



Agenda

Planning Decisions Committee

6.30pm, Wednesday 13 October 2021

Microsoft Teams

The Planning Decisions Committee

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

Participating in the Meeting

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

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

Before each item is considered, the meeting chair will ask people in attendance if they wish to make submission. Simply raise your hand and the 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 Edward Crossland	Councillor
Cr Stephen Jolly	Councillor
Cr Sophie Wade	Councillor

Council officers

Ally Huynh (Senior Co-ordinator Statutory Planning)
Madeleine Moloney (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 29 September 2021 be confirmed.

6. Committee business reports

Item	Page	Rec. Page
6.1 PLN21/0271 - 268-272 Church Street, Richmond - Construction of a multi-storey mixed use building, use of the land for office/shop/food and drink premises (no permit required) and dwellings (permit required) and a reduction of standard car parking requirements	5	57
6.2 PLN19/0384.01 - 219 Gore Street, Fitzroy - Section 72 amendment for approval to construct a wall on boundary to the existing dwelling (Deferred from PDC Meeting of 29 September 2021)	68	79

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- 6.1 PLN21/0271 - 268-272 Church Street, Richmond - Construction of a multi-storey mixed use building, use of the land for office/shop/food and drink premises (no permit required) and dwellings (permit required) and a reduction of standard car parking requirements**
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Executive Summary

Purpose

1. This report provides Council with an assessment of planning application PLN21/0271 which relates to land at 268-272 Church Street, in Richmond. The report recommends approval subject to conditions.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Built form and Heritage (Clauses 15.01, 21.05, 34.01-8 and 43.02
 - (b) Clause 22.03 – Landmarks and Tall Structures;
 - (c) Clause 22.05 – Interface Uses Policy;
 - (d) Clause 22.16 – Stormwater Management (Water Sensitive Urban Design);
 - (e) Clause 22.17 – Environmentally Sustainable Development
 - (f) Clause 34.01 – Commercial 1 Zone;
 - (g) Clause 36.04 – Road Zone;
 - (h) Clause 43.02 – Design and Development Overlay (Schedule 21);
 - (i) Clause 52.06 – Car Parking; and
 - (j) Clause 52.34 – Bicycle Parking.

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Strategic justification.
 - (b) Built form.
 - (c) On-site amenity (including ESD).
 - (d) Off-site amenity.
 - (e) Car parking, traffic, access, bicycle parking and loading/unloading.
 - (f) Waste management/collection.
 - (g) Objector's concerns.

Submissions Received

4. 37 objections were received to the application, these can be summarised as:
 - (a) Inappropriate built form and design (excessive building height, impact on built form character, insufficient upper level setbacks, DDO21 non-compliance, scale and massing, overdevelopment and precedence);
 - (b) Off-site amenity impacts (visual bulk, overshadowing, loss of daylight, loss of privacy, noise);
 - (c) Insufficient open space and landscaping;
 - (d) Inadequate internal amenity of apartments;

- (e) Traffic and parking impacts of surrounds (including laneway safety and incorrect swept path diagrams) and insufficient car parking for the proposal;
- (f) Amenity impacts (visual and overshadowing) to Alexander Reserve;
- (g) Impacts from construction activities;
- (h) Negative impact on property values;
- (i) Fire safety concerns; and
- (j) Inconsistency with Yarra Urban Design Strategy.

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) Public realm plan requiring a raised threshold crossing at the intersection of Church and Berry Streets.
 - (b) A minimum of 22 resident / employee bicycle spaces within a secure facility;
 - (c) Revised Landscape Plan, WMP, Wind Assessment and SMP to reflect the amended proposal.

CONTACT OFFICER: Daniel Herrmann
TITLE: Co-Ordinator Statutory Planning
TEL: 9205 5147

6.1 **PLN21/0271 - 268-272 Church Street, Richmond - Construction of a multi-storey mixed use building, use of the land for office/shop/food and drink premises (no permit required) and dwellings (permit required) and a reduction of standard car parking requirements**

Reference D21/135990
Author Daniel Herrmann - Co-Ordinator Statutory Planning
Authoriser Manager Statutory Planning

Ward: Melba
Proposal: PLN21/0271 - 268-272 Church Street, Richmond - Construction of a multi-storey mixed use building, use of the land for office/shop/food and drink premises (no permit required) and dwellings (permit required) and a reduction of standard car parking requirements
Existing use: Two storey office buildings
Applicant: Pacasa JV (Richmond) Pty Ltd C/- Tract
Zoning / Overlays: Commercial 1 Zone
Date of Application: Development Contributions Plan Overlay (Schedule 1)
Application Number: Design and Development Overlay (Schedule 21 -Precinct 1)

Planning History

268-270 Church Street, Richmond

1. See below permit history for land at 268-270 Church Street, Richmond:
 - (a) Planning permit no. 3998 was issued on 2 November 1987 to use the existing and construct new buildings and works for the purpose of an office and consulting rooms. This permit was subsequently amended on 30 March 2011.
 - (b) Planning permit no. PLN11/0840 was issued on 25 October 2011 for buildings and works comprising rendering of the façade.
 - (c) Planning permit no. PLN14/0758 was issued on 2 December 2014 for the partial use of the land as a massage clinic.
 - (d) Planning permit no. PLN15.0020 was issued on 16 January 2015 for the construction and display of signage.

272 Church Street, Richmond

2. No recent planning history at 272 Church Street, Richmond.

Background

3. The following matters are relevant background information:

Original Application

4. The application was lodged on 29 April 2021 for a seven storey mixed use building, use of the land for office/shop/food and drink premises (no permit required) and dwellings (permit required) and a reduction of the standard car parking requirements.
5. As part of the application process, Council's urban design consultant, strategic planning department and open space unit provided referral comments that raised concerns regarding the following:

- (a) Excessive building height
- (b) Inappropriate transition in building height along Church Street.
- (c) Inadequate building separation.
- (d) Appearance of southern boundary wall.
- (e) Shadow impacts to Alexander Reserve.

Lodgement of Section 57a amendment to application

6. In response to the above concerns, the application was amended pursuant to Section 57A of the the *Planning and Environment Act 1987* on 17 September 2021. The key changes to plans include:
- (a) A reduction of the building height to 6 storeys (including reduced height from 24m to 20.3m).
 - (b) Reduction in the number of apartments (originally 24, now 21) and change to apartment mix.
 - (c) Additional bike spaces (previously 6 internally, now 21 spaces internally).
 - (d) Fire exit to Berry Street removed and services space reconfigured to include BOH for Retail B and services in a Mezzanine level.
 - (e) DDA Ramps added to both retail tenancies.
 - (f) Canopy added over Church Street.
 - (g) Reconfiguration of apartment layouts (generally consolidation to improve amenity).
 - (h) Communal roof terrace reconfigured.
 - (i) Introduction of private terraces on roof top for apartments on Level 05.
 - (j) Revised materiality/finishes to southern boundary walls.
7. The assessment of the application is based on the section 57A amended plans. These plans received an exemption from advertising at Council’s Development Assessment Panel on 23 September 2021. This determination was made on the basis the changes to plans would not cause material detriment to any persons or property due to the extent of built form being reduced through a reduction of the building height. Details of a link to the section 57A amended plans contained on Council’s website was included in the Planning Development Committee (PDC) meeting invite circulated to objectors.
8. A comparison of the advertised proposal and Section 57a amended proposal is provided below.



Image: advertised (left) and amended (right) northern elevation, showing reduction in building height

Planning Scheme Amendments

Amendment C291

9. Amendment C291 is proposing to introduce permanent built form and design requirements for Bridge Road, Richmond (and Victoria Street, Richmond/Abbotsford). These controls and policies will help guide future development, ensure development is sensitive to heritage buildings and minimises impacts on sensitive residential interfaces such as backyards and public spaces like footpaths, parks and expanded street corners. The proposed permanent controls are currently on exhibition until 27 October 2021.
10. Under C291, the Site is located within the Bridge Road West Precinct (proposed DDO41). Key planning controls relevant to the Site outlined in proposed DDO41 include:
 - (a) 15m discretionary building height.
 - (b) 11m maximum mandatory street wall height to Church Street and discretionary minimum 6m upper level setback above.
 - (c) 11m discretionary street wall height to Berry Street and discretionary 3m upper level setback above.
 - (d) 8m discretionary street wall height to rear Right of Way and 4.5m upper level setback above.
 - (e) A permit should not be granted to construct a building or construct or carry out works that would overshadow any of the following spaces between 10am and 2pm at 22nd September, unless the overshadowing would not unreasonably prejudice the amenity of the public space, to the satisfaction of the responsible authority:
 - (i) any part of the opposite footpath of Lennox Street and Church Street, measured from the property boundary to the existing kerb (including any opposite kerb outstands, seating and/or planting).
 - (f) A permit should not be granted to construct a building or construct or carry out works that would cause any additional overshadowing of the following space between 10am and 2pm at 22nd September, unless the overshadowing would not unreasonably prejudice the amenity of the public space, to the satisfaction of the responsible authority:
 - (i) Alexander Reserve.
11. The proposed permanent controls will be considered by the appointed Standing Advisory Committee in early 2022, which will then make recommendations to the Minister of Planning to assist in making the final decision.

The Proposal

12. The application involves the construction of a six storey mixed use building, use of the land for shop/office/food and drink premises (no permit required) and dwellings (permit required) and a reduction of the standard car parking requirements. The key elements of the proposal include:

Demolition (no permit required)

13. All existing buildings and works on the site will be demolished as part of the proposal. A permit is not required for demolition works on the Site pursuant to Clause 62.05 (Demolition).

Use and Layout

14. A summary of uses and layout include:
 - (a) Two ground floor commercial tenancies (office/food and drink premises/shop) are orientated/accessed to/from Church Street, with internal areas of 111m² and 62m² respectively.

- (b) A residential entry and corridor to common lobby is provided at the southern end of the site frontage to Church Street and southern boundary. The lobby provides access to a centrally located common lift and stairwell core.
- (c) A total of 21 apartments including two (2) split level apartments between Mezzanine and Ground floor levels (rear) and 19 apartments configured throughout Levels 01-05. The proposed apartment mix is as follows:
 - (i) 2 x 1 bedroom apartments
 - (ii) 9 x 2 bedroom apartments
 - (iii) 10 x three bedroom apartments
- (d) Rooftop comprising communal roof top terrace (154m²) and three private terraces associated with apartments immediately below.
- (e) 34 car spaces within three basement levels.
- (f) 21 bikes spaces spread across three basement levels.

Construction

15. The proposal involves the following construction works:
- (a) Three basement levels, accessed from the right of way accessed off Berry Street.
 - (b) Bedrooms for two apartments located within the Mezzanine Level with 2 metre deep terraces/light courts measured from the right of way. Resident storage provided within the mezzanine level.
 - (c) Three storey podium is proposed, including part mezzanine (below ground), ground floor, Level 01 and Level 02 with apartment terraces primarily orientated to the east and west.
 - (d) A 3.3m x 4.5m full height light court is proposed centrally along the southern boundary.
 - (e) Levels 03-05 (upper levels) are setback as follows:
 - (i) 5m from Church Street (east).
 - (ii) 2m from right of way (west).
 - (iii) 1.5m from Berry Street (north)
 - (iv) 0m from southern boundary.
 - (f) Roof top terrace adopts similar setbacks to those outlined above with an increased setback to the ROW of 2.25m
 - (g) Stairs, lifts, bin chute access is proposed within a centrally located core to all levels.
 - (h) Plant area, including air conditioning units, are located at roof level.
 - (i) The proposed building has an overall height of 23.5m to the top of the plant and 20.3m to the building parapet when viewed from Church Street.

Design

- 16. The overall built form massing comprises a three storey podium to all boundaries and three upper levels with varied setbacks from the podium.
- 17. The upper levels will appear recessive to the podium when viewed from Church Street through a 5m upper level setback and modified architectural detail.
- 18. The building facades feature curved brick (elongated profile with off-white/cream colour) columns to east, north and west elevations, which are thicker on podium levels and thinner on the upper levels. The building also features a curved facade to the northeast and north west corners.
- 19. The façade is horizontally broken through the metal balcony balustrades and slab lines. Two different types of metal detail is employed for the balcony balustrades.

20. Clear glazing is proposed to all windows/doors.
21. A 1.6m deep canopy is proposed along the Church Street frontage.
22. Dedicated planter boxes are provided to most balconies on Levels 01 – 03, the roof terrace and the internal sides of the southern light court.



Image: Perspective of the amended proposal. Source: *Section 57a architectural plans.*

Existing Conditions

Subject Site

23. The subject site is located on the western side of Church Street, Richmond, approximately 75 metres south of Bridge Road. The Site is formally described as Plan of Consolidation 167997.
24. The Certificate of Title identifies that the Site is not affected by any easements, restrictive covenants or Section 173 Agreements.
25. The Site has a 18.29m frontage to Church Street, 28.04m frontage to Berry Street, maximum depth of 30.48m and an overall area of approximately 546m². A right of way is located immediately
26. The Site contains two, two storey commercial buildings of modern architectural style. Both buildings have historically been used for office and medical centre purposes but appear to be at least partly vacant at present. The building at 268-270 Church Street is provided with internal ground floor car parking accessed via Berry Street.

27. The two buildings on the Site generally provides a continuous two storey street wall to Church Street and Berry Street. A zero lot setback is provided adjacent the intersection of Berry Street and ROW located immediately west of the Site. Rear (western) setbacks are provided along the remainder of the western frontage, which accommodates open air, off-street car parking spaces. The rear setback of the building at 272 Church Street is approximately 12 metres.
28. The Site has a noticeable slope falling from the southwest to northeast corner, with a maximum difference in level of approximately 1.6 metres.
29. Photos of the Site are provided below.



Photos: Subject site viewed from Church Street (left) and ROW (right)

Surrounding Land

30. The Site is located within the Bridge Road Major Activity Centre (MAC). A mixture of uses, including retail, office, food and drink premises and dwellings characterise the MAC. The inner suburban locale ensures the Site is well serviced by infrastructure and public transport, including:
 - (a) Tram Route 78 – adjacent the Site.
 - (b) Tram Route 48 and 75 (Bridge Road) – 75m.
 - (c) East Richmond train station – 800m.
 - (d) West Richmond train station – 800m.
 - (e) Richmond train station – 1.0km.
 - (f) Principal bicycle network – adjacent the Site.
 - (g) Citizens Park – 250m.
31. Zoning surrounding the land is mixed and defined by:
 - (a) The Commercial 1 Zone along this section of Church Street (western side), which terminates approximately 25m south of the Site.
 - (b) Neighbourhood Residential Zone on the eastern side of Church Street, changing to Commercial 1 Zone 20m north of the Site.
 - (c) Public Park and Recreation Zone immediately west of the Site, with Neighbourhood Residential Zone further west.

32. The built form character along this section of Church Street is varied due to the a mix of commercial and residential land uses. Land on the western side of Church Street, between Hodgson Terrace and Bridge Road has a fine grain commercial character defined by single and double storey commercial buildings of varied architectural styles, including a number of heritage places. Built form is generally robust and forms a continuous streetwall to Church Street, broken by the street network.
33. The eastern side of Church Street features a mix of residential and commercial uses and buildings. Built form typically ranges between one and three storeys and typically features shadllow landscaped front setbacks with some boundary to boundary construction. Architectural styles widely vary.
34. The broader Bridge Road MAC area is undergoing built form change. Notable developments that have been approved/under construction/constructed near the Site include:
 - (a) 239-245 Church Street – 6-7 storeys (20m from the Site – under construction)
 - (b) Richmond Plaza redevelopment, maximum 11 storey development comprising shops dwellings- (90m north of the subject site - under construction).
 - (c) 242 Bridge Road – 5 storeys (50m from the site - permit issued 1 March 2018).
 - (d) 243 Bridge Road – 10 storeys (120m from the site – constructed).
 - (e) 231 Bridge Road – 7 storeys (150m from the Site – constructed).
 - (f) 209-211 Bridge Road – 8 storeys (200m from the site – constructed).
 - (g) 178-182 Bridge Road – 6 Storeys (180m from the Site – permit issued 7 May 2021).
35. The aerial image below shows the Site and immediate surrounds.



Image: Aerial image of the Site and immediate surrounds. Source: *Nearmp*, 2021.

36. The immediate interfaces of the Site are described below:

East

37. To the east of the Site is Church Street, which has a width of approximately 20 metres. The mixed residential and commercial built form character on the eastern side has been described above in paragraph 32. The 6 storey development currently under construction at 239-245 Church Street represents the start of the Bridge Road MAC on the eastern side of the road.



Photos: Existing residential properties opposite the Site on the eastern side of Church Street

South

38. The land to the south of the Site, 274 Church Street, is occupied by a single storey, fine grain commercial building. The building is used as wine bar (Atlas Vinifera, holding a general liquor licence). The sale and consumption of liquor is limited to between 10am and 11pm with a maximum patron capacity of 35 persons (PLN16/0328). A courtyard is located within the rear setback of the building, together with an area for off-street car parking.

39. Further south, 276 Church Street is occupied by a single storey individually significant commercial building. 278-280 Church Street is occupied by a two storey modern building with a dual vaulted roof form.



Photos: Two commercial building at 278-280 Church Street (left) and single storey commercial buildings at 274 and 276 Church Street (right)

West

40. A 4m wide ROW is located immediately west of the Site, which provides a connection between Hodgson Terrace and Berry Street.

41. Beyond the ROW is Ben Alexander Reserve, which extends between Berry Street and Hodgson Street. The reserve is approximately 18m in width and depth of 44 metres, which is broken by a central laneway servicing the rear of residential properties further west. The reserve features informal open space areas bordered by planter beds containing a predominantly native species palette. A number of mature trees are scattered throughout the reserve, particularly to the south.
42. Predominantly single storey detached/attached dwellings characterise land further west of the reserve, which front Hodgson and Berry Streets.



Photos: Ben Alexander Reserve viewed from Berry Street (left) and existing dwelling along Berry Street (right)

North

43. To the north of the Site is Berry Street, which measures approximately 5.4 metres in width. The narrow width of Berry Street accommodates one way traffic movement (west bound only) and is bordered by two narrow footpaths.
44. The land opposite the Site, 264 Church Street, is occupied by a double fronted commercial building that is contributory to the Church Street heritage precinct. This land has a rear setback which allows for off-street car parking opportunities. One to three storey commercial buildings are located further north on the western side of Church Street (south of Bridge Road).
45. The 11 storey Richmond Plaza development that is currently under construction represents the tallest built form in close proximity to the Site.



Photos: rear of 264 Church Street viewed from Berry Street (left) and commercial buildings further north of the Site along Church Street (right)

Planning Scheme Provisions

Zoning

Clause 34.01 - Commercial 1 Zone

46. The following provisions apply:
- Pursuant to Clause 34.01-1 of the Yarra Planning Scheme (the Scheme), a planning permit is not required to use the land for office, shop or food and drink premises uses, however a planning permit is required to use the land for dwellings as the frontage at ground floor exceeds 2 metres.
 - Pursuant to Clause 34.01-4, a planning permit is required to construct a building and carry out works.

