



YARRA CITY COUNCIL
Planning Decisions Committee
Agenda – Part 2

**to be held on Wednesday 23 September 2020 at
6.30pm in MS Teams**

Rostered Councillor membership

Councillor Stephen Jolly
Councillor Jackie Fristacky
Councillor James Searle

I. ATTENDANCE

Danielle Connell (Senior Co-Ordinator Statutory Planning)
Michelle King (Principal Planner)
Rhys Thomas (Senior Governance Advisor)
Cindi Johnston (Governance Officer)

II. DECLARATIONS OF PECUNIARY INTEREST AND CONFLICT OF INTEREST

III. CONFIRMATION OF MINUTES

IV. COMMITTEE BUSINESS REPORTS

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Acknowledgement of Country

"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."

Planning Decisions Committee Submissions

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

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

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

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

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

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

Extract from the Council Meeting Operations Policy, September 2019

1. Committee business reports

Item		Page	Rec. Page
1.5	Planning application No. PLN19/0707 - 91 Rokeby Street, Collingwood - Construction of a seven-storey building (plus roof terrace) for use as office(s) and reduction in the associated car parking requirement of the Yarra Planning Scheme.	5	41
1.6	PLN13/1039.01 - 29 Brighton Street, Richmond - Planning permit amendment application for alterations including new roof decks to the two approved double storey dwellings, additions at first floor to accommodate roof terrace stair access and deletion of conditions.	49	71
1.7	PLN19/0121 - 684 Station Street Carlton North - Part demolition and construction of a two storey extension to the rear of the existing dwelling, with associated basement car parking and roof terrace.	75	97
1.8	PLN16/0041.01 - 274 Brunswick Street, Fitzroy - Section 72 amendment for buildings and works to an existing building, change in the type of liquor licence (from a restaurant/cafe licence to a hotel general licence), an increase of 99 patrons (i.e. patron capacity increased from 46 to 145 patrons), an increase to the 'red line' area to include the first floor (including outdoor balcony), installation of internally illuminated signage and reduction in the bicycle facilities requirement of the Yarra Planning Scheme	100	125

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- 1.5 Planning application No. PLN19/0707 - 91 Rokeby Street, Collingwood - Construction of a seven-storey building (plus roof terrace) for use as office(s) and reduction in the associated car parking requirement of the Yarra Planning Scheme.**
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Executive Summary

Purpose

1. This report provides an assessment of the proposal at property No. 91 Rokeby Street, in Collingwood for the demolition of the existing building and construction of a seven storey building (plus roof terrace) for use as office(s) and a reduction in the car parking requirement of the Yarra Planning Scheme.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Clause 15.01 – Urban Environment;
 - (b) Clause 21.05 – Built Form;
 - (c) Clause 22.05 – Interface Uses Policy;
 - (d) Clause 34.02 - Commercial 2 Zone; and
 - (e) Clause 52.06 – Car Parking.

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Strategic justification;
 - (b) Built form, and Urban Design;
 - (c) On-site amenity including Environmentally Sustainable Design;
 - (d) Off-site amenity;
 - (e) Car parking, traffic and access; and
 - (f) Objector concerns.

Submissions Received

4. Thirteen (13) objections were received to the application, these can be summarised as:
 - (a) Design:
 - (i) Design, size, height and mass of the development is inconsistent with the existing neighbourhood character and is an overdevelopment;
 - (b) Use and Off-Site Amenity Impacts:
 - (i) Noise impacts on surrounding land uses and overlooking;
 - (ii) Overshadowing of private open space and the public realm;
 - (iii) The development will block views and dominate the skyline;
 - (c) Traffic and Car Parking:
 - (i) The car parking reduction cannot be supported within local road network;
 - (d) Other:

- (i) The development will lead to the devaluation of surrounding properties;
- (ii) Construction will cause significant disruption in terms of noise and large vehicles driving through surrounding streets; and
- (iii) The development may overload existing infrastructure services.

Conclusion

5. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported subject to the adoption of following key changes as per the plans identified in as “Sketch plans” prepared by Matt Goodman Architecture Office dated 10 June 2020 that show:
- (a) The deletion of Level 6 and a reduction in the overall building height to 21.9m above the NGL as measured to the highest point of the lift overrun and 19.6m as measured to the edge of the roof terrace floor above the natural ground level (NGL); and
 - (b) The deletion of the external exoskeleton framing element to the building;
- But further modified to show (key change amongst other items)
- (c) The adoption of evenly or more comparable distributed floor-to-ceiling heights and hence, openings / fenestration between the ground and upper floors.

1.5 Planning application No. PLN19/0707 - 91 Rokeby Street, Collingwood - Construction of a seven-storey building (plus roof terrace) for use as office(s) and reduction in the associated car parking requirement of the Yarra Planning Scheme.

Reference: D20/142365

Authoriser:

Ward: Langridge

Proposal: Construction of a seven storey building (plus roof terrace) for use as office(s) and reduction in the associated car parking requirement of the Yarra Planning Scheme.

Existing use: Commercial

Applicant: Direct Planning

Zoning / Overlays: Commercial 2 / Heritage Overlay (HO141)
Design and Development Overlay (Schedule 11)

Date of Application: 14 October 2019

Application Number: PLN19/0707

Planning History

Planning Permit No. 98/0156

6. Planning permit No. 98/0156 was issued in September of 1998, allowing buildings and works at the premises. The zoning of the land at that time was General Industrial and as stated in the Delegate's report for that application, no permit was required for a caretaker's dwelling. This permit was not implemented and lapsed in September 1999.

Planning Application No. PL01/1126

7. Planning application No. PL01/1126 was refused by Council on 4th June 2002. The application was refused because it was considered to be contrary to the policy objectives and criteria of the Caretakers' Houses policy at Clause 22.06 of the Yarra Planning Scheme (the "Scheme").

Background

Application process

8. The current application was lodged on 14th October 2019, and further information subsequently requested on 23rd October 2019 with concerns raised relating to the building height. The information was received on 25th November 2019 and the application was then advertised. At the time of writing this report, thirteen objections had been received.
9. Following advertising and receipt of advice from Council's Urban Designer and Engineer, including further discussions between Council Officers and the permit applicant, a set of "Sketch plans" prepared by Matt Goodman Architecture Office dated 10 June 2020 were emailed directly to Council on 6th August 2020.

The plans provide a redesign of the proposal to address some of the concerns raised by objectors relating to height, but also by Council Officer's relating to the appearance of the building.

10. The Sketch plans show the following primary changes to the originally advertised plans (as illustrated at Figures 1 and 2):
 - (a) The deletion of level 6, and a reduction in the building height from 25.8m as measured to the highest point of the lift overrun and 22.3m to the edge of the roof terrace floor as measured above the natural ground level (NGL) based on the AHD's, to 21.9m above the NGL as measured to the highest point of the lift overrun and 19.6m as measured to the edge of the roof terrace floor above the natural ground level (NGL).
 - (b) The deletion of the external exoskeleton framing element to the building that also originally extended around the perimeter of the roof terrace as originally proposed.
11. The building will read as a six level building plus a roof terrace, in lieu of a seven level building with the building modified from (as per the advertised plans):



Figure 1: 3D Perspective as perceived from the north-east (advertised plans that excluded the exoskeleton frame from the roof terrace perimeter)

To:



Figure 2: 3D Perspective as perceived from the north-east (Sketch plans that have reduced the building height by one level and have deleted the exoskeleton frame)

12. Whilst not formally substituted under Section 57(a) of the Act, the plans show improvements (reduction in built form when compared to the advertised plans) that respond to some of the Objector concerns and will be considered for the purpose of this assessment. These plans have also been circulated to all objector parties with the invites to the meeting.

The Proposal

13. The application proposes the demolition of the existing building to make way for the construction of a seven-storey building (plus roof terrace) for use as office(s) (no permit required use) and a reduction in the car parking requirement. The key elements of the development can be summarised as follows:

Building Layout

- (a) The ground floor is comprised of an entrance at the north-east corner in the form of a sliding door that would provide immediate access to a reception area and lift core and stairwell to the upper floor areas.
- (b) The offices would commence from the first through to the sixth floors (noting that the floor plans are incorrectly labelled i.e. the "Level 1-5" floor plan should be labelled Level 1-4, "Level 6" should be labelled Level 5 and "Level 7" should be labelled as Level 6).
- (c) Essentially the building will provide approximately 68sq.m. of office area at the ground floor, and a combined 660.4sq.m of office area above.
- (d) Service amenities are provided on each floor level with a designated area for waste provided on the ground floor.
- (e) Vehicular access is provided from Rokeby Street to two staff car spaces on the ground floor.
- (f) Twelve on-site bicycle spaces are provided on the ground floor to the west of the car spaces.
- (g) A balcony is provided to the north and east of the office area on Level 5 (incorrectly labelled Level 6 on the plans) of approximately 49sq.m. and a roof terrace is provided above Level 6 (incorrectly labelled Level 7) of approximately 110sq.m.

Building Massing

- (h) A maximum building height of 28m to the highest point of the lift overrun above the NGL to the west and south.
- (i) The building would extend to the northern (Robert Street) and eastern (Rokeby Street) boundaries for a height of 18.41m (i.e. five storey podium) before setting back 2.16m and 2m, respectively, at Level 5 (incorrectly labelled Level 6) and Level 6 (incorrectly labelled Level 7), and at the roof terrace.

Materials and Finishes

- (j) The building would be of a contemporary and angular design and would be constructed of masonry (face brickwork) with large clear glass windows.
- (k) A corten steel exoskeleton frame would be attached to the walls of the building and extend around the perimeter of the building as identified at Figure 1.

ESD Features and landscaping

- (l) The development would incorporate the following ESD commitments:
 - (i) Energy efficient heating and cooling of at least 10% better than NCC requirements;
 - (ii) 3,000 litres of rainwater storage;
 - (iii) Good daylight access to office areas;

- (iv) A 20kWp solar PV array to contribute to onsite electricity consumption;
- (v) A total of 12 bicycle spaces and end of trip facilities;
- (vi) Landscaping and communal open space with the provision of a balcony and rooftop terrace.

Existing Conditions

Subject Site

14. The subject site is located at the south-west corner of the Robert and Rokeby Street intersection in Collingwood. The site consists of a more comparable square-shaped configuration with a 13.3m frontage to Rokeby Street, and a 12.5m depth (or secondary frontage to Robert Street) and a site area of approximately 166sq.m. The land is generally flat and is known as Lot 5 on plan of subdivision PS409682R, associated with Certificate of Title Volume No. 10356 and Folio No. 993.

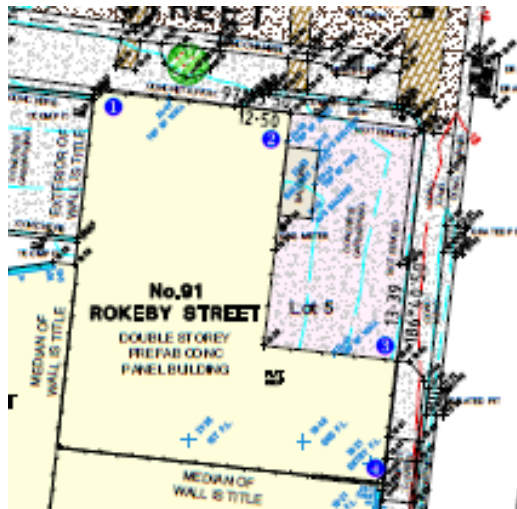


Figure 3: Subject site as extracted from Survey Plan.

15. The site is currently developed with a double-storey height, pre-fabricated “L” shaped building (i.e. area in “crème” colour at Figure 3) constructed along the northern (Robert Street), southern and western boundaries, and in part along the eastern (Rokeby Street) boundary. The building is setback from the eastern boundary to allow for two car spaces and a driveway (see Figure 4). Both pedestrian and vehicle access is provided via Rokeby Street. The building has a simple industrial/commercial design with flush double-storey walls with horizontal concrete panels and a flat roof form. The principal facade has a full length window with a glass door (see Figure 5).



Figure 4: Subject building (photo extracted from Permit Applicant's site photos of existing context).



Figure 5: Subject building showing Rokeby Street hard-edged portion.

16. The title submitted with the application does not show any covenants or easements.

Surrounding Land

17. The area contains a range of businesses including light industry, manufacturing, warehousing, offices and studios and other commercial uses. Allotment sizes are varied as are building types ranging from industrial to warehouses, office and commercial, all reflecting the historic industrial nature of the area. Construction along Rokeby Street is typically built boundary to boundary, with full site coverage and car parking provided within garages or open car parking areas.
18. Some sites in the wider area are underutilised and / or vacant whilst others have been redeveloped for residential (i.e. up to 17 storeys (i.e. property No. 21 Robert Street, Collingwood – the former Yorkshire Brewery site – approximately 38m west of the subject site) and commercial uses. Some are currently under construction (i.e. property no. 2-16 Northumberland Street, Collingwood that is up to 13 storeys and zoned Commercial 2 located approximately 220m south-west of the subject site) whilst other sites, are being cleared in preparation for the commencement of works (i.e. property No. 71 – 93 Gipps Street, Collingwood that has a planning permit (planning permit no. PLN16/1150) for the construction of an 11 storey commercial building located approximately 120m north-east of the site).
19. The subject site forms part of a larger, matching double storey factory/office/shop complex fronting Rokeby Street to the east, Robert Street to the north and Waterloo Road to the south. This complex comprises a generally consistent architectural design style with flush double storey walls with horizontal concrete panels, flat roof form, staggered street frontages with open car park areas and full length shopfront windows and roller door access at street frontages.



Figure 6: Aerial view of the surrounding built form, with the subject site identified with a blue star.

20. Along Rokeby Street is commercial development with warehouse, factory and office developments (1 to 3 storey in height) and a four storey mixed use development at the Gipps Street intersection. Buildings are largely constructed to the street frontage, with a mix of robust industrial and more contemporary multi-level architectural design in varying render, concrete, masonry and glazed finishes. Buildings have roller door front access and under croft car parking.
21. Rokeby Street is a one-way, south bound street with restricted parking (1P, 1/4P, loading zone and no standing parking restrictions) along the eastern side. The western side has no standing parking restrictions.
22. To the north is Robert Street, a one-way, east bound street with no on-street car parking. Across that is land occupied predominantly by single storey warehouses, constructed of masonry and hard-edged with roller doors presenting to the street and occupied for commercial / industrial purposes.
23. The site's immediate interfaces are as follows:

North

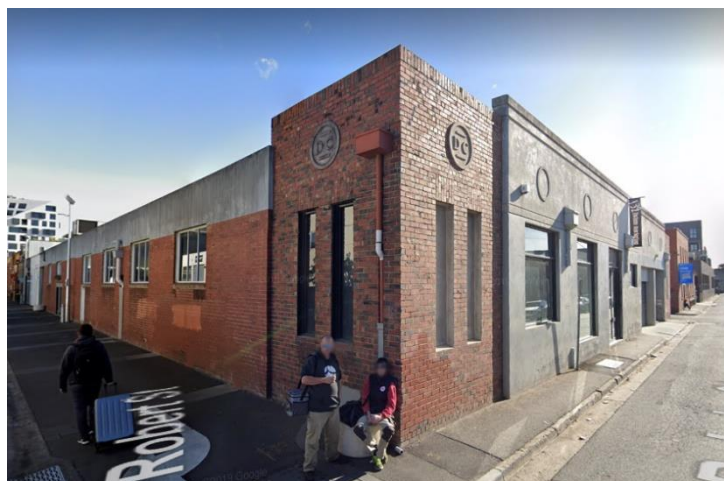


Figure 7: Building at the north-west corner of the Robert and Rokeby Street intersection.

24. To the north of the subject site, directly on the opposite side and at the north-west intersection of Rokeby and Robert Streets, is the single-storey masonry building indicated earlier. The building is also hard-edged to Rokeby Street where it provides its primary entrance, several windows, including vehicle entry.

West



Figure 8: Building to the immediate west with subject site identified for context.

25. To the west are also pre-fabricated buildings that are all similar in design to that on the subject site. The immediate building to the west is double-storey and setback from Robert Street where there is provision for car parking and loading bays. The building is occupied by a seafood processor, with the immediate building further west being its mirror image in terms of built form, design and setback from Robert Street.
26. Further to the west, at 1-21 Robert Street, is a 17 level multi-storey mixed use redevelopment (former Yorkshire Brewery). This building contains dwellings and has a separation distance of approximately 38m from the subject site.

South



Figure 9: Building to the immediate south.

27. Similar to the subject site and that to the immediate west, the site to the south is developed with a double-storey building, constructed along the northern, southern and western boundaries, in part along the Rokeby Street frontage (continuing the zero setback with the portion of building associated with that on the subject site), and in part setback from this boundary to allow for two car spaces. Both the pedestrian and vehicle access is provided via Rokeby Street. The building has a simple industrial/commercial design with flush double-storey walls with horizontal concrete panels and a flat roof form. The facade has a full length window with two glazed pedestrian entries. The secondary facade (staggered back) has a narrow shopfront window with roller shutter over. The building is currently used as an office and a shop.
28. The site described above has a planning permit (i.e. Planning Permit No. PLN18/0158) for its development with the construction of the following five-storey, commercial building (endorsed plans associated with this site are included as an attachment to this report for ease of reference)



Figure 10: Rokeby Street render of building approved to the immediate south of subject site under Planning Permit No. PLN18/0158.

29. At present, there is an amendment application made pursuant to Section 72 of the Act 1987, (PLN18/0158.01) to modify the building approved from that at Figure 10, with the introduction of two additional levels, modifying this from a five-storey building to a seven storey building as per that at Figure 11 below. Under the amendment, the proposed building height is 25.6m.



Figure 11: Rokeby Street render of amended building proposed under current amendment application No. PLN18/0158.01.

30. At the time of writing, amendment application No. PLN18/0158.01 was pending a decision.

East



Figure 12: Building to the east and opposite side of the subject site.

31. To the immediate east is Rokeby Street with the property immediate opposite occupied by a double storey, commercial building which occupies the entire site and provides pedestrian and vehicle access via an under-croft. The building is occupied by a function centre and a food catering service.
32. The subject site is also well connected to surrounding services including being located approximately:
- (a) 280m to the west of Hoddle Street, a major arterial road with bus routes servicing Doncaster, the northern suburbs, various railway stations, the CBD, Elsternwick and St Kilda;
 - (b) 450m to the east of Smith Street, a Major Activity Centre, with bars, cafes, restaurants, taverns, nightclubs, retail and community facilities, and tram route 86 serving Docklands and Boroondara via the CBD;
 - (c) 360m to the north of Victoria Parade, with various bus routes serving the western and eastern suburbs via the CBD, and tram route 109 Docklands to Box Hill via the CBD; and
 - (d) 700m to the south of Johnston Street, a Neighbourhood Activity Centre, with bus routes.

Planning Scheme Provisions

Zoning

Commercial 2 Zone (C2Z)

33. The purposes of this zone are:
- (a) *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
 - (b) *To encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services.*
 - (c) *To ensure that uses do not affect the safety and amenity of adjacent, more sensitive uses.*

34. Pursuant to Clause 34.02-1 of the Yarra Planning Scheme (the "Scheme") a planning permit is not required to use the land as office.
35. Pursuant to Clause 34.02-4 of the Scheme, a planning permit is required to construct a building or construct or carry out works.

Overlays

Heritage Overlay - HO141 – 1-21 Robert Street and 88 Wellington Street Collingwood Former Yorkshire Brewery Site

36. The following provisions apply:
 - (a) Schedule 141 to the Overlay identifies the site as being included on the Victorian Heritage Register under the *Heritage Act 2017* (Ref. VHR H807).
 - (b) Pursuant to Clause 43.01-3 of the Scheme, no permit is required to develop a heritage place which is included in the Victorian Heritage Register.
37. Given that the heritage place (being the subject site) is included on the Victorian Heritage Register, a separate application is required by the applicant to be submitted to Heritage Victoria.
38. Heritage as a subject matter is not a consideration in this instance given that Heritage Victoria is the determining Authority, not Council. A note on any permit issued will be included as a reminder to the permit holder.
39. Some reference is made in this report to the heritage aspect of the building, as advice was sought from Council's Heritage Advisor as a contribution towards achieving an appropriate built form outcome. The outcome of the building as modified in the "Sketch plans" is a lower and simplified version as compared to the application drawings that were also advertised and supported by Council's Heritage Advisor.

Design and Development Overlay (DDO) – Schedule 11 – Gipps Precinct

40. Pursuant to Clause 43.02-2 of the Scheme, a planning permit is required to construct a building.
41. Schedule 11 to the DDO contains requirements in assessing buildings and provides the following decision guidelines at point 7 that must be considered:
 - (a) *The impact of traffic generated by the proposal and whether it is likely to require additional traffic management control works in the neighbourhood.*
 - (b) *How the design, height and form of development responds to the preferred built form character of the Precinct.*
 - (c) *How the design, height and visual bulk of building/s on the site address potential negative amenity impacts on surrounding development.*
 - (d) *How the proposal improves the street environment for pedestrians along street frontages.*
 - (e) *The location of, and access to, parking facilities and their effect on the local road network.*

Particular Provisions

Clause 52.06 – Car parking

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

Proposed Use	Quantity/ Size	Statutory Parking Rate*	No. of Spaces Required	No. of Spaces Allocated
Office	724sq.m.	3 spaces per 100sq.m. of net floor area	21	2

A total of 2 car spaces are proposed on site, therefore the application seeks a reduction of 19 car spaces.

Clause 53.18 – Stormwater Management in Urban Development

47. The purpose of this clause is *to ensure that stormwater in urban development, including retention and reuse, is managed to mitigate the impacts of stormwater on the environment, property and public safety, and to provide cooling, local habitat and amenity benefits.*
48. In achieving the purpose of this clause, an application must be accompanied by details relating to a stormwater management system. In this instance, the applicant provided a Sustainable Design Assessment (SDA), prepared and authored by Frater Consulting Services and dated, 10th September 2019, that includes details relating to stormwater management.

Clause 52.34 – Bicycle Facilities

49. Pursuant to clause 52.34, a new use must not commence until the required bicycle facilities and associated signage has been provided on the land. The purpose of the policy is to encourage cycling as a mode of transport and to provide secure, accessible and convenient bicycle parking spaces. Under the provisions of *Clause 52.34-3* of the Scheme, the proposal's bicycle parking requirements are as follows:

Proposed Use	Statutory Parking Rate	Proposed
Office (other than specified in the table)	1 employee space to each 300 sqm of net floor area if the net floor area exceeds 1000 sqm	12 spaces

724 sqm	1 visitor space to each 1000 sqm of net floor area if the net floor area exceeds 1000 sqm	
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50. Whilst there is no requirement to provide any bicycle parking, the proposal provides 12 bicycle spaces on-site to compensate for the reduced car parking rate provided.
51. Clauses 52.34-6 and 52.34-7 provide the design standard for bicycle spaces and signage.

General Provisions

Clause 65 – Decision Guidelines

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

Planning Policy Framework (PPF)

53. Relevant clauses are as follows:

Clause 11.01-1R – Settlement – Metropolitan Melbourne

54. The relevant strategies of this clause are:

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

Clause 11.02 - Managing Growth

Clause 11.02-1S - Supply of Urban Land

55. The objective this clause is “*to ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses*”.

Clause 13.05 - Noise

Clause 13.05-1S - Noise abatement

56. The relevant objective of this clause is “*to assist the control of noise effects on sensitive land uses*”.
57. Noise abatement issues are measured against relevant State Environmental Protection Policy (SEPP) and other Environmental Protection Authority (EPA) regulations.

Clause 15.01 - Built Environment and Heritage

Clause 15.01-1S - Urban design

58. The relevant objective of this clause is *“to create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity”*.

Clause 15.01-1R - Urban design - Metropolitan Melbourne

59. The objective of this clause is *“to create distinctive and liveable city with quality design and amenity”*.

Clause 15.01-2S - Building design

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

62. This clause also states that planning must consider (as relevant), the *Urban Design Guidelines for Victoria (Department of Environment, Land, Water and Planning, 2017)*.

Clause 15.01-4S - Healthy neighbourhoods

63. The objective of this clause is *“to create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity”*.

Clause 15.01-4R - Healthy neighbourhoods - Metropolitan Melbourne

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

Clause 15.01-5S - Neighbourhood character

65. The relevant objective of this clause is *“to recognise, support and protect neighbourhood character, cultural identity, and sense of place”*.

Clause 15.02 - Sustainable Development

Clause 15.02-1S - Energy Efficiency

66. The objective of this clause is *“to encourage land use and development that is energy and resource efficient, supports a cooler environment and minimises greenhouse gas emissions”*.

Clause 17.02 – Commercial

Clause 17.02-1S – Business

67. The relevant objective of this clause is *“to encourage development that meets the communities’ needs for retail, entertainment, office and other commercial services”*.

68. The relevant strategies of this clause is:

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

Clause 18.02 - Movement Networks

Clause 18.02-1S – Sustainable personal transport

69. The relevant objectives of this clause is *“to promote the use of sustainable personal transport”*.

70. Relevant strategies of this policy are:

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

Clause 18.02-1R – Sustainable personal transport- Metropolitan Melbourne

71. Strategies of this policy are:

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

Clause 18.02-2S - Public Transport

72. The objective of this clause is *“to facilitate greater use of public transport and promote increased development close to high-quality public transport routes”*.

Clause 18.02-2R - Principal Public Transport Network

73. A relevant strategy of this clause is to *“maximise the use of existing infrastructure and increase the diversity and density of development along the Principal Public Transport Network, particularly at interchanges, activity centres and where principal public transport routes intersect”*.

Clause 18.02-4S – Car Parking

74. The objective of this clause is *“to ensure an adequate supply of car parking that is appropriately designed and located”*.
75. A relevant strategy is *“protect the amenity of residential precincts from the effects of road congestion created by on-street parking”*.

Local Planning Policy Framework (LPPF)

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

Municipal Strategic Statement (MSS)

77. Relevant clauses are as follows:
78. The following LPPF provisions of the Scheme are relevant:

Clause 21.03 – Vision

79. The relevant sections of this Clause are:

- (a) *Yarra will have increased opportunities for employment;*
- (b) *The complex land use mix characteristic of the inner city will provide for a range of activities to meet the needs of the community;*
- (c) *Yarra's exciting retail strip shopping centres will provide for the needs of local residents, and attract people from across Melbourne; and*
- (d) *Most people will walk, cycle and use public transport for the journey to work.*

Clause 21.04-3- Industry, office and commercial

80. The objective of this clause is *“to increase the number and diversity of local employment opportunities”*.

Clause 21.05-2 – Urban Design

81. The relevant objectives of this Clause are:
- (a) *To reinforce the existing urban framework of Yarra;*
 - (b) *To retain Yarra's identity as a low-rise urban form with pockets of higher development;*
 - (c) *To ensure that new development contributes positively to Yarra's urban fabric; and*
 - (d) *To enhance the built form character of Yarra's activity centres.*

Clause 21.05-3 – Built Form Character

82. A relevant objective of this Clause is *“to maintain and strengthen the identified character of each type of identified built form within Yarra”*.

Clause 21.05-4 – Public Environment

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

Clause 21.06 – Transport

84. This policy recognises that Yarra needs to reduce car dependence by promoting walking, cycling and public transport use as viable and preferable alternatives.
85. Parking availability is important for many people, however in Yarra unrestricted car use and parking is neither practical nor achievable. Car parking will be managed to optimise its use and to encourage sustainable transport options.
86. Relevant objectives and strategies of this clause are as follows:
- (a) *Objective 30 – To provide safe and convenient pedestrian and bicycle environments.*
 - (i) *Strategy 30.2 – Minimise vehicle crossovers on street frontages.*
 - (ii) *Strategy 30.3 – Use rear laneway access to reduce vehicle crossovers.*
 - (b) *Objective 31 – To facilitate public transport usage.*
 - (c) *Objective 32 – To reduce the reliance on the private motor car.*
 - (d) *Objective 33 - To reduce the impact of traffic.*
 - (i) *Strategy 33.1 Ensure access arrangements maintain the safety and efficiency of the arterial and local road network.*

Clause 21.07-1 – Ecologically sustainable development

87. The relevant objective is “to promote ecologically sustainable development”.
88. A relevant strategy of this clause is Strategy 34.1 which is to “encourage new development to incorporate environmentally sustainable design measures in the areas of energy and water efficiency, greenhouse gas emissions, passive solar design, natural ventilation, stormwater reduction and management, solar access, orientation and layout of development, building materials and waste minimisation”.

Clause 21.08-5 Neighbourhoods - Collingwood

89. The neighbourhood character statement for this area at Clause 21.08-5 states:

- (a) *The Gipps Street industrial precinct is characterized by traditional manufacturing, service activities and a considerable portion of activity related to the textile, clothing and footwear sector. The precinct provides the opportunity for a wide range of small to medium businesses to operate in a location that is relatively unconstrained by sensitive uses.*
- (b) *To allow flexibility for large sites which may have difficulty in finding new industrial tenants rezoning to Business 3 will be supported. This will enable the area to retain an industrial character but evolve to provide a wider range of employment opportunities including service business and offices uses. Any change of use should consider opportunities for improvement to the public domain.*

Relevant Local Policies

Clause 22.03 – Landmarks and Tall Structures

- 90. This policy applies to all development. Whilst the site is not within proximity to an identified sign or landmark within the policy, it is important to *“ensure the profile and silhouette of new tall structures adds to the interest of Yarra's urban form and skyline.*

Clause 22.05 – Interfaces Uses Policy

- 91. This policy applies to all development and land use applications and aims to reduce conflict between commercial, industrial and residential activities. The policy acknowledges that the mix of land uses and development that typifies inner city areas can result in conflict at the interface between uses.
- 92. It is policy that *“new non-residential use and development within Business and Mixed Use and Industrial Zones are designed to minimise noise and visual amenity impacts upon nearby, existing residential properties”.*
- 93. Decision guidelines at clause 22.05-6 include that *“before deciding on an application for non-residential development, Council will consider as appropriate:*
 - (a) *The extent to which the proposed buildings or uses may cause overlooking, overshadowing, noise, fumes and air emissions, light spillage, waste management and other operational disturbances that may cause unreasonable detriment to the residential amenity of nearby residential properties.*
 - (b) *Whether the buildings or uses are designed or incorporate appropriate measures to minimise the impact of unreasonable overlooking, overshadowing, noise, fumes and air emissions, light spillage, waste management and other operational disturbances on nearby residential properties”.*

Clause 22.16 Stormwater Management - Water Sensitive Urban Design

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

Clause 22.17 – Environmentally Sustainable Design

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

Other Documents

Urban Design Guidelines for Victoria (DELWP)

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

Gipps Street Local Area Plan

97. The Gipps Street Local Area Plan (GSLAP) was adopted by Council in February 2010. This plan includes objectives, strategies and actions which deal with future land use and form of development, physical improvements and infrastructure investments. It provides the strategic basis for future development and activity mix, preferred future character, a guide for new public works and infrastructure, design guidance and an overall approach to implementation and priorities.
98. This plan pre-dates the rezoning of the subject land from Industrial to Commercial and influenced the implementation of Schedule 11 to the Design and Development Overlay affecting the site.
99. The GSLAP aims to reduce car travel into the precinct, as follows:
- (a) *A broader policy objective to implement Council's Strategic Transport Statement is to reduce the proportion of trips into and out of the precinct by car.*
 - (b) *Reduced car travel will depend primarily on broader initiatives beyond the scope of this plan.*
 - (c) *Local initiatives should aim to improve walking and cycle access and connections to public transport and slowing car and other vehicle traffic in and around the precinct.*

Spatial Economic and Employment Strategy

100. The Spatial Economic and Employment Strategy (SEES) was adopted by Council in September 2018 and includes 6 directions which will inform future policy for the Scheme.
101. The strategic direction contained within the SEES supersedes that contained within the Yarra Business and Industrial Land Strategy (BILS), adopted by Council in June 2012.
102. The Gipps Street Major Employment Precinct (located between Smith, Johnston and Hoddle Streets and Victoria Parade) is nominated as one of five major employment precincts within Yarra, the other four being Abbotsford, Church Street south, Cremorne and Victoria Parade.
103. A Strategy of the SEES relevant to this application is Strategy 2: Retain and grow Yarra's Major Employment precincts:

To accommodate projected demand for commercial floor space, Yarra's two large consolidated employment precincts at Gipps Street, Collingwood and Cremorne/Church Street South, Richmond should be retained for employment activities. These areas have made a gradual transition from predominantly industrial uses to a wider mix of activities that include professional services, creative industries, medical-related activities and small-scale manufacture. Zoning should continue to exclude residential development to retain the core employment function of these precincts.

