



# Minutes

## Planning Decisions Committee

6.30pm, Wednesday 30 June 2021

MICROSOFT TEAMS

## 1. Appointment of Chair

Cr Jolly nominated Cr Crossland as chair.

There being no other nominations, Cr Crossland was elected chair.

Cr Crossland assumed the chair.

## 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 and apologies

### Councillors

Cr Edward Crossland

Cr Stephen Jolly

Cr Sophie Wade

### Council officers

Sarah Griffiths (Senior Co-Ordinator Continuous Improvement- Statutory Planning)

Chris Stathis (Senior Planner)

Rhys Thomas (Senior Governance Advisor)

Cindi Johnston (Governance Officer)

## 4. Declarations of conflict of interest

Cr Sophie Wade stated that out of an abundance of caution she wishes to declare a General Conflict of Interest in relation to the application at 45 Rose Street Fitzroy, and that she will leave the meeting when that item is considered.

Rhys Thomas declared that his wife is a Director of Urbis Pty Ltd, who are acting for the applicant for 46-52 Smith Street Collingwood and stated that his role in the meeting is purely administrative and that he has played no role in preparing the reports or officer advice.

## 5. Confirmation of Minutes

### **RESOLUTION**

**Moved:** Cr Jolly **Seconded:** Cr Crossland

1. That the minutes of the meeting of the Planning Decisions Committee held on Wednesday 9 June 2021 be confirmed.

**CARRIED**

## 6 PLANNING DECISIONS COMMITTEE

| Item |  | Page | Res.<br>Page |
|------|--|------|--------------|
| 6.1  | PLN18/0328.02 - 459 - 471 Church Street and 20 - 26 Brighton Street Richmond - Section 72 Amendment to the permit and plans to change the ground floor tenancies from restricted retail (as of right) to Food and Drinks Premises (permit required), introduce a restricted recreation premises (gym) in the basement (permit required use), introduce the sale and consumption of liquor (restaurant and cafe licence) for all Food and Drinks Premises, further reduce the car parking requirements of the Scheme and associated minor built form alterations. | 4    | 21           |
| 6.2  | PLN17/0744.02 - 196 Nicholson Street Abbotsford - Section 72 Amendment to Planning Permit No. PLN17/0744 to construct a first-floor studio above the single-storey garage at the rear of the site.   | 39   | 41           |
| 6.3  | PLN21/0042 - 46-52 Smith Street, Collingwood - Full demolition of Nos. 46 & 48 Smith Street and partial demolition of Nos. 50-52 Smith Street, construction of an 8-storey building containing office, a food and drink premise (no permit required for uses) and use of the land for restricted recreation facility (gymnasium), and a reduction in the statutory car parking requirement.  | 42   | 51           |
| 6.4  | PLN20/0747 - 1-13 Oxford St Collingwood  | 52   | 61           |
| 6.5  | PLN13/0538.01 - 45 Rose Street Fitzroy   | 62   | 68           |

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6.1      PLN18/0328.02 - 459 - 471 Church Street and 20 - 26 Brighton Street Richmond - Section 72 Amendment to the permit and plans to change the ground floor tenancies from restricted retail (as of right) to Food and Drinks Premises (permit required), introduce a restricted recreation premises (gym) in the basement (permit required use), introduce the sale and consumption of liquor (restaurant and cafe licence) for all Food and Drinks Premises, further reduce the car parking requirements of the Scheme and associated minor built form alterations.

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**Reference**      D21/57734  
**Author**          Jessica Sutherland - Statutory Planner  
**Authoriser**      Coordinator Statutory Planning

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## RECOMMENDATION

That having considered all objectives and relevant planning policies, the Committee resolve to issue a Notice of Decision to Amend a Planning Permit PLN18/0328 at No. 459 – 471 Church Street and 20 – 26 Brighton Street Richmond with the following changes:

The permit preamble to read:

In accordance with the endorsed plans:

- the use of the land for 'childcare centre' under clauses 32.08 and 34.02;
- the use of the land for Food and drinks premises (Restaurant and café) and Restricted recreation premises (gym) under clause 34.02;
- the sale and consumption of liquor on the premises (restaurant and café licence);
- the construction of a building or the construction or carrying out of works associated with a section 2 use under clause 32.08;
- the construction of a building or construction or carrying out of works under clause 34.02 and 43.02;
- alteration of access and building and works to a Road Zone Category 1 Road under clause 52.29; and
- the reduction in the number of car parking spaces under clause 52.06-3,

and subject to the following conditions.

Conditions amended as follows (**amended and new conditions in bold**):

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions and three copies must be provided.

**Building C must be generally in accordance with the architectural plans prepared by Architectus, drawing nos. DA1003, DA1004, DA1007, DA2003, DA2001A, DA2002, DA1006 and the External Finishes Schedule (dated 18 December 2020), and Buildings A and B must be generally in accordance with the architectural plans prepared by Architectus, drawing Nos. DA1002 and DA1003 (dated 25 January 2021) but modified to show:**

- (a) retention of the entirety of the existing boundary wall to 28 Brighton Street and its height shown correctly.
  - (b) the screen on the boundary to No. 28 Brighton Street deleted.
  - (c) any requirement of the endorsed Acoustic Report under condition 22 (where relevant to show on plans).
  - (d) The internal layout of the Food and drinks premises, including bathroom facilities in accordance with the Patron Capacity Report (prepared by McKenzie Group and dated 17 December 2020) and indicative seating for at least 75% of the patrons.**
  - (e) The sound lock in the Restricted recreation premise (gym) as committed to in the Acoustic Report (prepared by Cundall and dated 15 February 2021).**
  - (f) The increased width of the first floor 'link' on DA1004.**
  - (g) Ten (10) car parking spaces allocated to the staff of the Food and drinks premises, with the remainder allocated to the office uses.**
  - (h) Four (4) bicycle spaces provided in accessible locations for visitors of the Food and drinks premises and Restricted recreation premises.**
2. The use and development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
  3. As part of the ongoing consultant team, Architectus or an architectural firm to the satisfaction of the Responsible Authority must be engaged to:
    - (a) oversee the design and construction of the development; and
    - (b) ensure the design quality and appearance of the development is realised as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.

#### **Childcare Centre Use**

4. Except with the prior written consent of the Responsible Authority, the childcare centre use authorised by this permit may only operate between the hours of 7am and 7pm, Monday to Friday.
5. Except with the prior written consent of the Responsible Authority, no more than 22 staff are permitted on the land at any one time.
6. Except with the prior written consent of the Responsible Authority, no more than 104 children are permitted on the land at any one time.
7. Before the child care use commences, a Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Management Plan will be endorsed and will form part of this permit. The Management Plan must include (or show, or address):



- (a) General programs/schedules for outdoor play, accounting for discrepancies in season, which should be made publicly available for parents and neighbours.
- (b) A contact phone number for the centre's management should be made available to neighbours to facilitate communication and resolve concerns.
- (c) The number of children playing outside be limited to the numbers outlined in the acoustic report.
- (d) Noise minimisation methods to be undertaken by staff, such as comforting crying children and taking them indoors.
- (e) Details of staff training.

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

### **Food and drinks premises Use**

8. **No more than 100 patrons are permitted in Food and drinks premises 1 (FDP1) at any one time.**
9. **No more than 200 patrons are permitted in Food and drinks premises 2 (FDP2) at any one time.**
10. **No more than 130 patrons are permitted internally for Food and drinks premises 3 (FDP3) at any one time. No more than 40 patrons are permitted in the associated outdoor dining area in the ground floor courtyard and no more than 15 patrons are permitted in the associated outdoor dining area within the front setback of Shamrock Street.**
11. **No more than 80 patrons are permitted internally for Food and drinks premises 4 (FDP4) at any one time. No more than 33 patrons are permitted in the associated outdoor dining area in the ground floor courtyard.**
12. **Except with the prior written consent of the Responsible Authority, the Food and drinks premises authorised by this permit may only operate as follows:**
  - (a) **FDP1 and FDP2 between 6am and 1am (the following day), seven days a week**
  - (b) **FDP3 and FDP4 between 6am and 10pm, seven days a week.**
  - (c) **The outdoor dining areas associated with FDP3 and FDP4 between 7am and 6pm, seven days a week.**
13. **The northern windows and doorways associated with the outdoor dining areas of FDP3 and FDP4 to remain closed at 6pm on every day.**
14. **Patron ingress/egress to FDP3 to be provided only from the entry to the central lobby after 8pm on any evening.**
15. **Speakers external to the building must not be erected or used.**
16. **The predominant activity in the restaurants, at all times, must be the preparation and serving of meals for consumption by patrons on the premises, during the times that liquor is allowed to be sold and consumed under this permit.**

### **Sale and consumption of liquor**

17. **Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor (on the premises) authorised by this permit may only operate as follows:**
  - (a) **FDP1 and FDP2 between 9am and 1am (the following day), seven days a week**

- (b) FDP3 and FDP4 between 9am and 10pm, seven days a week.
  - (c) The outdoor dining areas associated with FDP3 and FDP4 between 9am and 6pm, seven days a week.
18. Before the sale and consumption of liquor commences, a Noise and Amenity Action Plan must be submitted to and approved by the Responsible Authority. When approved, the Noise and Amenity Action Plan will be endorsed and will form part of this permit. The Noise and Amenity Action Plan must include, but not be limited to, those matters outlined at Clause 22.09-4.3 of the Yarra Planning Scheme and the following:
- (a) The venues complaint procedure.
  - (b) Waste collection and management within the premises.
  - (c) Management of any outdoor areas.
  - (d) Confirmation of the permitted operating hours, patron capacity and any other relevant conditions included in the permit.
  - (e) Booking procedures and management of the ingress and egress of patrons, including directing patrons to public transport opportunities or assisting the bookings of taxis (etc).
19. The provisions recommendation and requirements of the endorsed Noise and Amenity Action Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
20. Emptying of bottles and cans into bins may only occur between 7am and 10pm on Monday to Saturday or after 9am on a Sunday or public holiday.
21. Before the commencement of the sale and consumption of liquor, the applicant must, to the satisfaction of the Responsible Authority, display a sign at the exit of the licensed premises advising patrons to respect the amenity of adjacent residential areas and to leave in a quiet and orderly manner.

**Restricted recreation premises**

22. No more than 60 patrons are permitted on the land at any one time in association with the Restricted recreation premises (gym).
23. No more than four (4) staff are permitted on the land associated with the Restricted recreation premises at any one time.
24. Except with the prior written consent of the Responsible Authority, the Restricted recreation use authorised by this permit may only operate between the hours of 5am to 11pm, seven days a week.
25. Before the Restricted recreation use commences, a Management Plan must be submitted to and approved by the Responsible Authority. When approved, the Management Plan will be endorsed and will form part of this permit. The Management Plan must include, but not be limited to, the following:
- (a) Class types, frequency of classes and maximum attendance in classes.
  - (b) Details of membership and booking procedures.
  - (c) Reception procedures and management of patrons in the morning and evening.
  - (d) Waste collection and management within the premises.

### **Sustainable Management Plan**

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

### **SMP Implementation Report**

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



### **Waste Management Plan**

- 29. The provisions, recommendations and requirements of the endorsed Waste Management Plan (prepared by Irwin Consultants and dated 9 February 2021) must be implemented and complied with to the satisfaction of the Responsible Authority.**
30. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.

### **Landscape Plan**

31. Before the development commences, an amended Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Landscape Plan will be endorsed and will form part of this permit. The amended Landscape Plan must be generally in accordance with the Landscape Plan prepared by MALA Studio prepared on 28 February 2019, but modified to include (or show, or address):
- (a) a detailed planting plan indicating the location and quantity of the species proposed;
  - (b) confirm mulch used on the higher levels is a wind tolerant material;
  - (c) further details on the raised planter beds such as information on drainage, waterproofing, irrigation and mulch;
  - (d) details on the custom furniture proposed;
  - (e) deletion of *Pennisetum clandestinum* on Plant Mix C and replacement with a suitable alternative species;
  - (f) additional details regarding the mounded planter beds such as maintenance and how to ensure there is no mulch run off from the slope of the garden bed to the adjacent paving areas;
  - (g) additional details regarding the relationship between the *Jacarada mimosifolia*, associated garden bed and decking in the courtyard including the provision of a section;
  - (h) additional details regarding the landscape feature proposed at the corner of Church and Shamrock Streets;
  - (i) deletion of where the internal paving from the courtyard is shown encroaching into the public realm and replace the public realm paving with an asphalt treatment;
  - (j) that the 300mm bluestone kerb is maintained (provide a section through that treatment);
  - (k) street tree cut outs as being 1m depth x1.5m width and sitting directly behind the bluestone pitcher;
  - (l) confirmation that there is sufficient circulation space around the eastern most proposed street tree and the building, with the minimum path of travel and deletion of any obstructions.
32. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained to the satisfaction of the Responsible Authority including by:

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

### **Tree Management Plan**

33. Before the development commences, a Tree Management Plan to the satisfaction of the Responsible Authority must be prepared by a suitably qualified Arborist and must be submitted to and approved by the Responsible Authority. When approved the Tree Management Plan will be endorsed and will form part of this permit. The Tree Management Plan must make recommendations for the protection of the Manchurian Pear trees located on the adjacent property at 28 Brighton Street:
- (a) pre-construction;
  - (b) during construction; and
  - (c) post construction
  - (d) the provision of any barriers;
  - (e) any pruning necessary; and
  - (f) watering and maintenance regimes,
- to the satisfaction of the Responsible Authority.
34. The provisions, recommendations and requirements of the endorsed Tree Management Plan must be complied with and implemented to the satisfaction of the Responsible Authority.