Clause 36.04 - Road Zone – Category 1 (Church Street road reserve)

47. The following provisions apply:
- Pursuant to Clause 36.04-2 of the Scheme, a planning permit is required to construct a building or construct or carry out works for a Section 2 use under Clause 36.09-1.

Overlays

Clause 43.02 - Design and Development Overlay (Schedule 21)

48. The subject site is affected by the Design and Development Overlay (Schedule 21). Pursuant to Clause 43.02-2, a planning permit is required to construct a building or construct or carry out works. Schedule 21 provides comprehensive design guidelines and built form controls. The Site is located within Precinct 1 (Bridge Road West). The key quantitative built controls for Precinct 1 that are relevant to the Site are outlined in the following table:

Item	DDO21- Precinct 1 Built form Controls
Discretionary maximum building height	15m
Mandatory maximum building height	N/A
Mandatory maximum street wall height	N/A
Preferred maximum street wall height (Church Street)	11m
Preferred maximum street wall height (Berry Street)	N/A
Discretionary min. upper level setback (Church Street)	6m
Discretionary sightline diagram (measured from opposite footpath along Church Street)	The part of the building above the street wall must occupy <u>no more than one third</u> of the vertical angle defined by the whole building in the view from a sight line at a height of 1.7 metres above the footpath (on the opposite side of the street)
Rear (west) setback	N/A

49. The application will be assessed against these controls in the assessment section of this report.

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

50. 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.

51. 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*

52. 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.

53. A planning permit is not required for works under the overlay. The requirements of the DCPO have been included as a condition in the recommendation.

Particular Provisions

Clause 52.06- Car parking

54. The site is located within the Principal Public Transport Network Area, therefore the parking rates in Column B of Clause 52.06-5 apply. Under the provisions of Clause 52.06-5 of the Yarra Planning Scheme, the development's parking requirements are as follows:

Proposed Use	Quantity/ Size	Statutory Parking Rate*	No. of Spaces Required	No. of Spaces Allocated
1 bedroom apartment	2	1 per dwelling	2	34 (+3)
2 bedroom apartment	9	1 per dwelling	9	
3 bedroom apartment	10	2 per dwelling	20	
Shop / Food and drink premises (noting office has a lesser rate)	173 (including 24m ² BOH)	3.5 spaces per 100 m ² of leasable floor area	6	0
Total			37 Spaces	34 Spaces

55. Pursuant to clause 52.06-3, a planning permit is required to reduce 3 car parking spaces.

Clause 52.34 - Bicycle facilities

56. Pursuant to Clause 52.34-1, a new use must not commence until the required bicycle facilities and associated signage are provided on the land. The following table identifies the bicycle parking requirement under Clause 52.34-3 and the provision on site.

Proposed Use	Quantity/ Size	Statutory Parking Rate	No. of Spaces Required	No. of Spaces Allocated
Dwellings	21	1 space per 5 dwellings for residents 1 space per 10 dwellings for visitors	4 x resident 2 x visitor	21 - internal for residents
Office	140 sqm	1 employee space to each 300 sqm of net floor area if the net floor area exceeds 1000 sqm	1 x employee	2 – visitor spaces to frontage
		1 visitor space to each 1000 sqm of net floor area if the net floor area exceeds 1000 sqm	N/A	

Bicycle Parking Spaces Total		7 spaces	23 spaces
Showers / Change rooms	1 to the first 5 employee spaces and 1 to each additional 10 employee spaces	0 showers / change rooms	0

57. The proposal includes 23 bicycle spaces in total, thus significantly exceeding the minimum statutory requirement applicable to the proposal and accordingly no permit is required under this Clause.

Clause 58 - Apartment Developments

58. The provisions of Clause 58 apply to an application to construct or extend an apartment development if the development is five or more storeys within the Commercial 1 Zone. A development must meet all of the objectives and should meet all of the standards of the Clause.

Clause 53.18 – Stormwater Management in Urban Development

59. 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

60. 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 contained in this report.

Planning Policy Framework (PPF)

61. Relevant clauses are as follows:

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

62. 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)

63. 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.*

13.05-1S (Noise abatement)

64. The objective is:

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

Clause 15.01 (Built Environment)
Clause 15.01-1S (Urban design)

65. 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)

66. The objective is:

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

Clause 15.01-2S (Building design)

67. 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.*

68. Relevant strategies of this clause are:

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

69. 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 15.01-5S (Neighbourhood character)

70. The relevant objective of this clause is:

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

71. Relevant strategies are:

- (a) *Support development that respects the existing neighbourhood character or contributes to a preferred neighbourhood character.*
- (b) *Ensure the preferred neighbourhood character is consistent with medium and higher density housing outcomes in areas identified for increased housing.*

- (c) *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)

72. 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 16.01-1S – Housing Supply

73. The objective of this clause is:

- (a) *To facilitate well-located, integrated and diverse housing that meets community needs.*

74. Strategies for this clause are:

- (a) *Ensure that an appropriate quantity, quality and type of housing is provided, including aged care facilities and other housing suitable for older people, supported accommodation for people with disability, rooming houses, student accommodation and social housing.*
- (b) *Increase the proportion of housing in designated locations in established urban areas (including under-utilised urban land) and reduce the share of new dwellings in greenfield, fringe and dispersed development areas.*
- (c) *Encourage higher density housing development on sites that are well located in relation to jobs, services and public transport.*
- (d) *Identify opportunities for increased residential densities to help consolidate urban areas.*
- (e) *Facilitate diverse housing that offers choice and meets changing household needs by widening housing diversity through a mix of housing types.*
- (f) *Encourage the development of well-designed housing that:*
 - (i) *Provides a high level of internal and external amenity.*
 - (ii) *Incorporates universal design and adaptable internal dwelling design.*
- (g) *Support opportunities for a range of income groups to choose housing in well-serviced locations.*
- (h) *Plan for growth areas to provide for a mix of housing types through a variety of lot sizes, including higher housing densities in and around activity centres.*

Clause 16.01-1R – Housing supply- Metropolitan Melbourne

75. Relevant strategies for this clause are:

- (a) *Manage the supply of new housing to meet population growth and create a sustainable city by developing housing and mixed use development opportunities in locations that are:*
 - (i) *In and around the Central City.*
 - (ii) *Urban-renewal precincts and sites.*
 - (iii) *Areas for residential growth.*
 - (iv) *Areas for greyfield renewal, particularly through opportunities for land consolidation.*
 - (v) *Areas designated as National Employment and Innovation Clusters.*
 - (vi) *Metropolitan activity centres and major activity centres.*

- (vii) *Neighbourhood activity centres - especially those with good public transport connections.*
- (viii) *Areas near existing and proposed railway stations that can support transit oriented development.*
- (b) *Identify areas that offer opportunities for more medium and high density housing near employment and transport in Metropolitan Melbourne.*
- (c) *Facilitate increased housing in established areas to create a city of 20 minute neighbourhoods close to existing services, jobs and public transport.*
- (d) *Provide certainty about the scale of growth by prescribing appropriate height and site coverage provisions for different areas.*
- (e) *Allow for a range of minimal, incremental and high change residential areas that balance the need to protect valued areas with the need to ensure choice and growth in housing.*
- (f) *Create mixed-use neighbourhoods at varying densities that offer more choice in housing.*

Clause 16.01-2S – Housing affordability

76. The objective of this clause is *'to deliver more affordable housing closer to jobs, transport and services'*.

Clause 17.01 (Employment)

Clause 17.01-1S (Diversified economy)

77. The objective of this clause is:

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

78. 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)

79. The relevant objective of this clause is:

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

80. The relevant strategies of this clause is:

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

Clause 18.01 (Integrated Transport)

Clause 18.01-2S (Transport System)

81. The objective of this clause is:

(a) *To coordinate development of all transport modes to provide a comprehensive transport system.*

Clause 18.02 (Movement Networks)

Clause 18.02-1S (Sustainable personal transport)

82. The relevant objectives of this clause is:
(a) *To promote the use of sustainable personal transport.*

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

83. 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)

84. 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)

85. 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)

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 \(LPPF\)](#)

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

Clause 21.03 – Vision

89. The relevant sections of this Clause are:
(f) *Yarra will have increased opportunities for employment.*
(g) *The complex land use mix characteristic of the inner city will provide for a range of activities to meet the needs of the community.*
(h) *Yarra's exciting retail strip shopping centres will provide for the needs of local residents, and attract people from across Melbourne.*
(i) *Most people will walk, cycle and use public transport for the journey to work.*

Clause 21.04-1 Accommodation and Housing

90. The objectives of this clause are:
(a) *To accommodate forecast increases in population.*
(b) *To retain a diverse population and household structure.*
(c) *To reduce potential amenity conflicts between residential and other uses.*

Clause 21.04-2 – Activity Centres

91. Objectives and strategies include;
- (a) Objective 4 - *To maintain a balance between local convenience and regional retail roles in Yarra's activity centres.*
 - (i) *Strategy 4.2 Support the regional role of the Major Activity Centres as an important component of Yarra's economy and as a metropolitan destination.*

Clause 21.05-2 (Urban design)

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

Clause 21.05-3 (Built form character)

93. The general objective of this clause is:
- (a) *To maintain and strengthen the identified character of each type of identified built form within Yarra. The subject site is located within the 'main roads' area, where the built form objective is to "maintain the hard edge of the strip".*

94. 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)

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

Clause 21.06 (Transport)

96. This policy recognises that Yarra needs to reduce car dependence by promoting walking, cycling and public transport use as viable and preferable alternatives. Relevant objectives and strategies of this Clause are as follows:
- (a) *Objective 30 – To provide safe and convenient pedestrian and bicycle environments.*
 - (i) *Strategy 30.2 – Minimise vehicle crossovers on street frontages.*
 - (ii) *Strategy 30.3 – Use rear laneway access to reduce vehicle crossovers.*
 - (b) *Objective 31 – To facilitate public transport usage.*
 - (c) *Objective 32 – To reduce the reliance on the private motor car.*
 - (d) *Objective 33 – To reduce the impact of traffic.*
 - (i) *Strategy 33.1 Ensure access arrangements maintain the safety and efficiency of the arterial and local road network.*

Clause 21.06-1 (Walking and cycling)

97. This clause builds upon the objectives outlined at Clause 18, promoting cycling, walking and public transport as alternatives to private motor vehicle usage. The relevant objectives and strategies of this clause are:
- (a) *Objective 30 - To provide safe and convenient bicycle environments:*
 - (i) *Strategy 30.2 Minimise vehicle crossovers on street frontages.*
 - (b) *Objective 32 - To reduce the reliance on the private motor car.*
 - (c) *Objective 33 - To reduce the impact of traffic.*
 - (i) *Strategy 33.1 Ensure access arrangements maintain the safety and efficiency of the arterial and local road network.*

Clause 21.06-2 (Public transport)

98. The relevant objectives and strategies of this clause are:
- (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)

99. A relevant objective of this clause is:
Objective 32 To reduce the reliance on the private motor car.

Clause 21.07-1 (Ecologically sustainable development)

100. 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 21.08-10 – Central Richmond (Area between Bridge Road and Swan Street)

101. Clause 21.08-10 describes the Central Richmond area in the following way:
- (j) *The land use character of this neighbourhood is predominantly residential, with the area closest to Punt Road comprising early to mid-Victorian cottages and terraces, and an increasing amount of Edwardian dwellings towards the east of the neighbourhood.*

Figure 23 of Clause 21.08-10 identifies the subject site as adjacent the Bridge Road major activity centre.

Relevant Local Policies

Clause 22.03 Landmarks and Tall Structures

102. This policy applies to all development. It is policy to:
- (a) *Maintain the prominence of Yarra's valued landmark signs.*
 - (b) *Protect views to the silhouette and profile of Yarra's valued landmarks to ensure they remain as the principal built form reference.*
 - (c) *Ensure the profile and silhouette of new tall structures adds to the interest of Yarra's urban form and skyline.*
103. New buildings within the vicinity of the following landmarks should be designed to ensure the landmarks remain as the principal built reference:
- (a) *Clocktower of Richmond Town Hall.*
 - (b) *Spire of St Ignatius Cathedral, Church Street, Richmond.*
104. Development should protect views to the following landmark signs:
- (a) *Pelaco Sign (Goodwood Street, Richmond).*

Clause 22.05 (Interfaces Uses Policy)

105. This policy applies to applications within the commercial Zone (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.
106. It is policy that:
- (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 22.16 (Stormwater Management (Water Sensitive Urban Design))

107. 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)

108. This policy applies to (as relevant) the development of a non-residential building with a gross floor area of more than 100sqm and or residential buildings with 2 or more dwellings. The overarching objective is that development should achieve best practice in environmentally sustainable development from the design stage through to construction and operation. The considerations are energy performance, water resources, indoor environment quality, storm water management, transport, waste management and urban ecology.

Other documents

Plan Melbourne

109. 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.

110. 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. It is acknowledged that the application of the Mixed Use Zone can facilitate diverse housing and a greater mix of uses at varying densities.
111. The strategy promotes '20-minute neighborhoods' where there is access to local shops, schools, parks, jobs and a range of community services within a 20 minute trip from your residence.

Urban Design Guidelines for Victoria (DELWP)

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

Yarra Planning Scheme Amendment C269 – Rewrite of Local Policies

113. 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. The Amendment is currently subject to a hearing of submissions before an independent Planning Panel.
114. The revised local planning policy identifies the Site as being located within the Bridge Road MAC, as shown on the Bridge Road Activity Centre Plan. The Site is located within Precinct 1 of the proposed Johnston Street Activity Centre Plan. The relevant strategies proposed for the Bridge Road MAC are provided below:
- (a) *Promote the metropolitan and local retail and commercial roles of the activity centre, including larger format retail at its eastern end.*
 - (b) *Support the night-time economy, including the core entertainment precinct west of Burnley Street, while managing the amenity impacts associated with licensed premises.*
 - (c) *Protect primary views defined in the clause 15.01-2L to the spire of St Ignatius Cathedral, clock tower of Richmond town hall, and the Pelaco sign.*

[Planning Practice Note 30 \(potentially Contaminated Land – July 2021\)](#)

115. Accordingly to Council records, the Site has been historically been used for shop, office and medical centre purposes. Under Planning Practice Note 30 (Potentially Contaminated Land – July 2021), shop, office and medical centre uses are not listed as uses with either high or medium contamination potential. Accordingly, no environmental assessment was required to for the proposed dwellings.

Advertising

116. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 347 letters sent to surrounding owners and occupiers and by 5 signs displayed on site. Council received 37 objections, the grounds of which are summarised as follows):
- (a) Inappropriate built form and design (excessive building height, impact on built form character, insufficient upper level setbacks, DDO21 non-compliance, scale and massing, overdevelopment and precedence);
 - (b) Off-site amenity impacts (visual bulk, overshadowing, loss of daylight, loss of privacy, noise);
 - (c) Insufficient open space and landscaping;
 - (d) Inadequate internal amenity of apartments;

- (e) Traffic and parking impacts of surrounds (including laneway safety and incorrect swept path diagrams) and insufficient car parking for the proposal;
 - (f) Amenity impacts (visual and overshadowing) to Alexander Reserve;
 - (g) Impacts from construction activities;
 - (h) Negative impact on property values;
 - (i) Fire safety concerns; and
 - (j) Inconsistency with Yarra Urban Design Strategy.
117. The Section 57A amended plans reduce the scale of the proposal and therefore have not been re-advertised as they would not cause material detriment to any person. The plans, however, have been sent to the objectors with the invitations to this PDC meeting for their reference.
118. 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

119. The referral comments were received on the advertised plans. Additional referral comments were received from Council's urban design consultant, urban Design Unit, Engineering Unit, Strategic Transport Unit and Strategic Planning Unit in relation to the S57a amended plans.

External Referrals

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

Internal Referrals

121. The application was referred to the following units within Council:
- (a) Open Space Unit;
 - (b) Streetscapes and Natural Values Unit;
 - (c) Urban Design Unit;
 - (d) Engineering Unit;
 - (e) Strategic Transport Unit;
 - (f) Strategic Planning Unit;
 - (g) City Works Unit (waste);
 - (h) ESD Advisor;
 - (i) Urban design consultant (Global South); and
 - (j) Wind Consultant (MEL Consultants).
122. Referral comments have been included as attachments to this report.

OFFICER ASSESSMENT

123. The primary considerations for this application are as follows:
- (a) Strategic justification;
 - (b) Use of the land for dwellings;
 - (c) Built form and design;
 - (d) Off-site amenity impacts;
 - (e) On-site amenity, including Clause 58 and ESD;
 - (f) Car parking, traffic, access and bicycle parking;
 - (g) Development contributions; and
 - (h) Objector concerns.

Strategic Justification

124. The proposal has strong strategic planning policy support at both State and local levels. The subject site is within the C1Z and forms part of the Bridge Road Major Activity Centre (MAC). The key purpose of the C1Z is:
- (a) *To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses; and*
 - (b) *To provide for residential uses at densities complementary to the role and scale of the commercial centre.*
125. The PPF and LPPF at Clause 11.03-1S and at Clause 21.04-2 encourage the concentration of retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community and support the long term viability of activity centres.
126. Clause 11.03-1R (Activity Centres – Metropolitan Melbourne) and Clause 21.04-2 encourages development and growth in and around activity centres, with the Bridge Road MAC location supporting more intensive development. This is evident in the emerging mid-rise character in close proximity to the Site within the MAC.
127. The PPF at Clause 16.01-1R requires management of the supply of new housing to meet population growth and create a sustainable city by developing housing and mixed use development opportunities in locations that are in a MAC and areas near railway stations.
128. Consistent with the zone, the use of the land for retail uses do not require a planning permit and only the use of the land for dwellings (due to frontage condition not being met) and buildings and works are triggered by the zone and overlay provisions. This indicates strategic support for retail and office uses within the precinct, which will continue to provide activation along Church Street and part of Berry Street at both ground.
129. The development provides opportunities for new employment within the proposed retail spaces, consistent with clause 17.01-1S (Diversified Economy) and clause 17.02-1S (Business). These provisions, along with clause 21.04 (Land Use), recognise and support land uses and development that contributes to increasing *'the number and diversity of local employment opportunities'*.
130. Policy encourages the concentration of higher density developments in established areas and supports proposals, which achieve the urban growth objectives at clause 11.02-1 through the provision of a mixed-use development on land close to existing transport corridors and services. In this instance the site is located close to several public transport options with close proximity to various tram routes along Bridge Road and Church Street, Richmond East and West train stations, various nearby bus routes. A strong bike lane network also exists in close proximity to the Site. This is also consistent with clause 21.06 (Transport), which aims to reduce car dependency by promoting walking, cycling and public transport use as viable and preferable alternatives. The site's proximity to public transport assists in achieving this objective.
131. The site is located in an area suitable for redevelopment, with a proposed built form that generally includes elements of the diverse pattern of urban form found in the neighbourhood. The proposals design response references the commercial nature of the area with its design language and seeks to create a new built form character that results in no unreasonable off-site amenity impacts, improves activation/surveillance of the public realm and appropriately responds to the strategic location and policy direction for higher density built form within the MAC.
132. Having regard to the above, the proposed development of the site including 21 dwellings with a mix of typologies 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.