104. The strategy includes the following precinct specific directions for the Gipps Street precinct:

Given projected demand for employment floor space, and office floor space in particular, the precinct should retain its employment focus. Recent zoning changes have already provided greater flexibility in the range of permissible employment land uses.

Although there are many retail and hospitality business beyond the immediate Gipps Street precinct, the lack of retail within the precinct could be a barrier to attracting new businesses. The collection of smaller business on Glasshouse Road at the western edge of the precinct might be interpreted as evidence of the attractiveness of the more vibrant quarters of the precinct.

More detailed built form guidance would provide greater clarity about opportunities for additional development and the scale and form envisaged.

This precinct could accommodate future demand for floor space generated by both the Victoria Parade health precinct and the Johnston Street Activity Centre, where capacity for growth is more constrained.

105. The SEES also acknowledges that *employment across the precinct is changing, with the evolution of a more diverse commercial employment base focused around the creative sector, service industries, and hybrid office/industrial businesses.*

Advertising

106. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 1,336 letters sent to surrounding owners and occupiers and by two signs displayed on the site, with one displayed on the Rokeby Street façade and the other on the Robert Street, secondary façade. Thirteen (13) objections were received to the application that can be summarised as follows:

(a) Design:

- (i) Design, size, height and mass of the development is inconsistent with the existing neighbourhood character and is an overdevelopment;

(b) Use and Off-Site Amenity Impacts:

- (i) Noise impacts on surrounding land uses and overlooking;
(ii) Overshadowing of private open space and the public realm;
(iii) The development will block views and dominate the skyline;

(c) Traffic and Car Parking:

- (i) The car parking reduction cannot be supported within local road network;

(d) Other:

- (i) The development will lead to the devaluation of surrounding properties;
(ii) Construction will cause significant disruption in terms of noise and large vehicles driving through surrounding streets; and
(iii) The development may overload existing infrastructure services.

Referrals

Internal Referrals

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

- (a) Urban Design Unit;
- (b) Engineering Unit;
- (c) City Works Unit;
- (d) Heritage Advisor; and
- (e) Environmentally Sustainable Development (ESD) Advisor.

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

OFFICER ASSESSMENT

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

- (a) Strategic justification;
- (b) Built form - Urban Design;
- (c) On-site amenity;
- (d) Off-site amenity;
- (e) Car parking, traffic and access; and
- (f) Objector concerns.

Strategic Justification

110. The proposal has strong strategic support at a State and local level. The C2Z which applies to the site is capable of accommodating greater density and higher built form, subject to individual site constraints.
111. State and local policies (such as clauses 11.02-1S and 21.04-3) encourage the concentration of development near activity centres (with the Smith Street Major Activity Centre located approximately 450m west), diversifying employment opportunities and more intense development on sites well connected to public transport.
112. Pursuant to State policy at clause 17, economic development is to be fostered by *'...providing land, facilitating decisions and resolving land use conflicts, so that each region may built on its strengths and achieve its economic potential'*. At a local level, the Municipal Strategic Statement at Clause 21.04-3 seeks to *'increase the number and diversity of local employment opportunities'*. The proposal will support economic opportunities in a highly accessible, service-rich area. The proposal is for a commercial building that will further increase employment opportunities. The proposal is complementary to the surrounding area due to the sites location and is not expected to pose interface conflict issues whilst it is acknowledged that the office use in its own right, is an as-of-right use on land zoned Commercial 2.
113. Council's recent SEES document, identifies the Gipps Street Major Employment precinct as evolving to including *'a more diverse commercial employment base focused around the creative sector, service industries and hybrid office/industrial businesses'*. The proposal is for the development of the land with a building that will comfortably knit into this emerging culture of uses and consequent built forms anticipated within the precinct.
114. Local and State policies encourage the concentration of development in and around activity centres but also intensifying development on sites that are specifically zoned to be tailored to accommodate development that is well connected to public transport and therefore ensuring the efficient use of existing infrastructure, which is also an important facet of Clause 65.
115. Schedule 11 to the DDO also provides further guidance for the preferred direction for development on the subject site and the surrounding land, which reinforces current State and Local policy to increase the number and diversity of employment opportunities within and around activity centres as is proposed and discussed favourably.

116. The application proposes the construction of a seven-storey building (with a roof terrace) that will be scaled down to a six storey building with a roof terrace (as a result of the “Sketch plans”) to better respond to the surrounding existing and future context of the area (with the approved development at No. 89 Rokeby Street in mind), in an area that has potential for an increase in development (as is also evidenced by the number of large developments in the surrounding area that can be seen from multiple streets). The area is undergoing significant development and the proposal is highly consistent with the purpose of the zone and strategic intent for this area (including the requirements within Schedule 11 of the DDO that seek to encourage intensification of commercial uses and provision of diverse employment opportunities).
117. The site’s proximity to public transport would encourage the use of alternative modes of transport to and from the site rather than reliance on private motor vehicles, complying with clauses 21.03 – Vision; 18.02-2S – Public Transport; and 21.06 –Transport of the Scheme.
118. The built form policy and direction under clauses 22.05 – *Interface uses* and Clause 15 - *Built Environment and Heritage*, Clause 21.05 - *Built Form* of the Scheme also outline that consideration must be given to the design of the building and its interfaces with the surrounding area. These policies will therefore be considered in association with the requirements within Schedule 11 of the DDO. It is worthy to note, that more intensive growth must respond to existing conditions and be tempered to respect the existing neighbourhood character and the site’s relationship with adjoining built form in terms of producing a reasonable scale and ameliorate or reduce off-site amenity impacts. Further, regard should be made to the emerging and future character that includes buildings of a varied height, and at a more immediate context, five-storeys as evidenced by the approved development to the south as discussed earlier. These factors will be discussed in turn.
119. Having regard to the above, the proposed re-development of the site for a commercial building has strategic planning support.

Built form - Urban Design

120. In considering the design and built form of the proposed development, the most relevant aspects of the Scheme are provided at Clause 15 (*Built Environment and Heritage*), Clause 21.05 (*Built Form*) and *Clause 22.03 (Landmarks and Tall Structures Policy)*, and the decision guidelines of the DDO11.
121. All of the above provisions and guidelines support development that responds to the existing or preferred neighbourhood character. Particular regard must be given to the acceptability of the design in terms of height and massing, street setbacks and relationship to nearby buildings.
122. Whilst it is acknowledged that heritage aspects are under the jurisdiction of Heritage Victoria, a key aspect in relation to the site is whether the building has achieved an appropriate response from an urban design perspective with regard to heritage related matters. Comments were provided from Council’s Heritage Advisor that were generally supportive of the scheme subject to some further changes that related to clarifying the application of certain materials (such as the application of the “Grampian Blue” bricks, and clarity on “MT2” finish) the deletion of the corten steel exoskeleton frame and shade screens, with further request for a landscape plan. No concerns were raised with the proposed height.
123. Council’s Urban Designer also provided comments with regard to policy indicating that the following key changes to the advertised design were required if Council were to support the built form:
 - (a) *The street wall height should be reduced to four storeys to better match the existing street wall heights in the area and respond to the width of the street.*

- (b) *The upper levels should be set back at least 3 metres from the street wall along Rokeby/Robert Streets, and additional setbacks may be required to reduce overshadowing of the Rokeby Street eastern footpaths.*
 - (c) *The upper levels should be set back from the western and southern boundaries to address equitable development considerations and provide variation and spacing in the overall build form along both streets.*
124. With regard to the above, it is important for any assessment of building height and neighbourhood character to balance the range of influencing factors affecting this area, including policy provisions, existing height characteristics of nearby built form and the emerging future character.
125. The Scheme provides guidance to assist in determining whether the proposed height is acceptable within the site context. In relation to the PPF, building heights are best derived from specific design objectives; being contextual design, the aspirations for urban consolidation and issues of minimising adverse off-site amenity impacts rather than outlining specific height limits.
126. Further policy guidance is provided by Schedule 11 to the DDO where the preferred character for the Gipps Street Precinct is (as relevant to the development):
- (a) *A built form business and commercial environment which builds on the existing fine grain industrial nature of the area that allows for innovation and interest; and*
 - (b) *A consistent streetscape with active street-frontages and well-articulated buildings with street facades built to a height of up to 3-4 storeys. Taller built form will be set back from property boundaries and spaced to create new interest and variety in building forms.*
127. The following requirements are applicable to developments above four storeys:
- (a) *Demonstrate a high standard of architectural design;*
 - (b) *Minimise overshadowing of adjoining streets, public spaces or private properties;*
 - (c) *Be set back from along the northern side of the following streets:*
 - (i) *Gipps Street; and*
 - (ii) *Langridge Street*
128. Development should also be designed to:
- (a) *have active and attractive frontages.*
 - (b) *address street activity in its interface design, avoiding recessed car parking at street level.*
 - (c) *be well articulated and modulated.*
 - (d) *use materials and finishes which complement adjacent development and enhance the appearance of the narrow street network.*
129. In a broader sense, the area has seen and is continuing to undergo substantial change in terms of taller built forms (both constructed and under construction) and it is considered that the design as provided in the "Sketch plans", is better considered in relation to its context and within the C2Z which is plentiful of red masonry buildings. The "Sketch plans", whilst not formally submitted, respond in part to the recommendations and advice provided by Council's Heritage Advisor and Urban Designer outlined earlier. Given that these provide an improved outcome, and a commitment to adopt this varied scheme by the permit applicant, these will be considered for the purpose of this assessment.

130. The adopted height as presented in both the application drawings and the “Sketch plans” is considered to be generally consistent with the relevant built form and design guidelines, and the emerging character of the area which has seen development ranging in scale between 4-5 storeys and 13 storeys, including 17 storeys. One example that is comparable in scale to that currently before Council, is the approved development to the immediate south of the subject site, identified under the “Surrounding Land” heading.
131. The “Sketch plans”, through the deletion of the one level, and subsequent reduction in the overall building height, and the deletion of the exoskeleton metal frame, have improved the building’s relationship with the site’s immediate context. This has been achieved by simplifying the design approach as a means of emphasising the building’s five-storey podium height and use of masonry, all of which are elements considered to be consistent with the characteristics of the area more broadly. The reduction in the overall building height has also reduced the shadow impact in the public domain that was also raised as a concern by Council’s Urban Designer.
132. Both sets of plans have adopted a hard-edged podium to both Rokeby and Robert Street of five-storeys. Whilst greater than surrounding built forms, the approved five-storey building to the immediate south of the subject site, is one evidence of the emerging and changing character of the area. The podium height of the proposed building that measures 18.51m above the footpath, will be generally consistent with the podium height of the adjoining southern approved building which measures (as shown on the endorsed plans) a height of 18.41m to the edge of the parapet above the natural ground level. The removal of the exoskeleton metal frame under the “Sketch plans”, will also remove the vertical emphasis and accentuation of the building height and ensure that the building’s podium is emphasised as being aligned with the five-storey podium of the building approved to the south identified at Figure 13.

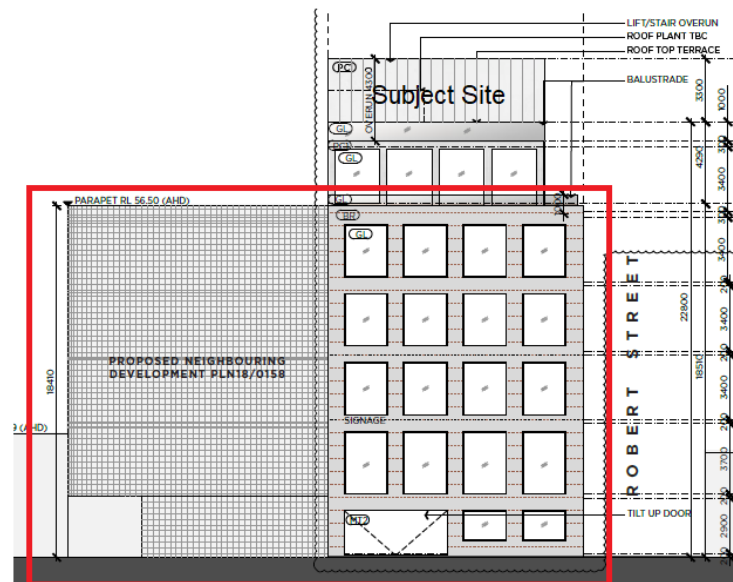


Figure 13: East elevation of building shown in the ‘Sketch Plans’ with the approved development to the immediate south at 89 Rokeby Street.

133. Council’s Urban Designer’s recommendation for the adoption of a four-storey podium is considered unfounded with regard to the existing and future context and whilst the preferred future character under the DDO11 is for developments which are 3 to 4-storeys in height, the schedule allows for the development of the site to exceed 4-storeys. The as-built conditions and industrial nature provide a context that justify the introduction of a more robust development.

With this in mind a six-storey building at this corner site with a five-storey podium is acceptable and further accepted and encouraged by policy as it achieves the requirements outlined for developments above 4 storeys outlined earlier.

134. In addition, Council's Urban Designer's recommendations for the incorporation of greater setbacks of 3m above a four storey podium are considered to be excessive. The building provides setbacks of 2.16m to the north and 2m to the east above a five-storey hard-edged podium, with a balcony that would extend into this space. The adopted setbacks are considered adequate in successfully moderating the interface of the building as it presents to Robert and Rokeby Streets at this intersection, and when combined with the applied changes shown in the "Sketch plans", result in a significantly improved built form outcome.
135. The walls to the west and south would be constructed to abut the on-boundary walls of the adjacent commercial buildings for up to two storeys as per the existing conditions and up to five-storeys to the south (as per the anticipated conditions of the approved development to the south). The surrounding non-sensitive interface is considered to provide justification to each elevation's relationship with its immediate neighbouring property, comfortably absorbing the height of the building.
136. The development, subject to the modified scheme as presented in the "Sketch plans", has simple lines, typical of a contemporary building with good quality masonry applied to the walls that is comfortably located at this intersection. Subject to appropriate conditions, the building can be made to be adequately absorbed by the surrounding commercial and industrial context, including the hard-edged construction of surrounding buildings. At a wider scale, and when seen in combination with other comparable and taller buildings the building will not appear as being prominent as compared to when it is perceived in its isolated manner on plan. The applied finishes and the quality of the masonry patterning of the walls are considered to provide articulation worthy of support. It is also considered that overall, the building is adequately animated to each elevation by the adopted solid-to void ratio.
137. Council's Urban Designer expressed some concern about the equitable development opportunities of surrounding properties, however this was done in the absence of any consideration of the approved development to the south that has approval for a hard-edged five-storey wall along the shared boundary. The adjoining property to the west is oriented to Robert Street and therefore would be inclined to take advantage of its northern interface, with a development that extended to the shared boundary if it were to be redeveloped. It is also emphasised that the surrounding context is significantly lower as compared to that encouraged by policy in terms of anticipated built form.
138. The "Sketch plans" are considered to have provided a resolution that reduces the emphasis on the height of the building through the removal of the exoskeleton metal frame, and more obviously through the deletion of one level. Should Council be of mind to support the application, a condition will require plans for endorsement that adopt these changes.
139. Overall, and subject to the adoption of the "Sketch plans" scheme, the development will appropriately reference its surrounding context. The application of a predominant masonry finish to the key facades including the primarily exposed western elevation, result in a good quality response with materials derived of other surrounding built forms in a broader context. The applied finish to the south, is of a textured tiled precast brick tile pattern, which will be used as an interim measure to provide some articulation to this wall in anticipation of the construction of the approved development (noting that at the time of writing, a planning application to amend the approved scheme to include two additional levels was pending for a decision).

140. With the above in mind, it is considered that the building can be supported on the basis that it adopts the modified scheme as detailed in the “Sketch plans”. The reasons for policy support are as follows:
- (a) The proposed building would present as a modestly designed tower with simple proportions;
 - (b) The development (subject to the adoption of the “Sketch plans”) responds to the design objectives at Clause 15.01-2S with a contemporary design that is appropriate and responds well to this emerging part of Collingwood;
 - (c) The design detail and overall choice of materials are of high quality with the building adopting a good solid to void ratio and therefore, articulation; and
 - (d) Landscaping has been incorporated to the balcony at Level 5 and within the roof terrace which is a good response for softening the built form above the podium.

Architectural Quality

141. The development is considered to be of a good quality and in that regard responds to the design objectives of clause 15.01-2S of the Scheme. The contemporary design is appropriate and responds well to this part of Collingwood with the design offering a modern built form that revitalises the street frontage through generously sized openings, and the provision of several building entrances along both street frontages.
143. The architectural response represents a language that is rather typical to a contemporary office building, using a material palette of masonry and pre-cast concrete. However the floor-to-ceiling height at the ground level is considered to be of concern with regard to accommodating articulation that is evenly distributed and proportionate, but is also of a sound human scale at the street level.
144. Whilst it is acknowledged that the ground floor has a limited active floor area, with a modest 2.9m floor-to-ceiling height the ground floor appears to be somewhat, squashed when compared to the upper floors. This is significantly less than the first floor-to-ceiling height at 3.7m and floor-to-ceiling heights of all the levels above that, that measure 3.4m. As such, a condition will require this to be addressed through the adoption of evenly distributed floor-to-ceiling heights and hence, openings / fenestration across the building. This will also assist in providing a better sized and hence emphasised, entrance to the building with a greater degree of activation and therefore passive surveillance at street level as a result of increased glazing opportunities.
145. Overall, subject to a reduction in the overall height of the building through the adoption of the varied scheme as per the “Sketch plans”, including measures to address and enhance street activation and evenly distributed floor levels, the proposal will adequately respond to the context and character and achieve a built form outcome that better responds to the surrounding area.
146. It is also highlighted that Council’s Urban Designer’s concern relating to the location of the driveway and hence garage, to Rokeby Street is not a shared concern given the plethora of surrounding driveways existing along this street, as evidenced on the subject site and immediate context to the west and south, and opposite side.

Landmarks, Views and Vistas

147. It is policy at Clause 15.01-2S of the Scheme that important landmarks, views and vistas be protected or enhanced. The impact on long range views and vistas are only relevant where they form part of an identified character of an area (within planning policy) and typically apply to landscapes or natural features. This is not the case here and city views are considered opportunistic, not a key feature of the area.

148. The Clock tower of Collingwood Town Hall is located approximately 600m north-east of the site at 140 Hoddle Street, Abbotsford. Due to the location of the site to the south-west of the Clock tower, beyond established development, it is expected that the proposed development will have no appreciable impact on the prominent view lines to the Clock tower of Collingwood Town Hall, particularly along the prominent Hoddle Street vista, and this valued landmark will continue to be the principal built form reference in the immediate area.



Figure 14: Aerial showing location of the site (identified with a star) in the context of the Clock tower of the Collingwood Town Hall looking north.

149. The proposed development does not compete with any identified landmarks given its location and is considered to be an acceptable response to the local policy direction under Clause 22.03-4 of the Scheme.

Light, Shade and Public Realm

150. Planning policy encourages the design of interfaces between buildings and public spaces to enhance the visual and social experience of the user. In this respect, the proposal represents an improvement in the streetscape, public space quality and perceived safety. The site presently contributes little to the street, having few windows, blank walls, minimal street level activation and car parking and crossovers. As discussed earlier in the report, conditions will be adopted requiring the scheme to improve building's interaction with the public realm at a human scale.
151. The shadow cast on the opposite side of Rokeby Street has been decreased as a consequence of the scheme presented in the "Sketch plans". The deletion of one level has resulted in a shadow that falls short of the footpath on the opposite side of Rokeby Street at 1pm at the time of Equinox, as compared to the application drawings advertised (see Figure 14).



Figure 14: Shadows showing a reduced shadow impact at 1pm at the Equinox associated with the “Sketch” plans i.e. identified at the proposed shadows (navy or dark blue), as compared to the application drawings i.e. identified as the previous shadows (red).

152. This is considered acceptable given that the footpath on the opposite side of Rokeby Street is now free of shadow from the subject building up until at least 1pm at the Equinox. The shadow is limited to a short period of time in the afternoon commencing within the time period considered by policy and the deletion of one level will lessen the impacts on the public realm. This improvement further justifies the adoption of the scheme as per the “Sketch” plans.

Site Coverage

153. The application proposes 100% site coverage and whilst greater than the existing conditions, this is commensurate with the site coverage in the surrounding (and immediate) area. Commercial buildings in this precinct traditionally have high levels of site coverage with this characteristic being evident throughout the Gipps Street Precinct of Collingwood. This will also be commensurate with the approved development to the immediate south and referenced in earlier sections of this report.

Landscape architecture

154. Landscaping is not a typical feature of commercial buildings in Collingwood, however the proposal includes a degree of visible landscaping in the form of a planter boxes that extend to the northern and eastern sides of the balcony at Level 5 and the northern, southern and eastern sides of the roof terrace. It is considered appropriate to include a condition that requires a landscape plan to identify the species, maintenance and method of irrigation.

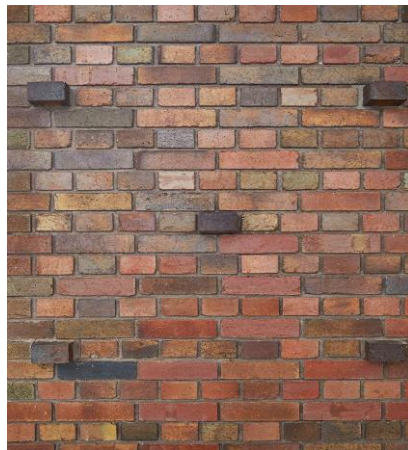
Summary

155. In summary and subject to conditions that required amended plans to reflect the “Sketch plans” changes, the proposed development will adequately respond to its physical and policy context and will strike a balance between the scale of surrounding building form (both existing and future having regard to policies to intensify development). The architectural expression including use and composition of materials is an acceptable response to the building fabric in the area and will result in a visually modest contribution to the area.

On-site amenity

Daylight and Ventilation

156. The proposed development is considered to provide a good level of amenity and indoor environmental quality, however is required to be further conditioned to provide operable glazing elements to enable a mixed mode of ventilation as opposed to only relying on a mechanical mode. The building has good access to daylight with two-street frontages with one that has a northern orientation and hence excellent solar access. The development provides large expanses of glazing at all levels (that will be further enhanced at the ground level with the conditions modifying the building to achieve an improved floor-to-ceiling height for the reasons detailed in an earlier section of this report.
157. Council's ESD advisor in their advice that responded to the "Sketch plans" made a recommendation to reintroduce the framing element to the building to mount the shading system shown on the application drawings advertised (red fabric), however this will not be adopted given that this would be at odds with the advice provided by Council's Heritage and Urban Design Advisors. This matter was discussed with the applicant and they've agreed to a condition requiring the adoption of a good quality, heavy duty, alternative shading treatment that is subservient to the building and does not transform itself into a shell when at its full shading capacity. Given the large extent of glazing on the north and east elevations, there is the potential for the shading system to be prominent, and therefore it is important that the adopted shading means, is applied directly to the windows of the building. The final adopted shading system will be to Council's satisfaction.
158. The adjoining development anticipates the hard-edged wall as proposed on the southern (shared) boundary of the current scheme, the conditions as outlined in the earlier sections of this development will effectively reduce its height by one level. The west-facing wall would be exposed on the boundary but to a great extent has adopted a combination of the following patterned style of masonry that is also applied to the Rokeby and Robert Street facades and textured pigmented precast concrete panels, which is considered appropriate in the context and when read in combination with the fenestration, landscaping treatments and improved ground floor in the round of the building:



Circulation Spaces

159. The principal pedestrian entrance to Robert Street, provides access to the reception area and lifts, stairs and service amenities associated with the building. The ground floor as a whole will be further improved with the conditions outlined earlier to assist in providing a more comparable floor-to-ceiling height at the ground floor. The main entrance is located near the corner of the Robert and Rokeby Street intersection with adequate sightlines so people can see both in and out when entering or leaving. However, the entrance faces onto Robert Street, and given that this is a secondary street, a condition will require this to face onto Rokeby Street. This will also ensure that there is no conflict between pedestrians and vehicles turning right into Rokeby Street, because of the narrow width of Robert Street.

160. In addition to standard conditions requiring the front entrance to be adequately lit, a further condition will require it to be made more prominent to assist with ease of identification. These variations, combined with the varied floor-to-ceiling height, will result in a well-defined street frontage and legible building addressed to Rokeby Street, being the primary interface as encouraged by policy.
161. Another condition will require the ground floor reception area to be clearly identified as such, as to avoid confusion between the legend and the floor plan that labels this as back-of-house (BOH). Subject to this condition, and those already discussed, the circulation spaces will afford a good level of amenity to future building occupants.

Facilities

162. Communal facilities are provided at each level for the office tenants. Whilst kitchen facilities are not currently shown on the floor plans, it is considered that this will be designed in the detail design stage once the building becomes tenanted. Bicycle parking (whilst not strictly a requirement) are also incorporated into the scheme. Outdoor areas have also been provided and will further enhance the on-site amenity and staff enjoyment of the building.

Environmentally Sustainable Design (ESD)

163. Policy at Clauses 15.01-2S, 21.07, 22.16 and 22.17 of the Scheme encourage ecologically sustainable development, with regard to water and energy efficiency, building construction and ongoing management. Council's ESD Advisor confirmed that the proposal was close to meeting Council's Best Practice ESD standards.
164. Further, the redevelopment of the site located in an existing built-up area makes efficient use of existing infrastructure and services, and the proximity of the subject site to numerous public transport modes reduces reliance on private vehicles.
165. Matters relating to daylight and ventilation have been addressed earlier and the following assessment will only focus on outstanding matters. With this in mind, Council's ESD Advisor provided the following recommendations (as responded to in the "Sketch plans"):
- (a) *The following items require further information, and should be included as a condition on permit:*
 - (i) *Please mark the location and volume, toilet connections of rainwater tank on the plans.*
 - (ii) *Please note the location of end-of-trip facilities on the plans.*
 - (b) The following recommendations have been made to enhance the ESD performance of this project:
 - (i) *Install solar PV panels on the lift overrun / services roof, and consider a pergola mounted solar PV array to contribute to onsite electricity consumption and give some shelter to the roof deck garden area.*
 - (ii) *Recommend electric vehicle charging infrastructure to car parking spaces.*
 - (iii) *Commit to offsite renewable energy purchasing for all electricity consumption for the life of the building.*
 - (iv) *Consider heat pump or instantaneous electric hot water and remove natural gas connection to the building.*
 - (v) *Recommend a larger rainwater tank and increased number of toilet connections to all connections in the building. Size rainwater to ensure a minimum 80% reliability for toilet flushing to all toilets.*

166. It is considered that all items can be addressed with a condition requiring an amended Sustainable Design Assessment (SDA) to be submitted concurrent with any amended plans requested as a consequence of other conditions detailed in earlier sections of this report. Service amenities at the ground floor include shower facilities that can be used by cyclists. End-of-trip facilities are not a technical requirement under the provisions of the Scheme in this instance, but given that accessible amenities are provided, these provide an acceptable planning outcome for future staff.
167. A further standard condition which requires an implementation report to confirm all measures specified in the SDA have been implemented in accordance with the approved plan will also be included on any permit to issue.

Off-site amenity

168. The relevant policy framework for amenity considerations is contained within clause 22.05 (Interface uses policy). As the site surrounds description identifies, the closest dwellings located within the former Yorkshire Brewery Site are located some 38m west of the subject site.
169. The decision guidelines at Clause 22.05-6 specify that Council should consider (as appropriate);
- (a) *The extent to which the proposed buildings or uses may cause overlooking, overshadowing, noise, fumes and air emissions, light spillage, waste management and other operational disturbances that may cause unreasonable detriment to the residential amenity of nearby residential properties.*

Noise

170. Policy at Clause 22.05 of the Scheme seeks to ensure new commercial development is adequately managed having regard to its proximity to residential uses.
171. The proposal is unlikely to result in unacceptable noise emissions to the nearby residential properties given that the building would be used for offices (an as-of-right use). Due to the nature of the office there will be minimal noise generated by pedestrian activity, with these activities located within the C2Z. The closest dwellings are located approximately 38m west of the subject site, generously separated and therefore well buffered from the subject site. The development does not include a designated loading bay as it is not a technical requirement under the Scheme, however, the office use would not generate a significant level of deliveries.
172. The plans anticipate services on the roof and a condition will require compliance of all mechanical equipment post development and prior to the occupation of the building to ensure that all noise criteria of SEPP N-1 are met.

Fumes and air emissions, light spillage

173. The majority of the office space is enclosed and the use conducted indoors (with the exception of the outdoor balconies / roof terrace). The proposal is not considered to result in unreasonable air emissions, with light spill from the upper level offices limited due to the nature of the use and surrounding commercial / industrial context, and removal from the dwellings to the west.

Visual bulk and overlooking

174. In regard to visual bulk impacts to the dwellings within the former Yorkshire Brewery site, it is considered that within this built form context views from windows or balconies and terraces to buildings is not an unreasonable expectation. Traditionally buildings with commercial and industrial uses tend not to include side and rear setbacks and this is evident in both the remnant converted industrial buildings in the area. Minimal side and rear setbacks would be an expected feature of the redeveloped commercial buildings where interfacing with other similarly developed allotments. The subject site does not have an immediate abuttal with these dwellings and is commercially zoned.
175. The proposed development is for an office building which is an as-of-right use under the zone and therefore is not subject to the same requirements as would be afforded to other built form typologies, such as an apartment building. Overall, it is considered that the interface between the proposal and dwellings zoned Mixed Use would not be unreasonably impacted with the physical buffer already provided of at least 38m from these allotments and further conditions outlined within this assessment that will improve the interface through the reduced built form outcome anticipated by the "Sketch plans".

Overshadowing

176. Overshadowing of the opposite side of Rokeby Street has previously been addressed and will be further improved through conditions requiring the scheme to be updated to reflect that of the "Sketch plans". There is no overshadowing of secluded private open space associated with any dwelling evident.

Equitable Development

177. To ensure the 'fair, orderly, economic and sustainable development of land' in accordance with the objective of the Act, matters of equitable development should be considered.
178. In this instance, the directly adjoining property to the south, has a development approval for a five-storey building (with a solid wall across the shared boundary) and a pending application, to extend this by two additional levels. This demonstrates that the future development of this adjoining property would not be prejudiced as a result of this proposal. The western adjoining site has a frontage with a northern orientation providing ample opportunities for daylight and solar access and if it were to be redeveloped its orientation to Robert Street would dictate the orientation of any new development.

Waste management

179. An initial Waste Management Plan (WMP) was submitted by the Applicant and reviewed by Council's City Works Branch, who indicated that it was unsatisfactory and required the following modifications:
- (a) *The waste storage area must be screened if located outdoors.*
 - (b) *Please identify hard waste storage area within the bin storage area.*
 - (c) *Please identify E waste storage area within the bin storage area.*
 - (d) *Please detail the total space of the waste storage area.*
 - (e) *A clause must be included in the plan regarding potential review into the service if operational requirements change.*
180. A condition will require the submission of an amended WMP that reflects the modified building and includes the above changes. It is noted that the waste storage area is located to the south-east corner of the ground floor and is located indoors and screened from the public, and hence the first point (i.e. a) will not be included. The site will also rely on a private contractor for waste collection from Rokeby Street.

Car parking, traffic and access

181. The applicant is seeking a statutory parking reduction of 19 car parking spaces, with 2 on-site car parking spaces proposed. To support the reduction in the statutory rate, a car parking demand assessment was undertaken by TTM Consulting Pty. Ltd, with parking availability in the neighbourhood also reviewed.

Parking Availability

182. Council's Traffic Engineers confirmed that the availability of parking in the vicinity is very high during business hours. However, this is blanketed by time based parking restrictions that would be a disincentive for employees or staff to drive. The car parking restrictions would also provide regular turnover throughout the day, thereby allowing visitors to park near the site.
183. The surrounding area has ample transport contextually supporting a development of this scale in the inner city. The availability of alternative transport methods will be discussed in turn.

