accessed directly from Little Oxford Street. To the east of the car spaces there appears to be an area of secluded private open space associated with a double storey dwelling fronting Oxford Street. This building is 'individually significant' to Heritage Overlay Schedule 121 (37 Oxford Street, Collingwood).
45. No. 2-4 Little Oxford Street is a single storey dwelling built to the street.
46. All of the above properties are located within the Mixed Use Zone.
47. Further east, and on the northern side of Langridge Street, are the following developments:

- (a) The site comprising No. 42-44 Oxford Street, No. 61-63 Cambridge Street and No. 16-20 Langridge Street (currently under construction for an 11 storey building comprising a food and drinks premises, shop, dwellings and a residential hotel pursuant to Planning Permit PLN18/0497). Along Langridge Street, a four storey brick framed podium with a maximum height of 17 metres has been approved and is under construction (shown below). The upper levels (Levels 5 – 8) are setback from the street by 4.4 metres with the topmost level setback 7 metres from the street frontage.

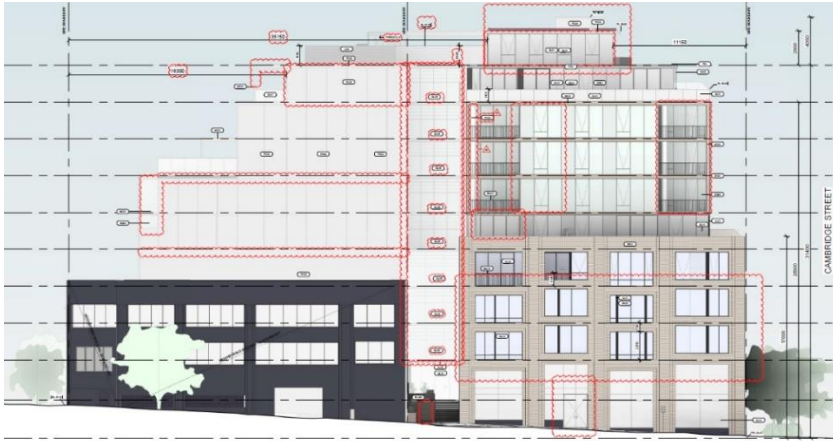


Figure 8: Langridge Street elevation of proposal approved pursuant to PLN18/0497
Source: Endorsed plans of PLN18/0497

- (b) The site comprising No. 73 – 77 Wellington has recently been developed under Planning Permit PLN15/1138 for a 10 storey building comprising commercial tenancies and dwellings. Along Langridge Street, the development has a part four and part seven storey podium, ranging in height from 14.1 metres at the western edge to 23 metres at the eastern edge. Above the four storey podium, the upper levels are setback a minimum 2 metres. Above the seven storey podium, the upper levels terrace back with a minimum 2.7 metre setback adopted at Level 7. The Langridge Street elevation is shown below:



Figure: Langridge Street elevation of proposal approved pursuant to PLN15/1138
Source: Endorsed plans of PLN15/1138

West

48. To the west of the subject site is a Right-Of-Way (ROW), approximately 3.2 metres wide and 15 metres in length, interfacing with the entire western boundary of the subject site.

49. On the western side of the ROW is No. 64-68 Smith Street, located at the north-eastern corner of Smith Street and Langridge Street and comprises Forester's Beer and Music Hall. This site is used as a late night venue, including service of food and drinks, the service of alcohol and includes live music entertainment. This building is graded as being 'individually significant' to the Heritage Overlay Schedule 333 (Smith Street Precinct, Fitzroy/Collingwood).
50. To the north-west is the rear of commercial buildings at Nos. 70-72 Smith Street. This commercial premises has access from the northern end of the ROW with the area to the rear utilised as a yard/car parking area.

Broader area

51. There have been planning permit approvals in proximity of the site, some of which are under construction or already constructed, these approvals include:
- (a) No. 6-10 Peel Street (6 storeys);
 - (b) No. 20-22 Peel Street (6 storeys);
 - (c) No. 33 Peel Street (8 storeys).
 - (d) No. 41 Peel Street (6 storeys);
 - (e) No. 132 Smith Street (Banco Development) (9 storeys);
 - (f) No. 9-17 Smith Street (7 storeys);
 - (g) No. 7 & 9-15 Little Oxford Street (8 storeys);
 - (h) No. 1-57 Wellington Street and 71-77 Victoria Parade (11 storeys);
 - (i) No. 61-71 Wellington Street and No. 37-39 Langridge Street (14 storeys);
 - (j) No. 73-77 Wellington Street (10 storeys);
 - (k) No. 93 Wellington Street (10 storeys);
 - (l) No. 109 Wellington Street (10 storeys);
 - (m) No. 195 Wellington Street (9 storeys);
 - (n) No. 27-29 Oxford Street and No. 15-21 Derby Street (8 storeys);
 - (o) No.42-44 Oxford St, 61-63 Cambridge St &16-20 Langridge St (11 storeys);
 - (p) No. 107 Cambridge Street (6 storeys);
 - (q) No. 72 - 94 Cambridge Street (10 storeys);
 - (r) No. 46-74 Stanley Street & 23-35 Napoleon Street (9 storeys); and
 - (s) No. 51 Langridge Street (11 storeys).
52. The above constructed, under construction, and recently approved planning applications show that Collingwood is an area undergoing transition with larger scale developments.

Planning Scheme Provisions

Zoning

Clause 34.01 – Commercial 1 Zone

53. The site is located within the Commercial 1 Zone (C1Z). The relevant purpose of the C1Z is:
- (a) *To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.*
54. Pursuant to clause 34.01-1, a planning permit is not required to use the land as an office and retail premises.
55. Pursuant to clause 34.01-4, a planning permit is required to construct a building or construct or carry out works. The decision guidelines are set out at Clause 34.01-8.

Overlays

Clause 45.06 – Development Contributions Plan Overlay (Schedule 1) (DCPO1)

56. The Development Contributions Plan applies to the proposed additional office floor area, requiring the developer to pay a cash contribution towards essential city infrastructure like roads and footpaths.
57. Pursuant to Clause 45.06-1 a permit granted must:
- (a) Be consistent with the provisions of the relevant development contributions plan.
 - (b) Include any conditions required to give effect to any contributions or levies imposed, conditions or requirements set out in the relevant schedule to this overlay
58. Schedule 1 of the Development Contributions Plan Overlay (DCPO1) applies to the proposal. The subject site is located within Charge Area 6 (Collingwood) and the development infrastructure levy is applicable to the office and retail floor space.
59. A planning permit is not required for works under the overlay.

Particular Provisions

Clause 52.06 – Car parking

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

Proposed Use	Quantity/ Size	Statutory Parking Rate*	No. of Spaces Required	No. of Spaces Allocated
Office	1,551 m ²	3.0 spaces per 100 m ² of net floor area	46	13
Retail	133 m ²	3.5 spaces per 100 m ² of leasable floor area	4	0
Total			50 spaces	13 spaces

64. A total of 13 car spaces are proposed on site, with all allocated to the office use. Therefore the application seeks a total reduction of 33 car spaces associated with the office use and 4 spaces associated with the retail use.

Clause 52.34 – Bicycle Facilities

65. Pursuant to clause 52.34, a new use must not commence until the required bicycle facilities and associated signage has been provided on the land. The purpose of the policy is to encourage cycling as a mode of transport and to provide secure, accessible and convenient bicycle parking spaces.

66. Under the provisions of Clause 52.34-3 of the Scheme, the development's bicycle parking requirements are as follows:

Proposed Use	Quantity/ Size	Statutory Parking Rate	No. of Spaces Required	No. of Spaces Allocated
Office	1551 sqm	1 employee space to each 300 sqm of net floor area if the net floor area exceeds 1000 sqm	5 employee spaces	
		1 visitor space to each 1000 sqm of net floor area if the net floor area exceeds 1000 sqm	2 visitor spaces	
Retail	133 sqm	1 employee space to each 300 sqm of net floor area	0 employee spaces	
		1 visitor space to each 500 sqm of net floor area	0 visitor spaces	
Bicycle Parking Spaces Total			5 employee spaces	30 employee spaces
			2 visitor spaces	2 visitor spaces
Showers / Change rooms	1 to the first 5 employee spaces and 1 to each additional 10 employee spaces		1 shower / change room	5 showers / change rooms

67. The development proposes a total of 25 additional employee spaces above the statutory requirements of the Scheme. The development also proposes the provision of 2 visitor spaces on-street, which would exceed the visitor rate by two spaces. The proposal also provides four additional showers / change rooms from that required by the Scheme.
68. There is no planning permit required pursuant to the requirements of clause 52.34-3. Clause 52.34-4 provides design standard for bicycle spaces and signage.

Clause 53.18 – Stormwater Management in Urban Development

69. This clause applies to an application under a provision of a zone to construct a building or construct or carry out works. An application to construct a building or to construct or carry out works:
- (a) *Must meet all of the objectives of Clauses 53.18-5 and 53.18-6.*
 - (b) *Should meet all of the standards of Clauses 53.18-5 and 53.18-6.*

General Provisions

Clause 65 – Decision Guidelines

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

Planning Policy Framework (PPF)

71. Relevant clauses are as follows:

Clause 11.02 (Managing Growth)
Clause 11.02-1S (Supply of Urban Land)

72. The objective is:

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

Clause 11.03 (Planning for Places)

Clause 11.03-1S (Activity Centres)

73. The relevant objectives of this clause include:

- (a) *To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community.*

Clause 13.05-1S (Noise abatement)

74. The relevant objective of this clause is:

- (a) *To assist the control of noise effects on sensitive land uses.*

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

Clause 13.07 (Amenity and Safety)

Clause 13.07-1S (Land use compatibility)

76. The objective of this clause is:

- (a) *To safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects.*

Clause 15.01 (Built Environment and Heritage)

Clause 15.01-1S (Urban design)

77. The relevant objective of this clause is:

- (a) *To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.*

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

78. The objective is:

- (a) *To create distinctive and liveable city with quality design and amenity.*

Clause 15.01-2S (Building design)

79. The relevant objective of this clause is:

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

80. Relevant strategies of this clause are:

- (a) *Require a comprehensive site analysis as the starting point of the design process.*
- (b) *Ensure the site analysis provides the basis for the consideration of height, scale and massing of new development.*

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

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

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

Clause 15.01-4S (Healthy neighbourhoods)

82. The objective is:

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

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

83. 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)

84. The relevant objective of this clause is:

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

85. Relevant strategies are:

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

Clause 15.02 (Sustainable Development)

Clause 15.02-1S (Energy Efficiency)

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

- (c) *Integrate public transport services and infrastructure into new development.*

Clause 18.02 (Movement Networks)

Clause 18.02-1S (Sustainable personal transport)

93. The relevant objectives of this clause is:

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

94. Relevant strategies of this policy are:

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

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

95. 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)

96. The objective of this clause is:

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

Clause 18.02-2R (Principal Public Transport Network)

97. 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)

98. The objective of this clause is:

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

99. 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 \(LPPF\)](#)

Municipal Strategic Statement (MSS)

100. The relevant policies in the MSS can be described as follows:

Clause 21.04-2 (Activity Centres)

101. The relevant objectives of this clause are:

- (a) *To maintain the long term viability of activity centres.*

102. Relevant strategies to achieve this objective include:

- (a) *Strategy 5.2 - Support land use change and development that contributes to the adaptation, redevelopment and economic growth of existing activity centres.*
- (b) *Strategy 5.3 - Discourage uses at street level in activity centres which create dead frontages during the day.*

Clause 21.04-3 (Industry, office and commercial)

103. The objective of this clause is:

- (a) *To increase the number and diversity of local employment opportunities.*

Clause 21.05 (Built Form)

104. Relevant objectives and strategies include;

- (a) *Objective 14 To protect and enhance Yarra's heritage places.*
 - (i) *Strategy 14.6 Protect buildings, streetscapes and precincts of heritage significance from the visual intrusion of built form both within places and from adjoining areas*

Clause 21.05-2 (Urban Design)

105. Relevant objectives and strategies include:

- (a) *Objective 16 To reinforce the existing urban framework of Yarra.*
- (b) *Objective 17 To retain Yarra's identity as a low-rise urban form with pockets of higher development.*
 - (i) *Strategy 17.1 Ensure that development outside activity centres and not on Strategic Redevelopment Sites reflects the prevailing low-rise urban form.*
- (c) *Objective 18 To retain, enhance and extend Yarra's fine grain street pattern.*
 - (i) *Strategy 18.2 Enhance the amenity of laneways by applying the Development Abutting Laneway policy at Clause 22.07.*
- (d) *Objective 19 To create an inner city environment with landscaped beauty.*
 - (i) *Strategy 19.2 Encourage opportunities for planting suitable trees and landscape areas in new development.*
- (e) *Objective 20 To ensure that new development contributes positively to Yarra's urban fabric.*

Clause 21.05-3 (Built form character)

106. The general objective of this clause is:

- (a) *To maintain and strengthen the identified character of each type of identified built form within Yarra.*

107. The subject site is located within a non-residential area, where the built form objective is to *“improve the interface of development with the street”*.

108. The strategies to achieve the objective are to:

- (a) *Strategy 27.1 - Allow flexibility in built form in areas with a coarse urban grain (larger lots, fewer streets and lanes).*
- (b) *Strategy 27.2 - Require new development to integrate with the public street system.*

Clause 21.05-4 (Public environment)

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

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

Clause 21.06 (Transport)

Clause 21.06-1 (Walking and cycling)

110. Relevant objectives and strategies include;

- (a) *Objective 30 To provide safe and convenient pedestrian and bicycle environments.*
 - (i) *Strategy 30.1 Improve pedestrian and cycling links in association with new development where possible.*

Clause 21.06-2 (Public transport)

111. Relevant objectives and strategies include;

- (a) *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)

112. Relevant objectives include;

- (a) *Objective 32 To reduce the reliance on the private motor car.*
- (c) *Objective 33 To reduce the impact of traffic.*

Clause 21.07-1 (Ecologically sustainable development)

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

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

Clause 21.08 – Neighbourhoods

Clause 21.08-5 – Collingwood

114. This clause outlines the Collingwood neighbourhood as follows:

- (a) *Much of Collingwood is industrial in character with the residential precincts surrounded by or interspersed with industrial buildings.*
- (b) *To the south of Johnston Street development is Victorian overlaid with subsequent periods of development. This part of Collingwood is varied in built form and character, ranging from large Victorian factory buildings to small pockets of low rise residential development. The most outstanding feature of the precinct is the Foy and Gibson complex of retail and warehouse of buildings which belong to the suburb's commercial past. The buildings have large dominating built forms with rhythmic facade design. They are imposing and visually cohesive.*
- (c) *The Smith Street major activity centre serves multiple roles for local residents whilst attracting visitors from a larger catchment. It is a classic main road strip generally consisting of buildings of two to four storeys interspersed with the occasional building of up to 6 storeys. The subdivision pattern is consistent, and the pattern of the streetscape is generally fine grain. Unlike many other Victorian shopping strips the street is also characterised by the variance in profile and design of buildings. It has a high proportion of individually significant heritage buildings, supported by contributory buildings from the Victorian-era and Edwardian-eras.*

115. As identified at Clause 21.08-5, the following relevant built form strategies include the following:

- (a) *In the precinct bounded by Johnston Street, Wellington Street, Victoria Parade and Smith Street (including both sides of Smith Street depicted as the 'Smith Street Major Activity Centre' in the Built Form Character Map).*
 - (i) *Maintaining the varied profile of the skyline and the built form character of Smith Street.*
 - (ii) *Ensuring that no new development presents as a dominating built form along Smith Street.*
 - (iii) *Retaining the prominence of the key 'icon' (landmark) buildings in the Smith Street streetscape such as Pattersons, Safeway, Post Office.*
 - (iv) *Maintaining the Foy and Gibson complex of buildings as a large dominating visually cohesive group of buildings.*
 - (v) *Retaining the uniformity of the streetscapes associated with the Foy and Gibson buildings.*
 - (vi) *Ensuring new development respects the scale of adjoining existing clusters of low rise residential development.*

Relevant Local Policies

Clause 22.03 – Landmarks and Tall Structures

116. This policy applies to all development. Whilst the site is not within proximity to an identified sign or landmark within the policy, the following is relevant: *Ensure the profile and silhouette of new tall structures adds to the interest of Yarra's urban form and skyline.*

Clause 22.05 – Interfaces Uses Policy

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

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

118. Decision guidelines at clause 22.05-6 include:

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

Clause 22.07 – Development Abutting Laneways

119. This policy applies to applications for development that are accessed from a laneway or has laneway abuttal. The objectives of this policy include to provide an environment which has a feeling of safety for users of the laneway, to ensure that development along a laneway acknowledges the unique character of the laneway, to ensure that where development is accessed off a laneway, all services can be provided to the development and to ensure that development along a laneway is provided with safe pedestrian and vehicular access.

Clause 22.10 – Built form and design policy

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

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

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

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

Clause 22.16 – Stormwater Management (Water Sensitive Urban Design)

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

Clause 22.17 – Environmentally Sustainable Design

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

Other Relevant Documents

Plan Melbourne

124. The plan outlines the vision for Melbourne’s growth to the year 2050. It seeks to define what kind of city Melbourne will be and identifies the infrastructure, services and major projects which need to be put in place to underpin the city’s growth. It is a blueprint for Melbourne’s future prosperity, liveability and sustainability.

125. It is policy to create mixed-use neighbourhoods at varying densities to offer more choice in housing and create opportunities for local businesses and new jobs whilst also delivering better access to local services and facilities. In respect of commercial use, the plan identifies the following:

- (a) *Between now and 2031 it is estimated that approximately 11.9 million square metres of commercial floorspace will be required across metropolitan Melbourne to meet projected demand.*

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

Melbourne Industrial and Commercial Land Use Plan (MICLUP)

126. The Melbourne Industrial and Commercial Land Use Plan builds on the relevant policies and actions of Plan Melbourne 2017-2050. It provides an overview of current and future needs for industrial and commercial land across metropolitan Melbourne and puts in place a planning framework to support state and local government to more effectively plan for future employment and industry needs, and better inform future strategic directions.

127. Map 5 within the document shows the commercial land within the inner metro region and identifies the site as being within an existing regionally significant commercial area.



Figure 9: Excerpt from Map 5 of the MICLUP showing the subject site as a red circle.

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

Spatial Economic and Employment Strategy

129. The Spatial Economic and Employment Strategy (SEES) was adopted by Council in September 2018 and includes 6 directions which will inform future policy for the Scheme.
130. The strategic direction contained within the SEES supersedes that contained within the Yarra Business and Industrial Land Strategy (BILS), adopted by Council in June 2012.
131. In regards to the strategic context of the site, the SEES provides the following:
- (a) *The key shaper of Yarra's retail precincts has been the tram network. This will continue to be the strongest influence from a transport perspective on retail development. In particular, the five major retail strips Brunswick Street, Smith Street, Victoria Street, Bridge Road and Swan Street have benefited from this infrastructure. Compared to Hoddle and Johnston Streets, Yarra's main streets with tram lines heritage and quality of place attracts dynamic businesses esp in hospitality and entertainment. These streets have a more fine-grained urban structure, less intrusive traffic and better performing retail precincts.*
132. The strategy includes the following precinct specific directions for the Brunswick Street, Fitzroy and Smith Street, Fitzroy/Collingwood precinct:
- (a) *Brunswick Street and Smith Street offer a consolidated core of retail and hospitality for the suburbs of Fitzroy and Collingwood and a wider catchment beyond. The C1 zoning throughout this area allows a range of employment and housing in mixed use developments. The development of the Community Arts Precinct (on Johnston Street) is an emerging trend, supported by state. Council values its arts and culture sector.*

133. In respect of the capacity of the differing precincts to accommodate future growth, with regard to future demand, the following comments are made in respect of the Smith Street Major Activity Centre:

- (a) *Smith Street has undergone rapid gentrification in recent years. It has a well-regarded hospitality offer, and is increasingly considered a destination for people seeking a high quality, diverse food and drink experience. It also accommodates the area's largest supermarket, with a second full line supermarket also opening in recent times, creating two focal points for local retail activity. The northern end of the street lacks the fine-grained characteristics of the southern end, with a significant concentration of homeware stores and factory outlets. The precinct still has capacity to develop, particularly at the precinct's northern end. With strong demand for residential development across the precinct, there is some risk that residential developments could reduce the precinct's employment floor space capacity.*

Yarra Planning Scheme Amendment C269 – Rewrite of Local Policies

134. Amendment C269 proposes to introduce new and revised local planning policies into the Yarra Planning Scheme. The amendment was on public exhibition between 20 August 2020 and 4 December 2020.

135. The revised local planning policy seeks to include the entire site as well as the Collingwood Mixed Use precinct within the Smith Street, Collingwood / Fitzroy Major Activity Centre. The following relevant strategies for the revised Major Activity Centre are provided below:

- (a) *Encourage development that responds to the different built form conditions in Collingwood South precinct, with taller built form towards Wellington St and south of Peel Street and retain the visual dominance and integrity of the existing industrial warehouse buildings north of Peel Street.*
- (b) *Encourage employment through mixed use and commercial development, including in the mixed use zoned land behind Smith Street.*

Amendment C270 – Fitzroy and Collingwood Stage 1 Interim

136. On the 17 December 2019, Council requested the Minister for Planning to consider the approval of proposed interim built form controls through the implementation of several Design and Development Overlays (DDOs) for activity centres in Fitzroy and parts of Collingwood.

137. The subject site is included within the proposed Design and Development Overlay, proposed to be covered by Schedule 30 (DDO30).

138. The proposed DDO30 includes a number of discretionary and mandatory built form guidelines in regards to the street wall, upper level front and side setbacks, overall building height, rear interface, overshadowing and daylight access, common boundary and building separation, building layout, façade design, access and parking and loading areas to achieve the following objectives:

- (a) *To ensure development responds to the heritage character and varied streetscape of Smith Street by supporting:*
 - (i) *a new lower- to mid-rise character (ranging from 4 to 6 storeys) behind a consistent street wall north of Stanley and St David Streets and south of Gertrude Street; and*
 - (ii) *a new mid-rise character (ranging from 3 to 8 storeys) behind a varied heritage street wall between Stanley and St David Streets and Gertrude and Langridge Street.*

- (b) *To retain view lines to the former department stores and the prominence and integrity of corner heritage buildings, particularly at the Johnston Street intersection.*
- (c) *To ensure development maintains the prominence of the existing heritage street wall and fine-grain heritage character through recessive upper levels and a façade composition and articulation that complements the Smith Street character.*
- (d) *To encourage development designs that promote pedestrian activity and passive surveillance, contributes to a high quality public realm, and avoid overshadowing of opposite footpaths on Smith Street, side streets and public spaces.*
- (e) *To ensure development responds to sensitive interfaces by ensuring the overall scale and form of new development provides a suitable transition to low scale residential areas and protects these properties from an unreasonable loss of amenity through visual bulk, overlooking and overshadowing.*

139. The proposed DDO30 would introduce a mandatory height limit of 20.8 metres, with the streetwall to not exceed a mandatory height of 14.4 metres along Langridge Street and Little Oxford Street, as shown below:

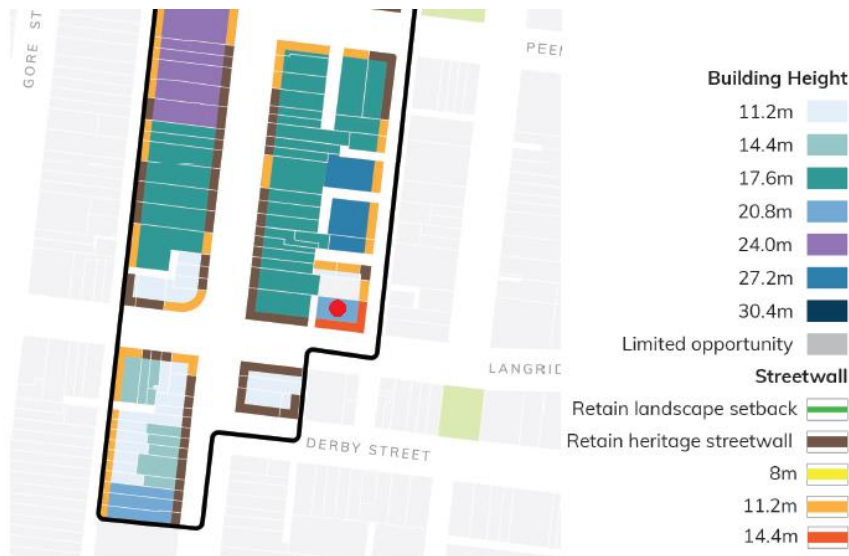


Figure: Extract from Map 2 of the proposed DDO30 controls, with the subject site indicated with a red dot

- 140. Amendment C270 is supported by (most relevantly) the Smith Street Built Form Framework prepared by Hansen and the Brunswick-Smith Street Heritage Built Form Review prepared by GJM Heritage.
- 141. To date, a decision has not yet been made by the Minister for Planning in respect of the Amendment. If approved, the proposed interim DDOs would be temporary only and be included in the Yarra Planning Scheme for approximately 2 years.
- 142. This control has little weight in the consideration of this application.

Advertising

- 143. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 564 letters sent to surrounding owners and occupiers and by signs displayed on site. Council received 17 objections, the grounds of which are summarised as follows:

- (a) Built form and design (inappropriate height, massing, architectural expression including 'blank' northern wall; out of keeping with heritage);
- (b) Amenity impacts (unacceptable internal amenity, waste arrangements and ESD; public realm overshadowing; drainage impacts);
- (c) Off-site amenity (loss of views, noise and wind impacts);
- (d) Increased traffic and lack of car parking;
- (e) Construction impacts (noise, pollution, impacts to structures of buildings);
- (f) Lack of open space within the area; and
- (g) No need for additional office floor space.

144. No consultation meeting was held as a result of the state of emergency declared in Victoria and the current health advice related to the COVID-19 pandemic.

Referrals

External Referrals

145. The application was not required to be referred to external authorities.

Internal Referrals

146. The application was referred to the following units within Council:

- (a) Urban Design Unit;
- (b) Environmentally Sustainable Design (ESD) Advisor;
- (c) Streetscapes and Natural Values Unit;
- (d) City Works Unit;
- (e) Engineering Services Unit;
- (f) Strategic Transport Unit;
- (g) Strategic Planning Unit; and

External Consultants

- (h) Wind Consultant (Vipac).

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

OFFICER ASSESSMENT

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

- (a) Policy and Strategic Support;
- (b) Built form and Urban Design;
- (c) On-site amenity including Environmentally Sustainable Design;
- (d) Off-site amenity;
- (e) Car parking and traffic;
- (f) Bicycle facilities and strategic transport;
- (g) Waste management; and
- (h) Objector concerns.

Policy and Strategic Support

149. The proposed development has strong strategic support at State and local level for the construction of a medium-density office building. The subject site is located within a C1Z, with this zone having a key purpose *to create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.*

150. Consistent with the zone, the proposed uses of the land (office and retail) do not require a planning permit and only the buildings and works are triggered by the zone. This indicates strong strategic support for office use within the precinct and for supporting uses such as the ground floor retail premises which will provide activation along both Langridge and Little Oxford Streets. Additionally, policies (such as clauses 11.03-1R and 18.01-1S) encourage the concentration of development near activity centres and more intense development on sites well connected to public transport.
151. At a State level, the metropolitan planning strategy *Plan Melbourne* seeks to create 20-minute neighbourhoods, where people can access most of their everyday needs (including employment) within a 20-minute walk, cycle or via public transport. These neighbourhoods must be safe, accessible and well connected for pedestrians and cyclists.
152. The site fulfils this criterion, with tram routes along Smith Street, bus routes along Hoddle Street and Johnston Street and Collingwood and North Richmond Stations located approximately 920 metres to the south-east and north-east. Yarra's Copenhagen style bicycle lanes are also located along Wellington Street, providing a better-connected journey for cyclists, encouraging the use of alternative modes of transport to and from the site, rather than encouraging the reliance on motor vehicles. This is encouraged by clauses 18.02 – *Movement Networks*; 21.06-3 – *The Road System and Parking*; and 21.03 – *Vision of the Scheme*.
153. The site is located in an area suitable for redevelopment, with a proposed built form that generally includes elements of a diverse pattern of urban form in the neighbourhood, creates a new built form character and would result in no unreasonable off-site amenity impacts, as outlined later in this report.
154. Having regard to the above, the proposed development of the site for a greater provision of floor area for office is considered to have strategic planning support, however regard must be had to the appropriate scale of the proposal, based on the individual context and constraints of the land. This aspect of the development will be discussed below.

Built form and Urban Design

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

Urban form, character and context

156. Built form in the surrounding area consists of a mixture of architectural styles and materials. Taller buildings are emerging within proximity to the land. The majority of these buildings are robust in design and constructed hard-edged to the street. The Collingwood area is undergoing significant change with regards to building heights and forms, with a clearly emerging character of dense development.
157. Design and Development Overlay - Schedule 30 is proposed to be applied to the land through Amendment C270 (Fitzroy and Collingwood Stage 1 Interim). Council's Strategic Planning Department undertook a review of the proposed development against the provisions, this is included as an attachment.
158. A recent VCAT decision *18 Smith Street Pty Ltd v Yarra CC* [2020] VCAT 1319 discussed the status of Amendment C270 and whether it had any statutory weight, finding the following:

[25] Council, in December 2019, requested the Minister for Planning to apply the interim controls. No decision has been made by the Minister. No party relied on Amendment C270. Given the lack of progress on approval of the amendment and the absence of public exhibition, we find no weight can be placed on the provisions proposed.

Emphasis added.

159. The request for interim controls has not undertaken elements of a formal Planning Scheme Amendment, including exhibition or an independent panel process, with the interim controls providing a 'placeholder' whilst the permanent controls are being prepared. As such, these temporary controls carry limited, if any, statutory weight until the formal Amendment is approved by the Minister.
160. Nevertheless, the Built Form Framework has been referenced throughout this assessment as a reflection of Council's strategic position for the site, where appropriate.

Height, scale and massing of the development

161. The majority of the buildings currently under construction or approved within Collingwood are robust in design and constructed hard-edged to the street, with podium/tower typologies dominant. This proposal is however, the first larger development in proximity to Smith Street along a key east-west street.
162. The role of Langridge Street was highlighted by Council's Urban Design Unit, who provided the following commentary:
- (a) *Langridge Street is an important east-west movement corridor and plays a key role in connecting this pocket of Collingwood to Abbotsford and Fitzroy, whereas Little Oxford Street plays a secondary role within the street hierarchy. Hence, it is important to give higher consideration to the built form character envisaged for Langridge Street and ensure the proposed development does not overwhelm the street character. Further the width of Langridge Street compared to Little Oxford Street and the location of site on the corner of Langridge Street and Little Oxford Street will make development on the subject site prominently visible from Langridge Street, particularly the corner of Smith Street and Langridge Street. Given this is an important pedestrian intersection the views from this intersection need to be given high consideration as well.*
163. As already outlined in this report, there is no dispute that strategically the subject site is appropriately located for a higher-density development, being partially within a MAC, the overall size of the site, the underutilised development capacity, the lack of heritage constraints, the site's location providing excellent access to cycling networks and various forms of public transport. Based on these attributes, it is a reasonable expectation that this site will experience intensification in the future.
164. Whilst the subject site is partially located within a MAC it is important to acknowledge that the topography of the site is a key constraint that the development needs to have regard to. It is considered that the proposed height of the building at eight storeys results in an unacceptable outcome in terms of transition and bulk when viewed from the west.
165. A more sympathetic height to its location and the development potential of the surrounding properties is required. This will ensure an appropriate transition from the taller forms expected to the east along Wellington Street, whilst providing a graduation of built form to the heritage constrained Smith Street MAC abutting to the west.
166. The proposed building will extend to a maximum height of eight storeys equating to 29.4 metres (including plant), excluding plant the development would adopt an overall height of 28.2 metres.
167. It is acknowledged that the proposed DDO30 proposes a mandatory height of 20.8 metres (excluding service equipment/lift structures, balustrading and the like) and a mandatory podium height of 14.4 metres along Langridge Street and Little Oxford Street.

168. With regard to the proposed DDO30, the current policies that apply to the site and surrounding context, Council's Urban Design Unit recommended that one level be deleted from the podium (either level 2, 3 or 4) and either one level from the upper levels be deleted (level 5 or 6) or the roof terrace level be reduced with further recession of the stairwell.
169. The recommendation regarding the deletion of one level from the podium is supported. This would ensure that the development corresponds with the emerging built form character along both Little Oxford Street and Langridge Street.
170. The applicant provided 'without prejudice' sketch plans on 17 December 2020, showing the deletion of the podium framing around the Level 04 terrace to reduce the street wall height along the Langridge Street and Little Oxford Street frontages in response to the concerns raised by Council's Urban Design Unit.
171. As identified, Council's Urban Design Unit recommended that an entire level be deleted, either Level 2 or 3 or 4. The podium framing at Level 4 however, is an important element of the overall design. Officers therefore do not consider that deletion of the podium framing at this level, as demonstrated in the sketch plans, is an appropriate response. Officers also do not believe deletion of Level 4, in lieu of other lower levels, is an appropriate response.
172. In deleting a level from the podium the composition of the proposed materials is also to be considered to ensure that the outcome maintains an acceptable design response. The horizontal framing of the podium is currently expressed as either 3D profiled spandrel element or dark bricks with a metal inlay profile inlaid into the brickwork, as shown below:

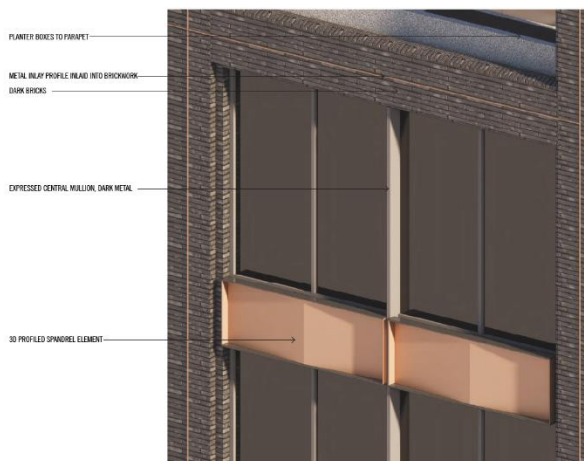


Image10: Podium details
Source: Urban Context Report

173. To ensure that the design detail of the horizontal framing continues to be acceptable, it is recommend that either Level 01 or Level 02 be deleted, with a condition to be included facilitating this. This would result in outcomes generally as shown below:



Image 11: Eastern elevation with Level 01 deleted (left) or Level 02 (right)

Source: Development Plans, updated to remove one podium level (note: this is for visual reference only)

174. The proposed deletion of one level from the podium, resulting in a height of 15.26 metres including the framing would provide an adequate transition to the north along Little Oxford Street. This is represented in the above image. Whilst higher than the proposed DDO23 street wall height of 14.4 metres, the deletion of Level 01 or 02 of the podium would ensure that the podium framing around the terrace is retained on the topmost level of the podium.
175. This outcome would provide a sense of openness at the topmost podium level and mitigate any visual bulk impacts associated with the height above that envisioned by the proposed DDO23. It is considered that the corner block location supports the 3.81 metre height difference between the resultant overall podium height and the existing podium of No. 7 – 15 Little Oxford Street. The conditional street wall height is consistent with the current approval on the site (Planning Permit PL10/0331) which approved a podium with a height of 15.25 metres.
176. With respect to the Langridge Street elevation, the deletion of Level 01 or Level 02 would also ensure that the development provides an adequate transition to the individually significant building at No. 64 – 68 Smith Street. Given the heritage grading of this property, it is considered that the existing on-boundary forms would be retained.
177. The resultant podium form (four storeys including the open framed eastern half) would generally match the roofline of the property to the west. Transition would also be afforded to the east. As previously identified, taller forms are anticipated closer to Wellington Street. This is evident through the developments approved, constructed or currently under construction. The reduced podium height of 15.26 metres whilst lower than the podium under construction at No. 42-44 Oxford Street, No. 61-63 Cambridge Street and No. 16-20 Langridge Street (17 metres) would provide a transition in scale to the higher developments and also acknowledge the sloping topography of the land.
178. In terms of upper levels, the applicant circulated ‘without prejudice’ sketch plans on 17 December 2020 showing the height of the stair reduced by 1 metre and the height of the bathroom reduced by 0.4 metres. The louvres on the western elevation of the stair were also shown to be removed and replaced with clear glass with the concrete slab “core lid” also proposed to be replaced with a lightweight canopy. This is shown in the below render:



Image 12: Render provided 'without prejudice' (left) and with initial application (right)
Source: Applicant documentation

179. It is clear from the above renders that the change in material from the louvres to the clear glass provides visual relief and recession to this topmost level when viewed from the west. The height reduction of the stair however, accentuates the lift core behind and therefore is not considered necessary. The other modifications are located centrally on the terrace level and would not make an appreciable change.
180. It is therefore recommended that the western elevation of the stair at the roof terrace level be modified from louvres to clear glass. This change coupled with the reduction of height through the deletion of the podium level will ensure the development provides an acceptable response and transition from Smith Street to the more robust developments occurring to the east closer to Wellington Street.
181. In terms of overall height and within the immediate streetscape, it is acknowledged that the existing building at No. 7 – 15 Little Oxford Street adopts an overall height of 26.25 metres (excluding plant). To the east, the building under construction at No. 42-44 Oxford Street, No. 61-63 Cambridge Street and No. 16-20 Langridge Street adopts an overall height of 34.3 metres (excluding plant).
182. It can be clearly seen that visual bulk associated with the height and robust form of these taller buildings are part of the emerging character of the area. The development would be consistent with the height approved at No. 7 -15 Little Oxford Street, with both sites located 'higher' on the Collingwood Slope than those developments located closer to Wellington Street.
183. Whilst the building at No. 7 – 15 Little Oxford Street has been angled away from the southern boundary above the podium to mitigate overshadowing impacts to the dwellings that exist between this site and the subject site, the subject site is not constrained by such dwellings and it would be logical to adopt the podium and tower typology proposed.
184. The resultant height of 26.1 metres with the deletion of one podium level would be consistent with the emerging character of the area. Furthermore, the proposed development would still meet the following, relevant, objective of the proposed DDO30:
- (a) *a new mid-rise character (ranging from 3 to 8 storeys) behind a varied heritage street wall between Stanley and St David Streets and Gertrude and Langridge Street.*
185. Whilst it is acknowledged that the height of the building will be taller than the existing adjoining developments and the existing form on-site, it is clear this proposal is in-line with the emerging character of the area and consistent with local and state policy.
186. The issue of development which is higher than surrounding built form was further discussed in the Red Dot Tribunal decision, *Pace Developments v Port Phillip CC* (includes Summary) (Red Dot) [2012] VCAT 1277:

[58] *We accept that the building will be taller and will be seen, but the notion of respectful development does not mean that new buildings must replicate that which exists nor does it imply that they will not result in change. As we have noted, change must be contemplated in an area where growth is encouraged by the MSS and chance to improve, or perhaps in this case repair, the urban environment.*

187. Continuing the discussion regarding visibility of taller built form, the following comments were made by the Tribunal in *Rowcliffe Pty Ltd v Stonnington CC* [2004] VCAT 46 (29 January 2004):

[54] *If mere visibility becomes the test across metropolitan Melbourne, then it will be virtually impossible to construct buildings above the prevailing scale. This, in turn, would render it impossible to achieve the clearly stated urban consolidation objectives expressed in the Planning Scheme, objectives which Clause 11 requires us "to give effect to". The Tribunal rejects the notion that, because some of the buildings would be visible above the existing built form, they are therefore unacceptable. Rather, the test is whether the proposal is complementary to the surrounding area, and of a scale that can be assimilated without unreasonably disturbing the surrounding built environment.*

188. With regard to policy direction under the Scheme, clause 21.05 – *Urban Design* contains Objective 17: *to retain Yarra's identity as a low-rise urban form with pockets of higher development.*

(a) Strategy 17.2 reads as follows:

Development on strategic redevelopment sites or within activity centres should generally be no more than 5-6 storeys unless it can be demonstrated that the proposal can achieve specific benefits such as:

- (i) Significant upper level setbacks*
- (ii) Architectural design excellence*
- (iii) Best practice environmental sustainability objectives in design and construction*
- (iv) High quality restoration and adaptive re-use of heritage buildings*
- (v) Positive contribution to the enhancement of the public domain*
- (vi) Provision of affordable housing*

189. In regards to (ii), (iii) and (v), these items are all considered to have been met and will be discussed later in the report. Item (iv) and item (vi) are not relevant, given the site is not subject to the heritage overlay and this is a commercial proposal.