Use of the land for dwellings

133. A permit is required to use the land for 'dwellings' given the residential entry and common mail box area along the Church Street frontage exceeds 2m (approximately 2.7m) in width at ground level, as outlined earlier in this report.
134. The intent of this permit trigger for dwellings is to ensure ground floor interfaces in commercial areas are appropriately activated with commercial uses, as opposed to residential frontages that would otherwise weaken the commercial function and vibrancy of activity centres.
135. In this instance, the variation from the Section 1 condition is a width of approximately 0.7m when services associated with the residential use are included. The remaining 15m of the frontage to Church Street (including the proposed corner curve) will maintain activation to Church Street with two retail/office tenancy spaces. This design and land use outcome will ensure 'Church Street' contributes positively to the Bridge Road MAC, where residential use is generally limited to upper levels.
136. The residential entry and associated service area being 2.7m is considered to be appropriately limited but also of a sufficient dimension to offer a high level of internal amenity and sense of address when viewed from Church Street.
137. The two split level apartments located at the rear of the proposed ground floor are considered to provide an appropriate land use transition along Berry Street, which is exclusively residential (with the exception of Ben Alexander Reserve) in nature beyond the Site. These dwellings will also offer improved surveillance over the adjoining reserve and Berry Street compared with the existing built form configuration of the Site. Accordingly, the dwelling use components at the ground floor are considered entirely appropriate given the Site context and proposed design.

Built Form and Design

138. This section of the report considers the built form of the proposed development and is guided by decision guidelines of the Commercial 1 Zone at clause 34.01-8 and those contained in DDO21. This assessment is also based on State and local planning policy at clauses 15.01-2 – Urban design principles; 21.05 – Urban design; 22.05 – Interface Uses Policy and 22.10 – Built form and design policy.
139. All of these provisions and guidelines support a development outcome that responds to the existing or preferred urban character and provides a contextual urban design response reflective of the aspirations for the area. Particular regard must be given to the acceptability of the design in terms of height and massing, street setbacks and relationships to nearby buildings.

Site context

140. Firstly, it is important to note that the Site has public realm interfaces to Church and Berry Streets and the ROW and Ben Alexander Reserve to the west. The only common interface is to the south.
141. The built form context of the Site is described in detail in the 'Surrounding land' section of this report detailed in paragraphs 30 - 45. In summary, this section of Church Street features a contrasting built form character on each side, including:
 - (a) Western side - A commercial character generally defined by a continuous street wall of single and double storey building.
 - (b) Eastern side - A mixed residential/commercial character on the eastern side typically featuring small landscaped front setbacks for dwellings and buildings built on side boundaries. The character changes to a more robust commercial character further north and commencing at 239-245 Church Street, which features a 6-7 storey building that is currently under construction.

142. Land along Hodgson Terrace and Berry Street, west of Ben Alexander Reserve is characterised by predominantly fine grain, single storey and some double storey detached/attached dwellings.
143. Land within the roader Bridge Road MAC area is experiencing built form change, which is evident from a number of mid-rise (6-11 storey) development that have been recently constructed or under construction.
144. The St Ignatius Cathedral Spire is located approximately 250m south of the Site, while the Pelaco sign is located approximately 270m west of the Site. It is important that views to these landmarks are protected by new development.
145. The Site also has no direct abuttal with a building located the Church Street heritage precinct.

Specific DDO21 versus DDO41 controls for the Site

146. The development is assessed against the quantitative building height and setback controls of DDO21 and proposed DDO41 in the table below. However, it is important to note that the proposed DDO41 controls are ‘draft’ and subject to a live Planning Scheme Amendment process, including a pending Council response following the consultation/exhibition stage. Accordingly, greater weight should be placed on the interim controls outlined in DDO21, which are formally included in the Yarra Planning Scheme.

Item	DDO21	Proposed DDO41	Proposal	Complies?
Preferred street wall height				
• Church Street (east)	11m	11m	10.4m - 11.06m	0.06m variation
• Berry Street (north)	N/A	11m	11m – 11.7m	N/A – DDO21 No
• ROW (west)	N/A	8m	10.3m – 11m	N/A – DDO21 No
Preferred maximum building height	15m	15m	18.7 - 20.3m	No
Min. Upper level setbacks				
• Church St	6m	6m	5m	No
• Berry St	N/A (1.8m for separation)	3m	1.3m - 1.5m	N/A – DDO21 No – DDO41
• ROW	N/A	4.5m	1.8m - 2m	N/A – DDO21 No – DDO41
Common boundary (south)	N/A	N/A	No	N/A
Church Street sightline, viewed from footpath on opposite footpath	2/3 street wall 1/3 upper levels	N/A	<28% - upper levels	Yes – DDO21 N/A – DDO41

147. As demonstrated above, the proposal seeks variations from the discretionary building height and Church Street upper level setback requirements under the DDO21 interim controls. Further upper level setback variations would be required from Berry Street and the ROW, should the draft permanent DDO41 controls be approved. These variation are discussed in detail below.

Street Wall Heights

148. The specific Precinct 1 controls set out in DDO21 refer to a discretionary 11m street wall height to Church Street for the Site, due to the absence of a heritage frontage. No street wall requirements are set out for Berry Street or the rear (western) interface.
149. A Precinct 1 design requirement is to ‘*maintain and reinforce the prominence of the street wall character of Bridge Road and Church Street*’.

150. In this instance, the proposal features a street wall height ranging between 10.4 and 11.06m due to the slope of land, which would be similar in height to the existing 3 storey building at 256 Church Street. This street wall height is considered compliant with the quantitative street wall height control for Precinct 1 as well as positively reinforcing a prominent street wall to Church Street.
151. A 1m high solid metal balustrade to the Level 03 terrace area is proposed above the street wall but is setback approximately 400mm from the street edge and therefore does not contribute to the street wall as defined in DDO21. The appearance of the balustrade is also appropriately softened through planter boxes provided on the perimeter of the Level 03 terrace balustrade.
152. The street wall along Berry Street also ranges in height, measuring approximately 11.7m in height with the Level 03 balustrade adjacent the Church Street intersection and reducing to approximately 11m adjacent the intersection with the ROW.
153. It is noted that the proposed DDO41 (Amendment C291) controls specify a discretionary 11m street wall height control for the Site (Interface E). Whilst the proposal marginally exceeds this draft requirement, it is important to note that the proposal satisfies this requirement at the western end of the Site, which is most sensitive. This transition in street wall height is considered a site responsive and acceptable design approach, particularly given the slope of the natural ground level.
154. The street wall along the rear ROW ranges in height between 10.3m (south) to 11m (north). Whilst there is no specific street wall height controls for this interface in DDO21, the proposed DDO41 controls specify a discretionary 8m street wall height limit. Notwithstanding this, it is noted that the Strategic Planning unit and Council's external urban design consultant have not raised concerns with the proposed street wall height to this interface.
155. The design of the street walls feature dwelling windows, balconies and terraces fronting the western end of Berry Street and the ROW. These elements are further articulated by curved columns that are spaced every 2 metres, which help ground the building. This presentation will provide improved activation to Berry Street and the ROW when compared with the existing two storey street wall conditions on the Site (shown in the photo below).



Photo: Existing two storey street wall conditions to Berry Street and intersection with the ROW.

Building height and views to landmarks

156. The amended proposal involves the construction of a 6 storey building (with mezzanine service area). The proposal has a total building height of up to 20.3 metres when measured adjacent the intersection of the Church and Berry Streets. As demonstrated above, the proposal exceeds the preferred building height by between 3.7 and 5.3 metres, depending on where on the Site the measurement is taken.
157. From a building height perspective, DDO21 states that a permit cannot not be granted to exceed the preferred maximum building height unless all the following criteria are met:
- (a) *the built form outcome as a result of the proposed variation satisfies the Design Objectives in Clause 1.0, the Heritage Building Design Requirements and the relevant Precinct Design Requirements specified in this schedule;*
 - (b) *the proposed building height achieves the preferred future mid-rise character for the Bridge Road Activity Centre; and*
 - (c) *the proposal will achieve each of the following:*
 - (i) *greater building separation than the minimum requirement in this schedule;*
 - (ii) *housing for diverse households types, including people with disability, older persons, and families, through the inclusion of varying dwelling sizes and configurations;*
 - (iii) *universal access, and communal and / or private open space provision that exceeds the minimum standards in Clauses 55.07 and 58;*
 - (iv) *excellence for environmental sustainable design measured as a minimum BESS project score of 70%; and*
 - (v) *no additional amenity impacts to residentially zoned properties, beyond that which would be generated by a proposal that complies with the preferred building height.*
158. It is noted that the Heritage Building Design Requirements are not applicable to the Site, given it is not affected by the Heritage Overlay (HO) or located immediately adjacent to land within a HO.
159. With regard to (a) and (b), Council's urban design consultant has considered the DDO21 Design Objectives, the relevant Precinct Design Requirements and preferred future mid-rise character for the Bridge Road MAC set out in DDO21. Council's urban design consultant concluded the proposed building meets this criteria for the following reasons:
- (a) The proposed development is mid-rise in scale, and provides lower-height interfaces
 - (b) to adjoining streets and lanes.
 - (c) Whilst the Heritage Building Design Requirements do not apply to the Site, the proposal provides appropriately proportioned street walls to the public realm and uses brick in the material palette to respond to nearby heritage buildings.
 - (d) The proposal maintains a prominent street wall character along the Church Street streetscape. The design detail in conjunction with upper level setbacks/massing of the street walls reinforce the distinction between the street wall and upper levels.
 - (e) The proposed upper level setbacks and massing from Church Street meets the requirement for upper level built from visibility outside the HO.
 - (f) The proposed street wall and upper levels provides an appropriate balance of enclosure and openness in relation to the 20m wide Church Street corridor.
 - (g) The eastern side footpath of Church Street is clear of overshadowing until approximately 2:30pm, in accordance with the overshadowing requirements of DDO21.
 - (h) The built form to public interfaces is of high quality (discussed further below), with consistent materials and design articulation to both streets and the rear laneway interface, comprising brickwork, glazing, metal details and integrated planting.
 - (i) The proposal retains the visual prominence of return facades of corner buildings.

- (j) The proposal responds to the low-scale setting adjoining the activity centre through a lower-scale frontage to all interfaces including a frontage to the public open space area that provides a 'buffer' to the more established residential context to the west of the subject site.
- (k) Any visual bulk and overlooking impacts experienced at 29 Berry Street is considered to be acceptable given the MAC and C1Z context of the Site and the non-secluded nature of the front open space.
- (l) The amended proposed height of approximately 20m (south elevation) is comparable to the mandatory 18m height control applying to the immediate north of the review site, in effecting a general transition in scale downwards from Bridge Road.

160. With regard to (c), it is noted that the proposal will achieve these requirements, given that:

- (a) The building separation requirements do not apply to the amended proposal due to no windows/balconies/terraces orientated to the south boundary and Berry Street not being a laneway.
- (b) A diverse mix of one, two and three bedroom apartment typologies are proposed.
- (c) Universal access is proposed to all upper levels by graded entry from Church Street and lift, while >50% of apartments meet the accessible design standards of Clause 58.
- (d) The minimum private open space requirement in Clause 58 is met or exceeded for all dwellings. Furthermore, the proposal provides communal open space on the roof top, which is not required for development with <40 dwellings.
 - (i) The proposal achieves ESD excellence with a 72% BESS Score, subject to revisions to the SMP recommended by conditions.
 - (ii) No overshadowing will be experienced from residentially zoned properties during the Equinox. Issues of visual bulk and overlooking from the additional height are discussed above and deemed reasonable given the MAC and C1Z context of the Site.

161. DDO21 also requires development to maintain specific views to landmarks. The landmark views relevant to the Site are

- (a) *the tower belfry and spire of St Ignatius Cathedral when viewed from:*
 - (i) *the tram stop at the intersection of Victoria Street and Church Street;*
 - (ii) *the north east corner of the Bridge Road and Church Street intersection; and*
 - (iii) *Citizens Park at the entrance from Highett and Gleadell Street intersection and the central entry from Highett Street.*

162. The Applicant has effectively demonstrated that views to the tower belfry and spire of the St Ignatius Cathedral will be appropriately maintained with sections (Page 39 and 40 of the architectural plans) and perspectives (page 103-108 of the architectural plans) taken from the abovementioned views. Three of the perspective views are provided below.

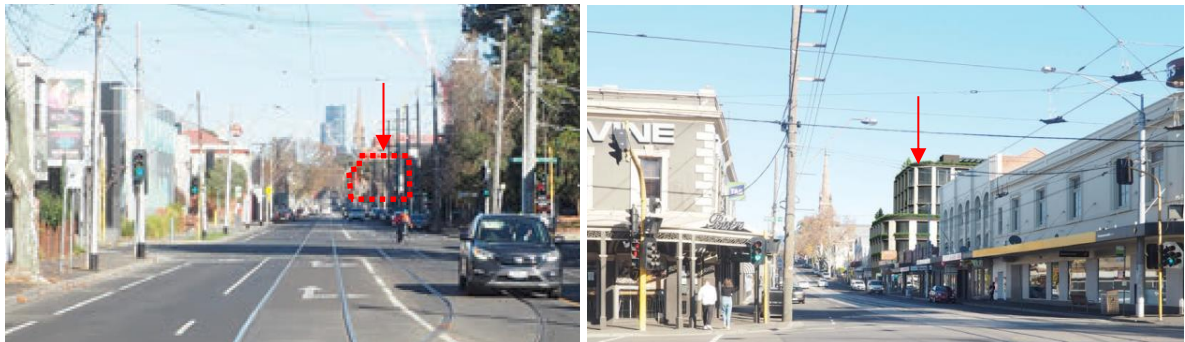




Image: Tower belly and spire of St Ignatius Cathedral views from the tram stop at the intersection of Victoria Street and Church Street (top left), north east corner of the Bridge Road and Church Street intersection (top right) and Citizens Park central entry from Highett Street

Source: S57a Architectural plans (Pages 103-108)

163. Having regard to all of the above, it is considered that the amended proposal which now proposes a 6 level building satisfies all the relevant criteria to exceed the 15m preferred building height control and will positively support the emerging mid-rise built form character of the Bridge Road MAC.

Upper level setbacks

164. The Site does not contain a heritage building, is not affected by the Heritage Overlay (HO) and does not adjoin a heritage building. The discretionary 6 metre upper level setback requirement applies to properties affected and not affected by the HO.

165. Whilst the proposed development fails to meet the minimum upper level setback requirement, it successfully achieves the preferred DDO21 building massing outcome for upper levels along Church Street. This view is also shared with Council's urban design consultant, stated above.

166. This is due the upper levels of the proposed building occupying less than 1/3 of the viewline when measured from the eastern footpath of Church Street. A sightline diagram has been prepared by the Applicant, shown in the image below, which demonstrates compliance with this requirement.

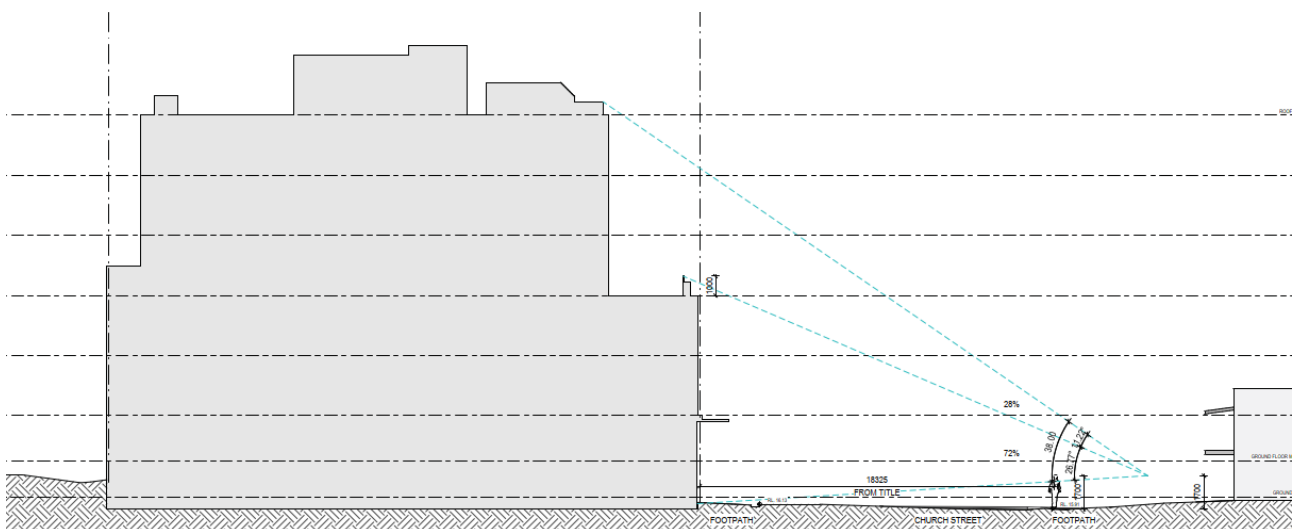


Image: Sightline diagram of proposed building viewed from the eastern footpath of Church Street.

Source: S57a Architectural Plans (Page 41)

167. The 1.5m and 2m setbacks from Berry Street and rear ROW respectively, whilst less than the Church Street setback, are nevertheless considered to appropriately contribute to the distinction between the street wall and upper levels. This is further enhanced by the different architectural treatments proposed to the street wall and upper levels, which are discussed under 'architectural quality' below.
168. The proposed DDO41 controls introduce setback controls to these two interfaces with a 3m setback above the Berry Street street wall and 4.5m setback above the street wall to the rear ROW interface. Notwithstanding this, Council's urban design consultant has not raised any concerns in relation to these setbacks and it is noted that the proposed DDO21 controls are silent on setback controls to these interfaces. It is also noted that other developments / approvals within the Bridge Road MAC feature lesser setbacks to secondary street and laneway interfaces.