Parking Demand

184. In support of the reduced car parking on-site, examples of existing uses within the City of Yarra with reduced on-site car parking rates (primarily offices) were provided by Council's Traffic Engineers. Details of these development sites (also referenced in the body of the report) are provided as follows:

Development Site	Approved Office Parking Rate
60-88 Cremorne Street PLN17/0626 issued 21 June 2018	0.72 spaces per 100 m ² (233 on-site spaces; 27,306 m ²)
2-16 Northumberland Street, Collingwood PLN16/1150 issued 14 June 2017	0.89 spaces per 100 m ² (135 on-site spaces; 15,300 m ²)
71-93 Gipps Street, Collingwood PLN16/1150 (Amended 04 June 2020) issued 30 August 2017	0.96 spaces per 100 m ² (87 on-site spaces; 8,923 m ²)

185. Council's Engineering Services unit confirmed that the proposed on-site office parking rate of 0.3 spaces per 100square metres is considered appropriate as the site seeks to minimise car dependency and promote more sustainable forms of transport. This aspect, also having regarding to the site's good accessibility to public transport services and proximity to Melbourne CBD.
186. Specifically in relation to the particular benefits of the site location, the reduction being sought by the proposal is further supported by the following:
- (a) The site's locations being:
- (i) 280m to the west of Hoddle Street, a major arterial road with bus routes servicing Doncaster, the northern suburbs, various railway stations, the CBD, Elsternwick and St Kilda;
 - (ii) 450m to the east of Smith Street, a Major Activity Centre, with bars, cafes, restaurants, taverns, nightclubs, retail and community facilities, and tram route 86 serving Docklands and Boroondara via the CBD;

- (iii) 360m to the north of Victoria Parade, with various bus routes serving the western and eastern suburbs via the CBD, and tram route 109 Docklands to Box Hill via the CBD; and
 - (iv) 700m to the south of Johnston Street, a Neighbourhood Activity Centre, with bus routes.
- (b) The surrounding area has a good bicycle network and the development includes employee bicycle parking spaces and service amenities that can double up as end-of-trip facilities that would exceed the rates specified within the Scheme to encourage staff to ride to work.
 - (c) The limited long term on-street parking in the area, is a disincentive for employees to travel to work by car. Occupant or visitor parking permits will not be issued for the development.
 - (d) Visitors would likely be aware of the car parking constraints in the area or otherwise be made aware by the occupants of the building, thus also encouraging use of alternative modes such as public transport, cycling or taxis;
 - (e) Council's Engineering Unit are supportive of the application and have identified that it is in line with the objectives of Council's *Strategic Transport Statement* noting that the site is ideally located with regard to sustainable transport alternatives and the reduced provision of on-site parking would discourage private motor vehicle use.

Traffic

187. It is considered that the traffic generation is reasonable, and that any increase in the volume of traffic generated by the development could be accommodated on the local road network without adversely impacting on the traffic operation of nearby streets. Two onsite car spaces with 12 bicycle spaces, within an office building with an inner city context accords and ties in with the policy detailed within the Scheme in relation to encouraging use of alternative transport modes.

Access and layout

188. Clause 52.06-9 (Design standards for car parking) of the Scheme relates to the design of car parking areas and contains 7 standards and requirements relating to access way, car parking spaces, gradients, mechanical parking, urban design, safety and landscaping.
189. These details, along with the proposed ramp designs have been reviewed by Council's Engineering Unit who is satisfied with the layout of the car parking area subject to a standard condition requesting the height clearance of the roller door being dimensioned on plans. Further, the applicant's traffic engineer has recommended the installation of a convex mirror to allow for additional visibility and assist with cars reversing out from the garage. This will be facilitated via a permit condition.
190. Council's Engineering Unit identified and raised a concern relating to the north east corner of the new building at Ground Level indicating that it will be vulnerable to being damaged by turning trucks entering Rokeby Street via Robert Street and made a design suggestion to splay the corner of the building (from footpath level to a height of 4.7 metres).
191. This matter was put forward to the permit applicant who responded with an email dated 12th May 2020 with swept path diagrams / turning circles (prepared by TTM Consulting Pty. Ltd. – drawing no.'s. 10499-01 and revision A – 2 sheets) demonstrating that standard vehicle and trucks can turn into Rokeby Street, without impacting the proposed building at the north-east corner. Council's Engineer reviewed these plans and indicated that these were to their satisfaction highlighting that the bollard to the north of Robert Street must remain intact. A condition to this effect will be included.

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

Electric vehicles

194. Council's ESD advisor has made a recommendation for the proposal to include the car parking bays to be shown EV ready. This requirement will be imbedded in the amended SMP and will need to be shown on any amended plans in compliance with Condition 1 requirements.

Bicycle parking

195. The proposal include 12 onsite bicycle spaces which is a significant improvement on the proposal in lieu of providing any further on-site car parking. The bicycle rates specified in the Scheme and facilities are not a requirement in this instance. Nonetheless, the ground floor provides service amenities that can be used as end-of-trip facilities by cyclists.

Green Travel Plan (GTP)

196. A separate condition will require the submission of a GTP.

Objector concerns.

(a) *Height and Design:*

- (i) *Design, size, height and mass of the development is inconsistent with the existing neighbourhood character and is an overdevelopment;*

197. Built form and massing (including height and design) is discussed within paragraphs 120 to 146. Conditions will be included that will assist in providing a better scaled building as per the "Sketch plans" which provides a reduction of one level as compared to the scheme advertised. The proposal subject to conditions detailed within the body of the assessment will achieve, on balance, an acceptable planning outcome and is not an overdevelopment.

(b) *Use and Off-Site Amenity Impacts:*

- (i) *Noise impacts on surrounding land uses and overlooking;*
- (ii) *Overshadowing of private open space and the public realm;*
- (iii) *The development will block views and dominate the skyline;*

198. The proposed office use is an as-of-right use under the Commercial 2 Zone and the hours of operation cannot be controlled. Off-site amenity impacts to neighbouring residential properties in terms of noise and overlooking is not a planning consideration as a consequence of the zoning of the land that prohibits any sensitive use (i.e. dwelling) from locating within its immediate range. The dwellings within the Former Yorkshire Brewery are separated from the site by at least 38m, and there is no evident overlooking opportunity. Overshadowing of the public domain has been addressed paragraphs 150 – 152 and 176. Landmarks, views and vistas are discussed within paragraphs 147 - 149.

(c) *Traffic and Car Parking:*

- (i) *The car parking reduction cannot be supported within local road network;*

199. Traffic and car parking has been addressed at paragraphs 181 to 196.

- (d) *Other:*

- (i) *The development will lead to the devaluation of surrounding properties;*
- (ii) *Construction will cause significant disruption in terms of noise and large vehicles driving through surrounding streets; and*
- (iii) *The development may overload existing infrastructure services.*

The development is considered to be well sited in terms of its location with readily available resources and services and within proximity to the Melbourne CBD. The devaluation of surrounding properties is not a planning consideration and the site can adequately be serviced by emergency vehicles no differently from other surrounding sites that rely on the same road network. Council's Engineering Unit have not indicated that the development would overload existing infrastructure services and support the building in this location with the provision of two

Conclusion

- 200. The proposed development, subject to a condition requiring the adoption of the changes made under the "Sketch plans", will adequately comply with policy objectives contained within the Planning Policy Framework and Municipal Strategic Statement. Notably, both schemes, achieve the State Government's urban consolidation objectives.
- 201. The proposal, subject to the conditions recommended, is an acceptable planning outcome that demonstrates clear compliance with the relevant Council policies subject to the adoption of appropriate conditions.

RECOMMENDATION

That having considered all objections and relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant a Planning Permit for the development of the land to construct a multi-level building for use as office(s) (no permit required use) and a reduction in the car parking requirement at 91 Rokeby Street, Collingwood generally in accordance with the plans noted previously as the "decision plans" and subject to the following conditions:

Amended Plans

- 1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions, and three copies must be provided. The plans must be generally in accordance with the plans prepared by Matt Goodman Architecture Office and dated 14 November 2019 but modified to adopt:
 - (a) The following changes in accordance with the "Sketch Plans" prepared by Matt Goodman Architecture Office dated 10 June 2020:
 - (i) The deletion of level 6, and a reduction in the overall building height to 21.9m above the NGL as measured to the highest point of the lift overrun and 19.6m as measured to the edge of the roof terrace floor above the natural ground level (NGL); and
 - (ii) The deletion of the external exoskeleton framing element to the building;

- (b) The adoption of evenly or more comparable distributed floor-to-ceiling heights and hence, openings / fenestration between the ground and upper floors.
 - (c) The provision of convex mirror(s) to provide additional visibility between drivers and pedestrians at the vehicle entrance.
 - (d) The clearance height of the roller door dimensioned.
 - (e) The relocation of the front pedestrian entrance to Rokeby Street and the current Robert Street entrance replaced with fenestration.
 - (f) The front entrance to Rokeby Street designed to be more prominent with varied materials and lighting.
 - (g) Provision of electric vehicle charging infrastructure to car parking spaces.
 - (h) The deletion of the "BOH" notation and this labelled as the reception area on the ground floor plan.
 - (i) Any requirement of the endorsed Landscape Plan (condition 8) (where relevant to show on plans).
 - (j) Any requirement of the endorsed Sustainable Management Plan (condition 10) (where relevant to show on plans).
 - (k) Any requirement of the endorsed Green Travel Plan (condition 13) (where relevant to show on plans).
 - (l) Any requirement of the endorsed Waste Management Plan (condition 15) (where relevant to show on plans).
3. 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.
4. As part of the ongoing progress and development of the site, Matt Goodman 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.

Amenity

5. No speakers external to the building within the balcony or roof terrace are to be erected or used.
6. 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.
7. Except with the prior written consent of the Responsible Authority, delivery and collection of goods to and from the land may only occur between 7am and 10pm on any day.

Landscape Plan

8. Concurrent with the plans requested at Condition 1, a Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Landscape Plan will be endorsed and will form part of this permit. The Landscape Plan must show:

- (a) The landscaping on any of the upper levels and how this is going to be maintained, including information on waterproofing, growing media, irrigation and mulch. Details of how any mulch specified on the higher levels will not be at risk of blowing away during high wind events must be provided.
 - (b) Indicate depths of the masonry planters where they have not been specified on the current plans.
 - (c) Details of custom furniture proposed, ensuring safety and compliance standards are met.
9. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:
- (a) implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
 - (b) not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose; and
 - (c) replacing any dead, diseased, dying or damaged plants,
- to the satisfaction of the Responsible Authority.

Sustainable Management Plan

10. Concurrent with the plans requested at Condition 1, an amended Sustainable Design Assessment (SDA) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended SDA will be endorsed and will form part of this permit. The amended SDA must be generally in accordance with the SDA prepared Frater Consulting Services dated 10 September 2019 but modified to make reference to design changes as required by Condition 1 and include the following details
- (a) Shading treatment to the north and east façade windows of the building, that is durable (i.e. not fabric).
 - (b) The service amenities on the ground floor identified as end of trip facilities for cyclists.
 - (c) Provision of solar PV panels on the lift overrun / services roof.
 - (d) Provision of electric vehicle charging infrastructure to car parking spaces.
 - (e) A commitment to offsite renewable energy purchasing for all electricity consumption for the life of the building.
 - (f) Further consideration to a heat pump or instantaneous electric hot water and with potential to remove natural gas connection to the building.
 - (g) Provision of a larger rainwater tank to ensure a minimum 80% reliability for toilet flushing to all toilets.
11. The provisions, recommendations and requirements of the endorsed SDA must be implemented and complied with to the satisfaction of the Responsible Authority.
12. Before the development is occupied, a report from the author of the SDA, 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.

Green Travel Plan

13. Concurrent with the plans requested at Condition 1, 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) Description of the location in the context of alternative modes of transport;
 - (b) Employee welcome packs (e.g. provision of Myki/transport ticketing);
 - (c) Sustainable transport goals linked to measurable targets, performance indicators and monitoring timeframes;
 - (d) A designated 'manager' or 'champion' responsible for co-ordination and implementation;
 - (e) Details of bicycle parking and bicycle routes;
 - (f) Details of GTP funding and management responsibilities;
 - (g) The types of bicycle storage devices proposed to be used for employee and visitor spaces (i.e. hanging or floor mounted spaces);
 - (h) Security arrangements to access the employee bicycle storage spaces;
 - (i) Signage and wayfinding information for bicycle facilities and pedestrians pursuant to Australian Standard AS2890.3; and
 - (j) Provisions for the GTP to be updated not less than every five years.
14. The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Waste Management Plan

15. Concurrent with the plans requested at Condition 1, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Waste Management Plan will be endorsed and will form part of this permit. The Waste Management Plan must be amended to include any changes to the building as required at Condition 1 of this permit with further details relating to:
- (a) A hard waste storage area within the bin storage area.
 - (b) E waste storage area within the bin storage area.
 - (c) The total space of the waste storage area specified.
 - (d) An incorporated clause for potential review into the service area if operational requirements change.
16. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
17. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.

Road Infrastructure

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

19. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, all building works and connections for underground utility services outside the building's frontage must be reconstructed:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
20. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated, including re-sheeting of the footpaths for the entire width of the property (i.e. to Rokeby and Robert Streets):
 - (a) in accordance with Council's Road Materials Policy - Heritage Overlay Areas
 - (b) at the permit holder's cost;
 - (c) ensuring that the bollard to the north of Robert Street remains intact; and
 - (d) to the satisfaction of the Responsible Authority.
21. Before the building is occupied, or by such later date as approved in writing by the Responsible Authority the relocation of any service poles, structures or pits necessary to facilitate the development must be undertaken:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.

Car parking

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

Lighting

23. 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 and internal laneway must be provided on the subject site. Lighting must be:
 - (a) located;
 - (b) directed;
 - (c) shielded; and
 - (d) of limited intensityto the satisfaction of the Responsible Authority.

General

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

25. Before the building is occupied, any wall located on a boundary facing public property (inclusive of the exposed portion of wall at the ground floor facing west) must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.
26. The development must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
27. The uses must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).
28. 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.
29. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
30. 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.
31. 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.

Construction Management Plan

32. 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.
- (r) During the construction:
 - (i) any stormwater discharged into the stormwater drainage system must be in compliance with Environment Protection Authority guidelines;
 - (ii) 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;
 - (iii) vehicle borne material must not accumulate on the roads abutting the land;
 - (iv) the cleaning of machinery and equipment must take place on the land and not on adjacent footpaths or roads; and
 - (v) all litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly.

Time expiry

33. This permit will expire if:

- (a) the development is not commenced within two years of the date of this permit; and
- (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 application was not assessed against Clause 43.01 of the Yarra Planning Scheme (Heritage Overlay) as heritage matters are considered by Heritage Victoria.

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

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

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.

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

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

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

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

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

CONTACT OFFICER: John Theodosakis
TITLE: Principal Planner
TEL: 9205 5307

Attachments

- 1** Application Drawings - Advertised Plans
- 2** "SKETCH Plans" Referenced
- 3** Referral Advice Combined

-
- 1.6 PLN13/1039.01 - 29 Brighton Street, Richmond - Planning permit amendment application for alterations including new roof decks to the two approved double storey dwellings, additions at first floor to accommodate roof terrace stair access and deletion of conditions.**
-

Executive Summary

Purpose

1. This report provides Council with an assessment of the proposed amendment to planning permit PLN13/1039 for alterations including new roof decks to the two approved double storey dwellings, additions at first floor to accommodate roof terrace stair access and deletion of conditions at 29 Brighton Street, Richmond and recommends approval, subject to conditions.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Clause 22.02 – Development guidelines for sites subject to the heritage overlay
 - (b) Clause 32.09 – Neighbourhood Residential Zone
 - (c) Clause 43.01 – Heritage Overlay
 - (d) Clause 55 – Two or more dwellings on a lot

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Clause 55 – ResCode;
 - (b) Heritage;
 - (c) Changes to conditions; and
 - (d) Objector's concerns.

Submissions Received

4. Ten objections were received to the application, these can be summarised as:
 - (a) The proposed roof terraces should be deleted.
 - (b) The development including the proposed roof terraces do not respect the heritage precinct.
 - (c) Offsite amenity impacts including noise, height of walls on boundaries, overlooking and overshadowing.
 - (d) Misleading information in applicant's submission.

Conclusion

5. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported, subject to conditions requiring the setback of the roof terrace to unit 1 be a minimum of 5.3m to the front boundary.

CONTACT OFFICER: Laura Condon
TITLE: Senior Statutory Planner
TEL: 92055016

1.6 PLN13/1039.01 - 29 Brighton Street, Richmond - Planning permit amendment application for alterations including new roof decks to the two approved double storey dwellings, additions at first floor to accommodate roof terrace stair access and deletion of conditions.

Reference: D20/140021

Authoriser: Senior Coordinator Statutory Planning

Ward: Melba

Proposal: Planning permit amendment application for alterations including new roof decks to the two approved double storey dwellings, additions at first floor to accommodate roof terrace stair access and deletion of conditions

Existing use: Two approved dwellings under construction

Applicant: Priority Planning PTY Ltd.

Zoning / Overlays: Neighbourhood Residential Zone (Schedule 1).
Heritage Overlay (HO308)
Design and Development Overlay (Schedule 5)

Date of Application: 06 January 2020

Application Number: PLN13/1039.01

Planning History

1. The original application was received by Council on 26 November 2013 and subsequently advertised, with 8 objections received.
2. Amended plans were submitted under Section 57A of the *Planning and Environment Act* 1987 (the Act) on 17 November 2014 and 3 December 2014. Whilst the proposal retained the two separate dwellings on the lot, the design and appearance of the development was completely altered. In summary, the amended plans included the following changes to the design;
 - (a) The inclusion of basements beneath each dwelling;
 - (b) Changes to ground and first floor setbacks;
 - (c) The inclusion of two roof terraces;
 - (d) The design of the proposal altered to be a more symmetrical structure, with the pitched roofline altered to a flat roof;
 - (e) The design of the front fence altered;
 - (f) The materials altered to incorporate a high degree of brickwork and timber battens; and
 - (g) The façade height of the development reduced from 8.2m to 7m.
3. These plans were readvertised, with one new objection received resulting in a total of nine objections.
4. A further set of amended plans were submitted under Section 57A of the Act on 22 April 2015 and 29 April 2015. These plans included the following changes to the design;
 - (a) The front fence amended to a 1.5m high timber picket fence with matching gate;

- (b) The setback of the roof terrace of unit 1 from the front boundary increased from 2.5m to 3.68m;
 - (c) The extent of timber battens on the façade reduced at both levels, with face brickwork incorporated into the façade at ground level.
5. The application was determined at Council's Internal Development Approvals Committee (IDAC) meeting on the 24th June 2015. Council officers recommended support for the proposed development, including the proposed roof top terraces subject to the setback of the terrace fronting Brighton Street (Unit 1) being increased from 3.68m to 5.5m, in line with the advice of Council's Heritage advisor. Councillors determined the roof terraces should be deleted and imposed the following condition 1h) *'Delete the roof terrace to both units 1 and 2'*.
 6. A Notice of Decision to this effect issued with neither objectors nor the applicant appealing the decision or permit conditions. Subsequently, planning permit PLN13/11039 was issued 21 July 2015 for the *Full demolition of the existing dwelling, construction of two double-storey dwellings, plus basements and roof terraces and a reduction in the car parking requirements*. Endorsed plans were issued on the 12 September 2016.
 7. The townhouses are currently in the early stages of construction (framing is erected but no exterior or interior walls have been installed). The current amendment application was lodged 6 January 2020 and proposes to reinstate the deleted roof terraces (along with other minor changes). The terrace to unit 1 is proposed to be setback 2.8m from the Brighton Street boundary.
 8. The application was advertised, with 10 objections received. Due to COVID-19 (Coronavirus) restrictions, no planning consultation meeting occurred.

The Proposal

9. The application seeks to amend the approved development under planning permit PLN13/1039 for alterations including two new roof decks, additions at first floor to accommodate roof terrace stair access and deletion of conditions. The proposal can be summarized as follows;

Buildings and works

Basement

- (a) Inclusion of two new windows inside two new submerged light wells to unit 1. The light wells will measure 0.5m deep by 2m wide with one on the north side of the basement (setback 0.7m from north boundary) and one on the west side (setback 1.4m from the front boundary). The northern light well will be capped by a metal grate with the plans not specifying the cover material for the western light well. A new laundry will be included in both basements and with both stairs slightly repositioned and the store for unit 1 repositioned from the west wall to the south wall.

Ground level

- (b) Steps to both front entries repositioned slightly with the setback of the entry to Unit 1 increased by 300mm to 4m, laundry relocated to basement and position of stairs altered.

First floor

- (c) Windows added to both W/C.
- (d) The height of the first floor sloped stairwell walls accessing the roof terraces on the south boundaries are to be increased by 0.5m in height creating two pop-up sections on the southern wall. The additional wall length for the unit 1 pop-up will measure 2m at bottom of the additional section and 1.5m at the top. The additional wall length for the unit 2 pop-up will measure 1.3m at bottom of the additional section and 0.6m at the top. Two water heating units are to be installed to the first floor southern wall.

Roof terraces

- (a) Separate terraces will be located above each dwelling, accessed via stairs adjacent to the south boundary.
- (b) Unit 1 terrace will be setback 2.8m from the front boundary (and 2m from the roof edge of the level below), 1.78m from the north boundary and 2m from the south boundary.
- (c) Unit 2 terrace will be setback 5.31m from the eastern boundary, 1.78m from the north boundary and 2m from the south boundary.
- (d) 1m and 1.7m high balustrades composed of glazing with timber edging and metal extend around each terrace.

Material changes

- (e) Brick added atop the first floor window facing Brighton Street.
- (f) Reduction in the size of the first floor north-facing glazing to the living areas with timber overlooking screens replaced with fluted glass to a height of 2m.
- (g) The north-facing kitchen windows reduced in size but continue to have fixed obscure glazing to a height of 1.7m above FFL (as per original approval).
- (h) Replacement of face brick on the central part for the first floor southern wall with a render finish.
- (i) Colour of folded metal cladding changed from black and off-white to a dark grey (monument) and light grey (surfmist).

Existing Conditions

Subject Site

- 10. The subject site is located on the eastern side of Brighton Street, Richmond; 5m to the north of James Street. The site has a street frontage of 7.38m and a depth of 24.52m. The overall site area is approximately 176sqm.
- 11. The site previously contained a single-storey, semi-attached brick dwelling of c.1940s architectural style, and was one of a group of four matching dwellings. This dwelling at the subject site has been demolished. The two approved townhouses are currently in the early stages of construction (framing is erected but with no exterior or interior walls installed-see figure 1).



Figure 1: 29 Brighton Street – Existing Conditions

- 12. Unit 1 is setback 1.9m from Brighton Street with Unit 2 setback 3.5m from the rear boundary. Unit 1 is accessed from Brighton Street with Unit 2 accessed from the rear lane (including a panel lift door providing access to an open car space for Unit 2). The basements have been constructed.

Both dwellings abut each other on the south side and are built to the southern boundary at ground and first floor. A courtyard on the north side provides for open space for each dwelling.

13. The dwellings are built to the northern boundary at ground floor apart from the courtyard and a 1.2m setback to approx. 50% of the ground floor northern wall of unit 1. The dwellings are setback 1.2m from the north boundary at first floor (apart from above the courtyard). Approved materials include a combination of face brickwork (red), folded colorbond cladding and timber cladding. A maximum building height of 7m was approved.
14. Planning permit SP19/0045 issued the 2 October 2019 for a *two lot subdivision* at the subject site. New Certificates of Title to reflect this subdivision have not yet issued from Land Use Victoria (Titles Office).
15. No restrictive covenants apply to the site; however a party wall easement extends along the southern boundary for a length of 18.78m.

Surrounding Land

16. The surrounding area is residential and contains a mixed built form character generally consisting of single and double-storey dwellings of heritage and modern designs.
17. The subject dwelling is located in the middle of a row of matching dwellings, with the properties from No.25 to No.31 Brighton Street being red-brick, semi-attached dwellings of c. 1940s style. The dwelling immediately to the south (No.31) is attached to the subject dwelling for its entire length. The front entrance is located on the southern side of the dwelling, visible from James Street, with the remaining southern wall set back 1m from the southern boundary fence. Secluded private open space is located on the eastern side of this site.
18. The dwelling immediately to the north (No.27) has the same front setback and layout as the dwelling at No. 31 Brighton Street. Three habitable room windows address the subject site, being located within the southern wall. Secluded private open space is on the eastern side of the site.
19. To the east of the site is a laneway, extending from James Street in the south to Little James Street in the north. On the opposite side of the laneway is a double-storey weatherboard dwelling, with both levels directly abutting the laneway interface. There are a number of habitable room windows within the wall abutting the laneway, with four at ground level and three at first-floor.
20. To the west, on the opposite side of Brighton Street, is Shamrock Street with a double storey 1970's town house development located on the northern side of the intersection of Shamrock Street and Brighton Street. On the southern side of the intersection is a single storey dwelling. To the immediate south of this dwelling is a large development site with a frontage to Church Street. The frontage to Brighton Street is to be developed with a three storey childcare centre with roof top terrace. These 3 sites are not located within the heritage overlay with the remainder of the Brighton Street frontages in the vicinity being within the overlay (apart from 3 modern townhouses part 2 and 3 storey at No.32-26 Brighton Street).
21. The site is located approximately 150m south of the Swan Street Major Activity Centre (MAC), 140m east of Church Street and 120m west of Barkly Gardens, and thereby enjoys good access to community and retail facilities and public open space. The area is well serviced by a number of transport options, including the East Richmond Railway Station approximately 120m to the west of the site and a number of tram routes along Swan Street, to the north.

Legislation Provision

22. The amendment has been requested pursuant to Section 72 of the *Planning and Environment Act 1987* (the Act).
23. Section 72 of the Act states:
 - (a) *A person who is entitled to use or develop land in accordance with a permit may apply to the responsible authority for an amendment to the permit.*
 - (b) *This section does not apply to-*

24. The planning permit was issued on 21 July 2015. The Tribunal has not directed that the responsible authority must not amend the permit, nor was the permit issued under Division 6 of the Act.
25. Section 73 of the Act states that Sections 47 to 62 of the Act apply to the amendment application. This allows the Responsible Authority to apply the abovementioned sections of the Act to the amendment application as if it was an application for a permit.

Planning Scheme Provisions

Zoning

26. The subject site is zoned Neighbourhood Residential Zone (Schedule 1). The following provisions apply:
 - (a) Pursuant to *Clause 32.09-4* of the Scheme, the mandatory minimum garden area requirement for lots above 400sqm. With a site area of 176sqm, this clause is not applicable to the current application. Further the proposed site coverage has been previously approved and is not proposed to be increased by this proposal.
 - (b) Pursuant to *Clause 32.09-6* of the Scheme, a planning permit is required to construct or extend two or more dwellings on a lot. *Clause 55* (two or more dwellings on a lot) applies. As it is proposed to extend the approved dwellings through an addition at first floor to accommodate the roof terrace access and the inclusion of the two new roof terraces, clause 55 is applicable to these additions.
 - (c) Pursuant to *Clause 32.09-10* of the Scheme, a maximum building height of 9m and two-storeys generally applies. With an overall maximum height of 8.35m and a maximum of two storeys proposed, the proposed amendment application continues to comply.

Overlays

27. The subject site is affected by the Heritage Overlay (Schedule 308 Barkly Gardens Heritage Precinct). The following provisions apply:
 - (a) Pursuant to *Clause 43.01-1* of the Scheme, *a planning permit is required to:*
 - (i) *Demolish or remove a building, and;*
 - (ii) *Construct and carry out works.*
28. The subject site is affected by the Design and Development Overlay (Schedule 5). The following provisions apply:
 - (a) Pursuant to *Clause 43.02-2* of the Scheme, *a permit is required to:*
 - (i) *construct a building or to construct or carry out works. This does not apply if a schedule to this overlay specifically states that a permit is not required.*
29. Schedule 5 specifically states that a permit is not required for buildings and works. Notice however must be given to the Environment Protection Authority (EPA), Transurban City Link, and Vic Roads in the event that a planning permit is triggered under another provision within the Scheme.

Particular Provisions

Clause 55 – Rescode

30. Pursuant to Clause 55 of the Scheme the provisions apply to construct or extend two or more dwellings on a lot.

General Provisions

31. The decision guidelines outlined at Clause 65 of the Scheme are relevant to all applications. Because a permit can be granted does not imply that a permit should or will be granted.

Before deciding on an application, the Responsible Authority must consider a number of matters. Amongst other things, the Responsible Authority must consider the relevant State and Local Planning Policy Frameworks, as well as the purpose of the zone, overlay or any other provision.

Planning Policy Framework (PPF)

Clause 15.01-1 – Urban design

32. The objectives of this clause are:

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

Clause 15.01-2 – Building design

33. The objective of this clause is:

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

Clause 15.01-5 – Neighbourhood character

34. The objective of this clause is:

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

Clause 15.02-1 – Energy and resource efficiency

35. The objective of this clause is:

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

Clause 15.03 – Heritage

36. The objective of this clause is:

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

Local Planning Policy Framework (LPPF)

Clause 21.05-1 – Heritage

37. The relevant objective of this clause is:

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

Clause 21.05-2 – Urban design

38. The relevant objectives of this clause are:

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

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

39. This clause describes the neighbourhood as consisting of *largely an eclectic mix of commercial, industrial and residential land use. With two railway lines and both north south, and east west tram routes, the neighbourhood has excellent access to public transport.*

40. The built form character map at Figure 18 identifies the subject site as being within a Heritage Overlay.

Relevant Local Policies

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

Clause 22.02-5.1 – Demolition

Full demolition or removal of a building

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

Clause 22.02-5.7 – New Development, Alterations or Additions

41. The relevant policies of *Clause 22.02-5.7.1* of the Scheme include:

- (a) *Encourage the design of new development and alterations and additions to a heritage place or a contributory element to a heritage place to:*
 - (i) *Respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape.*
 - (ii) *Be articulated and massed to correspond with the prevailing building form of the heritage place or contributory elements to the heritage place.*
 - (iii) *Be visually recessive and not dominate the heritage place.*
 - (iv) *Not obscure views of principle façades.*
 - (v) *Consider the architectural integrity and context of the heritage place or contributory element.*

Incorporated Documents

42. Appendix 8 to the City of Yarra Review of Heritage Areas, 2007 – The site is identified as being “not-contributory” to the Barkly Gardens Heritage Precinct Richmond Hill Precinct (as identified by Schedule 308 to the Heritage Overlay).

Advertising

43. The application was advertised in accordance with Section 52 of the Act by way of 32 letters sent to objectors to the original application, surrounding property owners and occupiers and the display of one sign on the site. A total of 10 objections were received. These objections raised the following issues;
- (a) The proposed roof terraces should be deleted.
 - (b) The development including the proposed roof terraces do not respect the heritage precinct.
 - (c) Offsite amenity impacts including noise, height of walls on south boundary, overlooking and overshadowing.
 - (d) Misleading information in applicant’s submission.

Referrals

External Referrals

44. The application was required to be referred externally in accordance with the *Design and Development Overlay (Schedule 5) – CityLink Exhaust Stack Environs*. There was no objection to the application from any authority, with only the Department of Transport providing a response (stating no objection).

Internal Referrals

Heritage

45. The original and current subject application were both referred to Council’s Heritage Advisors. Copies of the heritage advice to the original application and the current amendment application are included as attachments to the Agenda.

OFFICER ASSESSMENT

46. The key planning considerations for Council in considering the proposal relate to:
- (a) Clause 55 – ResCode;
 - (b) Heritage;
 - (c) Changes to conditions; and
 - (d) Objector’s concerns.

Clause 55 – ResCode

47. With the proposed amendment to the approved development being limited to the proposed roof terraces and changes to overlooking treatments, only these aspects of the proposal will be assessed against the relevant standards of clause 55, as follows:

B1 – Neighbourhood character objectives

48. The character of Brighton Street is somewhat different to the more consistent heritage character of the land to the east and south. The following image shows the heritage grading of properties located with the Heritage Overlay 308 and depicts the lack of a strong heritage character within the immediate vicinity of the site. Of the 23 properties fronting Brighton Street (both sides) between Lesney Street to the north (adjacent to the train line) and Rose Street to the south, 13 of them (or 57%) are either not located within a heritage overlay or are graded as dwellings that are not contributory to the heritage overlay (see figure 2).