190. It is clear that the proposed height with a reduction of one level from the podium in this location is acceptable. Lastly, the proposed upper level setbacks to the surrounding street frontages are to be considered. The development response to the north and west will be considered later in the report.

191. When viewed from various locations along Langridge Street, Little Oxford Street and the surrounds, the contrast between the brick podium and the glazing of the upper levels would distinguish the two parts of the building. This will create an obvious distinction between the solid masonry street wall and the upper levels maintaining the clarity of the street wall in the streetscape.

192. In respect of upper level street setbacks, to Langridge Street a setback of 3.9 metres for the levels behind the framing and above the podium is provided. The Urban Design Unit supported the setback to Langridge Street, providing the following:

- (a) *The development proposes a 3.9m upper level setback along Langridge Street frontage. DDO30 recommends a preferred 6m setback above the streetwall height. The purpose behind providing an upper level setback is to create a clear separation between streetwall and upper form and to ensure the overall form does not visually dominate the streetscape and wider heritage character. The proposed design achieves this and hence from an urban design perspective the proposed upper level setback is acceptable.*

193. In relation to the 2 metre upper level setbacks from Little Oxford Street (behind the framing and above the podium), Council's Urban Design Unit recommended a minimum 4 metre setback be provided with the intention of meeting the objectives of providing a clear separation between the streetwall and upper form and to ensure the overall form does not visually dominate the streetscape and wider heritage character.
194. As determined above, the differing materials utilised within the podium and the upper levels clearly provides a distinct separation between the two forms. This was considered to be an aspect of the Langridge Street interface that had merit and the design remains consistent where presenting to Little Oxford Street.
195. Lastly it must be determined that the 2 metre setback does not visually dominate the streetscape and wider heritage character. There is no wider heritage character relevant to Little Oxford Street. Whilst opposite No. 37 Oxford Street, included within a site specific heritage overlay, this property fronts Oxford Street with car parking interfacing with Little Oxford Street. The heritage character this property provides is therefore associated with Oxford Street with any future development of this property is anticipated to be accommodated fronting Little Oxford Street.
196. This setback is similar to the development existing at No. 7 – 15 Little Oxford Street, which provided a 2.2 metre setback, with balconies encroaching into this setback, for levels 3 – 6 and a setback of 4.2 metres for level 7. By providing similar upper level setbacks, this results in the podium forms along Little Oxford Street as being the main view of passers-by. The proposed 2 metre upper level setback is therefore considered to be acceptable.
197. The generous setbacks of the pergola, stair, lift, services and bathroom facilities from Langridge Street and Little Oxford Street would ensure these elements will not be dominating on the surrounding streetscape.

Architectural Quality

198. The development is considered of high architectural quality and in that regard responds to the design objectives clause 15.01-2. The contemporary design is appropriate and responds well to this part of Collingwood where it is strategically located partially within a constantly evolving MAC.
199. Council's Urban Design Unit was complementary of the proposed design elements, making the following comments:
- (a) *The proposal presents a high quality architecture design with an interesting form that responds positively to the character of the area. The proposed material palette provides enough visual interest to the facades from all sides. Even though there is a lot of glazing used the brickwork grids breaks it up and the office areas will receive good amount of natural light.*
- (b) *Overall, the new design is seen as a positive architectural and urban design outcome that complements the existing character of the street.*

200. Whilst the northern on-boundary wall is built sheer to the boundary, Council's Urban Design Unit was complementary of the proposed materials and treatment, making the following comment:
- (a) *The provision of blank boundary wall along northern interface is acceptable as it ensure equitable development opportunity to the adjacent site. The materials proposed are acceptable as well.*
201. Council's Urban Design Unit requested the material of the garage door on the Eastern Elevation be annotated, this can be facilitated via condition to be 'LVR02' consistent with the materials schedule. The Unit also requested confirmation that the service cabinet doors will be clad in 'GL02.' This is clearly shown on the elevations and therefore is considered to be satisfied.
202. A façade strategy and materials and finishes schedule is required to be submitted via condition to demonstrate:
- (a) elevations at a scale of 1:20 illustrating typical podium details, entries and doors, and utilities and typical upper level facade details;
 - (b) section drawings to demonstrate façade systems, including fixing details and joints between materials or changes in form;
 - (c) information about how the façade will be maintained, including any vegetation; and
 - (d) a sample board and coloured drawings outlining colours, materials and finishes.
203. This will ensure that the materials to be utilised for the development are reviewed prior to construction to ensure they are of a high architectural quality in accordance with the plans submitted to date.

Landmarks, Views and Vistas

204. It is policy at clause 15.01-2S of the Scheme that important landmarks, views and vistas be protected or enhanced. The impact on long range views and vistas are only relevant where they form part of an identified character of an area (within planning policy) and typically apply to landscapes or natural features.
205. The proposed development does not compete with any identified landmarks given its location and is considered to be an acceptable response to the local policy direction under clause 22.03-4 of the Scheme.

Light, Shade and Public Realm

206. This principle requires the design of interfaces between buildings and public spaces to enhance the visual and social experience of the user. In this respect, the proposal represents an improvement in streetscape, public space quality and perceived safety.
207. Furthermore, a decision guideline of the proposed DDO30 requires consideration of the following:
- (a) *Whether the design of the streetscape interface makes a positive contribution to an active, pedestrian-oriented street environment and/or public realm.*
208. Council's Urban Design Unit was supportive of the ground floor interface to the surrounding streets, providing the following:

- (a) *The development proposes pedestrian entrances from Langridge Street and vehicular entrance from Little Oxford Street. The public realm interface along both street frontages is generally supported, with good level of transparency and activation to all the streets (including the right of way). This will majorly contribute in improving the public realm environment and hence is supported.*
209. The site presently contributes little to the street, being a commercial building with limited meaningful entrances and a frontage dominated by car parking. The proposal provides an active frontage, consolidating the crossovers to one along Little Oxford Street to maximise the interactive frontage to the main street of Langridge Street.
210. The proposed services whilst located abutting both Langridge and Little Oxford Streets are proposed to be clad in 'GL-02' and will be integrated with the ground level glazing material used for the balance of the interfaces. The vehicular entrance is also proposed from Little Oxford Street, toward the north, to ensure that all pedestrian entrances are easily identifiable and provided with a high degree of visibility within the streetscape.
211. In respect of the ground floor entrances along Langridge Street, Council's Urban Design Unit made the following comments:
- (a) *The ground floor should respond to the topography of the street. The concept of stepping the ground floor to respond to street level is supported, however, the applicant needs to demonstrate that there is a seamless transition between the footpath grading and entry areas. Any height different between footpath and entry doors should be resolved through grading of the paving to ensure no steps are required. It need to be clearly demonstrated that all relevant Australian Standards are met including but not limited to relevant access and mobility standards. Further, it should also clearly demonstrate that all the drainage and storm water requirements have been resolved accordingly. The ground floor plan needs to show existing and proposed levels and spot heights, including but not limited to finished floor levels of buildings and proposed footpath grading.*
212. With regard to the above, it is recommended that the following condition be implemented to resolve the identified issues:
- (a) Relative levels of the footpath at building entrances and internal areas at entrances demonstrating a seamless transition between Langridge Street and both the office lobby and retail premises, with any height difference managed with a notation confirming compliance with the Disability Discrimination Act 1992 (DDA).
213. In respect of drainage and storm water requirements, these are not requirements at the planning stage and would be determined if a planning permit were granted through the building permit process. Council's Urban Design Unit also made several recommendations in regard to the reconstruction of footpaths and the installation of the bicycle hoop on Langridge Street. These items will be discussed later in the report.
214. Council's local policy at Clause 22.07 also discusses development abutting laneways and relevantly, seeks to provide an environment which has a feeling of safety for users. From a design perspective, the use of the laneway is considered to be an improvement in streetscape, public space quality and perceived safety, by seeking to establish a greater connection to the public realm through increased passive surveillance from the west-facing windows of the development. Furthermore, as shown on the ground floor plan illumination of this ROW will be facilitated by the development.
215. A decision guideline of the proposed DDO30 requires consideration of how buildings and works will impact solar access to footpaths and public open spaces. Specifically, the proposed DDO30 requires the following:

- (a) *Development should meet the objective of Clause 55.04-5 Overshadowing for adjoining land within a Neighbourhood Residential Zone and/or General Residential Zone, including where separated by a laneway.*
- (b) *New development must not overshadow:*
 - (i) *the opposite footpath of Smith, Johnston, Gertrude and Langridge Streets and side streets over 10 metres wide (boundary to boundary), as applicable, measured as 3.0 metres from the relevant property frontage between 10am and 2pm at 22 September; and*
 - (ii) *any opposite kerb outstands, seating and/or planting areas (as applicable), between 10am and 2pm at 22 September.*
- (c) *New development should not overshadow properties fronting Bedford, Little Oxford Street and Little Smith Street, from the first floor upwards between 10am and 2pm at 22 September.*

216. In respect of item (a) this is not applicable to the subject site. In respect of item (b) Council's Strategic Planning Department identified non-compliance at 10AM in respect of the southern footpath of Langridge Street. A review of the shadow diagrams indicates a minor portion (0.15 metres in width and approximately 0.36m²) of this footpath would experience increased shadowing. Given the minor non-compliance, this is considered acceptable however it is acknowledged with the conditional height reduction there would not be shadowing of this footpath at 10AM and the development would comply.
217. In respect of item (c), Council's Strategic Planning Unit was of the opinion that the development did not comply as the footpath will experience increased shadowing, however the provision relates to the shadowing of adjoining properties and not the footpath itself. A review of the plans shows that the eastern footpath of Little Oxford Street would experience increased overshadowing from 1:16 PM. The face of the building on the opposing side of the street would therefore be shadowed later, after 1:16PM.
218. Whilst sectional shadow diagrams have not been submitted, it is considered that the additional shadowing of the face of the building on the opposing corner would be limited. Given the commercial context of the land and the discussion earlier within this report, the height of the development with a reduction of one storey is considered acceptable. This will assist in reducing shadowing in the surrounds and a building of lesser height would not make efficient use of the land, with higher built form supported by Council.
219. Lastly, Objective 5.1.4 of the UDGV requires new buildings within activity centres to minimise adverse wind effects. Furthermore, a decision guideline of the proposed DDO30 is whether the development mitigates negative wind effects.
220. The application was accompanied by a desktop wind assessment prepared by MEL Consultants. The wind assessment identified that walking criterion would be achieved for the surrounding streets whilst standing would be achieved for all building entrances at the ground level. In respect of the outdoor upper level terraces, the report found that walking criteria would generally be achieved with the exception of the northern end of the Level 4 terrace and western end of the Level 5 terrace.
221. This wind assessment was peer reviewed by Council's external wind consultant. The wind consultant agreed with the findings of the report, raising no concerns with the proposed methodology or findings as presented by the applicant.
222. It is considered that the upper level terraces should be designed to achieve walking criterion, at a minimum. This can be facilitated via condition, however landscaping should not be utilised as a wind mitigation measure and this will be specified.

223. Given there have been some modifications to the building via condition, a condition will be included requiring the assessment to be updated to assess the development as amended via Condition 1. A condition would also require amended plans to comply with the requirements of the Wind Impact Assessment.

Site Coverage

224. The proposed site coverage of 100% is considered acceptable as the existing level of site coverage in the surrounding (and immediate) area is similar and within zoning that encourages higher density development (C1Z). Commercial buildings in this precinct traditionally have high levels of site coverage with this characteristic being evident throughout Collingwood.

Landscape architecture

225. The proposal includes landscaping on each of the upper level terraces. Landscaping is not a typical feature of developments along Langridge Street and in the broader Collingwood area and as such satisfies objectives at clause 22.10-3.9.

226. No landscaping plan was submitted with the application. Given the development proposes several planter boxes and trees along the terraces, a condition will require a landscape plan to be prepared by a suitably qualified landscape architect, providing further details on the following:

- (a) show the type, location, quantity, height at maturity and botanical names of all proposed plants;
- (b) indicate the location of all areas to be covered by lawn or other surface materials; and
- (c) provide a specification of works to be undertaken prior to planting,

227. The above is considered reasonable. Council's ESD Advisor also requested a landscape plan be submitted to support the assumptions made within the submitted SMP. Subject to the above requirement, it is considered that the proposal will provide an adequate response to landscaping.

228. In regards to street trees, there is one street tree located within the Langridge Street road reserve in front of the subject site. To ensure the protection of this tree during construction, Council's Streetscapes and Natural Values Unit requires a bond for the amenity value of the trees and a tree management plan to be provided. This is considered a typical requirement and will form conditions to ensure that the tree is adequately protected during construction.

229. Lastly, Council's Urban Design Unit identified that Langridge Street is proposed to incorporate increased street tree planting as an outcome of Council's Urban Forest Strategy (2017).

230. Council's Streetscapes and Natural Values Unit requested a contribution of \$2000 be provided to facilitate the supply, planting and 2 years establishment maintenance for 4 new footpath trees. These will be planted during Council's planting season post development. Given the scale of development, this can be facilitated via condition.

231. The Design Unit also recommended the deletion of the Langridge Street canopy, however, Council's Arborists confirmed that the canopy could be removed or reduced to a 1.2 metre protrusion (reduction of 0.45 metres). Whilst it is acknowledged that the current approval includes a canopy with a minimum width of 1.6 metres over Langridge Street, it is submitted that this was approved prior to the introduction of the Urban Forest Strategy.

232. A condition will be included requiring the canopies to not extend more than 1.2 metres from the building to ensure that the future trees are afforded with appropriate space for growth, to continue to provide wind protection for pedestrians, and to maintain this important weather protection feature.

On-site amenity including Environmentally Sustainable Design

Environmentally Sustainable Design (ESD)

233. Policy at clauses 15.01-2S, 21.07, 22.16 and 22.17 of the Scheme encourage ecologically sustainable development, with regard to water and energy efficiency, building construction and ongoing management.
234. The redevelopment of the site located in an existing built-up area makes efficient use of existing infrastructure and services, and the proximity of the subject site to numerous public transport modes reduces reliance on private vehicles.
235. Council's ESD Advisor reviewed the development plans and submitted Sustainable Management Plan (SMP) identifying areas of deficiencies and outstanding information that needed to be provided. Council's ESD Advisor commented that should a permit issue, these should be conditioned to ensure Council's ESD Standards are fully met.
236. The identified deficiencies and outstanding information identified is identified below:
- (a) Application ESD Deficiencies:**
- (i) *A shading strategy is required for east and west glazing.*
 - (ii) *Commit to producing a Building Users Guide explaining optimal usage of building services to minimise energy and water consumption.*
 - (iii) *The 4-star Green Star target (45 credits targeted), relies on 4 Innovation credits which while welcome, are not considered innovative – attention should be spent in targeting alternative credits that deliver tangible sustainability outcomes.*
- (b) Outstanding Information:**
- (i) *Clarify provision of natural ventilation (via operable windows) to office spaces on all levels.*
 - (ii) *Provide a Daylight Assessment Report that - taking into account surrounding development - identifies DF (and VLT used for modelling)*
 - (iii) *Clarify standards upon which hazardous materials strategies are responding too*
 - (iv) *Clarify details around building fabric, insulation, glazing, and ventilation to support claim thermal comfort*
 - (v) *Provide a Section J Assessment with details on building fabric, glazing and services proposed to achieve this – and clarify applicability of NCC 2019.*
 - (vi) *Clarify system design (and include within Section J Assessment) and consider 3 pipe VRF*
 - (vii) *Clarify car park ventilation approach*
 - (viii) *Clarify lighting IPD and improvements upon NCC 2019.*
 - (ix) *Include solar PV generation analysis within Section J Assessment and GHG emissions calculations.*
 - (x) *Clarify water and energy metering strategy.*
 - (xi) *Clarify post-development flow will not exceed pre-development levels.*
 - (xii) *Clarify area of terrace planter boxes that assist with stormwater diversion.*
 - (xiii) *Clarify stormwater treatment strategy (filtration) as a condition on permit.*
 - (xiv) *Confirm timber products will be recycled or from accredited sustainably harvested plantation sources (FSC or AFS).*
 - (xv) *Confirm extent of PVC strategy (by cost, or weight) and PVC limits/guidelines.*
 - (xvi) *Ensure waste target is articulated within site-specific Environmental Management Plan.*
 - (xvii) *Provide a Landscape Plan that details planting schedule.*

237. As identified within the background section, an updated SMP was submitted on a 'without prejudice' basis 20 January 2021. The SMP was amended to show how the deficiencies and outstanding information above could be addressed. Council's ESD Advisor reviewed the document and advised that most items were satisfied with the exception of the natural ventilation and shading strategy concerns as referenced above. Further information was required again on these aspects, however it is considered these are easily addressed through an updated SMP and subsequent amended plans.
238. As the updated 'without prejudice' SMP was not formally submitted it cannot be relied upon and therefore the initially identified deficiencies and outstanding information (as outlined above) can be required to be provided via condition. It is clear in reviewing the 'without prejudice' SMP that these items can be addressed.

Daylight and Ventilation

239. The proposed development is considered to provide a good level of amenity and indoor environmental quality. Specifically, this is achieved through good access to daylight for the office space being located on a corner with a western abuttal to a laneway. The development provides large expanses of glazing at all levels and the provision of a terrace at Level 04, Level 05 and on the rooftop.
240. In terms of daylight, the "without prejudice" SMP identified that the development could achieve an average 2% daylight factor 69.2% of the office floor space. This would exceed the BESS standards that require a daylight factor of 2% for at least 30% of floor area. Council's ESD Advisor identified that daylight within the 'without prejudice' SMP was satisfactorily addressed. It is therefore acknowledged that the development is able to demonstrate a satisfactory response in regards to daylight. This would be required to be provided within an updated SMP, as per the above discussion.
241. The SMP submitted with the application indicates that a ventilation system will be utilised. Council's ESD Advisor raised no concern with the proposed ventilation, however, requested clarification on the provision of outdoor air to office spaces on all levels. Following a review of the 'without prejudice' SMP, this was still an outstanding item. Clarification on this aspect is considered appropriate and can form a condition.

Circulation Spaces

242. The main pedestrian entrance from Langridge Street to the office lobby will provide access to the lift core and stairwell of the building. The building lobby, with lounge area at the corner of Langridge Street and the ROW, will provide adequate visual queues to identify the entrance.
243. The main pedestrian entrance to the retail tenancy is easily identifiable from the main street. The tenancy has been designed to ensure that limited steps from the street to the tenancy are required to be traversed to enter, this is an improvement from the other planning permit approved for the site, which required several steps to access the ground floor tenancy from the street.
244. The dedicated bicycle entrance is from Little Oxford Street. The circulation spaces afford a good level of amenity to future building occupants. Lighting of the entries will be required to ensure appropriate identification and safety.

Facilities

245. Bathrooms are provided at each level for the office tenants. Whilst kitchen facilities are not currently shown on the floor plans, it is considered that this will be designed in the detail design stage once the building becomes tenanted and is acceptable.

246. Bicycle parking and end-of-trip facilities are also incorporated into the design, within the basement level. External terraces are provided at varying levels. These features will further enhance the amenity of the development.

Off-site amenity

247. The relevant policy framework for amenity considerations is contained within clause 22.05 (Interface uses policy) of the Scheme. The decision guidelines at Clause 22.05-6 specify that Council should consider (as appropriate):

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

248. The nearest residential uses occurring within the C1Z are abutting the site to the north. Within the MUZ, and 10 metres from the subject site across Little Oxford Street to the east, a dwelling is located directly opposite at No. 37 Oxford Street (the rear interfaces with Little Oxford Street) and No. 2 Little Oxford Street is built facing the street. A residence also exists on the south-eastern corner of Langridge Street and Little Oxford Street.

249. The appropriateness of amenity impacts need to be considered within their strategic context, with the site being located on land zoned C1Z. With this in mind, the following assessment is provided (waste management will be discussed later in this report).

Noise

250. The use of the land for office and for the retail premises does not require a planning permit within the C1Z and it is considered unlikely that the proposal would result in unacceptable noise emissions to the nearby residential properties.

251. Looking specifically at the noise sources, services/plant equipment are located on the roof and appropriately screened by 1.7 metre high louvres along the northern boundary, where the most sensitive uses are located. A condition will require noise and emissions from the building to comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N1).

252. Whilst the office and retail premises would not require a large number of deliveries to the site, a condition will require deliveries and waste collections to be undertaken in accordance with the times prescribed by Council's Local Law. This would assist in minimising noise disruption to the surrounds from these noise sources.

Visual bulk

253. In regards to visual bulk impacts to the dwellings to north at No. 3 and No. 5 Little Oxford Street, the habitable room windows and open space areas of these dwellings face north, away from the subject site, and there would not be any direct views to the subject site.

254. In respect of the apartment building at No. 7 – 15 Oxford Street which does include south-facing windows, it is considered that within this built form context views from windows to built form is not an unreasonable expectation. The separation distance in excess of 20 metres would mitigate bulk concerns.

255. To the east, it is considered that views from the west-facing habitable room windows of No. 37 Oxford Street and No. 2 Little Oxford Street as well as the secluded private open space of the former property would be possible. The width of the street would provide adequate separation distance to mitigate unreasonable visual bulk impacts. The bulk associated with the building is considered typical of development occurring at a zone interface (between MUZ and C1Z).

256. There are some dwellings located on the southern side of Langridge Street that have north-facing windows. The separation distance of the street, approximately 20 metres, would assist in ensuring no unreasonable visual bulk occurs to these properties.
257. Several objections raised loss of views as a primary concern. The Victorian Civil and Administrative Tribunal (VCAT) has consistently found that although impact upon views can be considered amongst the amenity impacts of a proposal, there cannot be considered a right to any particular view. In the absence of particular planning controls which might require the protection of, or sharing of views, loss of views is afforded very limited weight. This is especially the case where a view is obtained across adjoining land and the views are not afforded any special consideration in a planning control.
258. This particular issue was discussed within VCAT decision *Harker & Anor v Yarra CC* [2009] VCAT 1358 where Member Read made the following comments at paragraph 18:
- (a) *...I must also bear in mind that buildings of this proposal's height are now common in this locality and, in some respects, it is fortuitous that a building of at least similar height has not already been constructed or proposed further south. Because there is no planning policy or control in the Yarra Planning Scheme that is designed to identify and protect valued views, I conclude that I would be acting unreasonably if I were to refuse a permit for the proposed building on this ground. This would be an unreasonably and arbitrary imposition on one property owner in order to protect another from a reasonably foreseeable outcome.*

[emphasis added]

259. In this case the development is not considered to intrude unreasonably upon the skyline to reduce the amenity of neighbours through their outlook or access to daylight.

Overlooking

260. In relation to overlooking, it is an accepted principle that overlooking only occurs between habitable rooms (i.e. bedrooms and living rooms) and private open spaces within a 9 metre radius. The proposed development is for an office and shop, and therefore is not subject to the same requirements.
261. Notwithstanding, the development is separated from dwellings to the east and south by greater than 9 metres due to Little Oxford Street and Langridge Street. There are no habitable room windows or secluded private open space areas to the west.
262. The development is built to the northern boundary with no north-facing windows. There are two terraces at Levels 04 and the roof top level. A review of potential sightlines using Trapeze Software that can scale and measure the plans indicates the following:
- (a) The terrace at Level 04 includes screening between 0.37 metres and 0.77 metres in height along the northern boundary. As shown below, this would allow views downwards within 9 metres. It is likely that due to the location of the secluded private open space areas associated with No. 3 Little Oxford Street (not directly adjacent, but located further west) the sightline would be obscured. This should be confirmed and can be via condition. If overlooking were to occur, screened could be erected along this boundary.
- (b) The useable area associated with the rooftop terrace is setback approximately 5.5 metres from the northern boundary, ensuring that any views to the north downwards within 9 metres would be obscured by the development itself. This would continue to be the case with the conditioned height reduction.



Image 12: The eastern elevation showing potential sightlines within 9 metres from Level 04 and Rooftop terraces
Source: Applicant documentation annotated utilising Trapeze Software

263. Subject to conditions, overlooking would be adequately addressed.

Overshadowing and daylight to existing windows

264. Due to the layout and position of the surrounding residences, no additional shadowing would occur to any area of secluded private open space in the surrounds.

265. In respect of daylight, the proposal is adequately setback from windows associated with the surrounding dwellings to allow for access to daylight. Whilst directly abutting residences to the north, the windows of these dwellings are oriented to face north, away from the subject site and would not be impacted.

Fumes and air emissions, light spillage

266. The majority of the office and the ground floor retail premises uses are enclosed with the uses conducted indoors (with the exception of the outdoor terraces for office). All uses within the building do not require planning permission to operate.

267. The proposed uses are not considered to result in unreasonable air emissions, with light spill from the upper level offices limited due to the nature of the use. The building built up against the northern boundary would also ensure light spill would be directed away from the majority of the residences existing in the surrounds.

268. Any light spill would be in the context of other uses in the area and the commercial zoning of the land. Whilst direct lighting is proposed along the ROW at the ground level, this is to a commercial interface and will ensure safety and activation of the ROW. There is no direct lighting of the external parts of the building facing north, east and south. There would be no fumes associated with the proposed uses.

Wind Impacts

269. Several objections raised concern with wind deflection from the building into secluded private open space areas, as the wind report submitted with the application identifies the following:

- (a) *The north face of the proposed development would be reasonably well shielded from direct wind flow from the upstream buildings and this would limit the volume of downwash from the north face. Furthermore, any downwash from the north face would be expected to be deflected over the roof of 3 Little Oxford Street, which would mitigate the impact in the streetscapes of Little Oxford Street. The downwash wind flow from the south face that would flow around the southeast corner has been discussed in Section 6.1.*

270. The primary secluded private open space areas associated with No. 3 Little Oxford Street are located at the first floor, with secondary balconies also provided at the second floor as seen below:



Figure 13: 3D Aerial images of No. 1/3 and 2/3 Little Oxford Street
Source: Google Maps image capture date: 2021

271. Given the lower location of the primary secluded open space areas, it is considered that they would be adequately protected from wind.

Equitable Development

272. To ensure the 'fair, orderly, economic and sustainable development of land' in accordance with the objective of the Act, matters of equitable development should be considered.
273. It is an accepted principle (such as referenced within the proposed Collingwood and Fitzroy Interim Design and Development Overlays proposed within Amendment C270) that the upper levels of a development are to provide a 3 metre setback for commercial windows and 4.5 metres for a habitable room windows. Where abutting a laneway, this is taken from the centreline.
274. The site is separated from land to the south and east by Langridge and Little Oxford Streets, it is considered the separation provided by these road reserves would provide for adequate equitable development on opposing properties.
275. In respect of the interface to the north, the proposed development abuts this boundary for its entire height. This design outcome will ensure that the site to the north is not constrained in its development potential given whatever is built will be against this boundary wall. Given the context of the site, it is considered that future equitable development opportunities are afforded to the northern adjoining site. Council's Urban Design Unit was complementary of the proposed interface.
276. In respect of the interface to the west, Council initially raised concern with the glazed upper levels of the development being built to the western boundary of the ROW. This was also a concern of Council's Urban Design Unit, who commented the following:

- (a) *The development does not propose any upper level setback along the laneway frontage. It needs to take into consideration the development opportunity for 64-68 Smith Street site. The proposed interim DDO30 provides recommendations for rear boundary wall height and building separation. From an urban design perspective it will be acceptable if only the section above the recommended streetwall (4 storeys) is setback by 3m from the centre of the lane.*

277. In response, the applicant submitted sketch plans demonstrating an equitable development scenario with the property at No. 64 – 68 Smith Street, considering the site’s potential with particular regard to the ‘individually significant’ heritage grading of the existing building. The sketch plans demonstrated the following:

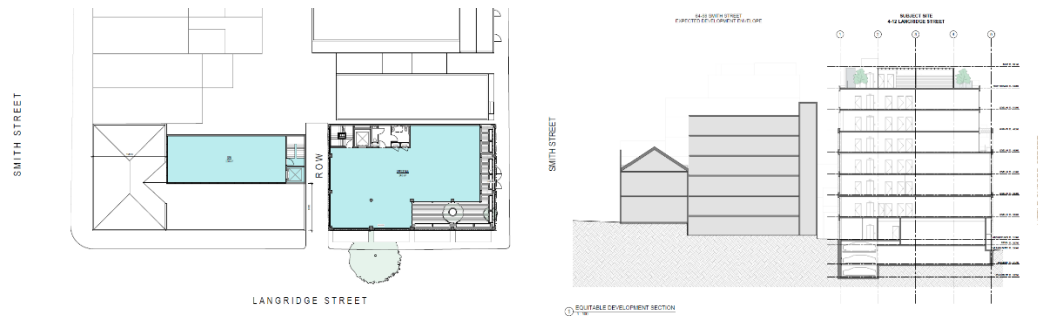


Figure 14: Equitable development scenario between the subject site and No. 64-68 Smith Street
Source: Sketch Plans (12.12.20)

278. As identified by the applicant, development of this property will likely be confined to the north-eastern corner of the site, given the heritage retention and setback requirements. The above drawings demonstrate this results in any additional built form on the site likely to turn its back to the subject site, being the most efficient location for the core.
279. With regard to the above, it is considered that the development as proposed provides an acceptable equitable development response to the west.

Car parking and traffic

280. Under clause 52.06 of the Scheme, the applicant is seeking a parking reduction of 37 car parking spaces, with 13 on-site car parking spaces proposed. This represents a full reduction of car parking for the retail premises and partial reduction for the office use.

Parking Demand

281. With regards to the car parking demand generated by the proposed office use, it is acknowledged that the statutory car parking rates outlined in the Scheme are conservative when applied in this instance, given the inner-city location of the subject site and proximity to alternative transport means.
282. It is well documented through recent decisions made by the Victorian Civil and Administrative Tribunal (VCAT) that modal shifts to reduce the reliance on the use of private motor vehicles is not only welcomed, but required, to ensure that a holistic planning approach to precincts that are designated for greater change is applied.
289. A Red Dot VCAT decision (*Ronge v Moreland CC [2017] VCAT 550*) made numerous statements with regards to car parking reductions. The Member clearly advocated for a reduction in the statutory car parking provision in inner-city sites such as this. Whilst this decision pertains to a site in Brunswick, the context is similar, being located within proximity to train stations and tram routes. In this instance, the subject site is closer to public transport opportunities and the Melbourne CBD than the review site.
290. Throughout the decision there are a number of relevant statements in support of the reduction and also regarding the limited importance that should be placed on car parking demand assessments, these are provided below:

- (a) *State and local planning policies are already acknowledging the change that is required in the way in which people travel with Plan Melbourne 2017-2050 and State policies referring to 20-minute neighbourhoods and greater reliance on walking and cycling.*

- (b) *Our roads are already congested and will be unimaginably so if a ‘business-as-usual’ approach is accepted through until 2050. The stark reality is that the way people move around Melbourne will have to radically change, particularly in suburbs so well served by different modes of public transport and where cycling and walking are practical alternatives to car based travel.*
- (c) *A car parking demand assessment is called for by Clause 52.06-6 when there is an intention to provide less car parking than that required by Clause 52.06-5.*
- (d) *However, discussion around existing patterns of car parking is considered to be of marginal value given the strong policy imperatives about relying less on motor vehicles and more on public transport, walking and cycling. Census data from 2011 or 2016 is simply a snapshot in time, a base point, but such data should not be given much weight in determining what number of car spaces should be provided in future, for dwellings with different bedroom numbers.*
- (e) *Policy tells us the future must be different.*
- (f) *Oversupplying parking, whether or not to comply with Clause 52.06, has the real potential to undermine the encouragement being given to reduce car based travel in favour of public transport, walking and cycling.*
- (g) *One of the significant benefits of providing less car parking is a lower volume of vehicle movements and hence a reduced increase in traffic movements on the road network.*

291. The *Ronge v Moreland* decision also confirms that in inner city areas where there is access to alternative forms of transport, there is a need to change how people are currently moving around Melbourne. Providing less car parking spaces encourages people to cycle, walk or use public transport.

283. Furthermore, in the VCAT Decision *Gantal Investments Pty Ltd v Yarra CC [2018] VCAT 482*, in respect of the site to the east at 11 – 13 Pearson Street, the Tribunal made the following statement:

- (a) *We are satisfied that the quantum of car parking proposed on-site is appropriate in the context of the review site’s location proximate to excellent public transport facilities. We consider that the reduced rate for the office tenancies is consistent with Council’s policy framework by supporting sustainable transport alternatives to the motor car, and making provision for accessible on-site bicycle parking*

284. Based upon the findings within these decisions, it would be inappropriate to merely adopt current car parking trends for the proposed development. Consideration needs to be given to the context and opportunities to encourage sustainable transport alternatives.

285. In support of the reduced car parking on-site, examples of existing offices within the City of Yarra with reduced on-site car parking were provided by Council Engineers. Details of these offices are provided as follows:

Development Site	Approved Office Parking Rate
60-88 Cremorne Street, Cremorne PLN17/0626 issued 21 June 2018	0.72 spaces per 100 m ² (200 on-site spaces; 27,653 m ²)
51 Langridge Street, Collingwood PLN17/0332 (Amended) issued 18 May 2018	0.54 spaces per 100 m ² (18 on-site spaces; 3,335 m ²)

2-16 Northumberland Street PLN16/0435 issued 14 June 2017	0.89 spaces per 100 m ² (135 on-site spaces; 15,300 m ²)
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286. Council's Engineering Services unit confirmed that the proposed on-site office parking rate of 0.84 spaces is considered appropriate, having regard to the site's good accessibility to public transport services and proximity to Melbourne CBD.
287. In respect of the retail premises, Council's Engineering Unit is satisfied that staff would be fully aware of the finite availability of long-term parking in the immediate area and would choose to commute to the site via alternative transport modes. Lastly, there is adequate short-stay parking in the area to cater to visitors.
288. Specifically in relation to the particular benefits of the site location, the reduction being sought by the proposal is further supported by the following:
- (a) The site has excellent access to the public transport network, bicycle facilities and a wide range of retail, dining and commercial services within the Smith Street MAC and Gertrude and Johnston Street NACs, which in turn will reduce the dependence on private vehicle by future employees.
 - (b) The surrounding area has a good bicycle network and the development includes employee bicycle parking spaces and end of trip facilities in excess of rates specified within the Scheme to encourage staff to ride to work.
 - (c) Office land uses are particularly conducive to alternative transport modes given that trips typically occur within peak hour when public transport services are most frequent. The regularity and familiarity of the journey is also a factor that encourages alternative travel modes. Employees are also more likely to cycle to avoid peak hour traffic delays.
 - (d) There is limited on-street parking in the area, with restrictive parking controls acting as a disincentive for employees to travel to work by car. Occupant or visitor parking permits will not be issued for the development and building tenants would be entering leases aware of the on-site parking availability. Therefore businesses with a high reliance on car parking are unlikely to take up a lease at the site.
 - (e) Visitors would likely be aware of the car parking constraints in the area or otherwise be made aware by the occupants of the building, thus also encouraging use of alternative modes such as public transport, cycling or taxis.
 - (f) Council's Engineering Unit are supportive of the application on the basis that it is in line with the objectives of Council's *Strategic Transport Statement* noting that the site is ideally located with regard to sustainable transport alternatives and the reduced provision of on-site parking would discourage private motor vehicle use.

Parking Availability

289. The applicant's traffic engineers, OneMileGrid, conducted a car parking inventory survey of the car parking available within approximately 200 metres of the site. Due to COVID-19 restrictions in place (mid-2020), on-street parking at that time would not have been representative when under normal operating conditions.
290. The inventory survey identified that within the surrounds there were a total of 217 spaces in the area (including 6 DDA spaces) that are available for short-stay users. The survey confirmed that there was limited car parking in the area for long-stay users.

291. Data is drawn from another development approved in the area pursuant to Planning Permit PLN20/0214 at Nos. 6 – 10 Peel Street. For this application Ratio Consultants conducted an occupancy survey on Thursday 21 November 2019, Friday 22 November 2019 and Saturday 23 November 2019 between 8:00am and 12:00pm. The survey area encompassed sections of Webb Street, Smith Street, Peel Street, Little Oxford Street, Oxford Street and Cambridge Street. Council's Senior Traffic Engineer confirmed that the times and extent of the survey are acceptable.
292. The parking survey found an inventory of 260 publicly available parking spaces. The parking survey determined that the peak parking occupancy was observed on Friday with no fewer than 19 spaces vacant, an on-street parking occupancy of 93%. Council's Senior Traffic Engineer commented in respect of this application, that the results suggested that short stay parking spaces could be found close to the site, but the supply of on-street long stay parking spaces is scarce.
257. With respect to the location of the subject site, it is understood that on-street parking demand is very high and close to saturation point. As acknowledged in the *Ronge v Moreland* decision, existing patterns of car parking usage is not useful given policy within Clause 52.06 encourages the use of other forms of transport.
258. Council's Engineering Unit were supportive of the proposed reduction, stating the following:
- (a) *From a traffic engineering perspective, the waiver of parking for the office retail uses are considered appropriate in the context of the development and the surrounding area. The on-site parking provision rates are consistent with other developments that have been approved in Yarra. The operation of the development should not adversely impact on existing on-street parking conditions in the area.*

Traffic

293. The traffic generation for the site was assessed by the Applicant's Traffic Engineers and reviewed by Council Engineers. This represented 7 movements each within the AM and PM peak period.
294. Council's Traffic Engineers have confirmed that the traffic directional split and distribution assumptions outlined appear reasonable, and that any increase in the volume of traffic generated by the development could be accommodated on the local road network without adversely impacting on the traffic operation of nearby streets.