Public realm interface / Pedestrian Experience

169. Both DDO21 and Clause 22.10-3.4 promote active and attractive frontages to the public domain in order to enhance public safety and the pedestrian experience.
170. The proposal involves a 2.7m wide residential entry area at southern end of the Church Street frontage. The remainder of the Church Street frontage will be activated by two retail tenancies with high floor to ceiling glazing. A condition has been included to add 400mm high plinth to each commercial tenancy to help the shopfronts better respect the existing shopfront character along this section of Church Street.
171. Vehicle access is proposed from the rear ROW and will be concealed from both Berry and Church Street frontages. A dedicated services area has been cleverly sleeved within a mezzanine level at the rear of Retail B tenancy. Further services are located behind the southern light court. To this effect, the proposal has made an excellent effort in maximising activation to Church Street.
172. The dwellings at ground level and on all upper level will also significantly increase passive surveillance and pedestrian safety to all directions within the public realm.
173. The amended proposal features a 1.6m deep canopy along the Church Street frontage with curved corners to complement the façade design. The canopy was included in the amended plans in response to comments from Council's urban design unit. The unit support the extent of the proposed canopy, however, request that the underside of the canopy is dimensioned and proposed materials clearly labelled. A condition has been recommended to address this matter.
174. Council's urban design unit have also identified an opportunity to improve pedestrian safety and accessibility along Church Street through the provision of a raised threshold crossing the intersection of Church Street and Berry Street as shown in the markup below.
175. The Applicant has agreed to undertaking this public realm improvement, subject of course to an appropriate drainage outcome, which goes above and beyond the requirements of the Yarra Planning Scheme. A condition has been recommended to ensure these works are carried out to Council's satisfaction and the developer's expense.

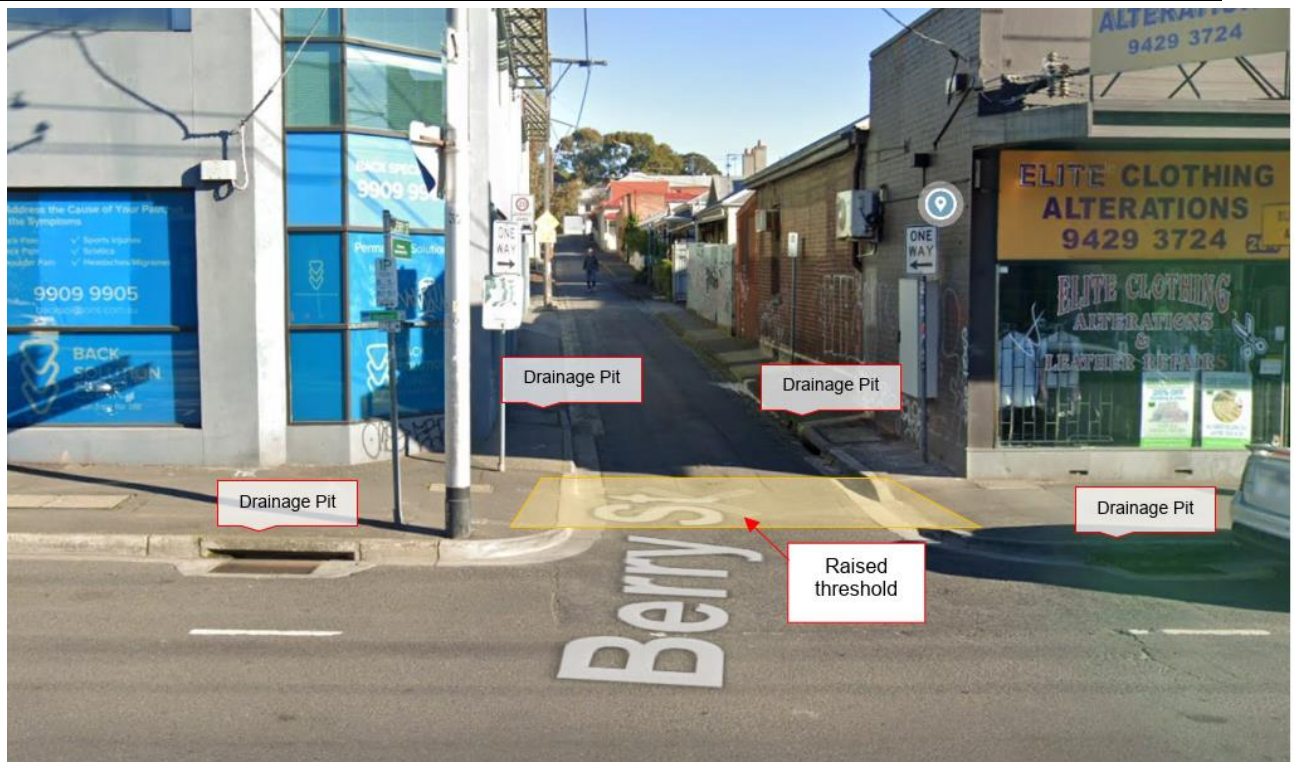


Image: Potential raised threshold crossing the intersection of Church and Berry Streets.

Source: Council's Urban Design Unit referral comments

Architectural Quality

176. Policy at clause 15.01-2S encourages high standards in architecture and urban design, whilst clause 22.10 encourages the design of new development to respect (amongst others) the pattern, spatial characteristics, fenestration, roof form and materials in the surrounding area. DDO21 also provides general building design requirements.
177. As noted earlier, an increasing degree of contemporary, mid-rise built form is emerging within the Bridge Road MAC. These developments typically provide robust, rectilinear designs, a balanced solid to void ratio to street walls with higher proportions of glazing at upper levels and flat roof forms.
178. The proposed architecture features curved brick columns (elongated brick profile with a mix of off-white/cream colours) columns to east, north and west elevations. This simple design language includes subtly thicker columns applied to the street wall to help ground the building and thinner columns to the upper levels to emphasise their recessive relationship with the street wall. The vertical rhythm of the curved columns is also horizontally broken by metal balcony balustrades, slab lines and the proposed canopy to the Church Street frontage. The use of landscaping planter boxes to the street wall levels also helps provide a subtle yet effective differentiation between street wall and upper levels, which is a building design outcome specifically sought by DDO21.
179. The proposal incorporates a restrained material and colour palette that includes the off-white/cream brick, tinted concrete to match brick colour, textured concrete with tint to match brick colour, two dark toned metal finishes and clear glazing. An image of the materials board is provided below.



Image: Proposed Colour and Material Palette. Source: S57a architectural plans (Page 100)

180. The amended plans incorporate brickwork to the southern boundary wall up to street wall height to reinforce the use of brick in the overall architectural composition and help integrate the boundary wall with other facades. The boundary wall above the street wall will feature concrete panels with expressed joints and texture to provide visual interest. The central light court also effectively create a visual break in the boundary wall with the visibility of an exposed fire stair. Council’s urban design consultant is now satisfied with the treatment of the southern boundary wall shown on the amended plans, following concerns with the original advertised plans.
181. Overall, it is considered that all sides of the proposed building will feature a high level of architectural quality and appearance. A façade strategy condition is included in the recommendation to ensure that all external finishes for the facades are executed to Council’s satisfaction, including the provision of detailed images/samples of materials/finishes to ensure a high quality finish is achieved. A further condition is recommended that requires the retention of Cera Stribley Pty Ltd for the life of the project.

Landscaping

182. Dedicated planter boxes are provided to most balconies on Levels 01 – 03, the roof terrace and the internal sides of the southern light court. It is clear that landscaping forms an integrated part of the architectural quality. This level of landscaping will not only add an extra visual dimension to the proposed building it will also help raise the standard of landscaping incorporated on mid-rise development within the surrounding area.
183. Council’s Open Space Unit have reviewed the advertised landscape concept by Tract Consultants and agreed the proposed landscaping will enhance the built. The Unit requested a more detailed landscape plans for endorsement purposes. Conditions have been recommended to ensure this detail is required, together with updated plans that reflect the changes incorporated into the S57a amended plans, including the reconfigured roof top level.
184. Council’s arborist have reviewed the proposal in relation to its interface with two existing maple street trees along Church Street. Council’s arborist have requested that a Tree Management Plan, bond payment and TPZ fencing to ensure both trees are appropriately protected during the construction process.

Site coverage

185. Greater than 95% of the Site will be covered in built form. There are no site coverage requirements set out in DDO21. Whilst the development does not achieve the recommended maximum site coverage of 80% in accordance with Clause 22.10, this is acceptable because the proposed site coverage reflects that of the existing and emerging built form commercial context of the Bridge Road MAC.

186. Having regard to the above assessment, it is considered that the proposal demonstrates substantial compliance with the policies of DDO21 and Clause 22.10 relating to built form and will contribute positively to the emerging/preferred built form character of the precinct.

Off-site amenity impacts

187. Clause 15.01-2S of the Scheme aims to provide building design that minimises the detrimental impact of development on neighbouring properties, the public realm and the natural environment, with potential impacts relating to overshadowing of SPOS, loss of daylight to windows, visual bulk, overlooking of sensitive areas and equitable development. The relevant policy framework for amenity considerations is contained within clause 22.05 (Interface uses policy) of the Scheme.
188. The subject site is zoned C1Z, as are the properties to the north and south. The land to the west is Ben Alexander Reserve, which is zoned Public Park and Recreation Zone (PPRZ). The land to the east is within the Neighbourhood Residential Zone (NRZ). An existing dwelling is located at 29 Berry Street and is located within the C1Z and included within the Richmond Hill heritage precinct (HO332). The nearest residentially zoned property is 25 Berry Street, which is approximately 13 metres to the northwest.
189. The only directly abutting lot is to the south, which is occupied by a single storey commercial building used as a licensed wine bar with outdoor seating in part of the rear setback.
190. The acceptability of off-site amenity impacts (i.e. noise, visual bulk, overlooking, overshadowing and equitable development) are considered below.

Noise

191. Policy at Clause 22.05-4.2 requires non-residential development to provide a high level of acoustic protection to adjoining properties. In this instance, the proposed commercial tenancies are to be occupied by either office/shop/food and drink premises uses, which are all Section 1 uses and do not require a permit. Acoustic impacts to the proposed dwellings is addressed later in the report under the 'On-site amenity' (Clause 58) assessment.
192. As all proposed commercial uses are Section 1 within the Commercial 1 Zone, no assessment has been made on potential off-site amenity impacts from the proposed retail tenancies.

Visual bulk

193. In the above built form analysis, the potential off-site amenity impacts by way of visual bulk to all interfaces was assessed, and found them to be appropriate and reasonable in this C1Z and MAC context. The existing dwelling at 29 Berry Street will be most affected by visual bulk, though this property is also located within the C1Z. This property is occupied by has a single storey, double fronted Victorian cottage with a shallow front setback and two habitable room windows at least 8.8 metres from the Site. The dwellings SPOS is located to the rear and therefore is not expected to experience any unreasonable visual impact from the proposal.
194. It is noted that the Site provides a generally inactive presentation to Ben Alexander Reserve highlighted by car parking and paved surfaces with timber paling fencing used to define 272 Church Street boundaries.

195. The proposal is considered to result in a significant improvement to the activation and visual surveillance to the adjoining reserve with extensive glazing and balconies/terraces with direct outlook to the reserve. Whilst there will be additional visual bulk experienced by the occupants of the reserve, this impact is considered to be appropriately tempered by the 2 metre upper level setback above the street wall, a balanced ratio of solid to void elements and high quality external materials finishes.

Overlooking

196. As discussed above, the two habitable room windows of 29 Berry Street facing south (towards the street) are located at least 8.8 metres from the Site (a photo of this dwelling is shown below). The habitable room windows and balconies/terraces of the proposed apartments are setback a minimum 400mm from the title boundaries and therefore at least 9 metres separation will be provided from the habitable room windows at 29 Berry Street. This setback increases for the upper levels. Accordingly, no screening of windows / balconies / terraces would be necessary to comply with the overlooking requirements of Clause 55.04-6 (Standard B22) and any overlooking impacts are considered entirely reasonable.



Photo: The existing dwelling at 29 Berry Street (located within the C1Z), viewed from Berry Street looking east

Overshadowing - Ben Alexander Reserve

197. Ben Alexander Reserve is located immediately west of the rear ROW and has a total area of approximately 750m², excluding the laneway that dissects the centre of the reserve. Due to the reserve's western interface to the Site, overshadowing impacts from the proposed development are limited to morning hours.

198. Ben Alexander Reserve has been designed with ‘play’ in mind and comprises play equipment, a table and bench seating on the northern portion, while the southern portion features bench seating and an informal open grassed area. Natives, including various established trees, have been planted along all borders, which reduces the areas set aside for play equipment and informal open areas (refer to images below).



Photos: North portion of the reserve, looking north from central laneway (Left) and southern portion of laneway looking south from laneway (Right)

199. DDO21 does not contain any overshadowing requirements for Ben Alexander Reserve. Clause 22.10-3.8 seeks to ensure that new development does not ‘substantially’ overshadow adjoining public facilities such as parks and gardens.
200. Council’s Open Space Strategy 2020 identifies Ben Alexander Reserve being within the Central Richmond A sub-precinct. The precinct action for this reserve is ‘continue to maintain’. Section 5.4 of the strategy details the importance of sunlight access to open space. In this section, the following recommendation is made:

No.	Recommendation	Responsibility	Priority
5.4-2	<u>Sunlight access to existing and future open space</u> Council to protect existing and new open space from additional overshadowing between 10am and 3pm on 21 June beyond that generated by the standard 9 metre built form height. Council is to implement effective controls for sunlight protection through the planning scheme.	YCC	Very High and Ongoing

201. Building on the Open Space Strategy, proposed DDO41 (Amendment C291) seeks to apply specific shadow controls Ben Alexander Reserve. The proposed discretionary requirement states:

(a) *A permit should not be granted to construct a building or construct or carry out works that would cause any additional overshadowing of the following space between 10am and 2pm at 22nd September, unless the overshadowing would not unreasonably prejudice the amenity of the public space, to the satisfaction of the responsible authority:*

(i) *Alexander Reserve.*

202. Whilst the control is not formally in the Planning Scheme, it shows Council’s clear intent to protect the amenity of the reserve.

203. Council’s Open Space Unit raised concerns regarding the proposed development and its overshadowing impact on the Reserve and referred to the non-compliance with the above recommendation of the Open Space Strategy. Winter Solstice shadow diagrams were also requested, along with a recommendation to reduce the height of the development.
204. The amended proposal has involved a reduction of the building height by one storey as discussed above. The reduction of building height has also resulted in a reduction of overshadowing to the reserve. A summary of the shadow impacts of the advertised and amended proposals on the reserve between 10:00am and 11:00am (the most relevant hour based on the proposed DDO41 control) is summarised below:

Time (am)	Overshadowing: Advertised plans (m ² / % of reserve)	Overshadowing: S57a Amended plans (m ² / % of reserve)
10:00	142m ² (18.9%)	119m ² (15.8%)
10:30	55m ² (7.3%)	46.5m ² (6.2%)
10:52	11m ² (1.46%) *No shadow on northern portion	9m ² (1.2%) *No shadow on northern portion
11:00	0m ²	0m ²

205. To visually show the location of the proposed shadow between 10:00am – 10:52am in relation to the reserve, extracts of the shadow diagrams of the S57a plans are provided below:

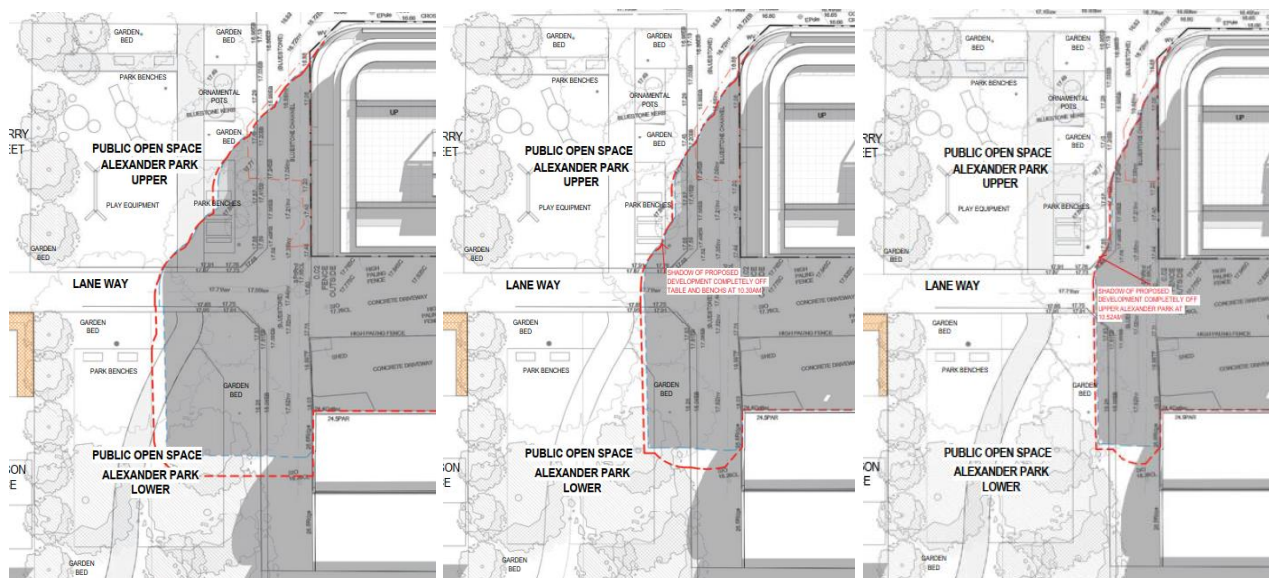


Image: Proposed shadow diagrams: 10am (left), 10:30am (middle) and 10:52am (right). Red dashed outline is the advertised proposal shadow and blue dashed outline is the amended proposal shadow. Source: S57a architectural plans (Pages 87-89)

206. It is clear that the principal shadow cast on the reserve by the amended proposal is generally limited to between 10:00am (119m²) and 10:30am (46.5m²) at the Equinox. After 10:30am, the overshadowing impact is largely limited to the eastern garden bed of the southern portion of the reserve. No shadowing impact occurs on the reserve after 11am. It is also important to understand that the shadow diagrams do not contemplate shadow impacts from the existing established trees scattered throughout the reserve.

207. It is important to note that the proposed DDO41 control for the reserve contemplates overshadowing between 10am-2pm provided it would not prejudice the amenity of the public space.
208. The Tribunal has considered overshadowing impacts of an 8 storey building at 33 Peel Street, Collingwood (PLN17/1059 – see endorsed western elevation below), which has a direct southern interface with Cambridge Reserve (a similar sized reserve as Ben Alexander Reserve with no laneway separation). This decision is helpful to understand what constitutes a reasonable amenity outcome from a shadow perspective. The endorsed building shown below features a 16.1m high wall adjoining the northern boundary of the reserve with raked upper levels beyond. The extent of additional overshadowing to this reserve ranged between 30m² and 65m² between 10:30am and 2pm. Cambridge Reserve also experienced significant existing shadow impacts from existing built form at its eastern interface.