Figure 2: Heritage grading- Red: Individually Significant, Brown: Contributory, Green: Non-contributory, White: no heritage overlay. Star indicates subject site.

49. This lack of contributory buildings to the heritage overlay heavily influences the neighbourhood character of the street. Instead of having a strong and consistent heritage character, this part of Brighton Street has a very mixed character with a large number of single, double and some three storey modern infill developments (including a three storey childcare centre with roof terrace under construction at No.20 Brighton Street and the approval of four, three-storey townhouses at No.16 Brighton Street, both opposite the subject site-see figures 5 to 10). This character will be discussed in further detail in the following heritage assessment. From a neighbourhood character perspective it is considered there is sufficient existing and emerging variation in building typologies to ensure the proposed roof terraces will not be incongruous elements in the streetscape (subject to a condition requiring the setback for the roof terrace for unit 1 is increased as discussed in following heritage assessment).

50. The site sits on the periphery of the heritage precinct which extends to the south and east with the Church Street non-heritage commercial context located to the west. The proposed roof terraces will have limited impact to the James Street streetscape, with long range views from the more intact heritage precinct to the east largely concealed by the double storey dwelling at No.3 James Street (see figure 11).
51. The proposed roof terraces will undoubtedly be a change to how the site is viewed from Brighton Street. However it is reasonable to expect that the non-contributory sites to the immediate north and the three sites to the south across James Street would experience some further intensification in development. Particularly in the context of existing two and three storey modern infill developments providing an existing context for the intensification of built form typologies in the immediate context.
52. It is therefore considered that the proposed roof terraces will not overwhelm or dominate the heritage character of the area or substantially depart from the existing or preferred future character, therefore complying with the objective of this clause, including the design objectives of *Clauses 15.01* and *21.05* of the Scheme. Based on the above assessment and subject to conditions as outlined, it is considered that the proposed development will adequately respect the existing neighbourhood character and is in accordance with the design detail objectives of this standard.

B5 – Integration with the street objective

53. The standard encourages that high levels of passive surveillance are retained to the street from the dwelling's façade. While the façade is approved, the notation detailing the transparency of the ground floor timber screen to the façade of unit 1 has been removed. This raises concerns should the screen have very limited transparency, as this would result in poor passive surveillance to the street. The originally approved screen had 19mm wide slats on 70mm centres and so allowed for a minimum of approx. 70% transparency. A condition will require this level of transparency is retained to ensure acceptable levels of passive surveillance to the street. Retaining this level of transparency is important as this is the only ground floor window to this façade with the remaining wall being brick.
54. The original approval also stipulated a minimum transparency of 25% to the rear gate to unit 2 to allow views into the dwelling entry from the rear lane. This notation has also been removed. A condition will require its reinstatement.

B7 – Building height objective

55. The maximum height of the development is 8.2m above natural ground level, thereby complying with the 9m recommended by the standard. This height is associated with the balustrades of the roof terraces. The objective of the standard is met.

B17 – Side and rear setbacks objective

Northern Elevation

56. Both roof terraces are proposed to be setback 1.78m from the north boundary. At a maximum height of 8.2m on the western end of Unit 1, a 3.2m setback is required. The terrace at the eastern end of Unit 2 extends to a maximum height of 7.6m, with a 2.69m setback required. In this instance, these non-compliances are considered acceptable, based on the following;
 - (a) Views to the terraces will be suitably restricted by the combination of the height of the double-storey walls and 0.5m setback of the terrace screens behind these walls;
 - (b) The secluded POS of the adjoining property to the north is located to the east and at the rear of the site, and not directly opposite the proposed terraces;
 - (c) The adjacent windows to the north are south-facing, ensuring that direct solar access will not be impacted; and

- (d) An overall setback of 3.9m is provided between these existing windows and the proposed terraces. These setbacks will ensure that adequate daylight will continue to access these windows.

Southern Elevation

- 57. The roof terraces balustrades are setback 2m from the south boundary, with the terraces being a maximum height of 8m for unit 1 and 7.68m for unit 2. In order to meet the standard, a setback of 3.09m for unit 1 and 2.77m for unit 2 is required.

As the terraces are directly adjacent to a boundary wall within the southern site, visual bulk and daylight impacts are not of concern and the non-compliance of these setbacks is acceptable.

Eastern Elevation

- 58. The roof terrace is setback 5.35m from the rear boundary. With a max heights of 7.68m above NGL, a setback of 2.77m is required. The standard is met.

B18 – Walls on boundaries objective

Southern boundary

- 59. The height of the first floor sloped roof top stairwell access walls on the south boundaries are to be increased by 0.5m in height to a maximum of 6.9m. The additional wall length for the new pop-up roof access for unit 1 will measure 2m at bottom of the additional section and 1.5m at the top. The additional wall length for the new pop-up roof access for unit 2 will measure 1.3m at bottom of the additional section and 0.6m at the top.
- 60. While the height of the new sections of boundary walls do not satisfy the standard, the entire length of the new section of walls will directly abut the existing dwelling to the south, ensuring that no additional amenity impacts will affect this site and visibility of the wall is limited. Shadow impacts will be discussed later in this assessment. The objectives of the standard are met.

B19 – Daylight to existing windows objective

- 61. There are three south-facing habitable room windows within the dwelling to the north. These windows are setback 2m within the adjacent site, with two of the windows directly opposite the proposed roof terrace screens.
- 62. The roof terraces will extend to a maximum height of 7.7m along this interface (where they are opposite the windows), and will be setback a total of 3.78m from these windows, ensuring the required 3.7m setback is met. Further with these windows being south-facing they are already substantially shadowed by their own wall throughout the day, therefore daylight access to these windows will not be significantly affected by the proposed roof terraces.

B21 – Overshadowing open space objective

- 63. The proposal will result in additional overshadowing within the site to the south; however these additional shadows will be limited to the roof of the dwelling or contained within the shadows generated by the approved two storey walls of unit 2 in the open space of this dwelling. As such this open space will not be affected by additional shadow from the roof terraces and so the proposal is acceptable in this regard.

B22 – Overlooking objective and B23 – Internal views objective

Roof terrace

- 64. The proposed 1.7m high above finished floor level (FFL) solid metal screens on the eastern sides of both terraces will prevent overlooking from these sides of the roof terraces to habitable windows and open space within 9m, in compliance with the standard. The eastern screen to unit 1 also prevents overlooking to the terrace at unit 2 and the west-facing windows on this dwelling.

This 1.7m screen wraps around the east end of the southern balustrade to unit 2 and also to the east side of the terrace stair access and prevents overlooking to the adjoining open space to the south. The remainder of the southern screens to both terraces are 1m high, but with overlooking with 9m to the south limited to the roof of the adjoining dwelling or James Street, the screen heights are acceptable.

65. With the western screen of unit 1 fronting Brighton Street, it is not required to be treated for overlooking. With the windows on the south wall of the dwelling to the north being setback 8.5m from the front boundary, oblique views from the this west side to these windows will not be available within the 45 degree overlooking arc stipulated by this standard. As will be discussed in the following *Heritage* assessment, a condition will require the western balustrade setback to unit 1 is increased to 5.3m from the front boundary.

Even with this increased setback oblique views to these windows will not be available within the 45 degree overlooking arc.

66. A 1m high screen is proposed to the west side of the terrace for unit 2. At a setback of 6m from the westernmost south-facing window on the dwelling to the north, it appears that overlooking may be possible to this window. This low screen will also allow for internal views to the ground floor open space and east-facing windows of unit 1. A condition will require this is addressed.
67. Fixed storage boxes measuring 1m high x 0.7m wide are proposed to the entire north side of the both terraces. Sightline diagrams are provided that show the separation these boxes provide restrict views to above the top sill of the habitable room windows on the south wall of the dwelling to the north, and so complies with the objective of this standard. However an examination of the sections appears to show that the combination of the northern storage box overlooking structure, the 1.7m high eastern terrace screen and roof of the dwelling to the north may not prevent overlooking from the parts of the east end of the northern side of the unit 2 terrace to the open space to the north. A condition will require that this is addressed/clarified.

First floor windows

68. Two privacy screens on the large living room windows to the northern walls of both dwellings are to be replaced by fixed fluted glazing to a height of 2m above FFL, in compliance with the standard. Fluted glazing is a stippled glazing with a vertical stripe pattern. See figure 3. However the material schedule does not provide an image to confirm this glazing type. A condition will require this and include the requirement for a notation stating the glazing will be a maximum 25% transparent to ensure compliance with the standard.



Figure 3: Fluted glazing

69. The first floor north-facing windows to the kitchen of both dwellings will be fixed obscure glazing to a height of 1.7m, in compliance with the standard. However the material schedule does not confirm the 'OG' notations shown on the windows represents 'Obscure Glazing'. A condition will require this additional detail to ensure compliance. Further the plans do not show overlooking treatments to the first floor west-facing window of unit 2 and the east-facing window of unit 1. These windows can allow for both external and internal overlooking opportunities to the site and so a condition will require this is addressed.

Ground floor

70. A fence is provided at ground floor separating the private open space between the dwellings. The endorsed plans show 1.7m high timber paling between the ground level courtyards of the two dwellings however this notation has been omitted from the amended plans. A condition will require this detail to be reinstated.
71. Similarly, notations detailing the transparency of the first floor east-facing window screen to unit 2 has been removed from the plans. As this window is within 9m of habitable room windows on the far side of the rear lane, a condition will require this is addressed (with the endorsed plans showing this window to comply). The two new bathroom W/C windows (one to each dwelling) are not required to be treated for overlooking as they are not habitable room windows.
72. Subject to conditions to this effect, the proposal is acceptable from an overlooking perspective.

B28 – Private open space objective

73. Given the ground floor open space has been approved for each dwelling, the provision of additional open space in the form of the roof top terraces is no longer a relevant consideration. Regardless of this, the additional open space will be welcome addition that will improve the amenity of the dwellings from the future occupants.

B29 – Solar access to open space objective

74. The roof top terraces will receive excellent solar access, with northern orientations and low balustrading on the north side. The standard is met.

Heritage

75. The relevant purpose of the Heritage Overlay is to ensure that development does not adversely affect the significance of heritage places. The subject site is included in HO308, which applies to the Barkly Gardens Heritage Precinct, with the subject site identified as a 'not-contributory' within this precinct. Clause 22.02 articulates Council's local planning policy in relation to development guidelines for sites subject to the heritage overlay.
76. With regards to the construction of the new roof terraces, the key consideration is whether the proposal will adversely affect the significance, character or appearance of the broader heritage precinct. In relation to the other proposed changes these changes are minor in nature and are considered acceptable from a heritage perspective, with Council's heritage advisor also not objecting to these changes.

Minor proposed changes

77. The installation of the new windows and light wells to the basement are acceptable as they are not visible above ground (apart from a discrete grate at ground level enclosing the northern light well). The plans do not detail the covering to the western light well, and while not a concern from a heritage perspective given it will be flush mounted to the ground and so not highly visible, it is nevertheless considered appropriate to request this detail to ensure the material is compatible with the heritage characteristic of the area.
78. The slight repositioning of the steps to the dwelling entrances and the 300mm increased setback of the front door to unit 1 are of no consequence from a heritage perspective. The new W/C windows at first floor are acceptable as they are both recessed behind their respective facades and so will not be dominant elements. The installation of a couple of courses of brick work above the first floor window to the façade of unit 1 is a minor change of no consequence and will match the ground floor brickwork and so will not appear an incongruous element.
79. As discussed in the previous Rescode assessment notations details the transparency to the ground floor screen to the ground floor unit 1 façade have been removed and a condition will require their reinstatement. Similarly the notations detailing the transparency of the first floor timber batten screen to the balcony have been removed.

While it is not critical to require a high level of transparency to this level given the low height of balustrade allows for passive surveillance from the windows behind, it is nevertheless considered appropriate the transparency is noted to ensure the appearance of the screen will be compatible to the heritage streetscape.

80. The replacement of parts of the brick on the southern wall with a rendered finish and the replacement of the black and off-white metal cladding with light (surfmist) and dark (monument) grey colours are also acceptable as these changes are not significant and will not result in a detrimental change in the appearance of the approved dwellings. The applicant has confirmed the monument colour change to the metal cladding with the material schedule only specifying the surfmist colour. The applicant is agreeable to a condition requiring notations detailing the positions of the surfmist and monument cladding. The notation on the endorsed plans showing the face brick will be redbrick colour has also been removed. A condition will require its reinstatement. The installation of two water heaters on the first floor south wall is not considered appropriate given their visibility from James Street is in non-compliance with policy objectives that encourages service items to be concealed from view. A condition will require they are either screened or appropriately relocated.

Roof terraces

81. In relation to the proposed roof terraces, as outlined in the referral section, the heritage advice for the original permit approval differs to that provided for the current amendment application. The advice for the original application requested either the deletion of the terraces or the terrace for unit 1 to be further setback from the front boundary to a distance of 5.5m and the western screen increased to a height of 1.7m and glazing balustrades replaced to a solid grey finish (to obscure furniture items on the terrace). Council officers supported this position, albeit did not require the 1.7m high western screen citing the 5.5m setback being a sufficient treatment to appropriately minimise views of the terrace from Brighton Street. Councillors ultimately required the full deletion of both terraces.
82. The current advice for the amendment application does not concur with this earlier heritage advice. The current advice outlines that the dwellings being partially constructed has revealed they are prominent elements in the streetscape. As such, it was put forward that the addition of the proposed roof terraces would exacerbate this issue and so it was recommended they be deleted. The advisor did however offer a potential design solution, namely the terraces be enclosed by sloping balustrades to disguise them as roof form. Council's heritage advisor later provided clarification on the appearance of this design solution, as follows:

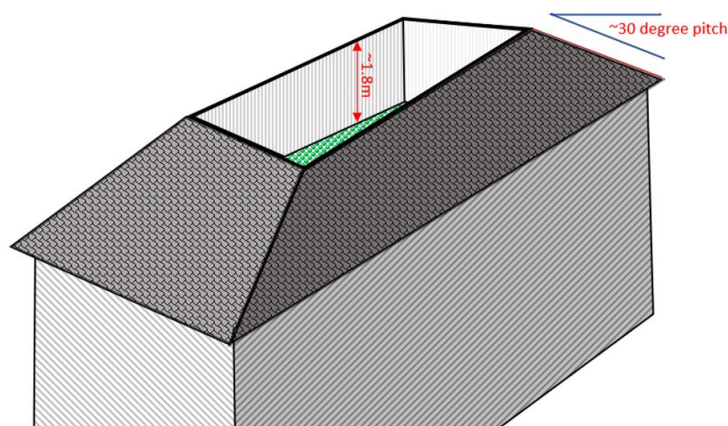


Figure 4: Roof terraces concealed in roof form

83. It is noted the heritage advisor also indicated that the roof pitch could be amended to a max of 40 degrees and screen height to a max of 1.5m, if this assisted the applicant. However the applicant opposes this suggestion and insists on maintaining the current design. They believe the redesign would result in a significant loss of floor area on the terraces and it would be difficult to retro fit the constructed building frame to accommodate this type of roof form/balustrade.

84. Given the applicant's preference not to proceed with the above design, Council officers must now acknowledge that there are two conflicting heritage advisor opinions on the same proposal and must consider which is the preferable position, i.e. delete the roof terraces, increase the setback of the terrace to unit 1 to 5.5m from the front boundary or incorporate the roof terraces into a roof form structure.

Is the deletion of the roof terraces appropriate?

85. In relation to the option to delete the roof terraces, it is not considered reasonable to require this. The applicant has put forward that it is reasonable to now reconsider the proposed roof terraces given the context of the area has changed since the original permit was issued. Of particular note is a three storey childcare centre with roof terrace under construction immediately opposite the site, with taller elements toward Church Street (under planning permit PLN18/0328 at 459-471 Church Street and 20-26 Brighton Street- see figure 5).

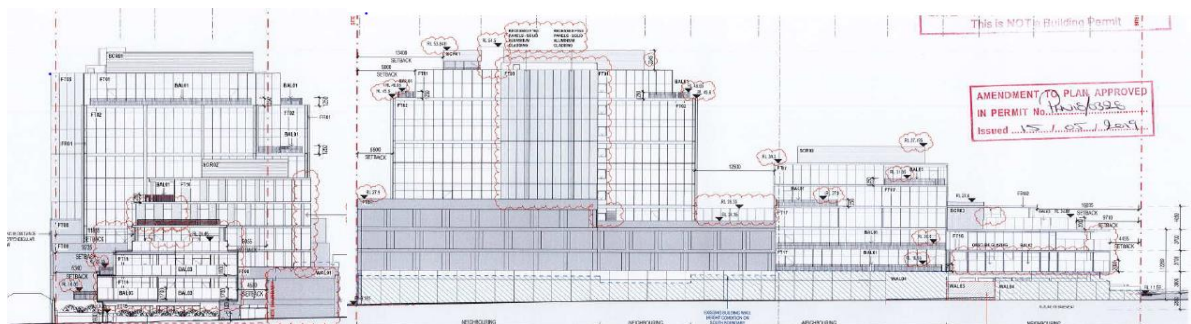


Figure 5: three-storey childcare centre with roof terrace under construction opposite the site.

86. Of further note is the four, three-storey townhouses approved immediately opposite the site at No.16 Brighton Street, under planning permit PLN11/0673 (see figure 6). This permit was amended in 2015 to allow for the dwelling fronting Brighton Street be increased from two storeys to three. Due to a recent extension of time to the permit, it remains valid.



Figure 6: Four, three-storey townhouses approved immediately opposite the site at No.16 Brighton Street

87. Given the above and that this part of Brighton Street is not a consistent and intact heritage streetscape, it is considered reasonable that the application for the roof terraces be reconsidered and supported. While it is acknowledged that the childcare site and No.16 Brighton Street are not located within the heritage overlay, it remains important to acknowledge (as outlined in detail the Rescode Neighbourhood assessment), the subject site is located on the periphery of a heritage overlay and within a part that is dominated by non-contributory buildings.
88. The subject site located in a row of 6 non-contributory dwellings (see figure 10 and 12), apart from the contributory dwelling adjoining the site to the south (see figure 11). Indeed there is a roof terrace under construction atop a two storey dwelling at No.45 Brighton Street located 60m south of the site (see figure 7).

89. With further 2 and 3 storey modern infill developments located within the immediate vicinity of the site (see figure 8), this section of Brighton Street is not an intact heritage streetscape where a condition requiring the deletion of the roof terraces might be justified. The following images demonstrate the lack of heritage intactness of the immediate streetscape, and this coupled with the construction of the childcare centre opposite justifies the proposition that the context has sufficiently changed to now support the proposed roof terraces.



Figure 7: roof terrace at No 45 Brighton Street.



Figure 8: 2 & 3 storey modern infill at No.32-36 Brighton Street.



Figure 9: Childcare centre site opposite subject site and non-contributory dwelling to north with approval for 4x 3 storey townhouses.



Figure 10: 3 non-contributory dwellings to south on Brighton Street (across James street)

90. Further, in relation to whether requiring the deletion of the roof terraces is justified, figure 11 demonstrates the approved dwellings under construction do not appear significantly higher than the neighbouring contributory dwelling to the south when viewed obliquely from the James and Brighton Street intersection.



Figure 11: Subject site with contributory dwelling to the south.

91. As such the dwellings currently do not have an overly dominant presence in the street scape. The additional roof terrace screens height are considered acceptable as they will be akin to the roof height of No.3 James Street on the opposite side of the rear laneway (see figure 11). This existing roof backdrop allows for the terraces to not protrude higher than existing roof forms in this immediate context and so reduces their prominence to an acceptable level.
92. When viewed from the north, the built form buffer offered by the dwellings to the north significantly reduces the prominence of the new dwellings when view obliquely from this side.

Figures 12 and 13 clearly demonstrate the additional 1m height associated with the northern roof terrace screens cannot reasonably be said to generate an unacceptable level of additional visual bulk in the streetscape (particularly subject to the recommended condition requiring an increased setback of the front terrace to Brighton Street discussed later in this assessment). The 1.7m high terrace screens will also not be overly prominent on either of the oblique views given their positions on the east side, while these screens will not be visible from the frontage due to their recessed positions.



Figure 12 and 13: Views of subject site from north

93. Finally, in relation to whether it is appropriate to require the deletion of the roof terraces, it is noted that Council's heritage advisor states that the proposed roof terraces are in non-compliance with heritage policy at clause 22.02-5.7.1 that discourages roof decks and associated glazed balustrades, as follows:

(a) *Discourage elements which detract from the heritage fabric or are not contemporary with the era of the building such as unroofed or open upper level decks or balconies, reflective glass, glass balustrades and pedestrian entrance canopies.*

94. However the policy referred to is not actually applicable to new development within heritage areas but only applies to additions to retained heritage buildings. As such this policy anticipates that roof terraces will be acceptable on infill developments and therefore does not offer any policy based justification to require the deletion of the roof terraces.
95. For all of the reasons outlined above, namely the lack of an intact heritage streetscape, the presence of existing and emerging taller buildings with the immediate vicinity and the lack of policy support for their deletion, it is not considered reasonable to require the terraces be deleted.

Alternate roof terrace design options offered by Council's heritage officers

96. Officers must now consider which of the design options offered by the conflicting heritage advice is more appropriate in this context. It is considered that both options would offer reasonable built form outcomes from a heritage perspective. However given the applicants concerns in relation to accommodating the terraces within a roof form, it is agreed that given the difficulties of retro fitting the constructed building frame to accommodate this, it is not considered reasonable to require this.
97. Further it is considered the original advice requiring a 5.5m setback is preferable in a number of ways, particularly as it further reduces the visibility of the terrace when viewed from the opposite side of Brighton Street than the terraces obscured in roof form option. This design is also considered particularly preferable as it is more respectful to the adjoining contributory dwelling to the south.
98. However, it is noted that the heritage advisor for the original advice applied the figure 2 sightline requirements of clause 22.02-5.7.1. It is important to acknowledge that this is not applicable to new development within the heritage overlay but is only applicable to rear additions on contributory heritage dwellings.

The relevant policies of *Clause 22.02-5.7.1* of the Scheme encourage the design of new development to a heritage place or a contributory element to:

- (a) *Respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape.*
- (b) *Be articulated and massed to correspond with the prevailing building form of the heritage place or contributory elements to the heritage place.*
- (c) *Be visually recessive and not dominate the heritage place.*
- (d) *Not obscure views of principle façades.*
- (e) *Consider the architectural integrity and context of the heritage place or contributory element.*

99. It is considered that the 5.5m setback suggested by the original heritage advice better responds to this relevant policy context, in that it allows for the terrace to sit behind the front roof ridge apex and chimney of the adjoining contributory dwelling to the south. It is considered that in line with policy objectives, the roof terraces should be subservient to the front part of the dwelling (including this section of roof and retained chimney) to ensure the contribution this contributory dwelling frontage makes to the street is not overwhelmed by the dwelling under construction to its north. In this regard the increased terrace setback for unit 1 option is preferable to the redesign roof form approach where the new roof form would extend to the façade of unit 1 and the dwelling to the south.
100. This view is further compounded by the fact the contributory dwelling to the south is located on a corner where the side-age of this house and its roof are exposed. Again, setting the proposed roof terrace further back rather than incorporating it into a roof form better preserves the contribution this dwelling makes when viewed obliquely from James Street. The increased setback option will allow for a reduced built form backdrop behind this adjoining dwellings' frontage, than the terraces incorporated in a roof form. For all of these reasons, support is recommended for the roof terrace to be set back in line with the original heritage advice.
101. In this regard it is finally noted that the advice sought a 5.5m setback from the front boundary. However the roof stair access is set back 5.3m from the front boundary and to require the 5.5m setback will result in the balustrade cutting through the roof top access entry and would require the redesign of the approved and partial constructed sloped first floor southern walls. To prevent these construction issues, a setback of 5.3m is recommended, which is acceptable given it is only marginally different to that recommended by the heritage advisor.
102. The advisor also requested the western parapet of the roof terrace to unit 1 be increased in height to 1.7m to reduce views of furniture/ shade umbrellas etc on the front terrace. However this is not considered justified given the significant setback of the terrace from Brighton Street, these items will not be dominant elements and particularly given the sightlines requirements of Clause 22.02-5.7.1 do not apply to the subject site.
103. The advisor also requested that all glazed terrace screens be removed and replaced with non-transparent finish, to again reduce view to items on the terrace. This is considered reasonable as it will allow the roof terraces to appear less prominent as their balustrade material will match the first floor metal wall cladding. Conditions will require the metal cladding used to the eastern and northern side of the terraces are replicated on the western and southern sides.
104. It is finally noted that long range views of the terrace from James Street are considered acceptable as they will be substantially obscured by the two storey dwelling at No.3 James Street (as this site is in a more elevated position than the subject site).

Overall, based on the conditions discussed, the proposal appropriately responds to the particular requirements contained within Clause 22.02 (Development Guidelines for sites subject to the Heritage Overlay) and Clause 43.01 (Heritage Overlay) of the Scheme, and therefore is considered acceptable in relation to the heritage context of the street.

Changes to permit conditions

105. It is noted that due to a recent extension of time approval the permit is valid for the completion of works until 21 July 2021. In relation to changes to permit conditions, the following table outlines where previous condition 1 requirements have been met and further relevant commentary in relation to these conditions and other relevant permit conditions.
106. No other changes to existing permit conditions are required other than those outlined in the table below. New conditions as discussed throughout this report are highlighted in bold in the *Recommendation* section of this report.

Condition	Requirement	Compliance achieved under the endorsement of plans process as follows:	Relevance to current amendment application
1(a)	The external first-floor privacy screens on the north elevation of both dwellings to be deleted and replaced either with screening flush to the windows or opaque glazing to a height of 1.7m above the finished floor level. The transparency of these screens must be no greater than 25% and compliant with Standard B22 of the Scheme.	Proposed Screen deleted and replaced with screen flush to windows. Screens to be no more than 25% transparent. See DD 21 01, an additional drawing with cross section diagrams demonstrating screening compliance.	As discussed in the Rescode assessment, these screens are to be replaced with fluted glazing in compliance with the intention of this condition and so this condition can be deleted.
1(b)	Privacy screens or opaque glazing to a height of 1.7m above the finished floor level must be provided to the first-floor north-facing kitchen windows and internal east and west-facing dining-room windows of both dwellings. The transparency of these screens must be no greater than 25% and compliant with Standard B22 of the Scheme.	Opaque glazing to a height of 1.7m above FFL added to first floor north facing windows and internal east and west-facing dining room windows of both dwellings. Opaque glazing to be no more than 25% transparent.	As discussed in the Rescode assessment only the northern windows comply with this standard. A condition will require the east and west-facing windows are appropriately treated.
1(c)	A fence with a minimum height of 1.7m to be	A 1.7m high timber paling fence is to be	As discussed in the Rescode assessment

	constructed within the ground level courtyard, to separate the dwellings. 107.	constructed in the courtyard to separate the dwellings.	the plans omit to show this detail and therefore this condition will be retained and carried through to any amended permit to issue.
1(d)	Delete the roof terraces from both units 1 and 2.	The roof deck has been deleted.	As discussed in detail throughout this assessment, support is recommended for the deletion of this condition.
1(e)	The first-floor façade (east wall) of dwelling 2 to be setback 4.0 metres from the eastern boundary to project no further forward than the property at 31 Brighton Street.	First floor façade amended to be setback 4.23m from eastern boundary, in line with property at 31 Brighton Street.	This setback is retained and so this condition can be deleted.
1(f)	The location of all proposed mechanical equipment, with this equipment to be located so as to reduce amenity impacts to adjacent sites and to be screened from Brighton Street.	Mechanical equipment locations annotated	The AC units are retained in the same approved central position on the roof. Two new water heaters are located on the recessed section of the first floor southern walls. As discussed in the heritage assessment, a condition will require these are further obscured from view.
1(g)	All of the relevant plans and elevations amended to include; The correct notation for FT1 – '1.5m high timber pickets with gate and red face brick piers'. The retention of the southern half of the chimney associated with No. 31 Brighton Street.	FT1 annotation amended to correct annotation of 1.5m high timber pickets with gate and red face brick piers. Chimney to be retained included on relevant drawings.	Notations to this effect remain on the plans and so this condition can be deleted.
1(h)	The design of the east boundary pedestrian gate amended to provide a minimum degree of permeability of 25%, to	East boundary pedestrian gate amended to provide 50% screening.	This notation has been removed from the plans. As discussed in the Rescode assessment a

	the satisfaction of the Responsible Authority.		condition will require its reinstatement.
1(i)	A notation to confirm that a minimum of 6 cubic metres of storage is provided for each dwelling.	Storage exceeding 6 cubic meters has been added to the basement areas for each dwelling.	This notation has been removed, as such this condition will be retained.
1(j)	The removal of the tree within the site to the north. If approval to remove this tree is not given by the owner of this site, the methods outlined within the Arborist Report to minimise damage to this tree must be undertaken or the design of dwelling 2 must be altered, with a Tree Management Plan to be submitted in accordance with Condition 3 to outline how this will occur.	<p>The tree to the north of the site was removed on 18 August 2016.</p> <p>Photographs were submitted to confirm the removal of the tree.</p> <p>Condition 1(j) therefore no longer applies and Conditions 3 & 4 of the planning permit with regards to the Tree Management Plan are no longer valid.</p>	For this reason support is recommended for the deletion of this condition along with condition 3 and 4.

Objector Concerns

108. The majority of concerns raised by the objectors have been addressed in the above assessment. A summary of these responses along with discussion of outstanding concerns is provided as follows:
- The proposed roof terraces should be deleted.*
109. Objectors have put forward that condition 1d) should be retained and the roof terraces deleted, in accordance with the original approval. This issue has been discussed in detail in the *Heritage* assessment between paragraphs 85 and 95.
110. Objectors have also claimed it is inappropriate to re-apply for the roof terraces when they have been previously refused. However as outlined in detail in the previous *Clause 55 Neighbourhood* assessment between paragraphs 48 and 52, the immediate context has changed since the original permit issued and this altered context makes it reasonable to now re-consider the proposed roof top terraces.
111. To further support their view that the proposed roof terraces should be deleted, objectors reference a VCAT decision (Victorian Civil and Administrative Tribunal- the Tribunal) at No.22 James Street, Richmond (VCAT Reference No.P1350/2013). Under planning permit PLN12/1158 a double storey addition was approved to the rear of a single storey dwelling and with the Tribunal requiring the deletion of a proposed roof top terrace to the addition.
112. However there are significant differences between the subject site and No.22 James Street. Firstly the retained dwelling at No.22 James Street is graded 'individually significant' to the heritage overlay, whereas the subject site is 'non-contributory'.

Given these sites are at the opposite spectrum of heritage gradings, built form outcomes that may not be acceptable at No. 22 James Street can be considered acceptable at the subject site given its 'non-contributory' grading status. It must also be noted that every application must be assessed based on its individual merits.

113. Further, as previously outlined in the *Heritage* assessment, neither the sightline diagram requirements which encourage rear additions/terraces to be sufficiently setback to prevent views of them from the opposite footpath, nor the policy that discourages roof top terraces to heritage buildings at clause 22.02-5.7.1 apply at the subject site. Both of these policy elements apply to additions to retained heritage buildings and so were applicable at No. 22 James Street.
114. As such, the divergent heritage gradings and the different policy objectives affecting each site means there are insufficient parallels between both properties to conclude that the VCAT decision for No.22 James Street offers precedence or justification for the deletion of the proposed terraces at the subject site.

The development including the proposed roof terraces do not respect the heritage precinct.

115. Objectors have raised concerns that the height and appearance of the existing dwellings under construction are out of character in the area and are an overdevelopment of the site, with the proposed roof terraces further exacerbating these issues. However as the existing two storey dwellings are approved and under construction, these concerns are not relevant considerations as part of the current amendment application.
116. In terms of the additional roof terraces generating additional height and their appearance that objectors consider to be out of character in the area, these issues have been discussed in detail in the *Clause 55 Neighbourhood* assessment between paragraphs 48 and 52 and in the *Heritage* assessment between paragraphs 75 and 104.
117. As part of this concern, objectors have claimed the proposed development is now three storeys due to the proposed addition of the roof terraces and/or four storeys including the basements. At clause 73.01 a 'basement' is defined as follows:

- (a) *A storey below ground level, or that projects no more than 1.2 metres above ground level.*

118. As the proposed basement does not extend more than 1.2m above ground level, it is not defined as a storey when assessing the number of storeys proposed.