### **Street Trees**

35. Before the development commences, the permit holder must provide an Asset Protection Bond of \$10,000 (ex GST) for the three (3) trees in Church Street adjacent the frontage of the development and one (1) tree opposite 22 Brighton Street to the Responsible Authority. The security bond:
- (a) must be provided in a manner, and on terms, to the satisfaction of the Responsible Authority;
  - (b) may be held by the Responsible Authority until the works are completed to the satisfaction of the Responsible Authority; and
  - (c) in accordance with the requirements of this permit; or
  - (d) otherwise to the satisfaction of the Responsible Authority.
36. Before the development commences, the permit holder must make a one off contribution of \$17,633.25 to the Responsible Authority to be used for:
- (a) the cost of supply, planting and establishment maintenance four trees (one in Church St and three in Brighton St).

### **Wind**

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

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

**Acoustic report**

39. **Before the uses commence as permitted in the amended permit, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Endorsed Acoustic Report and updated to include the commitments relating to the Food and drinks premises and Restricted recreation premises in the acoustic report prepared by Cundall and dated 15 February 2021, but further modified to include (or show, or address):**

- (a) the screen on the boundary to No. 28 Brighton Street deleted;
- (b) confirmation that any acoustic fencing, screening and boundary walls may be constructed of any suitable cladding material so long as it has a mass of at least 10kg/m<sup>2</sup>;
- (c) The northern elevation of the first floor balcony to be enclosed fully (either by a solid barrier, or by providing glass between the top of the barrier and the second floor soffit above), and the entire ceiling of the first floor balcony area is to be provided with an acoustically absorptive finish with a minimum acoustic absorption performance of NRC 0.8;
- (d) confirmation that acoustic fencing and screening will have no gaps or holes in it, or the likelihood of such occurring through natural causes, landscaping or deformations, thus allowing noise to easily pass through.
- (e) **The maximum number of children permitted in the child-care centre in accordance with Condition 6.**
- (f) **The hours of operation for the Food and drinks premises in accordance with Conditions 12.**
- (g) **The evening noise limits for music and patron noise recalculated using the average of the background noise levels measured in the evening period.**

40. **The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.**

41. Within 3 months of occupying the building, an updated post-occupation Acoustic Report to the satisfaction of the Responsible Authority must be prepared by a suitably qualified acoustic engineer and must be generally in accordance with the endorsed acoustic report. The report must be submitted to and approved by the Responsible Authority. When approved, the updated post-occupation Acoustic Report will be endorsed and will form part of this permit. The Acoustic Report must (assess) address the following:

- (a) Confirm the recommendations of the endorsed acoustic report required as part of **Condition 39** have been implemented;
- (b) Assess mechanical plant noise to SEPP N-1; and

- (c) If non-compliance with **Condition 39(g)** is measured, additional acoustic measures as recommended by the amended post-occupation acoustic report are to be implemented within one month of the date of the amended acoustic report.
42. The provisions, recommendations and requirements of the endorsed post-occupation Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.

#### **Transport for Victoria Conditions**

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

#### **VicRoads Conditions**

45. Before the use approved by this permit commences the following roadworks on Church Street, Richmond must be completed at no cost to and to the satisfaction of the Roads Corporation:
- (a) The provision of Keep Clear line-marking at the intersection of Church Street and Shamrock Street, Richmond.
46. Prior to the commencement of the development, excluding demolition works, an Engineering report from a suitably qualified Engineer outlining the design, management and construction techniques to be implement prior, during and following excavation to prevent any impact on the Burnley Tunnel is to be submitted to VicRoads and CityLink for approval. Once approved, the Engineering Report will form part of the planning permit. Without limiting the scope of the report, it must consider all relevant structural and geotechnical issues, including, but not limited to, demonstrating:
- (a) That the development will not compromise the structural integrity of the Burnley Tunnel;
  - (b) What is the load applied to the ground by the development;
  - (c) What is the depth of the excavation;
  - (d) That the development will not cause changes to groundwater conditions that will result in adverse effect on the Burnley Tunnel.
  - (e) Any holding points requiring VicRoads and CityLink inspection and approval prior to releasing the hold points.
47. Prior to the commencement of and during the course of construction the following details must be submitted to the satisfaction of VicRoads and CityLink for approval:
- (a) Initial groundwater level;
  - (b) Expected and confirmation of actual flows and total volume drained during the construction of the basement;
  - (c) if the completed basement is tanked or drained;
  - (d) If drained, confirm flow rate into the basement and the height and extent of the permanent lowering of the water-table.

- (e) Temporary or permanent groundwater drawdown greater than 2 metres below existing levels requires the developer to demonstrate the impact of the proposed development on the regional groundwater regime. The developer shall describe how groundwater drawdown will be managed, and demonstrate that there will be an insignificant impact on CityLink assets.

### **Road Infrastructure**

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

### **Streetscape Improvement Plan**

- 52. Before the development commences, or by such later date as approved in writing by the Responsible Authority, a Streetscape Improvement plan for the development's Shamrock Street frontage (inclusive of the widening of Shamrock Street) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority.
- 53. Before the building is occupied, all works associated with the Streetscape Improvement plan as shown on the endorsed plans and Streetscapes Improvement plan (referred to in **Condition 52**) must be fully constructed and completed, at no cost to the Responsible Authority and to the satisfaction of the Responsible Authority.

## **Drainage**

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

## **Widened section of Shamrock Street**

55. Within 6 months of the commencement of development, the design of the widened section of Shamrock Street must be prepared by an independent and suitably qualified engineering professional to the satisfaction of the Responsible Authority and in consultation with the Responsible Authority. The design must be submitted to and approved by the Responsible Authority. The design of the widening of Shamrock Street must provide details including pavement widths, surface treatment, road infrastructure items, landscaping (where applicable) and drainage including the installation of any additional drainage pits and associated connecting drainage to the satisfaction of the Responsible Authority.
56. Before the building is occupied, all works associated with the widening of Shamrock Street (referred to in **Condition 55**) must be carried out, at no cost to the Responsible Authority and to the satisfaction of the Responsible Authority.
57. Within six months of the commencement of works, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under section 173 of the *Planning and Environment Act 1987*, providing for the following:
- (a) The Owner must provide unfettered 24 hour public access over (and inclusive of the provision of lighting) over that part of the land to be used for the widened section of Shamrock Street between Church Street and the eastern boundary of the development's Shamrock Street frontage;
  - (b) The owner is responsible for maintaining at all times the areas that are private land open to the public described in **condition 57(a)** at the cost of the owners of the site and to the satisfaction of the Yarra City Council;
  - (c) The owner(s) must obtain and maintain insurance, approved by Yarra City Council, for the public liability and indemnify Yarra City Council against all claims resulting from any damage, loss, death or injury in connection with the public accessing the land described in **condition 57(a)**.
58. The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the reasonable costs borne by the Responsible Authority.

### **Car parking**

59. Before the development is occupied, a Car Park Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Car Park Management Plan will be endorsed and will form part of this permit. The Car Park Management Plan must address, but not be limited to, the following:
- (a) the management of any visitor car parking spaces and security arrangements for occupants of the development, including details on how visitors are to access car parking;
  - (b) details of way-finding, cleaning and security of end of trip bicycle facilities;
  - (c) the number and allocation of storage spaces;
  - (d) any policing arrangements and formal agreements;
  - (e) a schedule of all proposed signage including directional arrows and signage, informative signs indicating location of disabled bays and bicycle parking, exits, restrictions, pay parking system etc;
  - (f) the collection of waste and garbage including the separate collection of organic waste and recyclables, which must be in accordance with the Waste Management Plan required by **Condition 29**; and
  - (g) details regarding the management of loading and unloading of goods and materials.
60. 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.
61. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the area set aside on the endorsed plans for the car parking spaces, access lanes, driveways and associated works must be:
- (a) constructed and available for use in accordance with the endorsed plans;
  - (b) formed to such levels and drained so that they can be used in accordance with the endorsed plans;
  - (c) treated with an all-weather seal or some other durable surface; and
  - (d) line-marked or provided with some adequate means of showing the car parking spaces,
- all to the satisfaction of the Responsible Authority.
62. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, a notice showing the location of car parking must be placed in a clearly visible position near the entry to the land. The notice must be maintained thereafter to the satisfaction of the Responsible Authority.

### **Green Travel Plan**

63. Before the development is occupied, an amended Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Green Travel plan will be endorsed and will form part of this permit. The amended Green Travel Plan must be generally in accordance with the Green Travel Plan prepared by Impact Traffic Engineering prepared on 2 July 2018, but modified to include (or show, or address):



- (a) deletion of any language such as 'could be introduced' and instead of 'should' or otherwise committing to a particular action;
  - (b) the Action Plan at Appendix A to references to all actions included in the report, including any carpooling actions;
  - (c) the promotion of various public transport smartphone apps such as the Public Transport Victoria app and/or train or tram tracker;
  - (d) a description of the location in the context of alternative modes of transport;
  - (e) employee welcome packs (e.g. provision of Myki/transport ticketing);
  - (f) the provision of real time passenger information displays for nearby stops within each lobby;
  - (g) sustainable transport goals linked to measurable targets, performance indicators and monitoring timeframes;
  - (h) a designated 'manager' or 'champion' responsible for coordination and implementation;
  - (i) details of bicycle parking and bicycle routes;
  - (j) details of GTP funding and management responsibilities;
  - (k) the types of bicycle storage devices proposed to be used for employee and visitor spaces (i.e. hanging or floor mounted spaces);
  - (l) the types of lockers proposed within the change-room facilities, with at least 50% of lockers providing hanging storage space;
  - (m) security arrangements to access the employee bicycle storage spaces;
  - (n) signage and wayfinding information for bicycle facilities and pedestrians pursuant to Australian Standard AS2890.3;
  - (o) reference to a minimum 40A single phase electrical sub circuit should be installed to the car park areas for 'EV readiness'; and
  - (p) provisions for the Green Travel Plan to be updated not less than every 5 years.
64. The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority

### **Lighting**

65. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the pedestrian and vehicular entrances must be provided on the subject site. Lighting must be:
- (a) located;
  - (b) directed;
  - (c) shielded; and
  - (d) of limited intensity,
- all to the satisfaction of the Responsible Authority.

### **General**

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

67. The amenity of the area must not be detrimentally affected by the development and use, including through:
  - (a) the transport of materials, goods or commodities to or from land;
  - (b) the appearance of any buildings, works or materials;
  - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
  - (d) the presence of vermin.
68. The use and development must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade, N-1 (SEPP N-1).
69. 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.
70. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
71. 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.
72. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
  - (a) Monday–Friday (excluding public holidays) before 7 am or after 6 pm;
  - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9am or after 3pm; or
  - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

### **Construction Management**

73. Before the development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:
  - (a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
  - (b) works necessary to protect road and other infrastructure;
  - (c) remediation of any damage to road and other infrastructure;
  - (d) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land;
  - (e) facilities for vehicle washing, which must be located on the land;
  - (f) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
  - (g) site security;
  - (h) management of any environmental hazards including, but not limited to,:

- (i) contaminated soil;
  - (ii) materials and waste;
  - (iii) dust;
  - (iv) stormwater contamination from run-off and wash-waters;
  - (v) sediment from the land on roads;
  - (vi) washing of concrete trucks and other vehicles and machinery; and
  - (vii) spillage from refuelling cranes and other vehicles and machinery;
- (i) the construction program;
  - (j) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
  - (k) parking facilities for construction workers;
  - (l) measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;
  - (m) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
  - (n) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced;
  - (o) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads;
  - (p) a Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with Noise Control Guideline 12 for Construction (Publication 1254) as issued by the Environment Protection Authority in October 2008. The Noise and Vibration Management Plan must be prepared to the satisfaction of the Responsible Authority.
  - (q) In preparing the Noise and Vibration Management Plan, consideration must be given to:
    - (i) using lower noise work practice and equipment;
    - (ii) the suitability of the land for the use of an electric crane;
    - (iii) silencing all mechanical plant by the best practical means using current technology;
    - (iv) fitting pneumatic tools with an effective silencer;
    - (v) other relevant considerations; and
    - (vi) any site-specific requirements.