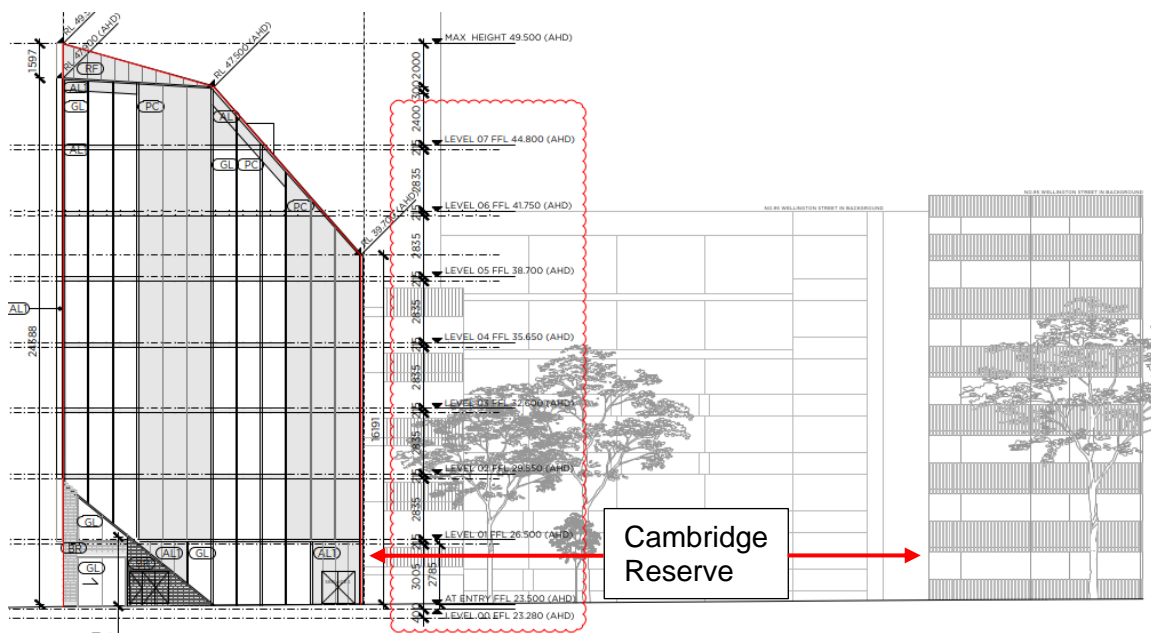


Image: Endorsed western elevation of PLN17/1059 (8 storey office building), with southern interface to Cambridge Reserve

209. In this matter, the DDO23 requirements sought to ‘minimise’ shadow impacts to Cambridge Reserve between 10am-2pm, given the reserve already had robust interfaces to the east. The Tribunal ultimately found that the loss of amenity to Cambridge Reserve from this development was reasonable, subject to carrying out improvements to the reserve (including relocation of two picnic tables to improve solar access). Member Code and Nervegna made the following conclusions regarding shadow impacts in *S& Giggles Pty Ltd v Yarra City Council* (P1315/2018):

[76] “The reserve upgrade removes or has the potential to remove any adverse amenity impact on the reserve. We will include an appropriate permit condition. We would not oppose the reserve upgrade but we would require the Council and Giggles to reconsider the location of the picnic tables and BBQ.”

[77] “Subject to the carrying out of approved reserve improvements, the proposal meets the objective and requirements relating to shadow impacts of the reserve.”

210. When considering the shadow impacts from the proposed development, the VCAT decision for the development adjacent Cambridge Reserve at 33 Peel Street, Collingwood, it is considered that the proposal will not unreasonably prejudice the amenity of Ben Alexander Reserve for the following reasons:

- (a) The reserve will enjoy excellent solar access between 10:30am – 2pm at the Equinox, noting that shadow cast at 10:30am is generally limited to garden bed areas away from key public amenity spaces such as seating, play equipment and informal 'open' space areas. The overshadowing impacts during the 30 minute period between 10:00am and 10:30am is considered to be acceptable when considering the solar access for the remainder of the day.
- (b) The proposal will not cast any overshadowing on the reserve after 11am, which will ensure all seating areas experience sunlight access during key hours during the middle of the day when picnic tables are expected most used (as referred to in the above mentioned VCAT decision).
- (c) No setback controls currently exist in the Planning Scheme for the rear ROW / reserve interface of the Site. The proposal involves a 1.8m-2m setback from the street to this interface, which also assist in reducing shadow impacts.
- (d) The proposed DDO41 shadow controls are not yet formally part of the Yarra Planning Scheme.

Overshadowing – Church Street

211. The shadow diagrams submitted depict that at the equinox, the shadows from the proposed building will not fall on the eastern footpath of Church Street before 3pm, as discussed above. Therefore, the proposal's shadow impacts to Church Street are considered acceptable, having regard to overshadowing controls set out in DDO21.

Overshadowing – private realm

212. The shadow diagrams for the amended proposal depict that at the equinox, no shadows will fall on any residentially zoned property. This is an improvement on the advertised proposal, which involved Equinox shadow impacts on residentially zoned land at 9am and 3pm.
213. It is also noted that the C1Z properties fronting Church Street south of the Site do not contain any residential uses and therefore do not incorporate habitable room windows or SPOS areas. Accordingly, the proposed shadow impacts to these properties is considered entirely acceptable based on the C1Z / MAC context.

Wind

214. The application was accompanied by a desktop wind assessment prepared by VIPAC. The report concluded that with the proposed design (advertised plans):
- (a) *Wind conditions in the ground level footpath areas and access ways would be expected to be within recommended walking comfort criterion.*
 - (b) *With recommendations, the entrances would be expected to be within the recommended standing comfort criterion.*
 - (c) *The terraces and balconies would be expected to be within recommended walking comfort criterion.*
 - (d) *With recommendations, the rooftop communal terrace is expected to have wind conditions within the recommended standing comfort criterion. No recommendation for the alteration of the design, as proposed.*
215. VIPAC recommended the relocation of northern commercial tenancy entrance away from the corner to Church Street.
216. In relation to the advertised communal rooftop terrace, VIPAC recommended that balustrades along the southern boundary be made solid and raised to 1.5m high. Additionally, the proposed planters are recommended to have a solid planter at 0.8m, with design shrubbery at 1.2m and trees to make a total height of 1.8m.

217. This wind report has been peer reviewed externally. The external wind consultant raised no concerns with the proposed analysis approach, site exposure, regional wind climate and description of the development used in the preparation of the assessment. Council's external wind consultant mostly agreed with the conclusions made stating:

“MEL Consultants would agree with the Vipac assessment of the expected wind conditions along Berry and Church Streets and the suggested relocation of the northeast entrance. MEL Consultants would agree with the assessment of satisfying the walking criterion on the Levels 3 and 6 terraces and support the recommendations for wind mitigation strategies for the roof terrace.

218. The amended plans have relocated the northeast commercial entry to a more central position along Church Street away from the corner. As a result, no further action is required in relation to this ground plane recommendation from VIPAC. A condition has been included to ensure that the wind mitigation measures for the roof level are reconsidered for the amended proposal and shown on any endorsed plans.
219. Subject to the above-mentioned conditions it is considered that wind is adequately addressed and will ensure the development would not generate safety concerns for the pedestrian wind environment.

Equitable development

220. To ensure the 'fair, orderly, economic and sustainable development of land' in accordance with the objective of the Act, matters of equitable development must be considered. In this instance, the site has a direct interface to the south. Berry Street is a narrow 5.4m wide street and a C1Z property is located on the northern side of Berry Street opposite the Site.
221. The proposed development is considered to appropriately provide for equitable development opportunities of the southern adjoining land at 274 Church Street for the following reasons:
- (a) The southern boundary wall provides an opportunity for 274 Church Street to reciprocate a boundary wall condition to the common boundary.
 - (b) The light court along the southern boundary is appropriately dimensioned (3.3m wide along the common boundary) to be easily reciprocated/ responded to without any unreasonable impact on development yield. This is due to the mid block nature and 30m depth of the land to the south resulting in any future development generally needing a central daylight source for internal amenity purposes.
222. With regard to the northern interface, the proposed DDO41 controls specify a discretionary 11m street wall control to Berry Street with a discretionary upper level setback requirement of 3m above this height. The proposal provides a 1.5m setback from Berry Street to the HRW's/balconies of apartments above the proposed three storey street wall. The separation from the centre of Berry Street is therefore approximately 4.2 metres.
223. Firstly, Berry Street is not a laneway and therefore the building separation requirements of DDO21 do not strictly apply to this interface. Whilst a typical equitable development approach would involve a 4.5m setback from the centre of Berry Street for the level above the street wall, it is noted that the land to the north could easily replicate the same upper level setback to achieve a separation distance of approximately 8.5m. Whilst marginally short of 9m, it is noted that the fine grain nature of the many allotments within the MAC has meant that a number of other developments/approvals achieve an even lesser separation outcome (for example development on narrow lots with a similar street interface such as 127 Bridge Road). Furthermore, Berry Street being a public street, together with mandatory height controls of land to the north, will ensure adequate daylight/outlook will always be available to apartment windows/balconies/terraces orientated to the north.

Accordingly, the proposed upper level setback from Berry Street is acceptable from an equitable development perspective.

On-site amenity, including Clause 58 and ESD

224. Clause 58 comprises design objectives and standards to guide the assessment of new apartment development. Given the site's location within a built up inner city residential area, strict application of the standard is not always appropriate, whether the proposal meets the objective is the relevant test. The following objectives are not relevant to this application:
- (a) *Access objectives* – There is no vehicular access or crossovers proposed at the street frontage.
 - (b) *Communal open space objective* – The proposed 21 apartments does not trigger any requirements for communal open space. However, the proposal still provides 154m² of high quality communal open space on the roof top.
 - (c) *Solar access to communal outdoor open space objective* – The proposed communal open space has excellent solar orientation with northern, eastern and western aspects.
225. As supplementary guidance, the UDGV and ADGV are also of relevance.

Urban context objective

226. The objective is to ensure that the design responds to the existing urban context or contributes to a preferred future development of the area.
227. This has been considered earlier in the report under the *Built form and heritage* assessment. The proposed development provides an acceptable design response with regard to retention of heritage values, building height, massing and detailed design, subject to the amendments shown in the 'without prejudice' sketch plans and further conditions.
228. Overall, the proposed development achieves a positive response with the emerging character along Church Street. The objective and standard are satisfied.

Standard D2 – Residential policy objectives

229. This is addressed within the *Strategic Justification* section of this report. The standard and objective are met

Standard D3 – Dwelling diversity

230. The proposed development incorporates a genuine mix of one (2), two (9) and three (10) bedroom dwellings. The standard and objective are met.

Standard D4 – Infrastructure

231. The proposal is located within an established area with existing utility services and infrastructure; there is no evidence to suggest that the proposed development would unreasonably overload the capacity of these existing services. The standard and objective is met.

Standard D5 – Integration with the street

232. As discussed above, the proposal has made a concerted effort to maximise activation to all three public interfaces of the Site by locating the vehicular entry/exit to the ROW and carefully concealing service areas away from street frontages.
233. No high fencing is proposed adjacent the public realm interfaces. The dwellings with ground level frontage feature 1m high preambles balustrades to terrace areas above a FFL that is raised up to 750mm above the natural ground level. The permeable nature of the terrace and light court balustrades will ensure they appear 'light weight' when viewed from the public realm and allow views into and out of apartments, including to the adjoining public open space.
234. The design of the upper levels incorporates high levels of glazing/openings to all three interface with the public realm, which will add significant activation/passive surveillance opportunities to the street. The proposal is considered to comply with both the standard and the objective

Standard D6 – Energy efficiency

235. Redevelopment of the site located in an existing built up area would make efficient use of existing infrastructure and services, and the proximity of the subject site to numerous public transport modes reduces staff and visitors from relying on private vehicles.
236. 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.
237. Council's ESD Advisor reviewed the submitted SMP, daylight modelling and the development plans identifying only two ESD deficiencies relating to operability of retail glazing and inadequate bike parking. The amended proposal makes significant improvements with regard to bike parking. Bike parking will be discussed later in this report. Overall, the proposal will achieve ESD excellence with a BESS score of 72%, which is highlighted by the excellent daylight, natural/cross ventilation and an 7.5 Star average NatHERS rating (well above the minimum required) outcomes for the apartments.
238. No issues were raised by Council's ESD advisor with daylight modelling of the advertised apartment living and bedroom layouts, noting that some secondary bedrooms to the southern light court receive limited daylight. The amended proposal is also expected to improve the daylight outcomes for the mezzanine bedrooms of apartment 001 and 002 by removing the 'snorkel' layout of two bedrooms and increasing glazing oriented to the ROW for all four bedrooms.
239. Conditions are included in the recommendation to require the SMP to be updated to address the additional information requested by Council's ESD Advisor, as well updates that reflect the revised apartment layouts shown on the amended plans.

Standard D9 - Safety

240. The two ground level dwellings have primary entries connecting to the communal lobby as well as secondary stepped entries to terraces fronting the ROW and Berry Street respectively. These secondary entries are surveyed by the proposed apartments above and are not obscured from public realm views.
241. The remainder of apartments will be accessed via either the communal residential entry proposed from Church Street, which has been designed to be clearly visible from the street. The objective and standard are met.

Standard D10 - Landscaping

242. As the Site is less than 750m² in area there is no requirement for deep soil areas and canopy trees per Table D2.
243. A landscape plan has been prepared by Tract, which features extensive planter boxes on balconies and terraces and associated vertical green elements. Given the absence of landscaping on the existing site, the proposed landscaping opportunities will significantly enhance the appearance of the development and the landscape character of this section of the Bridge Road MAC more generally. Accordingly, the objective and standard are met.

Standard D12 – Parking location

244. Car parking is contained within the basement levels of the development, accessed via the rear ROW. Occupants will benefit from convenient access to these spaces via the central lift and stair core. The objective and standard are met.

Standard D13 – Integrated water and stormwater management

245. The Sustainable Management Plan (SMP) prepared by SDC indicates that a 10,000L rainwater tank will be connected to toilet flushing of all apartments. A condition has been included to notate this rainwater tank capacity within the basement and that it will be connected to the toilets of all apartments for flushing.
246. The STORM report provided with the application achieves a score of 114%, which is in line with the policy direction under clause 22.16 – *Stormwater Management (Water Sensitive Urban Design)*. This complies with the objective and the standard
247. A condition is recommended to ensure the SMP and associated STORM assessment are updated to reflect the amended plans and annotate a minimum rainwater tank capacity on the plans consistent with the SMP.

Standard D14 – Building setbacks

248. As outlined earlier in this report the height and massing of the building are considered to achieve an acceptable design response to the character of the surrounding area. The public realm interfaces to the east, north and west will ensure the proposed apartments are provided with ongoing external outlook as well as excellent daylight into habitable rooms. DDO21 envisages to Church Street, Berry Street and the rear ROW, while no minimum setback is necessary to the southern interface due to the absence of habitable room windows / balconies orientated to the south.
249. This Standard also aims to avoid direct views into habitable room windows and private open space of new and existing dwellings, thereby reducing the reliance on screening to inhibit these views. This has previously been discussed above under 'off-site amenity'.

Standard D15 – Internal views

250. Solid partitions integrated with the curved columns are proposed where balconies adjoin one another on the same level to ensure privacy is provided.
251. In general, balconies are inset within the prevailing building line and are generally directly above the balcony below where replicated. Minor exceptions to this are noted at at Level 03 where a recessive setback is adopted, which results in very limited views to private open space immediately below from habitable room windows. The limited views available from habitable room windows/balconies above are considered acceptable.

252. Bedroom windows of apartments face one another for the full height of southern lightcourt. The floor plans refer to the west facing bedroom windows to feature a combination of louvre and obscure glazing treatment to manage internal views, however this detail is not shown on elevations and sections. A condition has been included to demonstrate that potential internal views from these windows are appropriately managed in accordance with the Internal View Objective.

Standard D16 – Noise impacts

253. According to VicRoads, Church Street is not a road that generates in excess of 40,000 Annual Average Daily Traffic Volume and thus does not meet the threshold for a noise influence area in Table D3 of this Standard.
254. All mechanical equipment is located on the rooftop, ground floor or basement levels basement or at ground level to appropriately minimise noise impacts. Bedrooms for all apartments are suitably separated from the central lift and stair core.
255. The site is located adjacent a wine bar at 274 Church Street. This wine bar operates with a general liquor licence that is restricted to 11pm on weekend nights and early on week nights. The Vine Hotel is a late night licensed venue situated on the corner of Church Street and Bridge Road and approximately 45 metres from the Site. A condition is recommended that an acoustic report is prepared to assess potential noise impacts on future residents of the development and make recommendations (where necessary) to appropriately treat the building. This will ensure it protects itself from existing licensed/entertainment venues within close proximity of the Site.

Standard D17 – Accessibility

256. The standard requires that at least 50% dwellings should provide;
- (a) *A clear opening width of at least 850mm at the entrance to the dwelling and main bedroom;*
 - (b) *A clear path with a minimum width of 1.2m that connects the dwelling entrance to the main bedroom, an adaptable bathroom and the living area;*
 - (c) *A main bedroom with access to an adaptable bathroom;*
 - (d) *At least one adaptable bathroom that meets all of the requirements of either Design A or Design B specified in Table D4.*
257. The amended plans demonstrate that 11 (52%) apartments have been designed to be accessible in accordance with the requirements of Standard D17, which includes a mix of 2 bedroom and 3 bedroom apartments. The objective and standard are met.
258. The two split level apartments at ground and mezzanine levels will not have universal access due to steps adjacent both entry options. This is considered reasonable given they represent less than 10% of total apartments.

Standard D18 – Building entry and circulation

259. All apartments are accessible via the glazed and sheltered entry fronting Church Street, which provides a strong sense of entry for occupants.
260. The lobby has been designed with fire stair access directly adjacent the lift entries. The fire stair has an open southern side orientated to the light court, which will also provide good daylight and outlook to encourage its use.
261. The internal circulation area of each level will have a source of natural light, ventilation and outlook via the fire stair and will also have minimum width of 1.2 metres.