119. At clause 73.01 a 'storey' is defined as follows:

- (a) *That part of a building between floor levels. If there is no floor above, it is the part between the floor level and ceiling. It may include an attic, basement, built over car parking area, and mezzanine.*

120. As the roof terrace does not have ceiling, it is not defined a storey. While the stair accessing the roof terrace does have a ceiling, its floor is located on the first floor and so it forms part of the first floor rather than being a storey in its own right. This view is supported by *Woodward v Kingston CC [2015] VCAT 1168* at paragraphs 26 to 29, where the Tribunal considered whether the roofed areas accessing roof terraces constituted a storey in its own right. The Tribunal found as follows:

26. *Other tribunal members have previously addressed this issue in other cases. Ms Murdoch referred firstly to a decision of member Monk which she found:*

[26] *... the stair bulkhead does not constitute a "storey" in its own right. Rather it forms part of and shares the floor with the first floor below...For completeness I also find that stair bulkhead does not constitute an attic or mezzanine as it cannot be said to have a "floor" in the common understood sense. Rather it is a conduit between levels, namely, between the first floor below and the deck above...*

29. *I reiterate the previous findings of the tribunal on this principle as it applies to the site and therefore find the lift well and stair area with a deck do not constitute a storey.*

Misleading information in applicant's submission.

121. Objectors claim the photographs of other dwellings in the area in the applicants planning submission are misleading (some incorrect addresses, some balconies incorrectly named terraces and some roof terraces being outside the heritage overlay area). Officers acknowledge these errors in the report and have not sought to rely on them for the purpose of assessment. These photos are provided to show the general context with the addresses not provided for a large number of the photographs.
122. Objectors also claim the roof terraces and their stairs are under construction. Based on an officer site visit conducted on 03 September 2020, neither are under construction. It would appear that objectors consider the sloped walls constructed to the southern boundary constitute the stairs to the roof terrace. However these sloped walls form part of the original approval and what is being constructed appears to be in accordance with the endorsed plans.
123. Objectors also state that the proposed scaffolding on the roof indicates the roof terrace is under construction. It is normal to construct scaffolding to allow for the construction of the approved roof form and so it is not significant that scaffolding has been erected. Based on an officer visit the roof terraces are not currently under construction with no flooring or balustrades installed.
- Offsite amenity impacts including noise, height of walls on south boundary, overlooking and overshadowing.*
124. Given an 'as-of-right' residential use is proposed and with the roof terraces to be used for normal residential purposes, Council does not have the ability to restrict the use/noise from the proposed roof terraces. Should future occupants be particularly noisy, this would be a Civil Matter and is not a relevant planning consideration.
125. Issues relating to walls on boundaries, overshadowing of private open space and overlooking have been discussed in detail in the previous *Clause 55 Standard B18 - Walls on Boundaries objective* assessment between paragraphs 59 and 60 *Standard B21 – Overshadowing open space objective* at paragraph 64, and *Standard B22 – Overlooking objective* between paragraphs 64 and 72.
126. An objector did raise concerns in relation to additional overshadowing to the solar panels that are centrally located on the north side of the roof of the dwelling to the south. However the setback for the roof terrace screens from the south boundary prevents them generating additional shadowing to the solar panels at the equinox. Only the new pop-up stair access structures will cause additional overshadowing to the panels.
127. Given the small size of these pop-up structures, they only create additional overshadowing on the east end (approx max 1.5sqm) of the panels in the morning before 10am and a small area of additional shadow (approx. max 1sqm) moving across the panels after 3pm on the equinox, with the panels unaffected by additional shadow outside these times.
128. Based on an officer assessment of the submitted shadow diagrams, approx. 80% of the solar panels will be in full sun between 9am and 3pm at the equinox, and so the additional shadow impact is considered reasonable.

Conclusion

129. The proposal demonstrates a good level of compliance with the policy requirements outlined in the Yarra Planning Scheme. Based on the above report, the proposal is considered to comply with relevant planning policy and is supported, subject to conditions.

RECOMMENDATION

That having considered all relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant an amended Planning Permit PLN13/1039 for full demolition of the existing dwelling, construction of two double-storey dwellings, plus basements and roof terraces and a reduction in the car parking requirement at 29 Brighton Street, Richmond, subject to the following conditions (with new conditions shown bold):

1. Before the development approved under PLN13/1039.01 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 by **Christina Architects, Project No.1727, Plan No.2 and 3 of 4 and dated 07/04/2020** but modified to show:
 - (a) The design of the east boundary pedestrian gate amended to provide a minimum degree of permeability of 25%, to the satisfaction of the Responsible Authority.
 - (b) A notation to confirm that a minimum of 6 cubic metres of storage is provided for each dwelling.
 - (c) The fence separating the proposed ground floor open spaces areas in the subject site to be with a minimum height of 1.7m.
 - (d) **The western balustrade to the roof terrace of unit 1 to be setback a minimum of 5.3m from the front boundary.**
 - (e) **The material of the southern and western balustrades to both terraces to match the metal cladding material proposed to the remainder of the roof terrace balustrades.**
 - (f) **The following to demonstrate compliance with standard B22 (Overlooking) and B23 (Internal Views) of clause 55 of the Yarra Planning Scheme:**
 - (i) **The western roof terrace balustrade to unit 2,**
 - (ii) **The first floor east-facing window to unit 1, and**
 - (iii) **The first floor west-facing window to unit 2.**
 - (g) **The following to demonstrate compliance with standard B22 (Overlooking) of clause 55 of the Yarra Planning Scheme:**
 - (i) **The northern roof terrace balustrade to unit 2, and**
 - (ii) **The first floor east-facing window to unit 2.**
 - (h) **Detail the capping material to the western basement light well.**
 - (i) **Detail the level of transparency to the ground and first floor timber screens to unit 1 with a minimum of 70% transparency to be achieved for the ground floor window.**
 - (j) **The water heaters to the southern walls to be appropriately screened or relocated to a more discrete location.**
 - (k) **Detail the positions of the surfmist and monument metal cladding.**
 - (l) **The material schedule to confirm/provide the following:**
 - (i) **An image of the fluted glazing and a notation showing a maximum transparency of 25%,**
 - (ii) **OG windows notations to confirm obscure glazing,**
 - (iii) **Metal cladding to be surfmist and monument in colour, and**
 - (iv) **Face brick to be red brick colour.**
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. The provisions, recommendations and requirements of the endorsed Sustainable Design Assessment must be implemented and complied with to the satisfaction of the Responsible Authority.
4. Before the buildings are 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 buildings are occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the dwelling entrances must be provided. Lighting must be:
 - (a) located;
 - (b) directed;
 - (c) shielded; and
 - (d) of limited intensity,to the satisfaction of the Responsible Authority.
6. Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, 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. Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
8. Except with the prior written consent of the Responsible Authority, Council assets must not be altered in any way.
9. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
 - (a) before 7.00 am or after 6.00 pm, Monday-Friday (excluding public holidays);
 - (b) before 9.00 am or after 3.00 pm, Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday); or
 - (c) at any time on Sundays, ANZAC Day, Christmas Day and Good Friday.
10. This permit will expire if:
 - (a) the development is not commenced within two years of the date of this permit; or
 - (b) the development is not completed within four years of the date of this permit.

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

Notes:

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

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

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

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

CONTACT OFFICER: Laura Condon
TITLE: Senior Statutory Planner
TEL: 92055016

Attachments

- 1 PLN13/1039.01 - 29 Brighton Street, Richmond - Subject Site
- 2 PLN13/1039 - 29 Brighton Street Richmond - Current Planning Permit
- 3 PLN13/1039 - 29 Brighton Street Richmond - Current Endorsed Plans
- 4 PLN13/1039 - 29 Brighton Street Richmond - Heritage advice original application
- 5 PLN13/1039.01 - 29 Brighton Street Richmond - Amendment Plans
- 6 PLN13/1039.01 - 29 Brighton Street Richmond - Heritage advice on Amendment

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- | | |
|------------|--|
| 1.7 | PLN19/0121 - 684 Station Street Carlton North - Part demolition and construction of a two storey extension to the rear of the existing dwelling, with associated basement car parking and roof terrace. |
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Executive Summary

Purpose

1. This report provides Council with an assessment of the application at No. 684 Station Street Carlton North, for partial demolition and construction of a two storey extension to the rear of the existing dwelling, with associated basement car parking and roof terrace.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Clause 32.09 – Neighbourhood Residential Zone
 - (b) Clause 15.01 – Built Environment
 - (c) Clause 54 – One dwelling on a lot (ResCode)
 - (d) Clause 43.01 and Clause 22.02 – Heritage
 - (e) Clause 22.09 – Development abutting Laneways

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Clause 54 – One dwelling on a lot (ResCode)
 - (b) Heritage
 - (c) Development abutting laneways
 - (d) Objector concerns
 - (e) Other matters

Submissions Received

4. Seven objections (from six different properties) were received to the application, these can be summarised as:
 - (a) Overdevelopment of the site (height, scale, bulk)
 - (b) Overlooking
 - (c) Overshadowing, daylight restriction and energy efficiency impacts
 - (d) Equitable development
 - (e) Impact of excavation works on neighbouring properties and hydrology (ground water flow)
 - (f) Disruption of construction on nearby businesses
 - (g) Noise from roof terrace
 - (h) Inaccuracies in plans; including Natural ground levels (**NGL**) and shadows.

Conclusion

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

- (a) The southern boundary wall, where it is adjacent to the POS of No. 682 Station Street, be no higher than the existing boundary wall which is approximately 4.68 metres in height.
- (b) The extension to result in no additional overshadowing to any SPOS between the hours of 9am and 2pm at the Equinox, in accordance with Clause 54.04-5 (Overshadowing Standard), which should be achieved through increased setbacks of the first floor balcony and bathroom and rooftop terrace from the south and east title boundaries or a reduction in the associated wall heights.

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

1.7 PLN19/0121 - 684 Station Street Carlton North - Part demolition and construction of a two storey extension to the rear of the existing dwelling, with associated basement car parking and roof terrace.

Reference: D20/138911

Authoriser: Coordinator Statutory Planning

Ward: Nicholls Ward

Proposal: Part demolition and construction of a two storey extension at the rear of the existing dwelling, with associated basement car parking and roof terrace.

Existing use: Single dwelling

Applicant: Timothy Ash

Zoning / Overlays: Neighbourhood Residential Zone (Schedule 1)
Heritage Overlay (Schedule 326)

Date of Application: 27 February 2019

Application Number: PLN19/0121

Planning History

1. The site has the following planning history:
 - (a) Planning Permit PLN11/0459 was issued on 30 June 2011 for the *demolition and construction of a rear boundary fence*. The permit was amended on 14 November 2014 to allow for the demolition and construction of fences, construction of a verandah and externally paint an unpainted surface.
 - (b) Planning Permit PLN18/0370 was issued on 25 June 2018 for the *demolition and construction of a fence*. The permit has been acted on and works completed.

Background

2. The application was received by Council on 27 February 2019, with additional information requested provided on 5 June 2019. The application was advertised in June of 2019, with four (4) objections received.

First lodgement of Section 57a plans

3. In response to an objection received regarding incorrect ground levels shown in the advertised plans, the application was formally amended pursuant to Section 57A of the *Planning and Environment Act 1987 (the Act)* on 19 August 2019. Council requested further information as the Reduced Levels (**RL**) shown in the amended plans continued to be inconsistent with the levels of the submitted Survey Plan. Further amended plans were submitted on 22 October 2019.
4. The amended plans (dated October 2019) showed the following changes:
 - (a) A correction to the ground RLs along the northern and southern boundary of the subject site, so that the plans correctly correspond with the applicant's Survey Plan. The correction to the RLs resulted in an increase to the overall height of the extension to 9.05 metres above NGL (previously dimensioned as 8.86metres above NGL).
5. The Section 57a amendment plans were advertised in October and November of 2019. One (1) additional objection was received.

Second lodgement of Section 57a plans

6. In response to concerns raised by Council Officers regarding the accuracy and extent of shadows to southern areas of secluded private open space (**SPOS**), the application was formally amended pursuant to Section 57A of the *Planning and Environment Act 1987* on 16 June 2020.
7. The amended plans (dated 2 June 2020) showed the following changes:
 - (a) The roof terrace constructed to the northern title boundary, resulting in a northern boundary wall height of 9.021 metres above NGL, and setback (in part from the southern title boundary by 3.4 metres.
 - (b) The first floor balcony setback 2.01 metres from the southern title boundary (previously setback 750mm).
 - (c) The shadow diagrams revised accordingly.
8. The Section 57A amendment plans were advertised in June and July of 2020. Two (2) additional objections were received, resulting in seven (7) objections to the application.
9. No consultation meeting was held as a result of the state of emergency declared in Victoria and the current health advice related to the Covid-19 pandemic.
10. The most recent amended plans, dated 2 June 2020, are the Decision Plans.

The Proposal

11. The application is for part demolition and construction of a two storey extension at the rear of the existing dwelling, with associated basement car parking and roof terrace. Further details of the proposal are as follows:

Demolition

- (a) The rear lean-to (incorporating the dining, bath, store, kitchen, laundry and studio) with the exception of the southern boundary wall. (Part of the southern boundary wall is being reconstructed.)
- (b) A section of windows and wall on the north elevation of the family room.
- (c) Internal walls and doors (no permit required).
- (d) The rear (east) roller door and fence.

Development

12. *Basement*

- (a) Constructed to the north, east and south boundaries, with a length of 19.5 metres and width of 6.8 metres.
- (b) Constructed to a depth of 3 metres below NGL.
- (c) Accessed by a staircase from the main dwelling and by a car stacker installed to the rear of the site.

13. *Ground floor*

- (a) Comprising of an open living/dining/kitchen area and powder room.
- (b) Incorporating the retained southern boundary wall and increasing it to a height of 5.2 metres to allow for a garden area on the ground floor roof. Access to the roof top garden is provided via a hatch from the first floor balcony.
- (c) Constructed to the northern boundary for a length of 15.2 metres.
- (d) The east (rear) elevation is set back 7.2 metres from the rear title boundary.
- (e) An area of SPOS, 47sqm in area is provided to the rear, incorporating a car space (associated with the car stacker) at ground level.

14. *First floor*

- (a) Comprising of two bedrooms, a bathroom, and balcony and an internal reconfiguration of the retained dwelling to create a master bedroom with ensuite and WIR.
- (b) Constructed to the southern boundary for a length of 13.2 metres and then setback 2 metres (at the balcony) where it is a height of 7.7 metres.
- (c) Constructed to the northern boundary for a length of 15.2 metres.
- (d) Set back from the east (rear) boundary by 6.6 metres.
- (e) The easting facing balcony is accessed from a bedroom, is an area of 11sqm and is screened (in part) to height of 1.7 metres above First Floor Level (**FFL**).

15. *Roof terrace*

- (a) Constructed to the northern boundary for its length (11.2 metres), resulting in a maximum northern boundary wall height of 9.02 metres.
- (b) Constructed to the southern boundary for a length of 9.3 metres (resulting in a maximum southern boundary wall height of 9.05 metres) and set back 3.4 metres for the remainder.
- (c) Staggered setback of 8.9 metres and 10.9 metres from the east (rear) title boundary and set back 12.4 metres from the west (front) title boundary with a maximum height of 9.05 metres.
- (d) The roof terrace is 46sqm in area and screened with 1.7 metre high balustrades to the south, west and east (in part) and with 1 metre high balustrades to the north and east (in part).

16. *General*

- (a) All elevations constructed in concrete look render.
- (b) Ten (10) solar panels installed on the northern hip of the existing roof.
- (c) A roller door and fence constructed to the rear boundary with the same dimensions as the existing roller door and fence (that being a height of 2.8 metres).

Existing Conditions

Subject Site

- 17. The subject site is located on the eastern side of Station Street, 16 metres south of the junction with Park Street, in Carlton North. The site has a frontage of 7.27 metres wide, a site depth of 32.86 metres, yielding an overall site area of 239sqm. The site is bound by an unnamed laneway to the rear (east) which connects Park Street to the north and Pigdon Street to the south.
- 18. The site comprises of lots 1 and 2 on Plan of Subdivision 413101E. The title submitted with the application does not show any covenants, restrictions or easements.
- 19. The site is developed with a two storey, Victorian/Edwardian-era terrace which is constructed to the south boundary for its entire length and is setback from the northern title boundary by approximately 1.9 metres. The site has vehicle access from the rear laneway, and one car space is provided within the rear setback. Secluded private open space (**SPOS**) is located to the rear of the site, along the northern and eastern boundaries.



Image 1: the subject site, 684 Station Street as it appears from Station Street

Surrounding Land

20. The immediate area is characterised by residential dwellings from the Victorian/Edwardian-era and commercial premises to the north (fronting Park Street) and east (fronting Nicholson Street). The subject site and surrounds is located within the North Carlton Heritage Precinct (Schedule 326).

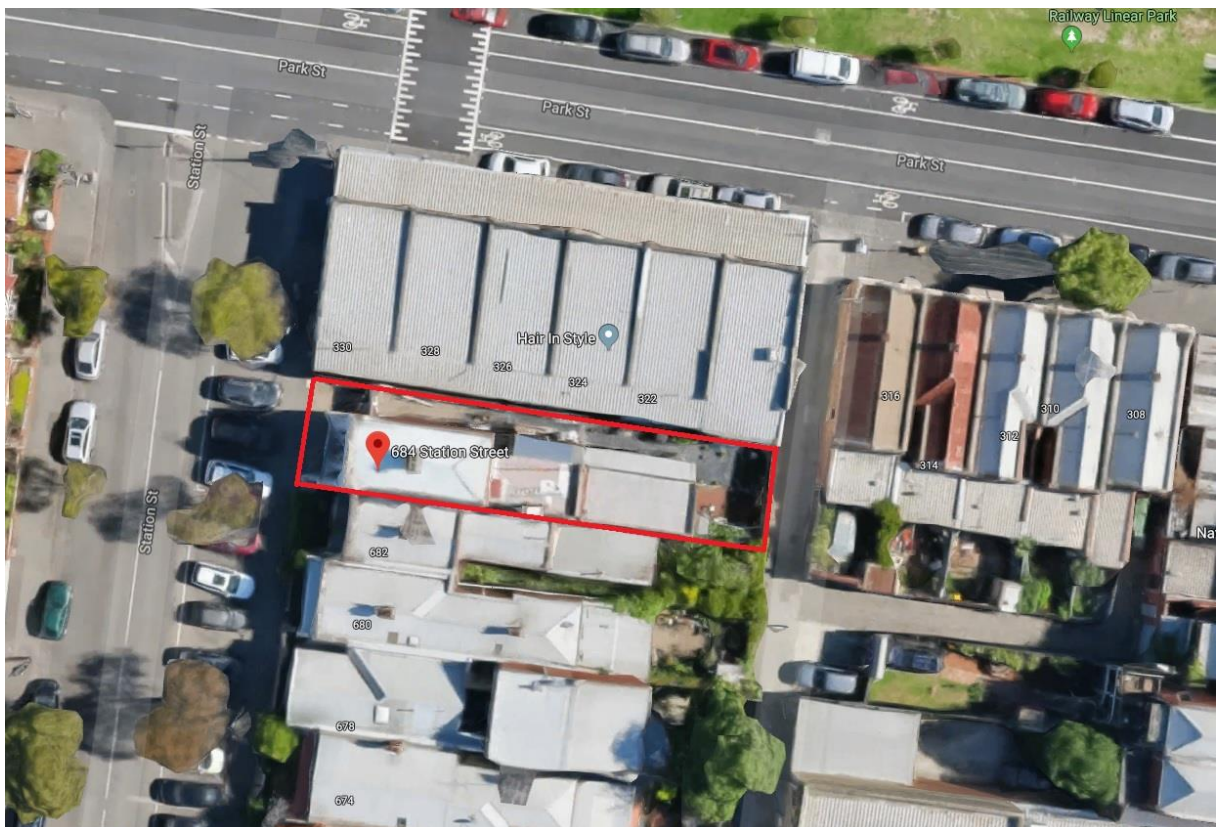


Image 2: Aerial of the subject site and surrounds

21. Immediately to the south is No. 682 Station Street, which is developed with a single storey, Victorian/Edwardian-era dwelling. The dwelling is constructed to the shared boundary with the subject site for its entire length and, as such, no habitable room windows (**HRW**) face the subject site. An area of SPOS is provided to the rear (east) of the dwelling and is approximately 26sqm in area. Access from the dwelling to the area of POS is provided within the southern side setback of the dwelling.
22. Immediately to the north are Nos 320 – 330 Park Street which are developed with a row of six (6) attached commercial properties. The properties, although commercial in use, are located in the Neighbourhood Residential Zone. The commercial premises front northward to Park Street and are constructed to all title boundaries. Covered courtyards/ service areas are located at the rear of each premises, abutting the boundary with the subject site. Some of the covered courtyards/service areas are open along the boundary, thus relying on the subject site for daylight to these areas, whilst others have constructed make-shift covers (as visible in images 3-5 below).





Images 3-5: the rear boundaries of Nos 320 - 324 Park Street as they present to the subject site.

23. To the east, across the 3.6 metre wide laneway, is No. 316 Park Street which is developed with a single storey dwelling, constructed to the shared laneway for its entire length. One (1) habitable window faces onto the laneway. An area of SPOS, approximately 27sqm in area, is provided to the rear of the dwelling and is located directly opposite the subject site. Although the property is used for residential purposes it is located in the Commercial 1 Zone (as are all the properties on the eastern side of the laneway).

Planning Scheme Provisions

Zoning

Neighbourhood Residential Zone (Schedule 1)

24. Pursuant to Clause 32.09-1 of the Yarra Planning Scheme (**the Scheme**), a permit is not required to use the land as a dwelling.
25. Pursuant to Clause 32.09-5, *a planning permit is required to construct or extend a dwelling on a lot less than 500sqm* (as specified in Schedule 1 of the Zone). The subject site is an area of 239sqm thus a permit is required to extend one dwelling on a lot.
26. Pursuant to Clause 32.09-4 of the Scheme, mandatory minimum garden area requirements applies to lots greater than 400sqm. As the subject site is a total area of 239sqm, the garden area requirements are not applicable.
27. Pursuant to Clause 32.09-10, *a building used as a dwelling or residential building must not exceed a height of 9 metres or two storeys at any point. An extension to an existing building may exceed the applicable maximum building height or contain more than the applicable maximum number of storeys if it does not exceed the building height of the existing building or contain a greater number of storeys than the existing building.*

28. Pursuant to Clause 73.01 (General terms) of the Scheme, building height is defined as *the vertical distance from natural ground level to the roof or parapet at any point*.
29. Pursuant to Clause 73.01, a storey is defined as *that part of a building between floor levels. If there is no floor above, it is the part between the floor level and ceiling. It may include an attic, basement, built over car parking area, and mezzanine*. Council does not consider a basement, which is below ground level, to be storey. Similarly, a roof terrace is not considered to be a storey if it is uncovered by a 'ceiling'.
30. The existing building is two storeys and has a maximum height of 9.87 metres (the highest point of the front parapet). Thus, the proposed extension which has a maximum height of 9.05 metres above NGL and is two storeys meets the requirements of the mandatory provision.

Overlay

Heritage Overlay (Schedule 326)

31. Pursuant Clause 43.01-1, *a planning permit is required to demolish or remove a building and to construct or carry out works*, including:
 - (a) A solar energy facility attached to a building if it is visible from a street.
32. Although the solar panels are located on the northern hip of the original roof, due to the overall height of the dwelling and the high front parapet, the solar panels will not be visible from the street. Thus, a permit is not for the installation of solar panels.
33. Appendix 8 to the City of Yarra Review of Heritage Areas, 2007 – The site is identified as being Contributory to the *North Carlton Heritage Precinct* (Schedule 326).

Particular Provisions

Clause 54 – One dwelling on a lot (ResCode)

34. Pursuant to Clause 54 of the Scheme this provision applies to an application to construct a dwelling on a lot less than 500sqm. A development must meet the objectives of Clause 54.

General Provisions

Clause 65 – Decision Guidelines

35. The Decision Guidelines outlined at Clause 65 of the Scheme are relevant to all applications. Because a permit can be granted does not imply that a permit should or will be granted. The Responsible Authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause.
36. Amongst other things, the Responsible Authority must consider the relevant Municipal Planning Strategy and the Planning Policy Frameworks, as well as the purpose of the Zone, Overlay or any other Provision.

Planning Policy Framework (PPF)

Clause 11.02 – Managing growth

37. The clause includes several strategies to achieve this objective including *'planning for urban growth should consider opportunities for the consolidation, redevelopment and intensification of existing urban areas*.

Clause 15 – Built Environment and Heritage

Clause 15.01-1S – Urban design

38. The objective of this clause is *'to create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity'*.

Clause 15.02-1S – Energy and resource efficiency

39. The objective of this clause is *'to encourage land use and development that is energy and resource efficient, supports a cooler environment and minimises greenhouse gas emissions'*.

Clause 15.03-1S – Heritage conservation

40. The objective of this clause is *'to ensure the conservation of places of heritage significance'*.

Clause 16 – Housing

Clause 16.01-3S – Housing diversity

41. The objective of this clause is *'to provide for a range of housing types to meet diverse needs'*.

Local Planning Policy Framework (LPPF)

Clause 21 – Municipal Strategic Statement (MSS)

Clause 21.03 – Vision

42. Clause 21.03 of the Scheme outlines strategic objectives for land use, built form, transport and environmental sustainability within the City. Strategies to achieve the objectives are set out in the following clauses of the MSS.

Clause 21.04 – Land Use

Clause 21.04-1 – Accommodation and housing

43. The relevant objectives and strategies of this clause are *'to retain a diverse population and household structure'* and to *'encourage the retention of dwellings in established residential areas that are suitable for families with children'*.

Clause 21.05 – Built form

Clause 21.05-5 – Heritage

44. The principal objective of this clause are *'to protect and enhance Yarra's heritage places'*.

Clause 21.05-6 – Urban Design

45. This clause incorporates the following relevant objectives:

- (a) *Maintain and strengthen the preferred character of each Built Form Character Type within Yarra; and*
- (b) *Ensure development is designed having particular regards to its urban context and specifically designed following a thorough analysis of the site, the neighbouring properties and its environs.*

Clause 21.08-3 – Carlton North

46. The subject site is identified as 'Heritage Overlay' on the *Figure 10 (Built Form Character Map)*. The objective for this area is to *'ensure that development does not adversely affect the significance of the heritage place'*.

Relevant Local Policies

Clause 22.02 – Development guidelines for sites under the heritage overlay

47. This policy applies to all land within a Heritage Overlay. The clause incorporates the following relevant objectives;

- (a) *To conserve Yarra's natural and cultural heritage;*
- (b) *To conserve the historic fabric and maintain the integrity of places of cultural heritage significance;*
- (c) *To preserve the scale and pattern of streetscapes in heritage places;*
- (d) *To ensure that additions and new works to a heritage place respect the significance of the place; and*
- (e) *To encourage the retention of 'individually significant' and 'contributory' heritage places.*

Clause 22.07 – Development abutting laneways

48. The policy applies to applications for development that is accessed from a laneway or has laneway abuttal. The clause incorporates the following relevant objectives;
- (a) *To provide an environment what has a feeling of safety for users of the laneway;*
 - (b) *To ensure that development along a laneway acknowledges the unique character of the laneway; and*
 - (c) *To ensure that development along a laneway is provided with safe pedestrian and vehicular access.*

Clause 22.16 – Stormwater Management (Water Sensitive Urban Design)

49. This policy applies to extensions greater than 50sqm in area. The objective of this clause is:
- (a) *To achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999 (or as amended).*
50. A STORM Rating Report has not been submitted with the application and there is no demonstration of water treatment or catchment techniques included in the plans. It should be included as a condition on any permit issued that the development provide water catchment or treatment measures and a STORM Rating Report demonstrating a score of 100% or higher be submitted. Any stormwater mitigation measures will be required to be shown in plans. This is considered to meet the policy direction contained within Clause 22.16.

Incorporated Document

51. Appendix 8 to the City of Yarra Review of Heritage Areas, 2007 (revised May 2017) – The site is identified as being Contributory to the *Carlton North Heritage Precinct* (Schedule 326).

Advertising

52. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 28 letters sent to surrounding owners and occupiers and by a sign displayed on site.
53. Following the two subsequent submissions of amended plans, pursuant to Section 57a of the Act, the application was advertised under the provisions of Section 57B by letters sent to surrounding owners and occupiers.
54. In total, Council received seven (7) objections from six (6) separate properties, the grounds of which are summarised as follows:
- (a) Overdevelopment of the site (height, scale, bulk)
 - (b) Overlooking
 - (c) Overshadowing, daylight restriction and energy efficiency impacts
 - (d) Equitable development
 - (e) Impact of excavation works on neighbouring properties and hydrology (ground water flow)
 - (f) Disruption of construction on nearby businesses
 - (g) Noise from roof terrace
 - (h) Inaccuracies in plans; including Natural ground levels (**NGL**) and shadows.
55. A planning consultation meeting was not held as a result of the state of emergency declared in Victoria and the current health advice related to the Covid-19 pandemic.

Referrals

56. The application was not required to be referred to external parties.

Internal Referrals

57. The application was referred to the following units within Council:
 - (a) Heritage Advisor (based on the Decision Plans dated 2 June 2020).
 - (b) Traffic Engineering Unit (based on the plans dated 3 June 2019).
58. The Section 57a amended plans (dated 2 June 2020) were not re-referred to the Traffic Engineering Unit as no changes were made to the basement or vehicle entry from the laneway that would have affected the traffic assessment.
59. Referral comments have been included as attachments to this report.

OFFICER ASSESSMENT

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

- (a) Clause 54 – one dwelling on a lot (ResCode)
- (b) Heritage
- (c) Development abutting laneways
- (d) Objector concerns
- (e) Other matters

Clause 54 – One dwelling on a lot (ResCode)

61. Clause 54 comprises design objectives and standards to guide the assessment of new residential development. Given the site's location within a built up inner city residential area, strict application of the standard is not always appropriate, whether the proposal meets the objective is the relevant test. The following objectives are not relevant to this application:
 - (a) *Standard A2 Integration with the street objective* – no change from existing conditions
 - (b) *Standard A3 Street setback objective* – no change from existing conditions
 - (c) *Standard A8 Significant trees objective* – no trees are to be removed or will be affected by the proposal
 - (d) *A12 Daylight to existing windows objective* – no habitable room windows (associated with a dwelling) face the subject site from adjacent sites
 - (e) *A13 North facing windows objective* – no north-facing windows are within 3 metres of the subject site
 - (f) *Standard A19 Solar access to open space objective* – not applicable to extensions
 - (g) *Standard 20 Front fences objective* – no change from existing

Standard A1 - Neighbourhood Character

62. The surrounding area is characterised by single and some double storey, Victorian/Edwardian-era dwellings to the south and west and commercial properties to the north and east. Construction of walls on boundaries is a common feature of the surrounding area, with the majority of dwellings having been built to both side boundaries. High site coverage is also a very common characteristic due to an emerging pattern of rear extensions and nearby commercial properties which exhibit 100% site coverage. Considering this context, the design response, which has walls on boundaries and a high site coverage, is appropriate.
63. Further, pursuant to the Figure 10 in Built Form Character Map of Clause 21.08-3 (Carlton North) the subject site is identified as being in a Heritage Overlay. The neighbourhood policy encourages that development within these areas *does not adversely affect the significance of the heritage place*.

64. The front of the dwelling, as visible from the street, is not being altered. The extension is located toward the rear of the site at a reasonable distance from the street frontage to respect the intact heritage elements of the streetscape. The proposal will be assessed against the relevant heritage policy of the Scheme later in this report, but generally, it is considered that the proposed scale and design will not adversely affect the significance of the heritage place.

65. For the reasons outlined, the proposal is considered to comply with the Neighbourhood Character Standard.

Standard A4 – Building Height

66. Standard A4 requires that *the maximum building height should not exceed the maximum height specified in the zone, schedule to the zone or an overlay that applies to the land.*

67. As previously discussed, the Neighbourhood Residential Zone directs that the building height must not exceed 9.87 metres above NGL (as per the maximum height of the existing building). The maximum height of the extension is 9.05 metres and therefore complies with the Standard.