74. During the construction:

- (a) any stormwater discharged into the stormwater drainage system must be in compliance with Environment Protection Authority guidelines;

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

#### **Development Contributions levy**

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

#### **Time expiry**

76. This permit will expire if:

- (a) the development is not commenced within two years of the date of this permit; or
- (b) the development is not completed within four years of the date of this permit; or
- (c) the child care use has not commenced within five years of the date of this permit;
- (d) the food and drinks premises and restricted recreation uses have not commenced within two years of the date this permit was amended;**
- (e) the sale and consumption of liquor is not commenced with two years from the date this permit was amended;**
- (f) the sale and consumption of liquor is discontinued for a period of two years.**

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

#### **NOTES:**

A building permit maybe required before development is commenced. Please contact Council's Building Services on 9205 5095 to confirm.

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

Provision must be made for drainage of the site to a legal point of discharge. Please contact Council's Building Services on 9205 5585 for further information.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### VicRoads Note

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

## Submissions made online during the meeting

Will Pearce (for the applicant)  
Grant Smith  
Chris Bonnici  
Jason Mansfield  
Zoe Crawforth

### **PLANNING DECISIONS COMMITTEE RESOLUTION**

**Moved:** Cr Wade

**Seconded:** Cr Crossland

That having considered all objectives and relevant planning policies, the Committee resolve to issue a Notice of Decision to Amend a Planning Permit PLN18/0328 at No. 459 – 471 Church Street and 20 – 26 Brighton Street Richmond with the following changes:

The permit preamble to read:

In accordance with the endorsed plans:

the use of the land for 'childcare centre' under clauses 32.08 and 34.02;

the use of the land for Food and drinks premises (Restaurant and café) and Restricted recreation premises (gym) under clause 34.02;

the sale and consumption of liquor on the premises (restaurant and café licence);

the construction of a building or the construction or carrying out of works associated with a section 2 use under clause 32.08;

the construction of a building or construction or carrying out of works under clause 34.02 and 43.02;

alteration of access and building and works to a Road Zone Category 1 Road under clause 52.29; and

the reduction in the number of car parking spaces under clause 52.06-3,

and subject to the following conditions.

Conditions amended as follows (**amended and new conditions in bold**):

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions and three copies must be provided. **Building C must be generally in accordance with the architectural plans prepared by Architectus, drawing nos. DA1003, DA1004, DA1007, DA2003, DA2001A, DA2002, DA1006 and the External Finishes Schedule (dated 18 December 2020), and Buildings A and B must be generally in accordance with the architectural plans prepared by Architectus, drawing Nos. DA1002 and DA1003 (dated 25 January 2021) but modified to show:**

- (a) retention of the entirety of the existing boundary wall to 28 Brighton Street and its height shown correctly.
  - (b) the screen on the boundary to No. 28 Brighton Street deleted.
  - (c) any requirement of the endorsed Acoustic Report under condition 22 (where relevant to show on plans).
  - (d) The internal layout of the Food and drinks premises, including bathroom facilities in accordance with the Patron Capacity Report (prepared by McKenzie Group and dated 17 December 2020) and indicative seating for at least 75% of the patrons.**
  - (e) The sound lock in the Restricted recreation premise (gym) as committed to in the Acoustic Report (prepared by Cundall and dated 15 February 2021).**
  - (f) The increased width of the first floor 'link' on DA1004.**
  - (g) Ten (10) car parking spaces allocated to the staff of the Food and drinks premises, with the remainder allocated to the office uses.**
  - (h) Four (4) bicycle spaces provided in accessible locations for visitors of the Food and drinks premises and Restricted recreation premises.**
2. The use and development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. As part of the ongoing consultant team, Architectus or an architectural firm to the satisfaction of the Responsible Authority must be engaged to:
- (a) oversee the design and construction of the development; and
  - (b) ensure the design quality and appearance of the development is realised as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.

#### **Childcare Centre Use**

4. Except with the prior written consent of the Responsible Authority, the childcare centre use authorised by this permit may only operate between the hours of 7am and 7pm, Monday to Friday.
5. Except with the prior written consent of the Responsible Authority, no more than 22 staff are permitted on the land at any one time.
6. Except with the prior written consent of the Responsible Authority, no more than 104 children are permitted on the land at any one time.
7. Before the child care use commences, a Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Management Plan will be endorsed and will form part of this permit. The Management Plan must include (or show, or address):
- (a) General programs/schedules for outdoor play, accounting for discrepancies in season, which should be made publicly available for parents and neighbours.
  - (b) A contact phone number for the centre's management should be made available to neighbours to facilitate communication and resolve concerns.



- (c) The number of children playing outside be limited to the numbers outlined in the acoustic report.
- (d) Noise minimisation methods to be undertaken by staff, such as comforting crying children and taking them indoors.
- (e) Details of staff training.

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

#### **Food and drinks premises Use**

8. **No more than 100 patrons are permitted in Food and drinks premises 1 (FDP1) at any one time.**
9. **No more than 200 patrons are permitted in Food and drinks premises 2 (FDP2) at any one time.**
10. **No more than 130 patrons are permitted internally for Food and drinks premises 3 (FDP3) at any one time. No more than 40 patrons are permitted in the associated outdoor dining area in the ground floor courtyard and no more than 15 patrons are permitted in the associated outdoor dining area within the front setback of Shamrock Street.**
11. **No more than 80 patrons are permitted internally for Food and drinks premises 4 (FDP4) at any one time. No more than 33 patrons are permitted in the associated outdoor dining area in the ground floor courtyard.**
12. **Except with the prior written consent of the Responsible Authority, the Food and drinks premises authorised by this permit may only operate as follows:**
  - (a) **FDP1 and FDP2 between 6am and 1am (the following day), seven days a week**
  - (b) **FDP3 and FDP4 between 6am and 10pm, seven days a week.**
  - (c) **The outdoor dining areas associated with FDP3 and FDP4 between 7am and 6pm, seven days a week.**
13. **The northern windows and doorways associated with the outdoor dining areas of FDP3 and FDP4 to remain closed at 6pm on every day.**
14. **Patron ingress/egress to FDP3 to be provided only from the entry to the central lobby after 8pm on any evening.**
15. **Speakers external to the building must not be erected or used.**
16. **The predominant activity in the restaurants, at all times, must be the preparation and serving of meals for consumption by patrons on the premises, during the times that liquor is allowed to be sold and consumed under this permit.**

#### **Sale and consumption of liquor**

17. **Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor (on the premises) authorised by this permit may only operate as follows:**
  - (a) **FDP1 and FDP2 between 9am and 1am (the following day), seven days a week**
  - (b) **FDP3 and FDP4 between 9am and 10pm, seven days a week.**
  - (c) **The outdoor dining areas associated with FDP3 and FDP4 between 9am and 6pm, seven days a week.**

18. Before the sale and consumption of liquor commences, a Noise and Amenity Action Plan must be submitted to and approved by the Responsible Authority. When approved, the Noise and Amenity Action Plan will be endorsed and will form part of this permit. The Noise and Amenity Action Plan must include, but not be limited to, those matters outlined at Clause 22.09-4.3 of the Yarra Planning Scheme and the following:
- (a) The venues complaint procedure.
  - (b) Waste collection and management within the premises.
  - (c) Management of any outdoor areas.
  - (d) Confirmation of the permitted operating hours, patron capacity and any other relevant conditions included in the permit.
  - (e) Booking procedures and management of the ingress and egress of patrons, including directing patrons to public transport opportunities or assisting the bookings of taxis (etc).
19. The provisions recommendation and requirements of the endorsed Noise and Amenity Action Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
20. Emptying of bottles and cans into bins may only occur between 7am and 10pm on Monday to Saturday or after 9am on a Sunday or public holiday.
21. Before the commencement of the sale and consumption of liquor, the applicant must, to the satisfaction of the Responsible Authority, display a sign at the exit of the licensed premises advising patrons to respect the amenity of adjacent residential areas and to leave in a quiet and orderly manner.

**Restricted recreation premises**

22. No more than 60 patrons are permitted on the land at any one time in association with the Restricted recreation premises (gym).
23. No more than four (4) staff are permitted on the land associated with the Restricted recreation premises at any one time.

**24. Except with the prior written consent of the Responsible Authority the Restricted Recreation use (basement gym) authorised by this permit may only operate between the hours of:**

- **5am to 11pm Monday to Saturday;**
- **7am to 9pm on Sunday and public holidays.**

25. Before the Restricted recreation use commences, a Management Plan must be submitted to and approved by the Responsible Authority. When approved, the Management Plan will be endorsed and will form part of this permit. The Management Plan must include, but not be limited to, the following:
- (a) Class types, frequency of classes and maximum attendance in classes.
  - (b) Details of membership and booking procedures.
  - (c) Reception procedures and management of patrons in the morning and evening.
  - (d) Waste collection and management within the premises.

### **Sustainable Management Plan**

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

### **SMP Implementation Report**

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

### **Waste Management Plan**

29. **The provisions, recommendations and requirements of the endorsed Waste Management Plan (prepared by Irwin Consultants and dated 9 February 2021) must be implemented and complied with to the satisfaction of the Responsible Authority.**

30. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.

**Landscape Plan**

31. Before the development commences, an amended Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Landscape Plan will be endorsed and will form part of this permit. The amended Landscape Plan must be generally in accordance with the Landscape Plan prepared by MALA Studio prepared on 28 February 2019, but modified to include (or show, or address):
- (a) a detailed planting plan indicating the location and quantity of the species proposed;
  - (b) confirm mulch used on the higher levels is a wind tolerant material;
  - (c) further details on the raised planter beds such as information on drainage, waterproofing, irrigation and mulch;
  - (d) details on the custom furniture proposed;
  - (e) deletion of *Pennisetum clandestinum* on Plant Mix C and replacement with a suitable alternative species;
  - (f) additional details regarding the mounded planter beds such as maintenance and how to ensure there is no mulch run off from the slope of the garden bed to the adjacent paving areas;
  - (g) additional details regarding the relationship between the *Jacarada mimosifolia*, associated garden bed and decking in the courtyard including the provision of a section;
  - (h) additional details regarding the landscape feature proposed at the corner of Church and Shamrock Streets;
  - (i) deletion of where the internal paving from the courtyard is shown encroaching into the public realm and replace the public realm paving with an asphalt treatment;
  - (j) that the 300mm bluestone kerb is maintained (provide a section through that treatment);
  - (k) street tree cut outs as being 1m depth x1.5m width and sitting directly behind the bluestone pitcher;
  - (l) confirmation that there is sufficient circulation space around the eastern most proposed street tree and the building, with the minimum path of travel and deletion of any obstructions.
32. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained to the satisfaction of the Responsible Authority including by:
- (a) implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;

- (b) not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
- (c) replacing any dead, diseased, dying or damaged plants.

### **Tree Management Plan**

33. Before the development commences, a Tree Management Plan to the satisfaction of the Responsible Authority must be prepared by a suitably qualified Arborist and must be submitted to and approved by the Responsible Authority. When approved the Tree Management Plan will be endorsed and will form part of this permit. The Tree Management Plan must make recommendations for the protection of the Manchurian Pear trees located on the adjacent property at 28 Brighton Street:
- (a) pre-construction;
  - (b) during construction; and
  - (c) post construction
  - (d) the provision of any barriers;
  - (e) any pruning necessary; and
  - (f) watering and maintenance regimes,
- to the satisfaction of the Responsible Authority.
34. The provisions, recommendations and requirements of the endorsed Tree Management Plan must be complied with and implemented to the satisfaction of the Responsible Authority.

### **Street Trees**

35. Before the development commences, the permit holder must provide an Asset Protection Bond of \$10,000 (ex GST) for the three (3) trees in Church Street adjacent the frontage of the development and one (1) tree opposite 22 Brighton Street to the Responsible Authority. The security bond:
- (a) must be provided in a manner, and on terms, to the satisfaction of the Responsible Authority;
  - (b) may be held by the Responsible Authority until the works are completed to the satisfaction of the Responsible Authority; and
  - (c) in accordance with the requirements of this permit; or
  - (d) otherwise to the satisfaction of the Responsible Authority.
36. Before the development commences, the permit holder must make a one off contribution of \$17,633.25 to the Responsible Authority to be used for:
- (a) the cost of supply, planting and establishment maintenance four trees (one in Church St and three in Brighton St).