Access and layout

295. Clause 52.06-9 (Design standards for car parking) of the Scheme relates to the design of car parking areas and contains 7 standards and requirements relating to access way, car parking spaces, gradients, mechanical parking, urban design, safety and landscaping.
296. These details, along with the proposed car stacker units have been reviewed by Council's Engineering Unit who is satisfied with the layout of the car parking area. Council's Engineering Unit has requested that the plans be revised to include the following details / dimensions that can be addressed by way of conditions:
- (a) To ensure adequate visibility, convex mirrors be installed on either side of the development entrance in lieu of pedestrian sight triangles.
 - (b) The bollard within the shared area is to be positioned 800 mm from the aisle as required by AS/NZS 2890.6:2009. The shared area is to be hatched line marked as required by the Standard.

- (c) The depth of the column in between the accessible parking space and at-grade parking is to be dimensioned. The setback from the aisle is to be dimensioned.
- (d) The 1 in 8 transition grade at the base of the 1 in 4 ramp section is to be lengthened to 2.5 metres in order to allow a B99 design vehicle to traverse without scraping or bottoming out.
- (e) A vehicle crossing ground clearance check is required to be submitted.

297. Several engineering conditions in regards to civil works, road asset protection, and construction management, impacts of assets on the proposed development, reinstatement of redundant vehicle crossings and modification to car parking signage have been recommended. These conditions are considered standard and should also be included on any permit issued. It will also form a condition that the plans be updated to show the reinstatement of curbs where existing vehicle crossovers are being made redundant.

298. Overall, the proposed design and configuration of access and car parking areas are considered to achieve a satisfactory outcome and will be further improved with the above details requested by Council's Engineering Unit.

Loading and unloading

299. With regards to the proposed use of the site for office and a ground floor retail premises, it is considered that an on-site loading bay is not required. It is anticipated that loading associated with the office would be infrequent and undertaken by smaller trucks/vans that can utilise the nearest public on-street Loading Zone (on the north side of Langridge Street, east of Smith Street) or public parking within the area.

300. A condition can require deliveries and waste collections to be undertaken in accordance with the times prescribed by Council's Local Law.

Bicycle facilities and strategic transport

Bicycle parking and facilities

301. The proposal provides a total of 30 bicycle parking spaces on-site for employees provided at the ground floor level. The number of bicycle spaces for employees exceeds the statutory rate outlined in Clause 52.34 and the rate outlined within Category 6 of the Built Environment Sustainability Scorecard (BESS) (requiring 5 employee spaces and 16 employee spaces respectively). Furthermore, the proposal would meet AS23890.3 (Australian Standards for bicycle parking facilities) which requires 20% of employee spaces to be horizontal at-grade. The proposed provision of employee bicycle parking is satisfactory.

302. In respect of visitor parking, the proposal provides 2 spaces on-site with 2 spaces off-site, along the Langridge Street frontage. The statutory rate outlined in Clause 52.34 requires 2 visitor spaces and the rate outlined in Category 6 of the BESS recommends 3 spaces. The proposal comfortably exceeds both requirements when considering both on-site and off-site parking.

303. Council's Strategic Transport Unit reviewed the proposed access, safety and layout, advising that the three 'halo racks' (one provided for visitors and two provided for employees) does not appear to comply with the product specification requirements, specifically the aisle width appears to be 990mm when a width of 1500mm is required.

304. The following condition can be included requiring the bicycle racks to comply with the Australian Standard and bicycle rack specifications:

- (a) *The aisle width for the 2 visitor spaces and 4 employee spaces against the southern wall of the internal EOT facilities room/corridor to comply with AS2890.3 and the requirements of the bicycle rack specifications (halo bicycle rack or similar).*

305. Council's Strategic Transport Unit recommended the visitor bicycle parking at the Langridge Street footpath to be installed as per Council's Urban Design bike hoop standard detail. A condition can facilitate this. A further condition can also be included to address the specific requirements in regard to the on-street bicycle hoop as raised by Council's Urban Design Unit.
306. The proposed end-of-trip facilities located on the ground level would exceed the Scheme requirements (1 shower/change room) as well as the BESS requirements (2 showers/ change rooms), through the provision of 5 showers/change rooms. Council's Strategic Transport Unit raised no concerns with this aspect of the design.
307. With regard to the above, it is considered that subject to conditions the bicycle parking and facilities are acceptable.

Electric vehicles

308. Council's Strategic Transport Officer reviewed the proposal and recommended the car parking area be electrically wired to be 'EV ready' to allow for easy future provision of electric vehicle charging. This is considered appropriate and can be facilitated via condition.

Green Travel Plan

309. A Green Travel Plan (GTP) was provided by the applicant to support the application. This document was referred to Council's Strategic Transport Officer, who advised that the GTP provided all the required information and should be updated to include the endorsed plans / final layout of bicycle parking, due to the conditions discussed above. This can be facilitated via condition.
310. A further condition will require the provisions, recommendations and requirements of the GTP to be implemented and complied with to the satisfaction of the Responsible Authority.

Waste management

311. The proposal provides for a waste storage room within the south-eastern corner of the basement. The waste room will accommodate 1 x 660 litre bin for garbage, 1 x 660 litre bin for recycling and 1 x 660 litre bin for organics. All waste collection will be private and is intended to be undertaken from Little Oxford Street to the east. The waste vehicle will prop within Little Oxford Street whilst the collection staff transfer bins to the truck and back.
312. Following a review of the Waste Management Plan (WMP) (authored by OneMileGrid and dated 29 June 2020), Council's City Works Unit advised that the WMP be updated to include the following additional information/changes:
- (a) *In order to assess whether enough space has been allocated to form an effective waste system please include the total footprint of the bins allocated and the space available in the bin storage room in M2*
 - (b) *Please identify hard waste storage area within the bin storage area diagram*
 - (c) *Please identify E waste storage area within the bin storage area diagram*
 - (d) *Please provide evidence sufficient space (1.5m) will be available for pedestrians at the proposed bin collection location when bins are presented kerbside.*
313. It is considered that the matters identified above can be addressed via condition requiring an updated WMP. As previously identified, the applicant submitted a sketch plan on 29 October 2020 demonstrating how the waste room could be enlarged to address the above recommendations. It is therefore considered that they could easily be addressed via condition. A condition should also require the WMP to be updated to reference the plans amended via condition 1 due to the changes to the floor area.

314. In addition to the above, it is acknowledged that due to changes in waste service systems recently announced by the State Government the site must consider how the 4 waste streams (food/green waste, glass, comingled recycle and landfill waste) will be managed and ensure adequate space for extra bins, for glass that is currently not included, that will be required. This can be incorporated as a condition.
315. Furthermore, a condition will be included to ensure that the provisions, recommendation and requirements of the endorsed WMP be implemented and complied with.

Objector concerns

316. Many of the objector issues have been discussed within the body of the report as shown below. Outstanding issues raised are addressed as follows.

- (a) *Built form and design (inappropriate height, massing, architectural expression including 'blank' northern wall; out of keeping with heritage)*

This is discussed within paragraphs 161 to 205.

- (b) *Amenity impacts (unacceptable internal amenity, waste arrangements and ESD; public realm overshadowing; drainage impacts)*

This is discussed within paragraphs 206 to 223, 233 to 246 and 311 to 315.

- (c) *Off-site amenity (loss of views, noise and wind impacts);*

This is discussed within paragraphs 247 to 279.

- (d) *Increased traffic and lack of car parking*

This is discussed within paragraphs 280 to 294.

- (e) *Construction impacts (noise, pollution, impacts to structures of buildings)*

Whilst this will be handled at the Building Permit stage, a Construction Management Plan will be required via condition to ensure the construction is managed in accordance with Council policies and procedures.

- (f) *Lack of open space within the area*

The above is not a relevant planning consideration as the Scheme does not require public open space to be provided for commercial developments. State and Local Planning Policies support an increase in development and land use activity in proximity to transport corridors and activity centres.

- (g) *No need for additional office floor space*

The use of the land for office does not require a planning permit. Notwithstanding, as identified within the report, the MICLUP anticipates an additional 3.3 million square metres of office floor space will be required across the Inner Metro Region by 2031.

Conclusion

317. The proposed use and development is considered to demonstrate a high level of compliance with policy objectives contained within the Planning Policy Framework and Municipal Strategic Statement. Notably, the proposal achieves the State Government's urban consolidation objectives.

318. The proposal, subject to the conditions recommended, is an acceptable planning outcome that demonstrates clear compliance with the relevant Council policies.

RECOMMENDATION

That having considered all submissions and relevant planning policies, the Committee resolves to advise the Victorian Civil and Administrative Tribunal that had it been in the position to, it would have issued a Notice of Decision to Grant a Planning Permit PLN20/0470 for Construction of a multi-storey building and a reduction in the statutory car parking requirement at 4 – 12 Langridge Street, Collingwood, subject to the following conditions:

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans, prepared by Bayley Ward, Sheets TP0099, TP1000 – TP1010, TP2000 – TP2100, TP3000 – TP3001 and TP4100 – TP4101 dated 17/08/20 but modified to include:
 - (a) Deletion of one podium level (Level 01 or Level 02);
 - (b) The western elevation of the stair core at the roof terrace level modified to clear glazing;
 - (c) Relative levels of the footpath at building entrances and internal areas at entrances demonstrating a seamless transition between Langridge Street and both the office lobby and retail premises, with any height difference managed with a notation confirming compliance with the Disability Discrimination Act 1992 (DDA).
 - (d) The material of the garage door annotated on the east elevation, to be 'LVR02.'
 - (e) The canopies along Langridge Street to not extend more than 1.2 metres from the building.
 - (f) Detailed diagrams demonstrating no overlooking from the Level 04 terrace into secluded private open space areas and habitable room windows to the north within 9m. Any additional screening measures used to achieve compliance are to be shown.
 - (g) Convex mirrors installed on either side of the development entrance (in lieu of pedestrian sight triangles).
 - (h) The bollard within the shared area is to be positioned 800 mm from the aisle and the shared area hatched, as required by AS/NZS 2890.6:2009.
 - (i) The depth of the column in between the accessible parking space and the at-grade parking and the setback from the aisle is to be dimensioned.
 - (j) The 1 in 8 transition grade at the base of the 1 in 4 ramp section lengthened to 2.5 metres.
 - (k) The aisle width for the 2 visitor spaces and 4 employee spaces against the southern wall of the internal EOT facilities room/corridor to comply with AS2890.3 and the requirements of the bicycle rack specifications (halo bicycle rack or similar).
 - (l) The car parking area to be electrically wired to be 'EV ready,' with a notation included on the plans identifying this.
 - (m) The bike hoop on the Langridge Street footpath must maintain a minimum 1.5m clear path of travel from the adjacent building line and be offset from the street sign and kerb by 0.6 metres, in accordance with Council's Street Furniture Details 01: Bicycle Hoops.
 - (n) Any changes required by the Façade Strategy and Materials and Finishes Plan at Condition 3.
 - (o) Any changes required by the Landscape Plan at Condition 5.
 - (p) Any changes required by the amended Sustainable Management Plan at Condition 7.
 - (q) Any changes required by the amended Waste Management Plan at Condition 9.
 - (r) Any changes required by the amended Wind Report at Condition 12.

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. In conjunction with the submission of development plans under Condition 1, a Façade Strategy and Materials and Finishes Plan to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. When approved, the Façade Strategy and Materials and Finishes Plan will be endorsed and will then form part of this permit. This must detail:
 - (a) elevations at a scale of 1:20 illustrating typical podium details, entries and doors, and utilities and typical upper level facade details;
 - (b) section drawings to demonstrate façade systems, including fixing details and joints between materials or changes in form;
 - (c) information about how the façade will be maintained, including any vegetation; and
 - (d) a sample board and coloured drawings outlining colours, materials and finishes.
4. As part of the ongoing consultant team, Bayley Ward or an architectural firm to the satisfaction of the Responsible Authority must be engaged to:
 - (a) oversee design and construction of the development; and
 - (b) ensure the design quality and appearance of the development is realised as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.

Landscape Plan

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

Sustainable Management Plan

7. In conjunction with the submission of development plans under Condition 1, 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 Ark Resources dated 16 June 2020, but modified to include or show:
- (a) Assess the proposal as referenced and amended pursuant to Condition 1.
 - (b) A shading strategy for east and west glazing.
 - (c) Commitment to producing a Building Users Guide explaining optimal usage of building services to minimise energy and water consumption.
 - (d) Alternative credits to achieve the 4-star Green Star target (45 credits targeted) (the 4 Innovation credits are not considered innovative).
 - (e) Clarification on the provision of natural ventilation (via operable windows) to office spaces on all levels.
 - (f) Provision of a Daylight Assessment Report that - taking into account surrounding development - identifies DF (and VLT used for modelling).
 - (g) Clarification on the standards upon which hazardous materials strategies are responding too.
 - (h) Clarification on details around building fabric, insulation, glazing, and ventilation to support claim thermal comfort.
 - (i) Provision of a Section J Assessment with details on building fabric, glazing and services proposed to achieve this – and clarify applicability of NCC 2019.
 - (j) Clarification on system design (and include within Section J Assessment) and consider 3 pipe VRF.
 - (k) Clarification on car park ventilation approach.
 - (l) Clarification on lighting IPD and improvements upon NCC 2019.
 - (m) Inclusion of solar PV generation analysis within Section J Assessment and GHG emissions calculations.
 - (n) Clarification on water and energy metering strategy.
 - (o) Clarification that the post-development flow will not exceed pre-development levels.
 - (p) Clarification on the area of terrace planter boxes that assist with stormwater diversion.
 - (q) Clarification on stormwater treatment strategy (filtration).
 - (r) Confirmation timber products will be recycled or from accredited sustainably harvested plantation sources (FSC or AFS).
 - (s) Confirm the extent of the PVC strategy (by cost, or weight) and PVC limits/guidelines.
 - (t) Ensure the waste target is articulated within site-specific Environmental Management Plan.
 - (u) Provision of a Landscape Plan that details the planting schedule.
8. The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Waste Management Plan

9. In conjunction with the submission of development plans under Condition 1, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Waste Management Plan will be endorsed and will form part of this permit. The amended Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by OneMileGrid and dated 29 June 2020, but modified to include or show:
- (a) Assess the proposal as referenced and amended pursuant to Condition 1.

- (b) Inclusion of the total footprint of the bins allocated and the space available in the bin storage room in M2.
 - (c) Identify the hard waste storage area within the bin storage area diagram.
 - (d) Identify the E-waste storage area within the bin storage area diagram.
 - (e) Demonstration sufficient space (1.5m) will be available for pedestrian circulation at the proposed bin collection location when bins are presented kerbside.
 - (f) A separate waste stream and bin/s for glass.
10. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
11. The collection of commercial waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.

Wind Report

12. Before the use and/or development commences, an amended Wind Assessment to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Wind Assessment will be endorsed and will form part of this permit. The amended Wind Assessment must be generally in accordance with the Wind Assessment prepared by MEL Consultants and dated 17 June 2020, but modified to include or show:
- (a) Assess the proposal as amended pursuant to Condition 1.
 - (b) Walking criterion at a minimum to be achieved for the upper level terraces.
 - (c) Vegetation is not to be used as a wind mitigation measure.
13. The provisions, recommendations and requirements of the endorsed Wind Assessment Report must be implemented and complied with to the satisfaction of the Responsible Authority.

Green Travel Plan

14. Before the development is occupied, an amended Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Green Travel Plan will be endorsed and will form part of this permit. The amended Green Travel Plan must be generally in accordance with the Green Travel Plan prepared by OneMileGrid dated 19 August 2020, but modified to include or show:
- (a) Assess the proposal as referenced and amended pursuant to Condition 1, including the final layout of the bicycle parking.
15. The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Car parking

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

17. Ducting, pipes and other obtrusions must not encroach into the space design envelope of the car stacker spaces.
18. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the car stackers must be installed in accordance with the manufacturer's specifications by a suitably qualified person. The car stackers must be maintained thereafter to the satisfaction of the Responsible Authority.

Lighting

19. 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.

Street Trees

20. Before the use and development commences, a Tree Management Plan to the satisfaction of the Responsible Authority must be prepared by a suitably qualified Arborist and must be submitted to and approved by the Responsible Authority. When approved the Tree Management Plan will be endorsed and will form part of this permit. The Tree Management Plan must make recommendations for the protection of the one street tree located on the Langridge Street frontage, including:
 - (a) pre-construction;
 - (b) during construction; and
 - (c) post construction
 - (d) the provision of any barriers;
 - (e) any pruning necessary; and
 - (f) watering and maintenance regimes,

to the satisfaction of the Responsible Authority.

21. The provisions, recommendations and requirements of the endorsed Tree Management Plan must be complied with and implemented to the satisfaction of the Responsible Authority
22. Before the use and development commences, the permit holder must provide a security bond of \$5,000 for the retained street trees to the Responsible Authority. The security bond:
 - (a) must be provided in a manner, and on terms, to the satisfaction of the Responsible Authority;
 - (b) may be held by the Responsible Authority until the works are completed to the satisfaction of the Responsible Authority; and
 - (c) in accordance with the requirements of this permit; or
 - (d) otherwise to the satisfaction of the Responsible Authority.

23. Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, the permit holder must make a one-off contribution of \$2,000 to the Responsible Authority for the sourcing, installation and 2 year maintenance of four street trees within Langridge Street.

General

24. The amenity of the area must not be detrimentally affected by the development, including through:
- (a) the transport of materials, goods or commodities to or from land;
 - (b) the appearance of any buildings, works or materials;
 - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
 - (d) the presence of vermin.
- to the satisfaction of the Responsible Authority.
25. Except with the prior written consent of the Responsible Authority, delivery and collection of goods to and from the land may only occur between 7am and 10pm on any day.
26. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
27. 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.
28. The development must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
29. 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.
30. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
31. All pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

Road Infrastructure

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

34. 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 reinstatement of the kerb and channel and re-sheeting of the footpaths for the entire width of the property (both Langridge Street and Little Oxford Street) :
- (a) in accordance with Council's *Road Materials Policy*;
 - (b) with a cross-fall of 1 in 40 unless otherwise specified;
 - (c) at the permit holder's cost; and
 - (d) to the satisfaction of the Responsible Authority.
35. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any redundant vehicular crossing must be demolished and re-instated as standard footpath and kerb and channel:
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
36. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority the relocation of any service poles, structures or pits necessary to facilitate the development must be undertaken:
- (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
37. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the removal of any kerbside parking sensors and any reinstatement of parking sensors will require the Permit Holder to pay Council the cost of each parking sensor taken out from the kerb/footpath/roadway. Any costs associated with the reinstatement of road infrastructure due to the removal of the parking sensors must also be borne by the Permit Holder.
38. Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.
39. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, one bicycle hoop (two spaces) must be installed on Langridge Street:
- (a) at the permit holder's cost;
 - (b) in accordance with Street Furniture Details 01: Bicycle Hoops; and
 - (c) in a location and manner,
- to the satisfaction of the Responsible Authority.

Development Infrastructure Levy

40. Prior to the issue of a building permit, commencement of the development, or issue of a Statement of Compliance (whichever occurs first) the Development Infrastructure Levy must be paid to Yarra City Council in accordance with the approved Development Contributions Plan, or the Owner must enter into an agreement with Yarra City Council to pay the amount of the levy within a time specified in the agreement.

Construction Management Plan

41. Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:

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

42. During the construction:

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

43. The provisions, recommendations and requirements of the endorsed Construction Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
44. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
 - (a) Monday-Friday (excluding public holidays) before 7 am or after 6 pm;
 - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm;
 - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

Time Expiry

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

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

Notes:

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

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.

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

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

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

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

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

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

No parking restriction signs or line-marked on-street parking bays are to be removed, adjusted, changed or relocated without approval or authorisation from Council's Parking Management unit and Construction Management branch. Any on-street parking reinstated (signs and line markings) as a result of development works must be approved by Council's Parking Management unit.

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

Attachments

- 1 PLN20/0470 - 4 - 12 Langridge Street Collingwood - Decision Plans Part 1
- 2 PLN20/0470 - 4 - 12 Langridge Street Collingwood - Decision Plans Part 2
- 3 PLN20/0470 - 4 - 12 Langridge Street Collingwood - Decision Plans Part 3
- 4 PLN20/0470 - 4 - 12 Langridge Street Collingwood - Without Prejudice Sketch Plans and Reports
- 5 PLN20/0470 - 4 - 12 Langridge Street Collingwood - Urban Design Unit
- 6 PLN20/0470 - 4 - 12 Langridge Street Collingwood - ESD Officer
- 7 PLN20/0470 - 4 - 12 Langridge Street Collingwood - Streetscapes and Natural Values Unit
- 8 PLN20/0470 - 4 - 12 Langridge Street Collingwood - Strategic Transport Unit
- 9 PLN20/0470 - 4 - 12 Langridge Street Collingwood - Engineering Unit
- 10 PLN20/0470 - 4 - 12 Langridge Street Collingwood - City Works Unit
- 11 PLN20/0470 - 4 - 12 Langridge Street Collingwood - Strategic Planning Unit
- 12 PLN20/0470 - 4 - 12 Langridge Street Collingwood - External Wind Consultant

6.2 PLN20/0737 - 27 - 31 Gibdon Street Burnley - Full demolition of existing buildings, the construction of ten townhouse dwellings, a vehicle crossover and a reduction in the car parking requirements.

Executive Summary

Purpose

1. This report provides Council with an assessment of planning application PLN20/0737 which is for the full demolition of existing buildings, the construction of ten townhouse dwellings, a vehicle crossover and a reduction in the car parking requirements. The report recommends approval subject to conditions.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Built form, including urban design, heritage and laneway abuttal;
 - (b) Off-site amenity impacts; and
 - (c) Car parking.

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Policy and strategic Support;
 - (b) Heritage;
 - (c) Clause 55;
 - (d) Car parking; and
 - (e) Objector Concerns.

Submissions Received

4. Sixteen objections were received to the application, these can be summarised as:
 - (a) Traffic impacts along Barrow Place, including access implications for pedestrians, cars and emergency vehicles;
 - (b) Heritage concerns with regard to the proposed design and building footprint;
 - (c) Excessive building footprint and height, inconsistent with neighbourhood character;
 - (d) Off-site amenity impacts (visual bulk, overlooking, overshadowing and loss of daylight);
 - (e) Impacts associated with waste management;
 - (f) Noise impacts;
 - (g) Equitable development concerns;
 - (h) Impacts to property values.

Conclusion

5. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported subject to the following key recommendations:
 - (a) Deletion of the west-facing, second-floor terrace of dwelling TH06.

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

6.2 **PLN20/0737 - 27 - 31 Gibdon Street Burnley - Full demolition of existing buildings, the construction of ten townhouse dwellings, a vehicle crossover and a reduction in the car parking requirements.**

Reference D21/36299
Author Chris Stathis - Senior Statutory Planner
Authoriser Senior Coordinator Statutory Planning

Ward: Melba Ward
Proposal: Full demolition of existing buildings, the construction of 10 townhouses, a vehicle crossover and a reduction in the car parking requirements.
Existing use: Office
Applicant: Gibdon Street Development Pty Ltd
Zoning / Overlays: General Residential Zone (Schedule 1)
 Design and Development Overlay (Schedule 5)
 Heritage Overlay (Schedule 322)
 Development Contributions Plan Overlay (Schedule 1)
Date of Application: 13 October 2020
Application Number: PLN20/0737

Planning History

1. The subject site has the following planning history:
 - (a) Planning Permit PL02/0388 was issued on 27 May 2002 for external paint works to the existing building.
 - (b) Planning Permit PL05/0083 was issued on 07 July 2005 for *Part demolition of the existing building (including front fence) and development of the land for the construction of a three-storey mixed use building including alterations to the existing building for 11 dwellings (including home occupation use) and use of part of the site for offices with existing use rights and a reduction in the car parking requirement.* The development included a tapered western wall at first floor (towards the southern boundary) in response to the heritage building at No. 45 Gibdon Street to the south. The permit has expired as works were not commenced within the prescribed timeframes set by the permit.

Background

2. The following background information is applicable to the application:

Lodgement of sketch plans

3. On 04 March 2021, sketch plans were submitted by the applicant in response to referral comments received from Council's Urban Design Unit. The sketch plans show the following changes:
 - (a) Deletion of columns from the western edge of the ground floor communal car parking area;
 - (b) Provision of awnings to the north-facing, ground floor windows of dwellings TH07-TH10 and the second-floor, west-facing dining room window of TH06;
 - (c) Landscaping planters to the balconies of dwellings TH01 – TH05 as well as the roof terrace of TH06;
 - (d) Reduction in the extent of roof to the northern edge of dwelling TH01;

- (e) Reduction in the extent of timber screening to the western edge of the balcony of dwelling TH01;
- (f) Operable screens to the western, second-floor façade of dwelling TH01 increased in size;
- (g) Reduction in extent of brick at the western, second-floor façade of dwelling TH01;
- (h) Linear brick patterning to the northern facades of dwellings TH01 – TH05, and;
- (i) Cement sheet replaced with brick at the ground-floor, southern façades of dwellings TH06 - TH10.

4. The changes proposed by the sketch plans are shown and compared to the decision plans below at figure 1.



Figure 1: Rendered images of the decision plans (top) and the sketch plans (bottom) (Applicant submission)

[Planning Scheme Amendment C238](#)

5. On 01 February 2021, the Minister for Planning formally gazetted Planning Scheme Amendment C238, which introduces a Development Contributions Plan Overlay over the entire municipality. This overlay requires developers to pay a contribution towards essential city infrastructure like roads and footpaths, as well as community facilities. The requirements of this provision have immediate effect. A condition and a note have been included in the recommendation to require the development contributions to be met prior to commencement of the development.

[Aboriginal Cultural Heritage Significance](#)

6. The site is located within an area of Aboriginal cultural heritage significance as it is located within 200m of a waterway (the Yarra River). A Cultural Heritage Assessment, prepared by Andrew Long & Associates, was submitted with the application. The assessment notes that the activity area has been subject to works qualifying as significant ground disturbance in the past including:
- (a) Previous agricultural use of the land;
 - (b) Construction (and subsequent demolition) of the former industrial building on the land;
 - (c) Construction of the existing office building (c1970s).

7. Based on the demonstrated occurrence of significant ground disturbance, the assessment concludes that a mandatory Cultural Heritage Management Plan (CHMP) in accordance with section 46 of the *Aboriginal Heritage Act 2006* is not required. The assessment also confirms that there are no previously registered Aboriginal cultural heritage places within the study area, nor were there any listings on the Register of the National Estate or the Victorian Aboriginal Places Register. In the event that artefacts are found during construction, the assessment provides clear requirements for the permit holder so as to comply with the relevant provisions of the *Aboriginal Heritage Act 2006*.

The Proposal

8. The proposal is for the full demolition of existing buildings, the construction of 10 townhouses, a vehicle crossover 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 10 dwellings, which does not require a planning permit under the General Residential Zone.

Demolition

- (b) Full demolition of the existing building on site, as well as all landscaping on site and the southern boundary fence.

Development

General

- (c) The application proposes 10, three-storey dwellings across two buildings, with five dwellings in each. The northern block contains dwellings TH01 – TH05 and the southern block contains dwellings TH06 – TH10.
- (d) A total of 10 car spaces are proposed, 9 located in a communal garage facility accessed from Barrow Place and one located in a private single garage for TH06, accessed off Gibdon Street;
- (e) Pedestrian access to all dwellings (except TH06) is provided via a communal footpath that runs along the south of dwellings TH01-TH05, and is accessed from a communal entry addressing Gibdon Street;
- (f) A total of 10 resident and 4 visitor bicycle spaces are proposed;

Building Height

- (g) The overall building height proposed is 10.23m, with rooftop solar panels reaching a maximum height of approximately 10.8m.
- (h) All dwellings are proposed to be three storeys in height, save for TH06 which is proposed to be three-storeys plus a roof terrace.
- (i) The application proposes two eastern boundary walls with heights ranging from 10.03m to approximately 10.2m.

Massing

- (j) The development would present to Gibdon Street as two, three-storey built forms with a 6.53m-wide separation between the two forms;
- (k) The central building separation includes a communal footpath which provides pedestrian access to all dwellings (except for dwelling TH06). To the south of the communal footpath is the ground floor Secluded Private Open Space (SPOS) of dwellings TH06 – TH10.
- (l) The development would be set back 2.64m from the Gibdon Street boundary, save for the ground and first floor of dwelling TH06, which is proposed to be constructed to the Gibdon Street boundary.
- (m) The development would present to Barrow Place as a two storey (plus terrace) form with a recessed third storey, with the height of the northern wall being 7.02m.
- (n) The application proposes a consistent southern wall, which has a height of 10.23m and is set back 2.03m from the southern boundary.

- (o) The application proposes the following building setbacks from the common boundary with Barrow Place (i.e. northern boundary):
 - (i) 2.43m (minimum) at ground floor;
 - (ii) 0.59m at first floor (with window screens set back approximately 0.3m), and;
 - (iii) 0.59m (terrace), 0.1m (overlooking shelf to TH04 and TH05) and 3.3m – 3.8m (northern walls of dwellings) at second floor.

Dwelling Configurations

- (p) Each of the dwellings in the northern block (TH01 – TH05) would be configured as follows:
 - (i) Pedestrian entrance and bedroom at ground floor (accessed from the communal footpath);
 - (ii) Two bedrooms, bathroom and ensuite at first floor, and;
 - (iii) Open plan living, dining and kitchen areas and north-facing balconies (ranging between 14sqm and 17sqm in area) at second floor.
- (q) Dwelling TH06 is configured as follows:
 - (i) Single garage (accessed from Gibdon Street), pedestrian entry, bedroom, bathroom and 41sqm of SPOS at ground floor;
 - (ii) Two bedrooms, bathroom and ensuite at first floor;
 - (iii) Open plan kitchen living, and dining area, with west-facing terrace at second floor; and
 - (iv) Roof terrace (22sqm) connected to living area below at second floor.
- (r) Dwellings TH07 – TH10 are configured as follows:
 - (i) Open-plan living, kitchen and dining area at ground floor connected to area of SPOS (ranging from 20sqm to 24sqm in size) and a southern service courtyard;
 - (ii) Two bedrooms and a bathroom at first floor; and
 - (iii) Master bedroom, ensuite, walk-in-robe and study at second floor.

Materials and finishes

- (s) The development proposes a mix of brick (in a natural white colour), timber battens (in either a natural or black finish) painted cement sheet (in a grey colour) and metal mesh;
- (t) Brick is the principal material of the development and expressed across ground, first and second floors;
- (u) Timber battens are applied as the secondary material, largely associated with window screens or shading devices;
- (v) The painted cement sheet is limited to the north-facing, second-floor walls of dwellings TH01 – TH05, the eastern boundary walls and the entirety of the southern façades for dwellings TH07 – TH10;
- (w) The metal mesh is associated with the western edge of the communal garage area;
- (x) Surface materials used across the proposal include brick pavers, washed concrete and compact gravel.

Other Matters

- (y) Each dwelling is provided with a solar energy facility at roof level (1kW capacity each)
- (z) The development includes a total rainwater tank capacity of 20,000L;
- (aa) Front fencing to Gibdon Street is largely 1.4m in height with a visual permeability of 50%;
- (bb) The entry gate has a height ranging from 1.56m – 1.78m with a landscaped, open canopy above;
- (cc) The application proposes a northwards extension (width of 300mm) of the existing vehicle crossover located towards the southern end of the Gibdon Street frontage; and
- (dd) The submitted landscape plan shows dense ground cover planting across the development, with two canopy trees located within the front setback.

Existing Conditions

Subject Site

9. The subject site is located on the southeast corner of Gibdon Street and Barrow Place in Burnley. The site has a frontage of 28.79m to Gibdon Street and a frontage of 29.75m to Barrow Place, with an overall site area of 855sqm. The subject site has a regular, square-shaped allotment with no significant fall across the site.
10. The site is developed with a single-storey, office building constructed of concrete blockwork and metal cladding. The building primarily addresses Gibdon Street, with the principal pedestrian entry facing the street. The building is constructed flush to the eastern boundary and the easternmost section of the southern boundary. Otherwise the building is setback approximately 6.5m from Gibdon Street (measured from front wall); approximately 10m from Barrow Place (measured from northern wall); and set back approximately 1-3m from the southern boundary. The layout of the existing building at the subject site is shown below at figure 2.

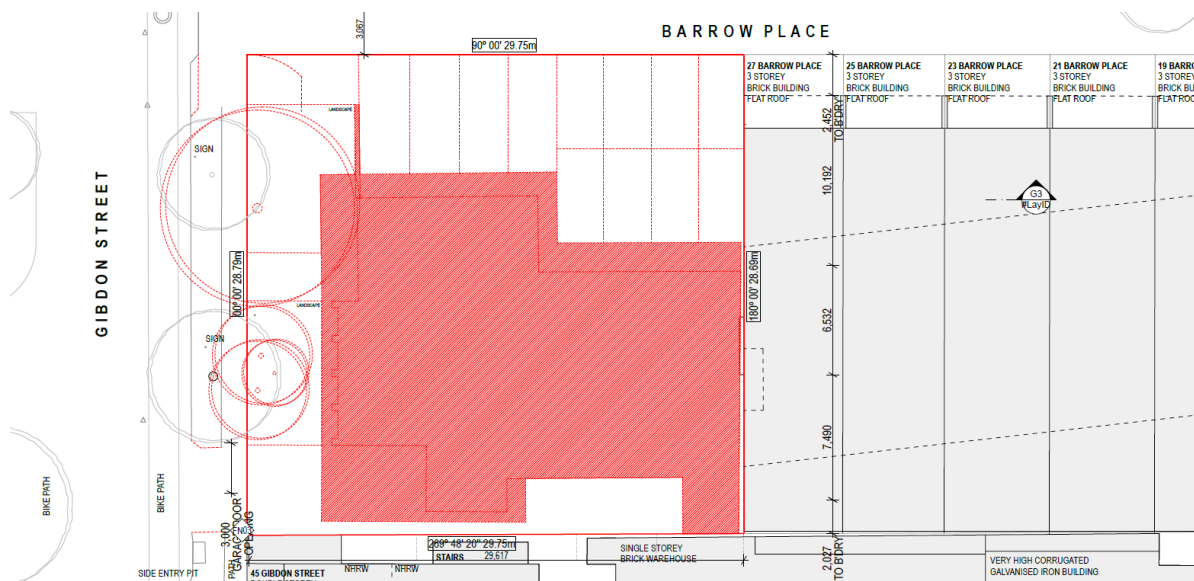


Figure 2: Existing conditions of the subject site (applicant submission, December 2020)

11. Vehicle access to the site is facilitated by:
 - (a) a double-width vehicle crossover on Gibdon Street (towards the southern section of the street boundary) which provides access to an undercover car parking area with two car spaces; and
 - (b) 12 at-grade car spaces along the northern boundary accessed from Barrow Place.
12. The subject building is currently vacant, however was recently used as an office.

Surrounding Land

13. The land surrounding the subject site is predominantly within the General Residential Zone (GRZ) and Neighbourhood Residential Zone (NRZ), as depicted in Figure 3 below. Further northwest is the Public Park and Recreation Zone (PPRZ), west of this is a small portion of land zoned Commercial 1 Zone.

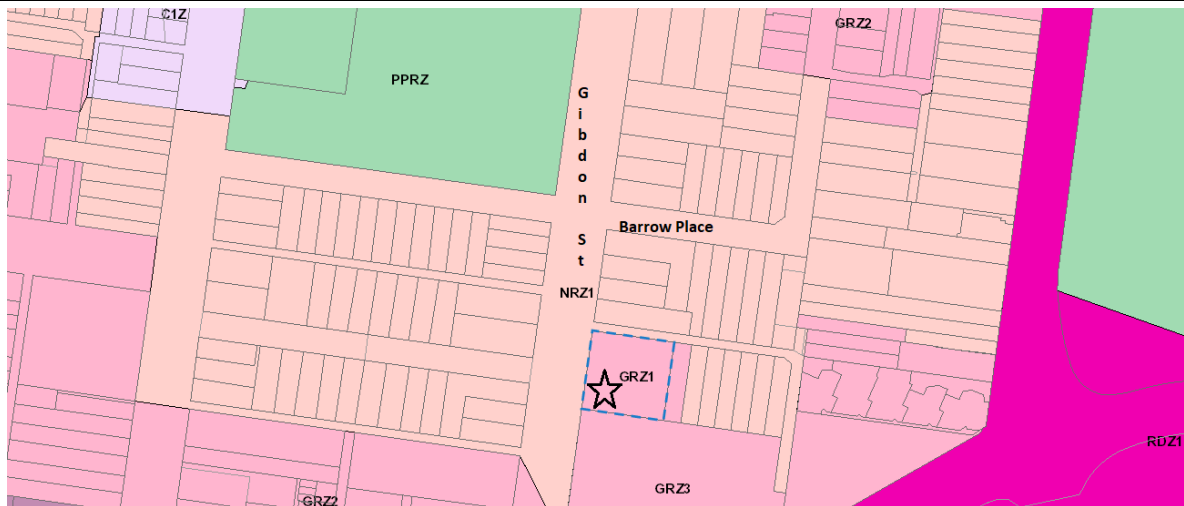


Figure 3: Zoning Context of the subject site and surrounding area (DELWP, April 2021)

14. The GRZ land in the surrounding area is defined by low-rise dwellings and apartment buildings with a mix of architectural styles including those from the Edwardian, post-war and contemporary eras. Common materials found in these areas include concrete, brick and metal cladding.
15. The NRZ land in the surrounding area is defined by single dwellings on narrow allotments typically of the Edwardian-era and covered by the Heritage Overlay. Buildings are typically constructed of red brick, polychrome brick or timber weatherboard.
16. The PPRZ land to the northwest is associated with Golden Square Bicentennial Park, a public open space directly south of Burnley Railway Station.
17. The portion of land in the C1Z is to the west of the above-mentioned park, being a commercial precinct, which includes a small number of hospitality and office-based businesses.
18. The site is located 300m southeast of Burnley Railway Station which connects the site west to Richmond and the CBD, and east to the eastern suburbs of Hawthorn, Camberwell and beyond. The site is also located 400m southwest of the Swan Street Major Activity Centre (MAC) which has tram services and a diversity of hospitality, community and retail offerings
19. The site's more immediate interfaces are outlined below.

South

20. To the south of the subject site is No. 45 Gibdon Street, a complex of buildings on a large site associated with the former Barrett & Burston Maltings site (also known as the 'Burnley Maltings'). The site is heavily built-up and defined by continuous brick walls to all sides, with no setbacks to the western (Gibdon Street) and southern boundaries, and modest setbacks from the north and east boundaries.
21. Construction on the site commenced in the Victorian-era, c.1892. Original construction included the Brewery; a double-storey brick building addressing Gibdon Street (and the subject site) and the Malthouse; a red-brick, triple-storey building adjacent to the site's eastern boundary, which is not visible from Gibdon Street. The original, Victorian-era northern façade of the Brewery building faces the subject site and is visible from the public realm as shown at figure 4 below. This façade has original contributory fabric including three Victorian-era chimneys, gabled roof form and vertical-rectangular, timber-framed windows.
22. Additional structures were added during the 20th century, as follows;

- (a) 1930s – A double-storey red-brick Malthouse along the southern boundary (not visible from Gibdon Street);
- (b) 1940s – Silos with gabled cap, centrally located (visible in the background at figure 4 below), and;
- (c) 1950s – Kilns (1 & 2) located to the west of the Malthouse.