Standard A5 – Site Coverage

68. As no minimum site coverage is specified in Schedule 1 of the Neighbourhood Residential Zone, the maximum site coverage under the Standard of 60% applies.

69. The proposal has an overall site coverage of 65% and therefore does not comply with the Standard; however, it is considered to meet the objectives of the Standard for the following reasons:

- (a) Within the inner city area where smaller lot sizes are prevalent, high site coverage is a prominent characteristic of the neighbourhood. Higher site coverage is visible on most neighbouring lots, particularly to the north and east.
- (b) A variation of 5% is marginal within the context and is unlikely to result in an unreasonable amenity impact associated with site coverage.

Standard A6 – Permeability

70. As no minimum permeability is specified in Schedule 1 of the Neighbourhood Residential Zone, pervious surfaces must cover at least 20% of the site. The proposed development will result in site permeability of 13% due to the inclusion of the basement level at the rear under the SPOS, and as such the Standard is not met.

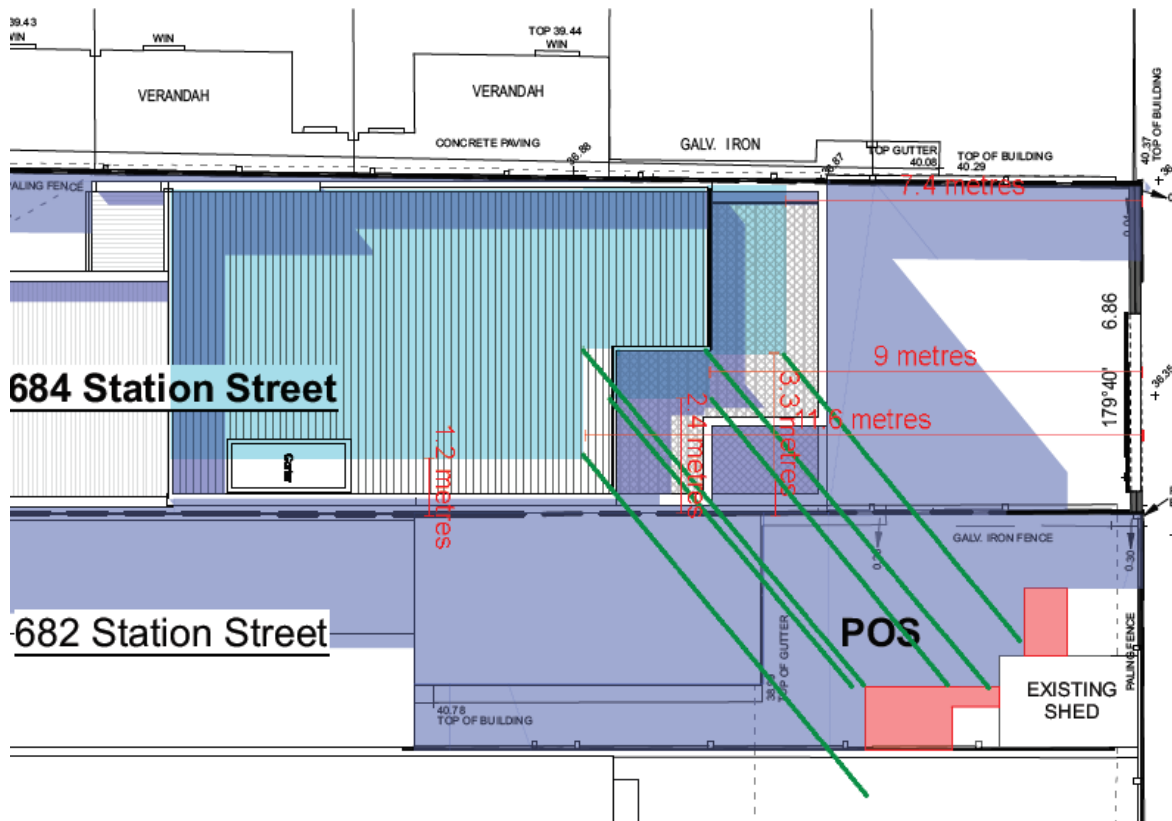
71. The objectives of the Standard is *to reduce the impact of increased stormwater run-off on the drainage system and to facilitate on-site stormwater infiltration.* Local policy Clause 22.16 (Stormwater Management), which applies to an extension greater than 50sqm is an area, provides clear directive on how development can address stormwater run-off. A condition should be included on any permit issued requiring that the development provide water catchment or treatment measures and a STORM Rating Report with a score of 100% or higher in accordance with Clause 22.16. Any stormwater mitigation measures (rainwater tanks or raingardens) should be required to be shown in plans and be connected to irrigation systems or toilet flushing to reduce the stormwater run-off and to meet the objectives of Standard A6 (Permeability).

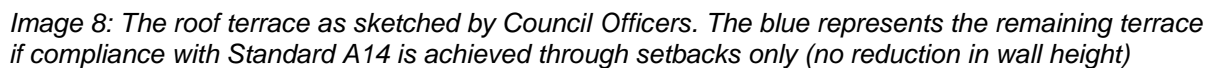
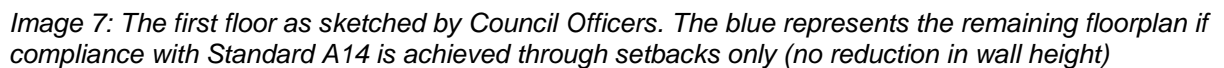
Standard A14 – Overshadowing

72. Due to the east-west orientation of the development, overshadowing is a key consideration for the proposal and is pivotal in assessing whether the extension has been appropriately designed to respond to the sensitive southern interface.

73. As such, Overshadowing will be discussed prior to Standard A7 (Energy efficiency protection), Standard A10 (Side and Rear setbacks) and Standard A11 (Walls on boundaries) as the extent of overshadowing will guide any assessment against the objectives of these Standards.

74. Pursuant to Clause 54.04-5, (Standard A14), *where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September.*
75. *If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.*
76. Due to the east-west orientation of the subject site, the proposal will overshadow the SPOS of No. 682 Station, which is 26sqm in area, between the hours of 12noon to 3pm on the Equinox. Under the existing conditions the SPOS does not receive 75% of unshaded SPOS for five hours at the Equinox. Thus, the Standard requires that the proposal should not further reduce the sunlight provided to this area.
77. Within inner city areas, where lots are notably narrow and small, compliance with this Standard is often not easily achieved and can be considered unreasonably onerous. However, in this instance it is considered that compliance (that being no additional shadows beyond the existing shadow cast by the boundary wall for 5 hours at the Equinox) can be achieved without unreasonably impacting the internal amenity of the extension. This is due, in part, to the notable shadow cast by the existing southern boundary wall which is a height of 4.68 metres and partially adjacent to SPOS of No. 482 Station Street.
78. The below diagram was prepared by Council Officer's to demonstrate the setbacks required for the extension's shadow to fall within the existing shadow cast by the boundary wall (shown in purple). To comply with Standard A14, no additional shadows should be cast between 9am to 2pm (that being a period of 5 hours) beyond this existing shadow. The below diagram is representative of the shadows at 2pm at the Equinox (that being when shadows are longest during the 5 hour period).
79. It is noted that the diagram is indicative only and that these setbacks would only be required if the wall heights remained unchanged. The Applicant could reduce corresponding wall heights in conjunction with increased setbacks to reduce the shadows and demonstrate compliance with Standard A14 (Overshadowing).





80. As demonstrated in the above diagrams, compliance with Standard A14 would, at most, will reduce the size of the first floor balcony, first floor bathroom and roof terrace. Each of these areas would remain highly usable without any internal reconfigurations required. The balcony would be reduced to approximately 6sqm in area and the roof terrace to approximately 37sqm.
81. In consideration of this, a condition should be included on any permit issued requiring the following:
 - (a) No additional overshadowing to any SPOS between the hours of 9am and 2pm at the Equinox, in accordance with Clause 54.04-5 (Overshadowing Standard), which should be achieved through increased setbacks of the first floor balcony and bathroom and rooftop terrace from the south and east title boundaries or a reduction in the associated wall heights.
82. Subject to this condition, Standard A14 (Overshadowing) is met.
Standard A7 – Energy efficiency protection objective
83. The proposal meets the first objective of Standard A7 *to ensure the orientation and layout of development reduce fossil fuel energy use and make appropriate use of daylight and solar energy* for the following reasons:
 - (a) Generally, all habitable rooms are provided with good daylight access, particularly at first floor, through either east or west facing windows thereby reducing the dwellings reliance on artificial lighting.
 - (b) All proposed east and west glazing is shown as operable allowing for natural cross ventilation for the dwelling thereby reducing the dwellings reliance on air-conditioning or mechanical ventilation systems. The basement is not habitable thus, daylight access and natural ventilation to this area is not essential.
 - (c) Ten (10) solar panels are proposed on the northern hip of the roof terrace, thus reducing the dwelling's reliance on non-renewable energy.
84. The proposal meets the second objective of the Standard *to achieve and protect energy efficient dwellings* for the following reasons discussed below.
85. The only immediately abutting properties are to the south and north.
86. The extension has largely been designed to abut the existing dwelling to the south at No. 682 Station Street, and has incorporated the existing southern boundary wall as to not unreasonably reduce the solar access to the dwelling. As discussed, the extension will be required to comply with Standard A14 (Overshadowing) so that the solar access to the southern property is not further reduced. It is noted that no solar panels exist at No. 682 Station Street that may be impacted by the extension. Solar panels are located on the first floor roof of No. 680 Station, however, these are located at a reasonable distance and height to not be impacted by the proposal.
87. The northern boundary wall abuts the rear of the commercial properties which face north onto Park Street. These properties are fully covered and rely on openings along the shared boundary with the subject site for daylight into their rear covered courtyards/service areas. It is noted that commercial buildings are not protected by the Standard and there is no light and air easement requiring their protection. Further, it is unreasonable to expect the subject site to protect these openings on the shared boundary as their protection would result in an inequitable development opportunity for the subject site. Regardless, makeshift structures/walls are currently built along the shared boundary with some of the abutting commercial properties, thus daylight is already restricted to these covered courtyards/service yards (as presented in images 3-5 of this report).
88. For the reasons outlined above, the extension is considered to meet the objectives of Standard A7.

Standard A10 – Side and rear setbacks and Standard A11 – Walls on boundaries

89. The length of the southern boundary wall is not being increased.
90. The length of the northern boundary wall is 15.2 metres and it abuts three properties (Nos 322 – 326 Park Street).
91. With regards to wall length, Standard A11 (Walls on boundaries) prescribes that a new wall on boundary should not abut a boundary for a length more than 10 metres plus 25% of the remaining length of the boundary of the adjoining lot. The adjoining lots have rear title boundaries less than 10 metres in length, thus the boundary wall is allowed to abut them for their entire length. Standard A11, with regards to the prescribed length of new boundary walls, is met.
92. The wall heights and setbacks are presented in the below tables.

Standard A11 tables

Wall on boundary	Max. Height (m)	A11 Max. Height (m)	Difference	Compliance
northern wall	9.02	3.60	-5.42	No
southern wall (FF and roof terrace)	9.05	3.60	-5.45	No
southern GF wall	5.20	3.60	-1.60	No

Standard A10 Table

Proposed Wall	Wall height (m)	A10 Setback (m)	Proposed setback (m)	Difference	Compliance
FF balcony from the southern boundary	7.70	2.79	2.00	-0.79	No
Roof terrace from the southern boundary	9.02	4.11	3.40	-0.71	No
FF from the eastern boundary	7.70	2.79	6.60	3.81	Yes
Roof terrace from the eastern boundary	9.05	4.14	8.90	4.76	Yes

93. As is evident from the above table, the north and south elevations do not comply with the requirements of Standard A10 (Side and rear setbacks) and Standard A11 (Walls on boundaries) with regards to the prescribed height. Each will be discussed in turn.

South boundary

94. The extension has incorporated the existing 4.68 metre high southern boundary wall and has increased this wall height so that it is a maximum of 9.05 metres, in part, and 5.2 metres where it is adjacent to the SPOS of No. 692 Station Street.
95. The southern elevation of the balcony, which is opposite the SPOS of No. 682 Station Street, also requires a variation from Standard A10 of 790mm. The condition requiring compliance with Standard A14 (Overshadowing) will however require that the balcony be set further back off the boundary to reduce overshadowing.

Officers have calculated that, with no reduction to the wall height, it will need to be setback by 3.3 metres to comply with Standard A14. This setback will exceed the requirements of Standard A10 which prescribes a setback of 2.79 metres.

96. Further, a condition should be included on any permit issued requiring that the southern boundary wall, where it is adjacent to the SPOS of No. 682 Station Street, be no higher than the existing boundary wall which is a height of 4.68 metres (as per the Survey Plan submitted with the application). The roof garden to the south of the first floor balcony, which has a 1 metre high balustrade, should be set back from the southern boundary to comply with Standard A10 (Side and rear setbacks) which prescribes a setback of 1.48 metres for a wall a height of 5.2 metres. These conditions will ensure that the extension does not result in an imposing visual bulk to the southern property.
97. Finally, the remaining southern boundary wall is a maximum height of 9.05 metres, exceeding the prescribed maximum height by 5.54 metres. However, this variation is supported for the following reasons:
 - (a) As discussed, the roof terrace and first floor bathroom will likely have to be setback, in part, from the southern boundary to meet the condition requiring compliance with Standard A14 (Overshadowing). This will ensure that the southern elevations closest to the SPOS of No. 682 Station Street will not result in unreasonable visual bulk impacts to the abutting property.
 - (b) The wall is otherwise adjacent to the boundary wall of No. 462 Station Street and as such it will not result in an unreasonable bulk to this property.
 - (c) There are no windows facing the wall from the abutting site.
 - (d) Boundary walls are a common characteristic of the area, with most dwellings being constructed to both side boundaries. The proposed wall is itself a continuation of the existing two storey wall on boundary.

North boundary

98. As previously discussed, the northern boundary wall abuts the rear of the commercial properties which all exhibit 100% site coverage. The properties all have rear courtyards/service areas that are covered with verandahs, some of which rely on openings along the shared boundary with the subject site for daylight. A northern boundary wall, with a maximum height of 9.02 metres, is proposed and will cover the boundary openings of the commercial properties at ground floor. However, these openings along the shared boundary are not protected by light and air easements and place an unreasonable burden on the subject site to provide daylight to the covered areas.
99. Further, although the proposed boundary wall exceeds the prescribed maximum height of 3.6 metres, only the ground floor wall will be visible from below the verandahs of the commercial properties. The first floor wall and roof terrace will not be visible from below the verandahs and thus will have no impact on the neighbouring commercial properties to the north with regard to visual bulk or overshadowing.
100. Finally, as discussed, boundary walls are a prominent feature of the surrounding area with almost all dwellings and commercial properties being built to both boundaries. The extension has responded to the site context by abutting built form against existing built form and, subject to conditions relating to the southern interface, is accepted.

Standard A15 – Overlooking

101. Pursuant to Clause 54.04-6, *the standard does not apply to a new habitable room window, which faces a property boundary where there is a visual barrier at least 1.8 metres high and the floor level of the habitable room is less than 0.8 metres above ground level at the boundary.*
102. The ground floor level is 300mm above NGL, and a 2.3 metre high fence separates the subject site from the only adjoining residential property to the south. Thus, the standard does not apply to the ground floor windows.

103. Pursuant to Clause 54.04-6, *a habitable room window, balcony, terrace, deck or patio should be located and designed to avoid direct views into the secluded private open space and habitable room windows of an existing dwelling within a horizontal distance of 9 metres (measured at ground level) of the window, balcony, terrace, deck or patio. Views should be measured within a 45 degree angle from the plane of the window or perimeter of the balcony, terrace, deck or patio, and from a height of 1.7 metres above floor level.*
104. The commercial properties to the north are not protected by the Standard. Nonetheless, the rear courtyards are covered with verandahs, thus there are no overlooking opportunities to these properties.
105. Residential properties are located immediately to the south and to the east, across the laneway. The property to the east is further than 9 metres from the extension and is thus not protected by the Standard.
106. The first floor is designed as follows:
 - (a) A west facing window and balcony to a bedroom with no HRWs or areas of SPOS within a 9 metre radius.
 - (b) An east facing balcony screened to a height of 1.7 metres above FFL, in part, and a 1 metre transparent balustrade for the remainder. An Overlooking diagram has been provided to show that the 9 metre view line from the edge of the 1.7 metre high screening (with a 45 degree angled view) would be obstructed by the existing 2.3 metre high fence. However the material of the 1.7 metre screen has not been detailed and the length of the screen should be notated on the plans to ensure that it is constructed accordingly. Further, the condition requiring an increased setback of the balcony may require the diagram to be adjusted. As such, a condition should be included on any permit issued requiring that an overlooking diagram be submitted, including dimensions and material transparency of any screening, to demonstrate that the first floor balcony complies with Clause 54.04-6 (Overlooking Standard) of the Yarra Planning Scheme.
 - (c) Although not a habitable room, the east facing window of the first floor bathroom is constructed with obscure glazing.
 - (d) A roof garden is provided within the southern setback of the first floor balcony and a hatch is provided for maintenance access. A condition should require a notation confirming that the roof area is not trafficable to ensure this area does not transform into a balcony.
107. The roof terrace is designed as follows:
 - (a) A 1 metre high balustrade to the north where there is no areas SPOS or HRWs within a 9 metre radius.
 - (b) A 1.7 metre solid balustrade on the south, west and the southern portion of the east elevation in accordance with the objective of Standard A15.
 - (c) A 1 metre high balustrade along the northern portion of the eastern elevation. A notation has been included to say “overlooking from roof top deck obscured by roof form below”, however, no diagram has been submitted to demonstrate this. Further, the condition requiring compliance with Standard A14 will require this view line to be adjusted. As such, a condition should be included on any permit issued requiring that an overlooking diagram be submitted to demonstrate that the first floor balcony complies with Clause 54.04-6 (Overlooking Standard) of the Yarra Planning Scheme, and any additional screening required to meet the Standard to be shown in plans.
108. Subject to condition, the requirements of Standard A15 are met.
Standard A16 - Daylight to existing windows
109. All new windows are located to face an outdoor space clear to sky, with a minimum light court of 3 metres and minimum dimension of 1 metre clear to sky.

110. The east facing windows of the ground floor living area and the first floor bedroom will have rooves protruding 1 metre and 2.3 metres, respectively, past the eastern elevation. However, the windows will continue to be provided a reasonable amount of daylight from the setback of the extension from the eastern boundary.

111. The proposal complies with the Standard.

Standard A17 – Private open space objective

112. According to Standard A17, *a dwelling should have private open space consisting of an area of 80 square metres or 20 per cent of the area of the lot, whichever is the lesser, but not less than 40 square metres. At least one part of the private open space should consist of secluded private open space with a minimum area of 25 square metres and a minimum dimension of 3 metres at the side or rear of the dwelling with convenient access from a living room.*

113. The proposal has a principal area of secluded private open space at ground floor which is approximately 47sqm. Further, the extension provides secondary areas of SPOS including a roof terrace (46sqm in area) and two additional balconies as accessed from bedrooms. The proposal therefore exceeds the Standard.

Standard A19 – Design detail

114. The objective of the Design detail Standard is *to encourage design detail that respects the existing or preferred neighbourhood character.* The proposal incorporates cement look cladding on every elevation, which is in keeping with contemporary development in the neighbourhood and is also supported from a heritage perspective (as discussed further in the *Heritage* section of this report). However, it is recommended that a condition be included on any permit issued requiring a Materials and Finishes Schedule which should confirm the materiality of Overlooking Screens and balcony balustrading.

115. Although the cement look finish is appropriate for the south and north boundary walls, it is possible that the extension as a whole may appear quite monolithic. As such, a condition should be included requiring an additional material or cladding be introduced on the East Elevation (rear) and that the roof terrace screening (where it is not constructed on a boundary) be a light weight material or finish. This will assist in softening the bulk of the extension as it is viewed from the laneway and properties to the east and to ensure the extension exhibits softer fenestration and articulation that is common to residential architecture in the area.

116. Subject to these conditions, the proposal is considered to meet the objective of Standard A19 (Design detail) and is supported.

Heritage

117. *Demolition*

118. The site is recognised as Contributory to the *North Fitzroy Heritage Precinct* (Schedule 326). The front of the dwelling is being retained as is encouraged by Clause 22.02-5.1 of local heritage policy. The removal of the rear of the dwelling would not be visible from the Station Street frontage and therefore would not detrimentally impact the appearance of the heritage place to this streetscape.

119. Council's Heritage Advisor raised no concern to scope of demolition.

120. It is noted that the removal of the rear fence and roller door has not been shown in the Demolition Plan. A condition should be included on any permit requiring this. Further, a condition should require Demolition Elevations to be submitted for clarity.

121. The demolition, subject to these conditions, is supported.

Development

122. The proposed development is considered acceptable for the following reasons:

- (a) The extension is located within the sight line outlined at figure 2 of Clause 22.02-5.7.1 of the Scheme, and is lower than the higher point of the front parapet. As such it will not dominate or detract from the value of the heritage place or streetscape.
- (b) The extension is setback 12.4 metres from the street frontage and meets the 45 degree pedestrian view line, as outlined at figure 1 Clause 22.02-5.7.1. The extension will thus not be readily visible from oblique angles and will not dominate or detract from the heritage place.
- (c) The contemporary concrete cladding is clearly distinguishable from the original heritage fabric (exposed red brick) but is simple in appearance so will not distract from the original heritage fabric as is encouraged by Clause 22.02-5.7.1 of the Yarra Planning Scheme.
- (d) Council's heritage advisor supported the design, setback and scale of the extension.

123. In consideration of the above, the proposal is acceptable from a heritage perspective.

Development abutting laneways

124. The proposal will replace the fence and roller door on the rear laneway and will provide a new car stacker and basement car parking internal to the site. Clause 22.07-2 requires any *development along a laneway to be provided with safe vehicular access*. Council's Traffic Engineers did not raise any concerns to the proposed car stacker and basement car parking.
125. The proposal meets the policy objectives of Clause 22.07-3 for the following reasons:
- (a) The principal entry for the dwelling will continue to be off Station Street.
 - (b) Council's Traffic Engineers confirmed that a 3.6 metre wide roller door will allow safe vehicular access from the 3.6 metre wide rear laneway. A condition should be included on any permit issued requiring that the proposed roller door thus be a minimum width of 3.6 metres.
 - (c) Roller doors and high fences are a common feature of the laneway and the proposed works are in keeping with the existing laneway character.

Objector concerns

126. *Overdevelopment of the site (height, scale, bulk)*

A two storey extension with basement and roof terrace is not considered out of character or an over development in the context of a residential area, particularly as it abuts a commercial zone to the east which does not prescribe a mandatory maximum height for development.

Any application is assessed against the relevant policy and the response to the individual site context, and in this instance the design response has been found to comply with the mandatory height provisions of the Neighbourhood Residential Zone, and more generally with the policy located at Clause 54, the Heritage Overlay and the relevant local policies.

The extension has generally responded to the surrounding properties and has located built form to abut neighbouring built form to minimise any potential visual bulk impacts. Conditions have been recommended requiring compliance with Standard A14 (Overshadowing) and partial compliance with Standard A10 (Side and rear setbacks) to ensure it will not result in an unreasonable visual bulk impact to the southern dwelling.

It is acknowledged that the extension will be visible from the laneway and properties to the east, however, visibility does not necessarily result in unreasonable visual bulk. Regardless, a condition has been recommended requiring that the east elevation incorporate other materials and finishes to break up the bulk of the elevation.

127. *Overlooking*

This aspect of the proposal has been discussed at paragraphs 100 – 110 of this report. Subject to conditions relating to the first floor east facing balcony and the roof terrace, the proposal complies with the provisions of Clause 54.04-6 (Overlooking Standard) of the Yarra Planning Scheme.

128. *Overshadowing, daylight restriction and energy efficiency impacts*

These matters have been discussed at paragraphs 72 – 87 of this report and is considered that, subject to the condition requiring compliance with Standard A14 (Overshadowing), the proposal will not result in an unreasonable detriment to the any neighbouring properties with regard to overshadowing, daylight access or energy efficiency.

129. *Equitable development*

In contrast to the commercial properties abutting the subject site to the north, the extension has responded to its boundary interfaces (northern and southern) with a blank concrete walls. The extension has not located windows or balconies on the boundary that would rely on the neighbouring sites for daylight or solar access or inhibit the potential development of neighbouring sites in the future. As such, the proposed development provides a non-sensitive interface to these sites which will ensure their equitable development opportunities.

130. *Impact of excavation works on neighbouring properties and hydrology (ground water flow)*

These matters are not planning considerations. Excavation and other construction methods will be addressed at the building permit stage.

Although not entirely related to the movement of ground water, it is recommended (by way of condition) that the site meet the requirements of Clause 22.16 (Stormwater management) through the installation of rainwater tanks and/or raingardens. This will assist in assist in managing stormwater run-off.

131. *Disruption of construction on nearby businesses*

Noise and truck movements during the construction phase of development are a temporary and unavoidable consequence of development and not a justification to withhold development of the site.

Construction techniques and effects – noise, dust, stability of existing foundations and damage to nearby dwellings - are not a consideration under the Planning & Environment Act or Yarra Planning Scheme.

132. *Noise from roof terrace*

The consideration of this planning application is confined only to the extension of the dwelling. The residential use of the dwelling does not require a planning permit and is not a planning matter. Residential noise associated with a dwelling is considered normal and reasonable in an urban setting.

133. *Inaccuracies in plans; including Natural ground levels (NGL) and shadows.*

The Section 57a amended plans (dated 2 June 2020) have corrected the subject site's Reduced Levels (RL) and Natural ground levels (NGL) so that they correctly align with the property's title survey. As such, all dimensions in the Decision Plans are accurate and reliable, including the shadow diagrams which have been reviewed by Council Officers using Trapeze Software.

One incorrect measurement is shown on the South Elevation - that being the 9.045 metre dimension demonstrating the maximum height of the roof terrace. The dimensioned line, although correctly notated, is only shown to extend to the top of the first floor rather than to the top of the roof terrace as required. This is clearly an error and a condition should be included on any permit issued requiring the measurement to be shown correctly. Council Officers were able to carry out an accurate assessment using the RLs provided.

Other matters

134. A portion of the basement is shown to be constructed outside of the subject site's northern title boundary. A condition should be included on any permit issued requiring that no works be located outside of the subject site's title boundary.

Conclusion

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

RECOMMENDATION

That having considered all relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant a Planning Permit PLN19/0121 for part demolition and construction of a two storey extension with associated basement car parking and roof terrace, at No. 684 Station Street, Carlton North, 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 as lodged pursuant to Section 57a of the *Planning and Environment Act* (1987) on 16 June 2020 and prepared by Superdraft, Drawings A1.01-A1.03, A2.01-A2.08 and date 2 June 2020 but modified to show:
 - (a) The southern boundary wall, where it is adjacent to the SPOS of No. 682 Station Street, no higher than the existing boundary wall which is approximately 4.68 metres in height.
 - (b) The one metre high balustrade associated with the rooftop garden, located within the southern setback of the first floor balcony, setback from the southern title boundary in accordance with Standard A10 (Side and rear setbacks) of the Yarra Planning Scheme.
 - (c) No additional overshadowing to any area of neighbouring SPOS between the hours of 9am and 2pm at the Equinox, in accordance with Clause 54.04-5 (Overshadowing Standard) of the Yarra Planning Scheme, which should be achieved through increased setbacks of the first floor balcony, bathroom and roof terrace from the south and east title boundaries or a reduction in the associated wall heights.
 - (d) An Overlooking Diagram demonstrating that views to the SPOS of No. 682 Stations Street's SPOS from the first floor east-facing balcony are in accordance with the provisions of Clause 54.04-6 (Overlooking Standard) of the Yarra Planning Scheme, including the materiality and measurements of all screens and, if applicable, any additional screening measures required to demonstrate compliance shown in plans.
 - (e) An Overlooking Diagram demonstrating that views to the SPOS of No. 682 Station Street's SPOS from the roof terrace are in accordance with the provisions of Clause 54.04-6 (Overlooking Standard) of the Yarra Planning Scheme and, if applicable, any additional screening measures required to demonstrate compliance shown in plans.
 - (f) A notation confirming that the rooftop garden, located within the southern setback of the first floor balcony, is not trafficable.
 - (g) The basement entirely within the subject site's title boundary.
 - (h) A Material and Finishes Schedule, including the materiality and transparency of screens and balustrades and an additional cladding or material incorporated on the East Elevation.
 - (i) The removal of the rear fence and roller door shown in the Demolition Plan.
 - (j) Demolition Elevations.
 - (k) The proposed roller door as 3.6 metres wide
 - (l) Details to demonstrate that the development would achieve a STORM score of 100 percent or higher, with any storm water treatment measures shown on plans and rainwater tanks notated as being connected to toilet flushing and or irrigation systems.
 - (m) The 9.045 metre dimension on the South Elevation to the top of the roof terrace.

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, any damage to Council infrastructure resulting from the development must be reinstated:
 - (a) at the permit holder's cost; and
 - (b) to the satisfaction of the Responsible Authority.
4. 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 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.
6. Except with the prior written consent of the Responsible Authority, demolition or construction works must not be carried out:
 - (a) Monday-Friday (excluding public holidays) before 7 am or after 6 pm;
 - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm; or
 - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.
7. This permit will expire if:
 - (a) the development is not commenced within two years of the date of this permit; or
 - (b) the development is not completed within four years of the date of this permit.

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

Notes:

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

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

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

Attachments

- 1** PLN19/0121 - 684 Station Street Carlton North - Site location map
- 2** PLN19/0121 - 684 Station Street Carlton North - Decision plans (June 2020)
- 3** PLN19/0121 - 684 Station Street Carlton North - Heritage advice
- 4** PLN19/0121 - 684 Station Street Carlton North - Traffic Engineering Unit referral comments

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|------------|--|
| 1.8 | PLN16/0041.01 - 274 Brunswick Street, Fitzroy - Section 72 amendment for buildings and works to an existing building, change in the type of liquor licence (from a restaurant/cafe licence to a hotel general licence), an increase of 99 patrons (i.e. patron capacity increased from 46 to 145 patrons), an increase to the 'red line' area to include the first floor (including outdoor balcony), installation of internally illuminated signage and reduction in the bicycle facilities requirement of the Yarra Planning Scheme |
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Executive Summary

Purpose

1. This report provides an assessment of a Section 72 amendment for buildings and works to an existing building, change in the type of liquor licence (from a restaurant/cafe licence to a hotel general licence, an increase of 99 patrons (i.e. patron capacity increased from 46 to 145 patrons), an increase to the 'red line' area to include the first floor (including outdoor balcony), installation of internally illuminated signage and reduction in the bicycle facilities requirement of the Yarra Planning Scheme.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Clause 15.01 – Built Environment;
 - (b) Clause 22.02 – Development Guidelines for sites subject to Heritage Overlay;
 - (c) Clause 34.01 – Commercial 1 Zone;
 - (d) Clause 43.01 – Heritage Overlay;
 - (e) Clauses 22.04 & 43.01 – Signs;
 - (f) Clause 22.09 & 52.27 – Licenced premises; and
 - (g) Clause 52.34 – Bicycle Facilities

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Sale and consumption of Liquor;
 - (b) Building and works;
 - (c) Signage;
 - (d) Bicycle facilities; and
 - (e) Objector concerns.

Submissions Received

4. Seven objections were received to the application, these can be summarised as:
 - (a) Noise from music and patrons (particularly from outdoor balcony at first floor);
 - (b) Residents forced to incur significant future expenses to soundproof properties;
 - (c) Exacerbation of noise due to existing venues in the area;
 - (d) Anti-social behaviour (intoxicated patrons, drug use along Victoria Street);
 - (e) Car parking issues along Victoria Street;
 - (f) Property devaluation;
 - (g) Lack of control and policing of graffiti on properties (now and in the future);

- (h) Issues with prostitution within the surrounding area (now and in the future);
- (i) Possibility of future extension to business operation (trading hours); and
- (j) No police patrolling or protecting the community.

Conclusion

5. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported subject to the following key recommendations:
- (a) Prohibiting patrons with the first floor balcony;
 - (b) Replacement of the neon sign;
 - (c) Deletion of external works component of the application.