### **Wind**

37. Before the development commences an updated wind assessment must be submitted and approved by the responsible authority.
38. The provisions, recommendations and requirements of the endorsed Environmental Wind Assessment must be implemented and complied with to the satisfaction of the Responsible Authority.

### **Acoustic report**

39. **Before the uses commence as permitted in the amended permit, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Endorsed Acoustic Report and updated to include the commitments relating to the Food and drinks premises and Restricted recreation premises in the acoustic report prepared by Cundall and dated 15 February 2021, but further modified to include (or show, or address):**
- (a) the screen on the boundary to No. 28 Brighton Street deleted;
  - (b) confirmation that any acoustic fencing, screening and boundary walls may be constructed of any suitable cladding material so long as it has a mass of at least 10kg/m<sup>2</sup>;
  - (c) The northern elevation of the first floor balcony to be enclosed fully (either by a solid barrier, or by providing glass between the top of the barrier and the second floor soffit above), and the entire ceiling of the first floor balcony area is to be provided with an acoustically absorptive finish with a minimum acoustic absorption performance of NRC 0.8;
  - (d) confirmation that acoustic fencing and screening will have no gaps or holes in it, or the likelihood of such occurring through natural causes, landscaping or deformations, thus allowing noise to easily pass through.
  - (e) **The maximum number of children permitted in the child-care centre in accordance with Condition 6.**
  - (f) **The hours of operation for the Food and drinks premises in accordance with Conditions 12.**
  - (g) **The evening noise limits for music and patron noise recalculated using the average of the background noise levels measured in the evening period.**
40. **The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.**
41. Within 3 months of occupying the building, an updated post-occupation Acoustic Report to the satisfaction of the Responsible Authority must be prepared by a suitably qualified acoustic engineer and must be generally in accordance with the endorsed acoustic report. The report must be submitted to and approved by the Responsible Authority. When approved, the updated post-occupation Acoustic Report will be endorsed and will form part of this permit. The Acoustic Report must (assess) address the following:
- (a) Confirm the recommendations of the endorsed acoustic report required as part of **Condition 39** have been implemented;
  - (b) Assess mechanical plant noise to SEPP N-1; and
  - (c) If non-compliance with **Condition 39(g)** is measured, additional acoustic measures as recommended by the amended post-occupation acoustic report are to be implemented within one month of the date of the amended acoustic report.

42. The provisions, recommendations and requirements of the endorsed post-occupation Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.

#### **Transport for Victoria Conditions**

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

#### **VicRoads Conditions**

45. Before the use approved by this permit commences the following roadworks on Church Street, Richmond must be completed at no cost to and to the satisfaction of the Roads Corporation:
- (a) The provision of Keep Clear line-marking at the intersection of Church Street and Shamrock Street, Richmond.
46. Prior to the commencement of the development, excluding demolition works, an Engineering report from a suitably qualified Engineer outlining the design, management and construction techniques to be implement prior, during and following excavation to prevent any impact on the Burnley Tunnel is to be submitted to VicRoads and CityLink for approval. Once approved, the Engineering Report will form part of the planning permit. Without limiting the scope of the report, it must consider all relevant structural and geotechnical issues, including, but not limited to, demonstrating:
- (a) That the development will not compromise the structural integrity of the Burnley Tunnel;
  - (b) What is the load applied to the ground by the development;
  - (c) What is the depth of the excavation;
  - (d) That the development will not cause changes to groundwater conditions that will result in adverse effect on the Burnley Tunnel.
  - (e) Any holding points requiring VicRoads and CityLink inspection and approval prior to releasing the hold points.
47. Prior to the commencement of and during the course of construction the following details must be submitted to the satisfaction of VicRoads and CityLink for approval:
- (a) Initial groundwater level;
  - (b) Expected and confirmation of actual flows and total volume drained during the construction of the basement;
  - (c) if the completed basement is tanked or drained;
  - (d) If drained, confirm flow rate into the basement and the height and extent of the permanent lowering of the water-table.



- (e) Temporary or permanent groundwater drawdown greater than 2 metres below existing levels requires the developer to demonstrate the impact of the proposed development on the regional groundwater regime. The developer shall describe how groundwater drawdown will be managed, and demonstrate that there will be an insignificant impact on CityLink assets.

### **Road Infrastructure**

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

### **Streetscape Improvement Plan**

- 52. Before the development commences, or by such later date as approved in writing by the Responsible Authority, a Streetscape Improvement plan for the development's Shamrock Street frontage (inclusive of the widening of Shamrock Street) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority.

53. Before the building is occupied, all works associated with the Streetscape Improvement plan as shown on the endorsed plans and Streetscapes Improvement plan (referred to in **Condition 52**) must be fully constructed and completed, at no cost to the Responsible Authority and to the satisfaction of the Responsible Authority.

#### **Drainage**

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

#### **Widened section of Shamrock Street**

55. Within 6 months of the commencement of development, the design of the widened section of Shamrock Street must be prepared by an independent and suitably qualified engineering professional to the satisfaction of the Responsible Authority and in consultation with the Responsible Authority. The design must be submitted to and approved by the Responsible Authority. The design of the widening of Shamrock Street must provide details including pavement widths, surface treatment, road infrastructure items, landscaping (where applicable) and drainage including the installation of any additional drainage pits and associated connecting drainage to the satisfaction of the Responsible Authority.
56. Before the building is occupied, all works associated with the widening of Shamrock Street (referred to in **Condition 55**) must be carried out, at no cost to the Responsible Authority and to the satisfaction of the Responsible Authority.
57. Within six months of the commencement of works, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under section 173 of the *Planning and Environment Act 1987*, providing for the following:
- (a) The Owner must provide unfettered 24 hour public access over (and inclusive of the provision of lighting) over that part of the land to be used for the widened section of Shamrock Street between Church Street and the eastern boundary of the development's Shamrock Street frontage;
  - (b) The owner is responsible for maintaining at all times the areas that are private land open to the public described in **condition 57(a)** at the cost of the owners of the site and to the satisfaction of the Yarra City Council;

- (c) The owner(s) must obtain and maintain insurance, approved by Yarra City Council, for the public liability and indemnify Yarra City Council against all claims resulting from any damage, loss, death or injury in connection with the public accessing the land described in **condition 57(a)**.

58. The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the reasonable costs borne by the Responsible Authority.

### **Car parking**

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

- (a) the management of any visitor car parking spaces and security arrangements for occupants of the development, including details on how visitors are to access car parking;
- (b) details of way-finding, cleaning and security of end of trip bicycle facilities;
- (c) the number and allocation of storage spaces;
- (d) any policing arrangements and formal agreements;
- (e) a schedule of all proposed signage including directional arrows and signage, informative signs indicating location of disabled bays and bicycle parking, exits, restrictions, pay parking system etc;
- (f) the collection of waste and garbage including the separate collection of organic waste and recyclables, which must be in accordance with the Waste Management Plan required by **Condition 29**; and
- (g) details regarding the management of loading and unloading of goods and materials.

60. 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.

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

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

all to the satisfaction of the Responsible Authority.

62. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, a notice showing the location of car parking must be placed in a clearly visible position near the entry to the land. The notice must be maintained thereafter to the satisfaction of the Responsible Authority.

### **Green Travel Plan**

63. Before the development is occupied, an amended Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Green Travel plan will be endorsed and will form part of this permit. The amended Green Travel Plan must be generally in accordance with the Green Travel Plan prepared by Impact Traffic Engineering prepared on 2 July 2018, but modified to include (or show, or address):
- (a) deletion of any language such as 'could be introduced' and instead of 'should' or otherwise committing to a particular action;
  - (b) the Action Plan at Appendix A to references to all actions included in the report, including any carpooling actions;
  - (c) the promotion of various public transport smartphone apps such as the Public Transport Victoria app and/or train or tram tracker;
  - (d) a description of the location in the context of alternative modes of transport;
  - (e) employee welcome packs (e.g. provision of Myki/transport ticketing);
  - (f) the provision of real time passenger information displays for nearby stops within each lobby;
  - (g) sustainable transport goals linked to measurable targets, performance indicators and monitoring timeframes;
  - (h) a designated 'manager' or 'champion' responsible for coordination and implementation;
  - (i) details of bicycle parking and bicycle routes;
  - (j) details of GTP funding and management responsibilities;
  - (k) the types of bicycle storage devices proposed to be used for employee and visitor spaces (i.e. hanging or floor mounted spaces);
  - (l) the types of lockers proposed within the change-room facilities, with at least 50% of lockers providing hanging storage space;
  - (m) security arrangements to access the employee bicycle storage spaces;
  - (n) signage and wayfinding information for bicycle facilities and pedestrians pursuant to Australian Standard AS2890.3;
  - (o) reference to a minimum 40A single phase electrical sub circuit should be installed to the car park areas for 'EV readiness'; and
  - (p) provisions for the Green Travel Plan to be updated not less than every 5 years.
64. The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

### **Lighting**

65. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the pedestrian and vehicular entrances must be provided on the subject site. Lighting must be:
- (a) located;
  - (b) directed;
  - (c) shielded; and
  - (d) of limited intensity,
- all to the satisfaction of the Responsible Authority.

### **General**

66. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
67. The amenity of the area must not be detrimentally affected by the development and use, including through:
- (a) the transport of materials, goods or commodities to or from land;
  - (b) the appearance of any buildings, works or materials;
  - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or
  - (d) the presence of vermin.
68. The use and development must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade, N-1 (SEPP N-1).
69. 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.
70. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
71. 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.
72. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
- (a) Monday–Friday (excluding public holidays) before 7 am or after 6 pm;
  - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9am or after 3pm; or
  - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

### **Construction Management**

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

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

- (q) In preparing the Noise and Vibration Management Plan, consideration must be given to:
  - (i) using lower noise work practice and equipment;
  - (ii) the suitability of the land for the use of an electric crane;
  - (iii) silencing all mechanical plant by the best practical means using current technology;
  - (iv) fitting pneumatic tools with an effective silencer;
  - (v) other relevant considerations; and
  - (vi) any site-specific requirements.

74. During the construction:

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

#### **Development Contributions levy**

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

#### **Time expiry**

76. This permit will expire if:

- (a) the development is not commenced within two years of the date of this permit; or
- (b) the development is not completed within four years of the date of this permit; or
- (c) the child care use has not commenced within five years of the date of this permit;
- (d) the food and drinks premises and restricted recreation uses have not commenced within two years of the date this permit was amended;**
- (e) the sale and consumption of liquor is not commenced with two years from the date this permit was amended;**
- (f) the sale and consumption of liquor is discontinued for a period of two years.**



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

#### **NOTES:**

A building permit maybe required before development is commenced. Please contact Council's Building Services on 9205 5095 to confirm.

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

Provision must be made for drainage of the site to a legal point of discharge. Please contact Council's Building Services on 9205 5585 for further information.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

VicRoads Note

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

**CARRIED UNANIMOUSLY**

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6.2 [PLN17/0744.02 - 196 Nicholson Street Abbotsford - Section 72 Amendment to Planning Permit No. PLN17/0744 to construct a first-floor studio above the single-storey garage at the rear of the site.](#)

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**Reference** D21/57465  
**Author** Emily Zeng - Statutory Planner  
**Authoriser** Senior Coordinator Statutory Planning

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## RECOMMENDATION

That the Planning Decisions Committee resolves to issue a Notice of Decision (NOD) to Grant Amended Planning Permit No. PLN17/0744 to allow the construction of a first floor studio above the single-storey garage at the rear of the site at No. 196 Nicholson Street, Abbotsford VIC 3067, generally in accordance with the “decision plans” received by Council on 4 March 2021 and subject so the following conditions:

- Delete all Condition 1 requirements (a-d) and replace with new conditions (a) and (b).
1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans but modified to show:
    - (a) **The northern wall of the first-floor studio to be set back an overall 1.0m from the northern boundary, with any associated internal changes; and**
    - (b) **The pedestrian gate along the Yarra Street interface consistently depicted on the proposed south elevations as per the proposed floor plans (i.e. gate providing direct access into the secluded private open space and not under the garage verandah).**
  2. The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
  3. Before the 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.
  4. 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.
  5. Before the development commences, the permit holder must make a one-off contribution to the Responsible Authority to be used for:
    - (a) the removal of the existing street tree;
    - (b) the replacement and planting of the new street tree;
    - (c) all costs associated with the replanting, plus two year establishment costs at the expense of the property owner; and to the satisfaction of the Responsible Authority.

6. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
7. 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.
8. This permit will expire if:
  - (a) the development is not commenced within two years of the date of this permit; or
  - (b) the development is not completed within four years of the date of this permit.