Figure 4: No. 45 Gibdon's north-facing brick facade (left) and western façade facing Gibdon Street (right) (Planning Officer Photos, February 2021)

23. No. 45 Gibdon is the subject of a current planning application (PLN18/0969) for partial demolition and the construction of a mixed-use development for dwellings and office of between three and eight storeys in height. The application is to be decided by the Victorian Civil and Administrative Tribunal (“the Tribunal”), and the hearing is scheduled for July 2021. As a decision is yet to be made, the proposed development under PLN18/0969 is not considered to form part of the existing conditions. An image of the proposed development is provided below at figure 5 as well as the demolition plan for the application, which clearly shows that the western section of the northern wall is proposed to be retained as well as the majority of the western boundary wall, both of which are visible from Gibdon Street.



Figure 5: Demolition plan (left) with sections in green outline showing north and west-facing walls closest to the subject site, and rendered image (right) showing the proposed development under application PLN18/0969 (PLN18/0969 applicant submission, November 2018).

24. Consistent with the buildings on site, the subject site has recently been used as a brewery / malthouse with on-site grain storage. Formal operations on the land associated with the Maltings business ceased towards the end of 2018 and the site is currently vacant (as stated in the officer report for PLN18/0969). A caretaker’s dwelling is located at the first floor of the brewery building which faces the subject site. The caretaker’s dwelling has two, north-facing windows that are set back approximately 1.6m from the common boundary with the subject site. The caretaker’s dwelling is currently vacant given the business on site has ceased, therefore these windows are not classified as habitable room windows (HRWs).

North

25. Directly north of the subject site is Barrow Place, which has a width of 3.07m and provides access to a number of contemporary residential developments to the east. The northern side of Barrow Place has a 'back-of-house' character, defined by rear roller doors, fencing and gates of Nos. 24 – 34 Parkville Street to the north. Barrow Place is a no-through road. Whilst the subject site currently has open, paved areas for vehicle access and parking along the Barrow Place boundary, this land belongs to the subject site (ie. not part of the lane).
26. To the north of Barrow Place is No. 25 Gibdon Street, which is a single-storey, Edwardian-era timber weatherboard dwelling with a double-storey rear extension. The dwelling has a street setback of 6m (i.e. to Gibdon Street) and is constructed flush to its common boundary with Barrow Place. Along its southern boundary, there are the following windows:
 - (a) Two ground floor windows associated with the dining room (however these windows are constructed of glass bricks and are therefore obscure); and
 - (b) Two non-habitable room windows (NHRWs) at first-floor, associated with the stairwell and hallway.
27. The dwelling has the following areas of SPOS:
 - (a) Approximately 60sqm at the rear area which also wraps around the northern side of the dwelling;
 - (b) Approximately 10sqm at the north-facing courtyard, and;
 - (c) Approximately 6sqm at the north-facing, first floor balcony.
28. Whilst No. 25 Gibdon Street has a street setback of 6m, it relevant to highlight that this is anomalous in the broader Gibdon Street streetscape - most dwellings on the eastern side of Gibdon Street have a street setback of approximately 2m.



Figure 6: No. 25 Gibdon Street, viewed from the southwest (Planning Officer Photo, February 2021)

East

29. To the east of the subject site is a three-storey, rendered concrete townhouse development constructed in the early 2000s. The development gains pedestrian and vehicular access from Barrow Place. Each townhouse of the development presents to Barrow Place with a double-width garage and pedestrian door at ground floor (set back approximately 4m from Barrow Place), and a north-facing balcony at first floor (set back 2.45m from Barrow Place).
30. The nearest townhouse to the subject site is No. 27 Barrow Place which is constructed flush to the subject site save for a narrow, west-facing balcony (area of approximately 4sqm) at second floor which includes a glazed, west-facing door associated with a bedroom and a west-facing bathroom window. The former constitutes a habitable room windows as it is glazed. The second-floor balcony is not the dwelling's primary area of SPOS. Rather, the dwelling has a ground floor area (approximately 10sqm) connected to the rumpus room and a north-facing balcony (approximately 15sqm) at first-floor connected to the living area. The internal layout of No. 27 Barrow Place is shown at figure 7 below.

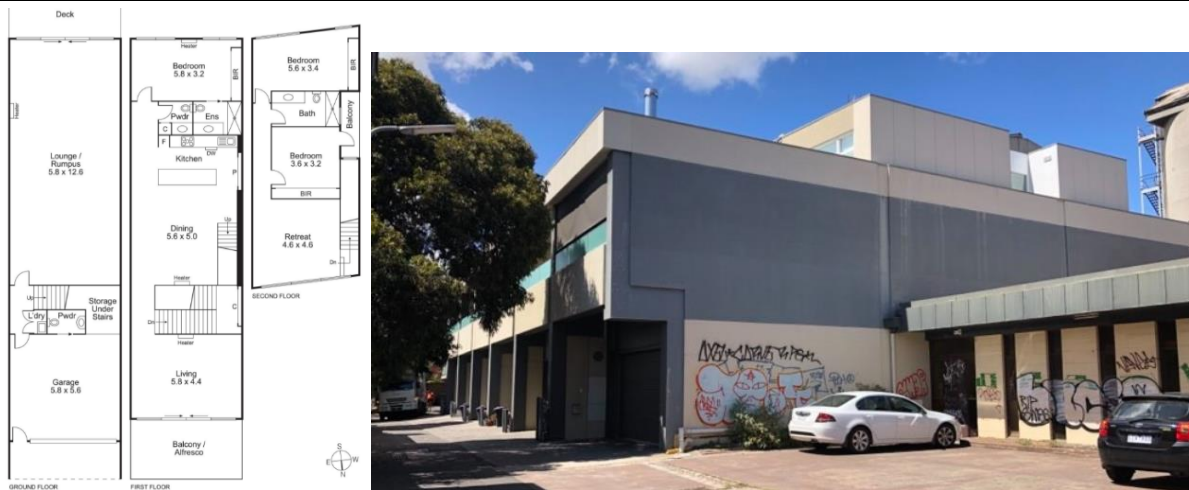


Figure 7: Internal Layout of No. 27 Barrow Place (left domain.com.au, accessed April 2021) and the western and northern facades of No. 27 Barrow Place (right – Planning Officer Photos, February 2021).

West

31. Immediately west of the subject site is Gibdon Street, a north-south, two-way road with a width of approximately 13m, which includes one single northbound lane, one single southbound lane (both with bicycle lanes) and parallel parking on either side.
32. Further west of Gibdon Street are dwellings which front Gibdon Street. These include a mix of apartment, townhouse and single dwelling buildings, the majority of which have shallow street setbacks of between 1-3m. On this side of Gibdon Street, a number of contemporary developments have been either constructed or given planning approval recently, including:
 - (a) A two-storey development of 10 townhouses at No. 50 Gibdon Street, constructed in 2009 under Planning Permit PL06/0165.
 - (b) Two, three-storey dwellings at No. 60 Gibdon Street, currently under construction, approved under Planning Permit PLN17/0308.
 - (c) A three-storey, nine-apartment development at No. 60A Gibdon Street, constructed in 2019 and approved under Planning Permit PLN15/0246.
 - (d) A two-storey (plus roof terrace) development of two dwellings at No. 62 Gibdon Street approved under Planning Permit PLN19/0089. Construction is yet to commence.

Planning Scheme Provisions

Zoning

33. The subject site is located in the General Residential Zone (Schedule 1 – Warehouse Sites). The following provisions apply:
 - (a) Pursuant to Clause 32.08-6, a planning permit is required to construct two or more dwellings on a lot. A development must meet the requirements of Clause 55 (ResCode).
 - (b) Pursuant to Clause 32.08-10 and part 3.0 to Schedule 1 of the zone, the mandatory maximum building height for the site is 10.5m. The development complies with this requirement with a maximum building height of 10.23m.
 - (c) Pursuant to part 2.0 of Schedule 1 of the zone, the applicable prescribed site coverage requirement is a maximum of 80% rather than the standard maximum of 60%.
 - (d) Pursuant to Clause 32.08-4, the minimum garden area requirement for the lot is 35%, which applies to sites with a lot area of greater than 650sqm. The proposed development complies with this mandatory requirement, with 299.5sqm (35% of the 855sqm lot) dedicated to garden area, as shown at drawing 20014_TP451. The garden area plan shows that the external sheds (each with an area of 2sqm) of TH07 – TH010 are included in the garden area calculation. This is in accordance with Clause 73.01, which defines garden area as inclusive of outbuildings normal to a dwelling with an area of less than 10sqm. The development complies with the garden area requirements for the site.

Overlays

34. The subject site is affected by Schedule 322 to the Heritage Overlay. The following provisions are applicable:
- (a) Pursuant to clause 43.01-1 of the Scheme, a planning permit is required to demolish or remove a building and to construct or carry out works.
 - (b) The site is listed in *Appendix 8, City of Yarra Review of Heritage Overlay Areas 2007. (rev. May 2018)* as ‘non-contributory’ to the heritage overlay.

Design and Development Overlay (Schedule 5)

35. 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 C1Z), notice of the application must be given to the Environment Protection Authority (EPA), Transurban City Link, and the Roads Corporation (VicRoads). The application was referred in accordance with this provision and comments (where submitted to Council) are provided in the referrals section of this report.

Development Contributions Plan Overlay (Schedule 1)

36. This overlay requires developers to pay a contribution towards essential city infrastructure like roads and footpaths, as well as community facilities. The overlay is applicable to the proposed development as it results in the provision of new dwellings. A condition and a note have been included in the recommendation to require the development contributions to be met prior to commencement of the development.

Particular Provisions

Clause 52.06 – Car Parking

37. 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 below outlines the car parking requirements for the proposal (pursuant to Table 1 at Clause 52.06-5), the proposed car parking provision on site and the resultant car parking reduction. As the subject site is located within the *Principal Public Transport Network Area*, the applicable column of Table 1 is column B, which has reduced car parking requirements.

Land Use	Units/Area proposed	Rate (Column B)	No. required	No. proposed	Reduction sought
Dwelling (3 bedroom)	10	2 car spaces per 3+ bedroom dwelling	20	10	10

38. 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 10 spaces is sought.

Clause 52.34 - Bicycle facilities

39. Pursuant to Clause 52.34-1, this provision is not applicable to residential developments of less than four storeys.

General Provisions

40. The decision guidelines outlined at Clause 65 of the Scheme are relevant to all applications. Because a permit can be granted does not imply that a permit should or will be granted. Before deciding on an application, the Responsible Authority must consider a number of matters.

Amongst other things, the Responsible Authority must consider the relevant Municipal Planning Strategy and the Planning Policy Framework., as well as the purpose of the zone, overlay or any other provision. An assessment of the application against the relevant sections of the Scheme is offered in further in this report.

Planning Policy Framework (PPF)

41. Relevant clauses are as follows:

Clause 11.01-1R (Settlement - Metropolitan Melbourne)

42. 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)

43. 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 15.01 (Built Environment and Heritage)

44. 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)

45. 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)

46. The objective is:

- (a) *To create distinctive and liveable city with quality design and amenity.*

Clause 15.01-2S (Building Design)

47. The objective is:

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

48. 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)

49. 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)

50. The objective is:
- (a) *To recognise, support and protect neighbourhood character, cultural identity, and sense of place.*
51. 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)

52. 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 15.03 (Heritage)

Clause 15.03-1S (Heritage conservation)

53. The objective is:
- (a) *To ensure the conservation of places of heritage significance.*
54. Strategies include:
- (a) *Encourage appropriate development that respects places with identified heritage values.*
 - (b) *Retain those elements that contribute to the importance of the heritage place.*
 - (c) *Encourage the conservation and restoration of contributory elements of a heritage place.*
 - (d) *Ensure an appropriate setting and context for heritage places is maintained or enhanced.*

- (e) *Support adaptive reuse of heritage buildings where their use has become redundant.*

Clause 18.02-1S – (Sustainable personal transport)

55. The objective is:

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

56. 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)

57. 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)

58. 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)

59. 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)

60. The objective is:

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

61. 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 \(LPPF\)](#)

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

Clause 21.05-1 (Heritage)

63. Relevant objectives and strategies include;

- (a) *Objective 14 To protect and enhance Yarra's heritage places:*
(i) *Strategy 14.3 Protect the heritage skyline of heritage precincts.*
(ii) *Strategy 14.4 Protect the subdivision pattern within heritage places.*
(iii) *Strategy 14.6 Protect buildings, streetscapes and precincts of heritage significance from the visual intrusion of built form both within places and from adjoining areas.*

- (iv) *Strategy 14.8 Apply the Development Guidelines for Heritage Places policy at clause 22.02*

Clause 21.05-2 (Urban design)

64. 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;*
 - (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)

65. 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 21.06 (Transport)

66. 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)

67. 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)

68. 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)

69. The following relevant commentary is offered at this clause:
- (a) *the area east of Burnley Street includes the Golden Square residential area which comprises predominantly cottages of heritage significance.*

Relevant Local Policies

Clause 22.02 (Development Guidelines for sites subject to Heritage Overlay)

70. The relevant objectives of this clause are as follows

- (a) *To retain significant view lines to, and vistas of, heritage places.*
- (b) *To preserve the scale and pattern of streetscapes in heritage places.*
- (c) *To ensure that additions and new works to a heritage place respect the significance of the place.*

71. The relevant parts of this clause are as follows:

Clause 22.02-5.1 (Demolition)

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

Clause 22.02-5.7 (New Development, Alterations or Additions)

Clause 22.02-5.7.1 (General)

72. The relevant objectives of this clause are as follows

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

Clause 22.05 (Interface Uses Policy)

73. The relevant policy is:

- (a) *New residential use and development in or near commercial centres and activity centres and near industrial uses includes design features and measures to minimise the impact of the normal operation of business and industrial activities on the reasonable expectation of amenity within the dwellings.*

Clause 22.07 (Development abutting laneways)

74. 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 22.16 Stormwater Management (Water Sensitive Urban Design)

75. 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)

76. 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

77. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 119 letters sent to surrounding owners and occupiers and by two signs displayed on site. Council received sixteen (16) objections the grounds of which are summarised as follows:

- (a) Traffic impacts along Barrow Place, including access implications for pedestrians, cars and emergency vehicles;
- (b) Heritage concerns with regard to the proposed design and building footprint;
- (c) Excessive building footprint and height, and inconsistent with neighbourhood character;
- (d) Off-site amenity impacts (visual bulk, overlooking, overshadowing and loss of daylight);
- (e) Impacts associated with waste management;
- (f) Noise impacts;
- (g) Equitable development concerns; and
- (h) Impacts to property values.

78. A planning consultation meeting was not held in response to public health safety risks with regard to the COVID-19 pandemic.

Referrals

79. The referral comments are based on the decision plans (i.e. the advertised plans).

External Referrals

80. The application was not referred externally, however the following external authorities were provided notice of the application under Section 52 of the Act:

- (a) Department of Transport; and
- (b) Transurban.

81. No response was received from either authority.

Internal Referrals

82. The application was referred to the following units within Council:

- (a) Engineering Services Unit;
- (b) Heritage Advisor;
- (c) ESD Advisor;

- (d) Strategic Transport Unit;
- (e) Civil Works (Waste) Unit;
- (f) Streetscapes and Natural Values Unit;
- (g) Open Space Unit.

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

OFFICER ASSESSMENT

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

- (a) Policy and strategic support;
- (b) Heritage;
- (c) Clause 55 (Rescode);
- (d) Car parking, traffic, loading and waste;
- (e) Bicycle facilities,
- (f) Other matters; and
- (g) Objector concerns.

Policy and strategic support

85. The proposed development achieves the various 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 proposed development benefits from strong strategic and policy support.

86. The subject site is within proximity (approximately 300m) to Burnley Railway Station and 400m to the Swan Street MAC, which provides a wide range of retailing, community and hospitality offerings with good public transport links. This ensures that the site is well serviced by public transport, local infrastructure and commercial uses.

87. The subject site is located within the General Residential Zone, a key purpose of which is *to encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport*. The proposed development will add 10 new dwellings in an area that has good access to services and public transport, thereby achieving this intention of the zone. The site falls under Schedule 1 of the zone, which is reserved for warehouse sites and allows for a higher maximum building height of 10.5m (higher than the 9m associated with the parent clause), which indicates that the site can handle robust, three-storey forms.

88. Furthermore, 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 the efficient use of existing infrastructure. The site is well connected to public transport opportunities as previously outlined, which will encourage 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).

89. Notwithstanding the above, policy support for more intensive development needs to be balanced with built form and heritage guidance at clauses 15.03, 21.05-1 and 21.05-2 of the Scheme. These policies call for development that responds to the surrounding context with regard to urban character and cultural heritage. More specifically, Council's local policy at Clause 22.02 seeks to maintain and conserve the significant historic character of the area. Strategic support also needs to be tempered with consideration of amenity impacts to nearby sensitive uses.

90. As will be discussed in detail within this report, it is considered that the proposal achieves a good balance of State and local policy in relation to high quality developments and protection of heritage values and off-site amenity.

Heritage

91. The following heritage assessment is based upon the decision guidelines of the Heritage Overlay at clause 43.01-7 and local heritage policy at clause 22.02. This section of the report will assess the built form from a heritage perspective only. A more general, urban-design based assessment will be undertaken within the Clause 55 section of this report.

Demolition

92. Prior to ascertaining if the proposed development of the land is acceptable, consideration of the extent of demolition is required. As outlined in Council’s heritage advice, the office building on the land appears to have been constructed c. 1960-70s, and is listed as ‘not-contributory’ on the *Appendix 8, City of Yarra Review of Heritage Overlay Areas 2007. (rev. May 2018).*

On this basis, the full demolition of the existing buildings is supported by local heritage policy at clause 22.02-5.1. Council’s Heritage Advisor confirmed that there is no issue with the proposed demolition.

Height and Massing

93. The subject site is listed as ‘not-contributory’ to the heritage precinct as previously outlined. Therefore, from a heritage perspective, issues of height and massing relate only to how they impact nearby heritage sites and the streetscape more broadly. The subject site is bound by:
- (a) A ‘contributory’ building to the north at No. 25 Gibdon Street on the opposite side of Barrow Place;
 - (b) A ‘not-contributory’ contemporary townhouse development to the east at No. 27 – 35 Barrow Place;
 - (c) An ‘individually-significant’ Victorian-era brewery to the south at No. 45 Gibdon Street.
94. The proposed overall height of the development (10.23m) is supported given that it generally matches the height of the pitched roof form of the brewery building at No. 45 Gibdon Street (save for the roof terrace of dwelling TH06 which protrudes slightly above this height) as shown by the green line at figure 8 below. The overall height is also well-below the taller built form further east at No 45 Gibdon Street, as shown by the purple line at figure 8.

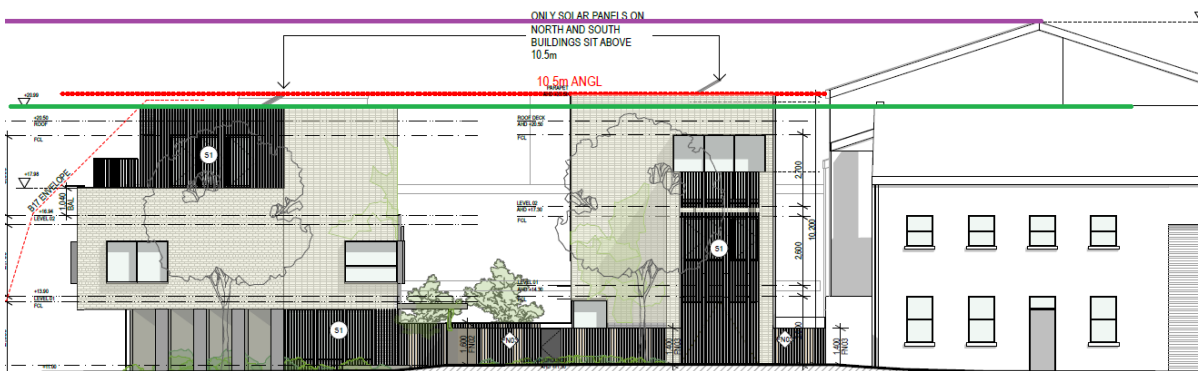


Figure 8: West Streetscape Elevation (Applicant submission, December 2021)

95. Whilst the overall height is supported from a heritage perspective, there is concern for the loss of views to the heritage fabric of the northern façade of the brewery building at No. 45 Gibdon Street. Council's Heritage Advisor, recommended that the façade (in this case referring to the western boundary wall of dwelling TH06) be reduced to no greater than the façade height (i.e. western boundary wall height) of No. 45 Gibdon Street. This recommendation will be pursued to ensure that public views of the northern façade of the brewery building are not compromised.
96. Whilst the street tree along Gibdon Street (outside the subject site) blocks some views of the brewery building, there are still important, unencumbered vantage points from the western footpath of Gibdon Street and the northern footpath of Crimea Street, as shown in figure 9 below. The most effective way to respond to the heritage recommendation is to delete the west-facing, second-floor terrace to dwelling TH06, which will block the aforementioned views of the brewery building because of its height (7.3m) as it has a 0m setback to Gibdon Street. As shown at figure 9 below, the terrace will block a substantial portion of these view lines, concealing important heritage fabric from the public realm. For these reasons, a condition will require deletion of the terrace - this will not unreasonably affect the internal amenity of dwelling TH06 as it has a substantial roof terrace connected to the living area as well as SPOS located at ground floor.

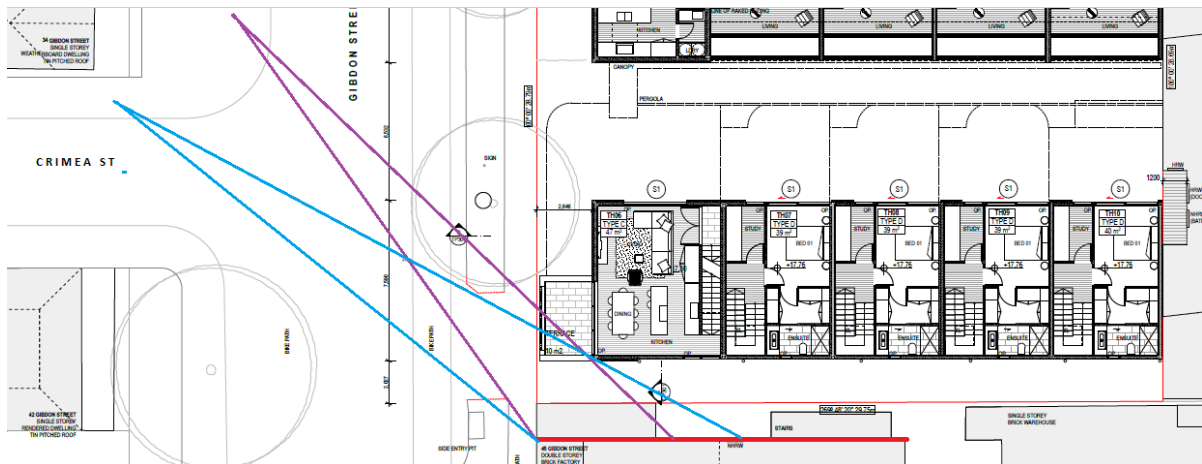


Figure 9: View lines (purple and blue) to the northern brewery façade of No. 45 Gibdon Street (red) (Applicant submission, December 2021).

97. In terms of massing, the application proposes two, three-storey townhouse forms which generally adopt a consistent 2.65m street setback from Gibdon Street, save for the ground and first floor of dwelling TH06 which is proposed to be partly constructed to the Gibdon Street boundary. The development also proposes a consistent southern setback of 2.03m.
98. Other than the second-floor terrace of dwelling TH06, the proposed massing of the development is supported from a heritage perspective for the following reasons:
 - (a) The southern setback (2.03m) is appropriate and enables continued views of the eastern section of the northern façade of the brewery building at No. 45 Gibdon Street and allows for appropriate building separation between the development and No. 45 Gibdon Street.
 - (b) The street setback (2.65m) from Gibdon Street is consistent with the prevailing street setbacks in the area, which generally range from 1m – 3m.
 - (c) The development will block views of No. 27 Barrow Place, however this is of no consequence given it is ‘not contributory’.
 - (d) Views of the southern façade of No. 25 Gibdon Street will be preserved by the 3m width of Barrow Place, which separates No. 25 from the subject site. In addition, the proposal drops in scale from three-stories down to two-stories towards the northern boundary to provide transition to the double-storey dwelling.

99. With respect to massing, Council's Heritage Advisor recommended that the proposed second floor of dwellings TH01 and TH06 be deleted to ensure that the upper-most levels are more recessive from the public realm. This recommendation will not be pursued given the merits listed above and that the recommendation would result in a disjointed, awkwardly-massed development.

Materials and design detail

100. As it presents to the public realm, the proposed materiality largely consists of brick (in a off-white colour) and timber batten screening (in black paint or natural finish) as well as limited sections with painted concrete panel (in a grey colour). This materiality is supported from a heritage perspective as it will provide a contemporary interpretation of materials found in the surrounding heritage precinct, consistent with local heritage policy at clause 22.02. The Golden Square Heritage Precinct is dominated by brick buildings, and therefore the large proportion of brick is supported. The southern wall of dwellings TH06 – TH10 is dominated by painted concrete panel, however this is supported as most of this façade will be concealed by the brewery building at No. 45 Gibdon Street and that the western-most section of this aspect will be constructed of brick, consistent with the front façade, ensuring the development is read 'in the round'.
101. Council's Heritage Advisor made the following recommendations for the materiality of the development:
- (a) *the external colouring/materials of the proposed new building must be modified to be reflective of the materials that characterise this heritage precinct... which are face brick (red, bichrome and polychrome), or stucco walls.*
 - (b) *the external cladding of the proposed third floor level (L-02) must be finished in a pale grey material similar to the appearance of unpainted galvanised steel.*
102. With regard to (a), the development currently provides a sympathetic response to the precinct through the use of brick and timber batten screens. The materiality is also a good heritage response as reflective materials have been minimised, consistent with local heritage policy at clause 22.02. Furthermore, it is not necessary to replicate the same colour brick as the surrounding area. Clause 22.02 calls for sympathetic materiality that allows for distinction between new development and the surrounding precinct.
103. With regard to (b), the application is for a new development rather than an extension to an existing heritage building. This recommendation would be useful in the context of an extension, but for a new development it would be illogical and result in an unnecessarily 'busy' material palette. The design response is successful in providing a simple material palette that is reflective of the surrounding heritage precinct. By changing the materials at second floor, this aspect of the design would be compromised.
104. In terms of fenestration across the Gibdon Street façade, the development has successfully responded to local heritage policy at clause 22.02 by providing windows and window screens that are largely vertical-rectangular in format, which references the fenestration of contributory buildings in the heritage precinct. The design response has also ensured that glazing takes up approximately 40% of the Gibdon Street façade, which is consistent with the proportion of glazing in the precinct and has the added benefit of minimising reflective surfaces, consistent with local heritage policy at clause 22.02. A similar effect is achieved across the Barrow Place façade.

Other Heritage Matters

105. The development proposes front fencing located off the Gibdon Street boundary that is generally low in height (1.4m) with a visual permeability of 50%, consistent with local heritage policy at clause 22.02 which states that front fence height should reach a height of up to 1.5m if a visual permeability of 50% is achieved.

106. The gate associated with communal pedestrian entry is taller at 1.56m – 1.78m, however this is supported as the land slopes in the section of the site and the gate has a limited width of only 1.8m. Council's Heritage Advisor recommended that the front fencing be relocated to the Gibdon Street boundary so as to reflect the traditional pattern of front fencing dwellings in the heritage precinct. This recommendation will not be pursued for the following reasons:
- (a) The design response has strategically positioned the front fencing to allow for the front landscaping to contribute to the public realm as much as possible in line with other front gardens in the street. The recommendation would compromise this aspect of the design and would affect the legibility of the communal pedestrian entry which would be a poor urban design outcome;
 - (b) The subject site is currently a non-residential building. As such, there is no historic prevalence of front fencing at the subject site; and
 - (c) The abutting property at No. 45 Gibdon Street has no front fencing.
107. In relation to the vehicle crossover, the application proposes a modest, northwards extension of approximately 300mm to the Gibdon Street crossover to allow for access to the garage of dwelling TH06. This will have a negligible impact on the heritage streetscape and is supported. Council's Heritage Advisor raised no issue with this aspect of the design.
108. In summary, the proposed development has responded well to the surrounding heritage precinct and will provide a new build that is contemporary whilst sympathetic to nearby heritage buildings. A condition for the deletion of the western terrace of dwelling TH06 will ensure no unreasonable loss of views to the Victorian-era, north-facing façade of No. 45 Gibdon Street.

Clause 55 (ResCode)

109. Clause 55 comprises 48 design objectives and standards to guide the assessment of new residential development. The provisions of Clause 55.07 do not apply, as this proposal is not for an apartment development. This assessment will also consider, where relevant, clauses 22.05, 22.07, 22.16 and 22.17.
110. 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. The following objectives are not relevant to this application:
- (a) *North-facing windows objective* – there are no north-facing windows of a dwelling which address the subject site. There has previously been a caretaker's dwelling associated with No. 45 Gibdon Street to the south, however this is vacant under existing conditions and has been vacant since late 2018 (expired use rights).

Clause 55.02-1 Neighbourhood character objective and Clause 55.06-1 Design Detail

111. Much of the neighbourhood character is defined by heritage policy objectives and has been discussed in the earlier heritage section of this report. The proposal will appropriately respond to the character of the area, which includes predominately Victorian and Edwardian-era built form.
112. Design detail elements have been designed to express a contemporary interpretation of those found in the surrounding area, as outlined in the heritage assessment of this report. The materiality presents to the public realm as a largely brick form punctuated with timber-batten-screened windows and selected use of painted concrete panels. The prevalence of brick across the development is highly responsive to the brick buildings found in the surrounding area. The use of timber battens and concrete create an integrated, contemporary form that will enhance the architectural composition of the building.

113. Whilst the overall materiality is supported, the southern facades of dwellings TH07 – TH10 is entirely composed of cement sheeting, which lacks articulation. This issue has been addressed by the sketch plans which incorporate brick into the ground floor of the façade, which will provide an acceptable degree of articulation. A condition will require this sketch plan change.
114. The sketch plans also show larger operable screening to the western, second-floor façade of dwelling TH01. This is a positive change that will be conditioned. The sketch plans also show deletion of the columns associated with the western edge of the communal car parking area. This is supported from a neighbourhood character perspective given that these are not expressive of the surrounding neighbourhood character and that they will improve passive surveillance to the public realm. A condition will require this change.

Clause 55.02-2 Residential policy objectives

115. The construction of ten dwellings on this site will contribute to provision of housing within Yarra. The proposed development meets the relevant PPF and LPPF objectives with regard to providing increased housing diversity and housing choice, meeting forecast increases in resident and household numbers, providing higher density housing within proximity to public transport and commercial services and taking advantage of the existing local infrastructure associated with the residential neighbourhood. The strategic merits of the application have been discussed in greater detail under the *Strategic and Policy Support* section of this report. The objective has been met.

Clause 55.02-4 Infrastructure objectives

116. The proposal is located within an established urban area where access to existing utility services and infrastructure can be readily extended to accommodate additional dwellings on site. It is considered that the provision of 10 dwellings on the subject land would not overload existing infrastructure services. The objectives have been met.

Clause 55.02-5 Integration with the street objective, Clause 55.03-7 Safety objective & Clause 55.05-2 Dwelling entry objective

117. These objectives call for new development to integrate with the existing street network, with good pedestrian links, visible entry points and provision of passive surveillance opportunities to provide a sense of safety for occupants and an activated public realm.
118. The development proposes a wide, communal footpath in the centre of the site which gives access to the pedestrian entry points of all dwellings (except for TH06 which has its own entrance). A strong sense of address to this communal footpath is provided by the gate facing Gibdon Street which has a canopy above it, and an open pergola structure above the walkway. The proposal also provides curved bench seating towards the western boundary which 'guides' pedestrians into this entry point. The curved front fencing to dwelling TH06 achieves a similar effect. The aforementioned pergola structure is provided with landscaping and extends east along the communal footpath, these elements will further add to the sense of address for all dwellings.
119. In terms of individual dwelling entries, these will be highly visible from the communal footpath (other than dwelling TH06). More specifically:
- (a) The entries for dwellings TH01 – TH05 are accessed directly off the communal footpath, with a change in surface material (washed concrete) to further identify each entry for pedestrians when walking along the communal footpath. Furthermore, habitable room windows front the communal footpath which will provide further sense of activation to each entry.

- (b) The entries for dwellings TH07 – TH10 are provided in the form of recessed gates, with curved fencing to help identify each entry. The recessed entries will also have a designated surface material (washed concrete) which will further delineate each entry from the communal footpath. The use of the recesses will also ensure good pedestrian circulation along the communal footpath.

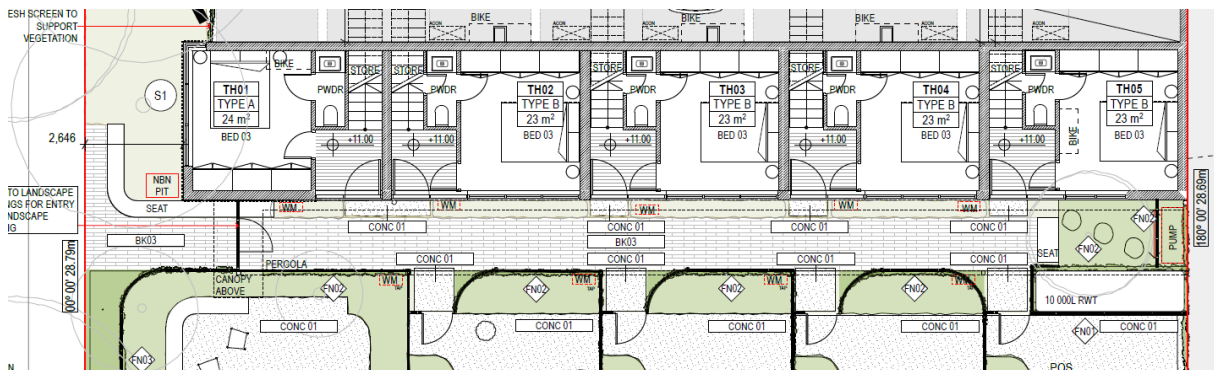


Figure 12: Configuration of the communal footpath (Applicant submission, December 2020)

120. Council's Urban Design Unit recommended that the entrance door of dwelling TH01 be re-oriented to face Gibdon Street. This recommendation will not be pursued given that the current design allows for a large proportion of glazing (associated with bedroom 03) to present to the street, providing a strong connection to the street. The recommendation would also require a reduction in the extent of landscaping across the Gibdon Street frontage, substantial changes to the layout of the ground floor of the dwelling and would likely cut off the dwelling from interacting with the communal footpath.
121. Council's Urban Design Unit also recommended that the mailboxes be clearly shown as part of the communal entrance. This recommendation will be pursued by way of condition as it will further enhance the legibility of the entrance point. Conditions will also require that the communal entry pergola be:
- provided with solid roofing to provide shelter for occupants upon entry to the site (the proposed 'canopy' is actually open and lined with landscaping, which will not provide shelter) and;
 - provided with lighting to ensure a sense of address and safety at night.
122. With regard to dwelling TH06m, the entry is accessed from a separate gate within its front fencing. The dwelling entry will not be highly visible from the public realm however this is supported as the dwelling provides a habitable room window facing Gibdon Street and the separate gate will also help to 'announce' the dwelling's entry. The garage of dwelling TH06 will be set forward of the pedestrian entrance which is generally not encouraged from an urban design perspective. However in this case, it is supported as the development is utilising the existing vehicle crossover on Gibdon Street and the garage is located at the southern edge of the site's Gibdon Street frontage, adjacent to the robust built form and largely blank western façade of No. 45 Gibdon Street. Furthermore, the design response has ensured that the garage will have a sense of activation by incorporating 40% visual permeability into the garage door.
123. With respect to the first and second floor of the Gibdon Street façade, passive surveillance opportunities will be achieved through the following:
- Three large HRWs will face the street at first floor;
 - Two large HRWs will face the street, and the balcony of dwelling TH01 will be visible from the street;
 - Window screening to selected west-facing windows will have a visual permeability of 40%, ensuring that the screens do not block views to the street, whilst also satisfying ESD requirements for west-facing windows, and;

- (d) Occupants using the roof terrace at dwelling TH06 will have views down to Gibdon Street and will therefore engage with the public realm.

124. Council's Urban Design Unit recommended that an additional window be provided across the western façade at first or second floor. This recommendation will not be pursued given the merits listed above and because additional windows at the western façade could result in excessive heat gain to dwellings TH01 and TH06, contrary to local ESD policy at Clause 22.17. The new window would also be a poor heritage outcome as it would increase the proportion of reflective surfaces. Furthermore, the sketch plans have shown a number of improvements with respect to passive surveillance including:

- (a) Deletion of columns from the western edge of the ground floor communal car parking area, which will provide greater passive surveillance between the communal car parking area and the street;
- (b) Reduction in the extent of roof to the northern edge of dwelling TH01 and reduction in the extent of timber screening to the western edge of the balcony of dwelling TH01, both of which will open the TH01 balcony up to the public realm.

125. These sketch plan improvements will be required by condition.

126. Whilst a named roadway, Barrow Place has the width and character of a typical laneway found in the municipality. Thus, it is relevant to assess the development against local policy at Clause 22.07 (Development Abutting Laneways). The northern façade of dwellings TH01 – TH05 provide an effective response to Barrow Place and satisfy local policy at Clause 22.07 for the following reasons:

- (a) At ground floor, the development is set back 2.43m from the northern boundary which will provide good vehicular movements and pedestrian circulation across Barrow Place as encouraged by Clause 22.07;
- (b) The garage doors spanning the ground floor frontage to Barrow Place will have a visual permeability of 50%, ensuring a sense of façade activation to the public realm, and a substantial improvement compared to the solid roller doors that front Barrow Place at the townhouse development immediately east;
- (c) The proposal will present largely as a two-storey (plus balcony balustrade) form to Barrow Place. The second floor of dwellings TH01 – TH05 have been set back between 3.01 and 3.78m from the northern boundary so as not to overwhelm the public realm. This is consistent with other development on Barrow Place, in accordance with local policy at Clause 22.07.
- (d) The first-floor, north-facing windows and second floor balconies of dwellings TH01 – TH05 will provide an additional source of passive surveillance to Barrow Place without resulting in unreasonable overlooking impacts to nearby dwellings in accordance with clause 22.07 (refer to the overlooking objective section of this assessment for further details).

127. Council's Urban Design Unit was supportive of the response to Barrow Place, however made the following recommendations:

- (a) *Introduce subtle vertical articulation along the northern façade (level 1), distinguishing individual townhouses to reduce the visual bulk of the proposal;*
- (b) *Provide further detail of the proposed garage treatment material and ensure appropriate lighting is provided to enhance the safety of Barrow Place.*

128. With regards to (a), the sketch plans have shown a subtle change in brick pattern to provide vertical delineation of the northern townhouses. Upon review of the sketch plans, Council's Urban Design Unit confirmed that the approach was supported but recommended that the vertical elements be provided with a recess of at least 100mm to ensure that the delineation is textured and three-dimensional. A condition will require this change as well as the sketch plan change itself.
129. With regard to (b), a condition will require clarification of the garage door material. Another condition will require details of lighting to Barrow Place to ensure a sense of safety is achieved for Barrow Place.
130. The development also satisfies these three objectives in that low, visually-permeable front fencing is proposed. Further assessment of the proposed front fencing is provided in the following section of this report.