CONTACT OFFICER: Gary O'Reilly
TITLE: Senior Statutory Planner
TEL: 9205 5040

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- 1.8 PLN16/0041.01 - 274 Brunswick Street, Fitzroy - Section 72 amendment for buildings and works to an existing building, change in the type of liquor licence (from a restaurant/café licence to a hotel general licence), an increase of 99 patrons (i.e. patron capacity increased from 46 to 145 patrons), an increase to the 'red line' area to include the first floor (including outdoor balcony), installation of internally illuminated signage and reduction in the bicycle facilities requirement of the Yarra Planning Scheme**
-

Reference: D20/140375

Authoriser: Coordinator Statutory Planning

Ward: Langridge

Proposal: Section 72 amendment to Planning Permit PLN16/0041 for buildings and works to an existing building, change in the type of liquor licence (from restaurant/café licence to a hotel general licence), an increase of 99 patrons (from 46 to 145), an increase to the 'red line' area to include the first floor (including outdoor balcony), installation of internally illuminated signage and a reduction in bicycle facilities requirements

Existing use: Restaurant

Applicant: Next Level Hospitality Pty Ltd

Zoning / Overlays: Commercial 1 Zone
Heritage Overlay (Schedule 311)

Date of Application: 11 April 2019

Application Number: PLN16/0041.01

Planning History

1. Planning permit 000962 was issued 20 December 2000 for, *'Alterations to existing shopfront'*.
2. Planning permit PLN11/0029 was issued 31 January 2011 for the, *'Display of business identification signs'*.
3. Planning Permit PLN16/0041 was issued by Council on 11 November 2016 for, *'Part demolition, buildings and works to the existing building and the sale and consumption of liquor associated with a restaurant, including a reduction in the car parking requirement associated with the Yarra Planning Scheme'*.
4. The permit authorised the following:
 - (a) Sale and consumption of liquor in association with a restaurant occupying the ground floor only;
 - (b) No more than 46 patrons;
 - (c) Hours of operation:
 - (i) 7.00am to 1.00am - Monday to Sunday

Background

6. The amendment application was lodged on 11 April 2019, with further information submitted in February 2020. The application was advertised, with 7 objections received.
7. Due to COVID-19 (Coronavirus) restrictions, no planning consultation meeting occurred.

5. During the course of the application, advice was from Council's Heritage Advisor, Waste Management Unit, Community Amenity, Social Planning and Council's Acoustic Consultant. The referral advice is attached to this report.

Sketch plans

6. In response to concerns raised by internal referrals and objections, a revised acoustic report, Waste Management Plan (WMP) and plans were submitted on the 10 June 2020. These documents were submitted as 'sketch plans' rather than a formal amendment to the advertised documents. Nevertheless, these documents will be referenced within the assessment as relevant.
7. The sketch plans and reports included the following alterations:
 - (a) Removing reference to 'neon sign' from the 'Wine bar' sign as recommended by Council's Heritage Advisor:
 - (b) Deletion of the two retractable awnings, heaters, lights, security cameras, speakers and planter boxes from the first floor roof terrace. These elements were shown to be removed in response to Council's Heritage Advisor stating that there was insufficient detail provided on the plans to review.
8. The revised acoustic report and WMP were re-referred to Council's Acoustic Consultant and City Works Unit respectively and their comments will be discussed within the report as relevant.

The Proposal

9. The application seeks an amendment to planning permit PLN16/0041 for buildings and works to an existing building, change the type of liquor licence (from restaurant/café licence to a hotel general licence), an increase of 99 patrons (from 46 to 145), an increase to the 'red line' area to include the first floor (including outdoor balcony), installation of internally illuminated signage and a reduction in bicycle spaces.
10. More specifically the proposal (as advertised) is for the following:
Liquor licence
11. Change in the type of liquor licence from a restaurant/cafe licence to a general (hotel) licence.
12. The proposed trading hours for the sale of liquor are as follows:
 - (a) Internal
 - (i) Sunday – 10.00am to 1am the following day;
 - (ii) Monday to Saturday – 7.00am to 1.00am the following day;
 - (iii) Good Friday & ANZAC Day – 12 noon to 1.00am the following day.
 - (b) External deck (first floor):
 - (i) Sunday – 10.00am to 10.00pm;
 - (ii) Monday to Saturday – 7.00am to 10.00pm;
 - (iii) Good Friday & ANZAC Day – 12 noon to 10.00pm.
13. The sale of off-site liquor is proposed between the following hours:
 - (a) 9.00am to 11.00pm.
14. Maximum number of patrons – 145
 - (a) 70 patrons within the ground floor
 - (b) 75 patrons within the first floor (including terrace)
15. Maximum number of staff – 20

16. Increase in the approved red line area to include the first floor and balcony area.
17. Background music proposed (internally and externally), which is played through an in-house sound system.

Buildings and works

18. Installation of five exterior lights, attached to the northern façade of the first floor balcony. The lights are to be located 1.7m above the floor level and have a black plastic and metal cover.
19. Installation of two external speakers, attached to the northern/eastern façade of the first floor balcony. The speakers are to be located 2.6m above the floor level and finished in a black plastic and metal mountings.
20. Installation of two CCTV camera, attached to the northern façade of the first floor balcony. The cameras are to be located 2.6m above the floor level and finished in a black plastic finish.
21. Installation of two retractable black canvas awnings above the first floor windows and deck at first floor. The awnings are to have a combined length of 13.4m, extend 1.87m in depth over the deck and have a minimum height of 2.85m above the deck.
22. Installation of two external heaters, attached to the northern wall facing the first floor balcony. The heaters have a length of 3m and are located between the retractable awnings and first floor windows (approx. 3.2m above the floor level).
23. Installation of six corten planter boxes along the first floor balcony, located between the balustrade and ground floor façade. The boxes are to have a width of 1.15m and a height of 0.275m. These are depicted on the northern elevation but not shown on the first floor plan.

Signage

	Type	Location	Area
Sign 1	Internally illuminated neon, business identification sign containing the word "wine bar" (yellow text)	Above the entry along Victoria Street	1.05sqm
Sign 2	Internally illuminated "bar" business identification sign (white background with black text)	Adjacent to pedestrian entrance to foyer/stairs for upper level along Victoria Street	0.18sqm
Sign 3	Internally illuminated "Budejovicky Budvar" promotional sign (red and white background/text)	Adjacent to pedestrian entrance to foyer/stairs for upper level along Victoria Street	0.32sqm

Existing Conditions

Subject Site

24. The subject site is located on the south-east corner of Brunswick Street and Victoria Street in Fitzroy. The site is occupied by a three-storey commercial building of the Victorian-era. The building is divided into multiple uses. The site has a frontage to Brunswick Street of 7.89m, a length of 27.43m, yielding a total site area of 216.4sqm.

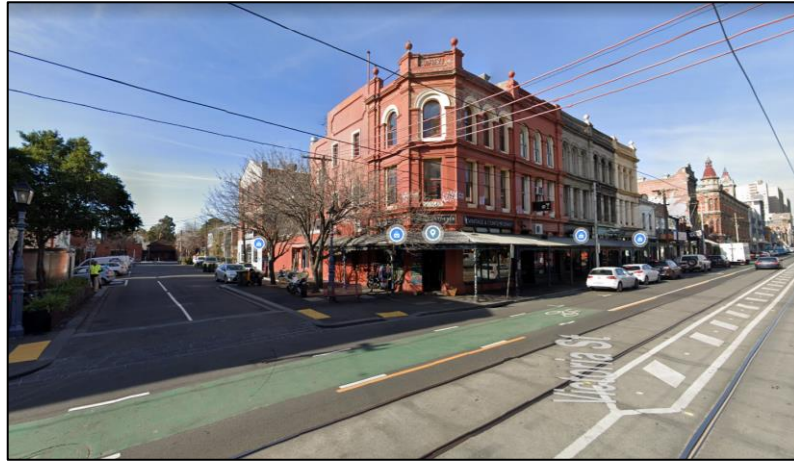


Figure 1 – Subject site No. 274 Brunswick Street, Fitzroy (Brunswick St Interface) Source: Google

25. The existing building is generally built to all four boundaries, with the exception of the north-west corner of the building which is splayed. The western half of the ground floor of the building comprises a retail space with pedestrian access to Brunswick Street whilst the eastern half comprises a restaurant (approved under PLN16/0041), a foyer, courtyard and service amenities accessed from Victoria Street.
26. At the first floor level, the building is used as a sales and display area and storage room. The previous delegate's report identified this area as being "*associated with the retail area at the ground floor*". Within this first floor, there is an existing north-facing terrace with an outlook to Victoria Street (figure 2). Finally, the second floor is used for an open plan office, with service amenities.



Figure 2 – Subject site No. 274 Brunswick Street, Fitzroy (Victoria Street interface) Source: Google

27. The building comprises a painted rendered finish along the Brunswick and Victoria Street frontages with the ground floor, corner shop-front substantially intact with an overhanging verandah with windows displayed throughout the whole building.
28. The eastern half of the building is set back between 2.5m to 4.9m at the first and second floors from Victoria Street (north side) boundary.

Surrounding Land

29. The site is located within the Brunswick Street Activity Centre which is characterised by a variety of retail and commercial uses in many different building styles. All adjoining properties are located within the same Commercial 1 Zone (figure 3). Signage is abundant within the precinct, as are shopfront windows, awnings and commercial activities at the ground floor with offices located at the first floor of buildings including residential uses. The immediate surrounding context contains building heights that vary between 1 and 5 storeys.



Figure 3 – Zoning map of subject site and surrounds (Source: DELWP)

30. To the north of the site is Victoria Street and on the opposite corner (i.e. north-east corner of Brunswick and Victoria Streets) is a three-storey building that is contemporary and angular in its appearance. Directly opposite this building to the west (i.e. north-west corner of the same intersection) is a four-storey Victorian-era commercial building complex and includes a basement and mezzanine within the upper roof (fourth) level. This level contains a licenced premises, Naked for Satan, which has an on-premises licence for a maximum of 280 patrons. The venue operates between 7am to 1am (Friday to Saturday) and between 7am to 12am (Sunday to Thursday). Specific conditions of the permit include all external openings (windows and doors) to be closed by 10pm. Located at the ground floor of both buildings are commercial tenancies that front onto Brunswick and Victoria Streets.
31. To the south of the site are three-storey attached buildings of the Victorian-era that have large shop-front windows and a row of verandah structures that extend over the footpath to Brunswick Street. These buildings are used for commercial purposes (primarily retail) at the ground floor and in some instances, for residential purposes to the upper floors (No. 270 Brunswick Street).
32. To the west is Brunswick Street, and on the opposite side is a double-storey, building that is contemporary and angular with large shopfront windows across the Brunswick and Victoria Street interface, with the main entry at the Brunswick Street interface. At the first floor, the building also displays large floor-to-ceiling windows. This building is used as a food and drinks premises (café).
33. To the east is a laneway and on the opposite side is a three-storey, former warehouse building of masonry construction. The ground floor is used as a bicycle repair store. Further east, are dwellings of the Victorian era located along the northern and southern sides of Victoria Street. The dwellings on the southern side are zoned Neighbourhood Residential, whilst those opposite are zoned Commercial 1.
34. Short term on-street ticketed parking is located on the northern side of Victoria Street whilst the southern side is residential permit zoned. Brunswick Street contains short term ticketed parking along both sides. The short term parking restrictions apply during typical business hours and a loading zone is located directly in front of the site on Brunswick Street. A car share zone is located to the immediate north of the site.
35. The site is serviced well by public transport with:
 - (a) Tram services operating along Brunswick Street
 - (b) Bus services that operate along Johnston Street 80m to the north of the site
 - (c) Tram services operating along Nicholson and Smith Streets, 315m and 500m, west and east of the site, respectively; and
 - (d) Brunswick Street is frequented regularly by taxis and the site is located with 2km of the CBD.

Legislative Provisions

36. The amendment has been requested pursuant to Section 72 of the *Planning and Environment Act 1987* (the Act).
37. Section 72 of the Act states:
- (a) *A person who is entitled to use or develop land in accordance with a permit may apply to the responsible authority for an amendment to the permit*
 - (b) *This section does not apply to-*
38. The planning permit was issued on 11 November 2016. The Tribunal has not directed that the responsible authority must not amend the permit, nor was the permit issued under Division 6 of the Act.
39. Section 73 of the Act states that Sections 47 to 62 of the Act apply to the amendment application. This allows the Responsible Authority to apply the abovementioned sections of the Act to the amendment application as if it was an application for a permit.

Planning Scheme Provisions

Zoning

Commercial 1 Zone

40. Pursuant to Clause 34.01-1 of the Yarra Planning Scheme (the 'Scheme'), the use as a food and drink premises (hotel) does not require a planning permit.
41. Pursuant to Clause 34.01-4 of the Scheme, a planning permit is required to construct and carry out works.
42. Pursuant to Clause 34.01-9 (signs) of the Scheme advertising sign requirements are contained at Clause 52.05. This zone is in Category 1 (commercial areas) with regards to signage.

Overlays

Heritage Overlay – Schedule 311 – Brunswick Street Precinct

43. Pursuant to Clause 43.01-1 of the Scheme, a planning permit is required to:
- (a) demolish or remove a building,
 - (b) construct a building or construct or carry out works and
 - (c) construct or display a sign.

Particular Provisions

Clause 52.05 – Signs

44. Pursuant to Category 1 (Commercial Areas), Business identification and promotional signs are Section 1 (no permit required) provided the following condition is met:
- (a) *The total display area of all signs to each premises must not exceed 8sqm. This does not include a direction sign.*
45. Internally illuminated signs are a Section 1 (no permit required) provided the following condition is met:
- (a) *The display area must not exceed 1.5sqm. The sign must be more than 30 m from a residential zone or pedestrian or traffic lights.*
46. The proposal includes a total signage area 1.55sqm (internally illuminated) and is within 30m of a residential zone, triggering a permit for the display of the internally illuminated signage.

Clause 52.06 – Car parking

47. Pursuant 52.06-2 of the Scheme states that before a new use commences, the number of car spaces required under Clause 52.06-5 must be provided on the land to the satisfaction of the Responsible Authority.
48. Table 1 of Clause 52.06-5 identify the following rates associated with both the existing uses and proposed use:
 - (a) Restaurant - 3.5 spaces per 100sqm of leasable floor area.
 - (b) Arts and craft centre - 3.5 spaces per 100sqm of net floor area.
 - (c) Hotel - 3.5 spaces per 100sqm of leasable floor area,
49. Pursuant to Clause 52.06-4, a permit is not required to reduce the number of car parking spaces required for a new use of land if the number of car parking spaces required under Clause 52.06-5 for the new use is less than or equal to the number of car parking spaces required under Clause 52.06-5.
50. The existing conditions on site are that the ground floor section of the proposed hotel is used as a restaurant and the first floor is used as a storage area associated with an arts and craft centre. Both the restaurant and arts and crafts component of the building generate a car parking demand of 3.5 spaces per 100sqm of leasable/net floor area.
51. The hotel will generate a car parking demand of 3.5 spaces per 100sqm of leasable floor area. As this proposed car parking rate is equal to the existing car parking demand rate, there is no trigger for a reduction in car parking associated with the use as a hotel.

Clause 52.27 – Licenced Premises

52. Pursuant to Clause 52.27, a planning permit is required to use land to sell or consume liquor if any of the following apply:
 - (a) *A licence is required under the Liquor Control Reform Act 1998;*
 - (b) *A different licence or category of licence is required from that which is in force;*
 - (c) *The number of patrons allowed under a licence is to be increased;*
 - (d) *The area that liquor is allowed to be consumed or supplied under a licence is to be increased.*
53. This application is seeking to amend the current licence type from a restaurant/café licence to a general (hotel) licence. It is also sought in increase the number of patrons allowed on site and the area in which liquor can be consumed. A permit is therefore required pursuant to clause 52.27.

Clause 52.34 – Bicycle Facilities

54. Pursuant to Clause 52.34-1, a new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage are provided on the land. The following table identifies the car parking requirement under Clause 52.34-3, the provision on site, and the subsequent reduction below the statutory requirement.
55. A review of the floor plans submitted has identified a total of 24sqm of bar area and 114sqm of lounge floor area (including the first floor terrace).

Use	Statutory Requirement	Spaces required	On-site Provision	Reduction requested
Hotel <ul style="list-style-type: none"> Bar - 24sqm Lounge – 114sqm 	<u>Employee</u> 1 to each 25sqm of bar floor area available to the public, plus 1 to each 100sqm of lounge floor area	1	0	1

	available to the public	1	0	1
	<u>Visitor/patron</u> 1 to each 25sqm of bar floor area available to the public, plus 1 to each 100sqm of lounge floor area available to the public			
Total		2	0	2

56. Clause 52.34-2 states that a permit may be granted to reduce or waive this requirement. As outlined in the table above, a reduction of two spaces is sought. Clause 52.34-5 contains bicycle signage requirements.

General Provisions

Clause 65 – Decision guidelines

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

Planning Policy Framework (PPF)

Clause 11.01-1S – Settlement

58. The objective of this clause is *“to promote the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements”*.

Clause 13.05-1S – Noise abatement

59. The relevant objective of this clause is *“To assist the control of noise effects on sensitive land uses”*.

Clause 15.01-1S – Urban Design

60. The objective of this clause is *“to create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.”*

Clause 15.01-2S – Building design

61. The relevant objective of this clause is *“to achieve building design outcomes that contribute positively to the local context and enhance the public realm”*.

Clause 15.03-1S – Heritage conservation

62. The objective of this clause is *“to ensure the conservation of places of heritage significance.”*

Clause 17.01-1S – Diversified employment

63. The objective of this clause is *“to strengthen and diversify the economy”*.

Clause 17.02-1S – Business

64. The objective of this clause is *“to encourage development that meets the community’s needs for retail, entertainment, office and other commercial services”*.

Clause 18.01-1S – Land use and transport planning

65. The objective of this clause is *“to create a safe and sustainable transport system by integrating land use and transport”*.

Clause 18.02-1S – Sustainable personal transport

66. The objective of this clause is *“to promote the use of sustainable personal transport”*.

Clause 18.02-1R – Principal public transport network

67. The strategies for this clause are:

- (a) *Maximise the use of existing infrastructure and increase the diversity and density of development along the Principal Public Transport Network, particularly at interchanges, activity centres and where principal public transport routes intersect.*

Local Planning Policy Framework (LPPF)

Clause 21.04 – Land use

Clause 21.04-2 – Activity centres

68. Relevant objectives and strategies for this clause are:

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

Clause 21.05 – Built form

Clause 21.05-2 – Urban design

69. The relevant objective and strategy of this clause are:

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

Clause 21.08-7 – Neighbourhoods (Fitzroy)

70. This clause sets out the locally specific implementation of the objectives and strategies for Yarra's neighbourhoods. The subject site is included in the Fitzroy area which is a mixed commercial and residential neighbourhood notable for the consistency of its Victorian streetscapes. It comprises a dense combination of residential areas, shopping precincts and commercial/industrial activities.
71. The subject site is located within the Brunswick Street Major Activity Centre. Accordingly, *the role of the Brunswick Street centre can be characterised as hospitality, entertainment, clothing and footwear, art galleries and studios, and non-government community services, all with a metropolitan focus.*

Relevant Local Policies

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

72. This policy provides guidance for the protection and enhancement of the City's identified places of cultural and natural heritage significance. The relevant objectives of this clause are:
- (a) *To conserve Yarra's natural and cultural heritage;*
- (b) *To conserve the historic fabric and maintain the integrity of places of cultural heritage significance;*
- (c) *To retain significant viewlines to, and vistas of, heritage places;*
- (d) *To preserve the scale and pattern of streetscapes in heritage places;*
- (e) *To encourage the preservation, maintenance, restoration and where appropriate, reconstruction of heritage places;*

- (f) *To ensure the adaptation of heritage places is consistent with the principles of good conservation practice;*
- (g) *To ensure that additions and new works to a heritage place respect the significance of the place.*
- (h) *To encourage the retention of 'individually significant' and 'contributory' heritage places.*

Clause 22.04 – Advertising signs policy

73. This policy applies to all permit applications for development that incorporate signage. The relevant objectives of this policy are:

- (a) *To protect and enhance the character and integrity of places of heritage significance*

Clause 22.05 – Interface Uses Policy

74. This policy applies to applications for use or development within Industrial Zones (amongst others). The relevant objectives of this clause are:

- (a) *To ensure that residential uses located within or near commercial centres or near industrial uses enjoy a reasonable level of amenity”.*

75. It is the policy under this clause that:

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

Clause 22.09 – Licenced premises

76. This policy applies to all applications for new licensed premises and for the extension (including the extension of hours and the extension of patron numbers) of existing licensed premises. The policy addresses matters relating to location and access, hours of operation, patron numbers, noise, car parking and general amenity considerations.
77. A detailed assessment of the proposal against Council's Licensed Premises Policy will be provided later in the report.

Advertising

78. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 106 letters sent to surrounding owners and occupiers and by two signs displayed on site. Council received 7 objections, the grounds of which are summarised as follows:

- (a) Noise from music and patrons (particularly from outdoor balcony at first floor);
- (b) Anti-social behaviour (intoxicated patrons, drug use along Victoria Street);
- (c) Car parking issues along Victoria Street;
- (d) Property devaluation;
- (e) Lack of control and policing of graffiti on properties (now and in the future);
- (f) Issues with prostitution within the surrounding area (now and in the future);
- (g) Possibility of future extension to business operation (trading hours); and

79. As a result of COVID-19 (Coronavirus) restrictions, no consultation meeting was held.

Referrals

80. The referral comments are based on the advertised plans. Additional comments have also been obtained from Council's Acoustic Consultant on the amended acoustic report and Council's City Works Unit on the amended Waste Management Plan, both received on the 10 June 2020, post advertising.

External Referrals

81. The application was not required to be externally referred.

Internal Referrals

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

- (a) SLR Consulting (Acoustic Consultants)
- (b) Heritage Advisor;
- (c) Community Amenity;
- (d) Social Planning; and
- (e) City Works Unit.

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

OFFICER ASSESSMENT

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

- (a) Sale and consumption of liquor;
- (b) Building and works;
- (c) Signage;
- (d) Bicycle facilities; and
- (a) Objector concerns.

Sale and consumption of liquor

85. This assessment will be based on the decision guidelines of Clause 52.27 and the licensed premises policy of Clause 22.09.
86. The potential cumulative impacts of the proposed licensed premises will be assessed against the risk assessment matrix provided by the Corner Hotel decision (*Swancom Pty Ltd T/as Corner Hotel v Yarra City Council & Ors*). Applying the matrix of risk below, a reasonable consideration would suggest that a score of 1-3 would be *no risk* and would not require a cumulative impact assessment. Any score higher than 3 would suggest a potential risk that would require a cumulative impact assessment.

Type of Premise	Risk Factor
Café / Restaurant	0
Bar / Restaurant / Café	1
Bar	3
Hotel / Tavern	3
Night Club	3
Place of Assembly	2
Size of Premise	Risk Factor
0 – 49 patrons	0
50 – 99 patrons	1
100 – 199 patrons	2
200+	3
Closing hours	Risk factor
11pm	0
12am	1
1am	2

2am	3
3am	3
After 3am	4

87. The proposed licensed premises achieves a score of 7 and therefore does require a cumulative impact assessment. The applicant has provided a cumulative impact assessment, which will be referred to throughout the assessment.
88. Pursuant to Clause 22.09-3, it is policy that *licensed premises are managed in accordance with a Noise and Amenity Action Plan (NAAP)*. The applicant has provided a NAAP, which outlines how the premises will operate including detail on staffing, patrons, incident complaints and noise control among other things. This will be endorsed as part of the permit.

Location, Access and Venue Design

89. The proposed licensed premises is located in a Commercial 1 Zone and within the Brunswick Street Major Activity Centre. This is supported by the Licensed Premises Policy, which encourages venues to be located outside of residential zones. All sites abutting to the north, east, south and west, are also located within the Commercial 1 Zone (figure 4). From the zoning map below, the nearest residential zoned property is approximately 15m to the east.

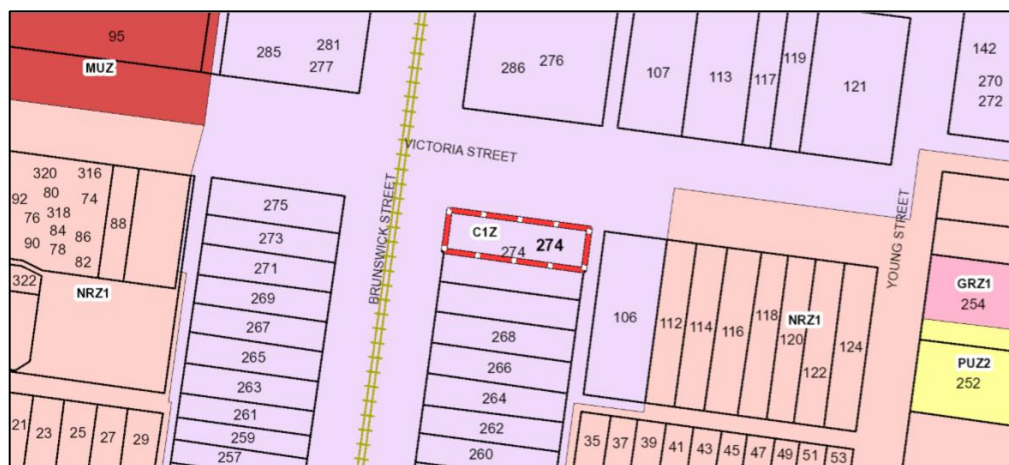


Figure 4 – Zoning map of subject site and surrounds (Source: DELWP)

90. The patron entry and exit of the proposed premises is located to the Victoria Street frontage. This is due to the internal layout of the building and the separate retail premises which interfaces Brunswick Street (figure 5). The proposed venue has two pedestrian entries along Victoria Street, with the closest entry approximately 22m to the east of the nearest residential property (No. 112 Victoria Street).

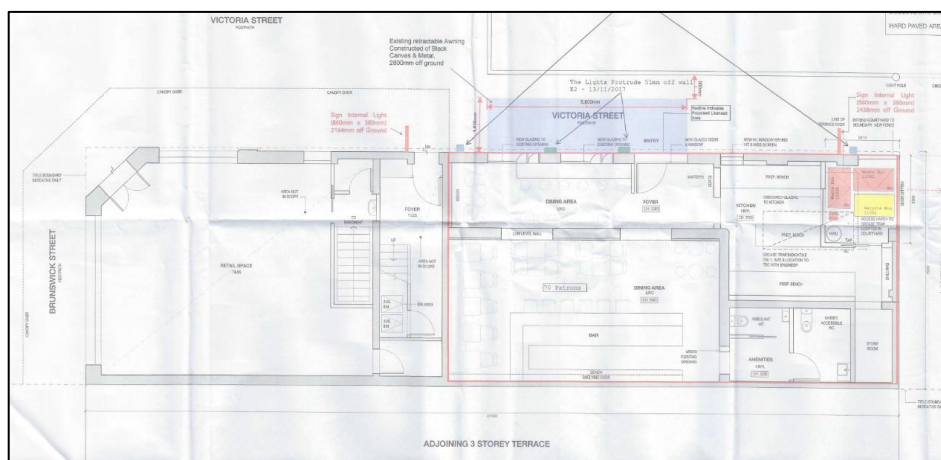


Figure 5 – Ground floor plan

91. It is considered that the 22m separation to the nearest NRZ, combined with the Commercial 1 Zoning of all adjoining properties is a sufficient buffer between both uses. In addition, the adjoining property at No. 106 Victoria Street is a three storey building which will provide a physical barrier from both entries to the dwellings further east. There is a discrepancy in the NAAP in relation to the queuing arrangements for patrons. On page 13 of the NAAP, it states that staff will not allow queuing of patrons adjacent to the venue, however, on page 20 it indicates that there will be queuing. It states that when queuing occurs, it is directed along the wall of the venue on Victoria Street in a westerly direction towards Brunswick Street. The NAAP also states that a roped off barrier will be used along Victoria Street to separate the queuing area from pedestrian movements.

The provision for queuing within the NAAP is considered appropriate given the type of licence being applied. The location along the wall to Brunswick Street will ensure that the queue is located away from the residential zone and towards the activity centre along Brunswick Street. A condition will be included for an updated NAAP so as there is no contradiction in queuing arrangements.

92. At first floor, it is proposed to use the existing balcony as an outdoor area associated with the licenced premises (figure 6). As will be discussed later in this report, there are concerns regarding patron noise emanating from this area which could result in unreasonable noise impacts to adjoining properties. Toilet facilities are located within the subject building and should therefore not create any unreasonable noise impacts. A waste storage area is located to the rear and will only be accessed by staff via the kitchen. Therefore patrons will not be congregating in this area.

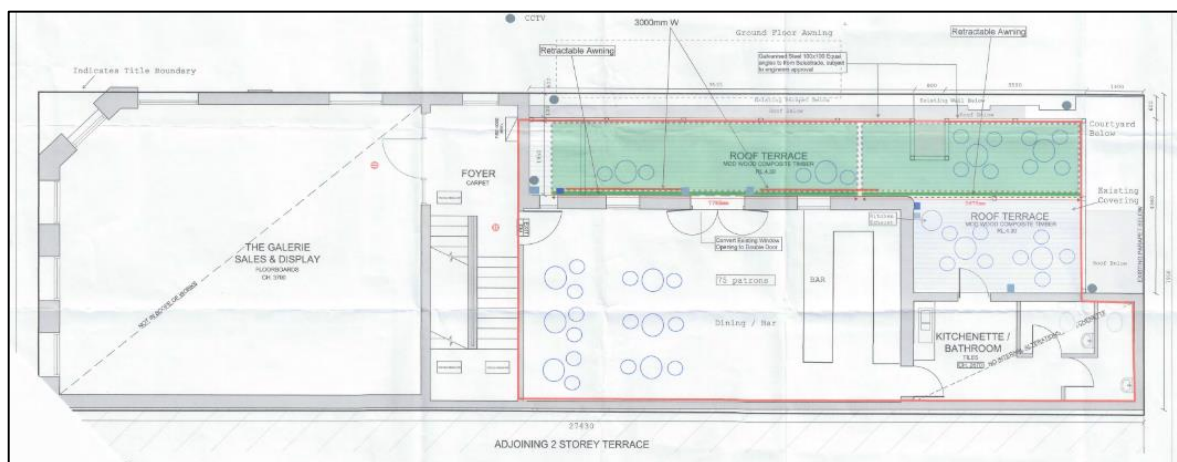


Figure 6 – First floor plan

93. Although both entries are located along Victoria Street, they are towards the intersection of Brunswick Street to the west and towards the activity centre. This location provides a high level of public safety and an opportunity for surveillance (both passive and active), in particular to the intersection as well as providing good access to infrastructure as encouraged by Clause 22.09-3. This should discourage anti-social behaviour by virtue of eyes on the street and ensure that noise from patrons entering and existing the venue, including those who have purchased alcohol for off-site consumption, can be kept to the busy commercial strip and away from the sensitive interface to the east.
94. Whilst the site is located within a 500m radius of 140 other licensed premises (including 44 limited licenses), the proposal is considered to have a low risk of negative cumulative impacts such as anti-social behaviour, violence and crime (vandalism, trespass and property damage) or infrastructure capacity problems. The venue will have a relatively modest patron capacity compared to other larger venues within the surrounding area. The venue is to operate in conjunction with the kitchen, where the use largely remains that of a food and drinks premises. This can be seen with the retention of the kitchen within the ground floor and provision for a significant level of seating along both levels.

Given the nature of the use, it is unlikely that patrons will be entering and exiting the venue at the same time. Overall, and as discussed in further detail below, the operating hours will not result in unreasonable amenity impacts to nearby dwellings.