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

**Notes:**

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

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5428 to confirm.

Provision must be made for drainage of the site to a legal point of discharge. Please contact Council's Building Services on 9205 5428 for further information.

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.

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

**Unless with further planning permission, the proposed outbuilding must not be used as a separate dwelling.**

Submission made online during the meeting

Sharon Wells

## **PLANNING DECISIONS COMMITTEE RESOLUTION**

**Moved:** Cr Jolly

**Seconded:** Cr Wade

That having considered all objections and relevant planning policies, the Committee resolves to issue a Notice of Decision to Refuse to Grant an Amended Permit PLN17/0744 to construct a first-floor studio to the approved single-storey garage at the rear of the site at No. 196 Nicholson Street, Abbotsford based on the following grounds:

1. The scale and massing of the proposed development does not respond to the site and surrounding neighbourhood and heritage context.
2. The shadowing proposed by the development does not respect the presence of existing solar energy facilities and fails to comply with Clause 54.03-5 (Energy efficiency protection) and Clause 54.04-5 (Overshadowing open space) of the Yarra Planning Scheme.
3. The proposed development does not respect the heritage precinct and fails to comply with the provisions at Clauses 15.03-1S (Heritage conservation), 22.02 (Development Guidelines for Sites Subject to the Heritage Overlay) and 43.01 of the Yarra Planning Scheme.

**CARRIED UNANIMOUSLY**

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**6.3**      **PLN21/0042 - 46-52 Smith Street, Collingwood - Full demolition of Nos. 46 & 48 Smith Street and partial demolition of Nos. 50-52 Smith Street, construction of an 8-storey building containing office, a food and drink premise (no permit required for uses) and use of the land for restricted recreation facility (gymnasium), and a reduction in the statutory car parking requirement.**

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**Reference**      D21/54746  
**Author**          Lara Fiscalini - Principal Planner  
**Authoriser**     Senior Coordinator Statutory Planning

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## **RECOMMENDATION**

That having considered all objections and relevant planning policies, the Planning Development Committee resolves to issue a Notice of Decision to Grant a Planning Permit PLN21/0042 for full demolition of Nos. 46 & 48 Smith Street and partial demolition of Nos. 50-52 Smith Street, construction of a multi-storey building containing office, a food and drink premise (no permit required for uses) and use of the land for restricted recreation facility (gymnasium), and a reduction in the statutory car parking requirement at 46-52 Smith Street, Collingwood subject to the following conditions:

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the decision plans prepared by XO Projects and dated 24 February 2021, but modified to show:
  - (a) The removal of Level 6;
  - (b) All setbacks from Smith Street from Level 2 to the Level 5 to increase by a minimum of 1m;
  - (c) The middle window in the Derby Street façade to be reduced in width by one panel (the western-most panel) and replaced with wall to match the remaining façade;
  - (d) The design of the horizontal banding in the southern wall of the tower and the colour of the roof terrace altered to reflect the changes shown in the Sketch Plan submitted to Council on 3 June 2021, with the material proposed for the horizontal banding to be clearly identified;
  - (e) The entire plinth along the Derby Street frontage to be composed of bluestone, with the existing paint removed;
  - (f) The proposed street tree to be located within the Derby Street road reserve (to replace the former tree in this location) instead of within the Derby Street footpath;
  - (g) Either the proposed 150mm shading fins be increased in depth and number, or a separate external shading solution be provided for floors not shaded by overhanging storey above;
  - (h) The rainwater tank capacity to be shown as 16,000L, consistent with the endorsed Sustainable Management Plan in accordance with Condition 3.
  - (i) Clarification of window operability and natural ventilation opportunities at all levels;
  - (j) Glazing materials used on all external walls/windows must be of a type that does not reflect more than 20% of visible light, when measured at an angle of 90 degrees to the glass surface, to the satisfaction of the Responsible Authority;
  - (k) The fire booster cabinet within the Smith Street façade to be reduced in height, with glazing integrated into the façade above;

- (l) Confirmation that the fire booster cabinet will meet all relevant Standards and access requirements, with notations added to the plans to confirm that the doors associated with all ground level services will be designed to swing at 180-degrees and be latched onto the building wall when in service;
  - (m) Confirmation that DDA compliance is achieved for at least one entrance to each use. If any steps, handrails, or tactiles are required to achieve this compliance, these features must be located within the subject site boundary and must not protrude or be located within the public realm/footpath space;
  - (n) Clarification of the type of paving material located within the slivers of land between building and asphalt footpaths;
  - (o) All canopy dimensions above footpaths and the ROW (height and depth);
  - (p) An overlooking diagram to demonstrate whether unreasonable overlooking is available from the east-facing windows of the café into the dwelling windows to the east, with mitigation measures incorporated into the design if required;
  - (q) The installation of 2 bicycle hoops on Derby Street (immediately to the west of the gymnasium entrance) and 2 bicycle hoops in the ROW (directly adjacent to the café frontage). These bicycle spaces must be provided as a horizontal at-grade space and positioned in accordance with access and clearance requirements of AS2890.3 and Council's urban design standard hoop detail.
  - (r) A cross sectional diagram of the loading bay entrance at 1:20 scale showing;
    - (i) Reduced levels of the west and east edge of the laneway, the centreline of the laneway and the finished floor level of the slab with the 40mm edge of the laneway
    - (ii) A clearance check for the loading bay entrance to confirm that a B99 design vehicle can enter and exit the property without scraping or bottoming-out;
  - (s) Dimensions of the headroom clearance at the loading bay entrance;
  - (t) Any changes required by the endorsed Sustainable Management Plan pursuant to Condition 3;
  - (u) Any changes required by the endorsed Landscape Plan pursuant to Condition 10;
  - (v) Any changes required by the endorsed Green Travel Plan pursuant to Condition 15;
  - (w) Any changes required by the endorsed Wind Tunnel Test pursuant to Condition 17.
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.

### **Sustainability Management Plan**

3. Before the development commences, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Management Plan will be endorsed and will form part of this permit. The amended Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by Ark Resources and dated 23 December 2020, but modified to include:
- (a) Details of additional shading comprising either the shading fins to be increased in depth and number, or a separate external shading solution be provided for floors not shaded by overhanging storey above;
  - (b) The provision of a JV3 report, including the following components;
    - (i) A comparison with a reference building in terms of building fabric and proposed services;
    - (ii) Clarify reductions in heating and cooling;
    - (iii) Clarify reduction in peak energy demand;
    - (iv) Clarify reductions in Greenhouse Gas emissions;
    - (v) Provide more details on the Heating, Ventilation and Air-conditioning (HVAC) system and energy use;

- (vi) Confirm reduction in Illuminated Power Density (IPD) and provide more details on lighting energy efficiency; and,
  - (vii) Include solar generation.
  - (c) Clarification of window operability and natural ventilation opportunities at all levels;
  - (d) Clarify standard upon which low volatile organic compounds (VOC) and formaldehyde limits are specified;
  - (e) floor by floor metering for water loads;
  - (f) Confirm post-development stormwater flows will not exceed pre-development levels;
  - (g) Confirm whether any additional retention tanks are included in the design;
  - (h) Confirm whether any additional treatment devices (i.e. SPEL) are proposed;
  - (i) Clarify whether the proposed design intends to use recycled materials, (i.e. recycled bricks, or insulation with post-consumer content);
  - (j) Clarify strategy to reduce cement and meaning of environmentally sustainable steel design;
  - (k) Confirm extent of sustainably sourced timber (by weight or cost);
  - (l) Confirm extent of PVC strategy (by components, weight or cost);
  - (m) Provide a statement as to how the proposal aims to reduce the impacts of urban heat associated with the increase in urban mass;
  - (n) Provide more information on each innovation (i.e. ultra-low VOC paints etc.) to justify inclusion in Green Star pathway;
  - (o) provision of a Building Users Guide explaining optimal usage of building services to minimise energy and water consumption; and,
  - (p) Environmental Management Plan to be developed by the building contractor to monitor and control activities undertaken during construction.
4. The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

#### **Waste Management Plan**

5. Before the development commences, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the 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 13 November 2020, but modified to include:
- (a) Any changes required by Condition 1 requirements of this permit.
6. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

#### **Structural Report**

7. Before the demolition commences, a Structural Report prepared by a suitably qualified structural engineer to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, it will be endorsed and will form part of the permit. The Structural Report must demonstrate the means by which the retained portions of the building will be supported during demolition and construction works to ensure their retention.
8. The provisions, recommendations and requirements of the endorsed Structural Report must be implemented and complied with to the satisfaction of the Responsible Authority.



## **Façade Strategy**

9. 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) elevation drawings at a scale of 1:20 illustrating typical podium details, entries and doors, and utilities and typical tower facade details;
  - (b) corbelling brickwork to the podium and southern elevation in accordance with the rendered images;
  - (c) section drawings to demonstrate façade systems, including fixing details and joints between materials or changes in form;
  - (d) information about how the façade will be maintained; and
  - (e) a sample board and coloured drawings outlining colours, materials and finishes.

## **Landscape Plan**

10. Before the development commences, an amended Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Landscape Plan will be endorsed and will form part of this permit. The amended Landscape Plan must be generally in accordance with the Landscape Plan prepared by XO Projects and dated 24 February 2021, but modified to include;
- (a) show the type, location, quantity, height at maturity and botanical names of all proposed plants;
  - (b) provide details of 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);
  - (c) provide details of the proposed method for irrigation and drainage;
  - (d) detail the maintenance (duration, regime) and irrigation;
  - (e) show the materiality of the proposed spaces;
  - (f) provide a specification of works to be undertaken prior to planting;
  - (g) further detail on any sustainable treatments and water harvesting methods; and
  - (h) detail plant/planting maintenance schedules and requirements.
11. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:
- (a) implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
  - (b) not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
  - (c) replacing any dead, diseased, dying or damaged plants,

to the satisfaction of the Responsible Authority.

## **Tree Management Plan**

12. Before the development commences, a Tree Management Plan to the satisfaction of the Responsible Authority must be prepared by a suitably qualified Arborist and must be submitted to and approved by the Responsible Authority. When approved the Tree Management Plan will be endorsed and will form part of this permit. The Tree Management Plan must make recommendations for:
- (a) the protection of the trees on Smith Street and Derby Street, adjacent to the site:
    - (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.

13. The provisions, recommendations and requirements of the endorsed Tree Management Plan must be complied with and implemented to the satisfaction of the Responsible Authority.
14. Before the development commences, the permit holder must provide an Asset Protection Bond of \$10,000 (ex GST) for the trees in Smith Street and Derby Street adjacent to the frontage of the development to the Responsible Authority. The security bond:
  - (a) must be provided in a manner, and on terms, to the satisfaction of the Responsible Authority;
  - (b) may be held by the Responsible Authority until the works are completed to the satisfaction of the Responsible Authority; and
  - (c) in accordance with the requirements of this permit; or
  - (d) otherwise to the satisfaction of the Responsible Authority.

### **Green Travel Plan**

15. Before the development commences, a Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Green Travel Plan will be endorsed and will form part of this permit. The Green Travel Plan must include;
  - (a) Confirmation that all employees (e.g. including staff of the gym and food and drink premises) have access to the employee bicycle spaces in the basement;
  - (b) Access to employee bicycle spaces for all uses.
  - (c) Description of the location in the context of alternative modes of transport;
  - (d) Employee welcome packs (e.g. provision of Myki/transport ticketing);
  - (e) Sustainable transport goals linked to measurable targets, performance indicators and monitoring timeframes;
  - (f) A designated 'manager' or 'champion' responsible for co-ordination and implementation;
  - (g) Details of bicycle parking and bicycle routes;
  - (h) Details of Green Travel funding and management responsibilities;
  - (i) The types of bicycle storage devices proposed to be used for employee and visitor spaces (i.e. hanging or floor mounted spaces);
  - (j) Security arrangements to access the employee bicycle storage spaces;
  - (k) Signage and wayfinding information for bicycle facilities and pedestrians pursuant to Australian Standard AS2890.3; and
  - (l) Provisions for the Green Travel Plan to be updated not less than every five years.
16. The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

### **Wind Tunnel Test**

17. Before the development commences, a Wind Tunnel Test to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Wind Tunnel Test will be endorsed and will form part of this permit. The Wind Tunnel Report must include (or show);
  - (a) Testing of assumptions as contained within the Desktop Wind Study prepared by Global Wind Technology Services and dated 5 March 2021;
  - (b) Testing of potential wind conditions within adjacent streetscapes;

(c) Achieve recommended criteria at each point (i.e. not an average) without the reliance upon vegetation.

18. The provisions, recommendations and requirements of the endorsed Wind Tunnel Test must be implemented and complied with to the satisfaction of the Responsible Authority.