Clause 55.06-2 Front fences objective

131. The front fencing associated with dwelling TH06 is proposed to reach a height of 1.4m and feature a visual permeability of 50%. This complies with the Standard (a maximum height of 1.5m) and will enable views from the public realm into the site, providing passive surveillance between the ground floor of dwelling TH06 and the public realm.
132. The pedestrian entry gate has a height ranging from 1.56m to 1.78m (increasing in height with the slope of natural ground level). This section of fencing, however is set back greater than 3m from Gibdon Street and therefore the Standard is not applicable. In any case, the proposed fence / gate height is supported given the slope of the land at the gate area and that the height will provide a sense of security to the communal footpath. However, a condition will require that the entry gate be provided with a minimum visual transparency of 50% to ensure views from the street into the communal footpath are possible. A condition will also require that all front fencing shown on the West Elevation be updated to be shown graphically as 50% visually permeable (the elevations show the fencing to be roughly 25% visually permeable, discordant with the materials schedule for material acronym FN03, which states that they are 50% visual permeable).

Clause 55.06-3 Common property objectives

133. These objectives call for common property to be designed efficiently and with functionality so as to avoid future management difficulties of these areas. The proposal includes the following common property:
 - (a) A central communal footpath, which provides pedestrian access to all dwellings;
 - (b) Landscaped areas along the Gibdon Street setback and at the eastern end of the communal footpath,
 - (c) Ground floor setback from Barrow Place which provides vehicle access for the communal garage; and
 - (d) A waste/services storage area along the southern boundary.
134. The proposal has satisfied these objectives through:
 - (a) Providing appropriate space for vehicle access and parking within the ground floor Barrow Place setback and the communal garage area as confirmed by Council's Engineering Services Unit, and;
 - (b) Clearly delineating common property from private property through use of fencing as shown on the ground floor plan.

Clause 55.06-4 Site services objective

135. The ground floor plan shows space for bin storage within the southern setback of dwelling TH06, which will be common property, set behind front fencing. This is considered appropriate as it will ensure that bins are not visible from the public realm, other than on collection days. Further details of waste management will be assessed later in this report.
136. The plans show air conditioning units for each dwelling provided:
- (a) Above the car spaces of dwellings TH02, TH03, TH04 and TH07;
 - (b) In the rear service yards of dwellings TH07 – TH10;
 - (c) At the roof terrace of TH06.
137. These are well-resolved locations that will have minimal views from the public realm, in accordance with the objective.
138. The plans show that all dwellings will be provided with a clotheslines that are largely obscured from the public realm.
139. Mailboxes have not been shown on the plans. As previously discussed, this detail will be required to be shown on the plans, as recommended by Council’s Urban Design Unit.

Clause 55.03-1 – Street setback objective

140. The objective is *to ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site*. Gibdon Street is the front street. Given that Barrow Place is a named roadway, it will be considered as the side street for the purposes of this assessment.
141. The proposed development has been assessed against the Standard in the following table:

Street	Prescribed setback	Proposed setback	Shortfall / Surplus	Complies?
Gibdon St	0m	0m – 2.65m	0m to +2.65m	Yes
Barrow Pl (ground floor)	2m	2.54m	+0.54m	Yes
Barrow Pl (first floor)	2m	0.59m	-1.51m	No
Barrow Pl (second floor balconies)	2m	0.59m	-1.51m	No
Barrow Pl (second floor walls)	2m	3.01m - 3.78m	+1.01m to +1.78m	Yes

142. The development complies with the Standard with respect to Gibdon Street, noting that the design response has effectively responded to the prevailing street setback character as shown below.

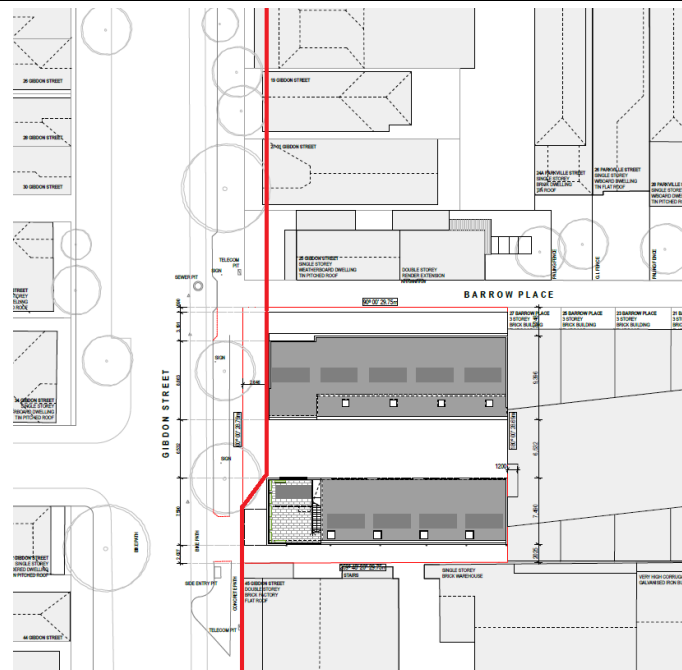


Figure 11: The proposed street setbacks along Gibdon Street provide a smooth transition between nearby properties (Applicant submission, December 2020)

143. Whilst the development complies with the Standard, Council's Urban Design Unit recommended that the second floor of dwelling TH01 be provided with a greater street setback in order to improve the transition to the 1-2storey residential forms to the north. This recommendation will not be pursued for the following reasons:
- As outlined above, the development complies with the Standard.
 - No. 25 Gibdon Street has an anomalously deep street setback of 6m – all other dwellings along the eastern side of Gibdon street have shallow street setbacks of between 1-3m.
 - The design response has enabled good transition to the double-storey dwelling at No. 25 Gibdon Street through the provision of a generous northern setback of 3.78m for dwelling TH01.
 - Barrow Place adds a further sense of transition in that it forms a 3.07m wide buffer between the subject site and No. 25 Gibdon Street.
144. In response to the Urban Design Unit's advice, the sketch plans show a reduction in the extent of brick at the western, second-floor façade of the dwelling TH01 (as well as reducing the extent of timber screen at this level). This change will assist the second floor of dwelling TH01 in appearing more recessive and will be required by condition.
145. With respect to Barrow Place, the development exceeds the requirement at ground floor, which will ensure generous space is provided for pedestrian and vehicular movements along Barrow Place. The development also exceeds the requirement with respect to the north-facing walls at second floor which will provide a sense of spaciousness when viewed from Barrow Place. The application seeks a variation to the Standard at first floor and the second-floor balconies. These variations are supported for the following reasons:
- Whilst a named road, Barrow Place functions more as a laneway, with a back of house character along its northern edge and no footpath. It is therefore not considered to function in the same way as a typical 'side' street to Gibdon Street such as Crimea Street;
 - Development abutting narrow roadways such as Barrow Place often provides 0m or shallow street setbacks in the surrounding area;
 - The inner-city context where robust development and shallow street setbacks are part of the neighbourhood character, and;
 - The design response has responded to Barrow Place with;

- (i) a deep setback at ground floor to ensure good pedestrian circulation and vehicle movements along Barrow Place.
- (ii) a 2.65m street setback to Gibdon Street with substantial landscaping which will open up view lines into Barrow Place from the west.
- (iii) generous Barrow Place setbacks for the north-facing walls at second floor will help the development to read as a double-storey (plus balcony) form, ensuring that the second floor does not overwhelm the public realm along Barrow Place.

Clause 55.03-2 Building height objective

146. The application proposes a maximum building height of 10.23m, which complies with the mandatory maximum building height of 10.5m, as prescribed by Schedule 1 to the zone.
147. The proposed solar panels reach a height of approximately 10.5m (northern block) and 10.8m (southern block). The roof services and solar panels are not included in the definition of 'building height' at Clause 73.01 (General Terms) and therefore are permitted to exceed the mandatory 10.5m building height requirement.
148. The roof level plan shows that dwelling TH06 will be provided with a clothesline and a screen separating the solar panels from the roof terrace. No detail has been provided on the height of these structures. A condition will require the heights of these to be clarified, with a maximum height of 10.5m to the screen in accordance with the Schedule to the zone.

Clause 55.03-3 – Site coverage objective

149. The proposal will result in site coverage of approximately 64%, which is less than the maximum 80% prescribed by Standard (as per Schedule 1 to the zone) and therefore complies with the Standard.

Clause 55.03-4 Permeability objective

150. The proposal will result in a permeability rate of 22.3%, which complies with the Standard (minimum 20%).
151. Clause 22.16 (Stormwater Management [Water Sensitive Urban Design]) applies to new buildings. The submitted STORM Rating Report demonstrates that the proposal achieves a storm rating of 108% through six rainwater tanks (total capacity of 18,000 litres) including:
- (a) Five 2,000L tanks located in service yards of TH06 – TH10, and;
 - (b) A communal, 10,000L tank located at the eastern end of the communal footpath.
152. The Sustainable Management Plan (SMP) submitted with the application confirms that the smaller tanks associated with dwellings TH07 – TH10 will be connected to landscape irrigation and toilets. The tank of dwelling TH06 will be connected to landscape irrigation only. The communal tank will be connected to landscape irrigation and all toilets of dwellings TH01 – TH05.
153. The development thus satisfies Clause 22.16 as the prescribed 100% STORM score is exceeded. The plans show a total of 20,000L tank capacity – this is of no concern as it exceeds the minimum (18,000L) stated in the STORM Report. A condition will require notations to clarify connection details as per the SMP.

Clause 55.03-5 Energy efficiency objectives

154. The submitted SMP shows that the proposal incorporates a number of ESD features to improve the overall energy efficiency of the dwellings. As summarised within the Sustainable Management Plan (SMP) these include the following:
- (a) Individual metering;

- (b) Individual solar panel systems (with a capacity of 1kW each) provided to the roof of each dwelling (total capacity 10kW);
- (c) Maximising passive solar access to living spaces and primary areas of SPOS;
- (d) Double-glazing (or better) applied to all windows;
- (e) High-performance lighting, hot water systems, HVAC systems and water fixtures.
- (f) All dwellings will have natural cross ventilation;
- (g) Comprehensive shading strategy including awnings and external shading provided to the majority of north and west-facing windows;
- (h) Water tanks (total capacity of 18,000L) for connection to landscape irrigation and toilet flushing achieving a STORM score of 108;
- (i) A total of 10 bicycle spaces provided for residents;
- (j) A total of 4 bicycle spaces provided for visitors within the front setback of the development; and
- (k) All dwellings provided with outdoor clothes drying rack / clothesline.

155. Where relevant, these items are shown on the plans.

156. The SMP includes a BESS Report which demonstrates that the development will achieve a BESS score of 64%, which exceeds best practice (50%) with all four critical categories exceeding 50% (water, energy, stormwater and IEQ).

157. Council's ESD Advisor reviewed the SMP and plans and made the following recommendations with regard to ESD deficiencies:

- (a) *The City of Yarra suggests a 10% improvement (minimum) upon the NCC requirements. Consider targeting a weighted average of 6.6-stars across the townhouses;*
- (b) *In addition, the annual energy loads in the BESS report do not match those in the preliminary NatHERS report. Clarify and amend;*
- (c) *Concerns regarding the significant cooling load for TH06 (35.4 MJ/m²) – consider additional insulation and/or shading treatments (for west-facing dining window) and shading or vegetation on the rooftop terrace for TH06 to reduce heat gain;*
- (d) *Amend material schedule to delineate between natural and black timber battens (currently both 'TIM01') and amend elevations;*
- (e) *This size PV system is not readily available. Recommend increasing to 2.5kW per unit, and;*
- (f) *Confirm a target recycling rate of >80% of construction and demolition waste be adopted for the construction phase of the development to minimise the volume of waste to landfill.*

158. These recommendations can generally be included as conditions for an updated SMP. Item (a) will not be pursued as item (e) will substantially improve energy efficiency by the total solar capacity from 10kW up to 25kW. With regards to item (c), this has been addressed by the sketch plans through the provision of an awning to the west-facing dining room window of TH06 and planter boxes to the dwellings roof terrace. These changes will be required by condition.

159. Council's ESD Advisor also made the following recommendations with regard to additional information required:

- (a) *Provide breeze paths and indicate ALL operable windows on elevations.*
- (b) *Provide a daylight assessment (modelled or hand-drawn) to clarify access.*
- (c) *Confirm materials strategy in terms of hazardous materials (i.e. formaldehyde in engineered timber) and VOC*
- (d) *Provide high level analysis to support peak demand statement.*
- (e) *Clarify total provision of rainwater storage. While the SMP and STORM report indicate 18,000-litres – the plans identify a total of 20,000-litres (1x 10kl and 5x 2kl tanks). Opt for larger capacity and amend SMP/STORM.*

- (f) *Confirm post-development discharge will not exceed pre-development levels.*
- (g) *See above regarding comments to clarify provision (18kL in SMP/STORM or 20kL on plans).*
- (h) *Clarify additional stormwater treatments (if any).*
- (i) *Clarify approach to reducing the embodied energy associated with concrete and steel. Recycled aggregates or use of slag and reclaimed water are quite mainstream – as is steel sourced from an ethical manufacturer. Best practice includes conducting an LCA to calculate reduced embodied carbon.*
- (j) *Clarify extent of timber products/materials to be recycled or from accredited sustainably harvested plantation sources (FSC or AFS).*
- (k) *Clarify location/design of bicycle storage for TH05 and TH01, which appear to be located within bedrooms (TP110) – and consider alternative wall-mounted storage solutions. Consider locating visitor parking spaces closer to townhouse entrances for passive security and convenience.*
- (l) *Clarify ownership / use of EV charge point for all residents.*
- (m) *Clarify all energy and water management systems will be commissioned in accordance with the manufacturer's specifications*
- (n) *A statement is required to demonstrate how material choices have reduced urban heat island effect.*

160. Most of the above items can be included as conditions for an updated SMP. With regard to (a), breeze paths will not be required on the plans as this is an information requirement that relates to clause 58 (i.e. apartment developments) and therefore not applicable to the subject development. With regard to item (k), this will be addressed separately under the *Bicycle Facilities* section of this assessment. A condition will also require the plans be updated to show any necessary information associated with the updated SMP.

161. Council's ESD Advisor recommended a number of optional opportunities for improvement from an ESD perspective. These will not be included as conditions given that they have been recommended as optional. However, the permit applicant could include these changes in the updated SMP should they choose to do so.

162. Clause 55.03-5 requires an assessment of overshadowing impacts to existing solar energy facilities on nearby lots. Aerial imagery from March 2021 (figure below) shows that the nearest solar energy facility is located on the roof of No. 19 Barrow Place which is a three-storey townhouse located 27m due east of the subject site. Given the orientation, distance and height of this facility, there will be no equinox overshadowing caused by the proposed development.

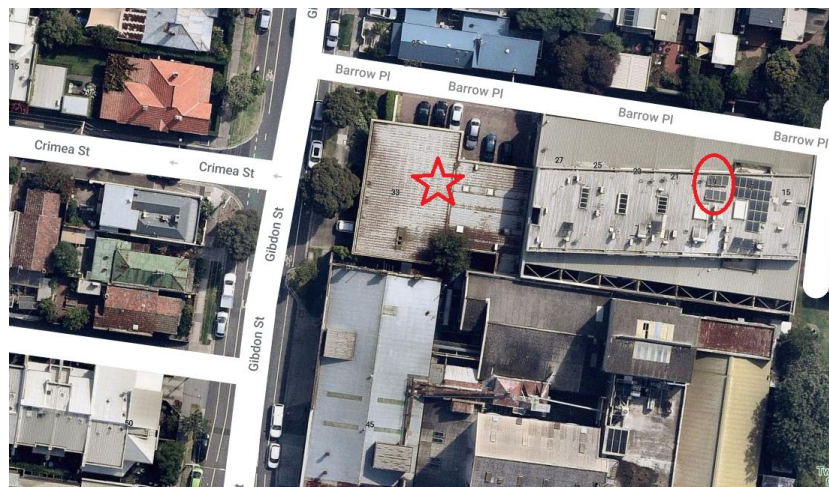


Figure 12: The subject site (red star) and nearest solar energy facility (red circle) (Nearmap, March 2021)

163. It is considered that the proposal adequately meets the Objective of this clause (as well as local ESD policy at Clauses 22.16 and 22.17, subject to the recommended changes from Council's ESD Advisor.

Clause 55.03-8 Landscaping objectives

164. These objectives call for new development to provide appropriate landscaping and respond to any established landscape character of the surrounding area. A review of Gibdon, Crimea and Parkville Streets identifies that most properties provide modest front setbacks for garden areas that are visible from the public realm.
165. The proposed development provides good landscaping opportunities with the Gibdon Street setback primarily dedicated to landscaping including two canopy trees and publicly-accessible bench seating in front of dwelling TH01, as shown on the submitted landscape plan. The ground floor areas of SPOS for dwelling TH06 – TH10 will also be partially visible from the public realm, enhancing the landscape quality of the overall development. Furthermore, climbing plants will be provided to the pergola structures associated with the communal entrance and footpath, which will enhance the sense of address for the development. Climbing plants are also proposed along the northern façade of dwellings TH01 – TH05, which will help to soften the development when viewed from Barrow Place.
166. Council’s Open Space Unit were supportive of the landscape plan, which confirms that the landscaping proposal is of high quality. The sketch plans show landscaping planters to the balconies of dwellings TH01 – TH05 and the roof terrace of dwelling TH06. A condition for an amended landscape plan will require these details to be shown. A condition will also require the sketch plan itself be shown on the development plans.

Clause 55.03-9 Access objectives

167. This standard requires the width of an accessway or car parking space to not exceed 40% of the street frontage, with no more than a single-width crossover provided for each dwelling fronting a street. The Standard also encourages the retention of on-street car parking spaces.
168. In this case, both Gibdon Street and Barrow Place frontages require an assessment, which is undertaken in the table below.

Frontage (width)	Prescribed max. width	Proposed width	Complies?
Gibdon St (28.8m)	11.5m	3m	Yes
Barrow Pl (29.8m)	11.9m	29.7m	No

169. The development complies with the Standard with respect to Gibdon Street, providing 8.5m less than prescribed, which will ensure that the vehicle access will not dominate the principal street frontage. A variation is sought for Barrow Place, however this is supported for the following reasons:
- (a) Barrow Place is a laneway, and has a high proportion of frontages used for vehicle access including the townhouse development directly east which is dominated by solid, garage roller doors;
 - (b) The design response has ensured that the presentation to Barrow Place will have a sense of activation through the use of garage doors with a visual permeability of 50%.
 - (c) The ground floor garage doors have been set back generously from Barrow Place, which will make them read as secondary to the first-floor form of the development, when viewed from Barrow Place.
 - (d) By providing vehicle access for 90% of dwellings along Barrow Place, it ensures that the principal street frontage (Gibdon Street) is not compromised by multiple accessways.

Clause 55.03-10 Parking location objectives

170. These objectives call for convenient parking to be provided in a manner that minimises vehicular noise impacts. The Standard states that car parking facilities should:
- (a) *Be reasonably close and convenient to dwellings and residential buildings;*
 - (b) *Be secure, and;*
 - (c) *Be well ventilated.*
171. The garage car space for dwelling TH06 will be conveniently located with access into the ground floor of the development. Given that it is a private garage, it will also be secure and well-ventilated.
172. The communal garages of all other dwellings (accessed off Barrow Place) will also meet the objective given that the garage:
- (a) Will be conveniently accessed, with occupants having to walk a maximum of 50m along Barrow Place and Gibdon Street footpath to get from car space to front entrance.
 - (b) Will be secure in that garage doors are provided along Barrow Place, ensuring that it can be locked with access only provided to occupants;
 - (c) Will be well-ventilated through the use of 50% a mesh screen to the western edge;
 - (d) No problematic noise issues are anticipated as a car stacker system is not being used and a solid wall is proposed to separate the communal garage area from the ground floor bedrooms of TH01 – TH05.
173. The proposed car parking arrangements comply with the Standard and meet the objectives.

Clause 55.04-1 Side and rear setbacks objective

174. The proposed development has been assessed against the associated Standard in the table below:

Wall	Wall Height	Proposed Setback	Prescribed Setback	Shortfall/Surplus	Complies?
Southern wall of southern block (second floor TH06 terrace)	7.34m*	2.03m	2.43m	-0.4m	No
Southern wall of southern block (second floor TH07 – TH10)	10.23m	2.03m	5.32m	-3.29m	No
Northern garage wall (ground floor TH01 – TH05)	2.35m	2.54m	1m	+0.54m	Yes
Northern balconies (second floor TH01 – TH05)	7.02m	0.59m	2.11m	-1.52m	No
Northern wall (second floor TH01)	10.03m	3.78m*	5.12m	-1.34m	No
Northern wall (second floor TH02 - TH05)	10.03m	3.01m*	5.12m	-2.11	No

*scaled dimensions

175. As identified by the above table, the proposal seeks a variation to the Standard, which is supported for the following reasons:

- (a) Barrow Place provides a 3.07m-wide buffer between the subject site and the north-adjacent dwelling at No. 25 Gibdon Street, which will alleviate visual bulk impacts when viewed from the dwelling’s rear area of SPOS. The design response has set back built form off the northern boundary so that the development would comply with the Standard when taking into account the width of Barrow Place, as shown below. The actual impact to No. 25 Gibdon Street will therefore be consistent with that prescribed by the Standard, which is a rare outcome in an inner-city context.

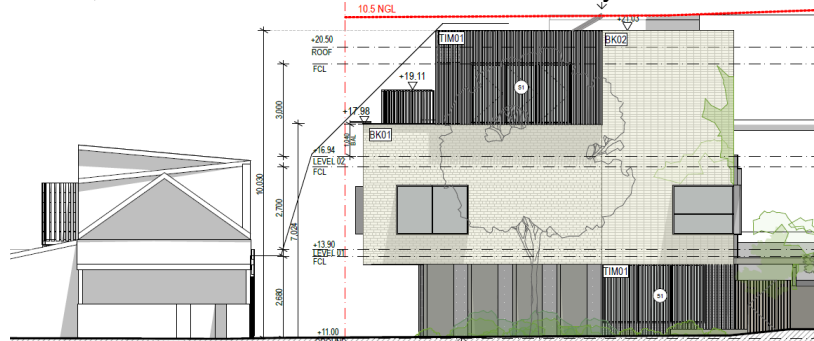


Figure 13: West Elevation of Dwelling TH01 showing setback link associated with the Standard when measured from the northern edge of Barrow Place (applicant submission, December 2020)

- (b) Further to the above, the interface of No. 25 Gibdon Street to the subject site is largely non-sensitive, with boundary walls located along the majority of the dwelling’s southern boundary. The ground floor HRW of No. 25 Gibdon Street will not have any visual bulk impacts because this window is constructed of obscure glass bricks and therefore does not benefit from clear external views. Furthermore, the dwelling at No. 25 Gibdon Street has been designed to benefit mostly from its northern aspect (rather than its southern aspect), with the ground floor area of SPOS wrapping around the northern side of the dwelling as well as a separate, north-facing courtyard and a first floor, north-facing balcony.
- (c) The variation to the Standard associated with the southern walls of the southern block are supported because the southern interface at No. 45 Gibdon Street has no sensitive interfaces at ground floor. A caretaker’s residence is located at first-floor of No. 45 Gibdon Street, however this type of interface does not have the same amenity expectations of a dwelling. Furthermore, as the caretaker’s residence is located at first floor, the visual bulk impacts will not be unreasonable. As stated earlier in the report, the caretaker’s residence is vacant and has been so since late 2018; and
- (d) More generally, the setbacks provided are consistent with development in the surrounding inner-city area, where shallow building setbacks are prevalent.

Clause 55.04-2 Walls on boundaries objective

176. To meet the standard, any new wall constructed on the boundary should not abut the boundary for a length more than 10 metres plus 25 per cent of the remaining length of the boundary of an adjoining lot. In terms of height, new on boundary walls should not exceed an average 3.2 metres in height with a maximum height of 3.6 metres at any one point.
177. The proposed boundary walls have been assessed in the following tables (wall length followed by wall height).

Wall	Proposed Length	Prescribed Maximum Length	Shortfall/Surplus	Complies?
Eastern Wall	19.54m	14.67m	+4.87m	Yes

Wall	Proposed Height	Prescribed Max Height	Shortfall/ Surplus	Complies?
Eastern wall	10.03m - 10.23m	3.6m	-6.43m to -6.63mm	No

178. The proposed boundary wall lengths comply with the Standard and the objective has been met.

179. The boundary wall heights seek a variation to the Standard, however are supported for the following reasons:

- (a) The eastern boundary wall is largely opposite boundary-wall construction at No. 27 Barrow Place, ensuring minimal amenity impacts. Part of the eastern boundary wall is located opposite a balcony with a HRW of No. 27 Barrow Place, however the impact to this interface has been found to be appropriate as discussed under the *Daylight to existing windows objective* section of this report.
- (b) More generally, boundary walls are prevalent in this inner-city context.

Clause 55.04-3 - Daylight to habitable room windows objective

180. This objective seeks to ensure development does not unreasonably impact daylight to existing habitable room windows (HRWs) that address the subject site. The proposal will continue to provide in-excess of the minimum light court requirements (3sqm, minimum dimension 1m) for all abutting windows, thereby complying with the light court component of the Standard. The proposal has been assessed against the setback component of the Standard in the following table:

Wall	Wall Height	Prescribed Setback	Proposed Setback	Shortfall / Surplus	Complies ?
Eastern boundary wall (opposite west-facing, second-floor HRW of No. 27 Barrow Pl)	3.8m*	1.9m	1.2m	-0.7m	No
Northern, first-floor wall TH04 (opposite south-facing, ground floor HRW of No. 25 Gibdon St)	7.02m	3.51m	3.66m	+0.15m	Yes
Northern, second-floor wall TH04 (opposite south-facing, ground floor HRW of No. 25 Gibdon St)	10.03m	5.02m	6.08m	+1.06m	Yes

*scaled dimension, height measured from approximate sill height of the affected window

181. The proposal largely complies with the Standard, the only variation being the eastern boundary wall opposite the HRW of No. 27 Barrow Place. This is supported for the following reasons:

- (a) The design response has minimised daylight impacts to the window by locating only a small section (approximately 0.2m) of the proposed boundary wall opposite the window thereby allowing continued daylight access. The majority of the HRW will have no development opposite it.
- (b) The inner-city context, where lots are typically small and existing walls often do not comply with the prescribed setbacks of the Standard.

Clause 55.04-5 Overshadowing open space objective

182. This objective requires that new development does not significantly overshadow existing areas of SPOS. The Standard prescribes that:

- (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.*
- (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.*

183. The proposal will not result in any new overshadowing to any nearby areas of SPOS, other than the small, west-facing, second-floor balcony of No. 27 Barrow Place. This is supported for the following reasons:

- (a) The balcony does not function as the dwelling's principal area of SPOS given its small size, narrow width and lack of connection to a living room.
- (b) The dwelling will continue to benefit from solar access from its principal area of SPOS, which is the north-facing balcony at first floor.
- (c) The design response has minimised shadows to the small balcony by locating the eastern boundary wall of dwelling TH10 towards the southern half of the balcony, allowing for penetration of sunlight to the balcony.

Clause 55.04-6 Overlooking objectives

184. The purpose of the overlooking objective is to *limit views into existing secluded private open space and habitable room windows.*

185. The Standard prescribes that:

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

186. The only dwellings within 9m of the subject site are No. 27 Barrow Place (which has a north-facing balcony at first floor and a smaller, west-facing balcony at second floor) and No. 25 Gibdon Street (which has a rear, ground floor area of SPOS and a north-facing, first-floor balcony). To the south there is a caretaker's dwelling (currently vacant since late 2018) at No. 45 Gibdon Street which is located at first floor and has a north-facing HRW within 9m of the subject site.

187. With regard to No. 27 Barrow Place:

- (a) Dwelling TH05 is provided with a 2.2m-high screen along its eastern edge. The screen is set back approximately 0.3m from the northern edge of TH05's balcony. This setback will result in some views to the balcony of No. 27 Barrow Place, and therefore a condition will require compliance with the objective of clause 55.04-6;
- (b) The plans and elevations do not confirm the maximum transparency of the screens to the balconies of dwellings TH01 – TH05 therefore a condition will require that they have a maximum transparency of 25% (to a height of at least 1.7m above finished floor level) in accordance with the Standard.

- (c) There will be no views into the second-floor balcony (or HRWs) from the first floor of any proposed dwelling given that the balcony of No. 27 Barrow Place is at a higher level. In addition these windows are screened to ensure no overlooking between dwellings within the development. At second floor of dwellings TH01 – TH05, there will be no views into the balcony (and HRWs) because the south-facing windows of these dwellings at second floor are part of a raked wall and have sill heights of 1.7m above finished floor level in accordance with the Standard (as measured using Council software). A condition will require this dimension to be shown on the plans.
- (d) For the north-facing, second-floor windows of dwellings TH06 – TH09, there will be no overlooking into the west-facing balcony of No. 27 Barrow Place (and south-facing HRW) as they are not located within a 9m / 45-degree arc from these windows.
- (e) From the north-facing, second-floor window of bedroom 01 of TH10, there will be clear views into the balcony and south-facing window of No. 27 Barrow Place, as shown below. These windows are provided with 40% transparent screens, however this level of transparency will allow unreasonable views. A condition will require this window to be screened in accordance with the overlooking objective to ensure no unreasonable overlooking. The north-facing study window of dwelling TH10 will not result in any unreasonable overlooking as the balcony of No. 27 Barrow Place does not fall within its 9m / 45-degree arc.

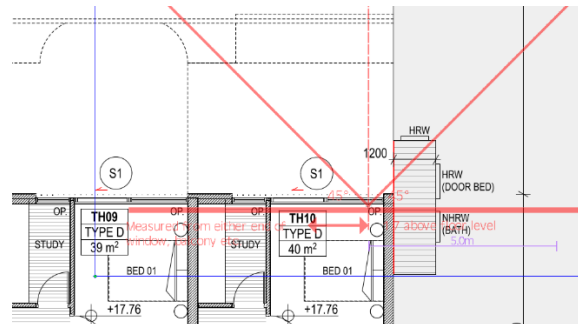


Figure 14: the west-facing, second-floor balcony and associated HRW of No. 27 Barrow Place and views from the second floor of dwelling TH10.

188. With regard to No. 25 Gibdon Street:

- (a) There will not be any views into the south-facing, ground floor HRW as this window is constructed of obscure glass bricks;
- (b) There will not be any views into the rear SPOS or first-floor balcony from the first-floor bedroom window / second floor balcony of TH04 as the double-storey southern boundary wall of No. 25 Gibdon Street will obscure views from this window, as shown below.
- (c) There will be direct views from the first-floor bedroom 01 window of TH05 because the window has been provided with obscure glazing to a height of only 1.5m above finished floor level (in lieu of 1.7m as prescribed by the Standard). Given that the window is directly opposite the ground floor SPOS of No. 25 Gibdon Street, a condition will require the window to be screened in accordance with the overlooking objective. This condition will also address any overlooking from this window into the first-floor balcony of No. 25 Gibdon Street.
- (d) Views from the second-floor balconies of dwellings TH04 and TH05 will be obscured by the overlooking 'shelf' proposed as part of the balcony balustrade, ensuring no overlooking into the ground floor SPOS or first-floor balcony of No. 25 Gibdon Street, as shown by figure 15 below. However, there would be views achievable from TH05 terrace where the eastern screen does not run the full extent of the terrace. The condition mentioned earlier to prevent overlooking into No. 27 Barrow Place will also address this issue.

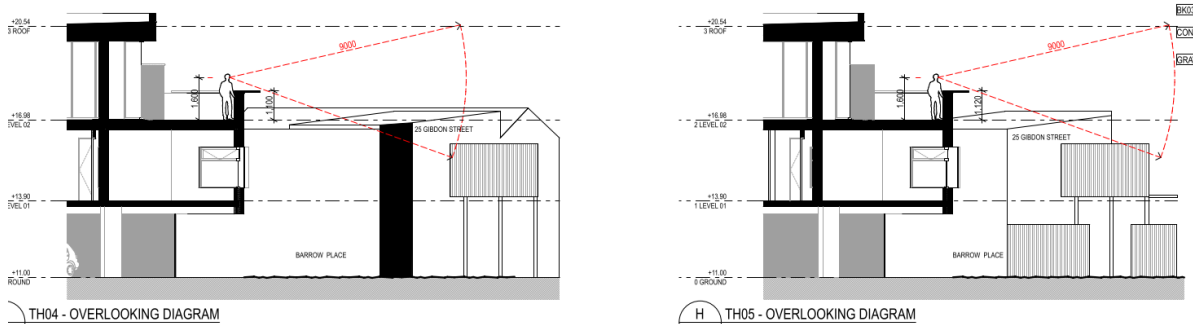


Figure 15: Sectional diagrams showing mitigation of overlooking from the second-floor terraces of dwellings TH04 (left) and TH05 (right).

Clause 55.04-7 Internal views objective

189. The purpose of this objective is to *limit views into the secluded private open space and habitable room windows of dwellings and residential buildings within a development.*
190. With respect to dwellings TH01 – TH05, the objective has been met through the provision of 2.2m-high screens which separate the second-floor balconies of each of these dwellings. The plans however, fail to specify the maximum transparency of these screens, and the screens fall short of the full extent of the terraces. As previously mentioned, a condition will require these screens to have a maximum transparency of 25% in accordance with Standard B22 and will be conditioned to run the full length of the terrace. Furthermore, the south-facing, second-floor, raked windows of TH01 – TH05 all have a sill height of 1.7m above finished floor level, as confirmed by scaling the plans on Council software. A condition will require the sill height dimension to be shown on the plans. This will ensure no unreasonable overlooking into the ground-floor areas of SPOS of dwellings TH06 – TH10.
191. With respect to dwellings TH06 – TH10, there will be limited internal views from the first and second-floor north-facing windows into the ground-floor areas of SPOS of the five dwellings. The design response has minimised internal overlooking through the use of external screens to the northern façade of the dwellings which have a maximum visual permeability of 40%. This however, is not sufficient as views to more than 50% of the lower level areas of SPOS will be possible. A condition will therefore require compliance with the internal overlooking objective with respect to dwellings TH06-TH10.

Clause 55.04-8 Noise impact objectives

192. Noise generated by the proposal will be residential in nature. The site is located within a residential zone and it is considered that the proposed development will not generate unreasonable noise impacts on surrounding sites.
193. Clause 22.05 requires that new residential development be designed to manage existing noise from nearby commercial or industrial uses. Given that the south-abutting property at No. 45 Gibdon Street has previously been used as a brewery (and that it is a purpose-built complex of industrial buildings), an assessment against Clause 22.05 is necessary. The design response has minimised sensitive interfaces along the southern aspect of dwellings TH06 – TH10 in the following ways:
 - (a) providing non-sensitive functions along the southern wall including:
 - (i) the garage and bathroom for TH06, service courtyards for dwellings TH07 – TH10 at ground floor;
 - (ii) Ensuites for dwellings TH07 – TH10 at second floor.
 - (b) Providing limited window openings across the southern façade of dwellings TH06-TH10;
 - (c) Commitment to double-glazing or better as confirmed in the submitted SMP.

194. Whilst these aspects of the design are supported, there is still concern regarding the habitable rooms of dwelling TH06-TH10 that are located at the southern wall, including the living areas of dwellings TH07 – TH10 at ground floor, the south-facing bedrooms of dwellings TH06 – TH10 at first floor and the kitchen / dining area of TH06 at second floor. A condition will therefore require that details of the glazing thickness and operability seals for all south-facing HRWs of dwelling TH06 – TH10 and the west-facing HRWs of dwelling TH06 for the purpose of minimising noise entering these windows.

Clause 55.05-1 Accessibility objective

195. The grade and width of the dwelling entries of the ground floor of all dwellings will be accessible to people with limited mobility, meeting the Standard requirement.

Clause 55.05-3 Daylight to new windows objective

196. All new habitable room windows are located to face an outdoor space clear to the sky with a minimum area of 3sqm and minimum dimension of 1 metre, in accordance with the Standard. This will ensure that all windows will have access to good amounts of natural daylight.

Clause 55.05-4 Private open space objective

197. The proposal provides the following areas of secluded private open space to each dwelling:

Dwelling	Type	Area	Minimum dimension	Location
TH01	Balcony	17sqm	2.96m*	Second-floor, connected to living area
TH02	Balcony	14sqm	2.39m*	Second-floor, connected to living area
TH03	Balcony	14sqm	2.39m*	Second-floor, connected to living area
TH04	Balcony	14sqm	2.39m*	Second-floor, connected to living area
TH05	Balcony	14sqm	2.39m*	Second-floor, connected to living area
TH06	Ground level Terrace Terrace	35sqm* 10sqm 23sqm	4.68m* 2.27m* 4.67m*	Ground-floor, connected to bedroom Second-floor, connected to living area Roof level, connected to living area by stairwell
TH07	Ground level Ground level	25sqm 10sqm	4.68m* 2.03m*	Ground-floor, connected to living area Second-floor, connected to bedroom
TH08	Ground level Ground level	25sqm 11sqm	4.68m* 2.03m*	Ground-floor, connected to living area Ground-floor, connected to living area
TH09	Ground level Ground level	24sqm 11sqm	4.68m* 2.03m	Ground-floor, connected to living area Ground-floor, connected to living area
TH10	Ground level	20sqm 9sqm	4.68m* 2.03m	Ground-floor, connected to living area Ground-floor, connected to living area

Dwelling	Type	Area	Minimum dimension	Location
	Ground level			

*scaled dimensions

198. As detailed in the above table, dwellings TH01 – TH05 are all provided with second-floor balconies that substantially exceed the minimum area (8sqm) and minimum dimension (1.6m) prescribed by the Standard. All five balconies are located adjacent to the second-floor living / dining area of each dwelling, ensuring convenient access to each living room as prescribed by the Standard.
199. Dwelling TH06 complies with the Standard as it includes the following:
- (a) A balcony at second floor, connected to the living area and exceeding the minimum area (8sqm) and minimum dimension (1.6sqm) prescribed by Standard.
 - (b) A roof terrace, connected to the living area by stairwell and exceeding the minimum area (10sqm) and minimum dimension (2m) prescribed by the Standard.
200. The above provision of SPOS exceeds the minimum requirements, and therefore TH06 complies with the Standard. As previously outlined in the heritage section of this report, the second-floor terrace will be deleted by way of condition. This will not affect the internal amenity of the dwelling as the roof terrace alone will continue to exceed the minimum requirements of the Standard. In addition, TH06 is provided with 35sqm of SPOS at ground level, although this is not connected to the living area.
201. Dwellings TH07 and TH08 comply with the Standard as 25sqm of SPOS at ground level has been provided with a minimum dimension of greater than 3m. These dwellings will also benefit from a 10-11sqm service yard along the southern boundary.
202. Dwellings TH09 and TH10 do not comply with the Standard in that the prescribed 25sqm of ground level SPOS with minimum dimension of 3m has not been provided. This variation to the Standard is supported for the following reasons:
- (a) TH09 is provided with 24sqm of SPOS (with a minimum dimension of 4.68m), therefore the shortfall of 1sqm is considered to be negligible. Dwelling TH10 is provided with 20sqm of SPOS, which is also considered to be appropriate in this inner-city context, where lots are small and areas of SPOS are typically less than 25sqm.
 - (b) The SPOS of both dwellings have a minimum dimension of 4.68m which exceeds the minimum of 3m prescribed by the Standard. This aspect of the design has ensured that the areas of SPOS will be functional in meeting the recreational needs of occupants.
 - (c) Both dwellings are provided with rear service yards of 10sqm and 11sqm complete with storage sheds. This will ensure that equipment and services do not take up space in the primary SPOS area.
 - (d) The areas of SPOS are north-facing, and as will be discussed in a latter section of this report, will receive amenable levels of solar access.
 - (e) Access to public open space, including the Golden Square Bicentennial Park, is within 60m of the subject site.