95. With respect to the packaged liquor component, the primary use of the site will still continue as a licensed food and drink premises. The sale of packaged liquor for off-site consumption is to be a secondary/ancillary component to the business and is permitted under the general licence being sought. The licensed premises will continue to be appropriately managed under the existing and amended permit conditions. Given that this will be a secondary function of the venue, conditions in place and the hours proposed, it is considered an acceptable ancillary use to the venue.
96. No smoking area is provided either internally or externally, however patrons can smoke within the public realm in accordance with the smoking regulations. The floor plans show the existing toilets for patrons (and staff), which provide a good level of onsite amenity.
97. A bin storage room is provided within the north-east corner of the premises, accessible from the back of house kitchen area and externally via a roller door to the eastern abutting laneway. The advertised Waste Management Report (dated 24 September 2019) states that the premise will utilise two 1,100L and one 240L General Waste Bins and one 1,100L Recycling Bin. Collections times for the bins will vary between 1 to 3 times per week. The report states these bins will be collected from Victoria Street.
98. In response to the concerns raised in the first City Works referral, an amended WMP dated 14 May 2020 was received. This plan was reviewed by Council's City Works Unit who have provided the following comments:
 - (a) Council only provides 1x80L waste and 1x120L recycle bin for commercial use. The waste generation rates for this development do not meet this, so Council service is not suitable.
 - (b) Food waste diversion should be included as a requirement.
 - (c) The bin storage area should be expanded in area if possible.
99. The original WMP indicated that Council's collection service would be used in addition to a private contractor. This has been addressed within the 14 May 2020 report, which now indicates that all waste will be collected by a private contractor.
100. The WMP dated 14 May 2020 indicates that the venue does not have the infrastructure or equipment to enable food waste to be processed on site. The WMP also states that the venue is unable to organise the collection of food waste due to the lack of available third party collectors for organic waste. Council's City Works Unit does not accept these justifications and continues to recommend a food waste diversion process. Council officers support this recommendation noting that there are a number of third party food waste collectors available. A condition will be included on any permit that issues for an amended WMP to be submitted with provision for food waste diversion.
101. While the bin capacity is not raised as an issue, Council's City Works Unit has requested that the area in which bins are accommodated is expanded if possible. However, it is not feasible to expand the bin storage area within the courtyard without demolishing part of the heritage building. Given the potential impact on the building and that the courtyard is still sufficient to accommodate the bins on site, this recommendation has not been adopted. Council's City Works Unit have not recommended glass diversion as part of the current WMP, explaining to officers verbally that this has not been requested given the site constraints and that waste is to be collected by a private contractor.
102. Condition 13 of the existing permit already requires that the emptying of bottles into bins will not occur after 10pm on any day, before 7am Monday to Saturday, or before 9am on a Sunday or Public Holiday.

Condition 15 also states that deliveries will to and waste collection from a licensed premises should not occur after 10pm on any day, before 7am Monday to Saturday, or before 9am on a Sunday or public holiday except for those allowed under any relevant local. These conditions are consistent with clause 22.09-3 and will continue to apply to the premises.

Hours of Operation

103. The proposed premises would have the following operational hours:
 - (a) Internal
 - (i) Sunday – 10.00am to 1am the following day;
 - (ii) Monday to Saturday – 7.00am to 1.00am the following day;
 - (iii) Good Friday & ANZAC Day – 12 noon to 1.00am the following day.
 - (b) External deck (first floor):
 - (i) Sunday – 10.00am to 10.00pm;
 - (ii) Monday to Saturday – 7.00am to 10.00pm;
 - (iii) Good Friday & ANZAC Day – 12 noon to 10.00pm.
104. The sale of packaged liquor is proposed between the following hours:
 - (a) 9.00am to 11.00pm.
 - (i)
105. A review of information submitted has identified an error in the opening hours specified for the external courtyard. The town planning report has stated 10pm close however, the advertised acoustic report (dated 4 July 2019) stated 11pm, with the amended Acoustic Report (dated 1 June 2020) indicating a 1am close on Good Friday and Anzac day. The hours specified with both acoustic reports appear to be errors. While the use of the outdoor deck until 10pm is consistent with clause 22.09, as will be discussed later in this report, there are concerns with respect to noise impacts from this external area surrounding area. As such, a condition will be included for this area not to be accessed by patrons at any time. A condition will be included for an amended acoustic report to reflect this.
106. The premises is located 15m from the nearest residential zone (the Neighbourhood Residential Zone to the east). Clause 22.09-3 discourages licenced venues within 30m of a residential zone operating beyond 11pm, unless the responsible authority is satisfied that it will not adversely affect the amenity of the area. Condition 3 of the permit already allows the venue to operate until 1am (the following day), with Council's Compliance Branch having not received any recent complaints to these existing operations. The hours of operation are also reasonable given the site's location within a Core Entertainment Precinct (as defined within clause 22.09). Furthermore, with convenient access to public transport and taxis along Brunswick Street, it is unlikely patrons will need to travel through the residential area to the east. On this basis, and subject to existing and proposed permit conditions to further mitigate potential noise impacts (as discussed further in the report), Council officers are satisfied that the liquor licence hours would not result in adverse amenity impacts.
107. Under the current permit, condition 3 allows the venue to operate from 7.00am. Although not encouraged under Clause 22.09, this is an existing condition on the permit that only affects the ground floor operation. Given this application is for a more flexible licence type (i.e. general licence) and would allow an intensification of the use of the site (i.e. from 46 to 145 patrons), a condition will be included for the sale and consumption to be restricted from 9.00am. This is in line with the hours set out under Clause 22.09 of the Scheme.
108. The hours permitted for the sale of packaged liquor will be restricted to between 9.00am to 11.00pm. The proposed hours are acceptable and in line with hours permitted under clause 22.09 for the sale of packaged liquor.

109. Subject to the conditions discussed, the proposed hours of operation are considered acceptable and generally in line with the hours permitted for licenced venues in commercial zones under the Scheme. The surrounding area also has a number of similar venues which have identical hours (i.e. Naked for Satan to the northwest which ceases operation at 1am).
110. Patron Numbers
111. The licensed premises seeks to increase the maximum number of patrons from 46 patrons to 145 patrons, corresponding with the expansion of the premises into the first floor. The applicant has provided a Building Surveyor's Report which states that the maximum occupant capacity of the proposed premises would be 146, and therefore the proposed patron numbers will not exceed the safe or amenable capacity of the building as encouraged by the policy.
112. The total number of patrons is considered to be appropriate for the context of the site, being located within a Core Entertainment Precinct (Brunswick Street between Gertrude Street and Alexander Parade) where larger licenced premises (with a capacity exceeding 200 patrons) are encouraged to be located.
113. While the patron numbers are not identified on the plans, the town planning report submitted with the application suggests that the ground floor is to have a maximum of 70 patrons and the first floor is to have a maximum of 75 patrons. There is no indication of how many patrons would be permitted within the first floor terrace. The amended (sketch plan) acoustic report dated 1 June 2020 indicates that a maximum of 80 patrons would be permitted on the first floor terrace, however the applicant has confirmed that this is an error. Based upon the Maximum Patron Capacity fact sheet (VCGLR September 2018), a ratio of 1 person per 0.75sqm i.e. 43 patrons is recommended to ensure a safe capacity of the first floor terrace. However, as will be discussed within the noise assessment below, the applicant has failed to demonstrate that the balcony could operate without adversely impacting nearby residential properties, in particular, the adjacent dwelling at No. 107 Victoria Street. On this basis, a condition will require that use of the roof terrace is prohibited.
114. From a patron capacity perspective, the outdoor area is not included within the calculations under the Buildings Act 1993, only the internal area. As such, even with the prohibited use of the balcony, the provision of 145 patrons would be acceptable internally. The number of patrons proposed is not expected to adversely impact the amenity of nearby dwellings. Furthermore, Council's Compliance Branch and Social Planning Unit have raised no concerns with the increase in patron numbers. Potential noise impacts are discussed further below.

Noise

115. As discussed earlier in this report, noise sources from the premises are generated by music and patron noise. Conditions 9 to 12 of the existing permit provide protection to adjoining properties through permitting only background music, no external speakers and compliance with the State Environmental Protection Policy – Control of Noise from Commercial, Industry and Trade (SEPP N-1) and State Environmental Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).
116. The proposed amendment will increase the overall patron numbers though an intensification of the ground floor and increase the red line area to encompass part of the first floor, including the balcony fronting Victoria Street. The proposal also includes the installation of external speakers within the first floor balcony.
117. To address the potential noise impacts the applicant submitted an acoustic report prepared by Waveform Acoustics and dated 4 July 2019. This report assessed the potential noise impacts of the proposal and was reviewed by Council's Acoustic Consultant who found the report unsatisfactory for the following reasons:
 - (a) Inconsistent location of the nearest sensitive receiver
 - (b) The background measurement location unclear

- (c) SEPP N-2 limits be revised based on the lowest measured levels in each time period.
- (d) A more formal assessment of music and patron noise required
- (e) Reference to 'live music venue' removed.

118. An amended acoustic report prepared by Waveform Acoustics and dated 1 June 2020 was informally submitted to Council on the 10 June 2020. This revised report confirmed that the applicant wished to operate the external deck area with a maximum of 80 patrons. However, the applicant has clarified that this is also an error, with only to be 75 patrons upstairs (internally). The report also identified that the nearest residential property is at No. 107 Victoria Street and also included an additional section assessing patron noise internal to the site. This report was reviewed by Council's Acoustic Consultant, however was also found to be unsatisfactory and provided the following recommendations:

- (a) *Predicted levels of music noise at the nearest sensitive receiver be presented in the report.*
- (b) *The proposed criteria (in assessing indoor patron noise) are considered too high and also do not address the semi-steady / continuous nature of noise from a crowd which is best assessed using an Leq descriptor.*
- (c) *A patron noise assessment be provided for the external deck, including predicted patron noise levels at the sensitive receiver.*
- (d) *Higher source noise levels be used for the patron noise assessment, such as the "vertical consumption" curve in the Marshall Day methodology.*
- (e) *The number of patrons for the external deck be confirmed, since 80 patrons seems unusually high for an area of approximately 35sqm.*

119. While the amended acoustic report addresses some of the initial concerns, a further amended acoustic report addressing the above matters will be required via condition on any permit that issues. Further discussion on these matters is provided below.

Music Noise

120. In regard to music noise, as identified above, insufficient information has been provided to demonstrate the impact of music on the nearest sensitive receiver. Music from external speakers is considered of particular concern, with Council's Compliance Branch also recommending removal of the external speakers. In the absence of an adequate acoustic assessment demonstrating that external music noise would not cause amenity impacts, the existing permit condition 12 preventing external speakers will be retained and a condition will be added requiring the existing speakers be removed.

121. While the acoustic report has also not demonstrated the impact of background music internal to the building, internal music noise could be readily mitigated through internal upgrades to the building if necessary. A condition of any permit that issues would require an updated acoustic report to address internal music noise and demonstrate compliance will be achieved with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).

122. The NAAP provided by the applicant specifies that no live music will be played at the venue and only background music will be played. Condition 11 already requires that any music or entertainment must be at a background noise level. As such, a condition will require an amended acoustic report to remove reference to 'live music'

Patron noise

123. With regards to patron noise, an assessment of noise from within the first floor terrace has not been provided. Also, as identified previously, the report has erroneously indicated a maximum capacity of 80 patrons within the terrace. In fact, a maximum of 75 patrons is proposed. As discussed previously, based upon the VCGLR maximum patron guidelines, it is considered that a maximum of 145 patrons (ground and first floors) could be safely accommodated.

However, even with the removal of external speakers from the first floor terrace, Council's Acoustic Consultant was not satisfied that the terrace would not result in unreasonable noise impacts on the nearest sensitive receiver at No. 107 Victoria Street, opposite the subject site. It is anticipated that further acoustic treatments would be necessary. However without any details of the acoustic treatments that would be required, it is not a matter that could be readily addressed via condition. The terrace is readily visible from Victoria Street, and any acoustic treatments would also need to be assessed against the heritage overlay. This has been discussed with the permit applicant who has agreed to prohibit access to the first floor terrace. This will subsequently require the red line plan to be amended and paraphernalia (heaters, retractable awnings etc.) to be removed. This will be conditioned accordingly.

124. An assessment has been carried out for patron noise from within the building, however Council's Acoustic Consultant consider that the methodology used under-predicts patron noise levels for the proposed venue. This is because the noise data was based on cafes, RSL venues, church groups, a bowls club, a hotel and a private party where patrons were seated and not affected by alcohol. These types of venues (including a hotel where no alcohol is being consumed) do not accurately represent the proposed venue, where the vertical consumption of alcohol will occur.
125. Nevertheless, Council's Acoustic Advisor has advised that the venue would most likely achieve compliance with the relevant requirements. This is due to the nature of the venue which has provision for the serving of food at all times, significant seating available and music to background limits. In addition, conditions 9 to 12 of the existing permit will remain in place and provide protection in only permitting only background music and compliance with SEPP N-1 and SEPP N-2.
126. Subject to conditions discussed above, noise generated from the operation of the venue is not expected adversely impact the amenity of the area.

Buildings and works

127. The proposed works are restricted to minor external works to the northern façade of the building, on the first floor and associated with the balcony. Works include an awning above the terrace, heaters, speakers, security cameras, lights and planter boxes. The applicant has provided indicative locations on the elevations and a separate sheet providing the design details to all elements identified above.
128. Council's Heritage Advisor has reviewed the information submitted and requested that the awnings be deleted as these would quite substantially change the appearance of the heritage building. Council's Heritage Advisor has also requested that further details of the remaining elements are shown on the plans so that their acceptability can be adequately assessed. In response to this request, in correspondence dated 1 June 2020, the applicant has instead offered to delete the awnings, heaters, lights, security cameras, speakers and planter boxes. This will be facilitated by way of condition.
129. With the exception for the awnings, it is considered that the proposed works may be acceptable. However, due to a lack of information on the elevations, a full assessment as to the appropriateness of these elements on the host building cannot be determined. In principle, the proposed works do appear to be supportable given their location to the rear of the main building, location on the first floor and relatively minor scale. However, as the elevations have not accurately shown these works, Council's Heritage Advisor could not support the works. As such, the applicant has requested the works be deleted and will be conditioned to that effect.
130. As these works are to be removed via condition, there will no longer be a buildings and works component associated with the amended permit, as such the existing expiry dates for buildings and works within the planning permit do not needed to be amended.

Signage

131. It is proposed to install two business identification signs and one promotional sign along the Victoria Street façade. One neon sign and two internally illuminated signs. As identified in the planning controls section, a permit is triggered for the signs under the heritage overlay and C1Z.
132. The relevant decision guideline of the Heritage Overlay at clause 43.01-8 is *whether the proposed sign will adversely affect the significance, character or appearance of the heritage place*. More specific guidance is contained within Council's Advertising Signs policy at clause 22.04-3.8. This states that:
 - (a) *New high wall signs, major promotion signs, panel signs, pole signs, internally illuminated and animated signs, and sky signs are discouraged.*
 - (b) *Existing original heritage signs or advertising features should be conserved and enhanced.*
 - (c) *The number of signs should be limited.*
 - (d) *New signs should be small and restrained in design.*
 - (e) *Ensure that signs do not obscure the heritage features of the building.*
133. Concerns have been raised with regards to the proposed neon sign by Council's Heritage Advisor. The concern is that the "*neon signage is not characteristic of Late Victorian commercial buildings*". It is recommended that the sign is deleted or that the proposed sign be either on a board or individual lettering fixed to the building façade which may be externally illuminated. The applicant has agreed to the replacement of the neon sign with either signage on a board or individual lettering fixed to the building façade, which may be externally illuminated. A condition will be included to that effect.
134. Subject to the above condition, the proposed signs are consistent with the above policy guidance as follows:
 - (a) The display of the proposed signage will be appropriate in the identification of the business address on site and in this location. The subject site is located within a major activity centre, where the proposed signage is typical of signs found in the area.
 - (b) The signs are proportional to the host building and will not dominate the Victoria Street elevation.
 - (c) A review of the surrounding area and on similar corner sites, has identified buildings where there are examples of signage along the side streets. In particular No. 106 Victoria Street to the east (bicycle shop) and 275 Brunswick Street. Both of these sites are located within the Brunswick Street Activity Centre and are affected by a Heritage Overlay. The proposed signs are of a similar in size to the examples identified above. Given this prevailing character, it is considered that the proposed signs along the side street is acceptable in this instance.
 - (d) Although the signs are to be illuminated, they do not directly interface a residential zone, with properties along the north side of Victoria Street located within the same C1Z as the subject site (figure 4).
 - (e) The proposed signage will be appropriate within the Activity Centre and the building it will be displayed on and will not detract from the character of an area or route, or cause visual disorder or clutter. The signage is considered to be appropriate in terms of proportions and level of signage displayed taking into account the site's location within the Activity Centre, heritage precinct and C1Z.
 - (f) There are no animated, digital, flashing or reflective sign proposed and as such will not impede on the safety of pedestrians and vehicles. The signage is not considered to impact on road safety and will not be a safety hazard.

- (g) Given all of the above, it is considered that the proposed signage will not adversely affect the significance, character or appearance of the heritage precinct. As such, it is considered that the proposal meets the requirements of Clauses 22.04, 43.01 and 52.05 of the Scheme.

Bicycle facilities

- 135. As discussed earlier in the report, there is a reduction of 2 bicycle spaces sought pursuant to the bicycle facilities requirements of clause 52.34.01.
- 136. There is limited capacity to provide bicycle spaces on-site. The site is only provided with a small open space area within the rear setback which is already occupied by the waste storage area. Internal to the site, there are insufficient back of house areas to accommodate bicycle facilities. Given the above constraints, it is not feasible to adequately accommodate for bicycle spaces on site.
- 137. However, a review of the surrounding area has identified that there is adequate space along the footpath for the installation of a bicycle hoop at the junction of Brunswick Street and Victoria Street in lieu of on-site bicycle parking. This has been verbally discussed with Council's Strategic Transport Officers and Urban Design Unit, who agree to the inclusion of an additional on-street bicycle hoop. A condition will be included for the installation of a bicycle hoop at this junction, which will be able to accommodate two bicycles.

Objections

- 138. The majority of the issues raised by the objectors have been addressed within the body of this report, as follows:
 - (a) Noise from music and patrons (particularly from outdoor balcony at first floor);
Paragraphs 115-126
 - (b) Exacerbation of noise due to existing venues in the area;
Paragraphs 115-126
 - (c) Anti-social behaviour (intoxicated patrons, drug use along Victoria Street)'
Paragraphs 89-102
- 139. Outstanding concerns raised by the objectors are discussed below:
 - (a) Car parking issues along Victoria Street;
The proposed amendment does not trigger a permit for any further reduction in car parking as discussed in paragraphs 47 to 50. Therefore car parking is not a relevant matter under this amendment.
 - (b) Property devaluation;
Potential property devaluation is not a relevant planning consideration and cannot be considered under this application.
 - (c) Lack of control and policing of graffiti on properties (now and in the future);
Policing graffiti is not a relevant planning consideration. The main report has reviewed the daily operation of the proposed venue and deemed sufficient measures are in place to reduce the risk of anti-social behaviour.
 - (d) Issues with prostitution within the surrounding area (now and in the future);
As discussed above, the main report has reviewed the daily operation of the proposed venue and deemed sufficient measures are in place to reduce the risk of anti-social behaviour. Any specific issues regarding any alleged illegal activity is a matter for Victoria Police.
 - (e) Possibility of future extension to business operation (trading hours); and

Any future extension of the operating hours/red line area associated with the general liquor licence will most likely require a planning permit and most likely will require readvertising to adjoining properties.

Proposed alteration to permit preamble

140. The following changes are proposed to the existing planning permit, with changes highlighted in **bold**.

Existing permit preamble

141. Part demolition, buildings and works to the existing building and the sale and consumption of liquor associated with a restaurant, including a reduction in the car parking and bicycle parking requirement of the Yarra Planning Scheme.

Amended permit preamble

142. Part demolition, buildings and works to the existing building and the sale and consumption of liquor on and off site associated with a **hotel, installation of signage**, including a reduction in the car parking and bicycle parking requirement of the Yarra Planning Scheme.
143. The above amended is reflective of the proposal which changes the type of liquor licence from a restaurant licence to a general (hotel) licence and includes the proposed signage.

Proposed alterations to permit conditions

Existing Condition 1

144. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans received by Council on 24 July 2015 but modified to show:
- (a) The existing ground floor plan updated to show the extent of demolition of the northern boundary wall to make way for the 'hit-and-miss' bricks, including the internal opening to the new kitchen, and widening of the doorway to the amenities;
 - (b) The proposed ground floor plan updated to include a red line around the area of the restaurant associated with the sale and consumption of liquor;
 - (c) The provision of one bicycle space on site;
 - (d) The mesh balustrade to the upper level balconies replaced with a metal balustrade of the picket variety.

Amended Condition 1

145. Before the **sale and consumption of liquor associated with the amended permit commences or the signs are displayed**, 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 Robert Simeoni Architects and dated January 2020, Jacobson O'Halloran Pty Ltd and dated January 2020 and north elevation TP1.03 and dated 20 November 2017** but modified to show:
- (a) **An annotation that the first floor external deck is not to be accessed by patrons at any time.**
 - (b) **Amend the red line area to exclude the first floor external deck.**
 - (c) **The deletion of the neon sign and replacement with of the "wine bar" sign with either a board or individual lettering fixed to the building façade which may be externally illuminated.**
 - (d) **The deletion of the two retractable awnings, heaters, lights, security cameras, speakers and planter boxes from the first floor external deck.**

- (e) **A new bicycle hoop on the footpath adjacent to the subject site.**
- (f) **Any changes as required by the amended Acoustic report pursuant to Condition 10.**
- (g) **Any changes as required by the amended Waste Management Plan pursuant to Condition 15.**

Existing condition 3

146. Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor may only occur between the hours of 7.00am – 1am (the following day), Monday - Sunday.

Amended condition 3 (renumbered condition 5)

147. Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor may only occur between the hours of:
- (a) **Sunday – 10.00am to 1am the following day;**
 - (b) **Monday to Saturday – 9.00am to 1.00am the following day;**
 - (c) **Good Friday & ANZAC Day – 12 noon to 1.00am the following day.**

Existing condition 4

148. No more than 46 patrons are permitted on the land at any time liquor is being sold or consumed.

Amended condition 4 (renumbered condition 7)

149. **No more than:**

- (a) **70 patrons are permitted on the ground floor level at any time liquor is being sold or consumed.**
- (b) **75 patrons are permitted on the first floor level at any time liquor is being sold or consumed.**

Existing condition 5

150. Before the commencement of the sale and consumption of liquor, the applicant must, to the satisfaction of the Responsible Authority, provide an updated NAAP for endorsement that is required to include:

- (a) Details about staff training in relation to the “responsible Serving of Alcohol”.

Amended Condition 5 (renumbered condition 8)

151. **Before the sale and consumption of liquor commences in associated with the General Licence, an amended Noise and Amenity Action Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Noise and Amenity Action Plan will be endorsed and will form part of this permit. The amended Noise and Amenity and Action Plan must be generally in accordance with the Noise and Amenity Action Plan prepared by On Tap Liquor Consulting (advertised under PLN16/0041.01 in March/April 2020), but modified to include show:**

- (a) **Delete reference to there being no queuing from page 13**
- (b) **First floor external deck is not to be accessed by patrons at any time**
- (c) **The hours of operation as per conditions 5 and 6.**

Existing condition 17

152. The permit relating to the approved use and development 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 sale and consumption of liquor is not commenced within two 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

Amended condition 17 (renumbered condition 28)

153. The 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 sale and consumption of liquor associated with the amended permit is not commenced within two years of the date of this **amended** permit.
- (d) **The signs are not erected within four years of the date of this amended 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.

New conditions

New condition 3

154. The first floor external deck is not to be used by patrons at any time.

New condition 4

155. Before the sale and consumption of liquor associated with the amended permit commences, or by such later date as approved in writing by the Responsible Authority, a bike hoop must be installed:

- (a) at the permit holder's cost; and
- (b) in a location and manner generally in accordance with the endorsed plans,

to the satisfaction of the Responsible Authority.

New condition 6

156. Except with the prior written consent of the Responsible Authority, the sale and consumption of packaged liquor may only occur between the hours of;

- (a) Monday to Sunday: 9.00am to 11.00pm

New condition 12

157. Before the sale and consumption of liquor associated with the amended permit commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Waveform Acoustics and dated 1 June 2020, but modified to include or show:

- (a) The predicted levels of music noise at the nearest sensitive receiver (i.e. 107 Victoria Street).
- (b) The proposed criteria for assessing the indoor patron noise to address the semi-steady / continuous nature of noise from a crowd using an Leq descriptor.
- (c) Higher source noise levels be used for the patron noise assessment taking into account the "vertical consumption of alcohol" associated with a hotel/bar.
- (d) First floor external deck is not to be accessed by patrons at any time.
- (e) The hours of operation as per conditions 5 and 6.
- (f) The permitted patron numbers as per condition 7.

New condition 17

158. Before the sale and consumption of liquor associated with the amended permit 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 On Tap Liquor Consultants and dated 14 May 2020, but modified to include:

(a) Provision for food waste diversion.

New condition 21

159. The location and details of the signs, including the supporting structure, 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.

New condition 22

160. The signs must not include any flashing or intermittent light.

New condition 23

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

New condition 24

162. Within 2 months of erection of the signage, 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.

New condition 26

163. The signage component of this permit expires 15 years from the date of the amended permit.

New condition 27

164. Upon expiry of the signage component of this permit, the approved signs and structures built specially to support or illuminate signage must be removed.

Conclusion

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

RECOMMENDATION

That the Planning Decisions Committee resolves to issue a Notice of Decision to Grant an amended planning permit PLN16/0041.01 for buildings and works to an existing building, change in the type of liquor licence (from restaurant/café licence to a hotel general licence), an increase of 99 patrons (from 46 to 145), an increase to the 'red line' area to include the first floor, installation of internally illuminated signage and a reduction in the bicycle facilities requirement at 274 Brunswick Street, Fitzroy VIC, generally in accordance with the plans and reports noted previously as the "decision plans" subject to the following changes to the permit preamble/conditions (with asterisks):

1. *Before the sale and consumption of liquor associated with the amended permit commences or the signs are displayed, 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 Robert Simeoni Architects and dated January 2020, Jacobson O'Halloran Pty Ltd and dated January 2020 and north elevation TP1.03 and dated 20 November 2017 but modified to show:

- (a) An annotation that the first floor external deck is not to be accessed by patrons at any time.
 - (b) Amend the red line area to exclude the first floor external deck.
 - (c) The deletion of the neon sign and replacement with of the “wine bar” sign with either a board or individual lettering fixed to the building façade which may be externally illuminated.
 - (d) The deletion of the two retractable awnings, heaters, lights, security cameras, speakers and planter boxes from the first floor external deck.
 - (e) A new bicycle hoop on the footpath adjacent to the subject site.
 - (f) Any changes as required by the amended Acoustic report pursuant to Condition 10.
 - (g) Any changes as required by the amended Waste Management Plan pursuant to Condition 15.
2. The development, including the sale and consumption of liquor 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. *The first floor external deck is not to be used by patrons at any time.
4. *Before the sale and consumption of liquor associated with the amended permit commences, or by such later date as approved in writing by the Responsible Authority, a bike hoop must be installed:
- (a) at the permit holder’s cost; and
 - (b) in a location and manner generally in accordance with the endorsed plans,
- to the satisfaction of the Responsible Authority.

Hours

5. *Except with the prior written consent of the Responsible Authority, the sale and consumption of liquor may only occur between the hours of:
- (a) Sunday – 10.00am to 1am the following day;
 - (b) Monday to Saturday – 9.00am to 1.00am the following day;
 - (c) Good Friday & ANZAC Day – 12 noon to 1.00am the following day.
6. *Except with the prior written consent of the Responsible Authority, the sale and consumption of packaged liquor may only occur between the hours of:
- (a) Monday to Sunday: 9.00am to 11.00pm

Patron numbers

7. *No more than:
- (a) 70 patrons are permitted on the ground floor level at any time liquor is being sold or consumed.
 - (b) 75 patrons are permitted on the first floor level at any time liquor is being sold or consumed.

Noise and Amenity Action Plan

8. *Before the sale and consumption of liquor commences in associated with the General Licence, an amended Noise and Amenity Action Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Noise and Amenity Action Plan will be endorsed and will form part of this permit. The amended Noise and Amenity and Action Plan must be generally in accordance with the Noise and Amenity Action Plan prepared by On Tap Liquor Consulting (advertised under PLN16/0041.01 in March/April 2020), but modified to include show:
 - (a) Delete reference to there being no queuing on page 13.
 - (b) First floor external deck is not to be accessed by patrons at any time.
 - (c) The hours of operation as per conditions 5 and 6.
9. 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.

General Amenity

10. 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.
11. 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.

Noise

12. *Before the sale and consumption of liquor associated with the general licence or development commences, an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Waveform Acoustics and dated 1 June 2020, but modified to include or show:
 - (i) The predicted levels of music noise at the nearest sensitive receiver (i.e. 107 Victoria Street).
 - (ii) The proposed criteria for assessing the indoor patron noise to address the semi-steady / continuous nature of noise from a crowd using an Leq descriptor.
 - (iii) Higher source noise levels be used for the patron noise assessment taking into account the "vertical consumption of alcohol" associated with a hotel/bar.
 - (iv) First floor external deck is not to be accessed by patrons at any time.
 - (v) The hours of operation as per conditions 5 and 6.
 - (vi) The permitted patron numbers as per condition 7.

13. The use must comply at all times with the State Environment Protection Policy – Control of Noise from Commerce, Industry and Trade (SEPP N-1).
14. The use must comply at all times with the State Environment Protection Policy – Control of Music Noise from Public Premises (SEPP N-2).
15. Except with the prior written consent of the Responsible Authority, the provision of music and entertainment on the land must be at a background noise level.
16. Except with the prior written consent of the Responsible Authority, speakers external to the building must not be erected or used.

Waste

17. *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 On Tap Liquor Consultants and dated 14 May 2020, but modified to include:
 - (a) Provision for food waste diversion.
18. Emptying of bottles and cans into bins may only occur between 7am and 10pm on any day.
19. The collection of waste from the site must be by private collection, unless with the prior written consent of the Responsible Authority.

Loading and unloading/deliveries

20. Except with the prior written consent of the Responsible Authority, delivery and collection of goods to and from the land may only occur between 7am and 10pm on any day.

Signage

21. *The location and details of the signs, including the supporting structure, 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.
22. *The signs must not include any flashing or intermittent light
23. *The signs must be constructed, displayed and maintained to the satisfaction of the Responsible Authority
24. *Before the works are completed, or by such later date as approved in writing by the Responsible Authority, any damage to Council infrastructure resulting from the development must be reinstated:
 - (a) At the permit holder's cost; and
 - (b) To the satisfaction of the Responsible Authority.

Construction times

25. 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.

Expiry

- 26. *The signage component of this permit expires 15 years from the date of the amended permit.
- 27. *Upon expiry of the signage component of this permit, the approved signs and structures built specially to support or illuminate signage must be removed.
- 28. The permit relating to the approved use and development 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 sale and consumption of liquor is not commenced within two years of the date of this amended permit.
 - (d) *The signs are not erected within four years of the date of this amended 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:

These premises will be required to comply with the Food Act 1984. The use must not commence until registration, or other approval, has been granted by Council's Health Protection Unit.

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

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

CONTACT OFFICER: Gary O'Reilly
TITLE: Senior Statutory Planner
TEL: 9205 5040

Attachments

- 1 PLN160041.01 - 274 Brunswick Street Fitzroy - Site plan
- 2 PLN160041.01 - 274 Brunswick Street Fitzroy - Advertised Plans
- 3 PLN160041.01 - 274 Brunswick Street Fitzroy - Sketch Plans - 10 June 2020
- 4 PLN160041.01 - 274 Brunswick Street Fitzroy - Acoustic referral - Advertised plans
- 5 PLN160041.01 - 274 Brunswick Street Fitzroy - Acoustic referral - Sketch plans
- 6 PLN160041.01 - 274 Brunswick Street Fitzroy - Waste referral - Advertised plans
- 7 PLN160041.01 - 274 Brunswick Street Fitzroy - Waste referral - Sketch plans
- 8 PLN160041.01 - 274 Brunswick Street, Fitzroy - Heritage advice - Advertised Plans
- 9 PLN160041.01 - 274 Brunswick Street, Fitzroy - Heritage Advice - Sketch Plans
- 10 PLN160041.01 - 274 Brunswick Street Fitzroy - Social Planning referral
- 11 PLN160041.01 - 274 Brunswick Street Fitzroy - Civic Compliance referral