Standard D19 – Private open space

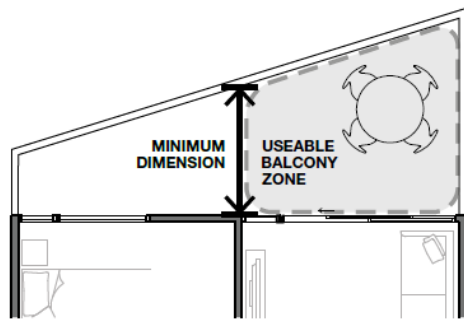
262. A dwelling should provide balconies meeting the dimensions outlined in Table 5 of this Standard. This table specifies that:

- (a) *A one bedroom dwelling should have access to a balcony with a minimum area of 8sqm and minimum dimension of 1.8m, with convenient access from a living room.*
- (b) *A two bedroom dwelling should have access to a balcony with a minimum area of 8sqm and minimum dimension of 2m, with convenient access from a living room.*
- (c) *A three bedroom dwelling should have access to a balcony with a minimum area of 12sqm and minimum dimension of 2.4m, with convenient access from a living room.*

263. Guidance is taken from the ADGV, which states:

- (a) *The additional area for an air conditioning unit does not need to meet the minimum balcony area.*
- (b) *The minimum area must be provided in a single useable space. Other balcony areas may be provided in addition.*
- (c) *Where irregular shaped balconies are proposed, only the portion of the balcony which meets the minimum dimension will be calculated towards the minimum area.*

264. The following infographic is contained within the ADGV to demonstrate the above.



Plan diagram. The minimum area provided in a single useable space.

265. All air conditioner plant equipment is proposed on the rooftop and as a result all apartment types comply with the private open space area requirements of the standard.

266. Apartments 101, 105, 201, 205, 301, 303 and 401 require variations from the minimum private open space dimension requirement of the standard. Notwithstanding this, the variations required are considered acceptable for the following reasons:

- (a) *The minimum area requirement is achieved for each apartment.*
- (b) *The open space areas still incorporate part of the open space with a minimum dimension of 2 metres to ensure good useability and function of the open space.*
- (c) *The proposed development incorporates 154m² communal open space, which equates to a generous 7m² of communal open space per apartment. This is significantly in excess of the requirements under the communal open space standard had this been applicable to the proposal.*

Standard D20 – Storage

267. The total minimum storage space (including kitchen, bathroom and bedroom storage) should meet the requirements specified in Table 6 of this Standard. This table specifies that:

- (a) *A one bedroom dwelling should have a total minimum storage volume of 10 cubic meters with a minimum storage volume within the dwelling of 5 cubic meters.*

- (b) *A two bedroom dwelling should have a total minimum storage volume of 14 cubic meters with a minimum storage volume within the dwelling of nine cubic meters.*
- (c) *A three bedroom dwelling should have a total minimum storage volume of 18 cubic meters with a minimum storage volume within the dwelling of 12 cubic meters.*

268. All apartments have been designed to exceed the minimum internal/total storage requirements outlined above. A condition of permit is recommended to ensure the 21 storage areas (4 of which are over bonnet) scattered throughout the mezzanine and basement levels are allocated.

Standard D21 – Common property

269. The common property areas within the development are clearly delineated and would not create areas which were difficult to maintain into the future. The building entrance and vehicle access areas are well conceived and are generally cohesive with the overall building design and are therefore considered to be in line with the objectives of this Standard.

Standard D22 – Site services

270. Mailboxes located adjacent the residential entry from Church Street. Site services are located within the building and generally concealed from public realm interfaces. These locations are acceptable and supported by Council's urban design unit and external urban design consultant.

Standard D23 – Waste and recycling

271. The applicant submitted a Waste Management Plan (WMP) prepared by One Mile Grid. Key waste facilities of the development include:

- (a) Provision of a combined residential and commercial waste storage room within basement Level 1, including:
 - (i) Hard waste area
 - (ii) 4 x 1,100L bins (2 x garbage, 2 x recycling)
 - (iii) 1 x 600L bin (1 x organic)
 - (iv) 3 x 360L bins (2 x glass, 1 x organic)
 - (v) Bin tug.
- (b) Private collection will occur from the rear ROW. Bin will be transported to laneway via the bin tug.
- (c) Garbage and recycling waste from residents is collected via bin chute system provided on each floor. All commercial waste and resident glass and organics will need to be transferred from individual tenancies/dwellings to the bin stores, in person.

272. Council's City Works Unit reviewed the submitted WMP, raising the following issues to be rectified by permit condition:

- (a) Council does not offer a hard waste drop off service, please check website for items accepted at the recycling centre.
- (b) A clause must be included in the plan regarding potential review into the service if operational requirements change.

273. A condition has also been included to ensure the WMP is updated to reflect the amended proposal, which results in a modest reduction of waste generation.

Standard D24 – Functional layout objective

Bedrooms

274. This standard requires that main bedrooms should have a minimum width of 3m and minimum depth of 3.4m, with other bedrooms to be 3m x 3m in dimensions (any wardrobes should be additional to this).
275. All bedrooms provided within the development meet or exceed the standard requirement.

Living areas

276. The standard states that living areas (excluding dining and kitchen areas) for a studio and one bedroom dwelling should have a minimum width of 3.3 metres and area of 10sqm, for two or more bedroom dwellings, a minimum width of 3.6 metres, with a minimum area 12sqm is to be provided.
277. All living areas provided within the development meet or exceed the standard requirement.

Standard D25 – Room depth

278. This standard requires that single aspect habitable rooms should not exceed a room depth of 2.5 times the ceiling height or 9 metres if all the following requirements are met:
- (a) *The room combines the living area, dining area and kitchen.*
 - (b) *The kitchen is located furthest from the window.*
 - (c) *The ceiling height is at least 2.7 metres measured from finished floor level to finished ceiling level.*
 - (d) *This excludes where services are provided above the kitchen.*
279. With a typical floor-to-ceiling height of approximately 2.8m and maximum room depth of 9m metres where the above criteria is met, all apartments meet the objective and standard.

Standard D26 – Windows

280. All habitable rooms within the proposed development contain a window within an external wall to the building. There are instances of living rooms and bedrooms facing onto a balcony which is covered above. However, the daylight analysis based on the advertised plans provided the Applicant indicates that worst case scenarios are acceptable and expected to improve as a result of the amended plans. Accordingly, the development is considered to meet the Objective.

Standard D27 – Natural ventilation

281. The standard requires that at least 40 percent of dwellings should be provided with effective crossover ventilation that has a maximum breeze path through the dwelling of 18m and a minimum breeze path of 5m.
282. As shown on the 'BADS apartment plans,' 16 (76%) dwellings are shown to have cross ventilation, which meet the Standard, which almost doubles the minimum requirements of the standard.

Daylight and Ventilation (commercial)

283. Extensive glazing is proposed to each commercial tenancy. Council's ESD advisor has recommended that the two commercial tenancies are provided with operable windows to allow natural ventilation. A condition is recommended to address this.

Circulation Spaces (commercial)

284. The main pedestrian entrances to the two commercial tenancies are directly from Church Street. Both tenancies also have BOH access to the central lobby provided access to basement levels.

[Car parking, traffic, access, bicycle parking and loading/unloading;](#)

Car parking reduction

285. Under clause 52.06 of the Scheme, the applicant is seeking a parking reduction of 6 car parking spaces for the commercial tenancies (and surplus of 3 spaces for dwellings), with 34 on-site car parking spaces proposed. A breakdown on the car parking requirements of the proposal and the allocation is provided in the table below:

Proposed Use	Quantity/ Size	Statutory Parking Rate*	No. of Spaces Required	No. of Spaces Allocated
1 bedroom apartment	2	1 per dwelling	2	34 (+3)
2 bedroom apartment	9	1 per dwelling	9	
3 bedroom apartment	10	2 per dwelling	20	
Shop / Food and drink premises (noting office has a lesser rate)	173 (including 24m ² BOH)	3.5 spaces per 100 m ² of leasable floor area	6	0
Total			37 Spaces	34 Spaces

286. The application seeks flexibility in relation to the designation of the two commercial tenancy uses within the building. These uses are sought to be either office/shop/food and drink premises, which are all Section 1 uses in the Commercial 1 Zone and have varied car parking rate as each other in Clause 52.06-3 (office having a lower rate). This is not considered an acceptable approach due to implications on waste management, and a condition is recommended to ensure uses are allocated for each commercial.

287. A full waiver of car parking is sought for the proposed commercial uses and surplus 3 spaces is provided for the dwellings. A total reduction of 6 car spaces for the commercial uses is sought.

288. In support of the waiver of the commercial statutory rate, a car parking demand assessment was undertaken by One Mile Grid.

289. With regards to the car parking demand generated by the proposed residential, retail/office uses, 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.

290. 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.

291. In the VCAT Red Dot Decision *Ronge v Moreland CC [2017] VCAT 550* the Tribunal made the following key statements:

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.

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.

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.

Policy tells us the future must be different.

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.

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.

Based upon the findings within this recent decision, 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.

292. Based upon the findings within these decisions, consideration needs to be given to the context and opportunities to encourage sustainable transport alternatives.
293. Council's Engineers reviewed the parking assessment undertaken by One Mile Grid and concurred with the findings. They also noted the following in support of the proposed reduction:
- (a) *Parking demand* - A staff parking demand of 1 space per 100 square metres of floor area could be adopted. Using this rate would equate to 2 spaces. This reflects the precinct approach for similar food and drink premises and acknowledges that a proportion of customers for this use will be drawn from the residents of the apartments and surrounding residences and businesses.
 - (b) *Availability of Public Transport in the Locality of the Land* - The following public transport services can be accessed to and from the site by foot:
 - (i) Church Street tram services – 70 metre walk
 - (ii) Bridge Road tram services – 85 metre walk
 - (iii) Swan Street tram services – 700 metre walk
 - (iv) West Richmond railway station – 800 metre walk
 - (v) East Richmond railway station – 820 metre walk
 - (c) *Multi-Purpose Trips within the Area* - Visitors to the site might combine their visit by engaging in other activities or business whilst in the area.
 - (d) *Convenience of Pedestrian and Cyclist Access* - The site has very good access to shops, businesses, essential facilities and public transport nodes. The site also has good connectivity to the Principal Bicycle Network.

- (e) *Availability of Car Parking* - Due to the COVID-19 restrictions, car parking occupancy surveys cannot be undertaken at this time as it would not provide an accurate representation of the 'normal' car parking demands in the surrounding area.
- (f) *Relevant Local Policy or Incorporated Document* - The proposed development is considered to be in line with the objectives contained in Council's *Strategic Transport Statement*. The site is ideally located with regard to sustainable transport alternatives and the reduced provision of on-site car parking would potentially discourage private motor vehicle ownership and use..

294. In summary, the proposed car parking reduction is supported and consistent with the intent of Clause 21.06, which seeks to reduce car dependency.

Traffic

295. In relation the additional car parking spaces accommodated on-site, Council's Engineering Unit reviewed the trip generation rates provided by One Mile Grid. The likely trip generation is outlined below:

Proposed Use	Adopted Traffic Generation Rate	Peak Hour	
		AM	PM
Residential (21 dwellings)*	0.2 trips for each peak hour	4 Trips	4 Trips

*dwellings with a car space

296. Council's engineers are satisfied that the development peak hour volumes generated by the site are low and should not adversely impact the traffic operation of the surrounding road network.

Access and layout

297. 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.

298. These details, along with the proposed ramp designs 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, which are recommended by way of conditions:

- (a) Installation of convex mirrors at the car park entrance to improve the visibility of motor traffic along the laneway.
- (b) Demonstrate that the columns and car spaces are designed to satisfy Figure 3.2 of AS/NZS 2890.1:2004.
- (c) Nominate the car stacker model and demonstrate the car stacker can be accommodated inside the car park.
- (d) Demonstrate by using a B99 design vehicle template that vehicles will not bottom-out or scrape on the pavement of the laneway or internal slab. The actual levels of the laneway are to be used.
- (e) Provide a minimum length of 2.5 metres for the 1 in 8 transition grade at the base of the 1 in 4 and 1 in 4.1 ramp sections.
- (f) Details on how vehicle passing movements would be managed. Swept path diagrams should also be provided.

(g) Details of the proposed traffic signal system shown on the architectural plans.

299. Several engineering conditions in regards to civil works, road asset protection, construction management, footpath reconstruction on Church and Berry Streets, impacts of assets on the proposed development, flood analysis of laneway and modification to car parking signage have been recommended. These conditions have been included as part of the recommendation.

300. Overall, the proposed design and configuration of access and car parking areas are considered to achieve a satisfactory outcome, subject to the conditions requested by Council’s Engineering Unit.

Bicycle parking and facilities and strategic transport

301. The Clause 52.34 statutory bicycle parking/facility requirements for the proposal are as follows:

Proposed Use	Quantity/ Size	Statutory Parking Rate	No. of Spaces Required	No. of Spaces Allocated
Dwellings	21	1 space per 5 dwellings for residents 1 space per 10 dwellings for visitors	4 x resident 2 x visitor	21 - internal for residents
Office	140 sqm	1 employee space to each 300 sqm of net floor area if the net floor area exceeds 1000 sqm	1 x employee	2 – visitor spaces to frontage
		1 visitor space to each 1000 sqm of net floor area if the net floor area exceeds 1000 sqm	N/A	
Bicycle Parking Spaces Total			7 spaces	23 spaces
Showers / Change rooms		1 to the first 5 employee spaces and 1 to each additional 10 employee spaces	0 showers / change rooms	0

302. The application substantially exceeds the planning scheme bicycle parking requirements numerically.

303. Council’s Strategic Transport Unit reviewed the layout of bicycle parking advising the following:

- (a) The bicycle hoop along Church Street must be installed as per Urban Design’s bicycle hoop standard detail.
- (b) A minimum of 21 resident and 1 employee bicycle spaces within a secure facility to meet BESS best practice standards.
- (c) *A minimum 20% of bicycle spaces must be provided as a horizontal bicycle rail.*
- (d) *Notations indicating the dimensions of bicycle spaces and relevant access ways to demonstrate compliance with Australian Standard AS2890.3 or be otherwise to the satisfaction of the responsible authority.*
- (e) *Electrical infrastructure to ensure car parking areas are ‘electric vehicle ready’, including:*
 - (i) *One or more distribution boards within each car parking basement level, with capacity to supply 1 x 7kW (32amps) electric vehicle charger for each parking space.*

- (ii) *A scalable load management system to ensure that electric vehicles are only charged when the building electrical load is below the nominated peak demand.*

304. Conditions have been included in the recommendation to address these the recommendations from Council's Strategic Transport Unit.

Development contributions

305. Schedule 1 of the Development Contributions Plan Overlay (DCPO1) applies to the proposal. The subject site is located within Charge Area 9 (Central Richmond) and a community infrastructure levy is applicable to the additional dwellings whilst the development infrastructure levy is applicable to the additional dwellings as well as the additional commercial space.

306. A condition will be included outlining the requirements for the payment of the development infrastructure levy whilst a note will be included outlining the requirements for the payment of the community infrastructure levy, in accordance with the relevant statutory requirements for each levy type.

307. Lastly, in accordance with the requirements of Clause 22.12 (Public Open Space Contribution) of the Scheme a note will be added to any permit issued reminding the applicant that a 4.5 per cent public open space contribution will apply in the event of the subdivision of the land.

Objector concerns

308. 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) *Inappropriate built form and design (excessive building height, impact on built form character, insufficient upper level setbacks, DDO21 non-compliance, scale and massing, overdevelopment and precedence);*

This is discussed within paragraphs 138 - 186.

- (b) *Off-site amenity impacts (visual bulk, overshadowing, loss of daylight, loss of privacy, noise);*

This is discussed within paragraphs 187-219.

- (c) *Insufficient open space and landscaping;*

This is discussed within paragraphs 182-184 and 242-243.

- (d) *Inadequate internal amenity of apartments;*

This is discussed within paragraphs 224 - 284.

- (e) *Traffic and parking impacts of surrounds (including laneway safety and incorrect swept path diagrams) and insufficient car parking for the proposal;*

This is discussed within paragraphs 285 - 304.

- (f) *Amenity impacts (visual and overshadowing) to Alexander Reserve;*

This is discussed within paragraphs 194-195 and 197-210.

- (g) *Impacts from construction activities;*

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.

- (h) *Negative impact on property values;*

The impact on property values is not a consideration within the Planning Scheme or the Objectives of the *Planning and Environment Act 1987*.

- (i) *Fire safety concerns;*

Issues relating to first safety are a requirement that is addressed through the building permit process.

(j) *Inconsistency with Yarra Urban Design Strategy.*

The Yarra Urban Design Strategy (2011) is a high level strategy document that was prepared to achieve good design outcomes to develop a coherent and appealing urban environment with opportunity for its continuity, growth and change. It sets out a vision, key objectives and a set of priority actions that will help improve the quality of the City's urban design in a dynamic urban environment.

This strategy sits outside of the Yarra Planning Scheme and can inform the preparation of Planning Scheme Amendments that have an urban design component. We note that the strategy is a decade old and that the background urban design studies that have informed the preparation of DDO21 (C248) and proposed DDO41 (C291) are more relevant than this strategy. An assessment against relevant DDO provisions was made under the 'built form' section of this report.

Conclusion

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

RECOMMENDATION

That having considered all objections and relevant planning policies, the Planning Decisions Committee resolves to issue a Notice of Decision to Grant a Planning Permit for construction of multi storey building, use of the land for dwellings and a reduction in the car parking requirements at 268-272 Church Street, Richmond subject to the following conditions:

Amended Plans

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the decision plans, prepared by Cera Stribley Pty Ltd (dated September 2021) but modified to show:
 - (a) Dimension the underside of the proposed canopy;
 - (b) Provision of a raised crossing threshold at the intersection of Church and Berry Street, subject to the approval from Council's Engineering and Urban Design Units;
 - (c) A minimum 400mm high plinth to each commercial tenancy;
 - (d) Notate the capacity of the rainwater tank within the basement, consistent with the SMP and annotation stating 'connected to all apartment toilets for flushing purposes'.
 - (e) Allocation of external storage areas;
 - (f) Operable windows to each commercial tenancy to allow for natural ventilation;
 - (g) Specify one use descriptions for each of the two commercial tenancies as one of the following uses office or food and drink premises;
 - (h) Bike hoop along Church Street to be installed in accordance with the City of Yarra Urban Design bicycle hoop standard detail;
 - (i) A minimum of 22 resident / employee bicycle spaces within a secure facility;
 - (j) At minimum 20% of resident / employee bicycle spaces must be provided as a horizontal bicycle rail;
 - (k) Notations indicating the dimensions of bicycle spaces and relevant access ways to demonstrate compliance with Australian Standard AS2890.3 or be otherwise to the satisfaction of the responsible authority;

- (l) Electrical infrastructure to ensure car parking areas are 'electric vehicle ready', including:
 - (i) One or more distribution boards within each car parking basement level, with capacity to supply 1 x 7kW (32amps) electric vehicle charger for each parking space.
 - (ii) A scalable load management system to ensure that electric vehicles are only charged when the building electrical load is below the nominated peak demand.
- (m) Sections and internal elevations of habitable room windows orientated to the southern light court to demonstrate treatments that satisfy the Objective of Clause 58.04-2;
- (n) Location of convex mirrors to the basement entrance to improve the visibility of motor traffic along the laneway;
- (o) Demonstrate that the columns and car spaces are designed to satisfy Figure 3.2 of AS/NZS 2890.1:2004;
- (p) Nominate the car stacker model and demonstrate the car stacker can be accommodated inside the car park;
- (q) Demonstrate by using a B99 design vehicle template that vehicles will not bottom-out or scrape on the pavement of the laneway or internal slab. The actual levels of the laneway are to be used;
- (r) Provide a minimum length of 2.5 metres for the 1 in 8 transition grade at the base of the 1 in 4 and 1 in 4.1 ramp sections;
- (s) Details on how vehicle passing movements would be managed (including Swept path diagrams);
- (t) Details of the proposed traffic signal system;
- (u) Any changes required by the amended Wind Assessment at Condition 14;
- (v) Any changes required by the amended Waste Management Plan at Condition 11;
- (w) Any changes required by the amended Sustainable Management Plan at Condition 5;
- (x) Any changes required by the Landscape Plan at Condition 21; and
- (y) Any changes required by the Acoustic Report at Condition 15.