Clause 55.05-5 Solar access to open space objective

203. The Standard prescribes that the southern boundary of secluded private open space to be set back from any wall on the north of the space by at least $(2 + 0.9h)$ metres, where 'h' is the height of the wall and on the northern side of the dwelling if appropriate. The purpose of the objective is to provide amenable solar access to proposed areas of SPOS.

204. TH01 – TH05 have their areas of SPOS (second-floor balconies) located on the northern side with no walls to the north. As such, these SPOS will receive optimal solar access in accordance with the Standard. The objective has been met for these dwellings.
205. For TH06, the dwelling will be provided with two areas of SPOS (connected to a living area) that will have no walls along their northern sides – the west-facing terrace at second floor and the roof terrace. The southern wall of dwelling TH01 will overshadow the ground floor area of SPOS for TH06, however this is supported as the ground floor SPOS is not the dwelling’s primary area of SPOS (as it is not connected to a living area). The objective has been met with regard to dwelling TH06.
206. For dwellings TH07 – TH10, the ground-floor areas of SPOS will be located to the north of the dwellings in accordance with the Standard, however they will be impacted by shadow generated by dwellings TH01 – TH05 to the north. As such, a detailed assessment of the response is provided in the tables below.

Southern walls of dwelling TH01

Wall opposite areas of SPOS	Wall height	Proposed Setback from SPOS	Prescribed setback from SPOS	Shortfall / Surplus	Complies?
Kitchen and Laundry (second floor)	10.03m	6.63m	11.03m	-4.4m	No

Southern walls of dwellings TH02 – TH05

Wall opposite areas of SPOS	Wall height	Proposed Setback from SPOS	Prescribed setback from SPOS	Shortfall / Surplus	Complies?
Bedroom 02 and stairwell landing (first floor)	5.73m	6.63m	7.16m	-0.53m	No
Living room (second floor – top of raked roof form)	9.23m	8.27m	10.31m	-2.04m	No

207. The proposed variations to the Standard, as shown in the above tables are supported for the following reasons:

- (a) The design response has considered solar access to the areas of SPOS of TH07-TH10 through the provision of a raked southern wall at second floor to dwellings TH02 – TH05. This allows for equinox sunlight to penetrate the areas of SPOS of TH07-TH10.
- (b) Further to the above, the raked southern wall will allow for solar access to the SPOS of dwellings TH07 – TH10. As shown below, these dwellings will retain sizeable portions of solar access at equinox. The dwelling with the lowest solar access is TH07, however even this dwelling will receive good solar access, with roughly 7.5sqm at 10am, 9sqm at 11am, 10sqm at 12pm and 6sqm at 1pm. Furthermore, the section with the highest proportion of solar access is towards the south of each SPOS, close to the sliding doors of each respective living area, which is most likely to be used for occupants.

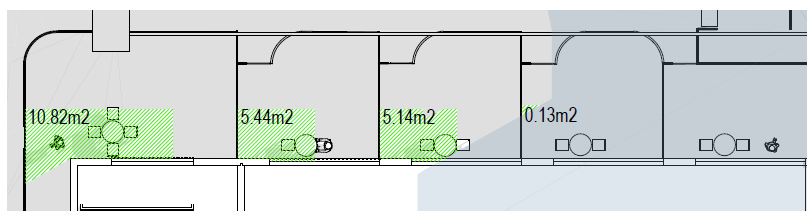




Figure 16: Retained solar access (shown in green, with 9am at top and 3pm at bottom) to the ground floor areas of SPOS of dwellings TH06 – TH10 (Applicant submission, December 2020)

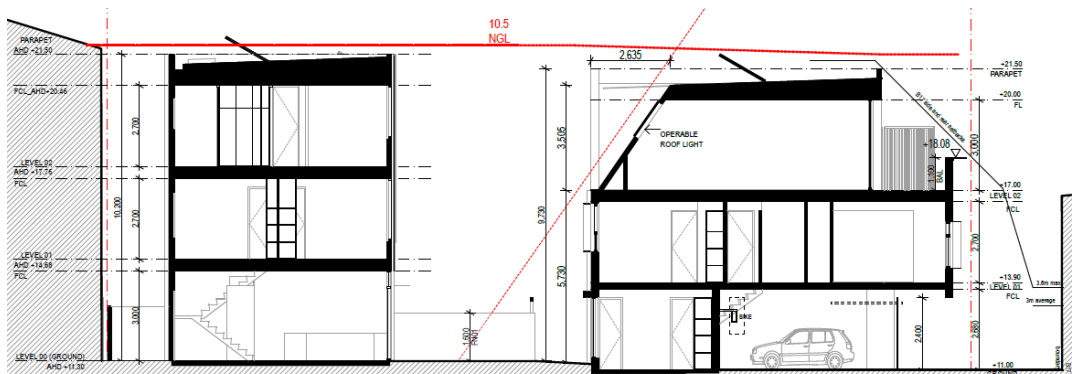


Figure 17: Raked southern walls of TH02 – TH05 shown in section (applicant submission, December 2020)

Clause 55.05-6 Storage objective

208. The Standard prescribes that each new dwelling is provided with 6 cubic metres of externally-accessible storage. An assessment of storage space for each dwelling is shown in the following table:

Dwelling	Shed	Internal Storage	Bicycle space
TH01	-	25m ³	Located in ground floor bedroom
TH02	-	23m ³	Located above car space
TH03	-	23m ³	Located above car space
TH04	-	23m ³	Located above car space
TH05	-	23m ³	Located in ground floor bedroom
TH06	-	19m ³	Located in garage
TH07	3m ³	16m ³	Located in shed
TH08	3m ³	16m ³	Located in shed
TH09	3m ³	16m ³	Located in shed
TH10	3m ³	16m ³	Located in shed

209. All dwellings seek a variation to the Standard, with dwellings TH01- TH06 being provided with no externally accessible storage, and dwellings TH07 – TH10 being provided with 3m³ in the form of sheds.
210. With regards to dwellings TH01 – TH05, the proposed provision of 0 cubic metre of externally accessible storage is not supported. The applicant’s Planning Report submits that the proposed variation to the Standard is acceptable because of the high level of internal storage areas provided to each dwelling as shown in the table above. High levels of *internal* storage are not considered to warrant the provision of zero *externally* accessible storage. A condition will therefore require that each dwelling (of TH01 – TH05) be provided with a minimum of 3 cubic metres of storage within each balcony. While the 3 cubic metres falls short of the prescribed 6 cubic metres, this will provide an adequate level of externally accessible storage, particularly given that these dwellings do not have any garden areas to maintain.
211. Dwellings TH01 and TH05 have provided bicycle spaces internally at the ground floor bedroom of each dwelling. This is not supported as it will affect the internal amenity of these rooms and is impractical. A condition will require that they be located above their respective car spaces.
212. With regard to dwelling TH06, the provision of zero externally accessible storage is not supported, particularly given that this dwelling has the largest ground-floor area of SPOS to maintain. A condition will require a storage shed to be provided at the ground floor area of SPOS with a minimum capacity of 3m³. This will not affect the garden area provision as outbuildings with a floor area of less than 10sqm constitute garden area pursuant to the provided definition at Clause 73.01 (General Terms).
213. With regards to dwellings TH07 – TH08, the proposed 3 cubic metre sheds are supported given that these dwellings do not have large outdoor areas for maintenance.

[Car Parking, traffic, loading and waste](#)

Provision of Car parking

214. The proposed development would provide a total of ten spaces, nine within a communal garage accessed off Barrow Place and one in a private single garage for dwelling TH06. Accordingly, the plans show that each of the ten proposed dwellings will be provided with one on-site car space. As previously outlined, the proposal seeks a car parking reduction of 10 spaces pursuant to the applicable car parking rate at Clause 52.06.

215. The proposed car parking reduction is supported for the following reasons:

- (a) The excellent access to public transport, including Burnley Railway Station (within 300m) and tram services on Swan Street (within 400m), which will make occupants less likely to need more than one car per dwelling.
- (b) On-street car parking in the surrounding area consists largely of 2-hour and 4-hour spaces with some permit-restricted spaces on the western side of Parkville Street. The 2-hour and 4-hour spaces are considered to provide for visitors of the proposed development who choose to drive. Further, the permit-restricted spaces in the area will continue to protect car parking availability for existing, permit-holding residents as no parking permits will be issued to the proposed development.
- (c) The provision of bicycle infrastructure in the surrounding area, including the Main Yarra Trail (200m south), is a highly utilised commuter and recreational route for cyclists. There are also bicycle lanes incorporated into surrounding streets, including Gibdon and Stawell Streets. Further, the proposed resident / visitor bicycle spaces proposed will encourage occupants / visitors to travel to / from the site.
- (d) Occupants of new developments such as the proposed development are not permitted to obtain parking permits. Given the complete lack of unrestricted on-street car parking in the surrounding area, it is unlikely that occupants would choose to use more than one car per dwelling.
- (e) The provision of less car spaces on site allows for a lower level of traffic generated by the proposal. This is important as traffic is an issue affecting the broader Burnley, Richmond and Cremorne neighbourhoods.
- (f) 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.
- (g) Council's Engineering Services Unit reviewed the car parking provision and found it to be appropriate, raising no objection to the proposed car parking reduction.

Vehicle Access

216. As previously detailed, vehicle access to the communal garage area is provided off Barrow Place. The single garage for dwelling TH06 is accessed off Gibdon Street via a 300mm northward extension to the existing vehicle crossover on site. In general, Council's Engineering Services Unit were largely supportive of the proposed access arrangements, with minor changes and additional details required as follows;

- (a) Delete the waste collection point from the drawings (a dedicated on-street parking bay is not supported for waste vehicles);
- (b) The surface material for the ground-floor Barrow Place setback should be of a different material than that of Barrow Place, and;
- (c) A vehicle crossing ground clearance check for the Gibdon Street crossover (servicing Barrow Place) is to be undertaken for each new vehicle crossing by the applicant's designer to confirm that a B99 design vehicle can enter and exit the property without scraping out.

217. All three of the above recommendations will be included as conditions.

218. A number of additional recommendations were provided by Council Engineers; these relate to various infrastructure requirements immediately surrounding the site that should be undertaken to Council's satisfaction and at the Permit Holders cost. These recommendations can be captured under standard infrastructure, drainage and construction management conditions and/or notes.

Traffic

219. The traffic report provided a break-down of potential traffic generated by the proposed development, with an anticipated 50 daily trips, with the AM and PM peak hours each having an estimate of 5 trips. Council's Engineering Services Unit reviewed this and found it to be satisfactory, stating that this is *not unduly high and should not adversely impact on the traffic operation of the surrounding road network*.

Loading and waste

220. Loading and unloading are not anticipated to be significant issues for the development, particularly given the residential use. Removalists (or couriers) for occupants would be able to make use of the 2-hour and 4-hour car spaces along Gibdon Street outside the subject site.
221. Waste will be collected by a private contractor from the on-street car spaces on the eastern side of Gibdon Street, as confirmed by the submitted Waste Management Plan (WMP). The WMP shows that waste will be distributed across four streams – garbage, recycling / cardboard, organics and glass, which is a good outcome for waste management. The WMP confirms that each stream will be collected only once per week, which is consistent with Council collection and will therefore not unreasonably impact the amenity of the surrounding area. Waste will be stored within the open waste area located towards the southwest corner of the site. Council's Waste Unit reviewed the WMP and plans and confirmed that the proposed waste management was satisfactory.

Bicycle Facilities

222. Whilst Clause 52.34 (Bicycle Facilities) is not applicable to residential developments of this scale. Notwithstanding this, the proposal provides:
- (a) A total of ten resident spaces, one per dwelling, located in the:
 - (i) communal garage area (dwellings TH02 – TH04)
 - (ii) ground floor bedroom (dwellings TH01 and TH05)
 - (iii) private garage to TH06, or;
 - (iv) rear shed for dwellings TH07 – TH10
 - (b) A total of four visitor spaces in the form of two horizontal hoops located in the street setback of the site towards the northwest corner of the lot.
223. With regards to the number of resident spaces, Council's Strategic Transport Officer confirmed that the provision of 10 spaces meets Council's best practice rate, and was generally supportive of the proposed locations, except for the internal spaces located within the ground floor bedrooms of TH01 and TH05. A condition will require these spaces to be located above the car space of these dwellings in the communal garage. No access issues were identified by the Unit with respect to the resident spaces.
224. Council's Strategic Transport Unit were also supportive of the proposed visitor spaces, noting that the provision is double that of Council's best practice rate (two spaces). No issues were raised, evidence of well-resolved visitor parking.

Other Matters

225. The following are additional matters that need to be assessed from a planning perspective:

Error on Plan

226. The East Elevation erroneously shows that the eastern boundary wall of TH10 extending further north than that shown on the plans. This will be addressed by way of condition. In addition, the adjacent built form obscures the proposal, and a condition will require this to be removed from the elevation.

Street Trees

227. The subject site has two street trees along its western boundary on Gibdon Street. In order to provide vehicle access to dwelling TH06, the application seeks a north-wards extension of the existing Gibdon Street crossover (the proposed crossover extension would have a width of approximately 300mm), which would result in the crossover encroaching slightly into the canopy spread of the southern street tree. This aspect of the development was reviewed by Council's Streetscapes and Natural Values Unit, who confirmed that the crossover extension can be supported as long as a Tree Management Plan is provided to include a commitment that if any tree roots are found during the crossover construction, Council arborists must be contacted and engaged to prune the roots, at the permit holders expense. A condition will therefore require a Tree Management Plan to be provided as recommended. The Tree Management Plan will also need to assess general management of both street trees along Gibdon Street to ensure that the trees are protected during construction.

Equitable Development

228. To ensure the 'fair, orderly, economic and sustainable development of land' in accordance with the objective of the *Planning and Environment Act (1987)*, matters of equitable development must be considered.

229. In this instance, the site is separated from land to the west by Gibdon Street. This roadway is sufficiently wide (13m) to ensure reasonable equitable development opportunities for land to the west (regardless of the built form proposal).

230. Land to the east at No. 27 Barrow Place is located within the General Residential Zone (Schedule 1), which has a mandatory maximum building height of 10.5m and has already achieved this building height with the existing three-storey townhouse development on the land. In any case, the development proposes blank walls along the eastern boundary, ensuring equitable development opportunities to No. 27 Barrow Place in the unlikely event that the site is redeveloped.

231. The site to the south (No. 45 Gibdon Street) is located in the General Residential Zone (Schedule 3), which allows for a maximum height of 9m (although the upcoming Tribunal hearing will decide upon whether this can be exceeded due to the height of existing buildings on site). In any case, the proposed development at the subject site responds appropriately to No. 45 Gibdon Street by providing a southern setback of 2.03m, which will ensure that the south-facing windows of the proposed development can access daylight from within its own title boundaries and in accordance with the daylight to new windows objective, as detailed in the Clause 55 section of this report.

Objector Concerns

232. Objector concerns have been addressed throughout the report as follows:

- (a) *Traffic impacts along Barrow Place, including access implications for pedestrians, cars and emergency vehicles* – discussed at paragraphs 126-130, 145, 167 – 169 and 216-219.
- (b) *Heritage concerns* - discussed at paragraphs 91 – 108.
- (c) *Excessive building footprint and height, and inconsistent with neighbourhood character* - discussed at paragraphs 111-114, 140-144 and 146-153.
- (d) *Off-site amenity impacts (visual bulk, overlooking, overshadowing and loss of daylight)* - discussed at paragraphs 174-188.
- (e) *Impacts associated with waste management* - discussed at paragraphs 220-221.
- (f) *Noise impacts* - discussed at paragraphs 192-194.
- (g) *Equitable development concerns* - discussed at paragraphs 228-231.
- (h) *Impacts to property values* – this is not a planning matter.

Conclusion

233. The proposed development for ten new townhouse dwellings has strong strategic and policy support, providing new housing in an area that is well-served by public transport and employment opportunities. The proposed design is well-resolved, however a number of conditions will ensure a good heritage outcome and mitigation of any outstanding off-site amenity issues.

RECOMMENDATION

That having considered all objections and relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant Planning Permit PLN20/0737 for the full demolition of existing buildings, the construction of ten townhouse dwellings, a vehicle crossover and a reduction in the car parking requirements at 27 – 31 Gibdon Street, Burnley, subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale, with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans (prepared by MA Architects, dated 11 December 2020) but modified to show the following:
 - (a) The following changes in accordance with the sketch plans (prepared by MA Architects, dated 03 March 2021);
 - (i) Deletion of columns from the western edge of the ground floor communal car parking area;
 - (ii) Provision of awnings to the north-facing, ground floor windows of dwellings TH07-TH10 and the second-floor, west-facing dining room window of TH06;
 - (iii) Landscaping planters to the balconies of dwellings TH01 – TH05 as well as the roof terrace of TH06;
 - (iv) Reduction in the extent of roof to the northern edge of dwelling TH01;
 - (v) Reduction in the extent of timber screening to the western edge of the balcony of dwelling TH01;
 - (vi) Operable screens to the western, second-floor façade of dwelling TH01 increased in size;
 - (vii) Reduction in extent of brick at the western, second-floor façade of dwelling TH01;

- (viii) Linear brick patterning to the northern facades of dwellings TH01 – TH05, and;
- (ix) Cement sheet replaced with brick at the ground-floor, southern façades of dwellings TH06 - TH10.

But further modified to show:

- (b) Deletion of the west-facing, second-floor terrace to dwelling TH06;
- (c) The following windows screened in accordance with the objective of Clause 55.04-6:
 - (i) First-floor, north-facing, bedroom 01 window of TH05;
 - (ii) Second-floor, north-facing balcony of TH05;
 - (iii) Second-floor, north-facing, bedroom 01 window of TH10;
- (d) East and west-facing screens associated with the balconies of dwellings TH01 – TH05 provided with a maximum transparency of 25% to a minimum height of 1.7m above finished balcony floor level and to continue the full extent of the terraces.
- (e) Dimensions to confirm minimum sill heights of 1.7m above finished floor level for the south-facing, second-floor windows of dwellings TH02-TH05.
- (f) Northern facades of dwellings TH06 – TH10 screened to comply with Clause 55.04-7 (internal views objective);
- (g) The following changes to the communal pedestrian entry point:
 - (i) Solid roofing to the entry pergola;
 - (ii) Details of lighting;
 - (iii) Entrance gate with a visual permeability of no less than 50%;
 - (iv) Details of mailboxes.
- (h) All front fencing depicted on elevations with a visual transparency of 50%;
- (i) Clarify material for Barrow Place garage doors (maintaining 50% transparency);
- (j) Details of lighting along ground floor, Barrow Place façade;
- (k) Materials schedule acronyms updated to delineate between natural and black timber battens;
- (l) Notations to clarify connection to rainwater tanks (in accordance with the satisfactory Sustainable Management Plan as required by condition 3).
- (m) A minimum capacity of 2.5kW for each dwelling's solar energy facility;
- (n) Show all operable windows on elevations;
- (o) Clarify height of clothesline and screen at the roof terrace of dwelling TH06, with the screen to be no higher than 10.5m above ground level;
- (p) Provision of a 100mm recess to the vertical dwelling delineation strips across the northern façade of dwellings TH01 – TH05 as shown on the sketch plans referenced in condition 1(a);
- (q) Deletion of reference to a waste collection bay on Gibdon Street;
- (r) Surface material for the ground floor setback to Barrow Place to be visually distinguishable from the concrete surface of Barrow Place;
- (s) Vehicle crossing ground clearance sections to show no vehicle scraping for a B85 standard vehicle (crossover to dwelling TH06) and a B99 vehicle (crossover servicing Barrow Place);
- (t) Dwelling TH01 – TH05 provided with a minimum of 3 cubic metres of storage within each balcony;
- (u) Dwelling TH06 provided with a minimum of 3 cubic metres of storage at the ground floor area of secluded private open space;
- (v) The bicycle spaces of dwellings TH01 and TH05 relocated to be above their respective car spaces;
- (w) Eastern boundary walls depicted on the East Elevation corrected to match the plans and to remove adjacent built form (ie. show full extent of east elevation of proposal).
- (x) Details (including glass thickness, window seals and operability) on the south-facing windows of TH06-TH10 and the west-facing habitable room windows of TH06 to ensure mitigation of noise impacts from nearby commercial uses.
- (y) Any change required by the endorsed Sustainability Management Plan (as required by condition 3), where relevant to show on the plans;

- (z) Any change required by the endorsed Landscape Plan (as required by condition 5), where relevant to show on the plans;
 - (aa) Any change required by the endorsed Tree Management Plan (as required by condition 9), 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. 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 Sustainable Management Plan prepared by GIW Environmental Solutions and dated 27 November 2020, but modified to show or include:
- (a) Update the annual energy loads in the BESS report and preliminary NatHERS report so that they are consistent;
 - (b) Nominate minimum solar energy capacity of 2.5kW to each dwelling;
 - (c) Confirm a target recycling rate of no less than 80% of construction and demolition waste for the construction phase of the development;
 - (d) Provide a daylight assessment (modelled or hand-drawn) to clarify daylight access;
 - (e) Confirm materials strategy in terms of hazardous materials (i.e. formaldehyde in engineered timber) and volatile organic compounds;
 - (f) Provide high level analysis to support peak energy demand statement.
 - (g) Confirm a minimum stormwater tank capacity of 20,000L;
 - (h) Confirm post-development stormwater discharge will not exceed pre-development levels.
 - (i) Clarify additional stormwater treatments (if any);
 - (j) Clarify approach to reducing the embodied carbon associated with concrete and steel, including a life cycle assessment;
 - (k) Clarify extent of timber products/materials to be recycled or from accredited sustainably harvested plantation sources (FSC or AFS).
 - (l) Clarify ownership / use of EV charge point for all residents.
 - (m) Clarify that all energy and water management systems will be commissioned in accordance with the manufacturer's specifications
 - (n) A statement to demonstrate how material choices have reduced urban heat island effect.
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.
5. Before the development commences, an amended Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Landscape Plan will be endorsed and will form part of this permit. The amended Landscape Plan must be generally in accordance with the Landscape Plan prepared by Rupert Baynes and dated November 2020, but modified to include (or show) the following:
- (a) Full details (including dimensions, plant media, maintenance) of the planter boxes to the balconies of dwellings TH01-TH05 and the roof terrace of TH06 as shown on the sketch plans (prepared by MA Architects, dated 03 March 2021).

To the satisfaction of the Responsible Authority.

6. Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:
 - (a) implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
 - (b) not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
 - (c) replacing any dead, diseased, dying or damaged plants,to the satisfaction of the Responsible Authority.
7. Before the development commences, the Waste Management Plan (prepared by RB Waste Consulting and dated 26 November 2020) 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.
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. Before the development commences, a Tree 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 Tree Management Plan must show or include:
 - (a) Details of how the two street trees on the Gibdon Street frontage will be protected during before, during and post construction;
 - (b) Commitment that if any roots are found during construction of the southern crossover extension, Council arborists will be engaged to prune the roots, with all associated costs borne by the permit holder.To the satisfaction of the Responsible Authority.
10. The provisions, recommendations and requirements of the endorsed Tree Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
11. Before the development commences, the permit holder must provide an Asset Protection Bond of \$10,000 (ex GST) for the trees along Gibdon Street adjacent the frontage of the development to the Responsible Authority. The security bond:
 - (a) must be provided in a manner, and on terms, to the satisfaction of the Responsible Authority;
 - (b) may be held by the Responsible Authority until the works are completed to the satisfaction of the Responsible Authority; and
 - (c) in accordance with the requirements of this permit; or
 - (d) otherwise to the satisfaction of the Responsible Authority.
12. Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
13. Before the buildings are 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.

14. Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, all portions of redundant vehicular crossing must be demolished and re-instated with paving, nature strip, kerb and channel:

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

to the satisfaction of the Responsible Authority. Oh

15. Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, the area set aside on the endorsed plans for the car parking spaces, access lanes, driveways and associated works must be:

- (a) constructed and available for use in accordance with the endorsed plans;
- (b) formed to such levels and drained so that they can be used in accordance with the endorsed plans;
- (c) treated with an all-weather seal or some other durable surface; and
- (d) line-marked or provided with some adequate means of showing the car parking spaces;

to the satisfaction of the Responsible Authority.

16. Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating the external car parking area and dwelling entrances 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.

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

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

19. Prior to the issue of a building permit, commencement of the development, or issue of a Statement of Compliance (whichever occurs first) the Development Infrastructure Levy must be paid to Yarra City Council in accordance with the approved Development Contributions Plan, or the Owner must enter into an agreement with Yarra City Council to pay the amount of the levy within a time specified in the agreement.

20. Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:

- (a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
- (b) works necessary to protect road and other infrastructure;
- (c) remediation of any damage to road and other infrastructure;
- (d) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land,
- (e) facilities for vehicle washing, which must be located on the land;
- (f) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
- (g) site security;
- (h) management of any environmental hazards including, but not limited to,:
 - (i) contaminated soil;
 - (ii) materials and waste;
 - (iii) dust;
 - (iv) stormwater contamination from run-off and wash-waters;
 - (v) sediment from the land on roads;
 - (vi) washing of concrete trucks and other vehicles and machinery; and
 - (vii) spillage from refuelling cranes and other vehicles and machinery;
- (i) the construction program;
- (j) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
- (k) parking facilities for construction workers;
- (l) measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;
- (m) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
- (n) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced;
- (o) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads.

21. 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.

22. 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 5095 to confirm.

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

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

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

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.

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.

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

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

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

Prior to the issue of a building permit for the development allowed by this permit, the Community Infrastructure Levy must be paid to Yarra City Council in accordance with the approved Development Contributions Plan.

Attachments

- 1 PLN20/0737 - PDC Attachment - Decision Plans
- 2 PLN20/0737 - PDC Attachment - Shadow Diagrams
- 3 PLN20/0737 - PDC Attachment - Sketch Plans (March 2021)
- 4 PLN20/0737 - PDC Attachment - Urban Design Comments
- 5 PLN20/0737 - PDC Attachment - ESD Comments
- 6 PLN20/0737 - PDC Attachment - Engineering Comments
- 7 PLN20/0737 - PDC Attachment - Strategic Transport Comments
- 8 PLN20/0737 - PDC Attachment - Open Space, Waste and Streetscapes Comments

- 6.3 PLN18/0328.03 - 459 - 471 Church Street and 20 - 26 Brighton Street Richmond - Section 72 amendment to the permit and plans to amend the approved use of the land as a child care to centre by way of an increase in children from 80 to 104, resulting in a further reduction in the car parking requirements, and associated built form changes to Building C.**
-

Executive Summary

Purpose

1. This report provides Council with an assessment of an application at No. 459 – 471 Church Street and 20 – 26 Brighton Street Richmond to amend the permit and plans to amend the approved use of the land as a child care centre by way of an increase in from 80 to 104, resulting in a further reduction in the car parking requirements, and associated built form changes to Building C.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Use - Clause 32.08 (General Residential Zone) and Clause 22.05 (Interfaces uses policy)
 - (b) Built form – Clause 15.01 (Built environment), Clause 21.05 (Built form) and Clause 22.10 (Built form and design policy)
 - (c) Car parking – Clause 52.06 (Car parking) and Clause 18.02-4S (Car parking)

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Use (Child care centre)
 - (b) Built form
 - (c) Car parking and traffic
 - (d) Objector concerns
 - (e) Other matters

Submissions Received

4. Ten (10) objections were received to the application, these can be summarised as:
 - (a) Traffic and car parking impacts
 - (b) Building design (streetscape)
 - (c) Noise from use
 - (d) Child care already exists on Brighton Street
 - (e) Acoustic wall on southern boundary (height, amenity impacts)
 - (f) Construction outside of permitted hours

Conclusion

5. Based on the following report, the amended proposal is considered to comply with the relevant planning policy and should therefore be supported subject to the conditions as outlined in the recommendation of this report.

CONTACT OFFICER: Jessica Sutherland
TITLE: Statutory Planner
TEL: 9205 5365

6.3 [PLN18/0328.03 - 459 - 471 Church Street and 20 - 26 Brighton Street Richmond - Section 72 amendment to the permit and plans to amend the approved use of the land as a child care to centre by way of an increase in children from 80 to 104, resulting in a further reduction in the car parking requirements, and associated built form changes to Building C.](#)

Reference D21/27578
Author Jessica Sutherland - Statutory Planner
Authoriser Coordinator Statutory Planning

Ward: Melba ward
The Permit The use of the land as a child care centre, the construction of a building, alterations of access and buildings and works to a Road Zone Category 1 and the reduction in the number of car parking spaces pursuant to Clause 52.06 of the Yarra Planning Scheme.
The Proposal: Section 72 amendment to the permit and plans to allow for an increase in children (associated with the approved child centre) to 104 from 80, resulting in a further reduction in the car parking requirements and various built form changes to Building C.
Existing use: Previously warehouses (currently under construction)
Applicant: Human Habitats
Zoning / Overlays: General Residential Zone (Schedule 2) and Commercial 2 Zone Design and Development Overlay (Schedule 2 and 5)
 City Link Project Overlay
 Development Contributions Plan Overlay (Schedule 1)
Date of Application: 23 December 2020
Application Number: PLN18/0328.03

Planning History

No. 459 – 471 Church Street Richmond

1. Planning permit No. 981362 was issued for the land at No. 459 – 471 Church Street Richmond on 8 February 1999 for *building and works to an existing warehouse*.
2. Planning permit No. 990572 was issued for the land at No. 459 – 471 Church Street Richmond on 9 June 1999 for *business identification signage*.
3. Planning application PLN16/0379 was withdrawn on 19 July 2016 for a change of use to a place of assembly (exhibition and function centre), restaurant (greater than 100sqm), shop, studio and an office, and a reduction in the association car parking, bicycle and loading bay requirements of the Yarra Planning Scheme.
4. Planning Permit PLN18/0246 was for the land at No. 459 – 471 Church Street Richmond issued 6 September 2018 for *display of business identification signage*.
5. Planning Application PLN20/0657 was submitted to Council on 21 September 2020 to allow for the construction of 29 business identification signs across the north and west facades of the 9 and 5 storey buildings approved by the subject permit (PLN18/0328) at No. 459 – 471 Church Street Richmond. The application was advertised in February 2021 and is currently being processed by Council at the time of this report.

No. 459 – 471 Church Street and 20 – 26 Brighton Street Richmond

6. Planning Permit PLN18/0328 was issued for the land at No. 459 – 471 Church Street and No. 20 – 26 Brighton Street Richmond, at the direction of the VCAT on 15 May 2019 for:
- *the use of the land for 'childcare centre' under clauses 32.08 and 34.02;*
 - *the construction of a building or the construction or carrying out works associated with a section 2 use under clause 32.08;*
 - *the construction of a building or construction or carrying out of works under clause 34.02 and 43.02;*
 - *alteration of access and building and works to a Road Zone Category 1 Road under clause 52.29; and*
 - *the reduction in the number of car parking spaces under clause 52.06-3.*
7. The following are matters of process from the original application which are relevant to the amendment:
- (a) On 8 October 2018, Council received notice that an application had been lodged at the VCAT by the Applicant under section 79 of the *Planning and Environment Act 1987* (the Act) for the failure of Council to determine the application in the statutory time period.
 - (b) On 18 January 2019, the planning application was presented at Council's internal Development Assessment Panel (DAP) meeting where it was determined that, had Council been in a position to, it would have issued a Notice of Refusal to Grant a Planning Permit.
 - (c) A compulsory conference was occurred on 22 January 2019. No agreement was reached.
 - (d) The Application for Review was amended on 3 February 2019 by the permit applicant in accordance with the VCAT Practice Note No. 9. Of relevance, the amendment decreased the number of children associated with the child care centre from 100 to 80.
 - (e) On 27 February 2019, the amendment application was presented at Council's Internal Development Approvals Committee where it was determined that Council would advise the VCAT that it did not support the substituted plans, and that had it been in a position to, it would have issued a Notice of Refusal.
 - (f) The VCAT hearing took place over five days, beginning on the 18 March 2019.
 - (g) On 16 May 2019, Planning Permit PLN18/0328 was issued at the direction of the VCAT.
 - (h) Pursuant to Sections 73 and 74 of the Act the permit was amended on 4 March 2020 to amend the wording of Condition 38 to allow for the widening of Shamrock Street to occur within 6 months of the commencement of the development.
 - (i) An application was submitted to Council on 18 December 2020 to amend the permit pursuant to Section 72 of the Act. The amendment relates to the approved buildings A and B and proposes the following:
 - (i) amendments to the uses, notably to change the ground floor tenancies from restricted retail (as of right) to food and drinks premises (permit required):
 - (ii) introduction of restricted recreation premises (gym) in the basement (permit required use):
 - (iii) minor built form changes in association with the new use premises:
 - (iv) introduction of the sale and consumption of liquor (restaurant and café licence) for all the food and drinks premises (both approved and proposed):

- (v) further reduction to the car parking requirements of the Yarra Planning Scheme as a result of the amended uses.
- (j) The amendment was advertised in March of 2021 and is currently being processed by Council at the time of this report.

Background

- 8. The subject amendment application was submitted on 23 December 2020. Following the submission of further information on 4 February 2021, the application was advertised and ten (10) objections were received.
- 9. No consultation meeting was held as a result of the state of emergency declared in Victoria of the current health advice related to the Covid-19 pandemic.

Planning Scheme Amendments

- 10. Amendment C238 was introduced into the Yarra Planning Scheme on 1 February 2021 and inserts Clause 45.06 (Development Contributions Plan Overlay) with Schedule 1 into the Scheme. This overlay applies to all land in the City of Yarra and it applies to new development where there is an increase in the number of dwellings and/or an increase in retail, commercial and industrial floor space. It requires a monetary contribution from the developer.
- 11. This will be discussed further within the body of this report.

The Proposal

- 12. The amendment proposes the following changes to the approved child care centre:

Use

- 13. An increase in the number of children from 80 to 104 (and amend Condition 6 accordingly).
- 14. No other changes relating to the operating hours or number of staff proposed.
- 15. No changes to the car parking provided (which remains to be 12 spaces).

Built form

- 16. The southern area of outdoor play space to increase from 93sqm to 129sqm through the reduction of the planter box.
- 17. The entry along the northern elevation rearranged to:
 - (a) Delete the plant room and introduce glazing.
 - (b) Rotate the pram store.
 - (c) Shift the doorway to the west, along the elevation.
 - (d) Move the bicycle spaces to the northern side of the linkage (in lieu of the southern side).
 - (e) All resulting in additional glazing to the entry façade.
- 18. The pergola on the fourth floor of the child care deleted.
- 19. Self-supporting "Equitone" panels on the southern elevation at second floor and the roof overhang (to the east) deleted.
- 20. An additional screen, constructed above the existing and retained masonry wall on the southern boundary, with a length of 2.6 metres and angled at 30 degrees to the north into the subject site. It is noted that this screen was included in the Endorsed Acoustic Report as required by the permit issued at the direction of the VCAT but the screen was not included in the Endorsed Plans.

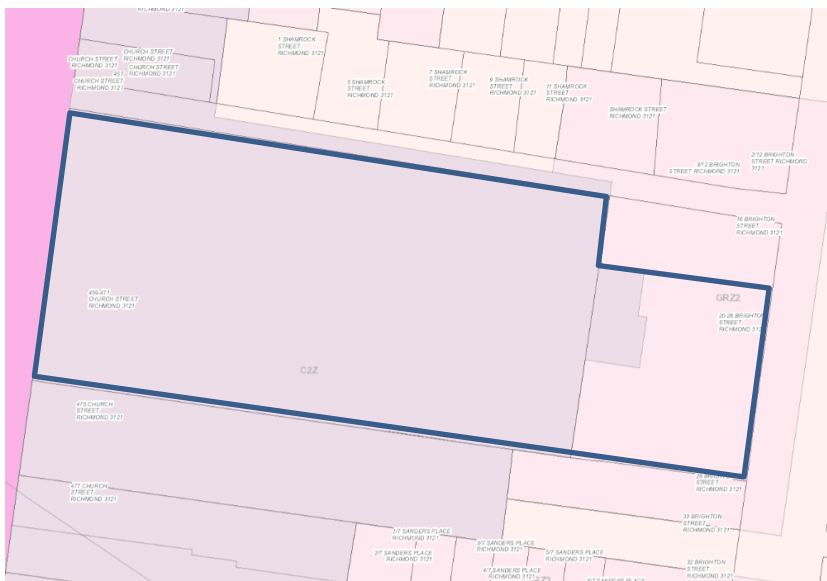
Existing Conditions

Subject Site

21. The subject site is located on the eastern side of Church Street and is bound by Shamrock Rock Street to the north and Brighton Street in the east, in Richmond. The site is generally rectangular in shape, save for a cut-out in the north-eastern corner associated with No. 16 Brighton Street which is not part of the subject site.
22. The site has a frontage to Brighton Street of 32.84 metres.
23. The site is currently being developed in accordance with Planning Permit PLN18/0328 which approves:
 - (a) Building A: a ten storey building constructed to the west to Church Street.
 - (b) Building B: a six storey building constructed central to the site and abutting Shamrock Street.
 - (c) Building C: a four storey building constructed to the east to Brighton Street.
24. The subject application relates solely to the use and development of Building C.
25. The subject site is made up of 18 lots, none of which show any covenants, restrictions or easements.

Surrounding Land

26. The subject land is located within two zones – Commercial 2 and General Residential (Schedule 2). The existing development in the wider area is mixed and consists of residential, commercial and industrial uses, resulting in a diversity or built form. Land zoned residential is located to the east and partially to the south and north of the subject site. A map of the immediate zoning is provided below.



27. Further north of the site is East Richmond Train Station and the Swan Street Major Activity Centre (**MAC**) which includes various commercial uses.
- North*
28. Shamrock Street is a one-way street (entering from Church Street and exiting onto Brighton Street). Along the northern side of Shamrock Street are commercial properties to the west (occupied by furniture showroom, a bike shop, restaurant and pub) and residential properties to the east, closest to Brighton Street. The dwellings, Nos 1 – 11 Shamrock Street and No. 12 Brighton Street display small front setbacks.

29. Immediately abutting the northern boundary of the subject site is No. 16 Brighton Street which is currently developed with a single storey dwelling with private open space at the rear (west). Planning Permit PLN11/0673 was issued on 21 May 2012 and allows for four, part-two, part-three storey townhouses (with basements). The works have not yet commenced however, a recent extension of time was issued (letter dated 9 June 2020) so that works must now commence no later than 21 May 2021.