### **Uses**

19. Except with the prior written consent of the Responsible Authority, the restricted recreation facility (gymnasium) use authorised by this planning permit may only operate between

- (a) 6am to 9pm, Monday to Friday; and,
- (b) 10am to 4pm on Saturday and Sunday.

20. No more than 45 patrons are permitted within the gymnasium at any one time.

21. The amenity of the area must not, to the satisfaction of the Responsible Authority, be detrimentally affected by the development and uses, 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.
- (d) The presence of vermin.

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

23. The uses and development must comply at all times with the State Environment Protection Policy — Control of Music Noise from Public Premises (SEPP N-2).

24. Music must be at background music levels only, with no external speakers provided.

25. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.

26. 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.

27. 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.

### **General**

28. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the pedestrian and vehicular entrances must be provided on the subject site. Lighting must be:

- (a) located;
- (b) directed;
- (c) shielded; and
- (d) of limited intensity

to the satisfaction of the Responsible Authority.

29. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.

30. 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.
31. Before the building is occupied, any wall located facing public land must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.
32. All pipes, fixtures and fittings servicing any building on the land must be concealed in service ducts or otherwise hidden from view 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, 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) Line-marked or provided with some adequate means of showing the car parking spaces.

to the satisfaction of the Responsible Authority.

### **Civil Works**

34. Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.
35. Before the building is occupied, or by such later date as approved, in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
36. Any services poles, structures or pits that interfere with the proposal must be adjusted, removed or relocated at the permit holder's expense after seeking approval from the relevant authority.
37. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the following works must be undertaken, at the permit holder's cost and to the satisfaction of the Responsible Authority:
  - (a) The footpath immediately outside the site on Smith Street and Derby Street must be stripped and re-sheeted.

### **Construction Management Plan**

38. 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 Construction Management Plan will be endorsed and will form part of this permit. The Construction Management Plan must provide for:
  - (a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;
  - (b) works necessary to protect road and other infrastructure;
  - (c) remediation of any damage to road and other infrastructure;
  - (d) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land;
  - (e) facilities for vehicle washing, which must be located on the land;

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

39. During the construction:

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

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.

40. The provisions, recommendations and requirements of the endorsed Construction Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
41. Prior to the issue of a building permit, commencement of the development, or issue of a Statement of Compliance (whichever occurs first) the Development Infrastructure Levy must be paid to Yarra City Council in accordance with the approved Development Contributions Plan, or the Owner must enter into an agreement with Yarra City Council to pay the amount of the levy within a time specified in the agreement.

### **Construction hours & noise**

42. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
  - (a) Monday to Friday (excluding public holidays) before 7:00am or after 6:00pm.
  - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9:00am or after 3:00pm.
  - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time

### **Permit Expiry**

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

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

### **Notes:**

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

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

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

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

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

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

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

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

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

#### Submissions made online during the meeting

Vicky Grillakis (for the applicant)

Giuseppe Arcuri

Charmaine Dennis

Carly Woods

Gregory Johnson

Richard Hogg

Elisse Brown

Charmaine Dennis also addressed the Committee on behalf of Alex Grant

### **PLANNING DECISIONS COMMITTEE RESOLUTION**

**Moved:** Cr Jolly

**Seconded:** Cr Wade

That having considered all the relevant planning policies, the Committee resolves to issue a Notice of Refusal PLN21/0042 at 46-52 Smith Street, Collingwood for construction of a multi-storey building containing office, a food and drink premise (no permit required for uses) and use of the land for restricted recreation facility (gymnasium), and a reduction in the statutory car parking on the following grounds:

1. The height, scale and mass of the proposed development is incongruous with the surrounding area and would have an adverse impact on the amenity, character and heritage significance of the area.
2. The upper levels are overwhelming and would adversely impact upon the heritage significant streetscape of Smith Street and Derby St.
3. The proposed development would cause unreasonable overshadowing impacts including on Smith Street and the public realm.

**CARRIED**

|                   |                                   |
|-------------------|-----------------------------------|
| <b>Reference</b>  | D21/57299                         |
| <b>Author</b>     | Michelle King - Principal Planner |
| <b>Authoriser</b> | Manager Statutory Planning        |

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## 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 the construction of a multi-storey building, use of the land for office and a reduction in the car parking requirements at 1 – 13 Oxford Street, Collingwood subject to the following conditions:

1. Before the use and/or development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the decision plans, prepared by Kerstin Thompson Architects Pty Ltd, Sheets: TP120, TP124 – TP128, TP200, TP201, TP204, TP300, TP301 (dated 11.12.2020), TP121, TP123, TP203, TP500 (dated 04.02.2021) and TP122, TP202 and TP205 (dated 19.02.2021) but modified to show:

### Layout

- (a) The main inset pedestrian entrance to Oxford Street widened and the bench seat setback into the site (with sufficient legroom provided within the title boundaries of the site). The location of the large cycle spaces can be modified, if required, remaining compliant with the requirements of AS2890.3.
- (b) The entrance door to the ground floor tenancy from Oxford Street to be shown and incorporated into the broader building entrance (with the bottle tap to be relocated) or lighting to illuminate this entrance shown.
- (c) A notation on the Level 01 plan indicating that the Mason Street crossover is to be reinstated as footpath, kerb and channel.
- (d) Confirmation operable windows are provided on the east and south facades.
- (e) Bin locations within waste room identified.
- (f) Detailed diagrams demonstrating no overlooking from the Level 05 terrace into secluded private open space areas and habitable room windows to the north within 9m. Any additional screening measures used to achieve compliance are to be shown.
- (g) Detailed diagrams demonstrating no overlooking from the Level 03-06 west-facing windows into secluded private open space areas and habitable room windows to the north within 9m. Any additional screening measures used to achieve compliance are to be shown.
- (h) Deletion of the notation 'windows to fire stair' as shown on the Level 04, Level 05 and Level 06 floor plans.

### Reports and Plans

- (i) Any changes required by the amended Sustainable Management Plan at Condition 5;
- (j) Any changes required by the amended Wind Impact Assessment at Condition 10;
- (k) Any changes required by the amended Waste Management Plan at Condition 12; and
- (l) Any changes required by the Public Realm Plan at Condition 35.



2. The use and development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. In conjunction with the submission of development plans under Condition 1, a Façade Strategy and Materials and Finishes Plan to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. When approved, the Façade Strategy and Materials and Finishes Plan will be endorsed and will then form part of this permit. This must detail:
  - (a) elevations at a scale of 1:20 illustrating typical podium details, entries and doors, and utilities and typical mid and upper level facade details;
  - (b) section drawings to demonstrate façade systems, including fixing details and joints between materials or changes in form;
  - (c) information about how the façade will be maintained, including any vegetation; and
  - (d) a sample schedule and coloured drawings outlining colours, materials and finishes specifying the following:
    - (i) Maintenance requirements for the following materials: 'MS1,' 'MS2' and 'CP,' demonstrating the durability of the materials to retain their appearance over the long term.
    - (ii) Details of the proposed treatment to the western on-boundary wall as shown on the western elevation, demonstrating a high degree of depth and texture.
    - (iii) Details of the ribbed texture of material 'MT2' including depth of ridges.
    - (iv) Details of the northern on-boundary wall solar panels demonstrating:
      - (i) the panels being located wholly within the title boundaries of the site; and
      - (ii) how the solar panels will be removed/forfeited in the event of the northern adjoining property developing.
4. As part of the ongoing consultant team, Kerstin Thompson Architects 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. Before the use and/or development commences, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Management Plan will be endorsed and will form part of this permit. The amended Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by ARUP dated 10 December 2020, but modified to include or show:
  - (a) Information regarding construction waste management including confirmation on the provision of a site-specific Environmental Management Plan (EMP). The EMP is to include a target recycling rate of 80% of construction and demolition waste to minimise the volume of waste to landfill.
  - (b) Confirmation all internal sealants and paints, adhesives, and carpets will be low VOC, and engineered timber products will be E0.
  - (c) Provision of a Section J to support NCC improvement claims, including the following information:
    - (i) Clarify reduction in GHG emissions.
    - (ii) Confirm HWS with consideration of a heat pump.
    - (iii) Clarify reduction in Peak Energy Demand.
    - (iv) Confirmation on HVAC system with consideration to 3 pipe VRF.
    - (v) Confirmation on improvement over NCC and include savings.

- (vi) Generation of total solar PV systems.
  - (d) Clarify total solar PV system size, and locations on rooftop and façade.
  - (e) Clarify the location of internal blinds.
  - (f) Confirm WELS ratings for fixtures and fittings.
  - (g) Confirm floor-by-floor / tenancy metering.
  - (h) Confirm rainwater tank size.
  - (i) Clarify post-development flows will not exceed pre-development levels.
  - (j) Confirm extent of timber to be recycled or from accredited sustainably harvested plantation sources (FSC or AFS).
  - (k) Confirm pipes, cabling, flooring to do not contain PVC or meeting best practice guidelines for PVC.
  - (l) Clarify discrepancies between SMP and GTP.
  - (m) Clarify 'additional' charging points as per SMP, in addition to the 1 x e-charging point.
  - (n) Provide a statement as to how the building mitigates urban heat – such as high SRI external finishes / roofing, and additional climbing vegetation at ground level to shield heavy mass (i.e. bricks) from heat gain.
  - (o) Provision of more details on the innovative initiatives to solidify their understanding and acceptance in design as innovations.
  - (p) Confirm all energy and water management systems will be commissioned in accordance with the manufacturer's specifications.
  - (q) Confirm head contractor to be ISO 14001 accredited.
  - (r) Inclusion of the STORM Rating Report (dated 17 August 2020) and associated documents submitted via email on 16 April 2021.
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.

#### Acoustic Report

7. The provisions, recommendations and requirements of the endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.
8. Following completion of the development, and prior to its occupation, an Acoustic Report to the satisfaction of the responsible authority must be submitted to, and be approved by, the responsible authority. The Acoustic Report must be prepared by a suitably qualified acoustic engineer and must demonstrate compliance of the mechanical plant with both State Environment Protection Policy (Noise from Commerce, Industry and Trade) No. N-1, sleep disturbance targets and Noise Protocol (as relevant) at existing dwellings. When approved, the Acoustic Report will be endorsed and will then form part of this permit.
9. The provisions, recommendations and requirements of the post completion endorsed Acoustic Report must be implemented and complied with to the satisfaction of the Responsible Authority.

#### Wind Impact Assessment

10. Before the use and/or development commences, an amended Wind Assessment to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Wind Assessment will be endorsed and will form part of this permit. The amended Wind Assessment must be generally in accordance with the Wind Assessment prepared by Windtech Consultants and dated 22 January 2021, but modified to include or show:
- (a) Assess the proposal as amended pursuant to Condition 1 with the following confirmed:
    - (i) Walking criterion achieved for the surrounding footpaths;
    - (ii) Short exposure criterion achieved for the building entrances, the Level 02 and Level 05 communal terraces and Level 07 roof terrace.

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

#### Waste Management Plan

12. Before the use and/or development commences, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Waste Management Plan will be endorsed and will form part of this permit. The amended Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by OneMileGrid, dated 2 June 2021, but modified to include or show:

- (a) The location of the 1 x 80 litre bin for glass.

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

14. The collection of commercial waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.

#### Landscape Plan

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

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

to the satisfaction of the Responsible Authority.

#### Street Trees

16. Before the use and/or development commences, a Tree Management Plan to the satisfaction of the Responsible Authority must be prepared by a suitably qualified Arborist and must be submitted to and approved by the Responsible Authority. When approved the Tree Management Plan will be endorsed and will form part of this permit.

The Tree Management Plan must make recommendations for the protection of the street tree located within the Mason Street road reserve, including:

- (a) pre-construction;
- (b) during construction; and
- (c) post construction
- (d) the provision of any barriers;
- (e) any pruning necessary; and
- (f) watering and maintenance regimes,

to the satisfaction of the Responsible Authority.

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

18. Before the use and/or development commences, the permit holder must provide a security bond of \$5,000 for the retained street tree to the Responsible Authority. The security bond:
  - (a) must be provided in a manner, and on terms, to the satisfaction of the Responsible Authority;
  - (b) may be held by the Responsible Authority until the works are completed to the satisfaction of the Responsible Authority; and
  - (c) in accordance with the requirements of this permit; or
  - (d) otherwise to the satisfaction of the Responsible Authority.
19. Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, the permit holder must make a one-off contribution of \$3,045 to the Responsible Authority for the sourcing, installation and 2 year maintenance of three street trees within Mason and Oxford Streets.