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

Façade Strategy and Materials and Finishes Plan

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 or 1:50 illustrating typical street wall and upper level details, entries and doors;
 - (b) Section drawings to demonstrate façade systems, including fixing details and joints between materials or changes in form;
 - (c) Design of operable windows via cross-section / detailed plans (i.e. size and operability).
 - (d) A materials schedule and coloured drawings and renders outlining colours, materials and finishes and graffiti proofing of walls.
4. As part of the ongoing progress and development of the site, Cera Stribley Pty Ltd 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.

Sustainable Management Plan

- 5. In conjunction with the submission of development plans under Condition 1, an amended SMP must be submitted to and approved by the Responsible Authority. When approved, the amended SMP will be endorsed and will form part of this permit. The amended SMP must be generally in accordance with the Sustainable Management Plan dated April 2021, prepared by Sustainable Development Consultants, but updated to include the following:
 - (a) The amended proposal plans, prepared by Cera Stribley, dated September 2021.
 - (b) Maintain a minimum STORM score of 114%.
 - (c) Operable glazing to the ground floor office/retail areas to facilitate natural ventilation.
 - (d) Consistency with the WMP in relation to the bin chute system.
- 6. 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

- 7. 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 Leigh Design and dated 18 December 2021, but modified to include:
 - (a) Reference to the amended proposal as shown on the plans prepared by Cera Stribley, dated September 2021.
 - (b) A clause stating that Council does not offer a hard waste drop off service, and include website link that confirm items accepted at the recycling centre.
 - (c) A clause must be included in the plan regarding potential review into the service if operational requirements change.
- 8. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
- 9. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.

Wind Report

- 10. Before the development commences, an amended Wind Impact Assessment Report to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the amended Wind Impact Assessment Report will be endorsed and will form part of this Incorporated Document. The Wind Impact Assessment Report must be generally in accordance with the Wind Impact Assessment prepared by VIPAC, dated 11 June 2021, but modified to refer to:
 - (a) The amended proposal, including reconfigured roof terraces, shown on the plans prepared by Cera Stribley Pty Ltd, dated September 2021.
 - (b) Wind mitigation measures for the revised roof terraces.

Acoustic Report

11. In conjunction with the submission of development plans under Condition 1, an Acoustic Report to the satisfaction of the Responsible Authority must be prepared by a suitably qualified acoustic engineer and must be submitted to and approved by the Responsible Authority. When approved, the Acoustic Report will be endorsed and will form part of this permit. The Acoustic Report must assess the following:

- (a) Potential noise impacts from nearby licensed premises on the proposed dwellings.
- (b) Potential noise impacts from services on Site on the proposed dwellings.

The acoustic report must make recommendations to limit the noise impacts in accordance with the Environment Protection Authority Publication 1826 and the Environmental Protection Regulations 2021.

12. The recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.

Street Trees

13. Before the development commences, the permit holder must provide an Asset Protection Bond of \$5,000 (ex GST) for the two street trees on Church Street, unless otherwise advised by the Responsible Authority. The security bond:

- (a) must be provided to the Responsible Authority in the form of a bank cheque or guarantee;
- (b) may be held by the Responsible Authority until the works are completed to the satisfaction of the Responsible Authority; and
- (c) must be in accordance with the requirements of this permit.

14. Any pruning required to be undertaken for the street trees along the subject site's Church Street frontage must be completed by an approved tree maintenance contractor (to the satisfaction of the Responsible Authority) with all associated costs to be borne by the permit holder.

Tree Management Plan

15. In conjunction with the submission of development plans under Condition 1, a Tree Management Plan to the satisfaction of the Responsible Authority and by a suitably qualified Arborist must be submitted to and approved by the Responsible Authority. When approved the Tree Management Plan will be endorsed and will form part of the permit. The Tree Management Plan must make recommendations for:

- (a) the protection of street trees adjacent the Church Street frontage:
 - (i) pre-construction;
 - (ii) during construction; and
 - (iii) post construction
- (b) the provision of any barriers;
- (c) any pruning necessary; and
- (d) watering and maintenance regimes,

to the satisfaction of the Responsible Authority.

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

Landscape Plan

17. In conjunction with the submission of development plans under Condition 1, 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 Tract dated December 2020, but modified to include (or show):

- (a) Reference to the amended proposal as shown on the plans prepared by Cera Stribley, dated September 2021.
- (b) Planting schedule - show the type, location, quantity, height at maturity and botanical names of all proposed plants;
- (c) Ensure none of the proposed plants are shown on the *DELWP Advisory List of Environmental Weeds*;
- (d) provide details including sections and spot levels for the atrium and mezzanine gardens,
- (e) provide details on the raised planters and terrace/rooftop planting (including planter box materials and dimensions, mulch layer – something that won't blow away, growing media – suitable in weight and content for roof top gardens, filter media, irrigation method, drainage system, root barrier / water proofing layer);
- (f) provide details of the *proposed method for irrigation and drainage*;
- (g) detail the *maintenance (duration, regime) and irrigation*;
- (h) show the materiality of the proposed spaces;
- (i) provide a specification of works to be undertaken prior to planting;
- (j) detail if relevant on any sustainable treatments and water harvesting methods; and
- (k) detail plant/planting maintenance schedules and requirements.

to the satisfaction of the Responsible Authority.

18. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:

- (a) implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
- (b) not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
- (c) replacing any dead, diseased, dying or damaged plants,

all to the satisfaction of the Responsible Authority.

Car Park Management Plan

19. Before the use and development commences, a Car Park Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Car Park Management Plan will be endorsed and will form part of this permit. The Car Park Management Plan must address, but not be limited to, the following:

- (a) the number and location of car parking spaces allocated to each tenancy;
- (b) the management of visitor car parking spaces and security arrangements for occupants and employees of the development, including details on how residential visitors are to access car parking;
- (c) details of way-finding, cleaning and security of end of trip bicycle facilities;

- (d) The number and allocation of storage spaces;
- (e) policing arrangements and formal agreements;
- (f) a schedule of all proposed signage including directional arrows and signage, informative signs indicating location of disabled bays and bicycle parking, exits, restrictions, pay parking system etc; and
- (g) details regarding the management of loading and unloading of goods and materials.

20. 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.

Car parking

21. 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.

Loading and Unloading

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

23. The loading and unloading of vehicles and the delivery of goods to and from the land must be conducted entirely within the land to the satisfaction of the Responsible Authority.

Public Realm Plan

24. Within six (6) months of the commencement of the development or by such later date as is approved by the Responsible Authority, a Public Realm Works plan prepared 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 then form part of the permit. The Public Realm Works plan must show the works associated with:

- (a) A raised threshold crossing at Church Street and Berry Street intersection to be designed in accordance with relevant Council standards and be DDA compliant, including:
 - (i) Drainage details assessing overland flow coming down Berry St under a 100-year event to ensure the depth and spread of the water contained at the raised crossing does not adversely affect the surrounding properties.
- (b) All pedestrian, vehicle and bicycle footpaths, crossings, roads, drainage, infrastructure works and connections and associated landscaping (external to buildings).
- (c) Include all paving materials, surface grading and drainage and all existing/proposed fixtures such as public transport shelters, trees, seats, tactiles, handrails and litter bins.

25. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the works shown on the endorsed Public Realm Plan must be carried out and completed to the satisfaction of the Responsible Authority.

Public Lighting Plan

26. Unless the relevant Authority (i.e. CitiPower) provides written confirmation that the existing public light on pole number 194 can be retained operational during the construction period and will continue to be maintained by the relevant Authority (i.e. Citipower) after the completion of the development, within six months of the commencement of the development authorised by this Permit, or at a later date as agreed in writing by the Responsible Authority the applicant must:
- (a) Provide to Council an alternative Public Lighting Plan to the satisfaction of the Responsible Authority. The Public Lighting Plan must address lighting along Berry Street and the laneway number 808 at the rear of the property; or
 - (b) The owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority (Yarra City Council) under Section 173 of the Planning and Environment Act 1987. which provides for the following:
 - (i) The owner of the subject land is responsible for maintaining (in working order) public lighting in Berry Street and the laneway 808 at all times, at the cost of the owners of the site and to the satisfaction of the Yarra City Council;
 - (ii) The owner, or other person in anticipation of becoming the owner, must prepare and submit documentation for title amendments and meet all of the expenses of the preparation and registration of the section 173 Agreement in Land Title Office Victoria, including the costs borne by the Responsible Authority (Yarra City Council).
27. Unless the relevant authority (i.e. CitiPower) provides written confirmation that the existing public light on pole number 194 can be retained operational during the construction period prior to the commencement of construction works, the developer must submit to Yarra City Council a temporary public lighting plan for approval. The temporary lighting scheme should be working until an approved permanent lighting plan (Condition 30) becomes operational.

Road Infrastructure

28. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the following must occur:
- (a) The kerb and channel along the property's Church Street and Berry Street frontages must be reconstructed to Council's satisfaction and at the Permit Holder's cost.
 - (b) The footpath along the property's Church Street and Berry Street frontages must be reconstructed to Council's satisfaction and at the Permit Holder's cost. The footpath must have a cross-fall of 1 in 40 or unless otherwise specified by Council.
 - (c) All redundant vehicle crossings associated with the development must be demolished and reinstated with pavement and kerb and channel to Council's satisfaction and at the Permit Holder's cost
29. 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 Council.
30. 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.
31. Before the building is occupied, or by such later date as approved in writing by the responsible authority, any isolated areas of road pavement failure as a consequence of construction traffic impacts must be reconstructed:
- (a) at developer's cost;
 - (b) the satisfaction of any other relevant authority; and
 - (c) to the satisfaction of the responsible authority.
32. 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 developer's cost; 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 redundant vehicular crossing must be demolished and re-instated as standard footpath and kerb and channel:
- (a) at the developer'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, the removal of any kerbside parking sensors and any reinstatement of parking sensors will require the developer 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 developer.

General

35. The amenity of the area must not be detrimentally affected by the use or development, including through:
- (a) the transport of materials, goods or commodities to or from land;
 - (b) the appearance of any buildings, works or materials;
 - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
 - (d) the presence of vermin.
- to the satisfaction of the Responsible Authority.
36. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
37. 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.
38. 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.

39. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
40. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
41. All pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

Construction Management Plan

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

During the construction:

- (x) any stormwater discharged into the stormwater drainage system must be in compliance with Environment Protection Authority guidelines;
- (y) 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;
- (z) vehicle borne material must not accumulate on the roads abutting the land;
- (aa) the cleaning of machinery and equipment must take place on the land and not on adjacent footpaths or roads; and
- (bb) all litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly.

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

- 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; or
 - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

Development Infrastructure Levy

- 45. Prior to the commencement of the development 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 Development Infrastructure Levy within a time specified in the agreement.

Community Infrastructure Levy

- 46. Prior to the issue of a building permit, the Community 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 Community Infrastructure Levy within a time specified in the agreement.

Time Expiry

- 47. 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;
 - (c) the proposed dwelling use is not commenced 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.

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.

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.

Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.

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

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

Attachments

- 1 PLN210271 - 268-272 Church Street, Richmond - S57a plans
- 2 PLN-0271 - 268-272 Church Street, Richmond - Advertised plans consolidated referral comments
- 3 PLN21-0271 - 268-272, Richmond - S57a Consolidated referral comments

6.2 PLN19/0384.01 - 219 Gore Street, Fitzroy - Section 72 amendment for approval to construct a wall on boundary to the existing dwelling

Executive Summary

Purpose

1. This report provides Council with an assessment of the proposed amendment application to construct a wall on the southern boundary of the subject site. The report recommends approval with an additional permit condition.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Clause 54 – One Dwelling on a Lot.

Key Issues

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

Submissions Received

4. Seven objections were received to the application. These can be summarised as:
 - (a) Overshadowing of open space;
 - (b) Lack of due process;
 - (c) Impact that construction of the new wall has had on the adjacent outhouse;
 - (d) Incorrect and misleading information shown on the plans associated with the original planning permit application;
 - (e) Impact the new wall has had on the ability to attach garden features;
 - (f) Loss of parking associated with building contractors;
 - (g) That a building permit was not displayed on the subject site; and
 - (h) The impacts of construction noise and dust.
5. One letter of support was received to the application.

Conclusion

6. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported, with no change to the permit preamble and subject to the following changes to the permit conditions:

7. New condition 1 to read:

Within 3 months of the date of the amended permit (or as otherwise agreed in writing by the Responsible Authority), 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 Matt Gibson Architects but modified to show:

- (a) The western boundary wall to be shown on proposed plans and elevations, as per the previously endorsed plans.
8. The remaining conditions to be retained and subsequently renumbered.

CONTACT OFFICER: Erryn Megennis
TITLE: Statutory Planner
TEL: 0392055485

6.2 **PLN19/0384.01 - 219 Gore Street, Fitzroy - Section 72 amendment for approval to construct a wall on boundary to the existing dwelling**

Reference D21/137552
Author Erryn Megennis - Statutory Planner
Authoriser Senior Coordinator Statutory Planning

Ward: Langridge
Proposal: Section 72 amendment for approval to construct a wall on boundary to the existing dwelling
Existing use: Dwelling
Applicant: Matt Gibson Architecture & Design
Zoning / Overlays: Neighbourhood Residential Zone 1
 Heritage Overlay 166
 Development Contributions Plan Overlay
Date of Application: 05 May 2021
Application Number: PLN19/0384.01

Planning History

1. Planning Permit PLN19/0384 was issued on 09 August 2019 for the construction of a ground floor addition to the existing dwelling. Works in accordance with this permit have been completed, therefore the permit remains current. Additional works have also been undertaken on the site, including the demolition and reconstruction of part of the southern wall. These works were not approved under the original planning permit and now form the subject of this current amendment application.

Background

2. The subject site is on the Victorian Heritage Register No. HO166. Pursuant to Clause 43.01-3 of the Yarra Planning Scheme (the Scheme), a planning permit is not required *to develop a heritage place which is included in the Victorian Heritage Register, other than an application to subdivide a heritage place of which all or part is included in the Victorian Heritage Register.*
3. As such, the proposed demolition and construction of the southern boundary wall is not required to be assessed against Clause 43.01 (Heritage Overlay) or Clause 22.02 (Development Guidelines for Sites Subject to the Heritage Overlay) of the Scheme.
4. Part of the existing southern wall of the subject site is constructed within the title boundary of No. 217 Gore Street. As this property is also included on the Victorian Heritage Register (Heritage Overlay 165, Heritage Victoria Reference No. H156), a planning permit is not required for the demolition of the existing wall on boundary.
5. This application was heard at the Planning Decisions Committee (PDC) meeting held on 29 September 2021. The resolution was that the matter be deferred to the PDC Meeting on Wednesday 13 October 2021 to allow for further clarification of the height of the southern boundary wall.

Planning Scheme Amendments

Amendment C238

6. Amendment C238 was introduced into the Yarra Planning Scheme on 01 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 (note: there are some exempted sites including schools, DHHS properties and public hospitals) and it applies to all new development where there is an increase in the number of dwellings and/or an increase in retail, commercial and industrial floor space. The overlay requires a monetary contribution from the developer. However, as there is no increase in the number of dwellings, a contribution is not required in this instance.

Amendment C269

7. Amendment C269 proposes to update the local policies in the Yarra Planning Scheme by replacing the Municipal Strategic Statement (MSS) at Clause 21 and Local Planning Policies at Clause 22 with a Municipal Planning Strategy and Local Policies within the Planning Policy Framework (PPF), consistent with the structure recently introduced by the State Government.

Amendment C269 was adopted by Council on 3 August 2021 and will proceed to a panel hearing in October 2021. In relation to this current planning application, the following clause is of most relevance:

- 15.01 – 2L – Building Design

The above clause is largely reflected in current planning policy and will not be contradictory to the proposed re-write of Clauses 21 and 22.

The Proposal

8. The amendment application is for retrospective approval of a new wall on the southern boundary of the site. Further details of the proposal are as follows:

Demolition (no permit required)

- (a) Demolition of the existing 4.3m long by 2.9m high southern wall (located on both Nos. 217 and 219 Gore Street), associated with the storeroom located at the rear of the site.

Buildings and Works

- (a) Construction of a new 4.3m long by 3.1m high wall on the southern boundary of No. 219 Gore Street; and
(b) The proposed wall will be constructed of recycled red bricks.

Existing Conditions

Subject Site

9. A description of the subject site was provided in the original officer's report:

The subject site is located on the western side of Gore Street, approximately 20m south of the intersection of Moor Street in Fitzroy. The site has a 6.61m wide frontage, a depth of 30.49m, and an area of 201.9sqm. A laneway (Freeland Lane) abuts the south-west corner of the subject site, and it appears there is no rear access from the subject site to this laneway. There is a fall across the site, with the finished floor level of the existing dwelling being 0.9m above ground level towards the front of the site and 0.2m towards the rear of the dwelling. The store at the rear of the site is approximately 0.6m higher than the abutting land to the west and the laneway.

Developed on site is a two-storey, Victorian-era dwelling with an ornate front verandah and parapet. This dwelling forms a row of 6 terraces which are on the Victorian Heritage Register (HO166).

The attached dwelling is constructed along the north and south boundaries with the north-west portion of the site being private open space. The dwelling accommodates formal living, dining, kitchen, and storage areas at ground level. At first floor there is a sitting room, 2 bedrooms, and a bathroom.

There is a 1.95m high boundary fence along the north boundary; a 1.85m high fence and a 2.1m high brick wall along the west boundary and a 3m high brick wall along the south boundary.

It is also noted that the existing southern boundary wall associated with the storeroom is partially constructed over the shared boundary with No. 217 Gore Street.

10. Since that time, the construction of the ground floor addition as approved by planning permit PLN19/0384 (excepting the new southern boundary wall) has been completed.