East

30. To the east, across Brighton Street which is 15 metres wide, are dwellings facing Brighton Street and the subject site. Generally, the dwellings are single storey, semi-attached and with narrow side setbacks. Typically, small private open space (**POS**) areas are provided to the rear (east). The dwellings are generally not provided on-site car parking.

South

31. Immediately to the south of the subject site, facing Brighton Street is No. 28 Brighton Street, which is developed with a single storey, double fronted dwelling graded as 'Contributory' to the Barkly Garden Heritage Precincts. The dwelling is constructed to the shared boundary for a length and is then setback approximately 1.5 metres for the remainder. Private open space is provided to the rear (west) and habitable room windows (associated with an open plan living room face west to the POS and highlight window facing north to the subject site.
32. Further south are dwellings fronting east to Brighton Street or south to Sanders Place.

West

33. To the west of the subject site is Church Street which is a Category 1 Road Zone with a tram route running north to south and parking either side. On the opposite side of Church Street are larger sites developed with commercial buildings.

General

34. Car parking within the area includes:
- (a) 2P free parking (7am – 7pm) on the western side of Brighton Street.
 - (b) Permit zone on the eastern side of Brighton Street.
 - (c) 2P free parking (7am – 7pm) on the northern side of James Street.
 - (d) Permit zone on the southern side of James Street.
 - (e) No parking in Shamrock Street.
35. Bike lanes are provided on either side of Brighton Street.
36. Nearby public transport routes include:
- (a) Tram routes 78 along Church Street and 70 along Swan Street, 100 metres west and 300 metres north west of the subject site respectively.
 - (b) Richmond Train Station and East Richmond Train Station, 200 metres west and 700 metres north-west of the site respectively.

Legal Provisions

37. 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, 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.
38. Planning Permit PLN18/0328 was issued on 15 May 2019. The Tribunal has not directed that the responsible authority must not amend the permit, nor was the permit issued under Division 6 of the Act.
39. Section 73 of the Act states that Sections 47 to 62 of the Act apply to the amendment application. This allows the Responsible Authority to apply the abovementioned sections of the Act to the amendment application as it was an application for a permit.

Planning Scheme Provisions

Zoning

40. The site is a zoned *General Residential Zone (Schedule 2)* to the east and *Commercial 2 Zone* to the west. The following is applicable to the proposed amendments.
Commercial 2 Zone
41. Pursuant to Clause 32.04-1, the use of the land as a Child care centre is a Section 2 use and thus a planning permit is triggered. A small section of the child care use is located in the Commercial 2 Zone.
42. Pursuant to Clause 32.04-4, a permit is required to construct a building or construct and carry out works.
General Residential Zone (Schedule 2)
43. Pursuant to Clause 32.08-2, the use of the land as a child care centre is a Section 2 use and thus a planning permit is triggered.
44. Pursuant to Clause 32.08-9, a permit is required to construct a building or to construct or carry out works associated with a Section 2 use.

Overlays

- Design and Development Overlay (Schedule 2 and 5)*
45. Schedule 2 relates to the western portion of the site and thus does not affect the amendment.
46. Pursuant to 43.02-2, a permit is required to construct a building or construct or carry out works, unless a schedule to this overlay specifically states that a permit is not required.
47. Pursuant to Clause 2.0 of Schedule 5 (City link Exhaust Stack Environs) of the overlay, buildings and works are specifically exempt from requiring a planning permit.
48. Pursuant to Clause 4.0 of Schedule 5, where a permit is required to use and or for the construction of a building or the construction or carrying out works under another provision in this scheme, notice must be given under section 52(1)(c) of the Planning and Environment Act 1987 to the person or body to be notified in Clause 66.06 or schedule to the clause.
49. A planning permit is triggered for the amended use and buildings and works under the zones and City Link Project Overlay (CLPO), thus, notice of the application must be given to the Environment Protection Authority, Transurban City Link Limited and the Roads Corporation (VicRoads).
City Link Project Overlay
50. Pursuant to Clause 45.07-1 of the Scheme, a permit is required to develop land, given that the development is not part of the Melbourne City Link Project or the Exhibition Street Extension Project.

51. Pursuant to Clause 45.07-6, the Roads Corporation (VicRoads) is listed as being a section 55 referral authority.

Development Plan Contributions Overlay

52. Pursuant to Clause 45.06-1, a permit granted must:
- (a) Be consistent with the provisions of the relevant contributions plan.
 - (b) Include any conditions required to give effect to contribution or levies imposed, conditions or requirements set out in the relevant schedule to this overlay.
53. An application does not benefit from transitional provisions, however, as a building permit has been issued and this amendment application is not increasing the additional gross floor area of the child care centre from what is approved, the requirements are not applicable to the application.

Particular Provisions

Clause 52.06 Car Parking

54. Pursuant to Clause 52.06-1, the clause applies to a new use or an increase in the existing use by the relevant measure specified in Column C of Table 1 in Clause 52.06-5, which in this instance is the number of permitted children.
55. The amendment application proposes to increase the number of children from 80 to 104 and will continue to provide 12 car parking spaces within the basement. The following table outlines the car parking requirements of the amended proposal:

Use	Quantity/ Size	Statutory Parking Rate	No. of Spaces Required by the Scheme	No. of Spaces Allocated	Reduction Required
Permitted					
Childcare	80 children	0.22 spaces to each child.	17	12	5
Overall application including amendment (which increases the floor area by 199.7sqm)					
Childcare	104 children	0.22 spaces to each child.	22	12	10
Additional Car Park reduction required from the amendment					5

56. Pursuant to Clause 52.06-3, a permit is required to reduce the number of car parking spaces required by Clause 52.06-5. As such, the amendment application requires planning permission to further reduce the car parking spaces required by 5.

General Provisions

Clause 65 – Decision Guidelines

57. 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 provision.

Cause 66.02 Use and development referrals

58. Pursuant to Clause 66.02-11, an application to construct a building or construct or carry out works in association with an education centre must be referred to the relevant determining authority (Head, Transport for Victoria).

[Planning Policy Framework \(PPF\)](#)

Clause 11.02 (Managing Growth)

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

60. 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.*

61. *Clause 13.05-1S (Noise abatement)*

62. The objective is:

- (a) *To assist the control of noise effects on sensitive land uses.*

Clause 15.01 (Built Environment and Heritage)

63. *Clause 15.01-1S (Urban design)*

64. 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.*

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

66. The objective is:

- (a) *To create distinctive and liveable cities with quality design and amenity.*

67. *Clause 15.01-2S (Building design)*

68. The objective of this clause is 'to achieve building design outcomes that contribute positively to the local context and enhance the public realm'.

Clause 17 (Economic Development)

69. *Clause 17.01-1S (Employment)*

70. The objective of this is:

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

71. Relevant strategies include:

- (a) *Protect and strengthen existing and planned employment areas and plan for new development areas.*
- (b) *Facilitate growth in a range of employment sectors, including health, education, retail, tourism, knowledge industries and professional and technical services based on the emerging and existing strengths of each region.*
- (c) *Improve access to jobs closer to where people live.*

72. *Clause 17.02.-1S (Business)*

73. The objective of this clause is 'to encourage development which meets the communities' needs for retail, entertainment, office, and other commercial services'.

74. *Clause 18.01-1S (Land use and transport planning)*

75. The objective of this clause is:

- (a) *To create a safe and sustainable transport system by integrating land-use and transport.*

76. Relevant strategies to achieve this objective include

- (a) *Develop transport networks to support employment corridors that allow circumferential and radial movements.*
- (b) *Plan urban development to make jobs and community services more accessible by (as relevant):*
 - (i) *Ensuring access is provided to developments in accordance with forecast demand, taking advantage of all available modes of transport and to minimise adverse impacts on existing transport networks and the amenity of surrounding areas.*
 - (ii) *Coordinating improvements to public transport, walking and cycling networks with the ongoing development and redevelopment of urban areas.*

77. *Clause 18.02-1S (Sustainable personal transport)*

78. The objective of this clause is:

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

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

80. Strategies of this policy are:

- (a) *Improve local travel options for walking and cycling to support 20 minute neighbourhoods.*

81. *Clause 18.02-2S (Public transport)*

82. The objective of this clause is:

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

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

84. 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.*

85. *Clause 18.02-4S (Car parking)*

86. The objective of this clause is:

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

87. 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 \(LPPF\)](#)

Clause 21 – Municipal Strategic (MSS)

88. *Clause 21.04-2 – Activity centres*

89. The relevant objective of this clause is:

- (a) *To maintain the long term viability of activity centres.*

90. Relevant strategies to achieve this objective include:
- (a) *Strategy 5.2 Support land use change and development that contributes to the adaptation, redevelopment and economic growth of existing activity centres.*
91. *Clause 21.05-2 – Industry, office and commercial*
92. The objective of this clause is 'to increase the number and diversity of local employment opportunities'.
93. *Clause 21.05-2 – Urban design*
94. A relevant objective of this clause is to 'encourage the provision of universal access in new development.
95. *Clause 21.06 – Transport*
96. This clause builds upon the objectives outlined at Clause 18, through promoting cycling, walking and public transport as alternatives to private motor vehicle usage.
97. *Clause 21.06-1 – Walking and cycling*
98. This clause builds upon the objectives outlined at Clause 18, through promoting cycling, walking and public transport as alternatives to private motor vehicle usage and provides the following relevant objectives:
- (a) *Objective 32 – To reduce the reliance on private motor car.*
 - (b) *Objective 33 – To reduce the impact of traffic.*
99. *Clause 21.08-2 - Burnley – Cremorne - South Richmond*
100. Figure 8 of the clause identifies the subject site as 'non-residential area' where the built form character objective is to improve the interface of development with the street.

Relevant Local Policies

101. *Clause 22.05 – Interface uses policy*
102. This policy applies to applications for use or development within Commercial Zones (amongst others).
103. Clause 22.05-3 states that it is policy that 'new non-residential use and development within Business and Mixed Use and Industrial Zones are designed to minimise noise and visual amenity impacts upon nearby, existing residential properties'
104. Decision guidelines at clause 22.05-6 include:
- (a) *Before deciding on an application for non-residential development, Council will consider as appropriate:*
 - (i) *The extent to which the propose buildings or uses may cause overlooking, overshadowing, noise, fumes and air emissions, light spillage, waste management and other operational disturbances that may cause unreasonable detriment to the residential amenity of nearby residential properties.*
 - (ii) *Whether the buildings or uses are designed or incorporate appropriate measures to minimise the impact of unreasonable overlooking, overshadowing, noise, fumes and air emissions, light spillage, waste management and other operational disturbances on nearby residential properties.*
105. *Clause 22.10 – Built form and design policy*
106. This policy provides guidelines to assess the scale, form and appearance of new development in areas where heritage overlay controls do not apply.
107. The policy aims to ensure that the design of new buildings limit the impact on the amenity of surrounding land while making a positive contribution to the streetscape through high standards in architecture and urban design.

Advertising

108. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 55 letters sent to surrounding owners and occupiers and by two (2) sign displayed on site. Council received ten (10) objections, the grounds of which are summarised as follows:
- (a) Traffic and car parking impacts
 - (b) Building design (streetscape)
 - (c) Noise from use
 - (d) Child care already exists on Brighton Street
 - (e) Acoustic wall on southern boundary (height, amenity impacts)
 - (f) Construction outside of permitted hours
109. No consultation meeting was held as a result of the state of emergency declared in Victoria of the current health advice related to the Covid-19 pandemic

Referrals

External Referrals

110. The application was referred to the following authorities:
- (a) Head, Transport for Victoria
 - (b) Roads Corporation (VicRoads)
 - (c) Transurban
 - (d) Environmental Protection Authority (EPA)
111. Council did not receive responses from these referral authorities.

Internal Referrals

112. The application was referred to the following units within Council:
- (a) Engineering Services Unit
 - (b) Waste Management Unit
 - (c) External Acoustic Consultants (SLR)
113. Referral comments have been included as attachments to this report.

OFFICER ASSESSMENT

114. The primary considerations for this application are as follows:
- (a) Use (Child care centre)
 - (b) Built form
 - (c) Car parking and traffic
 - (d) Objector concerns
 - (e) Other matters

Use (Child care centre)

115. The amendment application proposes to increase the number of children from 80 to 104 at any one time. The other conditions of the existing permit relating to the approved use, including operating hours and number of staff are not proposed to be amended. The operating hours will continue to be 7.00am to 7.00pm Monday to Friday and there are to be no more than 22 staff on the land at any one time. These conditions will carry on to the amended permit.

116. As discussed previously in this report, the Applicant reduced the number of children proposed from 100 to 80 prior to the VCAT hearing, and at their own volition. The VCAT have not directed under Section 85 of the *Planning and Environment Act* (1987) that the Responsible Authority must not amend the permit (or part of the permit). As such, it is open to Council to process an application pursuant to Section 72 of the Act, even if the amendment acts to rescind the reduction to the number of children which was submitted prior to the VCAT hearing.
117. The Council Officer's report (dated 11 May 2018) supported the use of the land with 100 children proposed. Further, Council did not include the use of the land as a child care centre, or any matter relating to the scale or functioning of the use, as a point of refusal.
118. The Officer's report substantiated that the use of the land as a child care centre is compatible with the adjacent residential use and would provide a service to local residents, employees within the Church Street commercial precinct, and the future employees of buildings A and B of the subject development. This is further supported by the strategic projections and information data provided by Council's Spatial Economic and Employment Strategy (SEES) and Housing Strategy (HS) which identify the Church Street South precinct as a Major Employment Precinct and predict an increase in the number of families with children in Yarra for the following 15 year period.
119. A child care centre provides necessary community facilities and services for an established and growing inner-city area whilst also being compatible with the residential zoning of the subject site, located on the border to a commercial activity centre. This is supported by the purposes of the General Residential Zone which includes '*to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations*'. It continues to be Council Officer's position, as was supported by the VCAT, that the subject site is an appropriate location for a child-care centre, subject to the appropriate management and scale of the use.
120. Clause 22.05 (Interface uses policy) of the Scheme identifies that there is a need to support commercial uses and ensure they are well managed with regard to amenity impacts and their proximity to residential uses. As demonstrated above, the location of the use is supported in a strategic sense, however, policy also recognises that when residents are located in and nearby to commercial areas there are '*inherent interface conflicts [resulting] where some uses are not well managed or inappropriate uses are permitted*' (Clause 21.40-2 Activity Centres). As such, Clause 22.05 requires that new non-residential use and development is designed and managed to minimise noise and amenity impacts upon nearby, existing residential properties. The policy provides decision guidelines which, relevant to the proposed amendment, includes noise and rubbish removal (noting that car parking and traffic will be discussed later in this report).

Noise

121. The Applicant submitted an amended acoustic report (prepared by Cundall and dated 21 December 2020) to address the proposed increase in children from 80 to 104. The amended report was referred to Council's acoustic consultants (SLR).
122. With regards to the overall noise impact resulting from the increase in children, Cundall set a design noise level of 53 dB L_{aeq} based on the lowest measured background noise + 10 dB. This approach was relied upon for the original acoustic assessment and is supported by SLR acoustic consultants.
123. Cundall submitted the following predicted sound power levels (dB L_{AW}) for the proposed 104 children and have assigned a maximum number of children in the external play areas of the child care centre (based on the sqm area).

Outdoor area location	Area, m ²	Number of children	Total sound power level, dB L _{Aw}
Ground level east	126	13	91
Ground level south	127	13	91
First floor	236	39	96
Second floor	137	13	91
Roof	215	26	94

124. The amended acoustic report, prepared by Cundall and dated 21 December 2020, prepared modelling based on the above predicted sound levels and the following proposed acoustic screening:
- (a) Each of the above ground floor play areas with 2 metre high perimeter acoustic barrier
 - (b) The existing 2.1 metre high masonry wall along the southern boundary to No. 28 Brighton Street with an additional screen with a 30 degree inward angle and a minimum length of 2.6 metres
 - (c) The northern elevation of the first floor balcony to be enclosed fully (either by a solid barrier, or by providing glass between the top of the barrier and the second floor soffit above), or, the entire ceiling of the first floor balcony area is to be provided with an acoustically absorptive finish with a minimum acoustic absorption performance of NRC 0.8.
125. It is noted that the above acoustic measures vary from the requirements outlined at Condition 21 (Acoustic report) of the permit issued at the direction of the VCAT. Condition 21 requires that the southern boundary wall be retained, and that 1.6 – 1.7 metre high screening be included on the north and east side of the ground floor eastern play area, south and east side of the first floor play area, east side of the second floor play area and every elevation of the roof play area.
126. However, Condition 22 of the permit required that the amended acoustic report (Condition 21 of the permit) make further recommendations to limit the noise impacts in accordance with SEPP N-1, SEPP N-2 and the child care voice noise targets nominated in the Acoustic Report (prepared by Cundall and dated 27 April 2018). As such, the amended acoustic report (submitted to comply with Condition 21) recommended that an additional 2.6 metre long screen be included on top of the retained southern boundary wall to No. 28 Brighton Street in order to meet the child care voice noise targets. This recommendation was included in the amended acoustic report, which has since been endorsed by Council in accordance with Condition 21 of the permit. However, the 2.6 metre screen was not shown in the Endorsed Plans and has thus been included in the subject amendment. The implications of this screen, on noise impacts and off-site amenity, will be discussed later in this report.
127. Aside from the aforementioned acoustic screen on the southern boundary, the amended proposal increases the height of all screening and introduces new screening to the southern elevations to provide greater acoustic attenuation.
128. Cundall's acoustic report (prepared 21 December 2020) prepared modelling that determined, based on the worst-case sound pressure level, that the set design noise level of 53 dB L_{aeq} would be met for the sound receivers at the properties of No 32 – 34 Brighton Street, No. 12 Brighton Street and No. 7 Sanders Place. However, the modelling predicted that the noise level would be exceeded by 1 dB L_{aeq} to the upper level window of No. 28 Brighton Street (to the south) and by 2 dB L_{aeq} the upper level windows of the proposed townhouse at No. 16 Brighton Street (to the north).

129. SLR acoustic consultants reviewed the predicted sound power levels and modelling and considered the predictions to be reasonable. SLR consider that the 1 – 2 dB exceedance to be marginal, particularly in the context of a highly variable noise source such as children’s voices and do not consider that further noise controls measures are warranted in this instance. They also note that the acoustic assessment undertaken by Cundall is based on conservative ‘worst-case voice noise levels’ which is 3 dB higher than the current Association of Australasian Acoustical Consultants (AAAC) guidelines and as such, there may not be an actual exceedance to the set targets. The post-construction acoustic report required by Condition 24 of the permit will assist in determining this.
130. Council agrees with SLR’s position and consider that the marginal exceedance of the noise sound power levels is supportable given that:
- (a) No. 16 and 28 Brighton Street border onto a commercial activity centre where noises associated with commercial activity can be expected.
 - (b) The operating hours are limited to 7am – 7pm during weekdays and it is likely that children will utilise the outdoor playing areas through the middle of the traditional work week which are typically less sensitive times for residential areas (with regard to noise).
131. Nevertheless, further consideration must be given to the appropriateness of the proposed 2.6 metre screen on-top of the retained southern boundary. Although this screening measure was recommended in the Endorsed Acoustic Report it is not shown in the Endorsed Plans and thus forms part of this amendment application. Where possible, acoustic attenuation methods should be included near to the source of the noise, and in this instance the location of the proposed screen on the boundary to a sensitive interface could result in an unreasonable detriment to the southern abutting neighbour (discussed further under *Built Form*).
132. Council has considered the relocation of the screen to the noise source (the proposed building), however, the Applicant has submitted that regulations regarding outdoor space requirements for child care centres prohibit the upper level terraces from being further enclosed by acoustic screening. Further, SLR acoustic consultants note that should the screen be deleted entirely it will likely expose the highlight windows of No. 28 Brighton Street to higher voice levels from noise sources from the upper floors, irrespective to proposed increase of children from 80 to 104.
133. Council Officers consider that there is an opportunity to reduce impact of the screen on the dwelling at No. 28 Brighton Street through increasing the angle of the screen away from the southern dwelling, whilst still attenuating the noise from the child care in accordance with the permit issued by the VCAT. This will be discussed further under *Built Form*.
134. Moreover, the entire ceiling of the first floor balcony area could be provided with an acoustically absorptive finish with a minimum acoustic absorption performance of NRC 0.8. These are methods that would not impact the neighbour but ensure there are no unreasonable noise impacts post construction. As such they will be required via condition if a permit is to issue.
135. Finally, it is considered that noise from a source such as children can be further managed through additional mitigation methods other than built form controls. As such, a Management Plan will be required via condition and will be required to include the following details/commitments relating the child care use:
- (a) General programs/schedules for outdoor play, accounting for discrepancies in season, which should be made publicly available for parents and neighbours.
 - (b) A contact phone number for the centre’s management should be made available to neighbours to facilitate communication and resolve concerns.
 - (c) The number of children playing outside be limited to the numbers outlined in the acoustic report.

- (d) Noise minimisation methods to be undertaken by staff, such as comforting crying children and taking them indoors.
- (e) Details of staff training.

136. These management methods should appropriately moderate the variations to the established noise limits set by Cundall and should ensure that any noise impacts resulting from the increase in children from 80 to 104 are not unreasonable.

Waste removal

137. The Waste Management Plan (prepared by Irwin Consultants and dated 9 February 2021) was referred to Council Waste Services Uni who considered the report to be satisfactory.

Built form

- 138. With regards to the built form changes, the majority of the changes are inconsequential and result in a reduction in the built form.
- 139. The alterations to the northern entry and ground floor façade improve the functionality of the entry to the building and increase the visibility of the entry walkway from inside the childcare.
- 140. The deletion of the fourth floor pergola and second floor, eastern overhanging roof result in a reduction in the built form from what is approved and thus will not detrimentally impact neighbouring amenity or result in an adverse impact on the appearance of the building within the Brighton Street streetscape.
- 141. The proposed increase to the southern play area from 93sqm to 129sqm, achieved through the reduction in the eastern planter box area, is supported. Although green space within developments is encouraged, the planter box is not a specific commitment in the Endorsed Sustainable Management Plan. Moreover, the reduced size of the eastern planter box is consistent with the Endorsed Landscape Plan. The amendment to the planter box would not be perceptible from the street interface and the area would continue to contribute to the landscape character of the child care centre within Brighton Street.
- 142. Finally, as discussed, an additional screen a length of 2.6 metres and angled 30 degrees into the site is proposed to be constructed on top of the southern boundary wall. This screening partially abuts the built form (in the form of a blank wall) of the dwelling at No. 28 Brighton Street but is also partially opposite north-facing highlight windows and the dwelling's area of private open space at the rear. Although Clause 54 (ResCode) does not specifically apply to buildings and works associated with the use of the land as a child care centre, the decision guidelines of the General Residential Zone include the Standards and objectives of Clause 54 as considerations for any proposed development.
- 143. The Applicant submitted shadow diagrams which demonstrate that the additional screen will contribute 0.2% of additional shadows to the private open space at 9am on the Equinox only. This is a negligible impact with regards to shadow impacts.
- 144. Nonetheless, the screen may restrict solar access to the north-facing highlight windows at No. 28 Brighton Street and result in an unreasonable visual bulk when viewed from the neighbouring southern property. Although Clause 54 (Rescode) is not directly applicable to a child care centre, it is recommended that a condition be included on any amended permit requiring that the screen be angled to comply with Standard A10 (Side and Rear Setbacks) of Clause 54 of the Yarra Scheme. This would require that the angle of the screen be increased to approximately 35 – 40 degrees (in lieu of 30 degrees). It is also noted that plans found in Council records for the extension at No. 28 Brighton Street show the existing masonry wall on the shared boundary to be between 2.4 – 2.9 metres in height (rather than the 2.1 metres shown in plans). As such, the additional screen will be shorter and therefore likely be less visually intrusive once constructed.
- 145. In light of the above, a condition will require that the height of the retained masonry wall be shown correctly, the proposed acoustic screening be shortened in length accordingly and angled to comply with the Standard A10 (side and rear setbacks) of Clause 54.04-1 of the Yarra Planning Scheme.

Car parking and traffic.

146. As outlined in the particular provisions section of this report, the existing permit approved a waiver of five (5) car parking spaces, providing 12 car parking spaces for a child care centre which allows for 80 children and 22 staff. The endorsed plans commit to six (6) spaces being allocated to staff and eight (8) to visitors. The subject amendment is not varying this car parking arrangement, however, proposes to increase the number of children by 24 (from 80 to 104) and thus triggers an additional reduction of the car parking requirements of Clause 52.06 by five (5) car parking spaces.
147. Pursuant to Clause 21.06-2 and 18.02-2R of the Yarra Planning Scheme, a reduction in the reliance on the private motor vehicle is one of the broader strategic objectives of Council's Municipal Strategic Statement and promotes development near to high-quality public transport routes. Allowing for a reduction in the car parking provision for new development, where strategically appropriate, can assist in achieving the policy objective. As outlined in the site description, the subject site has excellent access to various public transport modes and is provided with the required infrastructure to promote cycling and walking and as such, is identified as an appropriate location to consider reductions in the car parking requirements of Clause 52.06.
148. A Traffic Impact Assessment (prepared by Impact and dated 7 October 2020) was submitted with the amendment application and provides an empirical study of transit patterns and car parking demand for inner-city child care centres located in Brunswick and Northcote. Based on the data collected, the study predicts a peak demand of 0.13 spaces per child in attendance which was recorded to occur over a period of no more than 15 minutes. This figure was broken down further to show a demand for 0.07 spaces per child for the morning drop off, 0.11 spaces per child for the evening pick up and 0.02 spaces per child for staff.
149. Based on these expectations, it is forecast that a child care centre with 104 children would generate an actual demand for between 9 – 13 car parking spaces.
150. Moreover, there is an expectation given the location of the subject site on a border to an employment precinct and commercial activity centre, that child care drop off and pick up would occur in conjunction to a multi-purpose trip to nearby workplaces or other commercial uses. Accounting for this scenario where trips would rely on off-site car parking spaces (such as a parents office building nearby) the report forecast that the child care centre would generate a demand of between 6 to 10 spaces, that being less than the 12 spaces provided. It is also noted that this demand would be limited to the peak drop off and pick up times and that the use would not generate near to that demand outside of these hours.
151. The amendment application and Traffic Impact Assessment was referred to Council's Engineering Services Unit who considered the assessment prepared by Impact to be consistent with their expectations of a child care centre. The Traffic Unit submitted that a rate of 0.1 spaces per child was generally applicable to child care uses within the Yarra municipality, and thus, the 12 spaces provided would exceed the likely demand generated by 104 children. On this basis, Council's Engineering Services Unit did not object to the further reduction to the car parking requirement associated with the proposed increase in children to 104.
152. Further, Impact Traffic Engineering has recommended a number of changes to on-street car parking restrictions and parking bay line markings on the west side of Brighton Street (found in the Appendix of the Traffic Impact Assessment prepared by Impact). This includes six (6) ¼ hour parking spots along the western side of Brighton Street, two in front of the subject site, and two on either side of the site in front on neighbouring properties. Any changes to on-street parking restrictions and marked parking bays is subject to approval by Council's Parking Management Unit and cannot be considered within a planning application. Nevertheless, Council Officers note the owners of No. 28 Brighton Street object to the proposed short-term parking in front of their dwelling and therefore encourage that the Applicant pursue the two spaces immediately in front of the subject site. It is considered that even the two short-term spaces in front of the subject site would be beneficial as short-term parking to assist the movement of traffic through peak demand periods.

153. In summary, the further reduction in the car parking requirements is considered appropriate and should not result in an adverse impact on existing car parking conditions in the area. The site is well placed for easy pedestrian and bicycle access, lessening the potential for traffic and congestion near to the site. This is further supported by the location of the site near to both housing and commercial employment precinct which are likely to be the key catchment areas for the child care use. Given the notable proximity of the site to the Church Street Activity and Swan Street Major Activity Centre there is a great potential for multi-purpose trips, reducing the need for on-site car parking to service the amended use. For these reasons, the further reduction to the car parking requirements of Clause 52.06 is supported.

Objector concerns

Traffic and car parking impacts

154. This concern has been discussed at paragraphs 146 – 153 and is considered to meet the relevant policy guidelines of the Yarra Planning Scheme. The reduction of an additional five (5) car parking spaces is considered appropriate given the inner-city location adjacent to activity centres and access to sustainable transport options.

Building design (streetscape)

155. This concern has been discussed at paragraphs 138 – 141. The built form considerations of the amendment are minor and generally have an inconsequential impact on the appearance of the building within the streetscape.

Noise from use

156. This concern has been addressed at paragraphs 121 – 141. It is considered, subject to condition, the acoustic attenuation methods will appropriately mitigate noise impacts to nearby sensitive uses.

Child care already exists on Brighton Street

157. As noted in the VCAT decision for the original application, a child care centre is a permitted use with a General Residential Zone and Commercial 2 Zone and the commercial viability of the child care centres is not a planning consideration. There is nothing to suggest that the provision of more than one child care centre within a neighbourhood area would result in a detrimental cumulative impact.

Acoustic wall on southern boundary (height, amenity impacts)

158. This concern has been discussed at paragraphs 126 - 127 and 142 - 145 and it has been recommended that a condition be included on the permit to delete the acoustic screen.

Construction outside of permitted hours

159. Condition 55 of the planning permit outlines Council's permitted hours for demolition or construction under Council's local laws. Any demolition or construction outside of these permitted hours is a compliance matter and should be dealt with through the appropriate department. Matters relating to construction are not relevant to the assessment of the amended planning permit application.

Other matters

160. If an amended permit were to issue, the following is noted:
- (a) The permit preamble will not be amended.
 - (b) Condition 1 of the permit preamble would be replaced to reflect the most recent decision plans.
 - (c) Condition 6 would be amended to allow for 104 children.
 - (d) Condition 21 (renumbered to 22) would be amended to reflect the acoustic commitments submitted in the Acoustic Report dated 21 December 2021 and prepared by Cundall.

- (e) Condition 7 would be included to require a Management Plan in association with the child care centre and the remaining conditions renumbered accordingly.
- (f) Plans DA1003, DA1004, DA1007, DA2003, DA2001A, DA2002, DA1006 and the External Finishes Schedule would be superseded and replaced. The remainder of the endorsed set would be carried over and read in association with any revised endorsed plans.

Conclusion

161. 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 the above condition being amended/included on any amended permit issued.

RECOMMENDATION

That having considered all objections and relevant planning policies, the Committee resolve to issue a Notice of Decision to Amend a Planning Permit PLN18/0328 at No. 459 – 471 Church Street & 20 – 26 Brighton Street Richmond, with no change to the permit preamble but with the following amendments to the permit conditions:

Conditions (amended and new conditions in bold):

- 1 **Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the architectural plans prepared by Architectus, drawing nos. DA1003, DA1004, DA1007, DA2003, DA2001A, DA2002, DA1006 and the External Finishes Schedule, dated 18 December 2020, but modified to show:**
 - (a) **retention of the entirety of the existing boundary wall to 28 Brighton Street and its height shown correctly.**
 - (b) **the proposed screen on-top of the southern boundary wall shortened in response to Condition 1(a) and angled to demonstrate compliance with Standard A10 (Side and rear setbacks) of Clause 54.04-1 of the Yarra Planning Scheme.**
 - (c) **any requirement of the endorsed Acoustic Report under condition 22 (where relevant to show on plans).**
- 2 The use and development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
- 3 As part of the ongoing consultant team, Architectus or an architectural firm to the satisfaction of the Responsible Authority must be engaged to:
 - (a) oversee the design and construction of the development; and
 - (b) ensure the design quality and appearance of the development is realised as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.

Childcare Centre Use

- 4 Except with the prior written consent of the Responsible Authority, the childcare centre use authorised by this permit may only operate between the hours of 7am and 7pm, Monday to Friday.

- 5 Except with the prior written consent of the Responsible Authority, no more than 22 staff are permitted on the land at any one time.
- 6 **Except with the prior written consent of the Responsible Authority, no more than 104 children are permitted on the land at any one time.**
- 7 **Before the child care use commences, a Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Management Plan will be endorsed and will form part of this permit. The Management Plan must include (or show, or address):**
- (a) **General programs/schedules for outdoor play, accounting for discrepancies in season, which should be made publicly available for parents and neighbours.**
 - (b) **A contact phone number for the centre's management should be made available to neighbours to facilitate communication and resolve concerns.**
 - (c) **The number of children playing outside be limited to the numbers outlined in the acoustic report.**
 - (d) **Noise minimisation methods to be undertaken by staff, such as comforting crying children and taking them indoors.**
 - (e) **Details of staff training.**

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

Sustainable Management Plan

- 8 Before the development commences, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Management Plan will be endorsed and will form part of this permit. The amended Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by Cundall in April 2018 and the provisions of the evidence statement of Mr Talacko of Ark Resources dated 4 March 2019, but modified to include or show:
- (a) a 5 Star Green Star Design and As Built rating generally in accordance with the Statement of Evidence provided by Ark Resources (prepared on 4 March 2019);
 - (b) a 5 Star NABERS Energy rating generally in accordance with the Statement of Evidence provided by Ark Resources (prepared on 4 March 2019);
 - (c) compliance with the Urban Stormwater Best Practice Environmental Management Guidelines generally in accordance with the Statement of Evidence provided by Ark Resources (prepared on 4 March 2019);
 - (d) more information on the expected daylight performance of the buildings and ensure that 30% of floor area can reach a minimum 2% df standard, and provide a suitable VLT for each area to assist achieve this standard generally in accordance with the Statement of Evidence provided by Ark Resources (prepared on 4 March 2019);
 - (e) a completed JV3 energy modelling report, or equivalent, demonstrating the 6 points or 30% improvement in NCC requirements;
 - (f) include all MUSIC model inputs and outputs including catchment area, storage locations and volume and location and number of toilet connections to ensure that best practice in WSUD can be met;

- (g) ensure the WMP has sufficient spaces allocated to recycling and all waste streams. Ensure recycling is just as convenient as general garbage;
 - (h) the provision of a composting system or provision of an organic waste collection service; and
 - (i) the provision of any electric vehicle charging facilities.
- 9 The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

SMP Implementation Report

- 10 Before the development is occupied or by such later date as agreed to by the responsible authority in writing, a report from the author of the Sustainability Management Plan, approved under this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm all measures specified in the Sustainability Management Plan have been implemented in accordance with the approved plan.

Waste Management Plan

- 11 Before the development commences, an amended Waste Management Plan prepared to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Waste Management Plan will be endorsed and will form part of this permit. The amended Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by Irwin Consult (dated 4 May 2018), but modified to include:
- (a) the collection for the waste associated with Building C to occur within title boundaries as confirmed within the Waste Management Plan prepared by Irwin Consult (dated 4 March 2019); and
 - (b) details of how food waste will be diverted from the waste stream from the remaining areas of the development.
 - (c) Provision for any waste collected from the childcare to occur from its basement only, and outside peak operating hours of 7 – 9am and 3 – 6pm weekdays.
- 12 The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
- 13 The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.

Landscape Plan

- 14 Before the development commences, an amended Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Landscape Plan will be endorsed and will form part of this permit. The amended Landscape Plan must be generally in accordance with the Landscape Plan prepared by MALA Studio prepared on 28 February 2019, but modified to include (or show, or address):
- (a) a detailed planting plan indicating the location and quantity of the species proposed;
 - (b) confirm mulch used on the higher levels is a wind tolerant material;



- (c) further details on the raised planter beds such as information on drainage, waterproofing, irrigation and mulch;
 - (d) details on the custom furniture proposed;
 - (e) deletion of *Pennisetum clandestinum* on Plant Mix C and replacement with a suitable alternative species;
 - (f) additional details regarding the mounded planter beds such as maintenance and how to ensure there is no mulch run off from the slope of the garden bed to the adjacent paving areas;
 - (g) additional details regarding the relationship between the *Jacarada mimosifolia*, associated garden bed and decking in the courtyard including the provision of a section;
 - (h) additional details regarding the landscape feature proposed at the corner of Church and Shamrock Streets;
 - (i) deletion of where the internal paving from the courtyard is shown encroaching into the public realm and replace the public realm paving with an asphalt treatment;
 - (j) that the 300mm bluestone kerb is maintained (provide a section through that treatment);
 - (k) street tree cut outs as being 1m depth x1.5m width and sitting directly behind the bluestone pitcher;
 - (l) confirmation that there is sufficient circulation space around the eastern most proposed street tree and the building, with the minimum path of travel and deletion of any obstructions.
- 15 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 to the satisfaction of the Responsible Authority including 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.

Tree Management Plan

- 16 Before the development commences, a Tree Management Plan to the satisfaction of the Responsible Authority must be prepared by a suitably qualified Arborist and must be submitted to and approved by the Responsible Authority. When approved the Tree Management Plan will be endorsed and will form part of this permit. The Tree Management Plan must make recommendations for the protection of the Manchurian Pear trees located on the adjacent property at 28 Brighton Street:
- (a) pre-construction;
 - (b) during construction; and
 - (c) post construction

- (d) the provision of any barriers;
 - (e) any pruning necessary; and
 - (f) watering and maintenance regimes,
- to the satisfaction of the Responsible Authority.

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

Street Trees

18 Before the development commences, the permit holder must provide an Asset Protection Bond of \$10,000 (ex GST) for the three (3) trees in Church Street adjacent the frontage of the development and one (1) tree opposite 22 Brighton Street to the Responsible Authority. The security bond:

- (a) must be provided in a manner, and on terms, to the satisfaction of the Responsible Authority;
- (b) may be held by the Responsible Authority until the works are completed to the satisfaction of the Responsible Authority; and
- (c) in accordance with the requirements of this permit; or
- (d) otherwise to the satisfaction of the Responsible Authority.

19 Before the development commences, the permit holder must make a one off contribution of \$17,633.25 to the Responsible Authority to be used for:

- (a) the cost of supply, planting and establishment maintenance four trees (one in Church St and three in Brighton St).

Wind

20 Before the development commences an updated wind assessment must be submitted and approved by the responsible authority.

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

Acoustic report

22 Before the development commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Endorsed Acoustic Report and updated to include the commitments relating to the child care centre in the acoustic report prepared by Cundall and dated 21 December 2020, but further modified to include (or show, or address):

- (a) the 2.6 metre long angled screen on top of the retained masonry wall on the southern boundary to No. 28 Brighton Street as required by Condition 1(a) of this permit;**
- (b) confirmation that any acoustic fencing, screening and boundary walls may be constructed of any suitable cladding material so long as it has a mass of at least 10kg/m²;**

- (c) **The northern elevation of the first floor balcony to be enclosed fully (either by a solid barrier, or by providing glass between the top of the barrier and the second floor soffit above), and the entire ceiling of the first floor balcony area is to be provided with an acoustically absorptive finish with a minimum acoustic absorption performance of NRC 0.8;**
- (d) **confirmation that acoustic fencing and screening will have no gaps or holes in it, or the likelihood of such occurring through natural causes, landscaping or deformations, thus allowing noise to easily pass through.**

- 23 The acoustic report must make recommendations to limit the noise impacts in accordance with the State Environment Protection Policy (Control of noise from industry, commerce and trade) No. N-1 (SEPP N-1), State Environment Protection Policy (Control of music noise from public premises) No. N-2 (SEPP N-2), the childcare voice noise targets nominated in the report and to any other accepted criteria or requirement to the satisfaction of the Responsible Authority.
- 24 The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
- 25 Within 3 months of occupying the building, an updated post-occupation Acoustic Report to the satisfaction of the Responsible Authority must be prepared by a suitably qualified acoustic engineer and must be generally in accordance with the endorsed acoustic report. The report must be submitted to and approved by the Responsible Authority. When approved, the updated post-occupation Acoustic Report will be endorsed and will form part of this permit. The Acoustic Report must (assess) address the following:
- (a) Confirm the recommendations of the endorsed acoustic report required as part of **Condition 22** have been implemented;
 - (b) Assess mechanical plant noise to SEPP N-1; and
 - (c) If non-compliance with **Condition 22b** is measured, additional acoustic measures as recommended by the amended post-occupation acoustic report are to be implemented within one month of the date of the amended acoustic report.
- 26 The provisions, recommendations and requirements of the endorsed post-occupation Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.