### Green Travel Plan

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

### Use

21. Except with the prior written consent of the Responsible Authority, the office use authorised by this permit may only operate between the following hours:
  - (a) Monday to Friday: 7:00am – 6:00pm.
22. Except with the prior written consent of the Responsible Authority, the use of the office terraces are restricted to the hours referenced within Condition 21.
23. No more than 50 staff members are permitted on the roof terrace at any one time.
24. 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.
25. 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.

### Lighting

26. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating pedestrian entrances must be provided within the property boundary. Lighting must be:
  - (a) located;
  - (b) directed;
  - (c) shielded; and

(d) of limited intensity,  
to the satisfaction of the Responsible Authority.

### General

27. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
28. 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.
29. 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.
30. 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.
31. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
32. 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.
33. The development must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
34. The development must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).

### Public Realm Plan

35. Before the use and/or development commences, or by such later date as approved in writing by the Responsible Authority, a Public Realm Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Public Realm Plan must show the following:
  - (a) Detailed design plans of a flush cut planting area on Mason Street within the no-standing zone near the intersection of Oxford Street must be prepared to Council's satisfaction and in accordance with any requirements or conditions imposed by Council.
  - (b) A swept path diagram assessment (for a 10m service vehicle turning from Mason Street into Oxford Street) is to be provided demonstrating that the proposed planting area does not conflict with road traffic.

All to the satisfaction of the Responsible Authority.

36. Before the building is occupied, all works associated with the Public Realm Plan as shown on the endorsed plans and Public Realm Plan (referred to in Condition 35) must be fully constructed and completed by the permit holder, with all costs borne by the permit holder, to the satisfaction of the Responsible Authority.

### Road Infrastructure

37. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the footpath along the frontages to Oxford Street and Mason Street must be profiled and re-sheeted:
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
38. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the redundant vehicular crossings on Oxford Street and Mason Street must be demolished and re-instated as standard footpath and kerb and channel:
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
39. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development (including trenching and excavation for utility service connections) must be reinstated:
  - (a) at the permit holder's cost,
  - (b) to the satisfaction of the Responsible Authority.
40. Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.
41. Prior to the completion of the development, subject to the relevant authority's consent, the relocation of any service poles, street line markings, car parking sensors, service structures or service pits necessary to facilitate the development must be undertaken:
  - (a) at the permit holder's cost; and
  - (b) to the satisfaction of the Responsible Authority.
42. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the removal of any kerbside parking sensors and any reinstatement of parking sensors will require the Permit Holder to pay Council the cost of each parking sensor taken out from the kerb/footpath/roadway. Any costs associated with the reinstatement of road infrastructure due to the removal of the parking sensors must also be borne by the Permit Holder.

### Development Infrastructure Levy

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

### Construction Management Plan

44. Before the use and/or development commences, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for:
  - (a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;

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

45. During the construction:

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

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

#### Time Expiry

48. 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 office use is not commenced within five years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six

#### **Notes:**

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

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.

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

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

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

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

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.

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



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

### **Environmental Audit Overlay**

The site is located within an Environmental Audit Overlay. Pursuant to Clause 45.03 of the Yarra Planning Scheme, the requirements of the Environmental Audit Overlay must be met prior to the commencement of development permitted under the permit.

#### Submissions made online during the meeting

Clare Field, Tract Consultants (for the applicant)  
Michael Blancato, Kerstin Thompson Architects (for the applicant)  
Wendy Grace  
Christopher Neumann  
Charmaine Dennis also spoke on behalf of Alex Grant

### **PLANNING DECISIONS COMMITTEE RESOLUTION**

**Moved:** Cr Wade

**Seconded:** Cr Jolly

That having considered all objections and relevant planning policies, the Planning Decisions Committee resolves to issue a Notice of Decision to Refuse to Grant a Planning Permit for the construction of a multi-storey building, use of the land for office and a reduction in the car parking requirements at 1 – 13 Oxford Street, Collingwood subject to the following grounds:

1. The proposed height is contrary to the Design and Development Overlay (Schedule 23) of the Yarra Planning Scheme and is incongruous with the surrounding area.
2. The proposed development fails to respond to the topography of the precinct contrary to the Design and Development Overlay (Schedule 23) of the Yarra Planning Scheme.
3. The proposed height would have an adverse impact on the amenity of the area and result in excessive overshadowing of Mason Street.

**CARRIED**

**Cr Wade left after this matter.**

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|            |                                  |
|------------|----------------------------------|
| Reference  | D21/62410                        |
| Author     | Jacob Martin - Statutory Planner |
| Authoriser | Co-Ordinator Statutory Planning  |

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## RECOMMENDATION

That the Planning Decisions Committee resolves to issue a Notice of Decision to Grant an amended planning permit PLN13/0538 for the ground floor western-most tenancy to be used as a wine bar, the sale and consumption of liquor (on and off premises), external alterations and the construction and display of signage at 43 Rose Street, Fitzroy VIC 3065, generally in accordance with the plans and reports noted previously as the "decision plans" subject to the following changes to the permit preamble/conditions (new conditions underlined and bold, deleted conditions strikethrough):

### Permit Preamble:

Demolition of the existing building, development of a six storey building (not including basement) for a mixed studio / retail and residential development, a reduction in the provision of car parking, **the sale and consumption of liquor associated with a wine bar, and the construction and display of business identification signage.**

### Conditions:

#### *Amended Plans*

**1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided. The plans must be generally in accordance with the decision plans received by Council on 15 April 2021 but modified to show:**

- (a) **A ground floor plan showing the entire tenancy of the site, in accordance with the endorsed plans, but updated to reflect the proposed use of the site inclusive of:**
- (i) **The layout of the proposal consistent with the decision plans; and**
  - (ii) **The red line area;**

**2. The use, development, sale and consumption of liquor and locations and details of signage 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.**

#### *Amenity*

3. Noise emissions (including those from plant and equipment) must comply with the State Environment Policy or any other standard recommended by the Environmental Protection Authority to the satisfaction of the Responsible Authority.

4. The amenity of the area must not be detrimentally affected by the use or development, through  
(a) The transport of materials, goods or commodities to or from land; (b) The appearance of any buildings, works or materials; (c) The emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or (d) The presence of vermin.

*Acoustic*

5. **Before the sale and consumption of liquor commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the endorsed Acoustic Report prepared by Marshall Day Acoustics, dated 6 June 2014 but modified to include:**
  - (a) **The details as per the Acoustic Assessment prepared by Marshall Day Acoustics, dated 4 February 2021;**
  - (b) **The amended floor plan of the building as per the decision plans received by Council on 15/4/2021; and**
  - (c) **The requirement that the door to the wine bar remain closed during regular operation;**
6. The recommendations and any works contained in the approved acoustic report must be implemented and completed and where there are recommendations of an ongoing nature must be maintained all to the satisfaction of the Responsible Authority.

*Waste Management*

7. **Before the sale and consumption of liquor commences, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the 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 7/2/2021 but modified to include:**
  - (a) **Food waste diversion for the wine bar;**
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. Rubbish, including bottles and packaging material, must at all times be stored within the building and screened from external view. All waste collection and recycling collection to be undertaken in accordance with Council's Local Law No. 3.
- ~~9. No emptying of bottles into garbage bins located outside the approved waste storage areas is permitted after 10.00 pm on any night, or before 7.00 am on any day.~~

*Landscape Plan*

- ~~10. Before the plans are endorsed, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The landscape plan must show the location, quantity and maturity of all proposed plants (including those to the balconies), the botanical name of plants, the location of all areas to be covered by other surface materials and provide a specification of works to be undertaken prior to planting.~~
10. All landscaping to be undertaken in accordance with the endorsed landscaping plans prior to occupation and thereafter maintained to the satisfaction of the Responsible Authority.

## ESD

- ~~12. Prior to the endorsement of plans under Condition 1, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the report will then form part of this permit. The Report must be generally in accordance with the report prepared by Ark Resources and dated 18 July 2013 but and further modified to details and show (as necessary):~~
- ~~(a) The methodology for apartments to take advantage of common area ventilation;~~
  - ~~(b) The provision of highly efficient hot water systems for the commercial spaces;~~
  - ~~(c) A PV system of a minimum 5.2kW;~~
  - ~~(d) The provision of angled fins to the western facade in a north-westerly direction to gain the low angle winter sun (from the north-west) and protect from the low angle summer sun (from the south-west);~~
  - ~~(e) Nominate bins for recycling in separated waste in bin storage area;~~
  - ~~(f) The provision of external clothes drying facilities;~~
  - ~~(g) A commitment to a minimum 30% recycled industrial waste content incorporated into the construction materials;~~
  - ~~(h) A commitment to specifying accredited sustainable timbers by the (Forrest Stewardship Council (FSC) only;~~
  - ~~(i) Kitchen joinery with separate recycling compartments;~~
  - ~~(j) The provision of a Building Users Guide for residents and tenants to assist minimising waste and maximising comfort and energy efficiency prior to occupancy (if provided); and~~
  - ~~(k) A commitment to building tuning and maintenance of all major building services quarterly, during first 12 months of operation, and every 12 months following.~~

**11. The provisions, recommendations and requirements of the endorsed Sustainable Design Assessment must be implemented and complied with to the satisfaction of the Responsible Authority.**

### *Construction*

12. All new on boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
13. Any damaged road(s) and footpath(s) or other Council infrastructure adjacent to the development site as a result of the proposed development must be reinstated at the cost of the developer to the satisfaction of the Responsible Authority prior to the occupation of the building.
14. The car parking area must be used for no other purpose to the satisfaction of the Responsible Authority.
15. Existing kerb and channel, and road pavement surface levels must not be altered, unless with the prior written consent of the Responsible Authority.
16. Prior to the occupation of the dwellings, the redundant vehicle crossing is to be broken out and reinstated with paving, kerb and channel of the surrounding area to the satisfaction of the Responsible Authority. The cost of these reinstatement works shall be borne by the developer.
17. All privacy screens must be installed prior to the occupation of the building and maintained thereafter.

18. The development must be provided with lighting capable of illuminating access to each car parking space, bicycle parking space, store, rubbish bin, recycling bin, pedestrian walkways, stairwells, lift, dwelling entrances and entry foyer. Lighting must be located, directed, shielded and of limited intensity so that no nuisance or loss of amenity is caused to any person within and beyond the site, to the satisfaction of the Responsible Authority.
19. Before any 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 as evidence of its approval. The plan must provide for or include the following:
  - (a) a pre-conditions survey (dilapidation report) of the subject site and all adjacent Council roads frontages and nearby road infrastructure;
  - (b) protection works necessary to road and other infrastructure (limited to an area reasonably proximate to the site);
  - (c) remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site);
  - (d) containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build up of matter outside the site,
  - (e) on site facilities for vehicle washing;
  - (f) 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 that the activities on-site pose including but not limited to: contaminated soil, materials and waste, dust, stormwater contamination from run-off and wash-waters, sediment from the site on roads, washing of concrete trucks and other vehicles and machinery, spillage from refuelling cranes and other vehicles and machinery;
  - (i) construction program;
  - (j) preferred arrangements for trucks delivering to the site including delivery and unloading points and expected frequency;
  - (k) parking facilities for construction workers;
  - (l) measures to ensure that sub-contractors/tradespersons operate in accordance with the Construction Management Plan;
  - (m) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
  - (n) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced;
  - (o) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads; and
  - (p) a noise and vibration management plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with Noise Control Guideline 12 for Construction (Publication 1254) as issued by the Environment Protection Authority in October 2008, to the satisfaction of the Responsible Authority. In this regard, consideration (amongst other matters) may be given to:
    - (i) using lower noise work practice and equipment;
    - (ii) the suitability of the site for the use of an electric crane;
    - (iii) silencing all mechanical plant by the best practical means using current technology; and
    - (iv) fitting all pneumatic tools operated near a residential area with an effective silencer on their air exhaust port.

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

### Liquor

21. No more than 18 patrons are permitted on the land at any time liquor is being sold or consumed.
22. Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor may only occur between the hours of 9.00am to 9.00pm, 7 days a week.
23. Before the commencement of the sale and consumption of liquor, the applicant must, to the satisfaction of the Responsible Authority, display a sign at the exit of the licensed premises advising patrons to respect the amenity of adjacent residential areas and to leave in a quiet and orderly manner.
24. The provision of music and entertainment on the land must be at a background noise level.
25. Speakers external to the building must not be erected or used.
26. Emptying of bottles and cans into bins may only occur between 7am and 10pm on Monday to Saturday or after 9am on a Sunday or public holiday.
27. The provisions recommendation and requirements of the endorsed Noise and Amenity Action Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
28. Delivery and collection of goods to and from the licensed premises 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.