Figure 1: View of subject site from Gore Street (Planning Officer, August 2021)

Surrounding Land

11. A description of the surrounding area was provided in the original officer's report:

The surrounding area is residential and generally consists of one and two-storey dwellings. Located on the north-east corner of George and Moor Streets (approximately 43 from the subject site) facing Moor Street are properties in a Commercial 1 Zone (as continuation from Smith Street).

To the north and west is a two-storey dwelling (No. 221 Gore Street) which forms part of the row of two-storey, Victorian-era terraces. This site is a L-shaped lot which wraps towards the rear of the subject site. The dwelling is constructed on the north and south boundaries towards the front part of the dwelling, with later extensions extending along the entire length of its north boundary, and includes a roof terrace above. A large private open space area is located, generally to the south of the existing dwelling, and contains a carport abutting the shared boundary with the subject site.

To the south is another similar two-storey Victorian-era terrace. This dwelling is constructed along the north boundary. The private open space is located at the rear (west and south) of the dwelling, and contains a small shed located in the north-west corner of the site.

To the east is Gore Street, and on the opposite side are single-storey dwellings facing Gore Street; and also the rear private open space of a dwelling located on the north-east corner of Condell and Gore Streets.

There have not been any notable changes since the previous report was written, other than the northern wall on No. 219 Gore Street's SPOS being demolished.



Figure 2: Nearmap aerial imagery of subject site and surrounds (July 2021)

Planning Scheme Provisions

Zoning

Clause 32.09 – Neighbourhood Residential Zone (Schedule 1)

12. The subject site is in the Neighbourhood Residential Zone (Schedule 1) (NRZ1). The following provisions apply:
- Pursuant to Clause 32.09-5, a planning permit is required to extend a dwelling on a lot less than 500sqm;
 - Pursuant to Clause 32.09-4, the minimum garden area provisions do not apply as the subject site area is less than 400sqm; and
 - Pursuant to Clause 32.09-10, the maximum building height must not exceed 9m or two storeys at any point.

Overlays

Clause 43.01 – Heritage Overlay, Schedule HO166

13. The subject site is affected by the Heritage Overlay, Schedule HO166. The following provisions apply:
- Pursuant to Clause 43.01-3 of the Scheme, no permit is required under this overlay:
 - To develop a heritage place which is included in the Victorian Heritage Register, other than an application to subdivide a heritage place of which all or part is included in the Victorian Heritage Register.*
 - City of Yarra Database of Heritage Areas, July 2020* – The site is on the Victorian Heritage Register No. HO166.

Clause 45.06 – Development Contributions Plan Overlay

14. The subject site is affected by the Development Contributions Plan Overlay (Schedule 1). This overlay requires developers to pay a contribution towards essential city infrastructure like roads and footpaths, as well as community facilities. The overlay is not applicable to the proposed development as the proposed works do not increase the number of dwellings on the site.

Particular Provisions

Clause 54 – One dwelling on a lot

15. This clause applies as the development is for the extension of a dwelling on a lot under 500sqm. A development should meet all the standards and must meet all the objectives.

General Provisions

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

Planning Policy Framework (PPF)

17. The following clauses are relevant to the amendment:
- (a) 15.01-2S – Building Design; and
 - (b) 15.01-5S – Neighbourhood Character.

Local Planning Policy Framework (LPPF)

18. The following clauses are relevant to the amendment:
- (a) 21.05-2 – Urban Design;
 - (b) 21.05-3 – Built Form Character; and
 - (c) Clause 21.08-7 – Fitzroy
 - (i) Clause 21.08-7 states: *Fitzroy is a mixed commercial and residential neighbourhood notable for the consistency of its Victorian streetscapes. It comprises a dense combination of residential areas, shopping precincts and commercial/ industrial activities.*

Relevant Local Policies

19. The following clauses are relevant to the amendment:
- (a) Clause 22.07 – Development Abutting Laneways.

Legislative Provisions

20. The amendment has been requested pursuant to Section 72 of the *Planning and Environment Act 1987* (the Act). Section 72 of the Act states:

- (1) *A person who is entitled to use or develop land in accordance with a permit may apply to the responsible authority for an amendment to the permit.*
- (2) *This section does not apply to—*
 - (a) *a permit or a part of a permit issued at the direction of the Tribunal, if the Tribunal has directed under section 85 that the responsible authority must not amend that permit or that part of the permit (as the case requires); or*
 - (b) *a permit issued under Division 6.*

21. The planning permit was issued on 09 August 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.
22. Section 73 of the Act states that Sections 47 to 62 of the Act apply to the amendment application. This allows the Responsible Authority to apply the abovementioned sections of the Act to the amendment application as if it was an application for a permit.

Advertising

23. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 2 letters sent to adjoining owners and occupiers. Council received 7 objections and 1 letter of support. The grounds for objection are summarised as follows:
 - (a) Overshadowing of open space;
 - (b) Lack of due process;
 - (c) Impact that construction of the new wall has had on the adjacent outhouse;
 - (d) Incorrect and misleading information shown on the plans associated with the original planning permit application;
 - (e) Impact the new wall has on the ability to attach garden features;
 - (f) Loss of parking associated with building contractors;
 - (g) A building permit was not displayed on the subject site; and
 - (h) The impacts of construction noise and dust.

Referrals

External Referrals

24. The application was not required by the Scheme to be referred to external parties

Internal Referrals

25. The application was not referred to Council's internal departments as the proposed amendments can be adequately assessed under the relevant policies and provisions of the Scheme.

OFFICER ASSESSMENT

26. The primary considerations for this application are: Clause 54 (ResCode); Objector Concerns; and Other matters.

Clause 54 – (ResCode)

27. Clause 54 comprises design objectives and standards to guide the assessment of new residential development. Given the site's location within a built-up inner-city residential area, strict application of the standard is not always appropriate, whether the proposal meets the objective is the relevant test. In considering the amendments, the following objectives and standards are not relevant:
 - (a) Standard A2 - Integration with the street – There are no changes proposed to the dwelling's existing presentation to Gore Street;
 - (b) Standard A3 - Street setback – There are no changes proposed to the existing street setback;
 - (c) Standard A5 – Site coverage – There is no change to the approved site coverage, which remains at 68.1%;
 - (d) Standard A6 – Site permeability – There is no change to the approved site permeability, which remains at 10.8%;
 - (e) Standard A7 – Energy efficiency – There are no changes proposed to the location of habitable rooms and private open space and there are no rooftop solar energy facilities on adjoining properties.

- (f) Standard A8 - Significant trees objectives – There are no significant trees on the subject site;
- (g) Standard A10 – Side and rear setbacks – There are no changes to the approved side and rear setbacks;
- (h) Standard A12 – Daylight to existing windows – The proposed southern boundary wall will not abut existing habitable room windows;
- (i) Standard A13 – North-facing windows – There are no north-facing windows within 3m of the proposed southern boundary wall;
- (j) Standard A15 – Overlooking – There are no additional habitable room windows, balconies, terraces or patios proposed as a result of this amendment application;
- (k) Standard A16 – Daylight to new windows – There are no additional habitable room windows proposed;
- (l) Standard A17 – Private open space – There are no changes proposed to the approved private open space area;
- (m) Standard A18 – Solar access to private open space – This Standard does not apply to dwelling extensions; and
- (n) Standard A20 - Front fences objective – There are no alterations proposed to the existing front fence.

The remaining objectives and standards are assessed in detail below.

Neighbourhood character (Standard A1) and Design Detail (Standard A19) objectives

28. The proposed extension continues to be located in the south-west corner of the site and is fully concealed by the existing two-storey terrace dwellings from Gore Street. The proposed southern boundary wall will be constructed with recycled heritage red bricks which is a material typical in the area (particularly for boundary walls) as evidenced by the existing northern boundary wall of the subject site and the southern boundary wall at No. 217 Gore Street, which are also constructed of brick.

Building height (Standard A4) objectives

29. The proposed southern boundary is compliant, with a maximum height of 3.1m, below the 9m maximum permissible under the Standard.

Walls on boundaries (Standard A11) objectives

30. To meet the standard any new wall constructed on the boundary should not abut a boundary for a length of more than 10m plus 25% of the remaining length of the boundary of an adjoining lot or the length of an existing or simultaneously constructed boundary wall, whichever is greater. In terms of height, new boundary walls should not exceed an average 3.2m in height with a maximum height of 3.6m at any one point, unless abutting a higher existing or simultaneously constructed wall.
31. The combined length of walls along the southern boundary is 30.4m, the same as existing conditions. The average height of the proposed southern boundary wall is 3m and the maximum height is 3.1m. The proposed southern boundary wall is therefore compliant with the Standard.

Overshadowing (Standard A14) objectives

32. This Standard applies to secluded private open space. Due to the east-west orientation of the subject site, and the laneway to the west, overshadowing impacts are limited to the secluded private open space (SPOS) of No. 217 Gore Street. The submitted shadow diagrams assess the impacts of overshadowing on the SPOS of No. 217 Gore Street at 9am, 12pm and 3pm on September 22nd.

33. These shadow diagrams were assessed against Council's overshadowing template in the computer program Objective Trapeze. At 9am, the shadow diagrams have been drawn correctly. However, at 12pm and 3pm, the extent of overshadowing appears to be marginally underestimated. Figure 3 below illustrates the extent of existing and proposed overshadowing measured in Objective Trapeze at 12pm and 3pm. The blue outline denotes existing shadow and the pink outline denotes proposed shadow.

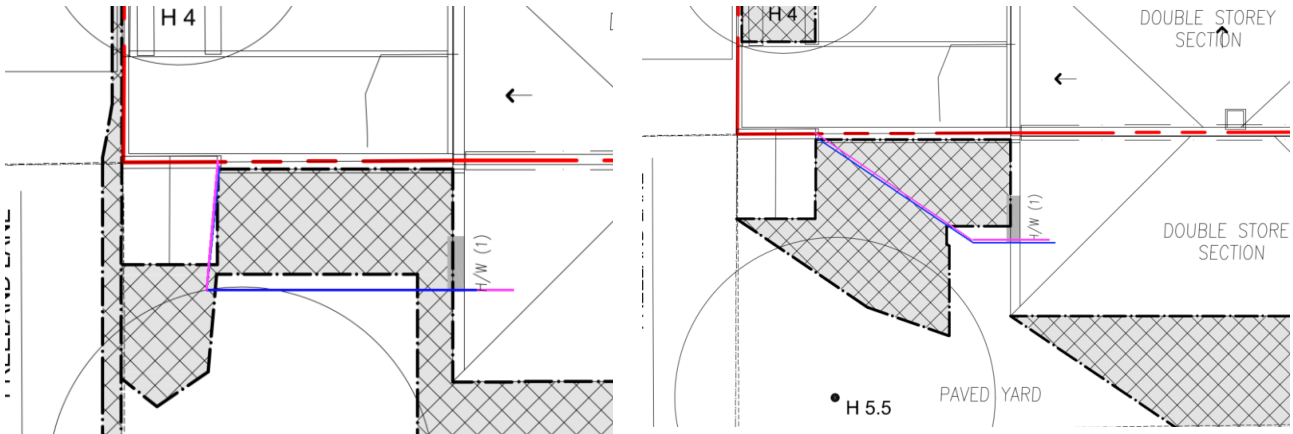


Figure 3: Overshadowing diagrams at 12pm (left) and 3pm (right)

34. The Standard requires that *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.*
35. The submitted 9am shadow diagram, as well as the diagrams prepared in Objective Trapeze demonstrate that there will be no additional overshadowing as a result of the increase in the height of the southern boundary wall. At 9am, the shadow cast by the southern boundary wall falls within the shadow footprint of existing built form. At 12pm, the extent of overshadowing matches existing conditions. At 3pm, there is a marginal reduction (less than 0.1sqm) in overshadowing.
36. The existing southern boundary wall is partially constructed over the title boundary of No. 217 Gore Street (as illustrated in Figure 4 below), and the proposed southern boundary is constructed within the title boundaries of the subject site (as illustrated in Figure 5). As such, despite an increase in height of 0.2m, the proposed southern boundary wall has been set back from existing conditions and will not result in additional overshadowing of this SPOS. The proposed southern boundary wall is therefore compliant with the Standard.

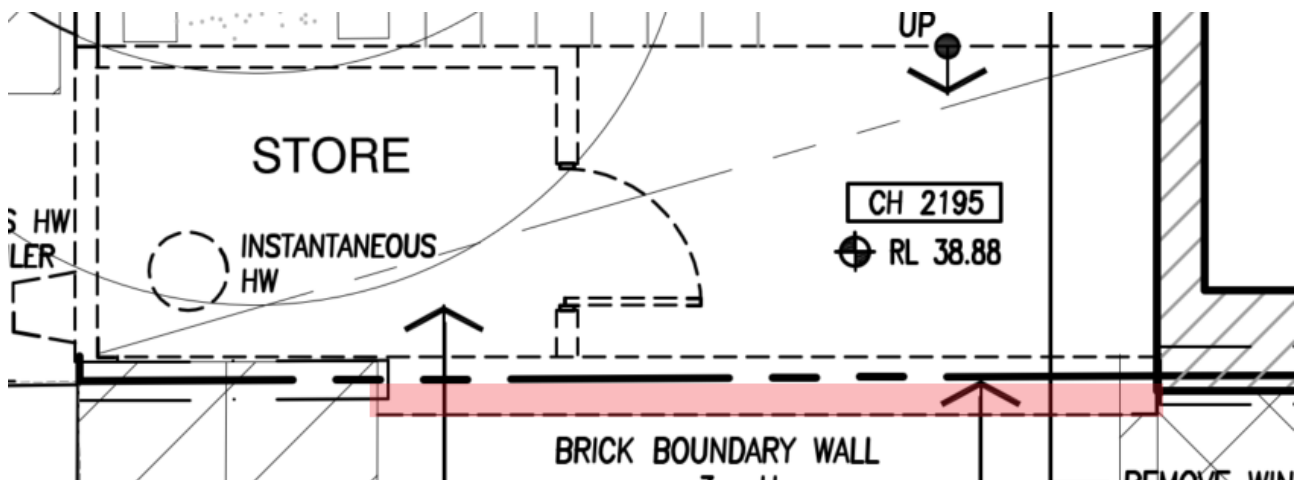


Figure 4: Existing ground floor plan showing extent of the existing southern boundary wall constructed over the title boundary (highlighted in red).

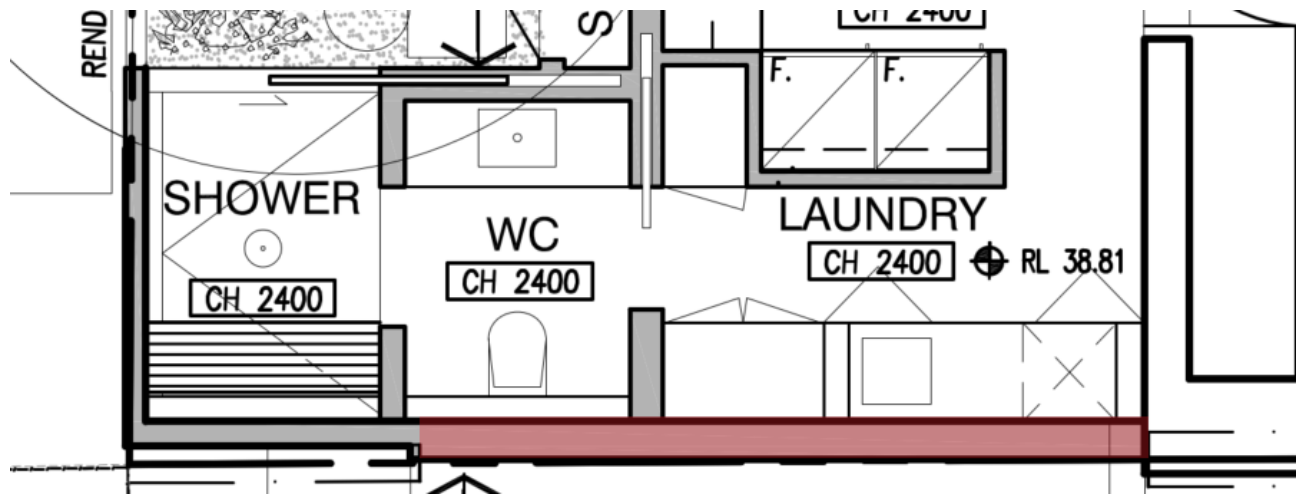


Figure 5: Proposed ground floor plan showing the extent of the proposed southern boundary wall, constructed within title boundary (highlighted in red)

Objector Concerns

37. Objector concerns have been addressed throughout this report as follows:
- (a) Overshadowing of open space - This has been discussed at paragraphs 31-35;
 - (b) Lack of due process – The *Planning & Environment Act 1987* (the Act) allows for amendments to permits, including those that are made retrospectively. In addition, this amendment application was advertised to affected parties. Therefore, the application has been processed in accordance with the obligations of the Act.
 - (c) Impact that construction of the new wall has had on the adjacent outhouse - Construction management, in relation to the damage of adjoining properties is not a planning consideration. This matter is addressed at the building permit stage.
 - (d) Incorrect and misleading information shown on the plans associated with the original planning permit application – This is not a planning consideration for the current application. However, the current plans have addressed this matter with updated demolition plans and elevations.
 - (e) Impact the new wall has on the ability to attach garden features – This is not a planning consideration.
 - (f) Loss of parking associated with building contractors – This is not a planning consideration.
 - (g) A building permit was not displayed on the subject site – This is not a planning consideration.
 - (h) The impacts of construction noise and dust – As stated previously construction management issues are not a planning consideration.

Other Matters

Western boundary wall

38. The proposed western boundary wall as shown on the proposed plans and elevations, is not shown in accordance with the endorsed plans and elevations. As changes to the western boundary wall have not been applied for under this amendment application, a condition will require the proposed plans and elevations to show the western boundary wall as per the previously endorsed plans.

Conclusion

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

RECOMMENDATION

That a Notice of Decision to Grant an amended Planning Permit PLN19/0384.01 be issued for, *the construction of a ground floor addition to the existing dwelling* at 219 Gore Street, Fitzroy VIC 3065 generally in accordance with the plans noted previously as the “decision plans” with no changes to the permit preamble and subject to the following changes to conditions:

New condition 1 to read:

1. Within 3 months of the date of the amended permit (or as otherwise agreed in writing by the Responsible Authority), 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 Matt Gibson Architects but modified to show:
 - (a) The western boundary wall to be shown on proposed plans and elevations, as per the previously endorsed plans.
- Retention and subsequent re-numbering of all other conditions.

Attachments

- 1 PLN19/0384.01 - 219 Gore St Fitzroy - Locality Map
- 2 PLN19/0384.01 - 219 Gore Street Fitzroy - Advertising S52 - Plans
- 3 PLN19/0384 - 219 Gore Street Fitzroy - Existing Planning Permit
- 4 PLN19/0384 - 219 Gore Street Fitzroy - Existing Endorsed Plans