Transport for Victoria Conditions

- 27 The permit holder must take all reasonable steps to ensure that disruption to tram operation along Church Street is kept to a minimum during the construction of the development. Foreseen disruptions to tram operations during construction and mitigation measures must be communicated to Yarra Trams and Public Transport Victoria thirty five days (35) prior.
- 28 The permit holder must ensure that all track, tram and overhead infrastructure is not damaged. Any damage to public transport infrastructure must be rectified to the satisfaction of the Public Transport Victoria at the full cost of the permit holder.

VicRoads Conditions

- 29 Before the use approved by this permit commences the following roadworks on Church Street, Richmond must be completed at no cost to and to the satisfaction of the Roads Corporation:

- (a) The provision of Keep Clear line-marking at the intersection of Church Street and Shamrock Street, Richmond.
- 30 Prior to the commencement of the development, excluding demolition works, an Engineering report from a suitably qualified Engineer outlining the design, management and construction techniques to be implement prior, during and following excavation to prevent any impact on the Burnley Tunnel is to be submitted to VicRoads and CityLink for approval. Once approved, the Engineering Report will form part of the planning permit. Without limiting the scope of the report, it must consider all relevant structural and geotechnical issues, including, but not limited to, demonstrating:
- (a) That the development will not compromise the structural integrity of the Burnley Tunnel;
 - (b) What is the load applied to the ground by the development;
 - (c) What is the depth of the excavation;
 - (d) That the development will not cause changes to groundwater conditions that will result in adverse effect on the Burnley Tunnel.
 - (e) Any holding points requiring VicRoads and CityLink inspection and approval prior to releasing the hold points.
- 31 Prior to the commencement of and during the course of construction the following details must be submitted to the satisfaction of VicRoads and CityLink for approval:
- (a) Initial groundwater level;
 - (b) Expected and confirmation of actual flows and total volume drained during the construction of the basement;
 - (c) if the completed basement is tanked or drained;
 - (d) If drained, confirm flow rate into the basement and the height and extent of the permanent lowering of the water-table.
 - (e) Temporary or permanent groundwater drawdown greater than 2 metres below existing levels requires the developer to demonstrate the impact of the proposed development on the regional groundwater regime. The developer shall describe how groundwater drawdown will be managed, and demonstrate that there will be an insignificant impact on CityLink assets.

Road Infrastructure

- 32 Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any redundant vehicular crossing must be demolished and re-instated as standard footpath and kerb and channel:
- (a) at no cost to the Responsible Authority (inclusive of the cost of modifying any parking signs or road markings for parking bays (where required)); and
 - (b) to the satisfaction of the Responsible Authority.

- 33 Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any roads, footpaths and other road related infrastructure adjacent to the development site damaged as a result of the construction works, including trenching and excavation for utility service connections must be reconstructed and re-sheeted as single full width areas (with any areas of pavement failure as a consequence of construction traffic must be reinstated with full depth pavement):
- (a) at no cost to the Responsible Authority; and
 - (b) to the satisfaction of the Responsible Authority.
- 34 Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the footpath immediately outside the subject site's Brighton Street, Shamrock Street and Church Street road frontages must be reconstructed:
- (a) with the footpath having a cross-fall of 1 in 40 or unless otherwise specified by Council;
 - (b) at no cost to the Responsible Authority; and
 - (c) to the satisfaction of the Responsible Authority.
- 35 Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the new vehicular crossing on the west side of Brighton Street and the new vehicle crossing on the properties Shamrock Street road frontage must be constructed:
- (a) to satisfy the vehicle ground clearance requirements for the B99 design vehicle;
 - (b) at no cost to the Responsible Authority; and
 - (c) to the satisfaction of the Responsible Authority.

Streetscape Improvement Plan

- 36 Before the development commences, or by such later date as approved in writing by the Responsible Authority, a Streetscape Improvement plan for the development's Shamrock Street frontage (inclusive of the widening of Shamrock Street) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority.
- 37 Before the building is occupied, all works associated with the Streetscape Improvement plan as shown on the endorsed plans and Streetscapes Improvement plan (referred to in **Condition 36**) must be fully constructed and completed, at no cost to the Responsible Authority and to the satisfaction of the Responsible Authority.

Drainage

- 38 Before the development commences, an amended Drainage Investigation report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Drainage Investigation will be endorsed and will form part of this permit. The amended Drainage Investigation must be generally in accordance with the Drainage Investigation prepared by Northrop Pty Ltd prepared on 31 January 2019, but modified to include (or show, or address):
- (a) a plan showing the location of the pits referenced in the CCTV report prepared by Rapid Cam dated 2 November 2018;
 - (b) the use of a back-up system such as a flood gate at the driveway or an internal pump system which discharges to Church Street through the property stormwater; and
 - (c) an updated flood risk assessment using a 200mm diameter pipe to determine if this will affect the flood level results.

Widened section of Shamrock Street

- 39 Within 6 months of the commencement of development, the design of the widened section of Shamrock Street must be prepared by an independent and suitably qualified engineering professional to the satisfaction of the Responsible Authority and in consultation with the Responsible Authority. The design must be submitted to and approved by the Responsible Authority. The design of the widening of Shamrock Street must provide details including pavement widths, surface treatment, road infrastructure items, landscaping (where applicable) and drainage including the installation of any additional drainage pits and associated connecting drainage to the satisfaction of the Responsible Authority.
- 40 Before the building is occupied, all works associated with the widening of Shamrock Street (referred to in **Condition 39**) must be carried out, at no cost to the Responsible Authority and to the satisfaction of the Responsible Authority.
- 41 Within six months of the commencement of works, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under section 173 of the *Planning and Environment Act 1987*, providing for the following:
- (a) The Owner must provide unfettered 24 hour public access over (and inclusive of the provision of lighting) over that part of the land to be used for the widened section of Shamrock Street between Church Street and the eastern boundary of the development's Shamrock Street frontage;
 - (b) The owner is responsible for maintaining at all times the areas that are private land open to the public described in **condition 41(a)** at the cost of the owners of the site and to the satisfaction of the Yarra City Council;
 - (c) The owner(s) must obtain and maintain insurance, approved by Yarra City Council, for the public liability and indemnify Yarra City Council against all claims resulting from any damage, loss, death or injury in connection with the public accessing the land described in **condition 41(a)**.
- 42 The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the reasonable costs borne by the Responsible Authority.

Car parking

- 43 Before the development is occupied, a Car Park Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Car Park Management Plan will be endorsed and will form part of this permit. The Car Park Management Plan must address, but not be limited to, the following:
- (a) the management of any visitor car parking spaces and security arrangements for occupants of the development, including details on how visitors are to access car parking;
 - (b) details of way-finding, cleaning and security of end of trip bicycle facilities;
 - (c) the number and allocation of storage spaces;
 - (d) any policing arrangements and formal agreements;



- (e) a schedule of all proposed signage including directional arrows and signage, informative signs indicating location of disabled bays and bicycle parking, exits, restrictions, pay parking system etc;
 - (f) the collection of waste and garbage including the separate collection of organic waste and recyclables, which must be in accordance with the Waste Management Plan required by **Condition 11**; and
 - (g) details regarding the management of loading and unloading of goods and materials.
- 44 The provisions, recommendations and requirements of the endorsed Car Park Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
- 45 Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the area set aside on the endorsed plans for the car parking spaces, access lanes, driveways and associated works must be:
- (a) constructed and available for use in accordance with the endorsed plans;
 - (b) formed to such levels and drained so that they can be used in accordance with the endorsed plans;
 - (c) treated with an all-weather seal or some other durable surface; and
 - (d) line-marked or provided with some adequate means of showing the car parking spaces, all to the satisfaction of the Responsible Authority.
- 46 Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, a notice showing the location of car parking must be placed in a clearly visible position near the entry to the land. The notice must be maintained thereafter to the satisfaction of the Responsible Authority.

Green Travel Plan

- 47 Before the development is occupied, an amended Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Green Travel plan will be endorsed and will form part of this permit. The amended Green Travel Plan must be generally in accordance with the Green Travel Plan prepared by Impact Traffic Engineering prepared on 2 July 2018, but modified to include (or show, or address):
- (a) deletion of any language such as ‘could be introduced’ and instead of ‘should’ or otherwise committing to a particular action;
 - (b) the Action Plan at Appendix A to references to all actions included in the report, including any carpooling actions;
 - (c) the promotion of various public transport smartphone apps such as the Public Transport Victoria app and/or train or tram tracker;
 - (d) a description of the location in the context of alternative modes of transport;
 - (e) employee welcome packs (e.g. provision of Myki/transport ticketing);
 - (f) the provision of real time passenger information displays for nearby stops within each lobby;
 - (g) sustainable transport goals linked to measurable targets, performance indicators and monitoring timeframes;

- (h) a designated 'manager' or 'champion' responsible for coordination and implementation;
- (i) details of bicycle parking and bicycle routes;
- (j) details of GTP funding and management responsibilities;
- (k) the types of bicycle storage devices proposed to be used for employee and visitor spaces (i.e. hanging or floor mounted spaces);
- (l) the types of lockers proposed within the change-room facilities, with at least 50% of lockers providing hanging storage space;
- (m) security arrangements to access the employee bicycle storage spaces;
- (n) signage and wayfinding information for bicycle facilities and pedestrians pursuant to Australian Standard AS2890.3;
- (o) reference to a minimum 40A single phase electrical sub circuit should be installed to the car park areas for 'EV readiness'; and
- (p) provisions for the Green Travel Plan to be updated not less than every 5 years.

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

Lighting

49 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,

all to the satisfaction of the Responsible Authority.

General

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

51 The amenity of the area must not be detrimentally affected by the development and use, including through:

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

52 The use and development must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade, N-1 (SEPP N-1).

53 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.

- 54 All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
- 55 All pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
- 56 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 9am or after 3pm; or
 - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

Construction Management

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

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

58 During the construction:

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

Time expiry

59 This permit will expire if:

- (a) the development is not commenced within two years of the date of this permit; or
- (b) the development is not completed within four years of the date of this permit; or
- (c) the child care centre use has not commenced within five years of the date of this permit.

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

NOTES:

A building permit maybe required before development is commenced. 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 5585 for further information.

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

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

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

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

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

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

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

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

Contaminated ground water seepage into basements from above the water table must be discharged to the sewer system through a trade waste agreement with the relevant authority or in accordance with EPA guidelines.

Contaminated groundwater from below the water table must be discharged to the sewer system through a trade waste agreement from the relevant sewer authority.

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

Overhead power lines run along the east side of Church Street and west side of Brighton Street, close to the property boundary.

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

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

VicRoads Note

Separate consent may be required from VicRoads (the Roads Corporation) under the Road Management Act 2004 for buildings and works (i.e. canopies and architectural features/ projections) undertaken outside the title boundary within a Road Zone Category 1 (i.e. Church Street). Please contact VicRoads prior to commencing any works.

Attachments

- 1 PLN18/0328.03 - 459 - 471 Church Street and 20 - 26 Brighton Street Richmond - Site map
- 2 PLN18/0328.03 - 459 - 471 Church Street and 20 - 26 Brighton Street Richmond - Advertised Plans
- 3 PLN18/0328.03 - 459 - 471 Church Street and 20 - 26 Brighton Street Richmond - Endorsed Plans
- 4 PLN18/0328.03 - 459 - 471 Church Street and 20 - 26 Brighton Street Richmond - Planning Permit
- 5 PLN18/0328.03 - 459 - 471 Church Street and 20 - 26 Brighton Street Richmond - Advertised Acoustic Report
- 6 PLN18/0328.03 - 459 - 471 Church Street and 20 - 26 Brighton Street Richmond - Advertised Traffic Assessment Report
- 7 PLN18/0328.03 - 459 - 471 Church Street and 20 - 26 Brighton Street Richmond - Traffic Engineering referral comments
- 8 PLN18/0328.03 - 459 - 471 Church Street and 20 - 26 Brighton Street Richmond - Acoustic referral comments

- 6.4 PLN15/1176.02 – 2 Gough Street, Cremorne – Amendment to the endorsed plans and permit conditions including: Changes to the permit preamble, deletion/amendment of conditions, reconfiguration of building uses including deletion of residential component, internal reconfiguration of buildings, changes to the car parking and bicycle parking provision/allocation and built form changes including façade changes and increase in height.**

(LATE ITEM – to be distributed separately)

- 6.5 VCAT application P1878/2020 - 45 Wangaratta Street Richmond - Amend Planning Permit PLN15/1260 pursuant to section 87A of the Planning and Environment Act 1987 to amend the permit which allows 'Use of the land for office, demolition, and construction of a 7 storey building containing offices and food and drinks premises (café) above one basement level in the Mixed Use Zone and Heritage Overlay, reduction in the car parking requirements in clause 52.06 and in accordance with the endorsed plans' by deleting condition 8 which restricts the operating hours of the office use.**
-

Executive Summary

Purpose

1. This report provides Council with an assessment of a request to the Victorian Civil and Administrative Tribunal (VCAT) to amend Planning Permit PLN15/1260 (the Permit) pursuant to section 87A of the *Planning and Environment Act 1987* (the Act). The Permit relates to land at 45 Wangaratta Street, Richmond and allows '*Use of the land for office, demolition, and construction of a 7 storey building containing offices and food and drinks premises (café) above one basement level in the Mixed Use Zone and Heritage Overlay, reduction in the car parking requirements in clause 52.06 and in accordance with the endorsed plans*'. The request seeks to delete condition 8 on the Permit which restricts the operating hours of the office use.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Policy and strategic support – Clauses 11.01-1S (Settlement), 13.05-1S (Noise abatement), 17.01-1S (Diversified economy), 17.02-1S (Business), 21.04 (Land use) and 32.04 (Mixed Use Zone)
 - (b) Off-site amenity impacts - Clause 22.05 (Interface Uses Policy)

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Principles relevant to applications made under section 87A of the Act
 - (b) Compatibility with the purpose of the Mixed Use Zone
 - (c) Off-site amenity impacts
 - (d) Objector concerns

Submissions Received

4. Six (6) statements of grounds have been received to the amendment request and raise the following issues in summary:
 - (a) Off-site amenity impacts (light pollution and late-night pedestrian and vehicular noise)
 - (b) Inconsistent with residential use in the Mixed Use Zone

Conclusion

5. Based on the following report, the amendment sought to the Permit is considered to comply with the relevant planning policy and should therefore be supported subject to addressing potential noise impacts from the outdoor terraces. It is recommended condition 8 on the Permit be amended to only restrict use of the outdoor terraces.

CONTACT OFFICER: Katrina Thomas
TITLE: Planning Appeals Advocate
TEL: 92055306

- 6.5 VCAT application P1878/2020 - 45 Wangaratta Street Richmond - Amend Planning Permit PLN15/1260 pursuant to section 87A of the Planning and Environment Act 1987 to amend the permit which allows 'Use of the land for office, demolition, and construction of a 7 storey building containing offices and food and drinks premises (café) above one basement level in the Mixed Use Zone and Heritage Overlay, reduction in the car parking requirements in clause 52.06 and in accordance with the endorsed plans' by deleting condition 8 which restricts the operating hours of the office use.

Reference D21/32586
Author Katrina Thomas - Planning Appeals Advocate
Authoriser Manager Statutory Planning

Ward: Melba ward
The Permit Use of the land for office, demolition, and construction of a 7 storey building containing offices and food and drinks premises (café) above one basement level in the Mixed Use Zone and Heritage Overlay, reduction in the car parking requirements in clause 52.06 and in accordance with the endorsed plans.
The Proposal: Amend the Permit pursuant to section 87A of the *Planning and Environment Act* 1987 to delete condition 8 which restricts the operating hours of the office use. No built form changes or other amendments to the Permit are proposed.
Existing use: Currently under construction
Applicant: Wangaratta Street Pty Ltd
Zoning / Overlays: Mixed Use Zone
 Heritage Overlay – Schedule 332
 Environmental Audit Overlay
Date of Application: 7 December 2020
Application Number: P1878/2020

Planning History

1. Planning Permit PLN15/1260 (the Permit) issued on 31 May 2017 at the direction of the Victorian Civil and Administrative Tribunal (VCAT) for '*Use of land for office, demolition and construction of a 7 storey building containing dwellings, office and food and drink premises (café) above one basement level in the Mixed Use Zone, Heritage Overlay and Environmental Audit Overlay, reduction in the car parking requirements in clause 52.06 and waiver of loading bay requirement in clause 52.07 in accordance with the endorsed plans*'
2. The Permit was amended pursuant to section 72 of the *Planning and Environment Act 1987* (the Act) on 5 November 2018 at the direction of the VCAT. The amended permit allows '*Use of the land for office, demolition, and construction of a 7 storey building containing offices and food and drink premises (café) above one basement level in the Mixed Use Zone and Heritage Overlay, reduction in the car parking requirements in clause 52.06 and in accordance with the endorsed plans*'. The amendment sought the following:

- deletion of the dwellings;
 - redesign of the car park with no change in the number of car spaces but an increase in the number of bicycle spaces provided; and
 - minor changes to the building facades and setbacks from Botherambo Street as a result of the replacement of the dwellings with the office use.
3. In approving the amendment, the Tribunal gave oral reasons at the conclusion of the hearing. Of note, the Tribunal's Final Order contained a clerical error relating to condition 8 on the Permit. The Tribunal issued a Correction Order on 16 January 2019. Condition 8 on the amended Permit provides:
8. *Except with the prior written consent of the Responsible Authority, the office use authorised by this permit may only operate between the following hours:*
- (a) 7.00am – 10.00pm 7 days per week.
4. The amended Permit was subsequently amended on 3 September 2020 by Council pursuant to section 72 of the Act to allow for the introduction of new east facing terraces at levels 04 and 05 of the development, with no changes to the permit preamble or conditions.

Background

5. On 7 December 2020 Council received notice from the VCAT that a request has been made to VCAT pursuant to section 87A of the Act to amend the Permit to delete condition 8 on the Permit. The application is listed for a hearing on 20 July 2021. Six statements of grounds opposing the request to amend the Permit.
6. This report provides an assessment of the amendment request and recommends that Council consent to the Permit being amended subject to condition 8 being amended to restricting the use of the outdoor terraces only.

Planning Scheme Amendments

7. Amendment C191 proposes to introduce into the Yarra Planning Scheme (amongst other matters) a Design and Development Overlay (DDO) to guide built form along the Swan Street and introduce Clause 21.12 Local Areas Policy. Amendment C191 has been through an independent planning panel process appointed by the Minister for Planning and on 15 December 2020 Council adopted Amendment C191 with changes in accordance with the Panel's recommendations. Amendment C191 has been forwarded to the Minister for Planning for approval and is thus a seriously entertained document. Of note, the subject site is not land affected by the proposed DDO17 but is affected by Clause 21.12 Local Areas Policy as it relates to the Swan Street Activity Centre (Clause 21.12-2). A consideration of this amendment against this proposed policy is provided later in this report.
8. Amendment C238 was introduced into the Yarra Planning Scheme on 1 February 2021 and inserts Clause 45.06 (Development Contributions Plan Overlay) with Schedule 1 into the Scheme. This overlay does not apply to the amendment request.

The Proposal

9. The amendment request seeks to delete the following condition on the amended Permit:
8. *Except with the prior written consent of the Responsible Authority, the office use authorised by this permit may only operate between the following hours:*
- (a) 7.00am – 10.00pm 7 days per week.

Existing Conditions

Subject Site

10. The subject site is located on the eastern side of Wangaratta Street, approximately 60m north of Swan Street in Richmond. The land is rectangular in shape with a frontage to Wangaratta Street of 10.1m, a site depth of 36.25m, yielding a total site area of approximately 366sqm. The site has been developed in accordance with the Permit with construction completed recently.

Surrounding Land

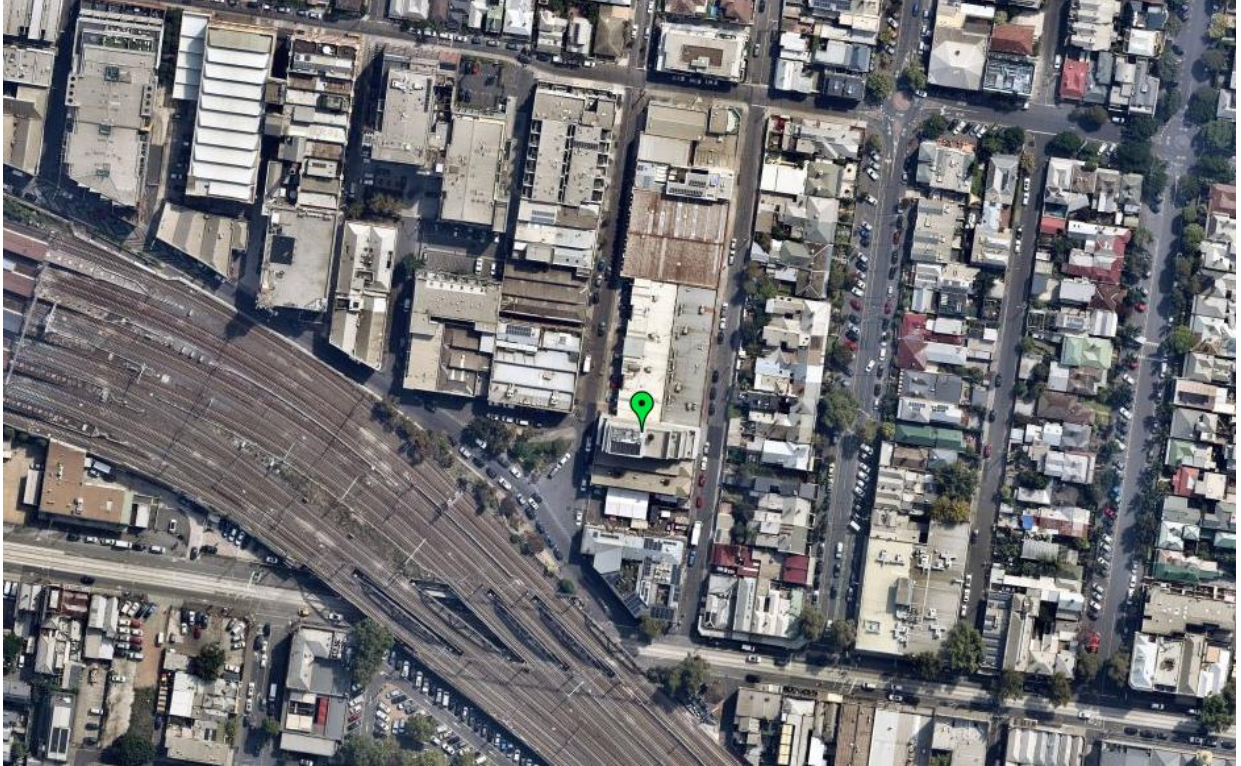


Figure 2: Aerial showing subject site and surrounds (Source: Nearmap)

11. The subject site is located within a mixed use zoned pocket of land to the north of the Swan Street Major Activity Centre. Richmond Train station is located within walking distance (within 400m) of the site and the Flinders Station – Richmond Station corridor is identified as a Major Urban Renewal Precinct under *Plan Melbourne 2017-2050*.

East

12. Land to the east and north-east is within a Neighbourhood Residential Zone (NRZ) and is affected by Heritage Overlay 332 (HO332). Built form is typically characterised by 1-2 storey detached and semi-detached dwellings. Botherambo Street is directly to the east of the subject site, a one-way (northbound) local road with parallel parking on the western side. On the east side of Botherambo Street are dwellings generally fronting Lennox Street with their areas of secluded private open space (SPOS) and or outbuildings fronting Botherambo Street.

West

13. Land to the west and north-west is within the Mixed Use Zone (MUZ) and HO332 and has seen a number of warehouse conversions with additional built form constructed above original buildings, resulting in maximum building heights up to 7-8 storeys high. It is a truly mixed-use precinct comprising residential and commercial uses.

North

14. To the immediate north of the site (No. 25-43 Wangaratta Street) is a 2 storey brown brick office/warehouse building setback from the street to provide car parking. Council refused Planning Application PLN19/0483 on 12 March 2020 for demolition and construction of a 7-8 storey commercial development and a reduction in car parking. Council's decision was appealed to the VCAT but later withdrawn.
15. Further north (No. 23 Wangaratta Street) is a 3 storey brown brick building with under croft car parking. Planning application PLN19/0780 sought to development the land along with No. 17-19 & 21 Wangaratta Street for demolition and construction of an 8 storey commercial building and a reduction in the car parking requirements. On 9 March 2021 the Tribunal affirmed Council's decision and determined no permit is to be granted.

South

16. To the immediate south of the site is a 2 storey commercial building built to all boundaries. Further south is a car park associated with the Corner Hotel which itself is located at the corner of Swan, Botherambo and Stewart Streets.

Legislative provisions

17. The amendment has been requested pursuant to section 87A of the Act.
18. Section 87A of the Act states:

Cancellation or amendment of permit issued at direction of Tribunal

- (1) *In addition to the powers conferred by section 87, the Tribunal may cancel or amend a permit that has been issued at its direction if it considers it appropriate to do so.*
- (2) *The Tribunal may only cancel or amend a permit under this section at the request of—*
 - (a) *the owner or occupier of the land concerned; or*
 - (b) *any person who is entitled to use or develop the land concerned.*

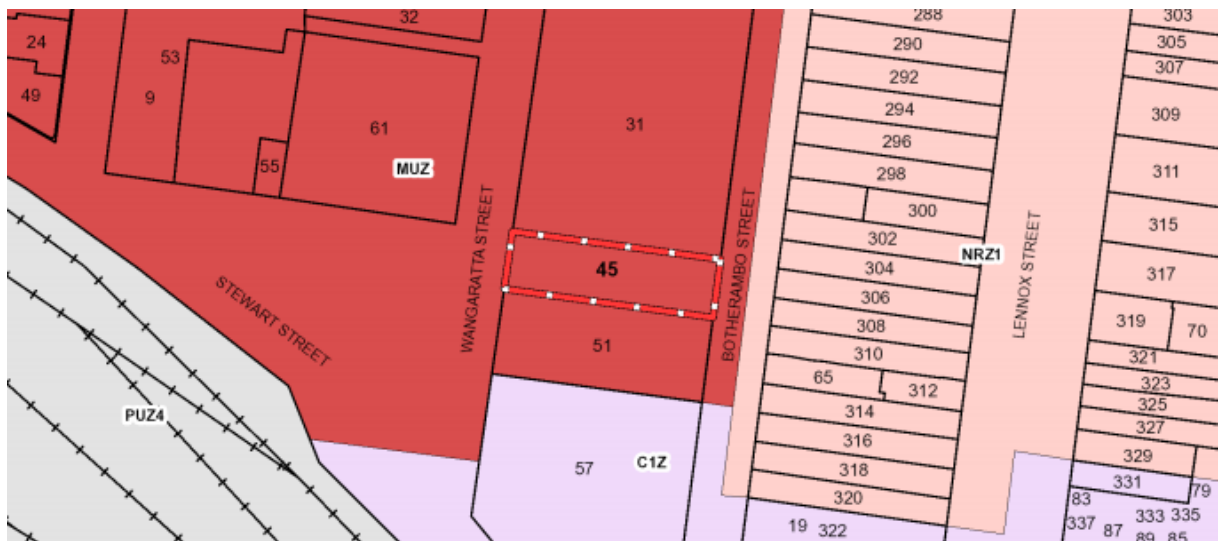
19. The request has been made by Rigby Cooke Lawyers on behalf of the owner of the land, Wangaratta Street Pty Ltd.

Planning Scheme Provisions

Zoning

Mixed Use Zone

20. The site is located in the Mixed Use Zone (MUZ).



21. The purpose of this zone is:
- (a) *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
 - (b) *To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.*
 - (c) *To provide for housing at higher densities.*
 - (d) *To encourage development that responds to the existing or preferred neighbourhood character of the area.*
 - (e) *To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.*
22. Pursuant to Clause 32.04-2, the use of the land for office requires a permit because the total leasable floor area exceeds 250sqm.

Overlays

Heritage Overlay (Schedule 332 – Richmond Hill Precinct, Richmond)

23. Pursuant to Clause 43.01-1 of the Scheme, this clause is not applicable because no buildings or works are proposed by the amendment.

Environmental Audit Overlay

24. Pursuant to Clause 45.03-1, this clause is not applicable because no sensitive use is proposed.

Development Plan Contributions Overlay

25. Pursuant to Clause 45.06-1, this clause is not applicable because the amendment does not increase floor area.

Particular Provisions

26. There are no particular provisions that apply to the amendment.

General Provisions

27. Clause 65 is relevant to all applications and requires, amongst other things, consideration be given to:
- (a) *The matters set out in Section 60 of the Act.*
 - (b) *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
 - (c) *The purpose of the zone, overlay or other provision.*
 - (d) *Any matter required to be considered in the zone, overlay or other provision.*
 - (e) *The orderly planning of the area.*
 - (f) *The effect on the amenity of the area.*
 - (g) *The proximity of the land to any public land.*

Planning Policy Framework (PPF)

Clause 11.01-1S - Settlement

28. The objective of this Clause is:
- (a) *To promote the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.*
29. The relevant strategies of this Clause are:
- (a) *Develop sustainable communities through a settlement framework offering convenient access to jobs, services, infrastructure and community facilities.*
 - (b) *Ensure retail, office-based employment, community facilities and services are concentrated in central locations.*

Clause 13.05-1S - Noise abatement

30. This objective of this Clause is:

- (a) *To assist the control of noise effects on sensitive land uses.*

31. The relevant strategy of this Clause is:

- (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 17.01-1S – Diversified economy

32. The objective of this Clause is:

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

Clause 17.02-1S – Business

33. The objective of this Clause is:

- (a) *To encourage development that meets the community's needs for retail, entertainment, office and other commercial services.*

Local Planning Policy Framework (LPPF)

Clause 21.04-3 - Industry, office and commercial

34. The relevant objective of this Clause is:

- (a) *Objective 8 - To increase the number and diversity of local employment opportunities.*

Relevant Local Policies

Clause 22.05 – Interface Uses Policy

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

36. It is policy at Clause 22.05-3 that:

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

37. Clause 22.05-4 includes the following development guideline:

- (a) *Minimise the opportunity for light spill due to fixed or vehicular lights, outside the perimeter of the site and on to habitable room windows of nearby residential properties.*

Advertising

38. The applicant gave notice of the application to adjoining and surrounding land owners/occupiers in accordance with the directions of VCAT. Six statements of grounds have been received which raise the following concerns about the proposed amendment:

- (a) Off-site amenity impacts (light pollution and late-night pedestrian and vehicular noise)
(b) Inconsistent with residential use in the Mixed Use Zone

Referrals

39. The amendment was not required to be referred to external referral authorities.

OFFICER ASSESSMENT

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

- (a) principles relevant to applications made under section 87A of the Act;

- (b) policy and strategic support;
- (c) off-site amenity impacts; and
- (d) objector concerns.

Principles relevant to applications made under section 87A of the Act

- 41. The power to amend a permit under section 87A is a very broad power because section 87A empowers the Tribunal to cancel or amend a permit 'if it considers it appropriate to do so'. There is no more specificity in the Act as to the relevant considerations.
- 42. Key principles for assessing applications under section 87A include:
 - (a) The scope of consideration of a section 87A proceeding is confined to the proposed changes. A debate about the entirety of the approved development is not re-opened.
 - (b) The amendments must be assessed on their own merits, and not by reference to whether they are "better" or "worse" than the situation approved under the current permit.
 - (c) In assessing the planning merits of the amendment, the relevant test in the exercise of the discretion is whether the proposal would result in an acceptable planning outcome as opposed to an ideal outcome when having regard to the relevant planning policies currently applicable to the subject land and not the policies that were in place at the time of the original grant of the permit.

Policy and Strategic Support

- 43. A purpose of the MUZ 'To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality'. As such, amenity expectations of residents within the MUZ or in the adjacent NRZ must be understood within this strategic planning context that this is not a pristine residential environment.
- 44. In this pocket of MUZ land there have been two recent Tribunal decisions that have not supported restricting office hours in new development. In *Hines 9 Stewart Property Pty Ltd v Yarra CC* [2021] VCAT 185 relating to a proposed 10 storey office building at 9-13 Stewart Street, the Tribunal said:

[105] The Council seeks a condition on any permit issued that the hours of use of the offices be restricted. The Council explains this condition is sought to minimise the potential impact of light spill during the night upon the surrounding dwellings.

[106] The policy guidelines at clause 22.05-4-2 seeks to 'minimise the opportunity for light spill due to fixed or vehicular lights, outside the perimeter of the site and on to habitable room windows of nearby residential properties'. It would appear that the term 'fixed lights' could be referable to the internal office lighting.

[107] Although we agree with Mr Barlow's evidence that the idea internal office lights "will be blazing all the time" may be overstated, we do not dismiss the potential for light spill from the internal lights to cause amenity impacts on nearby residential properties. However, in an evolving and diversifying economy and in a Mixed Use Zone in a Major Activity Centre, we consider it is acceptable to anticipate and expect that an office premises use may extend beyond traditional business hours. If we had been of a mind to grant a permit, we would not have included such a permit condition.

- 45. In *17 Wangaratta Street Pty Ltd v Yarra CC* [2021] VCAT 167 relating to a proposed 8 storey office building at 17-23 Wangaratta Street, the Tribunal said in regard to the proposed 24 hour office use:

[50] Whilst understanding the residents' concerns, normal activities of people coming and going to an office and shop are part and parcel of an everyday experience within a MUZ. Similarly, in my view, the luminescence of office lighting that may operate into the evening hours is unlikely to extend beyond a background visibility, which in the context of an inner city site such as this, is a reasonable expectation. I am unpersuaded that there are any unreasonable amenity implications that will arise from the luminescence of office lighting.

46. Restricting office use has not been supported by the Tribunal in other locations with a sensitive residential interface. For example, in *Pertile v Yarra CC* [2019] VCAT 851 relating to a proposed 7 storey building in an Industrial 3 Zone opposite a Neighbourhood Residential Zone, the Tribunal said in regard to restricting the proposed office use:

[46] I am not persuaded that it is appropriate to restrict the operation of an office building on the review site in the manner proposed by Council, and supported by the Applicant. As identified in my reasons above, planning policy at both a State and local level strongly supports the achievement of additional employment in this precinct. Having determined that the proposed built form is appropriate, and that a sufficient level of car parking is to be provided on-site, it seems to be counterintuitive to then seek to restrict the number of staff that could work from the site at any one time. In particular, it seems to me that such a condition would act to work against the various policy objectives that support this proposed use and development in the first place. For these reasons, I do not support the application of a condition that restricts the number of staff that are permitted on-site at any one time.

[47] For similar reasons, I also do not support a condition that seeks to restrict the hours in which an office use may operate from the review site. We all take part in an economy that is no longer based on the standard working hours, and I anticipate that increased flexibility in working hours is likely to be needed to provide an efficient workforce in the future.

47. In summary, planning policy at both a State and local level strongly supports the achievement of additional employment opportunities in this precinct and restricting the office use is contrary to achieving this objective.

[Off-site amenity impacts](#)

48. Clause 22.05 (Interface Uses Policy) states:

In order to maintain the viability of industrial and business areas there is a need to ensure that new residents do not have unrealistic expectations of the level of amenity that can be achieved. There is also a need to ensure that commercial and industrial activities are well managed having regard to their proximity to residential uses.

49. The purpose of the MUZ encourages a mix of uses to co-locate therefore residents' amenity expectations need to be tempered that this is not a pristine residential neighbourhood but in the same vein commercial operations may need to be carefully managed for successful co-location with residential uses.

50. In *17 Wangaratta Street Pty Ltd v Yarra CC* [2021] VCAT 167 the Tribunal said:

[51] Had I been of a mind to grant a permit, I accept the need for a Management Plan condition that would limit the hours of operation of the ground level shops, and also set in place amenity protections from the office use (as the application sought a 24 hour operation for the office use). I agree that these limitations, which were discussed at the hearing, are necessary as the land is within a zone that is within the residential suite of zones and the amenity expectations of nearby residents should be managed via this method.

51. The Tribunal found that light spill from the proposed office use was not an issue for the development at 17-23 Wangaratta Street, which notably proposed a predominantly glazed façade to the Wangaratta, Botherambo and Tanner St frontages (approximately 25m - 30m glazed façade on each frontage). In comparison this development has no windows to the northern and southern elevations of the building and the street façades are approximately 10m in width, therefore there is even less potential for light spill from this development compared to the 17-23 Wangaratta St proposal. Consistent with the Tribunal's findings in the case above, it is considered there will be no unreasonable amenity implications that will arise from the luminescence of office lighting in this context.
52. Noise impacts from increased pedestrian and vehicular activity at night-time is considered acceptable within the context of a MUZ and the site's location adjacent to a MAC. Of note, the adjacent Swan Street MAC is identified in Clause 22.09 as one of Yarra's Core Entertainment Precincts and as such there is already late night activity within the precinct.
53. The development has outdoor terraces at Levels 03 to 06 on the eastern elevation which is opposite the NRZ. Given that an acoustic report has not been submitted addressing the potential noise impacts from these terraces on sleep disturbance of nearby dwellings, it is considered that use of the outdoor terraces should not occur after 10pm or before 7am on any day. This is the relevant time period where sleep disturbance is assessed under the statutory requirements of the Victorian Environment Protection Authority. As such, it is recommended that condition 8 on the Permit is amended to:
8. *Except with the prior written consent of the Responsible Authority, the outdoor terraces may only be used between the following hours:*
- (a) 7.00am – 10.00pm, 7 days per week.

Objector concerns

54. Issues raised in the statements of grounds have been addressed in the assessment section of this report as follows:
- Off-site amenity impacts (light spill and late night activity)*
55. These issues have been discussed as paragraphs 48 to 53 of this report.
- Inconsistent with residential use in the Mixed Use Zone*
56. These issues have been discussed as paragraphs 43 to 47 of this report.

Conclusion

57. Based on the above report, the request to amend the Permit is supported by the planning policy framework. Subject to a condition outlined below, the amended proposal is considered an acceptable outcome and is therefore recommended for approval.

RECOMMENDATION

1. That having considered all statements of grounds and relevant planning policies, the Planning Decisions Committee resolves to advise VCAT and the parties to VCAT Proceeding P1878/2020 that Council consents to Planning Permit PLN15/1260 being amended as follows:
- (a) Condition 8 is amended to:
- Except with the prior written consent of the Responsible Authority, the outdoor terraces may only be used between the following hours:*
- (a) 7.00am – 10.00pm, 7 days per week.
- (b) No other changes to the permit conditions.

Attachments

- 1 Planning Permit (Amended)
- 2 Endorsed Plans