### Signage

29. The signs must not be illuminated by external or internal light.
30. The signs must be constructed, displayed and maintained to the satisfaction of the Responsible Authority.
31. The signage component of this permit expires 15 years from the date of the permit.
32. The signage component of this permit will expire if the signs are not erected within 2 years of the date of amendment PLN13/0538.01 to this permit. The Responsible Authority may extend the period referred to if a request is made in writing before the permit expires or within six months afterwards for commencement or twelve months afterwards for completion.
33. On expiry of this permit, the approved signs and structures built specially to support and/or illuminate signage must be removed.

### **Expiry**

34. This permit will expire if any of the following occur:
- (a) **The development is not commenced within two (2) years from the date of amendment PLN13/0538.01 to this permit;**
  - (b) **The development is not completed within four (4) years from the date of amendment PLN13/0538.01 to this permit;**
  - (c) **The signs are not erected within 2 years of the date of amendment PLN13/0538.01 to this permit;**
  - (d) **the sale and consumption of liquor is not commenced within two years from the date of amendment PLN13/0538.01 to this permit; or**
  - (e) **The sale and consumption of liquor is discontinued for a period of two years.**

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

### **NOTES**

The site is located within an Environmental Audit Overlay. Pursuant to Clause 45.03 of the Yarra Planning Scheme, the requirements of the Environmental Audit Overlay must be met prior to the commencement of works permitted under the permit.

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

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

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

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

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.

All storm water drainage within the property must be provided and be connected to the nearest Council pit of adequate depth and capacity (legal point of discharge), to Council's satisfaction.

The new vehicle crossing must be constructed in accordance with City of Yarra Standard Drawings and Specifications.

The vehicle crossing must be designed and constructed to satisfy the requirements of Council's Community Amenity unit's Vehicular Access into Properties (Info Sheet and Application Form) before a vehicle crossing permit can be issued.

The developer must liaise and consult with Council's Traffic Unit (telephone 9205 5731) prior to undertaking any public lighting works.

This food premises is required to comply with health and food safety regulations before commencing operation. Please contact Council's Public Health Unit on 9205 5166.

Submissions made online during the meeting

Marshall Waters, ReWine (for the applicant)  
Troy Thomas

**PLANNING DECISIONS COMMITTEE RESOLUTION**

**Moved:** Cr Jolly

**Seconded:** Cr Wade

That the Planning Decisions Committee resolves to issue a Notice of Decision to Grant an amended planning permit PLN13/0538 for the ground floor western-most tenancy to be used as a wine bar, the sale and consumption of liquor (on and off premises), external alterations and the construction and display of signage at 43 Rose Street, Fitzroy VIC 3065, generally in accordance with the plans and reports noted previously as the "decision plans" subject to the following changes to the permit preamble/conditions (new conditions underlined and bold, deleted conditions strikethrough):

Permit Preamble:

Demolition of the existing building, development of a six storey building (not including basement) for a mixed studio / retail and residential development, a reduction in the provision of car parking, **the sale and consumption of liquor associated with a wine bar, and the construction and display of business identification signage.**

Conditions:

*Amended Plans*

1. **Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided. The plans must be generally in accordance with the decision plans received by Council on 15 April 2021 but modified to show:**
  - (a) **A ground floor plan showing the entire tenancy of the site, in accordance with the endorsed plans, but updated to reflect the proposed use of the site inclusive of:**
    - (i) **The layout of the proposal consistent with the decision plans; and**
    - (ii) **The red line area;**
  
2. **The use, development, sale and consumption of liquor and locations and details of signage 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.**



### *Amenity*

3. Noise emissions (including those from plant and equipment) must comply with the State Environment Policy or any other standard recommended by the Environmental Protection Authority to the satisfaction of the Responsible Authority.
4. The amenity of the area must not be detrimentally affected by the use or development, through (a) The transport of materials, goods or commodities to or from land; (b) The appearance of any buildings, works or materials; (c) The emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or (d) The presence of vermin.

### *Acoustic*

- 5. Before the sale and consumption of liquor commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the endorsed Acoustic Report prepared by Marshall Day Acoustics, dated 6 June 2014 but modified to include:**
  - (a) The details as per the Acoustic Assessment prepared by Marshall Day Acoustics, dated 4 February 2021;**
  - (b) The amended floor plan of the building as per the decision plans received by Council on 15/4/2021; and**
  - (c) The requirement that the door to the wine bar remain closed during regular operation;**
6. The recommendations and any works contained in the approved acoustic report must be implemented and completed and where there are recommendations of an ongoing nature must be maintained all to the satisfaction of the Responsible Authority.

### *Waste Management*

- 7. Before the sale and consumption of liquor commences, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the 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 7/2/2021 but modified to include:**
  - (a) Food waste diversion for the wine bar;**
- 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. Rubbish, including bottles and packaging material, must at all times be stored within the building and screened from external view. All waste collection and recycling collection to be undertaken in accordance with Council's Local Law No. 3.
- ~~9. No emptying of bottles into garbage bins located outside the approved waste storage areas is permitted after 10.00 pm on any night, or before 7.00 am on any day.~~

### *Landscape Plan*

- ~~10. Before the plans are endorsed, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The landscape plan must show the location, quantity and maturity of all proposed plants (including those to the balconies), the botanical name of plants, the location of all areas to be covered by other surface materials and provide a specification of works to be undertaken prior to planting.~~
10. All landscaping to be undertaken in accordance with the endorsed landscaping plans prior to occupation and thereafter maintained to the satisfaction of the Responsible Authority.

### *ESD*

- ~~12. Prior to the endorsement of plans under Condition 1, an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the report will then form part of this permit. The Report must be generally in accordance with the report prepared by Ark Resources and dated 18 July 2013 but and further modified to details and show (as necessary):~~
- ~~(a) The methodology for apartments to take advantage of common area ventilation;~~
  - ~~(b) The provision of highly efficient hot water systems for the commercial spaces;~~
  - ~~(c) A PV system of a minimum 5.2kW;~~
  - ~~(d) The provision of angled fins to the western facade in a north-westerly direction to gain the low angle winter sun (from the north-west) and protect from the low angle summer sun (from the south-west);~~
  - ~~(e) Nominate bins for recycling in separated waste in bin storage area;~~
  - ~~(f) The provision of external clothes drying facilities;~~
  - ~~(g) A commitment to a minimum 30% recycled industrial waste content incorporated into the construction materials;~~
  - ~~(h) A commitment to specifying accredited sustainable timbers by the (Forrest Stewardship Council (FSC) only;~~
  - ~~(i) Kitchen joinery with separate recycling compartments;~~
  - ~~(j) The provision of a Building Users Guide for residents and tenants to assist minimising waste and maximising comfort and energy efficiency prior to occupancy (if provided); and~~
  - ~~(k) A commitment to building tuning and maintenance of all major building services quarterly, during first 12 months of operation, and every 12 months following.~~
11. **The provisions, recommendations and requirements of the endorsed Sustainable Design Assessment must be implemented and complied with to the satisfaction of the Responsible Authority.**

### *Construction*

12. All new on boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
13. Any damaged road(s) and footpath(s) or other Council infrastructure adjacent to the development site as a result of the proposed development must be reinstated at the cost of the developer to the satisfaction of the Responsible Authority prior to the occupation of the building.
14. The car parking area must be used for no other purpose to the satisfaction of the Responsible Authority.

15. Existing kerb and channel, and road pavement surface levels must not be altered, unless with the prior written consent of the Responsible Authority.
16. Prior to the occupation of the dwellings, the redundant vehicle crossing is to be broken out and reinstated with paving, kerb and channel of the surrounding area to the satisfaction of the Responsible Authority. The cost of these reinstatement works shall be borne by the developer.
17. All privacy screens must be installed prior to the occupation of the building and maintained thereafter.
18. The development must be provided with lighting capable of illuminating access to each car parking space, bicycle parking space, store, rubbish bin, recycling bin, pedestrian walkways, stairwells, lift, dwelling entrances and entry foyer. Lighting must be located, directed, shielded and of limited intensity so that no nuisance or loss of amenity is caused to any person within and beyond the site, to the satisfaction of the Responsible Authority.
19. Before any 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 as evidence of its approval. The plan must provide for or include the following:
  - (a) a pre-conditions survey (dilapidation report) of the subject site and all adjacent Council roads frontages and nearby road infrastructure;
  - (b) protection works necessary to road and other infrastructure (limited to an area reasonably proximate to the site);
  - (c) remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site);
  - (d) containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build up of matter outside the site,
  - (e) on site facilities for vehicle washing;
  - (f) 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 that the activities on-site pose including but not limited to: contaminated soil, materials and waste, dust, stormwater contamination from run-off and wash-waters, sediment from the site on roads, washing of concrete trucks and other vehicles and machinery, spillage from refuelling cranes and other vehicles and machinery;
  - (i) construction program;
  - (j) preferred arrangements for trucks delivering to the site including delivery and unloading points and expected frequency;
  - (k) parking facilities for construction workers;
  - (l) measures to ensure that sub-contractors/tradespersons operate in accordance with the Construction Management Plan;
  - (m) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
  - (n) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced;
  - (o) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads; and

(p) a noise and vibration management plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with Noise Control Guideline 12 for Construction (Publication 1254) as issued by the Environment Protection Authority in October 2008, to the satisfaction of the Responsible Authority. In this regard, consideration (amongst other matters) may be given to:

- (i) using lower noise work practice and equipment;
- (ii) the suitability of the site for the use of an electric crane;
- (iii) silencing all mechanical plant by the best practical means using current technology; and
- (iv) fitting all pneumatic tools operated near a residential area with an effective silencer on their air exhaust port.

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

### **Liquor**

21. **No more than 18 patrons are permitted on the land at any time liquor is being sold or consumed.**

22. **Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor may only occur between the hours of 10.00am to 9.00pm, 7 days a week.**

23. **Before the commencement of the sale and consumption of liquor, the applicant must, to the satisfaction of the Responsible Authority, display a sign at the exit of the licensed premises advising patrons to respect the amenity of adjacent residential areas and to leave in a quiet and orderly manner.**

24. **The provision of music and entertainment on the land must be at a background noise level.**

25. **Speakers external to the building must not be erected or used.**

26. **Emptying of bottles and cans into bins may only occur between 7am and 10pm on Monday to Saturday or after 9am on a Sunday or public holiday.**

27. **The provisions recommendation and requirements of the endorsed Noise and Amenity Action Plan must be implemented and complied with to the satisfaction of the Responsible Authority.**

28. **Delivery and collection of goods to and from the licensed premises 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.**

### **Signage**

29. **The signs must not be illuminated by external or internal light.**

30. **The signs must be constructed, displayed and maintained to the satisfaction of the Responsible Authority.**

31. **The signage component of this permit expires 15 years from the date of the permit.**
32. **The signage component of this permit will expire if the signs are not erected within 2 years of the date of amendment PLN13/0538.01 to this permit. The Responsible Authority may extend the period referred to if a request is made in writing before the permit expires or within six months afterwards for commencement or twelve months afterwards for completion.**
33. **On expiry of this permit, the approved signs and structures built specially to support and/or illuminate signage must be removed.**

**Expiry**

34. This permit will expire if any of the following occur:
  - (a) **The development is not commenced within two (2) years from the date of amendment PLN13/0538.01 to this permit;**
  - (b) **The development is not completed within four (4) years from the date of amendment PLN13/0538.01 to this permit;**
  - (c) **The signs are not erected within 2 years of the date of amendment PLN13/0538.01 to this permit;**
  - (d) **the sale and consumption of liquor is not commenced within two years from the date of amendment PLN13/0538.01 to this permit; or**
  - (e) **The sale and consumption of liquor is discontinued for a period of two years.**

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

**NOTES**

The site is located within an Environmental Audit Overlay. Pursuant to Clause 45.03 of the Yarra Planning Scheme, the requirements of the Environmental Audit Overlay must be met prior to the commencement of works permitted under the permit.

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

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

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

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

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.

All storm water drainage within the property must be provided and be connected to the nearest Council pit of adequate depth and capacity (legal point of discharge), to Council's satisfaction.

The new vehicle crossing must be constructed in accordance with City of Yarra Standard Drawings and Specifications.

The vehicle crossing must be designed and constructed to satisfy the requirements of Council's Community Amenity unit's Vehicular Access into Properties (Info Sheet and Application Form) before a vehicle crossing permit can be issued.

The developer must liaise and consult with Council's Traffic Unit (telephone 9205 5731) prior to undertaking any public lighting works.

This food premises is required to comply with health and food safety regulations before commencing operation. Please contact Council's Public Health Unit on 9205 5166.

**CARRIED UNANIMOUSLY**

The meeting closed at 9.17pm.

**Confirmed at the meeting held on Wednesday 14 July 2021**

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**Chair**